

SENATE BILL 209

N1
SB 210/11 – FIN

2lr0527

By: **Senator Kelley**
Introduced and read first time: January 20, 2012
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: February 9, 2012

CHAPTER _____

1 AN ACT concerning

2 **Real Estate Settlements – Paying or Receiving Consideration – Penalties**

3 FOR the purpose of providing that a certain person who violates a provision of law
4 that prohibits paying or receiving consideration in connection with real estate
5 settlements may be subject to certain disciplinary action; authorizing certain
6 licensing authorities to take certain disciplinary actions against certain
7 licensees; repealing a certain definition; making a clarifying change; and
8 generally relating to paying or receiving consideration in connection with real
9 estate settlements.

10 BY repealing and reenacting, with amendments,
11 Article – Real Property
12 Section 14–127
13 Annotated Code of Maryland
14 (2010 Replacement Volume and 2011 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Business Occupations and Professions
17 Section 16–701(a)(1)(xii) and (xiii), 16–701.1(a)(7) and (8), and 17–322(b)(34)
18 and (35)
19 Annotated Code of Maryland
20 (2010 Replacement Volume and 2011 Supplement)

21 BY adding to
22 Article – Business Occupations and Professions

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 Section 16–701(a)(1)(xiv), 16–701.1(a)(9), and 17–322(b)(36)
2 Annotated Code of Maryland
3 (2010 Replacement Volume and 2011 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article – Financial Institutions
6 Section 11–517(a)(4) and (5) and 11–615(a)(4) and (5)
7 Annotated Code of Maryland
8 (2011 Replacement Volume and 2011 Supplement)

9 BY adding to
10 Article – Financial Institutions
11 Section 11–517(a)(6) and 11–615(a)(6)
12 Annotated Code of Maryland
13 (2011 Replacement Volume and 2011 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Insurance
16 Section 10–126(a)(22) and (23) and (b)(1)
17 Annotated Code of Maryland
18 (2011 Replacement Volume)

19 BY adding to
20 Article – Insurance
21 Section 10–126(a)(24)
22 Annotated Code of Maryland
23 (2011 Replacement Volume)

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

26 **Article – Real Property**

27 14–127.

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

29 (2) “Consideration” includes:

30 (i) A fee;

31 (ii) Compensation;

32 (iii) A gift, except promotional or advertising materials for
33 general distribution;

34 (iv) A thing of value;

- 1 (v) A rebate;
- 2 (vi) A loan; or
- 3 (vii) An advancement of a commission or deposit money.

4 [(3) “License” has the meaning stated in § 10–101 of the Insurance
5 Article.]

6 [(4) (3) “Residential real estate transaction” means a transaction
7 involving a federally related mortgage loan as defined in 12 U.S.C. § 2602 and ~~24~~ 12
8 C.F.R. ~~3500.2~~ 1024.2.

9 [(5) (4) “Title insurance producer” has the meaning stated in §
10 10–101 of the Insurance Article.

11 (b) This section does not prohibit:

12 (1) The payment of a commission to a title insurance producer who has
13 a license, **AS DEFINED IN § 10–101 OF THE INSURANCE ARTICLE**; or

14 (2) The referral of a real estate settlement business or a professional
15 fee arrangement between attorneys, if the referral or professional fee arrangement
16 does not violate § 17–605 of the Business Occupations and Professions Article.

17 (c) (1) A person who has a connection with the settlement of real estate
18 transactions involving land in the State may not pay to or receive from another any
19 consideration to solicit, obtain, retain, or arrange real estate settlement business.

20 (2) A person may not be considered to be in violation of paragraph (1)
21 of this subsection solely because that person is a participant in an affiliated business
22 arrangement, as defined in 12 U.S.C. § 2602, and receives consideration as a result of
23 that participation as long as that person complies with 12 U.S.C. § 2607(c)(4), ~~24~~ 12
24 C.F.R. ~~3500.15~~ 1025.15, and Appendix D to 24 C.F.R. Part ~~3500~~ 1025.

