

SENATE BILL 523

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2002 Regular Session
2lr2109
CF 2lr2123

By: **Senators Conway and Collins**

Introduced and read first time: February 1, 2002

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 14, 2002

CHAPTER _____

1 AN ACT concerning

2 **Nonresident Real Estate Brokers - Commercial Real Estate - Reciprocity**

3 FOR the purpose of adding a new part to a certain subtitle of the Business and
4 Occupations Article; requiring a nonresident real estate broker to meet certain
5 conditions in order to ~~provide commercial~~ engage in a commercial real estate
6 ~~brokerage services~~ transaction in this State; requiring a certain written
7 application to be submitted to the State Real Estate Commission before a
8 nonresident real estate broker may provide services; requiring a nonresident
9 real estate salesperson to meet certain conditions in order to provide certain real
10 estate services in this State; establishing a fee for a temporary license; imposing
11 certain reciprocity requirements; allocating certain trust money to be received
12 and deposited in a certain fund; designating the ~~Secretary of State~~ Executive
13 Director of the State Real Estate Commission as the agent for certain real estate
14 brokers and salespersons with regard to a subpoena, summons, or other process;
15 defining certain terms; and generally relating to nonresident real estate
16 brokers.

17 BY adding to
18 Article - Business Occupations and Professions
19 Section 17-536 through 17-540, inclusive, to be under the new part "Part IV.
20 Nonresident Commercial Real Estate Brokers"
21 Annotated Code of Maryland
22 (2000 Replacement Volume and 2001 Supplement)

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

1 **Article - Business Occupations and Professions**

2 PART IV. NONRESIDENT COMMERCIAL REAL ESTATE BROKERS.

3 17-536.

4 (A) IN THIS PART IV OF THIS SUBTITLE THE FOLLOWING WORDS HAVE THE
5 MEANINGS INDICATED.

6 (B) "COMMERCIAL REAL ESTATE" MEANS:

7 (1) REAL PROPERTY IMPROVED BY FIVE OR MORE SINGLE-FAMILY
8 UNITS; ~~AND~~

9 (2) IMPROVED AND UNIMPROVED REAL PROPERTY ZONED FOR
10 COMMERCIAL, INDUSTRIAL, OR NONRESIDENTIAL USE BY THE LOCAL ZONING
11 AUTHORITY OF THE COUNTY OR MUNICIPALITY IN WHICH THE PROPERTY IS
12 LOCATED; AND

13 (3) UNIMPROVED REAL PROPERTY ZONED FOR IMPROVEMENT AS
14 MULTI-FAMILY UNITS BY THE LOCAL ZONING AUTHORITY OF THE COUNTY OR
15 MUNICIPALITY IN WHICH THE PROPERTY IS LOCATED.

16 (C) "COMMERCIAL REAL ESTATE" DOES NOT MEAN:

17 (1) PROPERTY ZONED FOR AGRICULTURAL USE; OR

18 (2) SINGLE-FAMILY UNITS, INCLUDING A CONDOMINIUM OR CO-OP
19 UNIT, LOCATED IN A RESIDENTIAL SUBDIVISION FOR SALE OR FOR LEASE, OR
20 OTHERWISE CONVEYED OR TO BE CONVEYED ON A SINGLE BASIS.

21 (D) "NONRESIDENT REAL ESTATE BROKER" MEANS AN INDIVIDUAL,
22 PARTNERSHIP, JOINT VENTURE, LIMITED LIABILITY COMPANY, LIMITED LIABILITY
23 PARTNERSHIP, OR CORPORATION THAT IS NOT LICENSED UNDER SUBTITLE 3 OF
24 THIS TITLE BUT IS LICENSED TO PROVIDE REAL ESTATE BROKERAGE SERVICES IN A
25 JURISDICTION OTHER THAN THIS STATE.

