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By: **Chairman, Economic Matters Committee (By Request - Departmental -  
Labor, Licensing and Regulation)**

Introduced and read first time: January 19, 2004

Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **State Real Estate Commission - Special Fund - Fees**

3 FOR the purpose of establishing the State Real Estate Commission Fund as a  
4 continuing, nonlapsing special fund in the Department of Labor, Licensing, and  
5 Regulation; requiring that the Fund be used for certain purposes; providing for  
6 an audit of the Fund; providing that the Secretary of Labor, Licensing, and  
7 Regulation shall administer the Fund; authorizing the State Real Estate  
8 Commission to set certain fees to be based on certain calculations, and to be  
9 used for a certain purpose; directing the payment of certain fees collected by the  
10 Commission to the Fund; excluding certain costs from the calculation of the  
11 direct and indirect costs of the Commission that are to be used by the  
12 Commission in setting the fees authorized under this Act; changing the  
13 classification of certain fees; providing that certain fees remain in effect until  
14 certain other fees are adopted and become effective; and generally relating to  
15 the State Real Estate Commission Fund and fees set and collected by the State  
16 Real Estate Commission.

17 BY repealing and reenacting, with amendments,  
18 Article - Business Occupations and Professions  
19 Section 17-101, 17-306(d), 17-307(a)(4), 17-308(b)(1), 17-311(c)(5),  
20 17-312(g)(5), 17-313(j)(4), 17-314(d)(1), (e)(2), and (g)(4), 17-316(e),  
21 17-317(b)(2) and (c)(2), and 17-318(a)(4)  
22 Annotated Code of Maryland  
23 (2000 Replacement Volume and 2003 Supplement)

24 BY repealing  
25 Article - Business Occupations and Professions  
26 Section 17-213  
27 Annotated Code of Maryland  
28 (2000 Replacement Volume and 2003 Supplement)

29 BY adding to  
30 Article - Business Occupations and Professions

1 Section 17-213  
2 Annotated Code of Maryland  
3 (2000 Replacement Volume and 2003 Supplement)

4 BY adding to  
5 Article - Business Regulation  
6 Section 2-106.3 and 2-106.4  
7 Annotated Code of Maryland  
8 (1998 Replacement Volume and 2003 Supplement)

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

11 **Article - Business Occupations and Professions**

12 17-101.

13 (a) In this title the following words have the meanings indicated.

14 (b) "Affiliate" means, unless the context requires otherwise, to establish  
15 between an individual and a real estate broker an employment or other contractual  
16 relationship under which the individual is authorized to provide real estate brokerage  
17 services on behalf of the real estate broker.

18 (c) "Associate real estate broker" means an individual:

19 (1) who meets the requirements for a real estate broker license under §  
20 17-305 of this title but who applies for and is granted an associate real estate broker  
21 license under §§ 17-307 and 17-309 of this title; and

22 (2) who, under the associate real estate broker license, may provide real  
23 estate brokerage services on behalf of a licensed real estate broker with whom the  
24 associate real estate broker is affiliated.

25 (d) "Commission" means the State Real Estate Commission.

26 (e) "Guaranty Fund" means a real estate guaranty fund established by the  
27 Commission under § 17-402 of this title.

28 (f) "Hearing board" means a real estate hearing board appointed by the  
29 Commission under § 17-325 of this title.

30 (g) (1) "License" means, unless the context requires otherwise, a license  
31 issued by the Commission.

32 (2) "License" includes, unless the context requires otherwise:

33 (i) a real estate broker license;

1 (ii) an associate real estate broker license; and

2 (iii) a real estate salesperson license.

3 (H) "LICENSE FEE" MEANS THE FEE PAID IN CONNECTION WITH THE  
4 ISSUANCE OR RENEWAL OF A LICENSE OR THE ISSUANCE OF A RECIPROCAL  
5 LICENSE.

6 [(h)] (I) "Licensed associate real estate broker" means, unless the context  
7 requires otherwise, an associate real estate broker who is licensed by the Commission  
8 to provide real estate brokerage services on behalf of a licensed real estate broker  
9 with whom the associate real estate broker is affiliated.

10 [(i)] (J) "Licensed real estate broker" means, unless the context requires  
11 otherwise, a real estate broker who is licensed by the Commission to provide real  
12 estate brokerage services.

13 [(j)] (K) "Licensed real estate salesperson" means, unless the context  
14 requires otherwise, a real estate salesperson who is licensed by the Commission to  
15 provide real estate brokerage services on behalf of a licensed real estate broker with  
16 whom the real estate salesperson is affiliated.

17 [(k)] (L) "Provide real estate brokerage services" means to engage in any of  
18 the following activities:

19 (1) for consideration, providing any of the following services for another  
20 person:

21 (i) selling, buying, exchanging, or leasing any real estate; or

22 (ii) collecting rent for the use of any real estate;

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

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

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

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

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

34 [(l)] (M) "Licensee" means a licensed real estate broker, a licensed associate  
35 real estate broker, or a licensed real estate salesperson.

