

SENATE BILL 210

N1

1lr1043

By: **Senators Kelley, Conway, Jones–Rodwell, Middleton, and Pugh**

Introduced and read first time: January 27, 2011

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Real Estate Settlements – Paying or Receiving Consideration – Penalties**

3 FOR the purpose of providing that a certain person who violates a provision of law
4 that prohibits paying or receiving consideration in connection with real estate
5 settlements may be subject to certain disciplinary action; authorizing certain
6 licensing authorities to take certain disciplinary action against a certain
7 licensee; and generally relating to paying or receiving consideration in
8 connection with real estate settlements.

9 BY repealing and reenacting, with amendments,
10 Article – Real Property
11 Section 14–127
12 Annotated Code of Maryland
13 (2010 Replacement Volume and 2010 Supplement)

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

16 **Article – Real Property**

17 14–127.

18 (a) (1) In this section the following words have the meanings indicated.

19 (2) “Consideration” includes:

20 (i) A fee;

21 (ii) Compensation;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(iii) A gift, except promotional or advertising materials for general distribution;

(iv) A thing of value;

(v) A rebate;

(vi) A loan; or

(vii) An advancement of a commission or deposit money.

(3) “License” has the meaning stated in § 10–101 of the Insurance Article.

(4) “Residential real estate transaction” means a transaction involving a federally related mortgage loan as defined in 12 U.S.C. § 2602 and 24 C.F.R. 3500.2.

(5) “Title insurance producer” has the meaning stated in § 10–101 of the Insurance Article.

(b) This section does not prohibit:

(1) The payment of a commission to a title insurance producer who has a license; or

(2) The referral of a real estate settlement business or a professional fee arrangement between attorneys, if the referral or professional fee arrangement does not violate § 17–605 of the Business Occupations and Professions Article.

(c) (1) A person who has a connection with the settlement of real estate transactions involving land in the State may not pay to or receive from another any consideration to solicit, obtain, retain, or arrange real estate settlement business.

(2) A person may not be considered to be in violation of paragraph (1) of this subsection solely because that person is a participant in an affiliated business arrangement, as defined in 12 U.S.C. § 2602, and receives consideration as a result of that participation as long as that person complies with 12 U.S.C. § 2607(c)(4), 24 C.F.R. 3500.15, and Appendix D to 24 C.F.R. Part 3500.

(d) A person who offers settlement services in connection with residential real estate transactions involving land in the State shall comply with 12 U.S.C. § 2607(c)(4), 24 C.F.R. 3500.15, and Appendix D to 24 C.F.R. Part 3500, as applicable, regarding disclosures of affiliated business arrangements, as defined in 12 U.S.C. § 2602.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding \$1,000 or both.

1 **(F) (1) IN ADDITION TO THE CRIMINAL PENALTIES PROVIDED IN**
2 **SUBSECTION (E) OF THIS SECTION, A PERSON LICENSED UNDER TITLE 16 OR**
3 **TITLE 17 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE, TITLE**
4 **11 OF THE FINANCIAL INSTITUTIONS ARTICLE, OR TITLE 10 OF THE**
5 **INSURANCE ARTICLE WHO VIOLATES THIS SECTION MAY BE SUBJECT TO**
6 **DISCIPLINARY ACTION BY THE APPROPRIATE LICENSING AUTHORITY.**

7 **(2) THE APPROPRIATE LICENSING AUTHORITY MAY:**

8 **(I) REPRIMAND THE LICENSEE;**

9 **(II) SUSPEND OR REVOKE THE LICENSE OF THE LICENSEE;**

10 **AND**

11 **(III) IMPOSE A CIVIL PENALTY NOT EXCEEDING \$5,000 FOR**
12 **EACH VIOLATION OF THIS SECTION.**

13 **[(f)] (G)** Each violation of this section is a separate violation.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2011.