

ENROLLED BILL

-- *Economic Matters/Education, Health, and Environmental Affairs* --

Introduced by **Delegates Jameson, Feldman, Haddaway, Holmes, Krysiak, McConkey, Quinter, Vaughn, and ~~Wood~~ Wood, Conroy, Impallaria, Krebs, Miller, Parrott, Taylor, and Walkup**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Real Estate Licenses - Reciprocity**

3 FOR the purpose of authorizing the State Real Estate Commission to deny, suspend,
4 or revoke certain licenses or reprimand certain licensees under certain
5 circumstances; prohibiting the Commission from imposing a certain fine based
6 solely on a certain violation; authorizing the Commission to issue a reciprocal
7 license to certain persons holding a license to provide real estate brokerage
8 services in another state and whose principal place of business is outside the
9 State; authorizing the Commission to deny an application for a reciprocal license
10 under certain circumstances; prohibiting a real estate salesperson or associate
11 real estate broker holding a reciprocal license from conducting business in the
12 State except in affiliation with a real estate broker holding a standard or
13 reciprocal license; authorizing the implementation of written reciprocal
14 licensing agreements with the real estate licensing authorities of other states
15 under certain circumstances; exempting the holder of a reciprocal license from

1 certain requirements; prohibiting the holder of a reciprocal license from
 2 becoming a member of the Commission; specifying that obtaining a reciprocal
 3 license from the Commission constitutes sufficient contact with the State for the
 4 exercise of personal jurisdiction by the Commission and the courts of the State
 5 over the holder of the reciprocal license in certain actions; ~~authorizing the~~
 6 ~~Commission to take certain actions if a certain applicant or licensee has been~~
 7 ~~disciplined under a real estate licensing law of another jurisdiction; prohibiting~~
 8 ~~the Commission from imposing a fine based solely on a certain violation;~~
 9 ~~authorizing the Commission to deny an application for a reciprocal license under~~
 10 ~~certain circumstances; requiring a person that holds a reciprocal license to~~
 11 ~~provide certain notification to the Commission under certain circumstances;~~
 12 ~~requiring a person that holds a reciprocal license to obtain a standard license~~
 13 ~~under the licensing provisions of the Maryland Real Estate Brokers Act within a~~
 14 ~~certain time period under certain circumstances; authorizing a person that~~
 15 ~~holds a reciprocal license to renew the reciprocal license in accordance with~~
 16 ~~certain provisions of law; requiring an applicant to provide certain proof at the~~
 17 ~~time of application for renewal of a reciprocal license; requiring the Commission~~
 18 ~~to annually publish in the Maryland Register, and on the Internet, certain~~
 19 ~~information regarding reciprocity agreements with other states; *requiring a*~~
 20 ~~*person that holds a reciprocal license to provide certain notification to the*~~
 21 ~~*Commission under certain circumstances; requiring a person that holds a*~~
 22 ~~*reciprocal license to obtain a standard license under certain licensing provisions*~~
 23 ~~*under certain circumstances; requiring an applicant to provide certain proof at*~~
 24 ~~*the time of application for renewal of a reciprocal license;* defining certain terms;~~
 25 ~~*altering a certain definition;* and generally relating to real estate licenses.~~

26 BY repealing and reenacting, with amendments,
 27 Article - Business Occupations and Professions
 28 Section ~~17-101(g)~~ and 17-322(b)(33) and (34) and (c)
 29 Annotated Code of Maryland
 30 (2004 Replacement Volume and 2005 Supplement)

31 BY adding to
 32 Article - Business Occupations and Professions
 33 Section ~~17-322(b)(35); and 17-3A-01 through 17-3A-11~~ 17-3A-10, inclusive,
 34 to be under the new subtitle "Subtitle 3A. Reciprocity"
 35 Annotated Code of Maryland
 36 (2004 Replacement Volume and 2005 Supplement)

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

Article - Business Occupations and Professions

2 ~~17-101.~~

3 ~~(g) (1) "License" means, unless the context requires otherwise, a license~~
4 ~~issued by the Commission.~~

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

6 ~~(i) a real estate broker license;~~

7 ~~(ii) an associate real estate broker license; [and]~~

8 ~~(iii) a real estate salesperson license;~~

9 ~~(iv) A RECIPROCAL LICENSE, AS DEFINED IN § 17-3A-01 OF THIS~~
10 ~~TITLE; AND~~

11 ~~(v) A STANDARD LICENSE, AS DEFINED IN § 17-3A-01 OF THIS~~
12 ~~TITLE.~~

13 ~~17-322.~~

14 (b) Subject to the hearing provisions of § 17-324 of this subtitle, the
15 Commission may deny a license to any applicant, reprimand any licensee, or suspend
16 or revoke a license if the applicant or licensee:

