

SENATE BILL 738

C2

2lr1636

By: **Senator Jennings**

Introduced and read first time: February 3, 2012

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **State Real Estate Commission – Regulation of Business Brokers**

3 FOR the purpose of requiring an individual to be licensed as a business broker before
4 providing business brokerage services in the State; making certain provisions of
5 law governing real estate licensees applicable to business brokers, including
6 qualifications for license applicants, grounds for denial, reprimand, suspension,
7 revocation, and penalties, reciprocity of licenses, duties of licensees, nonresident
8 broker requirements, provision of services through a team, and prohibited acts;
9 altering the membership of the State Real Estate Commission; prohibiting a
10 business broker from charging a commission that exceeds a certain percentage
11 of a certain sale price; establishing the Business Brokerage Fund as a special,
12 nonlapsing fund; requiring the Commission to adopt regulations to administer
13 the Fund; specifying the purpose for which the Fund may be used; providing for
14 the investment of money in and expenditures from the Fund; requiring business
15 broker licensees to pay a certain one-time fee into the Fund; authorizing certain
16 claims to be made against the Fund; establishing a certain hearing procedure
17 for claims against the Fund; authorizing certain payments to be made from the
18 Fund; exempting certain funds from a certain provision of law requiring interest
19 on money in special funds to accrue to the General Fund of the State; defining
20 certain terms; and generally relating to the regulation of business brokers by
21 the State Real Estate Commission.

22 BY repealing and reenacting, with amendments,

23 Article – Business Occupations and Professions

24 Section 17-101, 17-202(a)(2) and (c), 17-205(c)(3), 17-206(c), 17-209(c)(1),
25 17-210, 17-307(a), 17-314(b) and (e)(5), 17-315, 17-316(a)(1), (b)(1), and
26 (e)(1), 17-322(b)(35) and (d)(3), 17-325(a), 17-330(a)(3), 17-3A-02(a),
27 17-3A-04, 17-3A-06(a), 17-3A-09(a), 17-3A-10(b)(2)(ii), 17-501,
28 17-502, 17-503, 17-504, 17-505, 17-507, 17-508, 17-513, 17-515,
29 17-516, 17-517, 17-518, 17-519, 17-520, 17-527.2, 17-527.3, 17-528,
30 17-529, 17-530, 17-532, 17-533, 17-534(d); 17-536 through 17-540 and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 the amended part “Part IV. Nonresident Commercial Real Estate Brokers
 2 and Nonresident Business Brokers”; 17–543 through 17–548 and the
 3 amended part “Part V. Provision of Business Brokerage or Real Estate
 4 Brokerage Services Through a Team”; 17–601(a), 17–602(a), 17–603,
 5 17–604(a), 17–605, and 17–614

6 Annotated Code of Maryland
 7 (2010 Replacement Volume and 2011 Supplement)

8 BY adding to

9 Article – Business Occupations and Professions
 10 Section 17–301(a)(3), 17–303.1, 17–310(c), 17–317(a)(3); 17–4A–01 through
 11 17–4A–12 to be under the new subtitle “Subtitle 4A. Business Brokerage
 12 Fund”; and 17–604.1

13 Annotated Code of Maryland
 14 (2010 Replacement Volume and 2011 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article – State Finance and Procurement
 17 Section 6–226(a)(2)(ii)62. and 63.
 18 Annotated Code of Maryland
 19 (2009 Replacement Volume and 2011 Supplement)

20 BY adding to

21 Article – State Finance and Procurement
 22 Section 6–226(a)(2)(ii)64. and 65.
 23 Annotated Code of Maryland
 24 (2009 Replacement Volume and 2011 Supplement)

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

27 **Article – Business Occupations and Professions**

28 17–101.

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

30 (b) “Affiliate” means, unless the context requires otherwise, to establish
 31 between an individual and a real estate broker an employment or other contractual
 32 relationship under which the individual is authorized to provide real estate brokerage
 33 services on behalf of the real estate broker.

34 (c) “Associate real estate broker” means an individual:

35 (1) who meets the requirements for a real estate broker license under
 36 § 17–305 of this title but who applies for and is granted an associate real estate broker
 37 license under §§ 17–307 and 17–309 of this title; and

1 (2) who, under the associate real estate broker license, may provide
2 real estate brokerage services on behalf of a licensed real estate broker with whom the
3 associate real estate broker is affiliated.

4 **(D) “BUSINESS BROKER” MEANS A PERSON WHO ASSISTS A BUYER OR**
5 **SELLER OF A SMALL BUSINESS IN THE PROCESS OF BUYING OR SELLING THE**
6 **BUSINESS, INCLUDING ESTIMATING THE VALUE OF A SMALL BUSINESS,**
7 **ADVERTISING A SMALL BUSINESS FOR SALE, CONDUCTING INTERVIEWS OF**
8 **PROSPECTIVE BUYERS, FACILITATING A DUE DILIGENCE INVESTIGATION, AND**
9 **OTHERWISE ASSISTING WITH THE SALE OF A SMALL BUSINESS.**

10 **(E) “BUSINESS BROKERAGE FUND” MEANS THE FUND ESTABLISHED BY**
11 **THE COMMISSION UNDER § 17-4A-02 OF THIS TITLE.**

12 **[(d)] (F)** “Commission” means the State Real Estate Commission.

13 **[(e)] (G)** “Guaranty Fund” means a real estate guaranty fund established by
14 the Commission under § 17-402 of this title.

15 **[(f)] (H)** “Hearing board” means a [real estate] hearing board appointed by
16 the Commission under § 17-325 of this title.

17 **[(g)] (I)** (1) “License” means, unless the context requires otherwise, a
18 license issued by the Commission.

19 (2) “License” includes, unless the context requires otherwise:

20 (i) a real estate broker license;

21 (ii) an associate real estate broker license; and

22 (iii) a real estate salesperson license.

23 **[(h)] (J)** “Licensed associate real estate broker” means, unless the context
24 requires otherwise, an associate real estate broker who is licensed by the Commission
25 to provide real estate brokerage services on behalf of a licensed real estate broker with
26 whom the associate real estate broker is affiliated.

27 **[(i)] (K)** “Licensed real estate broker” means, unless the context requires
28 otherwise, a real estate broker who is licensed by the Commission to provide real
29 estate brokerage services.

30 **[(j)] (L)** “Licensed real estate salesperson” means, unless the context
31 requires otherwise, a real estate salesperson who is licensed by the Commission to

1 provide real estate brokerage services on behalf of a licensed real estate broker with
2 whom the real estate salesperson is affiliated.

3 **[(k)] (M)** “Licensee” means a licensed real estate broker, a licensed associate
4 real estate broker, or a licensed real estate salesperson.

5 **(N) “PROVIDE BUSINESS BROKERAGE SERVICES” MEANS TO ENGAGE IN**
6 **ANY OF THE FOLLOWING ACTIVITIES:**

7 **(1) FOR CONSIDERATION, SELLING, BUYING, OR EXCHANGING**
8 **ANY SMALL BUSINESS FOR ANOTHER PERSON;**

9 **(2) FOR CONSIDERATION, ASSISTING ANOTHER PERSON TO**
10 **LOCATE OR OBTAIN FOR PURCHASE ANY SMALL BUSINESS;**

11 **(3) ENGAGING REGULARLY IN A BUSINESS OF DEALING IN**
12 **BUSINESS BROKERAGE TRANSACTIONS;**

13 **(4) ENGAGING IN A BUSINESS THE PRIMARY PURPOSE OF WHICH**
14 **IS PROMOTING THE SALE OF SMALL BUSINESSES; OR**

15 **(5) FOR CONSIDERATION, SERVING AS A CONSULTANT**
16 **REGARDING ANY ACTIVITY SET FORTH IN ITEMS (1) THROUGH (4) OF THIS**
17 **SUBSECTION.**

18 **[(l)] (O)** “Provide real estate brokerage services” means to engage in any of
19 the following activities:

20 (1) for consideration, providing any of the following services for
21 another person:

22 (i) selling, buying, exchanging, or leasing any real estate; or

23 (ii) collecting rent for the use of any real estate;

24 (2) for consideration, assisting another person to locate or obtain for
25 purchase or lease any residential real estate;

26 (3) engaging regularly in a business of dealing in real estate or leases
27 or options on real estate;

28 (4) engaging in a business the primary purpose of which is promoting
29 the sale of real estate through a listing in a publication issued primarily for the
30 promotion of real estate sales;

1 (5) engaging in a business that subdivides land that is located in any
2 state and sells the divided lots; or

3 (6) for consideration, serving as a consultant regarding any activity
4 set forth in items (1) through (5) of this subsection.

5 **[(m)] (P)** (1) “Real estate” means any interest in real property that is
6 located in this State or elsewhere.

7 (2) “Real estate” includes:

8 (i) an interest in a condominium; and

9 (ii) a time-share estate or a time-share license, as those terms
10 are defined in § 11A-101 of the Real Property Article.

11 **[(n)] (Q)** “Real estate broker” means an individual who provides real estate
12 brokerage services.

13 **[(o)] (R)** “Real estate salesperson” means an individual who, while affiliated
14 with and acting on behalf of a real estate broker, provides real estate brokerage
15 services.

16 17-202.

17 (a) (2) Of the 9 members of the Commission:

18 (i) 5 shall be licensed real estate brokers, licensed associate
19 real estate brokers, **[or]** licensed real estate salespersons, **OR LICENSED BUSINESS**
20 **BROKERS;** and

21 (ii) 4 shall be consumer members.

22 (c) Each professional member of the Commission shall have been:

23 (1) a resident of any of the counties in the area from which the
24 member is appointed for at least 5 years immediately before appointment; and

25 (2) **(I)** a licensed real estate broker, a licensed associate real estate
26 broker, or a licensed real estate salesperson for at least 10 years immediately before
27 appointment; **OR**

28 **(II) A LICENSED BUSINESS BROKER FOR AT LEAST 1 YEAR**
29 **IMMEDIATELY BEFORE APPOINTMENT.**

30 17-205.

1 (c) (3) While employed by the Commission, the executive director may
2 not:

3 (i) be licensed in any state as a real estate broker, an associate
4 real estate broker, [or] a real estate salesperson, **OR A BUSINESS BROKER;**

5 (ii) engage in any act for which a license is required under this
6 title; or

7 (iii) in connection with any real estate transaction **OR BUSINESS**
8 **BROKER TRANSACTION**, directly or indirectly receive or become entitled to receive
9 any fee, perquisite, or compensation.

10 17-206.

11 (c) While employed by the Commission, an individual may not:

12 (1) be licensed in any state as a real estate broker, an associate real
13 estate broker, [or] a real estate salesperson, **OR A BUSINESS BROKER;**

14 (2) engage in any act for which a license is required under this title; or

15 (3) in connection with any real estate transaction **OR BUSINESS**
16 **BROKER TRANSACTION**, directly or indirectly receive or become entitled to receive
17 any fee, perquisite, or compensation.

18 17-209.

19 (c) (1) Subject to the provisions of this section, the Commission shall
20 conduct an investigation that relates to any complaint alleging that an unauthorized
21 person has provided real estate brokerage services **OR BUSINESS BROKERAGE**
22 **SERVICES.**

23 17-210.

24 The Commission shall submit to the Secretary an annual report of the activities
25 of the Commission that includes:

26 (1) a statement of the total receipts from license fees;

27 (2) a statement of the total expenditures of the Commission;

28 (3) the number of real estate broker licenses, associate real estate
29 broker licenses, [and] real estate salesperson licenses, **AND BUSINESS BROKER**
30 **LICENSES** issued in each county;

1 **C. COMPUTER, INCLUDING TRANSMISSION OVER THE**
2 **INTERNET AND THE WORLD WIDE WEB;**

3 **D. HOME STUDY; OR**

4 **E. ANY OTHER DELIVERY SYSTEM APPROVED BY THE**
5 **COMMISSION; AND**

6 **(II) INCLUDES A 3 CLOCK HOUR COURSE IN BUSINESS**
7 **BROKERAGE ETHICS APPROVED BY THE COMMISSION; OR**

8 **(2) IF APPROVED BY THE COMMISSION AS AN ALTERNATIVE,**
9 **COURSES IN BUSINESS BROKERAGE SUBJECTS IN ANY COLLEGE, INCLUDING A 3**
10 **CLOCK HOUR COURSE IN BUSINESS BROKERAGE ETHICS APPROVED BY THE**
11 **COMMISSION.**

12 **(E) AN APPLICANT SHALL PASS AN EXAMINATION GIVEN BY THE**
13 **COMMISSION UNDER § 17-306 OF THIS SUBTITLE.**

14 **(F) AN APPLICANT SHALL MEET ANY OTHER REQUIREMENT THAT THE**
15 **COMMISSION ESTABLISHES TO ENSURE THAT ONLY INDIVIDUALS WHO ARE**
16 **PROFESSIONALLY COMPETENT AND OF GOOD CHARACTER AND REPUTATION**
17 **ARE LICENSED.**

18 17-307.

