

Department of Legislative Services
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FISCAL AND POLICY NOTE
Revised

House Bill 1107
Economic Matters

(Delegate Jameson, *et al.*)

Education, Health, and Environmental Affairs

Real Estate Licenses - Reciprocity

This bill allows a person holding a current real estate license in another state and whose principal place of business for the provision of real estate brokerage services is outside the state to apply for a “reciprocal license” to offer real estate brokerage services in Maryland.

Fiscal Summary

State Effect: Special fund revenues would increase annually, beginning in FY 2007, due to fees generated from additional licensees. Under one scenario, revenue increases could grow annually from \$9,000 in FY 2007 to \$21,000 in FY 2011. Special fund expenditures could increase by up to \$20,000 in FY 2007 only due to a one-time computer programming cost, which could be reduced if economies of scale are realized.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Application

An application for a reciprocal license must include:

- a certified copy of the applicant’s current license in another state or a certified statement from the licensing body to that effect;

- a statement from the licensing body for the other state disclosing any disciplinary proceedings the applicant has been subject to, and, if applicable, the details of any disciplinary proceedings;
- a statement from the applicant attesting to the fact that the applicant: (1) is not the subject of discipline or a current investigation or proceeding alleging misconduct under a licensing law or criminal law of this State or any other jurisdiction; (2) has not been convicted under federal law or the law of any state of a felony, a misdemeanor directly related to fitness and qualification to provide real estate brokerage services, or any crime that constitutes a violation of State law governing real estate brokers; (3) has reviewed, is familiar with, and agrees to be bound by Maryland real estate law, regulations adopted by the State Real Estate Commission, and the Maryland Code of Ethics; and (4) agrees to permit disclosure to the commission of the record of any disciplinary proceeding involving alleged misconduct by the applicant, from any jurisdiction in which the applicant is or has been licensed;
- a fee payment equivalent to the comparable standard license; and
- a form indicating consent to service of process.

The commission may deny an application if the commission finds that an applicant is not of good character and conduct based on a violation of a real estate licensing law in another state; conviction of a felony, misdemeanor directly related to fitness and qualification to provide real estate brokerage services, or any crime that constitutes a violation of State law governing real estate brokers; or the applicant's being the subject of a disciplinary proceeding in another jurisdiction. The commission may also reprimand a licensee or suspend or revoke a license if an applicant or licensee has been disciplined under a real estate licensing law of another jurisdiction; however, the commission may not impose a fine based solely on discipline in another jurisdiction.

Type of License Issued

The reciprocal license issued will be for the category of license (real estate salesperson, associate real estate broker, real estate broker) the commission determines is most similar to the license the applicant holds in another state.

Affiliation Requirement

A reciprocal license holder must affiliate with a real estate broker holding a standard or reciprocal license in order to conduct business in Maryland.

License Renewal

A reciprocal licensee may renew a reciprocal license in accordance with the renewal procedures for the comparable or equivalent standard license; however, a renewal applicant must provide proof that the applicant continues to hold a current license in the state of the applicant's principal place of business and is not the subject of discipline, investigation, or a proceeding alleging misconduct under a real estate law of that state.

Effect of Reciprocal Licensure

A reciprocal license holder has the same rights and responsibilities as a person holding a comparable standard license. However, a reciprocal license holder is not eligible to be a member of the commission, is not subject to the specific qualification requirements for a standard license or continuing education requirements, and does not have to pass an examination. Certain requirements relating to the deposit of trust money in a financial institution in the State insured by specified entities and maintaining an office in the State also do not apply to a reciprocal license holder.

Obtaining a reciprocal license constitutes sufficient contact with the State for the commission and State courts to exercise personal jurisdiction over the license holder in any action arising from the acts or omissions of the license holder in Maryland or relating to an actual or proposed transaction involving real property in Maryland.

A reciprocal license holder that establishes a principal place of business in the State must promptly notify the commission and obtain a standard license within 90 days of establishing a principal place of business in Maryland.

