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

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Assigned to: Economic Matters

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House action: Adopted

March 19, 2006

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House action: Adopted with floor amendments

Read second time: Read second time: March 21, 2006

CHAPTER _____

1 AN ACT concerning

2 **Real Estate Licenses - Reciprocity**

3 FOR the purpose of authorizing the State Real Estate Commission to issue a
4 reciprocal license to certain persons holding a license to provide real estate
5 brokerage services in another state and whose principal place of business is
6 outside the State; prohibiting a real estate salesperson or associate real estate
7 broker holding a reciprocal license from conducting business in the State except
8 in affiliation with a real estate broker holding a standard or reciprocal license;
9 authorizing the implementation of written reciprocal licensing agreements with
10 the real estate licensing authorities of other states under certain circumstances;
11 exempting the holder of a reciprocal license from certain requirements;
12 prohibiting the holder of a reciprocal license from becoming a member of the
13 Commission; specifying that obtaining a reciprocal license from the Commission
14 constitutes sufficient contact with the State for the exercise of personal
15 jurisdiction by the Commission and the courts of the State over the holder of the
16 reciprocal license in certain actions; authorizing the Commission to take certain
17 actions if a certain applicant or licensee has been disciplined under a real estate
18 licensing law of another jurisdiction; prohibiting the Commission from imposing
19 a fine based solely on a certain violation; authorizing the Commission to deny an
20 application for a reciprocal license under certain circumstances; requiring a
21 person that holds a reciprocal license to provide certain notification to the
22 Commission under certain circumstances; requiring a person that holds a
23 reciprocal license to obtain a standard license under the licensing provisions of

the Maryland Real Estate Brokers Act within a certain time period under certain circumstances; authorizing a person that holds a reciprocal license to renew the reciprocal license in accordance with certain provisions of law; requiring an applicant to provide certain proof at the time of application for renewal of a reciprocal license; requiring the Commission to annually publish in the Maryland Register, and on the Internet, certain information regarding reciprocity agreements with other states; defining certain terms; altering a certain definition; and generally relating to real estate licenses.

BY repealing and reenacting, with amendments,

Article - Business Occupations and Professions
Section 17-101(g) and 17-322(b)(33) and (34) and (c)
Annotated Code of Maryland
(2004 Replacement Volume and 2005 Supplement)

BY adding to

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

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

Article - Business Occupations and Professions

17-101.

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

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

(i) a real estate broker license;

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

(iii) a real estate salesperson license;

(IV) A RECIPROCAL LICENSE, AS DEFINED IN § 17-3A-01 OF THIS

TITLE; AND

(V) A STANDARD LICENSE, AS DEFINED IN § 17-3A-01 OF THIS

TITLE.

1 17-322.

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

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

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

11 (35) HAS BEEN DISCIPLINED UNDER A REAL ESTATE LICENSING LAW OF
12 ANOTHER JURISDICTION; OR

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

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

18 (2) To determine the amount of the penalty imposed, the Commission
19 shall consider:

20 (i) the seriousness of the violation;

21 (ii) the harm caused by the violation;

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

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

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

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

28 SUBTITLE 3A. RECIPROCITY.

29 17-3A-01.

30 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
31 INDICATED.

32 (B) "RECIPROCAL LICENSE" MEANS A LICENSE ISSUED UNDER THIS
33 SUBTITLE.

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

3 17-3A-02.

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

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

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

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

13 17-3A-03.

14 OBTAINING A RECIPROCAL LICENSE FROM THE COMMISSION SHALL
15 CONSTITUTE SUFFICIENT CONTACT WITH THE STATE FOR THE EXERCISE OF
16 PERSONAL JURISDICTION BY THE COMMISSION AND THE COURTS OF THE STATE
17 OVER THE HOLDER OF A RECIPROCAL LICENSE IN ANY ACTION OR PROCEEDING
18 ARISING OUT OF ACTS OR OMISSIONS BY THE HOLDER OF THE RECIPROCAL LICENSE:

19 (1) IN THE STATE; OR

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

22 17-3A-04.

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

26 (1) THE APPLICANT FILES WITH THE COMMISSION AN APPLICATION FOR
27 A RECIPROCAL LICENSE;

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

31 (II) THE LICENSING BODY FOR THE OTHER STATE SUBMITS A
32 CERTIFIED STATEMENT INDICATING THAT THE APPLICANT HOLDS A CURRENT
33 LICENSE IN THE OTHER STATE;

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

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

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

5 (4) THE APPLICANT SUBMITS TO THE COMMISSION A STATEMENT
6 ATTESTING TO THE FACT THAT:

7 (I) TO THE KNOWLEDGE OF THE APPLICANT, THE APPLICANT IS
8 NOT THE SUBJECT OF DISCIPLINE OR A CURRENT INVESTIGATION OR PROCEEDING
9 ALLEGING MISCONDUCT UNDER A LICENSING LAW OR CRIMINAL LAW OF THIS
10 STATE OR ANY OTHER JURISDICTION;

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

13 1. A FELONY;

14 2. A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE
15 FITNESS AND QUALIFICATIONS OF THE APPLICANT TO PROVIDE REAL ESTATE
16 BROKERAGE SERVICES; OR

17 3. A CRIME THAT CONSTITUTES A VIOLATION OF ANY
18 PROVISION OF THIS TITLE;

19 ~~(H)~~ (III) THE APPLICANT HAS REVIEWED, IS FAMILIAR WITH, AND
20 AGREES TO BE BOUND BY THE:

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

22 2. REGULATIONS OF THE COMMISSION; AND

23 3. MARYLAND CODE OF ETHICS; AND

24 ~~(HH)~~ (IV) THE APPLICANT AGREES TO PERMIT THE DISCLOSURE TO
25 THE COMMISSION OF THE RECORD IN ANY DISCIPLINARY PROCEEDING INVOLVING
26 ALLEGED MISCONDUCT BY THE APPLICANT FROM ANY JURISDICTION IN WHICH THE
27 APPLICANT IS OR HAS BEEN LICENSED;

28 (5) THE APPLICANT PAYS THE FEES REQUIRED UNDER THIS TITLE FOR
29 THE COMPARABLE OR EQUIVALENT STANDARD LICENSE FOR WHICH THE APPLICANT
30 IS SEEKING A RECIPROCAL LICENSE; AND

31 (6) THE APPLICANT SUBMITS A CONSENT FORM TO SERVICE OF
32 PROCESS, IN A FORM REQUIRED BY THE COMMISSION.

