
By: **Delegates Pitkin, Kach, Bobo, Conroy, and Hubbard**
Introduced and read first time: February 13, 1998
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Home Builders and Sales Agents of Home Builders - Licensure**

3 FOR the purpose of requiring certain home builders and sales agents who sell real
4 estate for certain home builders to be licensed by the State Real Estate
5 Commission; altering a certain definition; and generally relating to the
6 regulation of certain home builders and certain sales agents who sell real estate
7 for certain home builders.

8 BY repealing and reenacting, with amendments,
9 Article - Business Occupations and Professions
10 Section 17-101(k) and 17-301
11 Annotated Code of Maryland
12 (1995 Replacement Volume and 1997 Supplement)

13 BY repealing and reenacting, without amendments,
14 Article - Business Occupations and Professions
15 Section 17-207 and 17-322(b)(3), (4), (25), and (33) and (c)
16 Annotated Code of Maryland
17 (1995 Replacement Volume and 1997 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Business Occupations and Professions**

21 17-101.

22 (k) "Provide real estate brokerage services" means to engage in any of the
23 following activities:

24 (1) for consideration, providing any of the following services for another
25 person:

26 (i) selling, buying, exchanging, or leasing any real estate; [or]

1 (II) SELLING ANY REAL ESTATE AS A HOME BUILDER OR AS A
2 SALES AGENT FOR A HOME BUILDER; OR

3 [(ii)] (III) collecting rent for the use of any real estate;

4 (2) for consideration, assisting another person to locate or obtain for
5 purchase or lease any residential real estate;

6 (3) engaging regularly in a business of dealing in real estate or leases or
7 options on real estate;

8 (4) engaging in a business the primary purpose of which is promoting the
9 sale of real estate through a listing in a publication issued primarily for the promotion
10 of real estate sales;

11 (5) engaging in a business that subdivides land that is located in any
12 state and sells the divided lots; or

13 (6) for consideration, serving as a consultant regarding any activity set
14 forth in items (1) through (5) of this subsection.

15 17-207.

16 (a) To protect the interests of the public, the Commission shall adopt, by
17 regulation, a code of ethics to set standards of conduct for all individuals licensed
18 under this title.

19 (b) The Commission:

20 (1) at least once every 2 years, shall provide a copy of the code of ethics to
21 each licensee; and

22 (2) on request of any person, shall make available a copy of the code of
23 ethics to that person.

24 17-301.

25 (a) (1) Except as otherwise provided in this title, an individual shall be
26 licensed by the Commission as a real estate broker before the individual may provide
27 real estate brokerage services in the State.

28 (2) Except as otherwise provided in this title, an individual shall be
29 licensed by the Commission as an associate real estate broker or a real estate
30 salesperson before the individual, while acting on behalf of a real estate broker, may
31 provide real estate brokerage services in the State.

32 (b) A license is not required for:

33 (1) a financial institution, as defined in Title 1 of the Financial
34 Institutions Article, a subsidiary or affiliate of such a financial institution, or
35 mortgage loan institution incorporated under the laws of any state or of the United

1 States to manage, lease, or sell any property that the institution or subsidiary or
2 affiliate of a financial institution acquires in connection with a mortgage foreclosure
3 or deed or assignment in lieu of foreclosure;

4 (2) a lawyer who:

5 (i) is not engaged regularly in the business of providing real estate
6 brokerage services; and

7 (ii) does not represent to the public, by use of a sign or
8 advertisement or otherwise, that the lawyer is in the business of providing real estate
9 brokerage services;

10 (3) a home builder in the rental [or initial sale]of a home constructed by
11 the builder;

12 (4) an agent of a licensed real estate broker or of an owner of real estate
13 while managing or leasing that real estate for the real estate broker or owner;

14 (5) any person in negotiating the sale, lease, or other transfer of a
15 business enterprise if the proposed transfer does not include any interest in real
16 property other than a lease under which the business enterprise operates; or

17 (6) any person to subdivide and sell unimproved property owned by that
18 person if the person meets the requirements of § 17-302 of this subtitle.

19 17-322.

20 (b) Subject to the hearing provisions of § 17-324 of this subtitle, the
21 Commission may deny a license to any applicant, reprimand any licensee, or suspend
22 or revoke a license if the applicant or licensee:

23 (3) directly or through another person willfully makes a
24 misrepresentation or knowingly makes a false promise;

25 (4) intentionally or negligently fails to disclose to any person with whom
26 the applicant or licensee deals a material fact that the licensee knows or should know
27 and that relates to the property with which the licensee or applicant deals;

28 (25) engages in conduct that demonstrates bad faith, incompetency, or
29 untrustworthiness or that constitutes dishonest, fraudulent, or improper dealings;

30 (33) violates any regulation adopted under this title or any provision of
31 the code of ethics; or

32 (c) (1) Instead of or in addition to suspending or revoking a license, the
33 Commission may impose a penalty not exceeding \$2,000 for each violation.

34 (2) To determine the amount of the penalty imposed under this
35 subsection, the Commission shall consider:

- 1 (i) the seriousness of the violation;
- 2 (ii) the harm caused by the violation;
- 3 (iii) the good faith of the licensee; and
- 4 (iv) any history of previous violations by the licensee.

5 (3) The Commission shall pay any penalty collected under this
6 subsection into the General Fund of the State.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 1998.