

HOUSE BILL 1288

C2
HB 558/01 – ECM

71r3170

By: **Delegates Vaughn, Davis, Feldman, Hucker, Manno, Proctor, Ramirez, Ross, and Valderrama**

Introduced and read first time: February 23, 2007

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

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
10 Section 17–101(a), 17–207, and 17–322(b)(3), (4), (25), and (33) and (c)(1)
11 through (3)
12 Annotated Code of Maryland
13 (2004 Replacement Volume and 2006 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Business Occupations and Professions
16 Section 17–101(l) and 17–301
17 Annotated Code of Maryland
18 (2004 Replacement Volume and 2006 Supplement)

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

21 **Article – Business Occupations and Professions**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 17-101.

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

3 (1) "Provide real estate brokerage services" means to engage in any of the
4 following activities:

5 (1) for consideration, providing any of the following services for
6 another person:

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

8 **(II) SELLING ANY REAL ESTATE AS A HOME BUILDER OR AS**
9 **A SALES AGENT FOR A HOME BUILDER; OR**

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

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

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

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

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

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

22 17-207.

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

26 (b) The Commission:

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

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

5 17-301.

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

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

13 (b) A license is not required for:

14 (1) a financial institution, as defined in Title 1 of the Financial
15 Institutions Article, a subsidiary or affiliate of such a financial institution, or
16 mortgage loan institution incorporated under the laws of any state or of the United
17 States to manage, lease, or sell any property that the institution or subsidiary or
18 affiliate of a financial institution acquires in connection with a mortgage foreclosure or
19 deed or assignment in lieu of foreclosure;

20 (2) a lawyer who:

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

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

26 (3) a home builder in the rental [or initial sale] of a home constructed
27 by the builder;

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

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

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

6 17-322.

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

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

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

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

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

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

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

24 (i) the seriousness of the violation;

25 (ii) the harm caused by the violation;

26 (iii) the good faith of the licensee; and

27 (iv) any history of previous violations by the licensee.

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

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