Reciprocity with Other States

The reciprocal licensing provisions may be implemented through reciprocal licensing agreements entered into by the commission with real estate licensing authorities in other states. The commission is not required to enter into an agreement with a state prior to issuing a reciprocal license to a licensee from that jurisdiction, though the commission must require the applicant to meet substantially comparable education, experience, and examination requirements to those required by that state of out-of-state licensees. The commission, however, may not impose requirements on reciprocal license applicants that exceed requirements of a standard license applicant.

The commission must annually publish in the Maryland Register, and make available on request and on the Internet, a list of states the commission has signed agreements with, a summary of the terms of each agreement, a list of states the commission has identified as

not offering substantially comparable reciprocal licensure opportunities, and a description of requirements for applicants from those states.

Current Law: An individual generally must be licensed by the commission to provide real estate brokerage services in the State. A real estate salesperson must be of good character and reputation, 18 years old, and have completed a basic course in real estate approved by the commission. Associate real estate brokers and real estate brokers must have completed a course for real estate brokers approved by the commission and have actively, regularly, and lawfully engaged in real estate practice as a licensed salesperson or broker in good standing in Maryland or another jurisdiction for three years prior to application for a license. All license applicants must take an examination. Real estate salespersons and associate real estate brokers must be affiliated with a real estate broker and may not provide real estate brokerage services on their own behalf. Licenses are renewed biennially.

Instead of or in addition to reprimanding a licensee or suspending or revoking a license, the commission may impose a penalty of up to \$5,000 for a violation of State law governing real estate brokers or other infractions listed under the law.

Background: To obtain a standard real estate license in Maryland, an out-of-state licensee may submit a certificate of licensing history from the state where first licensed, based upon which the commission may waive State education and experience requirements. Regardless of the applicant's qualifications, however, the applicant must take an examination.

The State Board of Public Accountancy offers similar license reciprocity to that proposed by the bill. An out-of-state licensee must notify the board of intent to practice in the State; pay a fee; verify licensure in another state; and meet certain education, experience, and examination requirements.

The State Real Estate Commission, which regulates approximately 52,000 real estate licensees, became a special fund agency pursuant to Chapter 399 of 2005. Beginning July 1, 2006, all fees collected by the commission will be paid into the State Real Estate Commission Fund. The commission is authorized to set licensing and other fees by regulation, beginning July 1, 2007.

State Revenues: Special fund revenues would increase; however, the extent to which reciprocal licenses would be issued cannot be accurately estimated. *For illustrative purposes only*, special fund revenues could increase by \$9,410 in fiscal 2007 due to licensing fees generated from reciprocal licensees. Under this scenario, there would be 250 new applicants for reciprocal licenses annually that would not otherwise have applied for a standard license – 90% of those applicants would be salespersons. These

assumptions are based on anecdotal evidence from the Department of Labor, Licensing, and Regulation and the department's discussions with representatives of the Association of Real Estate License Law Officials. The number of new licensees would likely decrease in the out-years, though it cannot be accurately estimated at what rate they would decrease. Out-year estimates reflect the bill's effective date of October 1, 2006, a 50% biennial renewal rate, and assume 250 additional licensees per year (90% being salespersons).

	<u>Licensees</u>	<u>Revenue</u>
FY 2007	169 salespersons (\$45*) 19 brokers (\$95)	\$9,410
FY 2008	225 salespersons 25 brokers	\$12,500
FY 2009	225 salespersons 25 brokers <i>50% FY 2007 renewal</i>	\$17,205
FY 2010	225 salespersons 25 brokers <i>50% FY 2008 renewal</i>	\$18,750
FY 2011	225 salespersons 25 brokers <i>25% FY 2007 renewal</i> <i>50% FY 2009 renewal</i>	\$21,100

*Out-year estimates assume fees would remain the same; however, they may be adjusted beginning in fiscal 2008, when the commission has authority to set fees by regulation.

State Expenditures: Special fund expenditures could increase by up to \$20,000 in fiscal 2007 for a one-time computer programming cost. If other programming is necessary due to legislation or adopted regulations, economies of scale could be realized. Additional printing and postage costs could be handled with existing resources.

Additional Information

Prior Introductions: None.

Cross File: SB 684 (Senator Dyson) – Education, Health, and Environmental Affairs.

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

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