

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 221

(Senator Conway)

Education, Health, and Environmental Affairs

Economic Matters

Real Estate Brokers - Advertisements and Reciprocity

This bill allows nonresident commercial real estate brokers and nonresident salespersons working for nonresident brokers to engage in transactions in the State under certain circumstances. Individuals licensed in Maryland are exempt from examination and qualifications provisions of this bill.

The bill also extends to October 1, 2004 the date by which a licensed real estate salesperson or licensed associate real estate broker must have the full name of the business with which they are affiliated in the same size as their name or trade name in advertisements.

Fiscal Summary

State Effect: Potential minimal decrease in general fund revenues due to lower fees collected for real estate broker licenses and fewer fees collected for real estate salesperson licenses. State expenditures will be unaffected.

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The bill defines commercial real estate as: (1) real property improved by five or more single family units; (2) improved and unimproved real property zoned for commercial, industrial, or nonresidential use by the local zoning authority; and (3) unimproved real property zoned for improvement as multifamily units by the local zoning

authority. Commercial real estate does not mean: (1) property zoned for agricultural use; or (2) single-family units, including a condominium or co-op unit for sale or lease, or otherwise conveyed or to be conveyed on a single basis.

A nonresident commercial real estate broker may be approved by the Maryland Real Estate Commission to engage in a transaction in the State if the nonresident broker:

- provides brokerage services through a broker licensed in the State;
- enters into a written agreement with the broker licensed in the State specifying the terms of cooperation and compensation, and including a statement allocating responsibility for the transaction, and a statement that the nonresident broker will adhere to the laws of the State;
- makes written application with the commission; and
- submits a temporary license fee of \$45.

The commission must issue a temporary license to a nonresident real estate broker that complies with the above requirements if the broker is licensed in a jurisdiction that allows a Maryland broker to obtain a license under similar circumstances.

Upon approval by the commission, the nonresident broker may engage in a transaction in the State, as may any nonresident salesperson provided the nonresident salesperson works under the direct supervision of the nonresident broker and provides brokerage services only in the name of the nonresident broker.

All trust money paid on account of a transaction involving commercial real estate in the State shall be received and deposited in the trust account of the Maryland broker.

Current Law:

Commercial Real Estate

For a licensee who holds a comparable real estate license from another state, the commission may waive any additional requirements for licensure if the licensee:

- pays the application fee corresponding to the level of licensure;
- provides adequate evidence that the applicant meets the qualifications otherwise required of applicants at the same level of licensure;
- submits a certified copy of the applicant's license from the state of issuance; and
- for a real estate broker license, provides adequate evidence of an active office in the other state.

Advertising and Display of Names and Trade Names

Licensed real estate salespersons and licensed associate real estate brokers may not advertise unless: (1) the name or trade name of the licensed real estate salesperson or licensed associate real estate broker, as the name or trade name currently appears on the license certificate and pocket card issued by the Real Estate Commission, is meaningfully and conspicuously displayed in an advertisement; and (2) the full name of the business, not a logo of the business, with which the licensed real estate salesperson or licensed associate real estate broker is affiliated is meaningfully and conspicuously displayed in a size that is at least as large as the name or trade name of the licensed real estate salesperson or licensed associate real estate broker. The size requirement for the advertising is effective October 1, 2003.

Advertisement means any oral, written, or printed media advertisement. It includes any correspondence, mailing, newsletter, brochure, business card, for sale or for lease sign and sign rider, promotional item, automobile signage, telephone directory listing, television announcement, radio announcement, telephone solicitation, and World Wide Web and Internet voice overs.

Trade name means the individual name of a licensed real estate salesperson or licensed associate real estate broker other than the licensed real estate salesperson or licensed associate real estate broker's full legal name. Trade name includes first name, nickname, or last name.

State Revenues: General fund revenues could decrease due to a loss of fees that are currently charged to out-of-state licensees who become licensed to provide brokerage services in the State. Current application fees are \$95 for a real estate broker and \$45 for a real estate salesperson. Additionally, each applicant must pay a one-time fee of \$20 into the Real Estate Guaranty Fund. Because there are no reliable data on the number of out-of-state licensees who may avoid or pay lower fees under the bill, it is difficult to reliably estimate the revenue loss. However, because the fees are relatively low, any decreases are expected to be minimal.

Background: In March 2001, the advisory board of the Realtor Commercial Affiliation, an entity organized under the National Association of Realtors, agreed to support draft model legislation recommended by its License Reciprocity Task Force that allows out-of-state commercial licensees to operate in a given state by entering into a written agreement with an in-state licensee.

Additional Information

Prior Introductions: In 2002, SB 523, an identical bill, was vetoed by the Governor.

Cross File: HB 801 (Delegate Minnick) – Economic Matters.

Information Source(s): Department of Labor, Licensing, and Regulation; Realtors Commercial Alliance Report; Department of Legislative Services

Fiscal Note History: First Reader - February 13, 2003
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