

# SENATE BILL 210

N1

1lr1043

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

Introduced and read first time: January 27, 2011

Assigned to: Judicial Proceedings

Reassigned: Finance, January 31, 2011

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 22, 2011

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## CHAPTER \_\_\_\_\_

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~~ actions against ~~a~~ certain  
7 ~~licensee~~ licensees; repealing a certain definition; making a clarifying change;  
8 and generally relating to paying or receiving consideration in connection with  
9 real estate settlements.

10 BY repealing and reenacting, with amendments,

11 Article – Real Property

12 Section 14–127

13 Annotated Code of Maryland

14 (2010 Replacement Volume and 2010 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article – Business Occupations and Professions

17 Section 16–701(a)(1)(xii) and (xiii), 16–701.1(a)(7) and (8), and 17–322(b)(34)  
18 and (35)

19 Annotated Code of Maryland

20 (2010 Replacement Volume)

21 BY adding to

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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.



Article – Business Occupations and Professions  
Section 16–701(a)(1)(xiv), 16–701.1(a)(9), and 17–322(b)(36)  
Annotated Code of Maryland  
(2010 Replacement Volume)

BY repealing and reenacting, with amendments,  
Article – Financial Institutions  
Section 11–517(a)(4) and (5) and 11–615(a)(4) and (5)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2010 Supplement)

BY adding to  
Article – Financial Institutions  
Section 11–517(a)(6) and 11–615(a)(6)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Insurance  
Section 10–126(a)(22) and (23) and (b)(1)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2010 Supplement)

BY adding to  
Article – Insurance  
Section 10–126(a)(24)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2010 Supplement)

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

### **Article – Real Property**

14–127.

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

(2) “Consideration” includes:

(i) A fee;

(ii) Compensation;

(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)~~ **(3)** "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)~~ **(4)** "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, **AS DEFINED IN § 10-101 OF THE INSURANCE ARTICLE**; 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.

(F) ~~(1)~~ IN ADDITION TO THE CRIMINAL PENALTIES PROVIDED IN SUBSECTION (E) OF THIS SECTION, A PERSON ~~LICENSED UNDER TITLE 16 OR TITLE 17 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE, TITLE 11 OF THE FINANCIAL INSTITUTIONS ARTICLE, OR TITLE 10 OF THE INSURANCE ARTICLE~~ WHO VIOLATES THIS SECTION MAY BE SUBJECT TO DISCIPLINARY ACTION, INCLUDING CIVIL AND ADMINISTRATIVE PENALTIES, BY ~~THE APPROPRIATE~~ THE PERSON'S LICENSING AUTHORITY.

~~(2) THE APPROPRIATE LICENSING AUTHORITY MAY:~~

~~(i) REPRIMAND THE LICENSEE;~~

~~(ii) SUSPEND OR REVOKE THE LICENSE OF THE LICENSEE;~~

~~AND~~

~~(iii) IMPOSE A CIVIL PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION OF THIS SECTION.~~

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

#### Article – Business Occupations and Professions

16–701.

(a) (1) Subject to the hearing provisions of § 16–602 of this title, the Commission may deny a real estate appraisal license to any applicant, deny a certificate to any applicant, reprimand any real estate appraiser licensee, reprimand any certificate holder, or suspend or revoke a real estate appraisal license or certificate if the real estate appraisal applicant, license holder, or certificate holder:

(xii) violates any other provision of this title; [or]

(xiii) violates any regulation adopted under this title; OR

(XIV) VIOLATES § 14–127 OF THE REAL PROPERTY ARTICLE.

16–701.1.

(a) Subject to the hearing provisions of § 16–602 of this title, the Commission may deny a home inspector license to any applicant, reprimand any home inspector licensee, or suspend or revoke a home inspector license if the applicant or licensee:

(7) violates any regulation adopted under this title; [or]

(8) aids, abets, or assists any person in violating any provision of this title or any regulation adopted under this title; OR

1                   **(9) VIOLATES § 14–127 OF THE REAL PROPERTY ARTICLE.**

2   17–322.

3           **(b)** Subject to the hearing provisions of § 17–324 of this subtitle, the  
4 Commission may deny a license to any applicant, reprimand any licensee, or suspend  
5 or revoke a license if the applicant or licensee:

6                   **(34)** violates § 17–320(d) of this subtitle by failing as a branch office  
7 manager to exercise reasonable and adequate supervision over the provision of real  
8 estate brokerage services by any salesperson or associate broker registered with that  
9 office; [or]

10                   **(35)** has been disciplined under a real estate licensing law of another  
11 jurisdiction; OR

12                   **(36) VIOLATES § 14–127 OF THE REAL PROPERTY ARTICLE.**

13                                   **Article – Financial Institutions**

14   11–517.

15           **(a)** Subject to the hearing provisions of § 11–518 of this subtitle, the  
16 Commissioner may suspend or revoke the license of any licensee if the licensee or any  
17 owner, director, officer, member, partner, stockholder, employee, or agent of the  
18 licensee:

19                   **(4)** Violates any provision of this subtitle or any rule or regulation  
20 adopted under it or any other law regulating mortgage loan lending in the State; [or]

21                   **(5)** Otherwise demonstrates unworthiness, bad faith, dishonesty, or  
22 any other quality that indicates that the business of the licensee has not been or will  
23 not be conducted honestly, fairly, equitably, and efficiently; OR

24                   **(6) VIOLATES § 14–127 OF THE REAL PROPERTY ARTICLE.**

25   11–615.

26           **(a)** Subject to the hearing provisions of § 11–616 of this subtitle, and except  
27 as provided in subsection (f) of this section, the Commissioner may suspend or revoke  
28 the license of any licensee if the licensee:

29                   **(4)** Violates any provision of this subtitle, any regulation adopted  
30 under this subtitle, or any other law regulating mortgage lending or mortgage  
31 origination in the State; [or]

(5) Otherwise demonstrates unworthiness, bad faith, dishonesty, or any other quality that indicates that the business of the licensee has not been or will not be conducted honestly; OR

**(6) VIOLATES § 14–127 OF THE REAL PROPERTY ARTICLE.**

**Article – Insurance**

**10–126.**

(a) The Commissioner may deny a license to an applicant under §§ 2–210 through 2–214 of this article, or suspend, revoke, or refuse to renew or reinstate a license after notice and opportunity for hearing under §§ 2–210 through 2–214 of this article if the applicant or holder of the license:

(22) has failed to pay income tax or related interest or penalty under:

(i) an assessment under the Tax – General Article that is final and no longer subject to review by the tax court; or

(ii) an order of the tax court that is final and no longer subject to judicial review; [or]

(23) in providing information under § 10–118 of this subtitle regarding the termination of an appointment with an insurer, has made an inaccurate statement with actual malice; OR

**(24) VIOLATED § 14–127 OF THE REAL PROPERTY ARTICLE.**

(b) (1) The Commissioner may deny a license to an applicant business entity under §§ 2–210 through 2–214 of this article, or suspend, revoke, or refuse to renew or reinstate a license of a business entity after notice and opportunity for hearing under §§ 2–210 through 2–214 of this article, if an individual listed in paragraph (2) of this subsection has:

(i) violated any provision of this subtitle;

(ii) been convicted of a felony, a crime of moral turpitude, or any criminal offense involving dishonesty or breach of trust; [or]

(iii) had any professional license suspended or revoked for a fraudulent or dishonest practice; OR

**(IV) VIOLATED § 14–127 OF THE REAL PROPERTY ARTICLE.**

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