

**Department of Fiscal Services**  
Maryland General Assembly

**FISCAL NOTE**

Senate Bill 418 (Senator Collins, *et al.*)  
Economic and Environmental Affairs

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**Real Estate Licensing Reform Act**

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This bill identifies the standard duties of a real estate licensee in a brokerage relationship, including standards of care, disclosure of material facts, timely presentation of all offers, maintenance of confidentiality, and disclosure of brokerage relationships. The bill provides that a licensee is presumed to represent the buyer unless otherwise specified in writing. The bill requires all brokerage agreements for residential property to be in writing and allows parties to agree to varied levels of duties and obligations under specified terms of a written agreement. It also defines the scope of assistance a licensee may offer and codifies forms for agency disclosure. The bill reduces the liability of clients, brokers, and licensees under specified circumstances. The bill also requires licensees to represent only one agent at a time unless the licensee has the express consent of the seller/client.

The bill's effective date is October 1, 1998.

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**Fiscal Summary**

**State Effect:** General fund expenditures could decrease approximately \$80,250 in FY 1999, which reflects the October 1, 1998 effective date. Out-year expenditures reflect annualization. Revenues would not be affected.

(in dollars)	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003
GF Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditures	(80,250)	(107,000)	(107,000)	(107,000)	(107,000)
Net Effect	\$80,250	\$107,000	\$107,000	\$107,000	\$107,000

Note: ( ) - decrease; GF - general funds; FF - federal funds; SF - special funds

**Local Effect:** Revenues could decrease by an indeterminate amount due to the bill's reduction of real estate provider liability and potential decline in cases adjudicated and fines collected. Expenditures could decrease as a result of fewer cases adjudicated in circuit court.

**Small Business Effect:** Potential meaningful impact on real estate providers as discussed below.

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## Fiscal Analysis

**State Expenditures:** The bill limits the ability of consumers to file complaints against real estate licensees. It is estimated that the hearings held at the Office of Administrative Hearings (OAH) for real estate licensee violations would decline by approximately 50% annually as a result of the bill. Currently, \$214,000 is in the Department of Labor, Licensing and Regulation's (DLLR) fiscal 1998 budget allowance for real estate licensee hearings. Based on this amount DLLR's, expenditures for OAH hearings would decrease about \$107,000 annually.

**Small Business Effect:** There are approximately 37,000 licensed real estate providers in the State, the majority of which are small businesses. This bill could have a potential meaningful impact on real estate providers by limiting their liability for specified actions. It limits a broker's liability for misrepresentations, negligence, or intentional wrongful acts by a licensee unless the broker had actual knowledge and failed to act to correct. The bill eliminates a licensee's (1) liability to a non-client if the licensee did not have actual knowledge of a falsity; (2) liability for misrepresentations of a prospective buyer's financial ability; and (3) responsibility to verify financial information of prospective buyers. To the extent that the bill reduces a licensee's exposure to consumer complaints, expenses associated with defending against those complaints and paying any damages assessed could be significantly reduced.

The bill also alters the presumption about who a licensee represents during real estate transactions. This change in presumption may affect real estate providers that are currently buyer agents because it affects their ability to market their company's representation of buyers in real estate transactions as a specialty service. A licensee is presumed to represent the buyer unless dual agency is agreed to by both the buyer and the seller. Under current law, there is no presumption of representation, although regulations create the presumption that the licensee represents the seller.

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**Information Source(s):** Department of Labor, Licensing, and Regulation; Maryland Association of Realtors; Office of Administrative Hearings

**Fiscal Note History:** First Reader - February 12, 1997

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