

SENATE BILL 762

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8lr2618
CF HB 1316

By: **Senator Conway**

Introduced and read first time: February 1, 2008

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 19, 2008

CHAPTER _____

1 AN ACT concerning

2 **Real Estate ~~Brokers~~ Licensees – Record Keeping**

3 FOR the purpose of requiring a real estate ~~broker~~ licensee to ~~retain~~ keep certain
4 records for a certain period of time; authorizing a ~~broker~~ licensee to keep and
5 store certain records in a certain manner under certain circumstances;
6 requiring a real estate ~~broker~~ licensee to make certain records available to the
7 State Real Estate Commission in a certain manner under certain
8 circumstances; and generally relating to record keeping requirements for real
9 estate ~~brokers~~ licensees.

10 BY repealing and reenacting, without amendments,
11 Article – Business Occupations and Professions
12 Section 17–101(a), (d), (k), and (n) and 17–508
13 Annotated Code of Maryland
14 (2004 Replacement Volume and 2007 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Business Occupations and Professions
17 Section 17–507
18 Annotated Code of Maryland
19 (2004 Replacement Volume and 2007 Supplement)

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

22 **Article – Business Occupations and Professions**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 17-101.

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

3 (d) "Commission" means the State Real Estate Commission.

4 (k) "Licensee" means a licensed real estate broker, a licensed associate real
 5 estate broker, or a licensed real estate salesperson.

6 (n) "Real estate broker" means an individual who provides real estate
 7 brokerage services.

8 17-507.

9 (A) Each real estate broker shall maintain all records of trust money in a
 10 secured area within the office of the broker.

11 (B) (1) ~~EACH REAL ESTATE BROKER LICENSEE SHALL RETAIN KEEP~~
 12 ~~COPIES OF:~~

13 (I) LISTINGS; AND

14 (II) ~~DEPOSIT RECEIPTS;~~

15 ~~(III) CANCELED CHECKS;~~

16 ~~(IV) TRUST RECORDS; AND~~

17 ~~(V) ANY OTHER DOCUMENT EXECUTED OR OBTAINED BY~~
 18 ~~THE BROKER LICENSEE IN CONNECTION WITH A TRANSACTION FOR WHICH A~~
 19 ~~REAL ESTATE BROKER LICENSE IS REQUIRED INVOLVING THE PROVISION OF~~
 20 ~~REAL ESTATE BROKERAGE SERVICES, INCLUDING ANY ELECTRONIC SIGNATURE~~
 21 ~~CONTAINED ON A DOCUMENT.~~

22 (2) (I) A ~~BROKER LICENSEE~~ SHALL KEEP THE RECORDS
 23 REQUIRED BY THIS SECTION FOR ~~3~~ 5 YEARS, STARTING ON THE DATE OF THE
 24 CLOSING OF A REAL ESTATE TRANSACTION, OR, IF THE TRANSACTION IS NOT
 25 CLOSED, ~~3~~ 5 YEARS AFTER THE DATE OF THE LISTING.

26 (II) A LICENSEE PROVIDING PROPERTY MANAGEMENT
 27 SERVICES SHALL KEEP THE RECORDS REQUIRED BY THIS SECTION FOR 5 YEARS
 28 AFTER THE TERMINATION OF THE MANAGEMENT AGREEMENT.

29 (C) FOR ANY RECORD REQUIRED TO BE ~~STORED~~ KEPT UNDER
 30 ~~SUBSECTION~~ SUBSECTIONS (A) AND (B) OF THIS SECTION, A REAL ESTATE

1 ~~BROKER LICENSEE~~ MAY ~~RETAIN~~ KEEP AND STORE AN ELECTRONIC RECORD OF
2 THE INFORMATION IF:

3 (1) THE STORED RECORD CANNOT BE ERASED OR EDITED;

4 (2) THE STORED RECORD IS MADE OR PRESERVED AS PART OF,
5 AND IN THE REGULAR COURSE OF, THE ~~BROKER'S~~ LICENSEE'S BUSINESS;

6 (3) THE ORIGINAL RECORD FROM WHICH THE STORED RECORD
7 WAS COPIED WAS MADE OR PREPARED BY THE ~~BROKER LICENSEE~~ OR THE
8 ~~BROKER'S LICENSEE'S~~ EMPLOYEES AT OR NEAR THE TIME OF THE ACTIVITY
9 DESCRIBED IN THE RECORD;

10 (4) THE CUSTODIAN OF THE RECORD IS ABLE TO IDENTIFY THE
11 STORED RECORD, THE MODE OF ITS PREPARATION, AND THE MODE OF
12 STORAGE; AND

13 (5) THE ELECTRONIC STORAGE SYSTEM CONTAINS A RELIABLE
14 INDEXING SYSTEM THAT PROVIDES:

15 (I) CONVENIENT ACCESS TO THE DOCUMENT OR RECORD;

16 (II) APPROPRIATE QUALITY CONTROL OF THE STORAGE
17 PROCESS; AND

18 (III) CHRONOLOGICAL ARRANGEMENT OF STORED
19 DOCUMENTS OR RECORDS.

20 (D) (1) ON REASONABLE NOTICE FROM THE COMMISSION, A ~~BROKER~~
21 LICENSEE SHALL ALLOW A REPRESENTATIVE OF THE COMMISSION TO ENTER
22 THE ~~BROKER'S LICENSEE'S~~ PLACE OF BUSINESS DURING BUSINESS HOURS TO
23 INSPECT A RECORD REQUIRED TO BE ~~MAINTAINED~~ KEPT UNDER SUBSECTION
24 (B) OF THIS SECTION.

25 (2) THE ~~BROKER LICENSEE~~ SHALL PROVIDE, AT THE ~~BROKER'S~~
26 LICENSEE'S EXPENSE, A PAPER COPY OF ANY DOCUMENT OR RECORD
27 REQUESTED BY THE COMMISSION.

28 (3) A LICENSEE SHALL DISPLAY TO THE COMMISSION ON
29 DEMAND ALL RECORDS, BOOKS, AND ACCOUNTS OF ANY MONEY HELD IN TRUST.

30 17-508.

31 In addition to being subject to disciplinary action under §§ 17-322 and 17-328
32 of this title, a real estate broker, an associate real estate broker, or a real estate

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1 salesperson who violates any provision of this Part I of this subtitle is subject to any
2 other civil or criminal action provided by law.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2008.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.