

BY: Economic Matters Committee

AMENDMENTS TO SENATE BILL NO. 641

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “standard” in line 7 down through “transactions” in line 8 and substitute “requirements to which licensees must comply in providing real estate services”; strike beginning with “providing” in line 9 down through “Act;” in line 12; in line 14, after “date” insert “for certain provisions of this Act; providing that certain regulations shall be adopted by a certain date; providing for certain presumed agency relationships”; in line 16, after “repealing” insert “and reenacting, without amendments,”; in line 18, strike “17-322(a)” and substitute “17-101(a)”; and in line 23, strike “17-528” and substitute “17-101(l), (m), and (n), 17-528,”.

On page 2, strike line 4 in its entirety and substitute “Section 17-101(l); 17-528 and 17-529 and 17-531 through 17-535 to be”.

AMENDMENT NO. 2

On page 2, strike in their entirety lines 11 through 20, inclusive, and substitute:

“17-101.

(a) In this title the following words have the meanings indicated.

(L) “LICENSEE” MEANS A LICENSED REAL ESTATE BROKER, A LICENSED ASSOCIATE REAL ESTATE BROKER, OR A LICENSED REAL ESTATE SALESPERSON.

[(1)] (M) (1) “Real estate” means any interest in real property that is located in this State or elsewhere.

(2) “Real estate” includes:

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(i) an interest in a condominium; and
(ii) a time-share estate or a time-share license, as those terms are defined in § 11A-101 of the Real Property Article.

[(m)] (N) “Real estate broker” means an individual who provides real estate brokerage services.

[(n)] (O) “Real estate salesperson” means an individual who, while affiliated with and acting on behalf of a real estate broker, provides real estate brokerage services.”.

On page 3, in lines 17 and 18, strike “, ENTITY, OR BUSINESS”; and strike in their entirety lines 35 through 37, inclusive.

On page 4, in line 1, strike “(J)” and substitute “(I)”; strike beginning with “ACTS” in line 1 down through “JUDGMENT” in line 5 and substitute “AN ACT THAT:

(1) A LICENSEE PERFORMS ON BEHALF OF A CLIENT BEFORE AND AFTER THE EXECUTION OF A CONTRACT OF SALE OR LEASE;

(2) ASSISTS ANOTHER PERSON TO COMPLETE OR FULFILL A CONTRACT OF SALE OR LEASE WITH THE CLIENT OF THE LICENSEE; AND

(3) DOES NOT INVOLVE DISCRETION OR THE EXERCISE OF THE LICENSEE’S OWN JUDGMENT”;

strike in their entirety lines 6 through 8, inclusive; in lines 9 and 11, strike “(L)” and “(M)”, respectively, and substitute “(J)” and “(K)”, respectively.

AMENDMENT NO. 3

On page 4, strike in their entirety lines 22 through 28, inclusive; and in line 29, strike “17-532.” and substitute “17-530.”.

On page 9, in line 28, strike “17-533.” and substitute “17-531.”.

On page 10, in line 1, strike “17-534.” and substitute “17-532.”.

On page 12, in line 1, strike “17-535.” and substitute “17-533.”.

On page 13, in line 16, strike “17-536.” and substitute “17-534.”.

On page 14, in line 31, strike “17-537.” and substitute “17-535.”.

AMENDMENT NO. 4

On page 6, in line 6, strike “AN AGENT” and substitute “A LICENSEE”; in the same line strike “(1)”; in line 8, strike “(2) IS NOT” and substitute “IS NEITHER”; in the same line strike “OR IS NOT” and substitute “NOR”; in line 11, strike “AGENT” and substitute “LICENSEE”; and in line 12, strike “AGENT” and substitute “LICENSEE”.

On page 7, in line 28, after “CONSENTED” insert “, AS REQUIRED BY THIS SECTION.”; in line 29, strike “AS REQUIRED IN THIS SECTION”; in lines 31 and 32, in each instance, strike “AGENT” and substitute “LICENSEE”; and in lines 32 and 33, strike “§ 17-534” and substitute “§ 17-522”.

AMENDMENT NO. 5

On page 9, strike beginning with “A” in line 29 down through “(B)” in line 32; in line 33, strike “AGREEING IN WRITING TO A BROKERAGE RELATIONSHIP” and substitute “ENTERING A BROKERAGE AGREEMENT”; in line 34, strike “STANDARD”; and in line 35, strike “PROVIDED IN § 17-534” and substitute “AND OBLIGATIONS SPECIFIED IN § 17-532”.