19 (a) An applicant for a license:

20 (1) shall submit to the Commission an application on the form that the
21 Commission provides;

22 (2) if a testing service was used to administer the examination, shall
23 submit to the Commission a copy of the examination results of the applicant;

24 [(3) shall pay into the Guaranty Fund any fee required under § 17-403
25 of this title;]

26 [(4)] (3) shall pay to the Commission a fee set by the Commission;
27 [and]

28 [(5)] (4) shall submit to the Commission any additional information
29 or documentation that the Commission requires, including any information or

1 documentation to determine the professional competence or the good character and
2 reputation of the applicant; AND

3 **(5) (I) SHALL PAY INTO THE GUARANTY FUND ANY FEE**
4 **REQUIRED UNDER § 17-403 OF THIS TITLE; OR**

5 **(II) SHALL PAY INTO THE BUSINESS BROKERAGE FUND ANY**
6 **FEE REQUIRED UNDER § 17-4A-03 OF THIS TITLE.**

7 17-310.

8 **(C) WHILE A BUSINESS BROKER LICENSE IS IN EFFECT, IT AUTHORIZES**
9 **THE LICENSEE TO PROVIDE BUSINESS BROKERAGE SERVICES.**

10 17-314.

11 (b) Except as provided in subsection (c) of this section, unless an associate
12 real estate broker [or], real estate salesperson, **OR BUSINESS BROKER** license is
13 renewed for a 2-year term as provided in this section, the license expires on the first
14 April 30 that comes:

15 (1) after the effective date of the license; and

16 (2) in an even-numbered year.

17 (e) Before a license expires, the licensee periodically may renew it for an
18 additional 2-year term, if the licensee:

19 **(5) FOR THE RENEWAL OF AN ASSOCIATE REAL ESTATE BROKER**
20 **OR REAL ESTATE SALESPERSON LICENSE**, notifies the Commission of the name of
21 each real estate broker with whom the licensee then is affiliated; and

22 17-315.

23 (a) (1) To qualify for renewal of a license under this subtitle, a licensee
24 shall complete at least 15 clock hours of continuing education instruction, as provided
25 in subsection (b) of this section, during the preceding 2-year term.

26 (2) Notwithstanding paragraph (1) of this subsection, a licensee shall
27 complete at least 7.5 clock hours of continuing education instruction as provided for in
28 subsection (b) of this section if the licensee:

29 (i) 1. possesses a graduate degree in law from an accredited
30 law school; or

1 2. possesses a graduate degree in real estate from an
2 accredited college or university; and

3 (ii) is not a broker, an associate broker, or a salesperson
4 designated as a branch office manager or team leader.

5 (3) For a licensee who provides real estate brokerage services solely in
6 connection with nonresidential real estate, of the clock hours required under
7 paragraph (1) of this subsection, 1.5 clock hours may be satisfied by a course regarding
8 fair housing laws and regulations or the federal Americans with Disabilities Act.

9 (4) A licensee who is required to complete continuing education
10 instruction under paragraph (2) of this subsection shall complete the requirements of
11 subsection (b)(2)(ii) and (v) of this section in alternate licensing periods.

12 (5) A licensee holding a license from another state must complete at
13 least the number of clock hours of continuing education instruction required under
14 paragraph (1) of this subsection during each 2-year license term and may substitute
15 clock hours of continuing education instruction earned in another state, if those clock
16 hours:

17 (i) are approved as real estate **OR BUSINESS BROKER**
18 continuing education in that state; and

19 (ii) meet the distribution requirements of subsection (b)(2) of
20 this section.

21 (6) The Commission shall grant the substitution of clock hours in
22 paragraph (5) of this subsection only if the other state permits the substitution of clock
23 hours of continuing education instruction approved by the Commission for a licensee of
24 this State.

25 (b) (1) The Commission shall approve the form, substance, and, as
26 provided under paragraph (2) of this subsection, subject matter of all continuing
27 education courses.

28 (2) The subject matter approved by the Commission shall:

29 (i) relate to real estate, **BUSINESS BROKERAGE**, or to a subject
30 matter intended to assist a licensee in providing real estate **OR BUSINESS** brokerage
31 services to the public in a more efficient and effective manner, provided that the
32 subject matter is related to helping the public buy or sell real estate **OR BUSINESSES**;

33 (ii) every 2 years, include at least one 3 clock hour course that
34 outlines relevant changes that have occurred in federal, State, or local laws and
35 regulations, or any combination of those laws and regulations;

1 (iii) every 2 years, include at least one 1.5 clock hour course that
2 outlines federal, State, and local fair housing laws and regulations, including fair
3 housing advertising;

4 (iv) every 2 years, include at least one 3 clock hour ethics course
5 that includes the Maryland Code of Ethics and a discussion of the practices of flipping
6 and predatory lending;

7 (v) every 4 years, include at least one 3 clock hour course that
8 includes the principles of agency and agency disclosure; and

9 (vi) every 4 years for the renewal of a real estate broker license
10 and the renewal of the license of an individual designated as a branch office manager
11 or a team leader, include at least one 3 clock hour course that includes the
12 requirements of broker supervision.

13 (3) The requirement of paragraph (2)(iii) of this subsection does not
14 apply to a licensee who provides real estate brokerage services solely in connection
15 with nonresidential real estate.

16 (4) To be acceptable for credit as a continuing education course under
17 this section, the course shall cover 1 or more topics approved by the Commission.

18 (c) (1) Continuing education courses may be conducted by:

19 (i) the Maryland Association of Realtors or its member boards;

20 (ii) the Real Estate Brokers of Baltimore, Inc.;

21 (iii) any similar professional association; or

22 (iv) an educational institution approved by the Commission.

23 (2) Continuing education courses shall be taught by a qualified
24 instructor who is experienced in the real estate **OR BUSINESS BROKERAGE** industry.

25 (3) On or before January 1, 2003, the Commission shall adopt
26 regulations that provide for the conduct of continuing education instruction courses by:

27 (i) remote access satellite;

28 (ii) closed-circuit video;

29 (iii) computer, including transmission over the Internet and the
30 World Wide Web;

31 (iv) home study; and

1 (v) any other delivery system approved by the Commission.

2 (d) If feasible, continuing education courses shall be offered at reasonable
3 intervals in each county and in each major geographic area of the larger counties.

4 (e) (1) On completion of a continuing education course by a licensee, the
5 entity that conducted the course or the instructor shall issue to the licensee a
6 certificate of completion that states the number of clock hours of that course.

7 (2) The Commission shall accept as evidence of completion of a
8 continuing education course the certificate of completion, a photocopy of the certificate,
9 an electronic mail certificate, or a photocopy of an electronic mail certificate.

10 (f) The Commission may waive the requirements of this section for a
11 licensee if the licensee shows good cause for being unable to meet the requirements.

12 (g) The Commission shall require each course provider to pay a continuing
13 education course application fee of \$25.

14 17–316.

15 (a) (1) The Commission shall place the license of a real estate **OR**
16 **BUSINESS** broker on inactive status if the real estate **OR BUSINESS** broker:

17 (i) requests that the license of the broker be placed on inactive
18 status; and

19 (ii) surrenders the license certificate and pocket card of the
20 broker to the Commission.

21 (b) (1) A licensee whose license is on inactive status may not provide real
22 estate **OR BUSINESS** brokerage services through that license.

23 (e) (1) The Commission shall reactivate the license of a real estate **OR**
24 **BUSINESS** broker that is on inactive status and reissue a license certificate and pocket
25 card to the broker if the broker:

26 (i) requests that the license be reactivated;

27 (ii) pays to the Commission a reissuance fee set by the
28 Commission; and

29 (iii) meets the continuing education requirements that would
30 have been required for renewal of a license under § 17–315 of this subtitle if the
31 license had not been on inactive status.

1 17-317.

2 (a) **(3) A LICENSED BUSINESS BROKER SHALL DISPLAY AT ALL TIMES**
3 **THE LICENSE CERTIFICATE OF THE BUSINESS BROKER IN A CONSPICUOUS**
4 **PLACE IN THE PRINCIPAL OFFICE OF THE BUSINESS BROKER.**

5 17-322.

6 (b) Subject to the hearing provisions of § 17-324 of this subtitle, the
7 Commission may deny a license to any applicant, reprimand any licensee, or suspend
8 or revoke a license if the applicant or licensee:

9 (35) has been disciplined under a real estate **OR BUSINESS**
10 **BROKERAGE** licensing law of another jurisdiction.

11 (d) The Commission shall consider the following facts in the granting, denial,
12 renewal, suspension, or revocation of a license or the reprimand of a licensee when an
13 applicant or licensee is convicted of a felony or misdemeanor described in subsection
14 (b)(24)(i) and (ii) of this section:

15 (3) with respect to a felony, the relevance of the conviction to the
16 fitness and qualification of the applicant or licensee to provide real estate **OR**
17 **BUSINESS** brokerage services;

18 17-325.

19 (a) With the approval of the Secretary, the Commission may establish 1 or
20 more [real estate] hearing boards. If established, each hearing board shall be a unit in
21 the Department.

22 17-330.

23 (a) Whenever the Commission revokes or suspends the license of a licensee
24 under § 17-322 of this subtitle and a stay is not ordered by the Commission or the
25 court, the Commission shall mail notice of the suspension or revocation:

26 (3) **IF THE LICENSEE IS A REAL ESTATE BROKER, AN ASSOCIATE**
27 **REAL ESTATE BROKER, OR A REAL ESTATE SALESPERSON,** to the Maryland
28 Association of Realtors; and

29 17-3A-02.

30 (a) Subject to the limitations of this subtitle, the Commission may issue a
31 reciprocal license to a person:

1 (1) holding a current license to provide real estate **OR BUSINESS**
2 brokerage services issued by another state; and

3 (2) whose principal place of business for the provision of real estate **OR**
4 **BUSINESS** brokerage services is outside the State.

5 17-3A-04.

6 (a) Except as otherwise provided in this subtitle, the Commission shall issue
7 a reciprocal license to an applicant licensed in another state to provide real estate **OR**
8 **BUSINESS** brokerage services if:

9 (1) the applicant files with the Commission an application for a
10 reciprocal license;

11 (2) (i) the jurisdiction in which the principal place of business of
12 the applicant is located submits a certified copy of a current license issued to the
13 applicant; or

14 (ii) the licensing body for the other state submits a certified
15 statement indicating that the applicant holds a current license in the other state;

16 (3) the licensing body for the other state submits:

17 (i) a statement indicating whether the applicant has been the
18 subject of any disciplinary proceeding; and

19 (ii) if the applicant has been the subject of any disciplinary
20 proceeding, the details of the proceeding;

21 (4) the applicant submits to the Commission a statement attesting to
22 the fact that:

23 (i) to the knowledge of the applicant, the applicant is not the
24 subject of discipline or a current investigation or proceeding alleging misconduct under
25 a licensing law or criminal law of this State or any other jurisdiction;

26 (ii) the applicant has not been convicted under the laws of the
27 United States or of any state of:

28 1. a felony;

29 2. a misdemeanor that is directly related to the fitness
30 and qualifications of the applicant to provide real estate **OR BUSINESS** brokerage
31 services; or

1 17-3A-10.

2 (b) (2) At the time of application for the renewal of a reciprocal license,
3 the applicant shall provide proof that the applicant:

4 (ii) is not the subject of a disciplinary action or a current
5 investigation or proceeding alleging misconduct under a real estate **OR BUSINESS**
6 **BROKERAGE** licensing law of the state in which the applicant's principal place of
7 business is located.

8 **SUBTITLE 4A. BUSINESS BROKERAGE FUND.**

9 17-4A-01.

10 **THIS SUBTITLE DOES NOT LIMIT THE AUTHORITY OF THE COMMISSION TO**
11 **TAKE:**

12 (1) **ANY ACTION AGAINST A LICENSEE UNDER THE DISCIPLINARY**
13 **PROVISIONS OF SUBTITLE 3 OF THIS TITLE; OR**

14 (2) **ANY OTHER ACTION AUTHORIZED UNDER THIS TITLE.**

15 17-4A-02.

