

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1228
Economic Matters

(Delegate Arentz, *et al.*)

State Real Estate Commission - Real Estate Brokerage Relationships, Continuing
Education, and Disclosures

This bill replaces the definition of “brokerage relationship” with the definition of “agency relationship” for purposes of the Maryland Real Estate Brokers Act and makes conforming changes, including to related continuing education requirements. “Agency relationship” is repealed as a defined term. The bill also prohibits an individual licensed by the State Real Estate Commission from disclosing confidential information obtained from a prospective client in anticipation of forming a brokerage relationship, unless the prospective client consents in writing to the disclosure.

Fiscal Summary

State Effect: The Department of Labor, Licensing, and Regulation (DLLR) can adopt regulations to alter continuing education requirements with existing budgeted resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: “Brokerage relationship” means an agency relationship under a brokerage agreement between a client and a broker who has been engaged by the client to provide real estate brokerage services in a residential real estate transaction. “Agency relationship” means each relationship in which a licensee acts for or represents another person with the person’s authority in a residential real estate transaction.

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 otherwise specified in law. Brokerage agreements must contain certain provisions, including a definite termination date, the compensation rate, and cancellation conditions. There are other specified requirements related to brokerage relationships and agreements through the Maryland Real Estate Brokers Act, particularly regarding how they relate to disclosures and dual agency.

Generally, unless *a client* consents in writing to the disclosure, a licensee may not disclose confidential information received from or about *a client* to any other party or licensee acting as the agent of that party or other representative of that party. There is no similar protection for prospective clients.

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. The commission has approximately 46,000 licensees.

Additional Comments: DLLR advises that the bill gives licensees decision-making authority that essentially empower a licensee to overrule a client. The existing definition of “brokerage relationship” leaves ultimate decisions with the client, while the definition of “agency relationship” – which replaces “brokerage relationship” in the bill – does not.

Additional Information

Prior Introductions: None.

Cross File: SB 807 (Senator Patterson) - Education, Health, and Environmental Affairs.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

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