

HOUSE BILL 461

C2

8lr0467

By: **Delegate Kach**

Introduced and read first time: January 30, 2008

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **State Real Estate Commission – Sales Agents for Home Builders –**
3 **Waiver of Licensing Requirements**

4 FOR the purpose of requiring the State Real Estate Commission to grant a waiver of
5 certain licensing requirements to sales agents for home builders under certain
6 circumstances; and generally relating to licensing requirements for real estate
7 brokers.

8 BY repealing and reenacting, without amendments,
9 Article – Business Occupations and Professions
10 Section 17–101(a) and (l) and 17–301
11 Annotated Code of Maryland
12 (2004 Replacement Volume and 2007 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Business Occupations and Professions
15 Section 17–308
16 Annotated Code of Maryland
17 (2004 Replacement Volume and 2007 Supplement)

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

20 **Article – Business Occupations and Professions**

21 17–101.

22 (a) In this title the following words have the meanings indicated.

23 (l) “Provide real estate brokerage services” means to engage in any of the
24 following activities:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) for consideration, providing any of the following services for
2 another person:

3 (i) selling, buying, exchanging, or leasing any real estate;

4 (ii) selling any real estate as a sales agent for a home builder; or

5 (iii) collecting rent for the use of any real estate;

6 (2) for consideration, assisting another person to locate or obtain for
7 purchase or lease any residential real estate;

8 (3) engaging regularly in a business of dealing in real estate or leases
9 or options on real estate;

10 (4) engaging in a business the primary purpose of which is promoting
11 the sale of real estate through a listing in a publication issued primarily for the
12 promotion of real estate sales;

13 (5) engaging in a business that subdivides land that is located in any
14 state and sells the divided lots; or

15 (6) for consideration, serving as a consultant regarding any activity
16 set forth in items (1) through (5) of this subsection.

17 17-301.

18 (a) (1) Except as otherwise provided in this title, an individual shall be
19 licensed by the Commission as a real estate broker before the individual may provide
20 real estate brokerage services in the State.

21 (2) Except as otherwise provided in this title, an individual shall be
22 licensed by the Commission as an associate real estate broker or a real estate
23 salesperson before the individual, while acting on behalf of a real estate broker, may
24 provide real estate brokerage services in the State.

25 (b) A license is not required for:

26 (1) a financial institution, as defined in Title 1 of the Financial
27 Institutions Article, a subsidiary or affiliate of such a financial institution, or
28 mortgage loan institution incorporated under the laws of any state or of the United
29 States to manage, lease, or sell any property that the institution or subsidiary or
30 affiliate of a financial institution acquires in connection with a mortgage foreclosure or
31 deed or assignment in lieu of foreclosure;

32 (2) a lawyer who:

1 (i) is not engaged regularly in the business of providing real
2 estate brokerage services; and

3 (ii) does not represent to the public, by use of a sign or
4 advertisement or otherwise, that the lawyer is in the business of providing real estate
5 brokerage services;

6 (3) a home builder in the rental or initial sale of a home constructed by
7 the builder;

8 (4) an agent of a licensed real estate broker or of an owner of real
9 estate while managing or leasing that real estate for the real estate broker or owner;

10 (5) any person in negotiating the sale, lease, or other transfer of a
11 business enterprise if the proposed transfer does not include any interest in real
12 property other than a lease under which the business enterprise operates; or

13 (6) any person to subdivide and sell unimproved property owned by
14 that person if the person meets the requirements of § 17-302 of this subtitle.

15 17-308.

16 (a) Subject to the provisions of this section, the Commission may waive any
17 requirement of this subtitle for a particular license for an applicant who holds a
18 comparable or equivalent license granted by another state.

19 (b) The Commission may grant a waiver under this section only if the
20 applicant:

21 (1) pays the application fee required under § 17-307 of this subtitle for
22 the license for which the applicant is applying;

23 (2) provides adequate evidence that the applicant meets the
24 qualifications otherwise required by this subtitle for the license for which the
25 applicant is applying;

26 (3) submits a certified copy of the applicant's license from the other
27 state that is comparable or equivalent to the license for which the applicant is
28 applying; and

29 (4) if the applicant holds a license comparable or equivalent to a real
30 estate broker license, provides adequate evidence that the applicant actively
31 maintains an office in the other state.

32 (c) **NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS TITLE, THE**
33 **COMMISSION SHALL GRANT A WAIVER UNDER THIS SECTION OF THE**

1 **REQUIREMENT TO HOLD A REAL ESTATE BROKER LICENSE UNDER THIS**
2 **SUBTITLE TO A SALES AGENT FOR A HOME BUILDER IF THE SALES AGENT:**

3 **(1) HOLDS A LICENSE THAT IS:**

4 **(I) COMPARABLE OR EQUIVALENT TO A REAL ESTATE**
5 **BROKER LICENSE IN THIS STATE; AND**

6 **(II) GRANTED BY ANOTHER STATE; AND**

7 **(2) MEETS THE REQUIREMENTS OF SUBSECTION (B) OF THIS**
8 **SECTION.**

9 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
10 **October 1, 2008.**