16 (A) **THE COMMISSION SHALL:**

17 (1) **ESTABLISH A BUSINESS BROKERAGE FUND; AND**

18 (2) **MAINTAIN THE BUSINESS BROKERAGE FUND AT A LEVEL OF**
19 **AT LEAST \$250,000.**

20 (B) (1) **THE COMMISSION SHALL DEPOSIT ALL MONEY COLLECTED**
21 **TO THE CREDIT OF THE BUSINESS BROKERAGE FUND WITH THE STATE**
22 **TREASURER FOR PLACEMENT INTO A SPECIAL ACCOUNT.**

23 (2) (I) **THE STATE TREASURER MAY INVEST OR REINVEST**
24 **MONEY IN THE BUSINESS BROKERAGE FUND IN THE SAME MANNER AS MONEY**
25 **IN THE STATE RETIREMENT AND PENSION SYSTEM.**

26 (II) **THE INVESTMENT EARNINGS SHALL BE:**

27 1. **CREDITED TO THE BUSINESS BROKERAGE FUND;**

28 **AND**

1 **2. AVAILABLE FOR THE SAME PURPOSES AS THE**
2 **MONEY DEPOSITED INTO THE BUSINESS BROKERAGE FUND.**

3 **(C) THE COMMISSION MAY ADOPT REGULATIONS FOR THE**
4 **ADMINISTRATION OF A BUSINESS BROKERAGE FUND.**

5 **17-4A-03.**

6 **(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, BEFORE**
7 **THE COMMISSION ISSUES A BUSINESS BROKER LICENSE TO ANY INDIVIDUAL,**
8 **THE INDIVIDUAL SHALL PAY A FEE OF \$20 TO BE CREDITED TO THE BUSINESS**
9 **BROKERAGE FUND.**

10 **(2) REGARDLESS OF HOW MANY TIMES AN INDIVIDUAL APPLIES**
11 **TO THE COMMISSION FOR A LICENSE UNDER THIS TITLE, THE COMMISSION MAY**
12 **CHARGE THE INDIVIDUAL ONLY ONCE FOR THE FEE REQUIRED UNDER THIS**
13 **SUBSECTION.**

14 **(B) IF THE AMOUNT IN THE BUSINESS BROKERAGE FUND FALLS BELOW**
15 **\$250,000, THE COMMISSION SHALL ASSESS EACH BUSINESS BROKER A FEE IN**
16 **AN AMOUNT THAT WILL RETURN THE BUSINESS BROKERAGE FUND TO A LEVEL**
17 **OF AT LEAST \$250,000.**

18 **17-4A-04.**

19 **(A) (1) SUBJECT TO THE PROVISIONS OF THIS SUBTITLE, A PERSON**
20 **MAY RECOVER COMPENSATION FROM THE BUSINESS BROKERAGE FUND FOR**
21 **AN ACTUAL LOSS.**

22 **(2) A CLAIM SHALL:**

23 **(I) BE BASED ON AN ACT OR OMISSION THAT OCCURS IN**
24 **THE PROVISION OF BUSINESS BROKERAGE SERVICES BY:**

25 **1. A LICENSED BUSINESS BROKER; OR**

26 **2. AN UNLICENSED EMPLOYEE OF A LICENSED**
27 **BUSINESS BROKER;**

28 **(II) INVOLVE A TRANSACTION THAT RELATES TO A**
29 **BUSINESS LOCATED IN THE STATE; AND**

30 **(III) BE BASED ON AN ACT OR OMISSION:**

1 1. IN WHICH MONEY OR PROPERTY IS OBTAINED
2 FROM A PERSON BY THEFT, EMBEZZLEMENT, FALSE PRETENSES, OR FORGERY;
3 OR

4 2. THAT CONSTITUTES FRAUD OR
5 MISREPRESENTATION.

6 **(B) THE AMOUNT RECOVERED FOR ANY CLAIM AGAINST THE BUSINESS**
7 **BROKERAGE FUND MAY NOT EXCEED \$25,000 FOR EACH CLAIM.**

8 **(C) A CLAIM UNDER THE BUSINESS BROKERAGE FUND MAY NOT BE**
9 **MADE BY:**

10 **(1) THE SPOUSE OF THE LICENSEE OR THE UNLICENSED**
11 **EMPLOYEE ALLEGED TO BE RESPONSIBLE FOR THE ACT OR OMISSION GIVING**
12 **RISE TO THE CLAIM; OR**

13 **(2) THE PERSONAL REPRESENTATIVE OF THE SPOUSE OF THE**
14 **LICENSEE OR THE UNLICENSED EMPLOYEE ALLEGED TO BE RESPONSIBLE FOR**
15 **THE ACT OR OMISSION GIVING RISE TO THE CLAIM.**

16 **(D) A CLAIM UNDER THIS SUBTITLE SHALL BE SUBMITTED TO THE**
17 **COMMISSION WITHIN 3 YEARS AFTER THE CLAIMANT DISCOVERS OR, BY THE**
18 **EXERCISE OF ORDINARY DILIGENCE, SHOULD HAVE DISCOVERED THE LOSS OR**
19 **DAMAGE.**

20 **17-4A-05.**

21 **A BUSINESS BROKER SHALL INCLUDE IN EACH CONTRACT THAT IS**
22 **PROVIDED BY THE BUSINESS BROKER A WRITTEN NOTICE TO THE EMPLOYER**
23 **THAT THE EMPLOYER IS PROTECTED BY THE BUSINESS BROKERAGE FUND IN**
24 **AN AMOUNT NOT EXCEEDING \$25,000.**

25 **17-4A-06.**

26 **(A) EACH CLAIM AGAINST THE BUSINESS BROKERAGE FUND SHALL BE**
27 **MADE IN ACCORDANCE WITH THIS SECTION.**

28 **(B) EACH CLAIM SHALL:**

29 **(1) BE IN WRITING;**

- 1 **(2) BE MADE UNDER OATH;**
- 2 **(3) STATE THE AMOUNT OF LOSS CLAIMED;**
- 3 **(4) STATE THE FACTS ON WHICH THE CLAIM IS BASED; AND**
- 4 **(5) BE ACCOMPANIED BY ANY DOCUMENTATION OR OTHER**
5 **EVIDENCE THAT SUPPORTS THE CLAIM.**

6 **17-4A-07.**

7 **(A) THE COMMISSION SHALL ACT PROMPTLY ON A CLAIM MADE UNDER**
8 **THIS SUBTITLE.**

9 **(B) ON RECEIPT OF A CLAIM, THE COMMISSION SHALL:**

10 **(1) FORWARD A COPY OF THE CLAIM:**

11 **(I) TO EACH LICENSEE ALLEGED TO BE RESPONSIBLE FOR**
12 **THE ACT OR OMISSION GIVING RISE TO THE CLAIM; AND**

13 **(II) TO EACH UNLICENSED EMPLOYEE ALLEGED TO BE**
14 **RESPONSIBLE FOR THE ACT OR OMISSION GIVING RISE TO THE CLAIM; AND**

15 **(2) REQUEST FROM EACH OF THOSE INDIVIDUALS A WRITTEN**
16 **RESPONSE WITHIN 10 DAYS TO THE ALLEGATIONS SET FORTH IN THE CLAIM.**

17 **(C) (1) THE COMMISSION:**

18 **(I) SHALL REVIEW THE CLAIM AND ANY RESPONSE TO THE**
19 **CLAIM; AND**

20 **(II) MAY CONDUCT AN INVESTIGATION OF THE CLAIM.**

21 **(2) ON THE BASIS OF ITS REVIEW AND ANY INVESTIGATION THAT**
22 **THE COMMISSION CONDUCTS, IT SHALL:**

23 **(I) ISSUE A PROPOSED AWARD UNDER SUBSECTION (D) OF**
24 **THIS SECTION;**

25 **(II) SET THE MATTER FOR A HEARING; OR**

1 **(III) IF THE CLAIM IS FRIVOLOUS, MADE IN BAD FAITH, OR**
2 **LEGALLY INSUFFICIENT, DISMISS THE CLAIM.**

3 **(D) (1) (I) IF A CLAIMANT'S TOTAL CLAIM ARISING FROM THE**
4 **CONDUCT OF ONE LICENSEE DOES NOT EXCEED \$3,000, THE COMMISSION MAY**
5 **ISSUE A PROPOSED ORDER EITHER TO PAY THE CLAIM IN WHOLE OR IN PART OR**
6 **TO DENY THE CLAIM.**

7 **(II) THE COMMISSION SHALL SEND THE PROPOSED ORDER**
8 **TO THE CLAIMANT AND THE LICENSEE BY PERSONAL DELIVERY OR BY BOTH**
9 **REGULAR AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED.**

10 **(III) THE PROPOSED ORDER SHALL BE SENT TO THE**
11 **LICENSEE AT THE MOST RECENT ADDRESS ON RECORD WITH THE COMMISSION.**

12 **(2) (I) WITHIN 30 DAYS AFTER THE DATE OF PERSONAL**
13 **SERVICE OF THE PROPOSED ORDER OR RECEIPT OF THE PROPOSED ORDER BY**
14 **CERTIFIED MAIL, THE LICENSEE OR THE CLAIMANT MAY REQUEST IN WRITING A**
15 **HEARING BEFORE THE COMMISSION OR FILE WRITTEN EXCEPTIONS TO THE**
16 **PROPOSED ORDER ISSUED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

17 **(II) ON RECEIPT OF A WRITTEN REQUEST FOR A HEARING**
18 **OR WRITTEN EXCEPTIONS TO THE PROPOSED ORDER IN ACCORDANCE WITH**
19 **SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMMISSION SHALL SCHEDULE A**
20 **HEARING ON THE CLAIM.**

21 **(III) IF A HEARING IS NOT REQUESTED OR IF TIMELY**
22 **EXCEPTIONS ARE NOT FILED TO THE PROPOSED ORDER, THE PROPOSED ORDER**
23 **SHALL BECOME A FINAL ORDER OF THE COMMISSION.**

24 **(E) AT ANY CLAIM HEARING, THE BURDEN OF PROOF SHALL BE ON THE**
25 **CLAIMANT TO ESTABLISH THE VALIDITY OF THE CLAIM.**

26 **17-4A-08.**

27 **(A) THE COMMISSION SHALL GIVE THE CLAIMANT AND THE LICENSEE**
28 **OR UNLICENSED EMPLOYEE ALLEGED TO BE RESPONSIBLE FOR THE ACT OR**
29 **OMISSION GIVING RISE TO THE CLAIM AN OPPORTUNITY TO PARTICIPATE IN**
30 **THE HEARING BEFORE THE COMMISSION.**

31 **(B) THE COMMISSION SHALL GIVE NOTICE OF THE HEARING TO:**

32 **(1) THE CLAIMANT;**

1 **(2) EACH LICENSEE ALLEGED TO BE RESPONSIBLE FOR THE ACT**
2 **OR OMISSION GIVING RISE TO THE CLAIM; AND**

3 **(3) EACH UNLICENSED EMPLOYEE ALLEGED TO BE RESPONSIBLE**
4 **FOR THE ACT OR OMISSION GIVING RISE TO THE CLAIM.**

5 **(C) THE COMMISSION MAY NOT PROCEED WITH THE HEARING UNLESS**
6 **THE RECORDS OF THE COMMISSION SHOW THAT ALL NOTICES REQUIRED**
7 **UNDER THIS SUBTITLE WERE SENT TO EACH LICENSEE AND EACH UNLICENSED**
8 **EMPLOYEE ALLEGED TO BE RESPONSIBLE FOR THE ACT OR OMISSION GIVING**
9 **RISE TO THE CLAIM.**

10 **17-4A-09.**

11 **(A) IF A CLAIM AGAINST THE BUSINESS BROKERAGE FUND ALLEGES**
12 **THAT THE ACT OR OMISSION GIVING RISE TO THE CLAIM WAS PERFORMED BY A**
13 **LICENSED BUSINESS BROKER, THE COMMISSION SHALL JOIN THE PROCEEDING**
14 **ON THE CLAIM WITH ANY DISCIPLINARY PROCEEDING AGAINST THE LICENSEE**
15 **UNDER THIS TITLE ARISING FROM THE SAME FACTS ALLEGED IN THE CLAIM.**

16 **(B) (1) FOR THAT PART OF A HEARING ON CONSOLIDATED**
17 **PROCEEDINGS THAT RELATES TO DISCIPLINARY ACTION BUT DOES NOT RELATE**
18 **TO THE BUSINESS BROKERAGE FUND CLAIM AGAINST A LICENSEE, THE**
19 **CLAIMANT:**

20 **(I) MAY NOT BE A PARTY; AND**

21 **(II) MAY PARTICIPATE ONLY AS A WITNESS.**

22 **(2) FOR THAT PART OF A HEARING ON CONSOLIDATED**
23 **PROCEEDINGS THAT RELATES TO THE CLAIM AGAINST THE BUSINESS**
24 **BROKERAGE FUND, THE CLAIMANT IS A PARTY.**

25 **17-4A-10.**

26 **(A) THE COMMISSION SHALL ORDER PAYMENT OF A CLAIM BY THE**
27 **BUSINESS BROKERAGE FUND IF, ON THE HEARING, THE CLAIMANT:**

28 **(1) PROVES THAT THE CLAIMANT HAS A VALID CLAIM UNDER THIS**
29 **SUBTITLE; AND**

1 **(2) PRESENTS EVIDENCE, SATISFACTORY TO THE COMMISSION,**
2 **THAT THE CLAIMANT IS NOT:**

3 **(I) THE SPOUSE OF THE LICENSEE OR THE UNLICENSED**
4 **EMPLOYEE ALLEGED TO BE RESPONSIBLE FOR THE ACT OR OMISSION GIVING**
5 **RISE TO THE CLAIM; OR**

