

HOUSE BILL 1288

C2

(71r3170)

ENROLLED BILL

— *Economic Matters / Education, Health, and Environmental Affairs* —

Introduced by **Delegates Vaughn, Davis, Feldman, Hucker, Manno, Proctor, Ramirez, Ross, and Valderrama**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **State Real Estate Commission - ~~Home Builders and~~ Sales Agents for Home**
3 **Builders - Licensure**

4 FOR the purpose of requiring individuals who sell any real estate ~~as home builders or~~
5 as sales agents for home builders to be licensed by the State Real Estate
6 Commission; altering a certain definition; and generally relating to ~~home~~
7 ~~builders and~~ sales agents for home builders.

8 BY repealing and reenacting, without amendments,
9 Article - Business Occupations and Professions

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 Section 17-101(a), 17-207, 17-301, and 17-322(b)(3), (4), (25), and (33) and
 2 (c)(1) through (3)
 3 Annotated Code of Maryland
 4 (2004 Replacement Volume and 2006 Supplement)

5 BY repealing and reenacting, with amendments,
 6 Article – Business Occupations and Professions
 7 Section 17-101(l) ~~and 17-301~~
 8 Annotated Code of Maryland
 9 (2004 Replacement Volume and 2006 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article – Business Occupations and Professions**

13 17-101.

14 (a) In this title the following words have the meanings indicated.

15 (1) “Provide real estate brokerage services” means to engage in any of the
 16 following activities:

17 (1) for consideration, providing any of the following services for
 18 another person:

19 (i) selling, buying, exchanging, or leasing any real estate; [or]

20 **(II) SELLING ANY REAL ESTATE ~~AS A HOME BUILDER OR AS~~**
 21 **A SALES AGENT FOR A HOME BUILDER; OR**

22 [(ii)] **(III)** collecting rent for the use of any real estate;

23 (2) for consideration, assisting another person to locate or obtain for
 24 purchase or lease any residential real estate;

25 (3) engaging regularly in a business of dealing in real estate or leases
 26 or options on real estate;

27 (4) engaging in a business the primary purpose of which is promoting
 28 the sale of real estate through a listing in a publication issued primarily for the
 29 promotion of real estate sales;

1 (5) engaging in a business that subdivides land that is located in any
2 state and sells the divided lots; or

3 (6) for consideration, serving as a consultant regarding any activity
4 set forth in items (1) through (5) of this subsection.

5 17–207.

6 (a) To protect the interests of the public, the Commission shall adopt, by
7 regulation, a code of ethics to set standards of conduct for all individuals licensed
8 under this title.

9 (b) The Commission:

10 (1) at least once every 2 years, shall provide a copy of the code of ethics
11 to each licensee; and

12 (2) on request of any person, shall make available a copy of the code of
13 ethics to that person.

14 17–301.

15 (a) (1) Except as otherwise provided in this title, an individual shall be
16 licensed by the Commission as a real estate broker before the individual may provide
17 real estate brokerage services in the State.

18 (2) Except as otherwise provided in this title, an individual shall be
19 licensed by the Commission as an associate real estate broker or a real estate
20 salesperson before the individual, while acting on behalf of a real estate broker, may
21 provide real estate brokerage services in the State.

22 (b) A license is not required for:

23 (1) a financial institution, as defined in Title 1 of the Financial
24 Institutions Article, a subsidiary or affiliate of such a financial institution, or
25 mortgage loan institution incorporated under the laws of any state or of the United
26 States to manage, lease, or sell any property that the institution or subsidiary or
27 affiliate of a financial institution acquires in connection with a mortgage foreclosure or
28 deed or assignment in lieu of foreclosure;

29 (2) a lawyer who:

1 (i) is not engaged regularly in the business of providing real
2 estate brokerage services; and

3 (ii) does not represent to the public, by use of a sign or
4 advertisement or otherwise, that the lawyer is in the business of providing real estate
5 brokerage services;

6 (3) a home builder in the rental ~~for initial sale~~ of a home constructed
7 by the builder;

8 (4) an agent of a licensed real estate broker or of an owner of real
9 estate while managing or leasing that real estate for the real estate broker or owner;

10 (5) any person in negotiating the sale, lease, or other transfer of a
11 business enterprise if the proposed transfer does not include any interest in real
12 property other than a lease under which the business enterprise operates; or

13 (6) any person to subdivide and sell unimproved property owned by
14 that person if the person meets the requirements of § 17-302 of this subtitle.

15 17-322.

16 (b) Subject to the hearing provisions of § 17-324 of this subtitle, the
17 Commission may deny a license to any applicant, reprimand any licensee, or suspend
18 or revoke a license if the applicant or licensee:

19 (3) directly or through another person willfully makes a
20 misrepresentation or knowingly makes a false promise;

21 (4) intentionally or negligently fails to disclose to any person with
22 whom the applicant or licensee deals a material fact that the licensee knows or should
23 know and that relates to the property with which the licensee or applicant deals;

24 (25) engages in conduct that demonstrates bad faith, incompetency, or
25 untrustworthiness or that constitutes dishonest, fraudulent, or improper dealings;

26 (33) violates any regulation adopted under this title or any provision of
27 the code of ethics;

28 (c) (1) Instead of or in addition to reprimanding a licensee or suspending
29 or revoking a license under this section, the Commission may impose a penalty not
30 exceeding \$5,000 for each violation.

1 (2) To determine the amount of the penalty imposed, the Commission
2 shall consider:

- 3 (i) the seriousness of the violation;
- 4 (ii) the harm caused by the violation;
- 5 (iii) the good faith of the licensee; and
- 6 (iv) any history of previous violations by the licensee.

7 (3) The Commission shall pay any penalty collected under this
8 subsection into the General Fund of the State.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2007.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.