

CHAPTER 449

(Senate Bill 762)

AN ACT concerning

Real Estate ~~Brokers~~ Licensees – Record Keeping

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

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

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

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

Article – Business Occupations and Professions

17–101.

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

(d) “Commission” means the State Real Estate Commission.

(~~k~~) “Licensee” means a licensed real estate broker, a licensed associate real estate broker, or a licensed real estate salesperson.

(n) “Real estate broker” means an individual who provides real estate brokerage services.

17–507.

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

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

(I) LISTINGS; AND

(II) ~~DEPOSIT RECEIPTS;~~

~~(III) CANCELED CHECKS;~~

~~(IV) TRUST RECORDS; AND~~

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

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

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

(C) ~~FOR ANY RECORD REQUIRED TO BE STORED~~ KEPT UNDER ~~SUBSECTION~~ SUBSECTIONS (A) AND (B) OF THIS SECTION, A REAL ESTATE BROKER LICENSEE MAY RETAIN KEEP AND STORE AN ELECTRONIC RECORD OF THE INFORMATION IF:

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

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

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

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

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

(I) CONVENIENT ACCESS TO THE DOCUMENT OR RECORD;

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

(III) CHRONOLOGICAL ARRANGEMENT OF STORED DOCUMENTS OR RECORDS.

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

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

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

17-508.

In addition to being subject to disciplinary action under §§ 17-322 and 17-328 of this title, a real estate broker, an associate real estate broker, or a real estate salesperson who violates any provision of this Part I of this subtitle is subject to any other civil or criminal action provided by law.

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

Approved by the Governor, May 13, 2008.