6 **(II) THE PERSONAL REPRESENTATIVE OF THE SPOUSE OF**
7 **THE LICENSEE OR THE UNLICENSED EMPLOYEE ALLEGED TO BE RESPONSIBLE**
8 **FOR THE ACT OR OMISSION GIVING RISE TO THE CLAIM.**

9 **(B) (1) THE COMMISSION MAY ORDER PAYMENT BY THE BUSINESS**
10 **BROKERAGE FUND ONLY FOR THE ACTUAL MONETARY LOSS SUFFERED BY THE**
11 **CLAIMANT AS A RESULT OF THE CLAIM PROVEN BY THE CLAIMANT.**

12 **(2) FOR ANY CLAIM, THE COMMISSION MAY NOT ORDER A**
13 **PAYMENT BY THE BUSINESS BROKERAGE FUND OF MORE THAN \$25,000.**

14 **(C) A PAYMENT MAY NOT BE MADE BY THE BUSINESS BROKERAGE**
15 **FUND UNDER AN ORDER OF THE COMMISSION UNTIL:**

16 **(1) THE EXPIRATION OF THE TIME PROVIDED UNDER TITLE 10,**
17 **SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE FOR SEEKING JUDICIAL**
18 **REVIEW OF THE COMMISSION'S ORDER; OR**

19 **(2) THE EXPIRATION OF ANY JUDICIAL STAY OF THE ORDER OF**
20 **THE COMMISSION.**

21 **(D) THE COMMISSION SHALL ORDER PAYMENT OF EACH CLAIM DUE IN**
22 **THE ORDER IN WHICH THE CLAIM WAS AWARDED.**

23 **(E) IF, AT THE TIME A PAYMENT IS DUE, THE MONEY IN THE BUSINESS**
24 **BROKERAGE FUND IS INSUFFICIENT TO SATISFY FULLY THE ORDER FOR**
25 **PAYMENT, THE COMMISSION:**

26 **(1) IMMEDIATELY SHALL PAY TO THE CLAIMANT THE AMOUNT**
27 **THAT IS AVAILABLE IN THE BUSINESS BROKERAGE FUND; AND**

28 **(2) WHEN SUFFICIENT FUNDS ARE AVAILABLE IN THE BUSINESS**
29 **BROKERAGE FUND, SHALL PAY THE CLAIMANT:**

30 **(I) THE BALANCE DUE ON THE ORDER; PLUS**

1 **(II) INTEREST CALCULATED ON THAT BALANCE AT AN**
2 **ANNUAL RATE OF 10%.**

3 **17-4A-11.**

4 **(A) AFTER PAYMENT OF A CLAIM BY THE BUSINESS BROKERAGE FUND,**
5 **A LICENSEE WHO THE COMMISSION FINDS RESPONSIBLE FOR THE ACT OR**
6 **OMISSION THAT GAVE RISE TO THE CLAIM SHALL REIMBURSE THE BUSINESS**
7 **BROKERAGE FUND IN FULL FOR:**

8 **(1) THE AMOUNT PAID BY THE BUSINESS BROKERAGE FUND; AND**

9 **(2) INTEREST ON THE AMOUNT PAID BY THE BUSINESS**
10 **BROKERAGE FUND AT AN ANNUAL RATE OF AT LEAST 10%, AS SET BY THE**
11 **COMMISSION.**

12 **(B) EACH LICENSEE WHO THE COMMISSION FINDS RESPONSIBLE FOR**
13 **THE ACT OR OMISSION THAT GAVE RISE TO A CLAIM IS JOINTLY AND SEVERALLY**
14 **LIABLE FOR THE CLAIM.**

15 **(C) IF A LICENSEE DOES NOT REIMBURSE THE BUSINESS BROKERAGE**
16 **FUND AS PROVIDED IN SUBSECTION (A) OF THIS SECTION, THE COMMISSION OR**
17 **THE STATE CENTRAL COLLECTION UNIT, AS ASSIGNEE OF THE COMMISSION,**
18 **MAY BRING AN ACTION AGAINST THE LICENSEE FOR THE AMOUNT THAT HAS**
19 **NOT BEEN REIMBURSED.**

20 **(D) THE COMMISSION OR THE STATE CENTRAL COLLECTION UNIT, AS**
21 **ASSIGNEE OF THE COMMISSION, SHALL BE ENTITLED TO A JUDGMENT FOR THE**
22 **AMOUNT THAT THE LICENSEE HAS NOT REIMBURSED THE BUSINESS**
23 **BROKERAGE FUND IF THE COMMISSION PROVES THAT:**

24 **(1) PAYMENT WAS MADE BY THE BUSINESS BROKERAGE FUND**
25 **BASED ON AN ACT OR OMISSION FOR WHICH THE COMMISSION FOUND THE**
26 **LICENSEE WAS RESPONSIBLE;**

27 **(2) A PERIOD OF AT LEAST 30 DAYS HAS PASSED SINCE PAYMENT**
28 **WAS MADE BY THE BUSINESS BROKERAGE FUND; AND**

29 **(3) THE LICENSEE HAS NOT REIMBURSED THE BUSINESS**
30 **BROKERAGE FUND FOR THE AMOUNT FOR WHICH THE JUDGMENT IS SOUGHT.**

31 **(E) (1) IF A PERSON LIABLE FOR REIMBURSING THE BUSINESS**
32 **BROKERAGE FUND UNDER THIS SECTION RECEIVES A DEMAND FOR**

1 REIMBURSEMENT AND FAILS TO REIMBURSE THE FUND, THE REIMBURSEMENT
2 AMOUNT AND ANY ACCRUED INTEREST OR COST ARE A LIEN IN FAVOR OF THE
3 STATE ON ANY REAL PROPERTY OF THE PERSON IF THE LIEN IS RECORDED AND
4 INDEXED AS PROVIDED IN THIS SUBSECTION.

5 (2) THE LIEN IN FAVOR OF THE STATE CREATED BY THIS
6 SUBSECTION MAY NOT ATTACH TO SPECIFIC PROPERTY UNTIL THE STATE
7 CENTRAL COLLECTION UNIT RECORDS WRITTEN NOTICE OF THE LIEN IN THE
8 OFFICE OF THE CLERK OF THE COURT FOR THE COUNTY IN WHICH THE
9 PROPERTY SUBJECT TO THE LIEN OR ANY PART OF THE PROPERTY IS LOCATED.

10 (3) THE LIEN IN FAVOR OF THE STATE CREATED BY THIS
11 SUBSECTION DOES NOT HAVE PRIORITY AS TO ANY SPECIFIC PROPERTY OVER
12 ANY PERSON WHO IS A LIENHOLDER OF RECORD AT THE TIME THE NOTICE
13 REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION IS RECORDED.

14 (4) THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS
15 SUBSECTION SHALL CONTAIN THE NAME AND ADDRESS OF THE PERSON
16 AGAINST WHOSE PROPERTY THE LIEN EXISTS, THE AMOUNT OF THE LIEN, A
17 DESCRIPTION OF OR REFERENCE TO THE PROPERTY SUBJECT TO THE LIEN,
18 AND THE DATE THE BUSINESS BROKERAGE FUND PAID THE CLAIM GIVING RISE
19 TO THE LIEN.

20 (5) ON PRESENTATION OF A RELEASE OF ANY LIEN IN FAVOR OF
21 THE STATE CREATED BY THIS SUBSECTION, THE CLERK OF THE COURT IN
22 WHICH THE LIEN IS RECORDED AND INDEXED SHALL RECORD AND INDEX THE
23 RELEASE AND SHALL NOTE IN THE LIEN DOCKET THE DATE THE RELEASE IS
24 FILED AND THE FACT THAT THE LIEN IS RELEASED.

25 (6) THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS
26 SUBSECTION AND ANY RELEASE FILED UNDER PARAGRAPH (5) OF THIS
27 SUBSECTION SHALL BE INDEXED WITH THE JUDGMENT LIEN RECORDS
28 MAINTAINED BY THE OFFICE OF THE CLERK OF THE COURT WHERE THE NOTICE
29 IS RECORDED.

30 (7) THE CLERK MAY COLLECT A REASONABLE FEE FOR
31 RECORDING AND INDEXING EACH NOTICE OF LIEN OR RELEASE OF ANY LIEN
32 UNDER THIS SUBSECTION.

33 (F) FOR THE PURPOSE OF EXCEPTING TO A DISCHARGE OF A LICENSEE
34 UNDER 11 U.S.C. § 523, THE COMMISSION OR THE STATE CENTRAL
35 COLLECTION UNIT, AS ASSIGNEE OF THE COMMISSION, IS A CREDITOR OF THE

1 LICENSEE FOR THE AMOUNT THAT WAS PAID BY THE BUSINESS BROKERAGE
2 FUND BUT THAT HAS NOT BEEN REIMBURSED BY THE LICENSEE.

3 17-4A-12.

4 (A) IF THE COMMISSION ORDERS PAYMENT BY THE BUSINESS
5 BROKERAGE FUND OF A CLAIM BASED ON AN ACT OR OMISSION FOR WHICH A
6 LICENSEE IS RESPONSIBLE, THE COMMISSION IMMEDIATELY AND WITHOUT
7 FURTHER PROCEEDINGS SHALL SUSPEND THE LICENSE OF THE LICENSEE.

8 (B) THE COMMISSION MAY NOT REINSTATE A LICENSE THAT IS
9 SUSPENDED UNDER THIS SECTION UNTIL THE INDIVIDUAL WHOSE LICENSE WAS
10 SUSPENDED:

11 (1) REPAYS IN FULL:

12 (I) THE AMOUNT PAID BY THE BUSINESS BROKERAGE
13 FUND; AND

14 (II) THE INTEREST DUE UNDER § 17-4A-11(A)(2) OF THIS
15 SUBTITLE; AND

16 (2) APPLIES TO THE COMMISSION FOR REINSTATEMENT OF THE
17 LICENSE.

18 (C) REGARDLESS OF WHETHER THE DISCIPLINARY SANCTION WAS
19 IMPOSED FOR THE SAME ACT OR OMISSION THAT GAVE RISE TO THE CLAIM
20 AGAINST THE BUSINESS BROKERAGE FUND, THE REIMBURSEMENT OF THE
21 BUSINESS BROKERAGE FUND BY A LICENSEE DOES NOT AFFECT ANY SANCTION
22 IMPOSED BY THE COMMISSION AGAINST AN INDIVIDUAL UNDER THE
23 DISCIPLINARY PROVISIONS OF SUBTITLE 3 OF THIS TITLE.

24 17-501.

25 (a) In this Part I of this subtitle the following words have the meanings
26 indicated.

27 (b) "Beneficial owner" means a person, other than the owner of the trust
28 money, for whose benefit a **BUSINESS BROKER**, real estate broker, or, on behalf of a
29 real estate broker, an associate real estate broker or a real estate salesperson is
30 entrusted to hold trust money.

1 (c) "Trust money" means a deposit, payment, or other money that a person
2 entrusts to a **BUSINESS BROKER**, real estate broker, or, on behalf of a real estate
3 broker, to an associate real estate broker or a real estate salesperson to hold for:

4 (1) the benefit of the owner or beneficial owner of the trust money; and

5 (2) a purpose that relates to:

6 (I) a real estate transaction involving real estate in the State;

7 **OR**

8 (II) **A BUSINESS BROKERAGE TRANSACTION INVOLVING A**
9 **SMALL BUSINESS IN THE STATE.**

10 17-502.

11 (a) An associate real estate broker or a real estate salesperson who obtains
12 trust money while providing real estate brokerage services promptly shall submit the
13 trust money to the real estate broker on whose behalf the associate real estate broker
14 or the real estate salesperson provided the real estate brokerage services.

15 (b) (1) Except as otherwise provided in subsection (c) of this section, a
16 **BUSINESS BROKER OR** real estate broker promptly, but not more than 7 business
17 days after the acceptance of a contract of sale by both parties, shall deposit trust
18 money in an account that is maintained by the **BUSINESS BROKER OR** real estate
19 broker:

20 (i) separately from the **BUSINESS BROKER'S OR** real estate
21 broker's own accounts; and

22 (ii) solely for trust money.

23 (2) A **BUSINESS BROKER OR** real estate broker may not use trust
24 money for any purpose other than that for which it is entrusted to the [real estate]
25 broker.

26 (c) Subsection (b)(1) of this section does not apply if the **BUSINESS BROKER**
27 **OR** real estate broker receives written directions to the contrary as authorized under §
28 17-505(d) of this subtitle.

29 17-503.

30 Except as authorized under § 17-505 of this subtitle, a **BUSINESS BROKER OR**
31 real estate broker shall deposit all trust money in a financial institution that is located
32 in the State and whose deposits are insured by:

- 1 (1) the Federal Deposit Insurance Corporation;
- 2 (2) the Federal Savings and Loan Insurance Corporation;
- 3 (3) the National Credit Union Administration;
- 4 (4) the State of Maryland Deposit Insurance Fund Corporation; or
- 5 (5) the Credit Union Insurance Corporation.

