

Department of Legislative Services  
Maryland General Assembly  
2007 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 1288

(Delegate Vaughn, *et al.*)

Economic Matters

Education, Health, and Environmental Affairs

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State Real Estate Commission - Sales Agents for Home Builders - Licensure

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This bill requires an individual who sells any real estate as a sales agent for a home builder to be licensed by the State Real Estate Commission.

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Fiscal Summary

**State Effect:** Potential increase in special fund revenues and expenditures related to additional licensing by the State Real Estate Commission. Additional potential increase in special fund revenues to the Real Estate Guaranty Fund. The amount of these increases cannot be reliably estimated at this time.

**Local Effect:** None.

**Small Business Effect:** Potential minimal.

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Analysis

**Current Law:** Home builders and persons who enter into contracts to sell new homes are required to register with the Home Builder Registration Unit in the Consumer Protection Division of the Office of the Attorney General. The fee for a two-year registration is \$300; renewal fees are determined by the number of building permits issued to the registrant in the preceding year. A person who violates State home builder registration law is guilty of a misdemeanor and is subject to a fine of up to \$1,000 for a first conviction and \$5,000 for a second conviction.

An individual who provides real estate brokerage services for consideration – including selling, buying, exchanging, leasing, or collecting rent for any real estate – must be licensed by the State Real Estate Commission. A home builder who rents or makes an initial sale of a home that he or she constructed is currently exempt from licensing requirements. The law also exempts other sellers, including certain financial institutions that sell property related to a foreclosure, lawyers who do not regularly provide real estate brokerage services and do not advertise, and individuals who sell unimproved property that they own.

Applicants for licensure by the State Real Estate Commission must have successfully completed a commission-approved course in real estate, including a course in ethics, and pass an examination given by the commission. An applicant is also required to contribute to the Real Estate Guaranty Fund and pay a fee set by the commission. Applicants for certain classes of licensure must also submit a credit report and meet certain experience requirements.

Licenses expire on a staggered basis and are renewable for a period of two years. Applicants for license renewal must meet continuing education requirements. The commission is authorized to suspend or revoke a license and/or impose a penalty of up to \$5,000 for violations of the Maryland Real Estate Brokers Act.

Applicants for initial licensure by the State Real Estate Commission are required to pay \$20 to the Real Estate Guaranty Fund. The fund is established to compensate consumers for theft, embezzlement, false pretenses, or forgery by a licensee or employee of a licensee; each claim is limited to \$25,000.

A licensee is required to reimburse the fund for claims resulting from his or her act or omission, plus interest if applicable. If the balance of the fund falls below \$250,000, all current licensees are assessed an amount to return the balance to \$250,000.

**State Fiscal Effect:** Licensure of sales agents would be in addition to current registration requirements through the Office of the Attorney General. The Home Builder Registration Unit reported 3,876 registrants as of June 30, 2006.

An unknown number of sales agents of home builders would become licensed by the State Real Estate Commission. The commission's education and examination requirements would likely discourage a number of agents from becoming licensed as a real estate broker.

*For illustrative purposes only,* special fund revenues to the State Real Estate Commission Fund could increase between \$27,500 and \$52,500 if 500 individuals became licensed as

a result of this bill. This accounts for the \$10 examination fee and graduated licensing fees between \$45 and \$95. These fees are subject to change, as Chapter 399 of 2005 authorized the commission to set licensure and examination fees by regulation beginning July 1, 2007. It is assumed that any increase in expenditures related to licensing would be offset by the corresponding increase in licensing fees.

### *Real Estate Guaranty Fund*

Applicants for licensure by the State Real Estate Commission are required to pay \$20 to the Guaranty Fund. *For illustrative purposes only*, special fund revenues to the Real Estate Guaranty Fund could increase by \$10,000 if 500 agents were licensed as a result of the bill.

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## **Additional Information**

**Prior Introductions:** Similar legislation was introduced as HB 558 of 2001 and HB 1015 of 1998. Both bills were reported unfavorably by the House Economic Matters Committee.

**Cross File:** None.

**Information Source(s):** Office of the Attorney General; Department of Labor, Licensing, and Regulation; Department of Legislative Services

**Fiscal Note History:** First Reader - March 13, 2007  
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