

**Department of Legislative Services**  
 Maryland General Assembly  
 2001 Session

**FISCAL NOTE**

House Bill 558 (Delegates Proctor and Pitkin)  
 Economic Matters

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

This bill requires a person who sells real estate as a homebuilder or as a sales agent for a homebuilder to be licensed by the Maryland Real Estate Commission (MREC).

**Fiscal Summary**

**State Effect:** General fund revenues could increase by \$180,000 in FY 2002. General fund expenditures could increase by \$699,000 in FY 2002. Subsequent year cash flows reflect a three-year phase in period for the licensure program, annualization, inflation, industry growth, and a two-year licensing cycle.

**Real Estate Guaranty Fund:** Real Estate Guaranty Fund revenues could increase by \$53,300 in FY 2002. Subsequent year revenues reflect a three-year phase-in period for the licensure program and industry growth.

(in dollars)	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
GF Revenue	\$180,000	\$180,000	\$333,300	\$190,000	\$342,000
SF Revenue	53,300	53,300	53,300	13,000	13,000
GF Expenditure	699,000	686,000	912,700	940,800	970,700
Net Effect	(\$465,700)	(\$452,700)	(\$526,100)	(\$737,800)	(\$615,700)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** Meaningful.

## **Analysis**

**Current Law:** The nine-member MREC is the regulatory authority of the real estate profession in Maryland. The MREC is responsible for licensing the professionals who facilitate the buying and selling of residential, commercial, and agricultural real estate as well as establishing continuing education requirements and administering disciplinary procedures for licensee misconduct. The MREC also oversees the Real Estate Guaranty Fund, a special fund financed by the industry to compensate consumers who suffer financial loss due to licensee misconduct.

Homebuilders are required to register with the Consumer Protection Division of the Office of Attorney General. There are no special requirements for any brokers or sales representatives that work for homebuilders.

**Background:** Due to industry consolidation, the number of real estate professionals in the State has been in decline for several years. Currently, there are about 30,000 licensed professionals compared to 51,000 in 1990. The commission is subject to the Maryland Program Evaluation Act, also known as the “sunset law,” and will sunset July 1, 2002 pending continuation by the General Assembly.

Real estate brokers licensed after 1996 must take 15 clock hours of continuing education courses each licensing cycle, including a three-hour course that discusses changes in the law and a, one and one-half hour course that discusses fair housing laws and regulations.

In fiscal 2000 the guaranty fund paid out \$224,000 in claims and closed the fiscal year with a \$1.3 million balance. Over the past five years the fund has paid an average of 26 claims a year with an average payout of \$7,400.

**State Revenues:** It is estimated that 2,000 homebuilders and 6,000 salespersons will become subject to the MREC’s licensing requirements as a result of this bill. Based on past experience, the commission expects it to take three years before all 8,000 people are licensed. The licensing fee is \$95 for homebuilders and \$45 for salespersons. Each applicant must pay a \$10 fee to take the licensing exam. Thus, in fiscal 2002, assuming that 2,667 new applicants become licensed, general fund revenues are expected to increase by \$180,000. Subsequent year revenue estimates are based on a two-year licensing period, 2,670 new licensees in fiscal 2003 and fiscal 2004, and 650 new licensees annually thereafter.

**State Expenditures:** General fund expenditures could increase by an estimated \$699,197 in fiscal 2002, which accounts for the bill’s October 1, 2001 effective date. This estimate reflects the cost of hiring an administrator, two legal assistants, an assistant attorney

general, five investigators, and two contractual clerks to manage the paper flow, communication, and licensing requirements as well as to investigate and process additional consumer complaints. It includes salaries, fringe benefits, one-time start-up costs, contractual services, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- 1,000 new consumer complaints annually;
- more office space; and
- 75 additional administrative hearings.

Salaries and Fringe Benefits	\$262,867
Computer services	315,000
Contractual staff	36,366
Equipment	48,300
Operating Expenses	<u>36,634</u>
<b>Total FY 2002 State Expenditures</b>	<b>\$699,167</b>

Future year expenditures reflect: (1) full salaries with a 6.5% increase in fiscal 2003 and a 4.5% increase each year thereafter, with 3% employee turnover; (2) 1% annual increases in ongoing operating expenses; and (3) industry growth.

**Real Estate Guaranty Fund:** The Maryland Real Estate Guaranty Fund compensates individuals for actual monetary losses due to acts or omissions that occur in the provision of real estate brokerage services where money is obtained through theft, false pretenses, embezzlement, forgery, fraud, or misrepresentation. The fund covers work by licensed real estate practitioners or their employees and covers up to \$25,000 per claim.

The Real Estate Guaranty Fund is funded through assessments on real estate licensees. All applicants for an original license must contribute \$20 to the fund. As a result, guaranty fund revenues are expected to increase by \$53,300 during the first three years, and by \$13,000 in subsequent years. This reflects an initial three-year phase-in of 8,000 licensees, and 650 new licensees annually thereafter.

Real Estate Guaranty Fund (REGF) expenditures may increase disproportionately to the number of new professionals as some buyers, who are victims of poor construction work, try to seek restitution through the guaranty fund. The distinction between unprofessional sales practices and homebuilding issues may become blurred to some customers. While this is not an issue for the REGF certain expenditures will be incurred in processing and investigating the complaint.

**Small Business Effect:** This bill requires homebuilders and their sales agents to be licensed by the MREC. Therefore, the bill could have a meaningful effect on homebuilders and sales agents organized as small businesses. In addition to the one-time \$20 guaranty fee, each sales representative will now be required to pay the \$10 exam fee, and a \$45 or \$95 licensing fee. Each new licensee will also be required to fulfill the 15 hours of continuing education requirement, meet buyer disclosure requirements, and will be subject to licensee discipline for misconduct. The bill effectively places homebuilders under two regulatory authorities and compliance costs will increase significantly.

Small businesses, which offer exam preparation courses, or continuing education courses would experience increased demand for their services, which would cause their revenues to increase.

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### **Additional Information**

**Prior Introductions:** This bill was introduced as HB 1015 in 1998. It received an unfavorable report from the House Economic Matters Committee.

**Cross File:** None.

**Information Source(s):** Department of Labor, Licensing, and Regulation; Department of Legislative Services

**Fiscal Note History:** First Reader – February 12, 2001  
ncs/jr

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