6 17-504.

7 Unless the owner and beneficial owner give written instructions to the contrary,
8 a **BUSINESS BROKER OR** real estate broker may deposit trust money in:

- 9 (1) a noninterest bearing checking account;
- 10 (2) a noninterest bearing savings account; or
- 11 (3) any combination of these accounts.

12 17-505.

13 (a) A **BUSINESS BROKER OR** real estate broker shall maintain trust money
14 in an account authorized under this Part I of this subtitle until:

- 15 (1) the [real estate] transaction for which the trust money was
16 entrusted is consummated or terminated;
- 17 (2) the **BUSINESS BROKER OR** real estate broker receives proper
18 written instructions from the owner and beneficial owner directing withdrawal or
19 other disposition of the trust money;
- 20 (3) on an interpleader filed by the **BUSINESS BROKER OR** real estate
21 broker, a court orders a different disposition; or
- 22 (4) the owner or beneficial owner of the trust money fails to complete
23 the [real estate] transaction for which the trust money was entrusted and the
24 **BUSINESS BROKER OR** real estate broker, in the [real estate] broker's sole discretion,
25 decides to distribute the trust money in accordance with subsection (b) of this section.

26 (b) (1) Prior to distributing the trust money under subsection (a)(4) of this
27 section, the **BUSINESS BROKER OR** real estate broker shall notify both the owner and
28 the beneficial owner that the **BUSINESS BROKER OR** real estate broker intends to
29 distribute the trust money to the person who, in the good faith opinion of the [real

1 estate] broker, is entitled to receive the trust money in accordance with the terms of
2 the [real estate] contract which established the trust.

3 (2) The notice required under this subsection shall:

4 (i) be in writing;

5 (ii) state whether the trust money will be paid to the owner or
6 beneficial owner; and

7 (iii) disclose to the owner and the beneficial owner that:

8 1. either party may prevent distribution of the trust
9 money under subsection (a)(4) of this section by submitting a protest within 30 days
10 from the date the notice was delivered or mailed by the **BUSINESS BROKER OR** real
11 estate broker; and

12 2. if neither party submits a protest within 30 days from
13 the date the notice was delivered or mailed by the **BUSINESS BROKER OR** real estate
14 broker, the trust money will be distributed in accordance with the [real estate]
15 broker's notice.

16 (3) The notice required under this subsection shall be:

17 (i) hand delivered to both the owner and beneficial owner; or

18 (ii) sent by certified mail, return receipt requested, and regular
19 mail to both the owner and beneficial owner.

20 (4) (i) An owner or beneficial owner may protest the distribution of
21 the trust money.

22 (ii) An owner or beneficial owner shall submit the protest to the
23 **BUSINESS BROKER OR** real estate broker holding the trust money within 30 days
24 from the date the notice required in paragraph (1) of this subsection was delivered or
25 mailed by the [real estate] broker.

26 (iii) A protest shall be in writing and either:

27 1. hand delivered; or

28 2. sent by certified mail, return receipt requested, and
29 regular mail.

1 (5) (i) If a written protest is received by the **BUSINESS BROKER**
2 **OR** real estate broker, the [real estate] broker shall distribute the trust money in
3 accordance with subsection (a)(1), (2), or (3) of this section.

4 (ii) If no written protest is received by the **BUSINESS BROKER**
5 **OR** real estate broker holding the trust money, the [real estate] broker shall distribute
6 the trust money in accordance with the terms of the notice as required in this section.

7 (c) When the duty of the **BUSINESS BROKER OR** real estate broker to
8 maintain trust money in an account terminates, the [real estate] broker promptly
9 shall account for all trust money.

10 (d) A **BUSINESS BROKER OR** real estate broker may invest trust money:

11 (1) as the owner and beneficial owner of the trust money instruct in
12 writing; or

13 (2) as the **BUSINESS BROKER OR** real estate broker, owner, and
14 beneficial owner of the trust money agree in writing.

15 (e) A **BUSINESS BROKER OR** real estate broker may not be liable to an
16 owner or beneficial owner of the trust money for:

17 (1) a good faith decision to distribute the trust money under
18 subsection (a)(4) of this section; or

19 (2) a decision not to distribute the trust money under subsection (a)(4)
20 of this section.

21 (f) An agreement under which a **BUSINESS BROKER OR** real estate broker
22 is entrusted with the trust money shall contain a statement that the **BUSINESS**
23 **BROKER OR** real estate broker may distribute the trust money in accordance with
24 subsection (b) of this section if the owner or beneficial owner of the trust money fails to
25 complete the [real estate] transaction for which the trust money was entrusted.

26 17-507.

27 (a) Each **BUSINESS BROKER OR** real estate broker shall maintain all
28 records of trust money in a secured area within the office of the broker.

29 (b) (1) Each licensee shall keep copies of:

30 (i) listings; and

1 (ii) any other document executed or obtained by the licensee in
2 connection with a transaction involving the provision of **BUSINESS OR** real estate
3 brokerage services, including any electronic signature contained on a document.

4 (2) (i) A licensee shall keep the records required by this section for
5 5 years, starting on the date of the closing of a **BUSINESS BROKERAGE**
6 **TRANSACTION OR** real estate transaction, or, if the transaction is not closed, 5 years
7 after the date of the listing.

8 (ii) A licensee providing property management services shall
9 keep the records required by this section for 5 years after the termination of the
10 management agreement.

11 (c) For any record required to be kept under subsections (a) and (b) of this
12 section, a licensee may keep and store an electronic record of the information if:

13 (1) the stored record cannot be erased or edited;

14 (2) the stored record is made or preserved as part of, and in the
15 regular course of, the licensee's business;

16 (3) the original record from which the stored record was copied was
17 made or prepared by the licensee or the licensee's employees at or near the time of the
18 activity described in the record;

19 (4) the custodian of the record is able to identify the stored record, the
20 mode of its preparation, and the mode of storage; and

21 (5) the electronic storage system contains a reliable indexing system
22 that provides:

23 (i) convenient access to the document or record;

24 (ii) appropriate quality control of the storage process; and

25 (iii) chronological arrangement of stored documents or records.

26 (d) (1) On reasonable notice from the Commission, a licensee shall allow a
27 representative of the Commission to enter the licensee's place of business during
28 business hours to inspect a record required to be kept under subsection (b) of this
29 section.

30 (2) The licensee shall provide, at the licensee's expense, a paper copy
31 of any document or record requested by the Commission.

32 (3) A licensee shall display to the Commission on demand all records,
33 books, and accounts of any money held in trust.

1 17-508.

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

6 17-513.

7 An individual licensed by this State may divide a fee that is earned on a
8 **BUSINESS BROKERAGE TRANSACTION OR** real estate transaction in this State with
9 an individual licensed to provide **BUSINESS BROKERAGE SERVICES OR** real estate
10 brokerage services in another state if the other state allows a fee that is earned on a
11 **BUSINESS BROKERAGE TRANSACTION OR** real estate transaction in that state to be
12 divided with an individual licensed by this State.

13 17-515.

14 (a) If any of the following acts are performed by a **NONRESIDENT BUSINESS**
15 **BROKER**, nonresident real estate broker, nonresident associate real estate broker, or
16 nonresident real estate salesperson, the act shall constitute an irrevocable consent, as
17 provided in subsection (b) of this section:

18 (1) participating in any **BUSINESS BROKERAGE TRANSACTION OR**
19 real estate transaction in the State; or

20 (2) dividing fees or holding deposits from any **BUSINESS BROKERAGE**
21 **TRANSACTION OR** real estate transaction in the State.

22 (b) A consent arising under this section shall have the same effect and be
23 subject to the same procedures for service of process as a consent submitted under §
24 17-514 of this subtitle.

25 17-516.

26 A person may not bring an action or recover on an action for compensation for
27 providing **BUSINESS BROKERAGE SERVICES OR** real estate brokerage services in a
28 court of the State unless the person was authorized to provide **BUSINESS**
29 **BROKERAGE OR** real estate brokerage services under this title at the time of offering
30 to provide and providing **BUSINESS BROKERAGE OR** real estate brokerage services.

31 17-517.

32 (a) Each licensed **BUSINESS BROKER OR LICENSED** real estate broker who
33 is a resident of the State shall maintain an office in the State.

1 (b) Each licensed **BUSINESS BROKER OR LICENSED** real estate broker who
2 is a nonresident of the State shall maintain an office in this State if the state in which
3 the nonresident broker resides requires a resident of this State who is licensed in the
4 other state to maintain an office in that state.

5 17-518.

6 (a) Subject to the provisions of this subtitle, a licensed **BUSINESS BROKER**
7 **OR** real estate broker may maintain branch offices in the State.

8 (b) A licensed **BUSINESS BROKER OR** real estate broker shall obtain a
9 branch office certificate before the broker may maintain a branch office in the State.

10 (c) (1) An applicant for a branch office certificate shall:

11 (i) submit to the Commission an application on the form that
12 the Commission provides;

13 (ii) submit to the Commission written notice of the identity of
14 the individual appointed as manager of the branch office under subsection (d) of this
15 section; and

16 (iii) pay to the Commission an application fee of \$5.

17 (2) The Commission shall issue a branch office certificate to each
18 licensed **BUSINESS BROKER OR** real estate broker who meets the requirements of this
19 section.

20 (d) (1) Subject to paragraph (2) of this subsection, the licensed **BUSINESS**
21 **BROKER OR** real estate broker shall designate a manager for each branch office of the
22 broker.

23 (2) The manager shall be:

24 (i) a licensed associate real estate broker;

25 (ii) a licensed real estate salesperson who has at least 3 years'
26 experience providing real estate brokerage services; [or]

27 (iii) a licensed real estate salesperson who:

28 1. has completed successfully a course in real estate
29 approved by the Commission for real estate brokers; and

1 2. has passed the real estate broker's examination given
2 by the Commission under § 17-306 of this title; **OR**

3 **(IV) A LICENSED BUSINESS BROKER.**

4 (3) A licensed real estate salesperson seeking to qualify as a branch
5 office manager under paragraph (2)(iii) of this subsection shall submit to the
6 Commission, before taking the real estate broker's examination, a commitment from
7 the licensed real estate broker proposing to engage the salesperson as a branch office
8 manager.

9 (4) The manager **OF A REAL ESTATE BRANCH OFFICE** shall have the
10 responsibility to supervise the provision of real estate brokerage services by the
11 associate brokers and sales agents registered to that office as provided for in § 17-320
12 of this title.

13 (e) (1) Unless a branch office certificate is renewed for a 2-year term as
14 provided in this subsection, the certificate expires on the first April 30 that comes:

15 (i) after the effective date of the certificate; and

16 (ii) in an even-numbered year.

17 (2) Before a branch office certificate expires, a licensed **BUSINESS**
18 **BROKER OR** real estate broker periodically may renew it for an additional 2-year
19 term, if the broker:

20 (i) submits to the Commission a renewal application on the
21 form that the Commission provides accompanied by the license renewal application of
22 the manager of the branch office; and

23 (ii) pays to the Commission a renewal fee of \$5.

24 (3) The Commission shall renew the branch office certificate of each
25 licensed **BUSINESS BROKER OR** real estate broker who meets the requirements of this
26 section.

27 17-519.

28 (a) In accordance with this section, a **BUSINESS BROKER OR** real estate
29 broker shall display a sign at each office and branch office that the **BUSINESS**
30 **BROKER OR** real estate broker maintains for the provision of **BUSINESS BROKERAGE**
31 **OR** real estate brokerage services.

1 (b) The **BUSINESS BROKER OR** real estate broker shall display the sign
2 conspicuously on the door or outside of the premises of each office or branch office so
3 that the sign is visible to the public.

4 (c) The **BUSINESS BROKER OR** real estate broker shall include on the sign
5 the words “**BUSINESS BROKERAGE**” OR “real estate” or, where authorized by the
6 respective trade associations, “realtor” or “realtist”.

7 17-520.

8 (a) Within the time set by the Commission, a **BUSINESS BROKER OR** real
9 estate broker shall submit to the Commission:

10 (1) written notice of any change in the address of the principal office of
11 the broker on the form that the Commission provides;

12 (2) the license certificate and pocket card of the broker; and

13 (3) a fee for issuance of a new license certificate and pocket card of \$5.

14 (b) On receipt of the notice, fee, license certificate, and pocket card, the
15 Commission shall issue a new license certificate and pocket card to the **BUSINESS**
16 **BROKER OR** real estate broker for the unexpired period of the broker’s license.

17 (c) Within the time set by the Commission, a **BUSINESS BROKER OR** real
18 estate broker shall submit to the Commission:

19 (1) written notice of any change in the address of a branch office of the
20 broker on the form that the Commission provides;

21 (2) the branch office certificate; and

22 (3) a fee for the issuance of a new branch office certificate of \$5.

23 (d) On receipt of the notice, fee, and branch office certificate, the Commission
24 shall issue a new branch office certificate to the **BUSINESS BROKER OR** real estate
25 broker for the unexpired period of the branch office certificate.