17 (33) violates any regulation adopted under this title or any provision of
18 the code of ethics; [or]

19 (34) violates § 17-320(d) of this subtitle by failing as a branch office
20 manager to exercise reasonable and adequate supervision over the provision of real
21 estate brokerage services by any [sales agent] SALESPERSON or associate broker
22 registered with that office; ~~OR OR~~

23 (35) HAS BEEN DISCIPLINED UNDER A REAL ESTATE LICENSING LAW OF
24 ANOTHER JURISDICTION; ~~OR~~

25 (36) FAILS TO PROVIDE PROOF THAT THE APPLICANT IS NOT THE
26 SUBJECT OF A DISCIPLINARY PROCEEDING IN ANOTHER JURISDICTION.

27 (c) (1) Instead of or in addition to reprimanding a licensee or suspending or
28 revoking a license under this section, the Commission may impose a penalty not
29 exceeding \$5,000 for each violation.

30 (2) To determine the amount of the penalty imposed, the Commission
31 shall consider:

32 (i) the seriousness of the violation;

33 (ii) the harm caused by the violation;

1 (iii) the good faith of the licensee; and

2 (iv) any history of previous violations by the licensee.

3 (3) The Commission shall pay any penalty collected under this
4 subsection into the General Fund of the State.

5 (4) THE COMMISSION MAY NOT IMPOSE A FINE BASED SOLELY ON A
6 VIOLATION OF SUBSECTION (B)(35) OF THIS SECTION.

7 SUBTITLE 3A. RECIPROCITY.

8 17-3A-01.

9 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
10 INDICATED.

11 (B) "RECIPROCAL LICENSE" MEANS A LICENSE ISSUED UNDER THIS
12 SUBTITLE.

13 (C) "STANDARD LICENSE" MEANS A LICENSE ISSUED UNDER SUBTITLE 3 OF
14 THIS TITLE.

15 17-3A-02.

16 (A) SUBJECT TO THE LIMITATIONS OF THIS SUBTITLE, THE COMMISSION MAY
17 ISSUE A RECIPROCAL LICENSE TO A PERSON:

18 (1) HOLDING A CURRENT LICENSE TO PROVIDE REAL ESTATE
19 BROKERAGE SERVICES ISSUED BY ANOTHER STATE; AND

20 (2) WHOSE PRINCIPAL PLACE OF BUSINESS FOR THE PROVISION OF
21 REAL ESTATE BROKERAGE SERVICES IS OUTSIDE THE STATE.

22 (B) THE RECIPROCAL LICENSE SHALL BE FOR THE ~~TYPE~~ CATEGORY OF
23 LICENSE THE COMMISSION DETERMINES IS MOST SIMILAR TO THE ~~TYPE~~ CATEGORY
24 OF LICENSE ISSUED BY THE OTHER STATE.

25 17-3A-03.

26 OBTAINING A RECIPROCAL LICENSE FROM THE COMMISSION SHALL
27 CONSTITUTE SUFFICIENT CONTACT WITH THE STATE FOR THE EXERCISE OF
28 PERSONAL JURISDICTION BY THE COMMISSION AND THE COURTS OF THE STATE
29 OVER THE HOLDER OF A RECIPROCAL LICENSE IN ANY ACTION OR PROCEEDING
30 ARISING OUT OF ACTS OR OMISSIONS BY THE HOLDER OF THE RECIPROCAL LICENSE:

31 (1) IN THE STATE; OR

32 (2) RELATING TO AN ACTUAL OR PROPOSED TRANSACTION INVOLVING
33 REAL PROPERTY LOCATED IN THE STATE.

1 17-3A-04.