33 (B) THE COMMISSION MAY DENY AN APPLICATION FOR A RECIPROCAL
34 LICENSE IF THE COMMISSION FINDS THAT AN APPLICANT IS NOT OF GOOD
35 CHARACTER BASED ON:

1 (1) A VIOLATION OF A REAL ESTATE LICENSING LAW OF ANOTHER
2 STATE BY AN APPLICANT; OR

3 (2) THE CONVICTION OF AN APPLICANT OF A CRIME DESCRIBED IN
4 SUBSECTION (A)(4)(II) OF THIS SECTION.

5 17-3A-05.

6 A REAL ESTATE SALESPERSON OR ASSOCIATE REAL ESTATE BROKER HOLDING
7 A RECIPROCAL LICENSE MAY NOT CONDUCT BUSINESS IN THE STATE EXCEPT IN
8 AFFILIATION WITH A REAL ESTATE BROKER HOLDING A STANDARD OR RECIPROCAL
9 LICENSE.

10 ~~17-3A-06.~~

11 ~~IF THE APPLICANT FOR A RECIPROCAL REAL ESTATE BROKER LICENSE IS A~~
12 ~~CORPORATION, PARTNERSHIP, OR OTHER ENTITY, THE APPLICANT SHALL~~
13 ~~DESIGNATE IN ITS APPLICATION A REAL ESTATE BROKER HOLDING A STANDARD OR~~
14 ~~RECIPROCAL REAL ESTATE BROKER LICENSE.~~

15 ~~17-3A-07.~~ 17-3A-06.

16 (A) THIS SUBTITLE MAY BE IMPLEMENTED BY WRITTEN RECIPROCAL
17 LICENSING AGREEMENTS WITH THE REAL ESTATE LICENSING AUTHORITIES OF
18 OTHER STATES.

19 ~~(B) THE COMMISSION SHALL ENTER INTO AN AGREEMENT TO PROVIDE A~~
20 ~~LICENSEE OF THIS STATE WITH THE OPPORTUNITY TO SECURE A LICENSE IN~~
21 ~~ANOTHER STATE THAT IS SUBSTANTIALLY COMPARABLE TO THE OPPORTUNITY~~
22 ~~AFFORDED TO A LICENSEE OF THE OTHER STATE BY THIS SUBTITLE.~~

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

27 ~~17-3A-08.~~ 17-3A-07.

28 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF THE COMMISSION
29 DETERMINES THAT ANOTHER STATE DOES NOT OFFER RECIPROCAL LICENSURE
30 OPPORTUNITIES TO A LICENSEE OF THIS STATE THAT ARE SUBSTANTIALLY
31 COMPARABLE TO THOSE AFFORDED TO LICENSEES OF THAT OTHER STATE BY THIS
32 SUBTITLE, THE COMMISSION SHALL REQUIRE THAT RECIPROCAL LICENSE
33 APPLICANTS FROM THAT OTHER STATE MEET EDUCATION, EXPERIENCE, AND
34 EXAMINATION REQUIREMENTS SUBSTANTIALLY COMPARABLE TO THOSE REQUIRED
35 BY THAT ~~JURISDICTION~~ STATE WITH RESPECT TO LICENSEES OF THIS STATE WHO
36 SEEK A RECIPROCAL LICENSE IN THAT OTHER STATE.

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

~~47-3A-09; 17-3A-08.~~

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

(1) (I) A LIST OF STATES WITH WHICH THE COMMISSION HAS SIGNED AGREEMENTS UNDER ~~§ 47-3A-07~~ § 17-3A-06 OF THIS SUBTITLE; AND

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

(2) (I) A LIST OF THE STATES THAT THE COMMISSION HAS IDENTIFIED UNDER ~~§ 47-3A-08~~ § 17-3A-07 OF THIS SUBTITLE AS NOT OFFERING SUBSTANTIALLY COMPARABLE RECIPROCAL LICENSURE OPPORTUNITIES; AND

(II) A DESCRIPTION OF THE ADDITIONAL REQUIREMENTS THE COMMISSION DETERMINES ARE NECESSARY FOR APPLICANTS FROM OTHER STATES TO COMPLY WITH THE REQUIREMENTS OF ~~§ 47-3A-08~~ § 17-3A-07 OF THIS SUBTITLE.

~~47-3A-10; 17-3A-09.~~

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

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

~~47-3A-11; 17-3A-10.~~

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

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

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

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

3 (II) IS NOT THE SUBJECT OF DISCIPLINE OR A CURRENT
4 INVESTIGATION OR PROCEEDING ALLEGING MISCONDUCT UNDER A REAL ESTATE
5 LICENSING LAW OF THE STATE IN WHICH THE APPLICANT'S PRINCIPAL PLACE OF
6 BUSINESS IS LOCATED.

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

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

9 (2) EXEMPT FROM THE REQUIREMENTS OF §§ 17-303, 17-304, 17-305, ~~AND~~
10 17-315, 17-503, AND 17-517 OF THIS TITLE; AND

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

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