

ENROLLED BILL

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

Introduced by **Senator Dyson**

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.

President.

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
16 certain requirements; prohibiting the holder of a reciprocal license from
17 becoming a member of the Commission; specifying that obtaining a reciprocal

1 license from the Commission constitutes sufficient contact with the State for the
 2 exercise of personal jurisdiction by the Commission and the courts of the State
 3 over the holder of the reciprocal license in certain actions; requiring the
 4 Commission to annually publish in the Maryland Register, and on the Internet,
 5 certain information regarding reciprocity agreements with other states;
 6 requiring a person that holds a reciprocal license to provide certain notification
 7 to the Commission under certain circumstances; requiring a person that holds a
 8 reciprocal license to obtain a standard license under certain licensing provisions
 9 under certain circumstances; *authorizing the holder of a reciprocal license to*
 10 *renew the license in accordance with certain provisions of law; requiring an*
 11 *applicant to provide certain proof at the time of application for renewal of a*
 12 *reciprocal license;* defining certain terms; and generally relating to real estate
 13 licenses.

14 BY repealing and reenacting, with amendments,
 15 Article - Business Occupations and Professions
 16 Section 17-322(b)(33) and (34) and (c)
 17 Annotated Code of Maryland
 18 (2004 Replacement Volume and 2005 Supplement)

19 BY adding to
 20 Article - Business Occupations and Professions
 21 Section 17-322(b)(35); and 17-3A-01 through ~~17-3A-11~~ 17-3A-10, inclusive,
 22 to be under the new subtitle "Subtitle 3A. Reciprocity"
 23 Annotated Code of Maryland
 24 (2004 Replacement Volume and 2005 Supplement)

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

27 **Article - Business Occupations and Professions**

28 17-322.

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

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

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

38 (35) HAS BEEN DISCIPLINED UNDER A REAL ESTATE LICENSING LAW OF
 39 ANOTHER JURISDICTION.

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

4 (2) To determine the amount of the penalty imposed, the Commission
5 shall consider:

6 (i) the seriousness of the violation;

7 (ii) the harm caused by the violation;

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

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

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

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

14 SUBTITLE 3A. RECIPROCITY.

15 17-3A-01.

16 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

18 (B) "RECIPROCAL LICENSE" MEANS A LICENSE ISSUED UNDER THIS
19 SUBTITLE.

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

22 17-3A-02.

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

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

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

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

1 17-3A-03.

2 OBTAINING A RECIPROCAL LICENSE FROM THE COMMISSION SHALL
3 CONSTITUTE SUFFICIENT CONTACT WITH THE STATE FOR THE EXERCISE OF
4 PERSONAL JURISDICTION BY THE COMMISSION AND THE COURTS OF THE STATE
5 OVER THE HOLDER OF A RECIPROCAL LICENSE IN ANY ACTION OR PROCEEDING
6 ARISING OUT OF ACTS OR OMISSIONS BY THE HOLDER OF THE RECIPROCAL LICENSE:

7 (1) IN THE STATE; OR

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

10 17-3A-04.

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

14 (1) THE APPLICANT FILES WITH THE COMMISSION AN APPLICATION FOR
15 A RECIPROCAL LICENSE;

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

19 (II) THE LICENSING BODY FOR THE OTHER STATE SUBMITS A
20 CERTIFIED STATEMENT INDICATING THAT THE APPLICANT HOLDS A CURRENT
21 LICENSE IN THE OTHER STATE;

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

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

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

27 (4) THE APPLICANT SUBMITS TO THE COMMISSION A STATEMENT
28 ATTESTING TO THE FACT THAT:

29 (I) TO THE KNOWLEDGE OF THE APPLICANT, THE APPLICANT IS
30 NOT THE SUBJECT OF DISCIPLINE OR A CURRENT INVESTIGATION OR PROCEEDING
31 ALLEGING MISCONDUCT UNDER A LICENSING LAW OR CRIMINAL LAW OF THIS
32 STATE OR ANY OTHER JURISDICTION;

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

35 1. A FELONY;

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

4 3. A CRIME THAT CONSTITUTES A VIOLATION OF ANY
5 PROVISION OF THIS TITLE;

6 ~~(II)~~ (III) THE APPLICANT HAS REVIEWED, IS FAMILIAR WITH,
7 AND AGREES TO BE BOUND BY THE:

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

9 2. REGULATIONS OF THE COMMISSION; AND

10 3. MARYLAND CODE OF ETHICS; AND

11 ~~(III)~~ (IV) THE APPLICANT AGREES TO PERMIT THE DISCLOSURE
12 TO THE COMMISSION OF THE RECORD IN ANY DISCIPLINARY PROCEEDING
13 INVOLVING ALLEGED MISCONDUCT BY THE APPLICANT FROM ANY JURISDICTION IN
14 WHICH THE APPLICANT IS OR HAS BEEN LICENSED;