AMENDMENT NO. 6

On pages 10 and 11, strike in their entirety the lines beginning with line 2 on page 10 through line 8 on page 11, inclusive, and substitute:

“(A) IN THIS SECTION, “CLIENT” INCLUDES A PROSPECTIVE BUYER OR LESSEE UNDER A PRESUMED BUYER’S AGENCY RELATIONSHIP OR A PRESUMED LESSEE’S AGENCY RELATIONSHIP AS DESCRIBED IN § 12-533 OF THIS SUBTITLE.

(B) A LICENSEE SHALL COMPLY WITH THE PROVISIONS OF THIS SECTION WHEN PROVIDING REAL ESTATE BROKERAGE SERVICES.

(C) (1) A LICENSEE SHALL:

(I) ACT IN ACCORDANCE WITH THE TERMS OF THE BROKERAGE AGREEMENT;

(II) PROMOTE THE INTERESTS OF THE CLIENT BY:

1. SEEKING A SALE OR LEASE OF REAL ESTATE AT A PRICE OR RENT SPECIFIED IN THE BROKERAGE AGREEMENT OR AT A PRICE OR RENT ACCEPTABLE TO THE CLIENT;

2. SEEKING A SALE OR LEASE OF REAL ESTATE ON TERMS SPECIFIED IN THE BROKERAGE AGREEMENT OR ON TERMS ACCEPTABLE TO THE CLIENT; AND

3. UNLESS OTHERWISE SPECIFIED IN THE BROKERAGE AGREEMENT, PRESENTING IN A TIMELY MANNER ALL WRITTEN OFFERS OR COUNTEROFFERS TO AND FROM THE CLIENT, EVEN IF THE REAL ESTATE IS SUBJECT TO AN EXISTING CONTRACT OF SALE OR LEASE;

(III) DISCLOSE TO THE CLIENT ALL MATERIAL FACTS AS REQUIRED UNDER § 17-322 OF THIS SUBTITLE;

(IV) TREAT ALL PARTIES TO THE TRANSACTION HONESTLY AND FAIRLY AND ANSWER ALL QUESTIONS TRUTHFULLY;

(V) IN A TIMELY MANNER ACCOUNT FOR ALL TRUST MONEY RECEIVED;

(VI) EXERCISE REASONABLE CARE AND DILIGENCE; AND

(VII) COMPLY WITH ALL:

1. REQUIREMENTS OF THIS TITLE;
2. APPLICABLE FEDERAL, STATE, AND LOCAL FAIR HOUSING LAWS AND REGULATIONS; AND

3. OTHER APPLICABLE LAWS AND REGULATIONS.

(2) UNLESS THE CLIENT CONSENTS IN WRITING TO THE DISCLOSURE, A LICENSEE MAY NOT DISCLOSE CONFIDENTIAL INFORMATION RECEIVED FROM OR ABOUT A CLIENT TO ANY OTHER PARTY OR LICENSEE ACTING AS THE AGENT OF THAT PARTY OR OTHER REPRESENTATIVE OF THAT PARTY.

(3) UNLESS THE CLIENT TO WHOM THE CONFIDENTIAL INFORMATION RELATES CONSENTS IN WRITING TO A DISCLOSURE OF THAT CONFIDENTIAL INFORMATION, A LICENSEE WHO RECEIVES CONFIDENTIAL INFORMATION FROM OR ABOUT THE LICENSEE'S OWN PAST OR PRESENT CLIENT OR A PAST OR PRESENT CLIENT OF THE LICENSEE'S BROKER MAY NOT DISCLOSE THAT INFORMATION TO:

(I) ANY OF THE LICENSEE'S OTHER CLIENTS;

(II) ANY OF THE CLIENTS OF THE LICENSEE'S BROKER;

(III) ANY OTHER PARTY;

(IV) ANY LICENSEE ACTING AS AN AGENT FOR ANOTHER PARTY;

OR

(V) ANY REPRESENTATIVE OF ANOTHER PARTY.

(4) UNLESS OTHERWISE SPECIFIED IN THE BROKERAGE AGREEMENT, A LICENSEE IS NOT REQUIRED TO SEEK ADDITIONAL OFFERS TO PURCHASE OR LEASE REAL ESTATE WHILE THE REAL ESTATE IS SUBJECT TO AN EXISTING CONTRACT OF SALE OR LEASE.