26 (E) "NONRESIDENT REAL ESTATE SALESPERSON" MEANS AN INDIVIDUAL
27 WHO IS NOT LICENSED UNDER SUBTITLE 3 OF THIS TITLE BUT IS LICENSED TO
28 PROVIDE REAL ESTATE BROKERAGE SERVICES AND IS AFFILIATED WITH A
29 NONRESIDENT REAL ESTATE BROKER.

30 17-537.

31 (A) A NONRESIDENT REAL ESTATE BROKER MAY ~~PROVIDE REAL ESTATE~~
32 ~~BROKERAGE SERVICES~~ ENGAGE IN A TRANSACTION UNDER THIS TITLE WITH
33 RESPECT TO COMMERCIAL REAL ESTATE LOCATED IN THIS STATE AND RECEIVE
34 COMPENSATION PROVIDED THE NONRESIDENT BROKER:

1 (1) PROVIDES REAL ESTATE BROKERAGE SERVICES THROUGH A REAL
2 ESTATE BROKER LICENSED UNDER THIS TITLE;

3 (2) ENTERS INTO A WRITTEN AGREEMENT WITH A LICENSED REAL
4 ESTATE BROKER IN THIS STATE WHICH;

5 (I) SPECIFIES THE TERMS OF COOPERATION AND COMPENSATION
6 AND INCLUDES A STATEMENT BY THE NONRESIDENT REAL ESTATE BROKER THAT
7 THE NONRESIDENT REAL ESTATE BROKER AND THE NONRESIDENT SALESPERSONS
8 LICENSED AND AFFILIATED WITH THE NONRESIDENT REAL ESTATE BROKER WILL
9 BOTH ADHERE TO THE LAWS OF THIS STATE AND THIS TITLE; AND

10 (II) ALLOCATES THE RESPONSIBILITY FOR THE ACTIONS OF THE
11 NONRESIDENT BROKER IN THE TRANSACTION; AND

12 (3) COMPLIES WITH THE REQUIREMENTS OF SUBSECTION (B) OF THIS
13 SECTION.

14 (B) BEFORE A NONRESIDENT REAL ESTATE BROKER MAY PROVIDE REAL
15 ESTATE BROKERAGE SERVICES IN THIS STATE, THE NONRESIDENT REAL ESTATE
16 BROKER SHALL MAKE WRITTEN APPLICATION TO THE COMMISSION INCLUDING:

17 (1) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE
18 NONRESIDENT REAL ESTATE BROKER;

19 (2) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE BUSINESS
20 ENTITY THROUGH WHICH THE NONRESIDENT REAL ESTATE BROKER PROVIDES
21 REAL ESTATE BROKERAGE SERVICES;

22 (3) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF EACH
23 NONRESIDENT REAL ESTATE SALESPERSON WHO WILL OFFER OR PROVIDE REAL
24 ESTATE BROKERAGE SERVICES IN THIS STATE ON BEHALF OF THE NONRESIDENT
25 REAL ESTATE BROKER;

26 (4) A COPY OF THE AGREEMENT REQUIRED BY SUBSECTION (A) OF THIS
27 SECTION;

28 (5) WRITTEN EVIDENCE THAT THE NONRESIDENT REAL ESTATE
29 BROKER AND EACH NONRESIDENT REAL ESTATE SALESPERSON LISTED UNDER
30 PARAGRAPH (3) OF THIS SUBSECTION, ARE DULY LICENSED IN ANOTHER
31 JURISDICTION, AND THAT THE LICENSE IS VALID, CURRENT, AND ACTIVE;

32 (6) WRITTEN CONSENT SIGNED BY THE NONRESIDENT REAL ESTATE
33 BROKER, INDIVIDUALLY AND ON BEHALF OF THE BUSINESS ENTITY, AND BY EACH
34 NONRESIDENT REAL ESTATE SALESPERSON LISTED UNDER PARAGRAPH (3) OF THIS
35 SUBSECTION, THAT SERVICE OF PROCESS ON THE ~~SECRETARY OF STATE~~ EXECUTIVE
36 DIRECTOR OF THE COMMISSION SHALL BIND THE APPLICANT IN ANY ACTION, SUIT,
37 OR PROCEEDING BROUGHT AGAINST THE BROKER OR SALESPERSON;