15 (5) THE APPLICANT PAYS THE FEES REQUIRED UNDER THIS TITLE FOR
16 THE COMPARABLE OR EQUIVALENT LICENSE FOR WHICH THE APPLICANT IS
17 SEEKING A RECIPROCAL LICENSE; AND

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

20 (B) THE COMMISSION MAY DENY AN APPLICATION FOR A RECIPROCAL
21 LICENSE IF THE COMMISSION FINDS THAT AN APPLICANT IS NOT OF GOOD
22 CHARACTER AND CONDUCT BASED ON:

23 (1) THE APPLICANT'S VIOLATION OF A REAL ESTATE LICENSING LAW OF
24 ANOTHER STATE; ~~OR~~

25 (2) THE APPLICANT'S CONVICTION OF A CRIME DESCRIBED IN
26 SUBSECTION (A)(4)(II) OF THIS SECTION; OR

27 (3) THE APPLICANT'S BEING THE SUBJECT OF A DISCIPLINARY
28 PROCEEDING IN ANOTHER JURISDICTION.

29 17-3A-05.

30 A REAL ESTATE SALESPERSON OR ASSOCIATE REAL ESTATE BROKER HOLDING
31 A RECIPROCAL LICENSE MAY NOT CONDUCT BUSINESS IN THE STATE EXCEPT IN
32 AFFILIATION WITH A REAL ESTATE BROKER HOLDING A STANDARD OR RECIPROCAL
33 LICENSE.

1 ~~47-3A-06.~~

2 ~~IF THE APPLICANT FOR A RECIPROCAL REAL ESTATE BROKER LICENSE IS A~~
3 ~~CORPORATION, PARTNERSHIP, OR OTHER ENTITY, THE APPLICANT SHALL~~
4 ~~DESIGNATE IN ITS APPLICATION A REAL ESTATE BROKER HOLDING A STANDARD OR~~
5 ~~RECIPROCAL REAL ESTATE BROKER LICENSE.~~

6 ~~47-3A-07-17-3A-06.~~

7 (A) THIS SUBTITLE MAY BE IMPLEMENTED BY WRITTEN RECIPROCAL
8 LICENSING AGREEMENTS WITH THE REAL ESTATE LICENSING AUTHORITIES OF
9 OTHER STATES.

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

14 ~~(C)~~ (B) SUBJECT TO ~~§ 47-3A-08~~ § 17-3A-07 OF THIS SUBTITLE, THE
15 COMMISSION IS NOT REQUIRED TO ENTER INTO AN AGREEMENT WITH ANOTHER
16 STATE BEFORE ISSUING A RECIPROCAL LICENSE TO A LICENSEE FROM THAT OTHER
17 JURISDICTION.

18 ~~47-3A-08-17-3A-07.~~

19 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF THE COMMISSION
20 DETERMINES THAT ANOTHER STATE DOES NOT OFFER RECIPROCAL LICENSURE
21 OPPORTUNITIES TO A LICENSEE OF THIS STATE THAT ARE SUBSTANTIALLY
22 COMPARABLE TO THOSE AFFORDED TO LICENSEES OF THAT OTHER STATE BY THIS
23 SUBTITLE, THE COMMISSION SHALL REQUIRE THAT RECIPROCAL LICENSE
24 APPLICANTS FROM THAT OTHER STATE MEET EDUCATION, EXPERIENCE, AND
25 EXAMINATION REQUIREMENTS SUBSTANTIALLY COMPARABLE TO THOSE REQUIRED
26 BY THAT ~~JURISDICTION STATE~~ WITH RESPECT TO LICENSEES OF THIS STATE WHO
27 SEEK A RECIPROCAL LICENSE IN THAT OTHER STATE.

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

31 ~~47-3A-09-17-3A-08.~~

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

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

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

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

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

7 ~~17-3A-10-17-3A-09.~~

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

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

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

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

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

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

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

29 ~~(2)~~ (II) IS NOT THE SUBJECT OF A DISCIPLINARY ACTION OR A
 30 CURRENT INVESTIGATION OR PROCEEDING ALLEGING MISCONDUCT UNDER A REAL
 31 ESTATE LICENSING LAW OF THE STATE IN WHICH THE APPLICANT'S PRINCIPAL
 32 PLACE OF BUSINESS IS LOCATED.

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

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

35 (2) EXEMPT FROM THE REQUIREMENTS OF §§ 17-303, 17-304, 17-305, ~~AND~~
 36 17-315, 17-503, AND 17-517 OF THIS TITLE; AND

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

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