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By: **Chairman, Economic Matters Committee (By Request - Departmental -**
     Labor, Licensing and Regulation)
Introduced and read first time: February 8, 2005
Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2   **State Real Estate Commission - Complaints - Judicial Appeal**

3 FOR the purpose of eliminating the right of a certain complainant to appeal certain
4   Real Estate Commission decisions under certain circumstances; authorizing a
5   panel composed of a certain number of members of the Real Estate Commission
6   to review certain dismissals of complaints; making certain decisions of the Real
7   Estate Commission final under certain circumstances; and generally relating to
8   the State Real Estate Commission.

9 BY repealing and reenacting, with amendments,
10   Article - Business Occupations and Professions
11   Section 17-323
12   Annotated Code of Maryland
13   (2004 Replacement Volume and 2004 Supplement)

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

16   **Article - Business Occupations and Professions**

17 17-323.

18   (a)   Subject to the provisions of this section, the Commission shall commence
19 proceedings under § 17-322 of this subtitle on a complaint made to the Commission
20 by a member of the Commission or any other person.

21   (b)   (1)   A complaint shall:

22   (i)   be in writing; and

23   (ii)   state specifically the facts on which the complaint is based.

24   (2)   If a complaint is made by any person other than a member of the
25 Commission, the complaint shall be made under oath by the person who submits the
26 complaint.

1   (3)   A complaint may be accompanied by documentary or other evidence.

2   (c)   (1)   The Commission, or its designee, shall review each complaint
3 received by the Commission. A complaint shall be referred for investigation if, after a
4 review under this subsection, it is determined that the complaint:

5   (i)   alleges facts that establish a prima facie case that is grounds for
6 disciplinary action under § 17-322 of this subtitle; and

7   (ii)   meets the requirements of subsection (b) of this section.

8   (2)   A complaint not referred for investigation under paragraph (1) of this
9 subsection shall be dismissed[, and any appeal shall be taken under paragraph (3) of
10 this section].

11   (3)   (i)   If a complaint is dismissed under paragraph (2) of this
12 subsection, within 30 days from the date of the dismissal any member of the
13 Commission may file an exception to the decision.

14   (ii)   If an exception is filed with the Commission under
15 subparagraph (i) of this paragraph, [the Commission shall set a hearing on the
16 matter by the full Commission on whether the complaint satisfies the requirements of
17 paragraph (1) of this subsection.] A THREE-MEMBER PANEL OF THE COMMISSION
18 SHALL REVIEW THE COMPLAINT TO DETERMINE WHETHER IT SATISFIES THE
19 REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION. If the [Commission]
20 PANEL determines that the complaint is satisfactory, the matter shall be referred for
21 an investigation.

22   (iii)   If an exception is not filed within the time allowed under
23 subparagraph (i) of this paragraph[:

24   1.]   the decision of the Commission is final[; and

25   2.   any party aggrieved by the decision may take a judicial
26 appeal as provided in § 17-329 of this subtitle].

27   (d)   (1)   On completion, an investigation shall be referred directly to the
28 Commission or its designee.

29   (2)   If the Commission or its designee determines there is a reasonable
30 basis to believe any grounds exist for disciplinary action under § 17-322 of this
31 subtitle, the investigation shall be referred for a hearing in accordance with § 17-324
32 of this subtitle.

33   (3)   A complaint not referred for a hearing by the Commission or its
34 designee shall be dismissed[, and any party aggrieved by the decision may take a
35 judicial appeal as provided in § 17-329 of this subtitle].

36   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
37 effect October 1, 2005.