1 (7) WRITTEN CONSENT SIGNED BY THE NONRESIDENT REAL ESTATE
2 BROKER AND BY EACH NONRESIDENT SALESPERSON LISTED UNDER PARAGRAPH (3)
3 OF THIS SUBSECTION, TO SUBMIT TO THE JURISDICTION OF THE COMMISSION FOR
4 THE PURPOSES OF DISCIPLINARY ACTION UNDER § 17-322 OF THIS TITLE; AND

5 (8) ANY OTHER INFORMATION THAT IS REQUESTED BY THE
6 COMMISSION; AND

7 (9) A TEMPORARY LICENSE FEE OF \$45.

8 (C) THE COMMISSION SHALL ISSUE A TEMPORARY LICENSE TO A
9 NONRESIDENT REAL ESTATE BROKER WHO COMPLIES WITH THE REQUIREMENTS OF
10 THIS SECTION IF THE JURISDICTION IN WHICH THE REAL ESTATE BROKER HOLDS A
11 CURRENT LICENSE ALLOWS A MARYLAND BROKER TO OBTAIN A TEMPORARY
12 LICENSE UNDER SIMILAR CIRCUMSTANCES.

13 17-538.

14 (A) UPON APPROVAL BY THE COMMISSION, A NONRESIDENT REAL ESTATE
15 BROKER MAY ~~PROVIDE REAL ESTATE BROKERAGE SERVICES~~ ENGAGE IN A
16 TRANSACTION IN THIS STATE WITH RESPECT TO COMMERCIAL REAL ESTATE.

17 (B) A NONRESIDENT REAL ESTATE SALESPERSON LICENSED IN ANOTHER
18 JURISDICTION AND AFFILIATED WITH A NONRESIDENT REAL ESTATE BROKER MAY
19 ~~PROVIDE REAL ESTATE BROKERAGE SERVICES~~ ENGAGE IN A TRANSACTION IN THIS
20 STATE WITH RESPECT TO COMMERCIAL REAL ESTATE IF:

21 (1) THE NONRESIDENT REAL ESTATE SALESPERSON IS LICENSED WITH
22 AND PROVIDES REAL ESTATE BROKERAGE SERVICES UNDER THE DIRECT
23 SUPERVISION OF THE NONRESIDENT REAL ESTATE BROKER;

24 (2) THE NONRESIDENT REAL ESTATE BROKER SATISFIES THE
25 REQUIREMENTS OF § 17-537 OF THIS SUBTITLE; AND

26 (3) THE NONRESIDENT REAL ESTATE SALESPERSON PROVIDES REAL
27 ESTATE BROKERAGE SERVICES IN THE NAME OF THE NONRESIDENT REAL ESTATE
28 BROKER.

29 17-539.

30 ALL TRUST MONEY PAID ON ACCOUNT OF A TRANSACTION INVOLVING
31 COMMERCIAL REAL ESTATE IN THIS STATE SHALL BE RECEIVED AND DEPOSITED IN
32 THE TRUST ACCOUNT OF THE MARYLAND BROKER IN ACCORDANCE WITH PART I OF
33 THIS SUBTITLE.

34 17-540.

35 BY FILING THE WRITTEN CONSENT REQUIRED UNDER § 17-537(B)(6) OF THIS
36 SUBTITLE, THE NONRESIDENT REAL ESTATE BROKER OR NONRESIDENT REAL
37 ESTATE SALESPERSON APPOINTS THE ~~SECRETARY OF STATE~~ EXECUTIVE DIRECTOR

1 OF THE COMMISSION AS AGENT TO RECEIVE A SUBPOENA, SUMMONS, OR OTHER
2 PROCESS.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2002.