2 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE COMMISSION
3 SHALL ISSUE A RECIPROCAL LICENSE TO AN APPLICANT LICENSED IN ANOTHER
4 STATE TO PROVIDE REAL ESTATE BROKERAGE SERVICES IF:

5 (1) THE APPLICANT FILES WITH THE COMMISSION AN APPLICATION FOR
6 A RECIPROCAL LICENSE;

7 (2) (I) THE JURISDICTION IN WHICH THE PRINCIPAL PLACE OF
8 BUSINESS OF THE APPLICANT IS LOCATED SUBMITS A CERTIFIED COPY OF A
9 CURRENT LICENSE ISSUED TO THE APPLICANT; OR

10 (II) THE LICENSING BODY FOR THE OTHER STATE SUBMITS A
11 CERTIFIED STATEMENT INDICATING THAT THE APPLICANT HOLDS A CURRENT
12 LICENSE IN THE OTHER STATE;

13 (3) THE LICENSING BODY FOR THE OTHER STATE SUBMITS:

14 (I) A STATEMENT INDICATING WHETHER THE APPLICANT HAS
15 BEEN THE SUBJECT OF ANY DISCIPLINARY PROCEEDING; AND

16 (II) IF THE APPLICANT HAS BEEN THE SUBJECT OF ANY
17 DISCIPLINARY PROCEEDING, THE DETAILS OF THE PROCEEDING;

18 (4) THE APPLICANT SUBMITS TO THE COMMISSION A STATEMENT
19 ATTESTING TO THE FACT THAT:

20 (I) TO THE KNOWLEDGE OF THE APPLICANT, THE APPLICANT IS
21 NOT THE SUBJECT OF DISCIPLINE OR A CURRENT INVESTIGATION OR PROCEEDING
22 ALLEGING MISCONDUCT UNDER A LICENSING LAW OR CRIMINAL LAW OF THIS
23 STATE OR ANY OTHER JURISDICTION;

24 (II) THE APPLICANT HAS NOT BEEN CONVICTED UNDER THE LAWS
25 OF THE UNITED STATES OR OF ANY STATE OF:

26 1. A FELONY;

27 2. A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE
28 FITNESS AND QUALIFICATIONS OF THE APPLICANT TO PROVIDE REAL ESTATE
29 BROKERAGE SERVICES; OR

30 3. A CRIME THAT CONSTITUTES A VIOLATION OF ANY
31 PROVISION OF THIS TITLE;

32 (H) (III) THE APPLICANT HAS REVIEWED, IS FAMILIAR WITH, AND
33 AGREES TO BE BOUND BY THE:

34 1. PROVISIONS OF THIS ~~SUBTITLE~~ TITLE; ~~AND~~

35 2. REGULATIONS OF THE COMMISSION; AND

~~1 ANOTHER STATE THAT IS SUBSTANTIALLY COMPARABLE TO THE OPPORTUNITY
2 AFFORDED TO A LICENSEE OF THE OTHER STATE BY THIS SUBTITLE.~~

3 ~~(C)~~ (B) SUBJECT TO ~~§ 17-3A-08~~ § 17-3A-07 OF THIS SUBTITLE, THE
4 COMMISSION IS NOT REQUIRED TO ENTER INTO AN AGREEMENT WITH ANOTHER
5 STATE BEFORE ISSUING A RECIPROCAL LICENSE TO A LICENSEE FROM THAT OTHER
6 JURISDICTION.

7 ~~17-3A-08. 17-3A-07.~~

8 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF THE COMMISSION
9 DETERMINES THAT ANOTHER STATE DOES NOT OFFER RECIPROCAL LICENSURE
10 OPPORTUNITIES TO A LICENSEE OF THIS STATE THAT ARE SUBSTANTIALLY
11 COMPARABLE TO THOSE AFFORDED TO LICENSEES OF THAT OTHER STATE BY THIS
12 SUBTITLE, THE COMMISSION SHALL REQUIRE THAT RECIPROCAL LICENSE
13 APPLICANTS FROM THAT OTHER STATE MEET EDUCATION, EXPERIENCE, AND
14 EXAMINATION REQUIREMENTS SUBSTANTIALLY COMPARABLE TO THOSE REQUIRED
15 BY THAT ~~JURISDICTION STATE~~ WITH RESPECT TO LICENSEES OF THIS STATE WHO
16 SEEK A RECIPROCAL LICENSE IN THAT OTHER STATE.

17 (B) ANY REQUIREMENTS IMPOSED UNDER SUBSECTION (A) OF THIS SECTION
18 MAY NOT EXCEED THE REQUIREMENTS IMPOSED ON RESIDENTS OF THIS STATE FOR
19 OBTAINING A STANDARD LICENSE.

