

**Department of Legislative Services**  
Maryland General Assembly  
2024 Session

**FISCAL AND POLICY NOTE**  
**Third Reader**

Senate Bill 542

(Senator Brooks)

Education, Energy, and the Environment

Economic Matters

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**Real Estate Brokers - Brokerage Agreements - Requirements**

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This bill requires certain provisions to be included in a brokerage agreement between a real estate broker and a seller or lessor or a buyer or lessee.

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**Fiscal Summary**

**State Effect:** The bill does not materially affect State Real Estate Commission finances or operations.

**Local Effect:** None.

**Small Business Effect:** Minimal.

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**Analysis**

**Bill Summary/Current Law:** “Brokerage relationship” means an agency relationship under a brokerage agreement between a client and a broker who has been authorized by the client to provide real estate brokerage services in a residential real estate transaction. A “brokerage agreement” means a written agreement between a broker and a client to provide real estate brokerage services under a brokerage relationship.

Under current law, a brokerage relationship commences at the time that a client enters into a brokerage agreement and must continue until the completion of performance in accordance with the brokerage agreement or the earlier of (1) any date of expiration as agreed on by the parties in the brokerage agreement; (2) any mutually agreed on termination of the brokerage relationship; (3) a default by any party under the terms of the brokerage agreement; or (4) a termination under the relevant provisions of State law.

Under current law, the requirements for brokerage agreements apply to both agreements between a broker and a seller or lessor and agreements between a broker and buyer or lessee. The bill splits general brokerage agreement requirements under current law into two sections: one governing the agreement between a broker and a seller or lessor; and another between a broker and a buyer or lessee.

Similar to requirements under current law, the brokerage agreement between a broker and *a seller or lessor* under the bill must (1) have a definite termination date that is effective automatically without notice from the client; (2) state the amount of compensation to be paid to the broker; (3) state whether the broker is authorized to cooperate with other brokers and share compensation with the other brokers and the amount of the compensation *described as a percentage of the purchase price, a specific dollar amount, or a combination of both*; (4) explain the events or conditions that will entitle the broker to a commission or other compensation; and (5) contain a provision for the cancellation of the brokerage relationship by either the client or the broker *or by mutual agreement of the client and the broker*.

As noted above, the bill establishes separate requirements for a brokerage agreement between a broker and a *buyer or lessee*. Such agreements must (1) have a definite termination date that is effective automatically without notice from the client; (2) state the amount of compensation to be paid to the broker, described as a percentage of the purchase price, a specific dollar amount, or a combination of both; (3) state whether the broker is authorized to receive some or all of the compensation to be paid to the broker from a person other than the client; (4) state the client's rights and obligations regarding compensation to be paid to the broker if the broker is authorized to receive some or all of the compensation to be paid from the broker from a person other than the client; (5) explain the events that must occur (or conditions that must be met) in order for the broker to be entitled to a commission or other compensation; and (6) contain a provision for the cancellation of the brokerage relationship by either the client or the broker or by mutual agreement of the client and the broker.

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### **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Maryland Department of Labor; Department of Legislative Services

**Fiscal Note History:** First Reader - February 6, 2024  
km/mcr Third Reader - February 28, 2024

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