

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1006
Economic Matters

(Delegate Miller, *et al.*)

Real Estate Brokers - Exemption for Auctioneers - Repeal

This bill repeals an exemption from the Maryland Real Estate Brokers Act that applies to licensed auctioneers while selling real estate at public auction, thereby making auctioneers subject to licensing and regulation under the Act.

Fiscal Summary

State Effect: Special fund revenues for the Maryland Department of Labor (MDL) increase minimally beginning in FY 2021 from additional licenses issued to auctioneers. MDL does not anticipate a significant number of licensees. Expenditures are not affected.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law/Background: Generally, an individual must be licensed by the State Real Estate Commission as a real estate broker, associate broker, or salesperson before the individual may provide real estate brokerage services in the State, subject to specified requirements for licensure and ongoing licensee behavior. Real estate brokerage services include, for consideration, selling, buying, exchanging, or leasing any real estate or collecting rent for the use of any real estate on behalf of another person. Initial fees for brokers, associate brokers, and salespersons are \$190, \$130, and \$90, respectively; renewal fees are \$20 less.

Qualifications for Licensure

To qualify for a real estate broker license, an applicant must (1) successfully complete a course approved by the commission that includes a three-clock hour course in real estate ethics and (2) have been a licensed real estate salesperson who actively provided real estate brokerage services for at least three years. To qualify for an associate real estate broker license, an applicant must complete the same education and experience requirements for a real estate broker license and obtain a commitment from a licensed real estate broker that the applicant will become affiliated with the broker. To qualify for a real estate salesperson license, an applicant must successfully complete (1) a basic course in real estate that does not require more than 60 hours of instruction or (2) with approval from the commission, courses in real estate subjects at any college. An applicant for each of the licenses must also pass an examination.

Scope of Licensure

While a real estate broker license is in effect, it authorizes the licensee to provide real estate brokerage services. While an associate real estate broker or real estate salesperson license is in effect, it authorizes the licensee to provide real estate brokerage services on behalf of a licensed real estate broker (1) who is named in the license certificate of the associate real estate broker or real estate salesperson and (2) with whom the associate real estate broker or real estate salesperson is affiliated. An associate real estate broker or real estate salesperson license does *not* authorize the licensee to provide real estate brokerage services on the licensee's own behalf or on behalf of any person other than the affiliated broker.

Exemptions

There are specified exemptions from the Maryland Real Estate Brokers Act, such as the exemption for licensed auctioneers removed by the bill. The remaining exemptions from the entire Act are:

- a person while acting under a judgment or order of a court;
- a public officer while performing the duties of office;
- a person while engaging in a single transaction that involves the sale or lease of any real estate under a power of attorney executed by the owner of the real estate;
- an owner or lessor of any real estate while managing, leasing, or selling the real estate, unless the primary business of the owner or lessor is providing real estate brokerage services; or
- a person while acting in the capacity of a receiver, a trustee, a personal representative, or a guardian.

There are also license-only exemptions, such as (1) a lawyer authorized to practice law in the State under certain limited circumstances and (2) a home builder in the rental or initial sale of a home constructed by the builder. The other provisions of the Act still apply in these circumstances.

Auctioneers

There is no State auctioneer license; however, several local governments require a license: at least Baltimore City and Anne Arundel, Baltimore, Cecil, Harford, Montgomery, and Wicomico (in the City of Salisbury) counties.

Small Business Effect: Small auctioneer businesses must either comply with the bill's new licensing/regulation requirements or cease auctioning real estate at public auction. Practically, each auctioneer business would likely need to employ either one licensed real estate broker or a licensed associate broker or salesperson that is affiliated with a licensed real estate broker. Depending on the licensure status of an individual auctioneer business – which may already have licensed a licensed real estate broker on staff, or be otherwise affiliated – the effect could be meaningful.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Department of Labor; Department of Legislative Services

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mm/mcr

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