

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE

House Bill 406

(Chair, Economic Matters Committee)(By Request -
Departmental - Labor, Licensing and Regulation)

Economic Matters

Education, Health, and Environmental Affairs

Real Estate Licensees - Services Provided Through Teams

This departmental bill establishes requirements for the provision of real estate services through teams of licensed real estate agents.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations.

Local Effect: None.

Small Business Effect: The Department of Labor, Licensing, and Regulation (DLLR) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Bill Summary: Two or more associate real estate brokers or licensed real estate salespersons operate as a team when they:

- work together on a regular basis to provide real estate brokerage services;
- represent themselves to the public as being party of one entity; and
- designate themselves by a collective name such as a team or a group.

Each team must designate a team leader. The team leader must be either a licensed associate real estate broker or a licensed real estate salesperson who has at least three years of experience. The team leader must maintain a current list of all members or

employees of the team and provide the list to the requisite managers of the brokerage with which the team members are affiliated. This information must be made available to the Maryland Real Estate Commission upon request.

The team leader is responsible for the supervision of other team members; the team must adhere to all office rules, practices, and procedures established by the real estate broker and/or the branch office manager.

A real estate broker may designate two members of a team as intracompany agents for the seller and the buyer in the same transaction if the buyer and seller have been advised in writing that the agents are part of the same team and may have a financial interest in the outcome of the transaction.

Teams may not use a name that contains the terms “real estate,” “real estate brokerage,” or any other term that may lead the public to believe that the team offers services independent of the real estate broker. If a team advertises its services, the advertisements must, in a conspicuous manner, contain:

- the name of the brokerage;
- the name of at least one of the licensed team members; and
- the telephone number of the real estate broker or branch office manager with which the team is affiliated.

The team name used in the advertisement must be directly connected to the name of the affiliated brokerage.

All real estate brokerage activities must be conducted from the office or branch office where the licenses of the team members are displayed.

Current Law: An individual who provides real estate brokerage services for consideration – including selling, buying, exchanging, leasing, or collecting rent for any real estate – must be licensed by the commission. In addition to education and examination requirements, applicants are required to meet any other requirements established by the commission that ensure that applicants are professionally competent and of good character.

An associate real estate broker has fulfilled all the requirements to serve as the broker of a real estate firm but has chosen to work under the supervision of a broker with an established company. Nevertheless, an associate real estate broker may serve as a real estate broker if he or she desires. A real estate salesperson generally performs the same

services for a firm as an associate broker but has not fulfilled the educational and training requirements necessary to be licensed as a real estate broker.

No statutory language exists related to the performance of real estate services through teams.

In general, individuals who violate the statutory provisions related to real estate services may be fined by the commission up to \$5,000 for a first violation; \$15,000 for a second violation; and \$25,000 for a third or subsequent violation. In setting the amount of the penalty, the commission must consider:

- the seriousness of the violation;
- the harm caused by the violation;
- the good faith of the violator;
- any history of previous violations by the violator; and
- any other relevant factors.

The commission may establish hearing boards to adjudicate contested cases related to an alleged violation of the practice of real estate services in the State. Cases may also be delegated to the Office of Administrative Hearings.

Background: The commission advises that there is a significant amount of confusion among consumers, and even some real estate professionals, regarding the practice of real estate services through teams. Current laws and regulations do not recognize or regulate teams and groups. Industry trends throughout the State and country increasingly include the performance of services through teams.

DLLR advises that statutory and related regulatory provisions regarding the provision of real estate services through teams or groups is needed. The commission has developed, and posted on its web site, a list of “do’s and don’ts” for teams and groups that includes many of the provisions of the bill. However, the commission cannot enforce any of its recommended or discouraged practices.

Legislative Services assumes fine revenues, which accrue to the general fund, may increase as some commission licensees will violate the bill’s provisions; the extent of such an increase cannot be reliably estimated but is expected to be negligible.

Additional Information

Prior Introductions: HB 1408 of 2009 passed the House and passed second reading in the Senate, but no further action was taken on the bill.

Cross File: None.

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

Fiscal Note History: First Reader - February 22, 2010
mpc/mcr

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Real Estate Licenses – Services Provided Through Teams

BILL NUMBER: HB 406

PREPARED BY: Department of Labor, License and Regulation

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

SMALL BUSINESS IMPACT STATEMENT:

The proposed legislation would have no impact on small business.

IMPACT ON LOCAL GOVERNMENT:

The proposed legislation would have no impact upon local government.