26 (e) If a **BUSINESS BROKER OR** real estate broker changes the address of the
27 principal office or a branch office of the broker and fails to submit the required notice,
28 the license of the broker shall be suspended automatically until the broker submits the
29 required notice.

30 17-527.2.

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

1 (2) “Advertise” means the use of any oral, written, or visual
2 advertisement by a licensed real estate salesperson, licensed real estate broker,
3 licensed associate real estate broker, **BUSINESS BROKER** or other person on behalf of
4 a licensed real estate salesperson, licensed real estate broker, [or] licensed associate
5 real estate broker, **OR BUSINESS BROKER**.

6 (3) (i) “Advertisement” means, unless the context requires
7 otherwise, any oral, written, or printed media advertisement.

8 (ii) “Advertisement” includes any correspondence, mailing,
9 newsletter, brochure, business card, for sale or for lease sign and sign rider,
10 promotional item, automobile signage, telephone directory listing, television
11 announcement, radio announcement, telephone solicitation, and World Wide Web and
12 Internet voice–overs.

13 (4) (i) “Designated name” means the individual name of a licensed
14 real estate salesperson, licensed real estate broker, [or] licensed associate real estate
15 broker, **OR LICENSED BUSINESS BROKER** other than the licensed real estate
16 salesperson’s, licensed real estate broker’s, [or] licensed associate real estate broker’s,
17 **OR LICENSED BUSINESS BROKER’S** full legal name.

18 (ii) “Designated name” includes a first name, nickname, or last
19 name.

20 (b) A licensed real estate salesperson, licensed real estate broker, [or]
21 licensed associate real estate broker, **OR LICENSED BUSINESS BROKER** may not
22 advertise unless:

23 (1) the name or designated name of the licensed real estate
24 salesperson, licensed real estate broker, [or] licensed associate real estate broker, **OR**
25 **LICENSED BUSINESS BROKER**, as the name or designated name appears on the
26 license certificate and pocket card issued by the Commission, is meaningfully and
27 conspicuously included in the advertisement; and

28 (2) the name of the business with which the licensed real estate
29 salesperson, licensed real estate broker, [or] licensed associate real estate broker, **OR**
30 **LICENSED BUSINESS BROKER** is affiliated:

31 (i) is meaningfully and conspicuously included in the
32 advertisement; and

33 (ii) is the full name of the business and not a logo used by the
34 business.

35 17–527.3.

1 (a) A licensed real estate salesperson, licensed real estate broker, [or]
2 licensed associate real estate broker, **OR LICENSED BUSINESS BROKER** may provide
3 real estate brokerage services **OR BUSINESS BROKERAGE SERVICES** under a
4 designated name that has been approved by the Commission.

5 (b) Subject to the approval of the Commission, a licensed real estate
6 salesperson, licensed real estate broker, [or] licensed associate real estate broker, **OR**
7 **LICENSED BUSINESS BROKER** may add a designated name on a license certificate
8 and pocket card if the licensee submits to the Commission:

9 (1) an application on the form that the Commission provides;

10 (2) the license certificate and pocket card of the licensee;

11 (3) any documentation about the designated name that the
12 Commission requires; and

13 (4) a fee of \$5.

14 (c) The full legal name of the licensee and the approved designated name
15 shall be displayed on the new license certificate and pocket card.

16 17-528.

17 (a) In this Part III of this subtitle the following words have the meanings
18 indicated.

19 (b) “Agency relationship” means each relationship in which a licensee acts
20 for or represents another person with the person’s authority in a residential real
21 estate transaction **OR BUSINESS BROKERAGE TRANSACTION**.

22 (c) “Broker” means a **LICENSED BUSINESS BROKER OR A** licensed real
23 estate broker, including a corporation, limited liability company, partnership, or sole
24 proprietorship through which a licensed real estate broker provides real estate
25 brokerage services under § 17-321 of this title.

26 (d) “Brokerage agreement” means a written agreement between a broker and
27 a client to provide **BUSINESS BROKERAGE SERVICES OR** real estate brokerage
28 services under a brokerage relationship.

29 (e) “Brokerage relationship” means an agency relationship under a
30 brokerage agreement between a client and a broker who has been engaged by the
31 client to provide **BUSINESS BROKERAGE SERVICES OR** real estate brokerage services
32 in a residential real estate transaction.

1 (f) "Client" means a person who has entered into a brokerage agreement
2 with a broker under a brokerage relationship.

3 (g) (1) "Common source information company" means any person that is a
4 source, compiler, or supplier of information regarding **BUSINESSES OR** residential
5 real estate for sale or lease or other data.

6 (2) "Common source information company" includes a multiple listing
7 service.

8 (h) "Confidential information" includes information that:

9 (1) the seller or lessor will accept a price or rent less than the price or
10 rent as set forth in the brokerage agreement or will accept terms other than those
11 contained in the brokerage agreement;

12 (2) the buyer or lessee is willing to pay a price or rent higher than the
13 price or rent the buyer or lessee offered or will accept terms other than those contained
14 in the offer of the buyer or lessee;

15 (3) discloses the motivation of a buyer, lessee, seller, or lessor or the
16 need or urgency of a seller to sell, a buyer to buy, a lessee to lease, or a lessor to lease;

17 (4) discloses any facts that led the seller to sell, the buyer to buy, the
18 lessee to lease, or the lessor to lease; or

19 (5) relates to the negotiating strategy of a client.

20 (i) "Ministerial act" means an act that:

21 (1) a licensee performs on behalf of a client before and after the
22 execution of a contract of sale or lease;

23 (2) assists another person to complete or fulfill a contract of sale or
24 lease with the client of the licensee; and

25 (3) does not involve discretion or the exercise of the licensee's own
26 judgment.

27 (j) "Subagent" includes a cooperating agent who acts on behalf of a client of
28 another broker.

29 (k) "Timely" means a reasonable time under the particular facts and
30 circumstances.

31 17-529.

1 (a) This Part III of this subtitle applies only to:

2 (1) the sale or lease of real property improved by one, two, three, or
3 four single-family units; [and]

4 (2) unimproved real property zoned for residential use by the local
5 zoning authority of the county or municipality in which the real property is located;
6 **AND**

7 **(3) THE SALE OF A SMALL BUSINESS.**

8 (b) This Part III of this subtitle does not apply to a lease of 125 days or less.

9 17-530.

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

11 (2) “Buyer’s agent” means a licensed real estate broker, licensed
12 associate real estate broker, [or] licensed real estate salesperson, **OR LICENSED**
13 **BUSINESS BROKER** who represents a prospective buyer or lessee in the acquisition of
14 real estate for sale or for lease **OR THE ACQUISITION OF A SMALL BUSINESS FOR**
15 **SALE.**

16 (3) “Cooperating agent” means a licensed real estate broker, licensed
17 associate real estate broker, or licensed real estate salesperson who:

18 (i) is not affiliated with or is not acting as the listing real estate
19 broker for a property; and

20 (ii) assists a prospective buyer or lessee as a subagent of the
21 listing real estate broker, in the acquisition of real estate for sale or for lease.

22 (4) “Intra-company agent” means a licensed associate real estate
23 broker or licensed real estate salesperson who has been designated by the real estate
24 broker who the associate real estate broker or licensed real estate salesperson is
25 affiliated with to act as a dual agent on behalf of a seller or lessor or buyer or lessee in
26 the purchase, sale, or lease of real estate that is listed with the real estate broker.

27 (5) “Dual agent” means a licensed real estate broker, licensed
28 associate real estate broker, or licensed real estate salesperson who acts as an agent
29 for both the seller and the buyer or the lessor and the lessee in the same real estate
30 transaction.

31 (6) “Seller’s agent” means a licensed real estate broker, licensed
32 associate real estate broker, [or] licensed real estate salesperson, **OR LICENSED**
33 **BUSINESS BROKER** who:

1 (i) is affiliated with or acts as the listing broker for real estate
2 **OR A SMALL BUSINESS**; and

3 (ii) assists a prospective buyer or lessee in the acquisition of real
4 estate for sale or for lease **OR OF A SMALL BUSINESS FOR SALE**.

5 (b) (1) A licensee who participates in a residential real estate transaction
6 **OR BUSINESS BROKERAGE TRANSACTION** as a seller's agent, buyer's agent, or as a
7 cooperating agent shall disclose in writing that the licensee represents the seller or
8 lessor or the buyer or lessee.

9 (2) The disclosure shall occur not later than the first scheduled
10 face-to-face contact with the seller or lessor or the buyer or lessee.

11 (3) (i) In any residential real estate transaction **OR BUSINESS**
12 **BROKERAGE TRANSACTION** involving a cooperating agent as defined in this section,
13 it shall be the obligation of the cooperating agent to make the written disclosure to the
14 buyer or lessee required under this section.

15 (ii) In any residential real estate transaction **OR BUSINESS**
16 **BROKERAGE TRANSACTION** that does not involve a cooperating agent as defined in
17 this section, it shall be the obligation of the seller's agent, as defined in this section, to
18 make the written disclosure to the buyer or lessee required under this section.

19 (4) In any residential real estate transaction **OR BUSINESS**
20 **BROKERAGE TRANSACTION** involving a buyer's agent, it shall be the obligation of the
21 buyer's agent to make the written disclosure to the seller or lessor or the agent of the
22 seller or lessor as required under this section.

23 (5) The written disclosure shall explain:

24 (i) the differences between a seller's agent, buyer's agent,
25 cooperating agent, dual agent, and intra-company agent;

26 (ii) the duties of a licensee to exercise reasonable care and
27 diligence and maintain confidentiality;

28 (iii) that a licensee who assists a buyer or lessee in locating
29 residential real estate for purchase or lease **OR A SMALL BUSINESS FOR PURCHASE**
30 and is neither affiliated with nor acting as the listing real estate broker **OR LISTING**
31 **BUSINESS BROKER** for any real estate **OR SMALL BUSINESS** shown or located, is
32 presumed to be acting as a buyer's agent on behalf of the prospective buyer or lessee,
33 unless either the licensee or the prospective buyer or lessee expressly declines to have
34 the licensee act as a buyer's agent;

1 (iv) that regardless of whom a licensee represents in a real
2 estate transaction **OR BUSINESS BROKERAGE TRANSACTION**, the licensee has a
3 duty to treat each party fairly, promptly present each written offer and counteroffer,
4 respond truthfully to each question, disclose all material facts that are known or
5 should be known relating to a property **OR SMALL BUSINESS**, and offer each property
6 **OR SMALL BUSINESS** without discrimination;

7 (v) that a licensee is qualified to advise only on real estate
8 matters **OR ON BUSINESS BROKERAGE MATTERS, AS APPLICABLE**, and that legal
9 or tax advice should be obtained from a licensed attorney or accountant;

10 (vi) the need for an agreement with a seller's agent, buyer's
11 agent, or dual agent to be in writing and to include the duties and obligations of the
12 agent, how and by whom the agent will be compensated, and any fee-sharing
13 arrangements with other agents;

14 (vii) the duty of a buyer's agent to assist in the:

15 1. evaluation of a property **OR SMALL BUSINESS**,
16 including the provision of a market analysis of the property **OR SMALL BUSINESS**;
17 and

18 2. preparation of an offer on a property **OR SMALL**
19 **BUSINESS** and to negotiate in the best interests of the buyer;

20 (viii) the possibility that a dual agency may arise in a real estate
21 transaction **OR BUSINESS BROKERAGE TRANSACTION** and the options that would
22 become available to the buyer and seller or lessee and lessor; and

23 (ix) that any complaints concerning a licensee may be filed with
24 the State Real Estate Commission.

25 (c) **(1)** Except as otherwise provided in subsection (d) of this section, a
26 licensed real estate broker, licensed associate real estate broker, or licensed real estate
27 salesperson may not act as a dual agent in this State.

28 **(2) A LICENSED BUSINESS BROKER MAY NOT ACT AS A DUAL**
29 **AGENT IN THIS STATE.**

30 (d) (1) (i) If a licensed real estate broker or a designee of the real
31 estate broker obtains the written informed consent of all parties to a real estate
32 transaction, the real estate broker may act as a dual agent in the transaction.

33 (ii) When acting as a dual agent in a real estate transaction, a
34 real estate broker or a designee of the real estate broker shall assign a licensed
35 associate real estate broker or licensed real estate salesperson affiliated with the real

1 estate broker to act as the intra-company agent on behalf of the seller or lessor and
2 another licensed associate real estate broker or licensed real estate salesperson
3 affiliated with the real estate broker to act as the intra-company agent on behalf of
4 the buyer or lessee.

5 (iii) 1. Except as otherwise required by this title and except
6 to the intra-company agent's real estate broker or a designee of the real estate broker,
7 an intra-company agent may not disclose information that a seller or buyer in a real
8 estate transaction requests to remain confidential.

