

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 760

(Delegate Arentz, *et al.*)

Economic Matters

Education, Health, and Environmental Affairs

State Real Estate Commission - Real Estate Brokerage Services - Duties and
Obligations

This bill expands the list of specified actions by a licensee of the State Real Estate Commission that do not breach any duty or obligation to the client. Thus, a licensee may discuss other properties with prospective buyers or lessees during an open house, if the licensee has the written consent of the seller or lessor to do so. Also, a licensee showing a *buyer* other available properties, an existing action that does not breach any duty or obligation, is expanded to encompass showing other available properties to a *lessee*. The bill also repeals an obsolete reference to a presumed buyer's or lessee's agency relationship.

Fiscal Summary

State Effect: None. The bill is procedural in nature and does not directly affect governmental operations or finances.

Local Effect: None.

Small Business Effect: None. The bill applies to specific actions by licensees of the commission.

Analysis

Current Law: Generally, in addition to other duties required by law, a licensee of the commission must (1) act in accordance with the terms of the brokerage agreement; (2) promote the interests of the client through specified means; (3) disclose to the client all material facts required by law; (4) treat all parties to the transaction honestly and fairly and

answer all questions truthfully; (5) in a timely manner account for all trust money received; (6) exercise reasonable care and diligence; and (7) comply with all applicable federal, State, and local laws and regulations.

A licensee does not breach any duty or obligation to the client by:

- showing other available properties to prospective buyers or lessees;
- representing other clients who have or are looking for similar properties for sale or lease;
- representing other sellers or lessors who have similar properties to that sought by the buyer or lessee; and
- showing the buyer other available properties.

Background: Generally, an individual must be licensed by the commission as a real estate broker before the individual may provide real estate brokerage services in the State. Similarly, an individual must be licensed by the commission as an associate real estate broker or a real estate salesperson before the individual, while acting on behalf of a real estate broker, may provide real estate brokerage services in the State. “Provide real estate brokerage services” includes, for consideration, selling, buying, exchanging, or leasing any real estate or collecting rent for the use of any real estate on behalf of another person.

Chapter 311 of 2016, in addition to making several other changes, repealed provisions relating to the presumed agency between a real estate broker and a prospective buyer or lessee.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

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