1 [(m)] (N) (1) "Real estate" means any interest in real property that is  
2 located in this State or elsewhere.

3 (2) "Real estate" includes:

4 (i) an interest in a condominium; and

5 (ii) a time-share estate or a time-share license, as those terms are  
6 defined in § 11A-101 of the Real Property Article.

7 [(n)] (O) "Real estate broker" means an individual who provides real estate  
8 brokerage services.

9 [(o)] (P) "Real estate salesperson" means an individual who, while affiliated  
10 with and acting on behalf of a real estate broker, provides real estate brokerage  
11 services.

12 [17-213.

13 Except as otherwise provided by law, the Commission shall pay all money  
14 collected under this title into the General Fund of the State.]

15 17-213.

16 (A) (1) THE COMMISSION MAY SET REASONABLE FEES FOR ITS SERVICES.

17 (2) THE FEES CHARGED SHALL BE SET SO AS TO PRODUCE FUNDS TO  
18 APPROXIMATE THE COST OF MAINTAINING THE COMMISSION AND SHALL BE BASED  
19 ON THE CALCULATIONS PERFORMED BY THE SECRETARY UNDER § 2-106.4 OF THE  
20 BUSINESS REGULATION ARTICLE.

21 (B) THE COMMISSION SHALL PUBLISH THE FEE SCHEDULE SET BY THE  
22 COMMISSION BY REGULATION.

23 (C) (1) THE COMMISSION SHALL PAY ALL FEES COLLECTED UNDER THIS  
24 TITLE TO THE COMPTROLLER OF THE STATE.

25 (2) THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE STATE  
26 REAL ESTATE COMMISSION FUND ESTABLISHED IN § 2-106.3 OF THE BUSINESS  
27 REGULATION ARTICLE.

28 17-306.

29 (d) (1) To take an examination, an applicant shall pay:

30 [(1)] (I) to the Commission OR THE COMMISSION'S DESIGNEE, a [\$10  
31 examination fee] NONREFUNDABLE APPLICATION FEE SET BY THE COMMISSION;  
32 and

1            [(2)]    (II)    to the Commission or a testing service chosen by the  
2 Commission, an [amount covering the cost of the] examination FEE SET BY THE  
3 COMMISSION.

4            (2)    THE AMOUNT OF THE EXAMINATION FEE MAY NOT EXCEED THE  
5 COST OF THE REQUIRED EXAMINATION.

6 17-307.

7        (a)    An applicant for a license:

8            (4)    shall pay to the Commission [an application] A LICENSE fee [of:

9                    (i)    \$95 for a real estate broker license;

10                    (ii)    \$65 for an associate real estate broker license; or

11                    (iii)    \$45 for a real estate salesperson license] SET BY THE  
12 COMMISSION; and

13 17-308.

14        (b)    The Commission may grant a waiver under this section only if the  
15 applicant:

16            (1)    pays [the] A NONREFUNDABLE application fee AND A LICENSE FEE  
17 SET BY THE COMMISSION [required under § 17-307 of this subtitle for the license for  
18 which the applicant is applying];

19 17-311.

20        (c)    To transfer affiliation under this section, a qualified real estate  
21 salesperson or associate real estate broker shall:

22            (5)    pay to the Commission a transfer fee [of \$10] SET BY THE  
23 COMMISSION.

24 17-312.

25        (g)    To exchange a license for another license, a qualified licensee shall:

26            (5)    pay to the Commission [an application fee of:

27                    (i)    \$95 for a real estate broker license;

28                    (ii)    \$65 for an associate real estate broker license; or

29                    (iii)    \$45 for a real estate salesperson license] A LICENSE FEE SET BY  
30 THE COMMISSION; and

1 17-313.

2 (j) To obtain an additional license, a qualified licensee shall:

3 (4) pay to the Commission [an application fee of:

4 (i) \$95 for a real estate broker license;

5 (ii) \$65 for an associate real estate broker license; or

6 (iii) \$45 for a real estate salesperson license] A LICENSE FEE SET BY  
7 THE COMMISSION; and

8 17-314.

9 (d) (1) At least 1 month before a license expires, the Commission shall mail  
10 to the licensee, as provided in paragraph (2) of this subsection:

11 (i) a renewal application form; and

12 (ii) a notice that states:

13 1. the date on which the current license expires;

14 2. the date by which the Commission must receive the  
15 renewal application for the renewal to be issued and mailed before the license expires;

16 and

17 3. the amount of the [renewal] LICENSE fee.

18 (e) Before a license expires, the licensee periodically may renew it for an  
19 additional 2-year term, if the licensee:

20 (2) pays to the Commission a [renewal] LICENSE fee [of:

21 (i) \$95 for a real estate broker license;

22 (ii) \$65 for an associate real estate broker license; or

23 (iii) \$45 for a real estate salesperson license] SET BY THE  
24 COMMISSION;

25 (g) The Commission shall reinstate the license of a licensee under this title  
26 whose license has expired if the licensee:

27 (4) pays to the Commission[:

28 (i) all past due renewal fees; and

29 (ii)] a reinstatement fee [of \$100] SET BY THE COMMISSION.

