

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 1028
Economic Matters

(Delegate Branch, *et al.*)
Education, Health, and Environmental Affairs

**Business Occupations and Professions - Real Estate Salespersons and Brokers -
Formation of Business Entities and Payment of Commissions**

This bill authorizes, with the consent of a licensed real estate broker, one or more licensed real estate salespersons and licensed associate real estate brokers who are affiliated with the licensed real estate broker to form any business entity authorized under Maryland law. The business entity is authorized to receive compensation for the provision of real estate brokerage services from a licensed real estate broker, licensed real estate salesperson, or licensed associate real estate broker.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances or operations.

Local Effect: The bill is not anticipated to materially affect local finances or operations.

Small Business Effect: Meaningful. Small businesses providing real estate brokerage services are eligible to receive compensation under the bill.

Analysis

Bill Summary/Current Law:

Current law: With the consent of a licensed real estate broker, one or more licensed real estate salespersons and licensed associate real estate brokers who are affiliated with the licensed real estate broker may (1) organize and wholly own a professional service corporation under the Maryland Professional Service Corporation Act or (2) form a limited liability company (LLC) under the Maryland Limited Liability Company Act.

A professional service corporation may be organized and owned or an LLC may be formed by any number and any combination of licensed real estate salespersons and licensed associate real estate brokers. However, each shareholder in the corporation or member of the LLC must be either a licensed real estate salesperson or a licensed associate real estate broker.

A licensed real estate salesperson or a licensed associate real estate broker who is a shareholder of a professional service corporation or a member of an LLC may direct that any commission due the salesperson or associate broker be paid to the corporation or LLC.

Generally, a real estate broker, an associate real estate broker, or a real estate salesperson may not pay compensation, in any form, for the provision of real estate brokerage services to any person who is not licensed to provide those services. However, payment of compensation may be made to (1) an individual who is licensed in another state and meets specified requirements; (2) a professional service corporation; or (3) an LLC.

The bill: Each provision that applies to a professional service corporation or LLC also applies to any other business entity formed under Maryland law.

Background: Chapter 377 of 2005 expanded the applicability of laws authorizing certain corporations to provide and receive compensation for real estate brokerage services to include LLCs. The State Real Estate Commission licenses real estate brokers, associate brokers, and salespersons. As of January 2015, there were approximately 39,000 total licensees.

Additional Comments: The term “business entity” is not defined in the Business Occupations and Professions Article; however, it is defined in several other articles, including Corporations and Associations, Economic Development, Environment, Tax-General, and Tax-Property, but the definitions are not identical.

Additional Information

Prior Introductions: None.

Cross File: SB 203 (Senator Conway) - Education, Health, and Environmental Affairs.

Information Source(s): Department of Labor, Licensing, and Regulation; State Department of Assessments and Taxation; Comptroller’s Office; Department of Legislative Services

Fiscal Note History: First Reader - February 25, 2015
min/mcr

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