20 ~~17-3A-09. 17-3A-08.~~

21 THE COMMISSION SHALL ANNUALLY PUBLISH IN THE MARYLAND REGISTER
22 AND MAKE AVAILABLE BOTH ON REQUEST AND ON THE INTERNET:

23 (1) (I) A LIST OF STATES WITH WHICH THE COMMISSION HAS SIGNED
24 AGREEMENTS UNDER ~~§ 17-3A-07~~ § 17-3A-06 OF THIS SUBTITLE; AND

25 (II) A SUMMARY OF THE TERMS OF EACH AGREEMENT LISTED
26 UNDER ITEM (I) OF THIS PARAGRAPH; AND

27 (2) (I) A LIST OF THE STATES THAT THE COMMISSION HAS
28 IDENTIFIED UNDER ~~§ 17-3A-08~~ § 17-3A-07 OF THIS SUBTITLE AS NOT OFFERING
29 SUBSTANTIALLY COMPARABLE RECIPROCAL LICENSURE OPPORTUNITIES; AND

30 (II) A DESCRIPTION OF THE ADDITIONAL REQUIREMENTS THE
31 COMMISSION DETERMINES ARE NECESSARY FOR APPLICANTS FROM OTHER STATES
32 TO COMPLY WITH THE REQUIREMENTS OF ~~§ 17-3A-08~~ § 17-3A-07 OF THIS SUBTITLE.

33 ~~17-3A-10. 17-3A-09.~~

34 (A) A PERSON THAT HOLDS A RECIPROCAL LICENSE SHALL PROMPTLY
35 NOTIFY THE COMMISSION IF THE PERSON ESTABLISHES A PRINCIPAL PLACE OF
36 BUSINESS FOR THE PROVISION OF REAL ESTATE BROKERAGE SERVICES IN THE
37 STATE.

1 (B) ~~ON RECEIPT OF NOTICE GIVEN BY THE COMMISSION, A RECIPROCAL~~
2 ~~LICENSE MAY NOT BE RENEWED AND THE HOLDER OF A PERSON THAT HOLDS A~~
3 ~~RECIPROCAL LICENSE SHALL BE REQUIRED TO OBTAIN A STANDARD LICENSE~~
4 ~~UNDER THE LICENSING PROVISIONS OF THIS TITLE WITHIN 90 DAYS AFTER~~
5 ~~ESTABLISHING A PRINCIPAL PLACE OF BUSINESS IN THE STATE.~~

6 ~~47-3A-11, 17-3A-10.~~

7 (A) SUBJECT TO SUBSECTION ~~(B)~~ (C) OF THIS SECTION, THE HOLDER OF A
8 RECIPROCAL LICENSE HAS THE SAME RIGHTS AND RESPONSIBILITIES AS A PERSON
9 WHO HOLDS A COMPARABLE STANDARD LICENSE ISSUED UNDER THIS TITLE.

10 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON THAT
11 HOLDS A RECIPROCAL LICENSE ISSUED BY THE COMMISSION MAY RENEW THE
12 RECIPROCAL LICENSE IN ACCORDANCE WITH THE RENEWAL PROCEDURES FOR THE
13 COMPARABLE OR EQUIVALENT STANDARD LICENSE UNDER § 17-314 OF THIS TITLE.

14 (2) AT THE TIME OF APPLICATION FOR THE RENEWAL OF A RECIPROCAL
15 LICENSE, THE APPLICANT SHALL PROVIDE PROOF THAT THE APPLICANT:

16 (I) CONTINUES TO HOLD A CURRENT LICENSE IN THE STATE IN
17 WHICH THE APPLICANT'S PRINCIPAL PLACE OF BUSINESS IS LOCATED; AND

18 (II) IS NOT THE SUBJECT OF ~~DISCIPLINE~~ A DISCIPLINARY ACTION
19 OR A CURRENT INVESTIGATION OR PROCEEDING ALLEGING MISCONDUCT UNDER A
20 REAL ESTATE LICENSING LAW OF THE STATE IN WHICH THE APPLICANT'S PRINCIPAL
21 PLACE OF BUSINESS IS LOCATED.

22 ~~(B)~~ (C) THE HOLDER OF A RECIPROCAL LICENSE IS:

23 (1) NOT ELIGIBLE TO BE A MEMBER OF THE COMMISSION;

24 (2) EXEMPT FROM THE REQUIREMENTS OF §§ 17-303, 17-304, 17-305, ~~AND~~
25 ~~17-315, 17-503, AND 17-517~~ OF THIS TITLE; AND

26 (3) EXEMPT FROM HAVING TO PASS AN EXAMINATION REQUIRED FOR A
27 COMPARABLE STANDARD LICENSE.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2006.