

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulation  
Department of Labor, Licensing, and Regulation  
(DLS Control No. 16-089)**

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**Overview and Legal and Fiscal Impact**

The regulation reduces the fee that the State Real Estate Commission charges for license reactivation and eliminates the fee charged for a duplicate copy of a license.

The regulation presents no legal issues of concern.

Special fund revenues decrease by \$15,225 annually beginning in fiscal 2017. Expenditures are not directly affected.

**Regulation of COMAR Affected**

**Department of Labor, Licensing, and Regulation:**

Real Estate Commission: Fees: COMAR 09.11.09.02

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**Legal Analysis**

**Background**

On September 15, 2015, Governor Larry Hogan announced a plan to reduce or eliminate a number of fees across State government. Governor Hogan announced a second round of fee reductions or eliminations on May 12, 2016. This regulation is part of the second round of reductions or eliminations. Additional information regarding Governor Hogan's fee reduction initiative may be found [here](#).

**Summary of Regulation**

The regulation makes two changes to the fees charged for services that the commission provides. First, the regulation reduces from \$50 to \$25 the cost of reactivating an inactive license. Second, the regulation repeals the \$25 fee for a duplicate license or pocket card regarding licensure status.

**Legal Issues**

This regulation presents no legal issues of concern.

## **Statutory Authority and Legislative Intent**

The Department of Labor, Licensing, and Regulation cites § 17-213 of the Business Occupations and Professions Article and § 2-106.4 of the Business Regulation Article as statutory authority for the regulation.

Specifically, § 17-213(a) of the Business Occupations and Professions Article authorizes the commission to adopt regulations to set reasonable fees for its services and requires that the fees approximate the cost of maintaining the commission, based on specified calculations that the Secretary of Labor, Licensing, and Regulation performs. Section 2-106.4 of the Business Regulation Article requires (1) the secretary to annually calculate direct and indirect costs attributable to the commission and (2) the commission to establish fees based on those calculations. The provision further specifies that each fee may not increase annually by more than 12.5%.

This authority is correct and complete. However, if the fee reductions affect the balance of the State Real Estate Commission Fund to the extent that the commission would be unable to carry out its responsibilities, the regulation may not reflect the legislative intent of the law.

## **Fiscal Analysis**

Special fund revenues decrease by \$15,225 annually beginning in fiscal 2017. Expenditures are not directly affected.

### **Agency Estimate of Projected Fiscal Impact**

The department advises that special fund (State Real Estate Commission Fund) revenues decrease by \$15,225 annually due to the fee reductions, beginning in fiscal 2017. Of that total, \$15,075 is from the reduction of the license reactivation fee from \$50 to \$25 and the remaining \$150 is from the elimination of the \$25 duplicate license fee. The Department of Legislative Services concurs but notes that the revenue reduction in fiscal 2017 may be slightly less than this estimate due to the effective date of the regulation.

### **Impact on Budget**

The estimated annual revenue reduction associated with the regulation is not anticipated to meaningfully affect the balance of the State Real Estate Commission Fund, which is \$2.7 million as of June 1, 2016. Fiscal 2017 revenues (absent the regulation) are estimated to be \$3.0 million, while fiscal 2017 expenditures are estimated to be \$2.1 million. Thus, there is no impact on the State operating or capital budget.

### **Agency Estimate of Projected Small Business Impact**

The department advises that the regulation has a meaningful economic impact on small businesses in the State because most real estate licensees are independent contractors and, therefore, small businesses. These licensees benefit from the reduced fees. The Department of

Legislative Services generally disagrees with the characterization of the economic impact on small businesses as meaningful. While small businesses benefit from the fee reductions, the annual savings to any small business – if any – is likely less than \$50 annually and, therefore, should be characterized as minimal.

## **Contact Information**

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