9 2. Except as otherwise required by this title, the real
10 estate broker or the designee of the real estate broker acting as the dual agent may
11 not disclose confidential information to the buyer or seller or the buyer's or seller's
12 intra-company agent in the same real estate transaction.

13 (iv) If a real estate broker offers any financial bonuses to
14 licensees affiliated with the broker for the sale or lease of real property listed with the
15 real estate broker, the real estate broker shall provide to each party to a real estate
16 transaction a statement that discloses that financial bonuses are offered.

17 (v) An intra-company agent representing the seller or buyer
18 may provide the same services to the client as an exclusive agent for the seller or
19 buyer, including advising the client as to price and negotiation strategy, provided that
20 the intra-company agent has made the appropriate disclosures to the client and the
21 client has consented, as required by this section, to dual agency representation.

22 (vi) The provisions of the services specified in this subsection
23 may not be construed to be a breach of duty of the licensee, provided that the licensee
24 has complied with the duties specified in § 17-522 of this subtitle.

25 (2) The written consent shall identify each property for which the real
26 estate broker will serve as a dual agent.

27 (3) The written consent shall include a statement that:

28 (i) the real estate broker receives compensation on the sale of a
29 property listed only by the broker;

30 (ii) as a dual agent the real estate broker represents both the
31 seller and the buyer and there may be a conflict of interest because the interests of the
32 seller and the buyer may be different or adverse;

33 (iii) as a dual agent the real estate broker does not owe
34 undivided loyalty to either the seller or the buyer;

1 (iv) except as otherwise required by this title, a dual agent may
2 not disclose information that a seller or buyer in a real estate transaction requests to
3 remain confidential to the buyer or seller in the same real estate transaction;

4 (v) unless authorized by the seller, a dual agent may not tell a
5 buyer that the seller will accept a price lower than the listing price or accept terms
6 other than those contained in the listing agreement or suggest that the seller accept a
7 lower price in the presence of the buyer;

8 (vi) unless authorized by the buyer, a dual agent may not tell a
9 seller that the buyer is willing to pay a price higher than the price the buyer offered or
10 accept terms other than those contained in the offer of the buyer or suggest that the
11 buyer pay a higher price in the presence of the seller;

12 (vii) a dual agent may not disclose the motivation of a buyer or
13 seller or the need or urgency of a seller to sell or a buyer to buy;

14 (viii) except as otherwise required by this title, if the information
15 is confidential, a dual agent may not disclose any facts that lead the seller to sell;

16 (ix) the buyer or seller does not have to consent to the dual
17 agency;

18 (x) the buyer or seller has voluntarily consented to the dual
19 agency; and

20 (xi) the terms of the dual agency are understood by the buyer or
21 seller.

22 (4) (i) A cause of action may not arise against a licensee for
23 disclosure of the dual agency relationship as provided by this section.

24 (ii) A dual agent does not terminate any brokerage relationship
25 by making any required disclosure of dual agency.

26 (5) (i) In any residential real estate transaction, a licensee may
27 withdraw from representing a client who refuses to consent to a disclosed dual agency
28 and to terminate the brokerage relationship with the client.

29 (ii) The withdrawal may not prejudice the ability of the licensee
30 to continue to represent the other client in the transaction, nor to limit the licensee
31 from representing the client who refused the dual agency in other transactions not
32 involving dual agency.

33 (e) (1) The State Real Estate Commission shall require a licensed real
34 estate broker, licensed associate real estate broker, [or] licensed real estate
35 salesperson, **OR LICENSED BUSINESS BROKER** who participates in a residential real

1 estate transaction to utilize a standard disclosure form in each real estate transaction
2 that includes the information specified in subsection (b)(5) of this section.

3 (2) The State Real Estate Commission shall require a licensed real
4 estate broker who acts as a dual agent and a licensed real estate associate broker or
5 licensed real estate salesperson who acts as an intra-company agent in a real estate
6 transaction to utilize a standard consent form that includes the information specified
7 in subsection (d)(3) of this section.

8 (f) (1) The State Real Estate Commission shall prepare and provide a
9 copy of:

10 (i) the standard disclosure form required under subsection (b)
11 of this section to each licensee in this State; and

12 (ii) the standard consent form required under subsection (d) of
13 this section to each licensee in this State.

14 (2) The disclosure form and the consent form shall be:

15 (i) written in a clear and coherent manner using words with
16 common and everyday meanings;

17 (ii) appropriately divided and captioned by their various
18 sections; and

19 (iii) printed in at least 10 point type.

20 17-532.

21 (a) In this section, "client" includes a prospective buyer or lessee under a
22 presumed buyer's agency relationship or a presumed lessee's agency relationship as
23 described in § 17-533 of this subtitle.

24 (b) A licensee shall comply with the provisions of this section when providing
25 real estate brokerage services **OR BUSINESS BROKERAGE SERVICES**.

26 (c) (1) A licensee shall:

27 (i) act in accordance with the terms of the brokerage
28 agreement;

29 (ii) promote the interests of the client by:

30 1. seeking a sale or lease of real estate **OR A SMALL**
31 **BUSINESS** at a price or rent specified in the brokerage agreement or at a price or rent
32 acceptable to the client;

1 2. seeking a sale or lease of real estate **OR A SMALL**
2 **BUSINESS** on terms specified in the brokerage agreement or on terms acceptable to
3 the client; and

4 3. unless otherwise specified in the brokerage
5 agreement, presenting in a timely manner all written offers or counteroffers to and
6 from the client, even if the real estate **OR SMALL BUSINESS** is subject to an existing
7 contract of sale or lease;

8 (iii) disclose to the client all material facts as required under §
9 17-322 of this title;

10 (iv) treat all parties to the transaction honestly and fairly and
11 answer all questions truthfully;

12 (v) in a timely manner account for all trust money received;

13 (vi) exercise reasonable care and diligence; and

14 (vii) comply with all:

15 1. requirements of this title;

16 2. applicable federal, State, and local fair housing laws
17 and regulations; and

18 3. other applicable laws and regulations.

19 (2) Unless the client consents in writing to the disclosure, a licensee
20 may not disclose confidential information received from or about a client to any other
21 party or licensee acting as the agent of that party or other representative of that party.

22 (3) Unless the client to whom the confidential information relates
23 consents in writing to a disclosure of that confidential information, a licensee who
24 receives confidential information from or about the licensee's own past or present
25 client or a past or present client of the licensee's broker may not disclose that
26 information to:

27 (i) any of the licensee's other clients;

28 (ii) any of the clients of the licensee's broker;

29 (iii) any other party;

30 (iv) any licensee acting as an agent for another party; or

1 (v) any representative of another party.

2 (4) Unless otherwise specified in the brokerage agreement, a licensee
3 is not required to seek additional offers to purchase or lease real estate **OR A SMALL**
4 **BUSINESS** while the real estate **OR SMALL BUSINESS** is subject to an existing
5 contract of sale or lease.

6 (5) An intra-company agent may disclose confidential information to
7 the broker or dual agent for whom the intra-company agent works but the broker or
8 dual agent may not disclose that confidential information to the other party or the
9 intra-company agent for the other party, as provided in § 17-530(d).

10 (d) A licensee does not breach any duty or obligation to the client by:

11 (1) showing other available properties **OR SMALL BUSINESSES** to
12 prospective buyers or lessees;

13 (2) representing other clients who have or are looking for similar
14 properties **OR SMALL BUSINESSES** for sale or lease;

15 (3) representing other sellers or lessors who have similar properties
16 **OR SMALL BUSINESSES** to that sought by the buyer or lessee; and

17 (4) showing the buyer other available properties **OR SMALL**
18 **BUSINESSES**.

19 (e) This title does not limit the applicability of § 10-702 of the Real Property
20 Article.

21 (f) The requirements of this section are in addition to any other duties
22 required of the agent by law that are not inconsistent with these duties.

23 (g) The duties specified in this section may not be waived or modified.

24 (h) A licensee who performs ministerial acts for a person may not be
25 construed to:

26 (1) violate the licensee's duties to the client, provided that the client
27 has consented in the brokerage agreement to the licensee's provision of ministerial
28 acts; or

29 (2) form an agency relationship between the licensee and the person
30 for whom the ministerial acts are performed.

31 17-533.

1 (a) A licensee who assists a prospective buyer or lessee in locating residential
2 real estate **OR A SMALL BUSINESS** for purchase or lease and is neither affiliated with
3 nor acting as the listing real estate broker **OR LISTING BUSINESS BROKER** for any
4 real estate **OR SMALL BUSINESS** shown or located, is presumed to be acting as the
5 buyer's or lessee's agent representing the buyer or lessee unless either the licensee or
6 the buyer or lessee expressly declines to have the licensee act as a buyer's or lessee's
7 agent.

8 (b) A presumed buyer's or lessee's agency relationship shall be terminated if:

9 (1) either the buyer, lessee, or licensee expressly states a wish to
10 terminate the presumed agency relationship; or

11 (2) the licensee and either the buyer or the lessee enter into a
12 brokerage agreement.

13 (c) The buyer or lessee does not have an obligation to continue to work with
14 the licensee or to pay the licensee while acting under a presumed agency relationship.

15 (d) A licensee who is acting as a presumed buyer's or lessee's agent may
16 show and assist the buyer or lessee only on real estate **OR SMALL BUSINESSES** that
17 **[is] ARE** not listed by the broker of that licensee.

18 (e) **(1)** Before **[the] A REAL ESTATE** licensee may show or assist the
19 buyer or lessee in locating real estate listed for sale by the broker with whom the
20 licensee is affiliated, the licensee shall disclose to the prospective buyer or lessee that
21 the licensee represents the seller or lessor for that real estate as provided in §
22 17-530(b) of this subtitle.

23 **(2) A BUSINESS BROKER MAY NOT SHOW OR ASSIST A BUYER IN**
24 **LOCATING A SMALL BUSINESS LISTED FOR SALE BY THE BROKER OR ANOTHER**
25 **BUSINESS BROKER WITH WHOM THE BROKER IS AFFILIATED.**

26 (f) A **REAL ESTATE** licensee may represent the prospective buyer or lessee
27 for such real estate as an intra-company agent provided that:

28 (1) the licensee has executed a written consent for dual agency
29 agreement; and

30 (2) the licensee has made the necessary disclosure and obtained
31 consent as required by § 17-530(d).

32 (g) Before the licensee may present an offer to purchase or lease or negotiate
33 the purchase or lease of real estate **OR A SMALL BUSINESS**, the presumed buyer's or
34 lessee's agency must be terminated and the buyer or lessee and the licensee shall

1 enter into a brokerage agreement for that licensee to act as an exclusive buyer's or
2 lessee's agent or as an intra-company agent for the buyer or lessee.

3 (h) The licensee acting as the presumed buyer's or lessee's agent shall comply
4 with § 17-532 of this subtitle and has the duties stated in the required disclosure form
5 under § 17-530 of this subtitle.

6 (i) At the first meeting of the licensee and the buyer or lessee, the licensee
7 shall:

8 (1) orally advise the prospective buyer or lessee that the licensee will
9 act as the buyer's or lessee's agent in locating residential real estate **OR A SMALL**
10 **BUSINESS** unless the buyer or lessee declines the agency; and

11 (2) provide the prospective buyer or lessee with a copy of the
12 disclosure form required by § 17-530 of this subtitle, but the licensee is not required to
13 obtain the signature of the buyer or lessee before or during the presumed agency
14 relationship.

15 (j) A licensee acting as a presumed buyer's agent shall orally disclose that
16 fact to the seller or lessor or the licensee acting as the agent of the seller or lessor at
17 their first contact.

18 17-534.

19 (d) The payment or promise of payment of compensation to a licensed real
20 estate broker **OR LICENSED BUSINESS BROKER** by a seller, lessor, buyer, or lessee,
21 or by a licensee acting for a seller, lessor, buyer, or lessee:

22 (1) is not determinative of whether a brokerage relationship has been
23 created or exists; and

24 (2) does not create or determine the existence of a brokerage
25 relationship between a broker and a seller, lessor, buyer, lessee, or licensee.

26 Part IV. Nonresident Commercial Real Estate Brokers **AND NONRESIDENT**
27 **BUSINESS BROKERS.**

28 17-536.

29 (a) In this Part IV of this subtitle the following words have the meanings
30 indicated.

31 (b) "Commercial real estate" means:

32 (1) real property improved by five or more single-family units;

1 (2) improved and unimproved real property zoned for commercial,
2 industrial, or nonresidential use by the local zoning authority of the county or
3 municipality in which the property is located; and

4 (3) unimproved real property zoned for improvement as multifamily
5 units by the local zoning authority of the county or municipality in which the property
6 is located.

7 (c) “Commercial real estate” does not include:

8 (1) property zoned for agricultural use; or

9 (2) single-family units, including a condominium or co-op unit, for
10 sale or for lease, or otherwise conveyed or to be conveyed on a single basis.

11 (d) “Nonresident [real estate] broker” means an individual, partnership,
12 joint venture, limited liability company, limited liability partnership, or corporation
13 that is not licensed under Subtitle 3 of this title but is licensed to provide real estate
14 brokerage services **OR BUSINESS BROKERAGE SERVICES** in a jurisdiction other than
15 this State.

