

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE

House Bill 445 (Delegate Fulton)

Economic Matters

Real Estate Industry - Prohibited Marketing Agreements

The bill prohibits a real estate broker, an associate real estate broker, or a real estate salesperson from making payments or providing a reduced rate of commission to a buyer or seller referred by another person in accordance with any kind of marketing agreement between the person and the real estate broker, associate, or salesperson. The bill also clarifies the prohibition on real estate brokers, associate real estate brokers, and real estate salespersons from directly or indirectly compensating any person who is not licensed for real estate brokerage services.

The bill has an effective date of June 1, 1999.

Fiscal Summary

State Effect: None. The bill would not affect the workload of the Maryland Real Estate Commission.

Local Effect: None.

Small Business Effect: Potential meaningful effect.

Fiscal Analysis

Small Business Effect: This bill would prohibit real estate brokerage firms from establishing affinity relationships with trade groups, associations, airlines, retail chains, banks, home improvement companies, or various other partners. Under an affinity relationship, the real estate firm agrees to accept a reduced commission or a cash rebate in exchange for exclusive referral services from its partner. Although the real estate firm collects a smaller commission per transaction, the volume of sales increases as a result of the

referral services.

Because affinity partnerships are based on a significant increase in sales in exchange for lower fees, most relationships are formed between large firms. Small real estate firms do not have enough agents to handle the increased volume associated with affinity partnerships. Likewise, small partners cannot provide enough referrals to warrant a real estate firm to lower its fees. To the extent that affinity partnerships are profitable, large firms have a competitive advantage over small firms. Therefore, prohibiting large companies from entering into affinity relationships should benefit small real estate firms.

Information Sources: Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - February 16, 1998

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