(5) AN INTRA-COMPANY AGENT MAY DISCLOSE CONFIDENTIAL INFORMATION TO THE BROKER OR DUAL AGENT FOR WHOM THE INTRACOMPANY AGENT WORKS BUT THE BROKER OR DUAL AGENT MAY NOT DISCLOSE THAT

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CONFIDENTIAL INFORMATION TO THE OTHER PARTY OR THE INTRACOMPANY AGENT FOR THE OTHER PARTY, AS PROVIDED IN § 17-530(D)”;

in line 9, strike “(12)” and substitute “(D)”; in lines 18, 21, 24, and 26, strike “(B)”, “(C)”, “(D)”, and “(E)”, respectively, and substitute “(E)”, “(F)”, “(G)”, and “(H)”, respectively; in line 9, strike “AN AGENT” and substitute “A LICENSEE”; strike beginning with “IN” in line 18 down through “UNDER” in line 19 and substitute “THE APPLICABILITY OF”; in line 21, strike “STANDARD DUTIES SPECIFIED IN” and substitute “REQUIREMENTS OF”; in line 24, strike “STANDARD”; and in line 32, strike “THE OTHER PERSON” and substitute “THE PERSON FOR WHOM THE MINISTERIAL ACTS ARE PERFORMED”.

AMENDMENT NO. 7

On page 12, in line 2, strike “AN AGENT” and substitute “A LICENSEE”; in the same line, strike “(1)”; in line 3, strike “(2) IS NOT” and substitute “IS NEITHER”; in line 4, strike “OR IS NOT” and substitute “NOR”; in line 7, strike “AGENT” and substitute “LICENSEE”; in line 8, strike “AGENT” and substitute “LICENSEE”; in line 11, strike “BUYER/LESSEE” and substitute “BUYER, LESSEE,”; in the same line, strike “AGENT” and substitute “LICENSEE”; in lines 11 and 12, strike “THAT THEY” and substitute “A”; strike beginning with “BUYER/LESSEE” in line 13 down through “AGREEMENT” in line 14, and substitute “LICENSEE AND EITHER THE BUYER OR THE LESSEE ENTER INTO A BROKERAGE AGREEMENT”; in line 15, strike “MAY” and substitute “DOES”; in line 16, in each instance, strike “AGENT” and substitute “LICENSEE”; in line 17, strike “BUYER’S”; in line 18, after “(D)” insert “A LICENSEE WHO IS ACTING AS”; in line 19, after “BUYER” insert “OR LESSEE”; in the same line, strike “AGENT’S BROKER” and substitute “BROKER OF THAT LICENSEE”; in line 20, strike “AGENT” and substitute “LICENSEE”; in lines 21, 22, 23, 27 and 29, in each instance, strike “AGENT” and substitute “LICENSEE”; in line 24, strike “§ 17-532(B)” and substitute “§ 17-530(B)”; in line 25, strike “AN AGENT” and substitute “A LICENSEE”; in line 30, strike “§ 17-532(D)” and substitute “§ 17-530(D)”; in line 31, strike “AGENT” and substitute “LICENSEE”; in line 34, strike the first “AGENT” and substitute “LICENSEE”; in the same line, strike “WRITTEN AGENCY AGREEMENT TO HAVE” and substitute “BROKERAGE AGREEMENT FOR”; and in the same line, strike the second “AGENT” and substitute “LICENSEE TO”.

On page 13, in line 1, after the first “THE” insert “LICENSEE ACTING AS THE”; strike beginning with “HAS” in line 1 down through “SUBTITLE” in line 3 and substitute “SHALL”.

COMPLY WITH § 17-532 OF THIS SUBTITLE AND HAS THE DUTIES STATED IN THE REQUIRED DISCLOSURE FORM UNDER § 17-530 OF THIS SUBTITLE"; in line 4, strike "AGENT" and substitute "LICENSEE"; in line 5, strike "AGENT" and substitute "LICENSEE"; in line 7, strike the first "AGENT" and substitute "LICENSEE"; in line 10, strike "§ 17-532" and substitute "§ 17-530"; in line 10, strike "AGENT" and substitute "LICENSEE"; in line 13, strike "AN AGENT" and substitute "A LICENSEE"; in line 14, after the second "THE" insert "LICENSEE ACTING AS THE"; in line 17, strike "§ 17-535" and substitute "§ 17-533"; and in line 30, strike "§ 17-532" and substitute "§ 17-530".

On page 15, after line 11, insert:

"SECTION 3. AND BE IT FURTHER ENACTED, That any regulations that the Commission adopts to carry out the provisions of this Act shall be adopted no later than January 1, 1999.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect July 1, 1998."

in line 12, strike "3." and substitute "5."; in line 12, after "That" insert:

"Sections 1 and 2 of"

and strike beginning with "except" in line 13 down through "1999".