

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 830 (Delegate Menes)
Economic Matters

Real Estate - Residential Settlements - Prohibition and Disclosure

This bill prohibits a real estate broker, associate real estate broker, real estate salesperson, or a lawyer acting as a real estate broker from directly or indirectly indicating a buyer should use a particular title insurance company, settlement company, escrow company, mortgage lender or financial institution, or title lawyer in a transaction involving a single-family dwelling, unless the buyer specifically requests a recommendation. The real estate broker, associate real estate broker, real estate salesperson, or lawyer acting as a real estate broker must disclose any financial or other material relationship they have with a person or entity they recommend. A person who violates these provisions is guilty of a misdemeanor and subject to a fine of up to \$5,000 or imprisonment for up to one year, or both, and also subject to a civil penalty of up to \$5,000.

Fiscal Summary

State Effect: General fund revenues could increase due to additional civil and criminal penalties assessed for violations of the bill's provisions.

Local Effect: Local revenues could increase due to the collection of criminal penalties, in the event cases are brought in circuit court.

Small Business Effect: Potential meaningful for anyone who violates the provisions.

Analysis

Current Law: A real estate broker, associate real estate broker, real estate salesperson, or lawyer acting as a real estate broker may not require a buyer, as a condition of

settlement to employ a particular title insurance company, settlement company, escrow company, mortgage lender or financial institution, or title lawyer. A seller, however, may not be prohibited from offering owner financing as a condition of settlement.

A real estate contract submitted to a party by a real estate broker, associate real estate broker, real estate salesperson, or lawyer acting as a real estate broker, for the sale of a single family dwelling, must include a statement, in bold-faced type, that the buyer has the right to select their own title insurance company, settlement company, escrow company, mortgage lender or financial institution, or title lawyer, and that the seller may not be prohibited from offering owner financing as a condition of the settlement. Failure to include these statements does not render the contract invalid.

A real estate broker, associate real estate broker, real estate salesperson, or lawyer acting as a real estate broker may be denied a license, be reprimanded, or have their license suspended or revoked for requiring a buyer of a single-family dwelling to employ a particular title insurance company, settlement company, escrow company, or title lawyer, in addition to being guilty of a misdemeanor and subject to a fine of up to \$5,000 or imprisonment for up to one year, or both, and also subject to a civil penalty of up to \$5,000.

Federal law applicable to real estate transactions involving specified “federally related mortgage loans” (generally meaning a loan for residential property that is intended to be transferred to a government lender or for which the accounts or deposits of the lender are insured by the federal government) allows “affiliated business arrangements” with respect to real estate settlement services (title insurance, loan application and processing, etc.) provided that the arrangement is disclosed to the person being referred for a settlement service, the person being referred is not required to use a particular provider of settlement services, and generally nothing of value aside from authorized payments is received from the arrangement.

Background: The Department of Labor, Licensing, and Regulation advises that the Real Estate Commission has not received a significant number of complaints involving real estate brokers or salespersons requiring buyers to employ a particular title insurance company, settlement company, escrow company, or title lawyer.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

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