

# HOUSE BILL 760

C2

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By: **Delegates Arentz, Brooks, Cluster, Krebs, Long, Mautz, McComas, McDonough, and Rose**

Introduced and read first time: February 2, 2017

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2017

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

1 AN ACT concerning

2 **State Real Estate Commission – Real Estate Brokerage Services – Duties and**  
3 **Obligations**

4 FOR the purpose of specifying that a licensee of the State Real Estate Commission does not  
5 breach a certain duty or obligation by showing a lessee certain properties or by  
6 discussing certain properties with certain buyers or lessees under certain  
7 circumstances; repealing a certain defined term; and generally relating to the duties  
8 and obligations of licensees of the State Real Estate Commission when providing real  
9 estate brokerage services.

10 ~~BY repealing and reenacting, without amendments,~~  
11 ~~Article – Business Occupations and Professions~~  
12 ~~Section 17-532(a) and (b)~~  
13 ~~Annotated Code of Maryland~~  
14 ~~(2010 Replacement Volume and 2016 Supplement)~~

15 BY repealing and reenacting, with amendments,  
16 Article – Business Occupations and Professions  
17 Section ~~17-532(d)~~ 17-532  
18 Annotated Code of Maryland  
19 (2010 Replacement Volume and 2016 Supplement)

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

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1                                   **Article – Business Occupations and Professions**

2   17-532.

3           ~~(a) In this section, “client” includes a prospective buyer or lessee under a~~  
 4 ~~presumed buyer’s agency relationship or a presumed lessee’s agency relationship as~~  
 5 ~~described in § 17-533 of this subtitle.~~

6           ~~(b)~~ **(A)**       A licensee shall comply with the provisions of this section when  
 7 providing real estate brokerage services.

8           **[(c)] (B)**       **(1) A licensee shall:**

9                           **(i) act in accordance with the terms of the brokerage agreement;**

10                          **(ii) promote the interests of the client by:**

11                                   **1. seeking a sale or lease of real estate at a price or rent**  
 12 **specified in the brokerage agreement or at a price or rent acceptable to the client;**

13                                   **2. seeking a sale or lease of real estate on terms specified in**  
 14 **the brokerage agreement or on terms acceptable to the client; and**

15                                   **3. unless otherwise specified in the brokerage agreement,**  
 16 **presenting in a timely manner all written offers or counteroffers to and from the client,**  
 17 **even if the real estate is subject to an existing contract of sale or lease;**

18                                   **(iii) disclose to the client all material facts as required under §**  
 19 **17-322 of this title;**

20                                   **(iv) treat all parties to the transaction honestly and fairly and**  
 21 **answer all questions truthfully;**

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

23                                   **(vi) exercise reasonable care and diligence; and**

24                                   **(vii) comply with all:**

25   **1. requirements of this title;**

26   **2. applicable federal, State, and local fair housing laws and**  
 27 **regulations; and**

28   **3. other applicable laws and regulations.**

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

4           (3) Unless the client to whom the confidential information relates consents  
5 in writing to a disclosure of that confidential information, a licensee who receives  
6 confidential information from or about the licensee's own past or present client or a past or  
7 present client of the licensee's broker may not disclose that information to:

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

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

10                  (iii) any other party;

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

12                  (v) any representative of another party.

13           (4) Unless otherwise specified in the brokerage agreement, a licensee is not  
14 required to seek additional offers to purchase or lease real estate while the real estate is  
15 subject to an existing contract of sale or lease.

16           (5) An intra-company agent may disclose confidential information to the  
17 broker or dual agent for whom the intra-company agent works but the broker or dual agent  
18 may not disclose that confidential information to the other party or the intra-company  
19 agent for the other party, as provided in § 17-530.1(b).

20           ~~(d)~~ **(C)**       A licensee does not breach any duty or obligation to the client by:

21                   (1) showing other available properties to prospective buyers or lessees;

22                   (2) representing other clients who have or are looking for similar properties  
23 for sale or lease;

24                   (3) representing other sellers or lessors who have similar properties to that  
25 sought by the buyer or lessee; [and]

26                   (4) showing the buyer **OR LESSEE** other available properties; **AND**

27           **(5) DURING AN OPEN HOUSE, DISCUSSING OTHER PROPERTIES WITH**  
28 **PROSPECTIVE BUYERS OR LESSEES, IF THE LICENSEE HAS THE WRITTEN CONSENT**  
29 **OF THE SELLER OR LESSOR TO DO SO.**

30           **[(e)] (D)**       This title does not limit the applicability of § 10-702 of the Real  
31 Property Article.

1 [(f)] (E) The requirements of this section are in addition to any other duties  
2 required of the agent by law that are not inconsistent with these duties.

3 [(g)] (F) The duties specified in this section may not be waived or modified.

4 [(h)] (G) A licensee who performs ministerial acts for a person may not be  
5 construed to:

6 (1) violate the licensee’s duties to the client, provided that the client has  
7 consented in the brokerage agreement to the licensee’s provision of ministerial acts; or

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

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11 October 1, 2017.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.