

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 461
Economic Matters

(Delegate Kach)

**State Real Estate Commission - Sales Agents for Home Builders - Waiver of
Licensing Requirements**

This bill requires the State Real Estate Commission to waive the requirement that a sales agent for a home builder hold a real estate broker license if the agent holds a license equivalent to a Maryland real estate broker license issued by another state. The applicant must pay all application fees, provide evidence that applicable qualifications have been met, submit a certified copy of the license issued by another state, and provide evidence that the applicant actively maintains an office in the state in which the license was issued.

Fiscal Summary

State Effect: The bill would have no fiscal or operational impact, as applicants under the proposed reciprocal guidelines would still be required to pay all applicable fees.

Local Effect: None.

Small Business Effect: Potential meaningful for sales agents who qualify for licensure under the new reciprocity criteria.

Analysis

Current Law: Chapter 274 of 2007 requires an individual who sells any real estate as a sales agent for a home builder to be licensed by the State Real Estate Commission. The commission licenses the following categories of professionals: real estate brokers, associate real estate brokers, and real estate salespersons.

In general, applicants for licensure by the State Real Estate Commission must have successfully completed a commission-approved course in real estate, including a course in ethics, and pass an examination given by the commission. An applicant is also required to contribute to the Real Estate Guaranty Fund and pay a fee set by the commission. If not applying for licensure as a real estate broker, an applicant must obtain a commitment to become affiliated with a licensed real estate broker once the commission licenses the applicant.

The commission is *authorized* to waive licensing requirements for an applicant who holds a comparable or equivalent license granted by another state. The waiver may be granted if the applicant pays all application fees, provides evidence that applicable qualifications have been met, submits a certified copy of the license issued by another state, and provides evidence that the applicant actively maintains an office in the state in which the license was issued.

Background: Licensing requirements for sales agents of home builders went into effect October 1, 2007. A number of sales agents who have pursued licensure have found it difficult to comply with the requirement to affiliate with a real estate brokerage. Advice issued by the Office of the Attorney General indicates that sales agents must be compensated as employees or contractors of the brokerage with which they are affiliated. The brokerage may be established for the express purpose of selling new homes as long as the agent is not directly employed by the home builder.

The bill attempts to address complications that have developed in reciprocal licensing of sales agents for home builders. The licensing categories offered by the State Real Estate Commission do not specifically align with the licenses issued by surrounding states. In some cases, applicants have found that they are unable to meet the commission's licensing and brokerage requirements while continuing to satisfy the requirements of another state. The bill requires the commission to waive requirements for a real estate broker license if the applicant holds a comparable license in another state.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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