1 17-316.

2 (e) (1) The Commission shall reactivate the license of a real estate broker  
3 that is on inactive status and reissue a license certificate and pocket card to the  
4 broker if the broker:

5 (i) requests that the license be reactivated;

6 (ii) pays to the Commission a reissuance fee [of \$10] SET BY THE  
7 COMMISSION; and

8 (iii) meets the continuing education requirements that would have  
9 been required for renewal of a license under § 17-315 of this subtitle if the license had  
10 not been on inactive status.

11 (2) The Commission shall reactivate the license of an associate real  
12 estate broker or a real estate salesperson that is on inactive status and reissue a  
13 license certificate and pocket card to the associate broker or salesperson if the  
14 associate broker or salesperson:

15 (i) requests that the license be reactivated;

16 (ii) pays to the Commission a reissuance fee [of \$10] SET BY THE  
17 COMMISSION;

18 (iii) meets the continuing education requirements that would have  
19 been required for renewal of a license under § 17-315 of this subtitle if the license had  
20 not been on inactive status; and

21 (iv) submits to the Commission adequate evidence that the  
22 associate broker or salesperson has obtained, from a licensed real estate broker, a  
23 commitment providing that the associate broker or salesperson shall become  
24 affiliated with the broker as an associate real estate broker or a real estate  
25 salesperson on reactivation of the license of the associate broker or salesperson.

26 17-317.

27 (b) (2) To receive a duplicate license certificate, the licensee shall submit to  
28 the Commission:

29 (i) an affidavit stating that the license certificate has been lost or  
30 destroyed; and

31 (ii) a fee [of \$5] SET BY THE COMMISSION.

32 (c) (2) To receive a duplicate pocket card, the licensee shall submit to the  
33 Commission:

34 (i) an affidavit stating that the pocket card has been lost or  
35 destroyed; and

1 (ii) a fee [of \$1] SET BY THE COMMISSION.

2 17-318.

3 (a) To change the name of a licensee or a firm on a license certificate and  
4 pocket card, a licensee shall submit to the Commission:

5 (4) a fee [of \$5] SET BY THE COMMISSION.

6 **Article - Business Regulation**

7 2-106.3.

8 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
9 INDICATED.

10 (2) "COMMISSION" MEANS THE STATE REAL ESTATE COMMISSION.

11 (3) "FUND" MEANS THE STATE REAL ESTATE COMMISSION FUND.

12 (B) (1) THERE IS A STATE REAL ESTATE COMMISSION FUND IN THE  
13 DEPARTMENT.

14 (2) THE FUND IS A CONTINUING, NONLAPSING SPECIAL FUND.

15 (C) (1) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE STATE REAL ESTATE  
16 COMMISSION SHALL PAY ALL FEES COLLECTED TO THE COMPTROLLER OF THE  
17 STATE.

18 (2) THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE FUND.

19 (D) (1) THE FUND SHALL BE USED TO COVER THE ACTUAL DOCUMENTED  
20 DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY  
21 DUTIES OF THE STATE REAL ESTATE COMMISSION.

22 (2) THE FOLLOWING COSTS MAY NOT BE INCLUDED IN THE DIRECT AND  
23 INDIRECT COSTS OF THE COMMISSION BUT SHALL BE PAID FROM THE GENERAL  
24 FUNDS OF THE STATE:

25 (I) COSTS TO THE OFFICE OF ADMINISTRATIVE HEARINGS THAT  
26 ARE ATTRIBUTABLE TO APPEALS OF ACTIONS OF THE COMMISSION; AND

27 (II) CAPITAL EXPENSES RELATED TO THE IMPLEMENTATION AND  
28 ENHANCEMENT OF ELECTRONIC LICENSING CAPABILITIES.

29 (E) THE SECRETARY OR A DESIGNEE OF THE SECRETARY SHALL ADMINISTER  
30 THE FUND.

31 (F) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND  
32 TRANSACTIONS OF THE FUND AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT  
33 ARTICLE.



1 2-106.4.

2 (A) IN CONSULTATION WITH THE COMMISSION, THE SECRETARY SHALL  
3 ANNUALLY CALCULATE THE DIRECT AND INDIRECT COSTS ATTRIBUTABLE TO THE  
4 COMMISSION.

5 (B) THE COMMISSION SHALL ESTABLISH FEES BASED ON THE CALCULATIONS  
6 PROVIDED BY THE SECRETARY UNDER THIS SECTION.

7 (C) EACH FEE ESTABLISHED BY THE COMMISSION MAY NOT BE INCREASED  
8 ANNUALLY BY MORE THAN 12.5% OF THE EXISTING AND CORRESPONDING FEE OF  
9 THE COMMISSION.

10 SECTION 2. AND BE IT FURTHER ENACTED, That any fees repealed under  
11 this Act shall remain in full force and effect until the fees authorized to be set in  
12 accordance with Section 1 of this Act are adopted by the State Real Estate  
13 Commission and take effect.

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take  
15 effect June 1, 2004.