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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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Committee Report: Favorable

House action: Adopted

Read second time: March 8, 2005

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CHAPTER \_\_\_\_\_

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:

- 1 (i) be in writing; and
- 2 (ii) state specifically the facts on which the complaint is based.
- 3 (2) If a complaint is made by any person other than a member of the  
4 Commission, the complaint shall be made under oath by the person who submits the  
5 complaint.
- 6 (3) A complaint may be accompanied by documentary or other evidence.
- 7 (c) (1) The Commission, or its designee, shall review each complaint  
8 received by the Commission. A complaint shall be referred for investigation if, after a  
9 review under this subsection, it is determined that the complaint:
- 10 (i) alleges facts that establish a prima facie case that is grounds for  
11 disciplinary action under § 17-322 of this subtitle; and
- 12 (ii) meets the requirements of subsection (b) of this section.
- 13 (2) A complaint not referred for investigation under paragraph (1) of this  
14 subsection shall be dismissed[, and any appeal shall be taken under paragraph (3) of  
15 this section].
- 16 (3) (i) If a complaint is dismissed under paragraph (2) of this  
17 subsection, within 30 days from the date of the dismissal any member of the  
18 Commission may file an exception to the decision.
- 19 (ii) If an exception is filed with the Commission under  
20 subparagraph (i) of this paragraph, [the Commission shall set a hearing on the  
21 matter by the full Commission on whether the complaint satisfies the requirements of  
22 paragraph (1) of this subsection.] **A THREE-MEMBER PANEL OF THE COMMISSION**  
23 **SHALL REVIEW THE COMPLAINT TO DETERMINE WHETHER IT SATISFIES THE**  
24 **REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION.** If the [Commission]  
25 PANEL determines that the complaint is satisfactory, the matter shall be referred for  
26 an investigation.
- 27 (iii) If an exception is not filed within the time allowed under  
28 subparagraph (i) of this paragraph[:
- 29 1.] the decision of the Commission is final[; and
- 30 2. any party aggrieved by the decision may take a judicial  
31 appeal as provided in § 17-329 of this subtitle].
- 32 (d) (1) On completion, an investigation shall be referred directly to the  
33 Commission or its designee.
- 34 (2) If the Commission or its designee determines there is a reasonable  
35 basis to believe any grounds exist for disciplinary action under § 17-322 of this

1 subtitle, the investigation shall be referred for a hearing in accordance with § 17-324  
2 of this subtitle.

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

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