16 (e) “Nonresident real estate salesperson” means an individual who is not
17 licensed under Subtitle 3 of this title but is licensed to provide real estate brokerage
18 services and is affiliated with a nonresident real estate broker.

19 17-537.

20 (a) A nonresident [real estate] broker may engage in a transaction under
21 this title with respect to commercial real estate **OR A SMALL BUSINESS** located in this
22 State and receive compensation provided the nonresident [real estate] broker:

23 (1) provides real estate brokerage **OR BUSINESS BROKERAGE**
24 services through a real estate broker **OR BUSINESS BROKER** licensed under this title;

25 (2) enters into a written agreement with a licensed real estate broker
26 **OR LICENSED BUSINESS BROKER** in this State which:

27 (i) specifies the terms of cooperation and compensation and
28 includes a statement by the nonresident [real estate] broker that the nonresident
29 [real estate] broker and the nonresident real estate salespersons licensed and
30 affiliated with the nonresident [real estate] broker will both adhere to the laws of this
31 State and this title; and

32 (ii) allocates the responsibility for the actions of the nonresident
33 [real estate] broker in the transaction; and

1 (3) complies with the requirements of subsection (b) of this section.

2 (b) Before a nonresident [real estate] broker may provide real estate
3 brokerage **OR BUSINESS BROKERAGE** services in this State, the nonresident [real
4 estate] broker shall make written application to the Commission including:

5 (1) the name, address, and telephone number of the nonresident [real
6 estate] broker;

7 (2) the name, address, and telephone number of the business entity
8 through which the nonresident [real estate] broker provides real estate brokerage **OR**
9 **BUSINESS BROKERAGE** services;

10 (3) the name, address, and telephone number of each nonresident real
11 estate salesperson who will offer or provide real estate brokerage services in this State
12 on behalf of the nonresident [real estate] broker;

13 (4) a copy of the agreement required by subsection (a) of this section;

14 (5) written evidence that the nonresident [real estate] broker and
15 each nonresident real estate salesperson listed under paragraph (3) of this subsection,
16 are duly licensed in another jurisdiction, and that the license is valid, current, and
17 active;

18 (6) written consent signed by the nonresident [real estate] broker,
19 individually and on behalf of the business entity, and by each nonresident real estate
20 salesperson listed under paragraph (3) of this subsection, that service of process on the
21 Executive Director of the Commission shall bind the applicant in any action, suit, or
22 proceeding brought against the broker or salesperson;

23 (7) written consent signed by the nonresident [real estate] broker and
24 by each nonresident salesperson listed under paragraph (3) of this subsection, to
25 submit to the jurisdiction of the Commission for the purposes of disciplinary action
26 under § 17–322 of this title;

27 (8) any other information that is requested by the Commission; and

28 (9) a temporary license fee of \$45.

29 (c) The Commission shall issue a temporary license to a nonresident [real
30 estate] broker who complies with the requirements of this section if the jurisdiction in
31 which the real estate broker **OR BUSINESS BROKER** holds a current license:

32 (1) allows a Maryland broker to obtain a temporary license under
33 similar circumstances; or

1 (2) waives the examination and qualification requirements for
2 licensure for individuals licensed in Maryland.

3 17-538.

4 (a) Upon approval by the Commission, a nonresident [real estate] broker
5 may engage in a transaction in this State with respect to commercial real estate **OR**
6 **THE SALE OF A SMALL BUSINESS**.

7 (b) A nonresident real estate salesperson licensed in another jurisdiction and
8 affiliated with a nonresident [real estate] broker may engage in a transaction in this
9 State with respect to commercial real estate if:

10 (1) the nonresident real estate salesperson is licensed with and
11 provides real estate brokerage services under the direct supervision of the nonresident
12 [real estate] broker;

13 (2) the nonresident [real estate] broker satisfies the requirements of §
14 17-537 of this subtitle; and

15 (3) the nonresident real estate salesperson provides real estate
16 brokerage services in the name of the nonresident [real estate] broker.

17 17-539.

18 All trust money paid on account of a transaction involving commercial real
19 estate **OR A SMALL BUSINESS** in this State shall be received and deposited in the
20 trust account of the Maryland broker in accordance with Part I of this subtitle.

21 17-540.

22 By filing the written consent required under § 17-537(b)(6) of this subtitle, the
23 nonresident [real estate] broker or nonresident real estate salesperson appoints the
24 Executive Director of the Commission as agent to receive a subpoena, summons, or
25 other process.

26 Part V. Provision of **BUSINESS BROKERAGE OR** Real Estate Brokerage Services
27 Through a Team.

28 17-543.

29 In this Part V of this subtitle, “team” means two or more licensed associate real
30 estate brokers [or], licensed real estate salespersons, **LICENSED BUSINESS**
31 **BROKERS**, or any combination of licensed associate real estate brokers [or], licensed
32 real estate salespersons, **OR LICENSED BUSINESS BROKERS**, who:

1 (1) work together on a regular basis to provide real estate brokerage
2 **OR BUSINESS BROKERAGE** services;

3 (2) represent themselves to the public as being part of one entity; and

4 (3) designate themselves by a collective name such as team or group.

5 17-544.

6 (a) Each team shall designate a team leader who shall be:

7 (1) a licensed associate real estate broker; [or]

8 (2) a licensed real estate salesperson who has at least 3 years of
9 experience in providing real estate brokerage services; **OR**

10 **(3) A LICENSED BUSINESS BROKER WHO HAS AT LEAST 3 YEARS**
11 **OF EXPERIENCE IN PROVIDING BUSINESS BROKERAGE SERVICES.**

12 (b) The team leader shall:

13 (1) maintain a current list of all members and employees of the team;
14 and

15 (2) provide the list and any revisions of the list to the broker or the
16 branch office manager of the brokerage with which the licensees are affiliated.

17 (c) The real estate broker, **BUSINESS BROKER**, or branch office manager of
18 a real estate broker **OR BUSINESS BROKER** shall:

19 (1) maintain copies of the lists; and

20 (2) make the copies available to the Commission on request.

21 17-545.

22 (a) The team leader shall exercise reasonable and adequate supervision over
23 the provision of real estate brokerage **OR BUSINESS BROKERAGE** services by
24 members of the team.

25 (b) The responsibility of the team leader to supervise the associate real
26 estate brokers [and], real estate salespersons, **OR BUSINESS BROKERS** on the team
27 shall be in addition to the supervision responsibilities of the real estate broker,
28 **BUSINESS BROKER**, and branch office manager of the real estate broker **OR**
29 **BUSINESS BROKER** provided for in § 17-320 of this title.

1 (c) The team leader and the members of the team shall adhere to all office
2 rules, practices, and procedures established by the real estate broker, **BUSINESS**
3 **BROKER**, and the branch office manager of the real estate broker **OR BUSINESS**
4 **BROKER**.

5 17-546.

6 (a) A real estate broker or a designee of the real estate broker may designate
7 two members of a team as intracompany agents for the seller and the buyer in the
8 same transaction if the parties have first been advised in writing that the licensees are
9 part of the same team and the team could have a financial interest in the outcome of
10 the transaction.

11 (b) If a broker's designee designates intracompany agents under subsection
12 (a) of this section, the broker's designee may not be a member of the real estate team.

13 (c) **MEMBERS OF A BUSINESS BROKERAGE TEAM MAY NOT ACT AS**
14 **INTRACOMPANY AGENTS FOR THE SELLER AND THE BUYER IN THE SAME**
15 **BUSINESS BROKERAGE TRANSACTION.**

16 17-547.

17 (a) The name of the team may not contain the terms "real estate", "real
18 estate brokerage", "**BUSINESS BROKERAGE**", or any other term that would lead the
19 public to believe that the team is offering real estate brokerage services **OR BUSINESS**
20 **BROKERAGE SERVICES** independent of the real estate broker **OR BUSINESS**
21 **BROKER**.

22 (b) All advertising by the team must contain:

23 (1) the name of the brokerage displayed in a meaningful and
24 conspicuous way;

25 (2) the name of at least one of the licensee members of the team; and

26 (3) the telephone number of the real estate broker, **BUSINESS**
27 **BROKER**, or branch office manager of the real estate broker **OR BUSINESS BROKER**.

28 (c) The team name in the advertisement must be directly connected to the
29 name of the brokerage.

30 17-548.

31 Team members must conduct all real estate brokerage **OR BUSINESS**
32 **BROKERAGE** activities from the office or branch office where their licenses are
33 displayed as provided in § 17-317 of this title.

1 17-601.

2 (a) (1) Except as otherwise provided in this title, a person may not
3 provide, attempt to provide, or offer to provide real estate brokerage services unless
4 licensed by the Commission as a real estate broker.

5 (2) **A PERSON MAY NOT PROVIDE, ATTEMPT TO PROVIDE, OR**
6 **OFFER TO PROVIDE BUSINESS BROKERAGE SERVICES UNLESS LICENSED BY THE**
7 **COMMISSION AS A BUSINESS BROKER.**

8 17-602.

9 (a) (1) Unless authorized under this title to provide real estate brokerage
10 services, a person may not represent to the public, by use of the title “licensed real
11 estate broker”, by other title, by description of services, methods, or procedures, or
12 otherwise, that the person is authorized to provide real estate brokerage services in
13 the State.

14 (2) **UNLESS AUTHORIZED UNDER THIS TITLE TO PROVIDE**
15 **BUSINESS BROKERAGE SERVICES, A PERSON MAY NOT REPRESENT TO THE**
16 **PUBLIC, BY USE OF THE TITLE “LICENSED BUSINESS BROKER”, BY OTHER TITLE,**
17 **BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE,**
18 **THAT THE PERSON IS AUTHORIZED TO PROVIDE BUSINESS BROKERAGE**
19 **SERVICES IN THE STATE.**

20 17-603.

21 (a) A real estate broker may not allow an associate real estate broker, a real
22 estate salesperson, or any other unauthorized individual to provide real estate
23 brokerage services independently as a real estate broker.

24 (b) A **BUSINESS BROKER OR** real estate broker may not retain an
25 unlicensed individual to provide **BUSINESS BROKERAGE OR** real estate brokerage
26 services on behalf of the [real estate] broker.

27 (c) A licensed **BUSINESS BROKER OR** real estate broker may not lend the
28 license certificate or pocket card of the broker to another individual.

29 17-604.

30 (a) Except as provided in subsection (b) of this section, a **BUSINESS**
31 **BROKER, A** real estate broker, an associate real estate broker, or a real estate
32 salesperson may not pay compensation, in any form, for the provision of **BUSINESS**

1 **BROKERAGE OR** real estate brokerage services to any person who is not licensed
2 under this title.

3 **17-604.1.**

4 **A BUSINESS BROKER MAY NOT CHARGE A COMMISSION FOR THE**
5 **PROVISION OF BUSINESS BROKERAGE SERVICES THAT EXCEEDS 10 PERCENT OF**
6 **THE SALE PRICE OF THE BUSINESS.**

7 17-605.

8 (a) (1) Except as otherwise provided in subsection (b) of this section, a
9 **BUSINESS BROKER, A** real estate broker, an associate real estate broker, or a real
10 estate salesperson may not pay or offer to pay a commission to a lawyer simply for the
11 referral of a person as a possible party to a **BUSINESS BROKERAGE OR** residential
12 real estate transaction.

13 (2) **A BUSINESS BROKER, A** real estate broker, an associate real
14 estate broker, or a real estate salesperson may not solicit referral business from
15 lawyers by a mass solicitation that offers to pay fees or commissions to the lawyers.

16 (b) Subsection (a)(1) of this section does not apply to payments or offers of
17 payments to lawyers who hold a **BUSINESS BROKER OR** real estate broker license
18 under this title or are otherwise entitled to a commission.

19 (c) Other than the commissions expressly prohibited, subsection (a) of this
20 section does not prohibit the payment or the offer of a payment of a commission by a
21 **BUSINESS BROKER, A** real estate broker, an associate real estate broker, or a real
22 estate salesperson to a lawyer for any service that relates to a **BUSINESS**
23 **BROKERAGE TRANSACTION OR** real estate transaction.

24 17-614.

25 A court shall report to the Commission for appropriate action under this title
26 each conviction of a **BUSINESS BROKER, A** real estate broker, an associate real estate
27 broker, or a real estate salesperson for a violation of any provision of the following
28 sections of this title:

29 (1) § 17-608;

30 (2) § 17-525; and

31 (3) § 17-526.

32 **Article – State Finance and Procurement**

1 6-226.

2 (a) (2) (ii) The provisions of subparagraph (i) of this paragraph do not
3 apply to the following funds:

4 62. Veterans Trust Fund; [and]

5 63. Transportation Trust Fund;

6 64. **REAL ESTATE GUARANTY FUND; AND**

7 65. **BUSINESS BROKERAGE FUND.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2012.