25 (d) A person who offers settlement services in connection with residential
26 real estate transactions involving land in the State shall comply with 12 U.S.C. §
27 2607(c)(4), ~~24~~ 12 C.F.R. ~~3500.15~~ 1025.15, and Appendix D to ~~24~~ 12 C.F.R. Part ~~3500~~
28 1025, as applicable, regarding disclosures of affiliated business arrangements, as
29 defined in 12 U.S.C. § 2602.

30 (e) A person who violates this section is guilty of a misdemeanor and on
31 conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding
32 \$1,000 or both.

1 **(F) IN ADDITION TO THE CRIMINAL PENALTIES PROVIDED IN**
 2 **SUBSECTION (E) OF THIS SECTION, A PERSON WHO VIOLATES THIS SECTION MAY**
 3 **BE SUBJECT TO DISCIPLINARY ACTION, INCLUDING CIVIL AND ADMINISTRATIVE**
 4 **PENALTIES, BY THE PERSON’S LICENSING AUTHORITY.**

5 **[(f)] (G)** Each violation of this section is a separate violation.

6 **Article – Business Occupations and Professions**

7 16–701.

8 (a) (1) Subject to the hearing provisions of § 16–602 of this title, the
 9 Commission may deny a real estate appraisal license to any applicant, deny a
 10 certificate to any applicant, reprimand any real estate appraiser licensee, reprimand
 11 any certificate holder, or suspend or revoke a real estate appraisal license or certificate
 12 if the real estate appraisal applicant, license holder, or certificate holder:

13 (xii) violates any other provision of this title; [or]

14 (xiii) violates any regulation adopted under this title; **OR**

15 **(XIV) VIOLATES § 14–127 OF THE REAL PROPERTY ARTICLE.**

16 16–701.1.

17 (a) Subject to the hearing provisions of § 16–602 of this title, the Commission
 18 may deny a home inspector license to any applicant, reprimand any home inspector
 19 licensee, or suspend or revoke a home inspector license if the applicant or licensee:

20 (7) violates any regulation adopted under this title; [or]

21 (8) aids, abets, or assists any person in violating any provision of this
 22 title or any regulation adopted under this title; **OR**

23 **(9) VIOLATES § 14–127 OF THE REAL PROPERTY ARTICLE.**

24 17–322.

25 (b) Subject to the hearing provisions of § 17–324 of this subtitle, the
 26 Commission may deny a license to any applicant, reprimand any licensee, or suspend
 27 or revoke a license if the applicant or licensee:

28 (34) violates § 17–320(d) of this subtitle by failing as a branch office
 29 manager to exercise reasonable and adequate supervision over the provision of real
 30 estate brokerage services by any salesperson or associate broker registered with that
 31 office; [or]

1 (35) has been disciplined under a real estate licensing law of another
2 jurisdiction; **OR**

3 **(36) VIOLATES § 14–127 OF THE REAL PROPERTY ARTICLE.**

4 **Article – Financial Institutions**

5 11–517.

6 (a) Subject to the hearing provisions of § 11–518 of this subtitle, the
7 Commissioner may suspend or revoke the license of any licensee if the licensee or any
8 owner, director, officer, member, partner, stockholder, employee, or agent of the
9 licensee:

10 (4) Violates any provision of this subtitle or any rule or regulation
11 adopted under it or any other law regulating mortgage loan lending in the State; **[or]**

12 (5) Otherwise demonstrates unworthiness, bad faith, dishonesty, or
13 any other quality that indicates that the business of the licensee has not been or will
14 not be conducted honestly, fairly, equitably, and efficiently; **OR**

15 **(6) VIOLATES § 14–127 OF THE REAL PROPERTY ARTICLE.**

16 11–615.

17 (a) Subject to the hearing provisions of § 11–616 of this subtitle, and except
18 as provided in subsection (f) of this section, the Commissioner may suspend or revoke
19 the license of any licensee if the licensee:

20 (4) Violates any provision of this subtitle, any regulation adopted
21 under this subtitle, or any other law regulating mortgage lending or mortgage
22 origination in the State; **[or]**

23 (5) Otherwise demonstrates unworthiness, bad faith, dishonesty, or
24 any other quality that indicates that the business of the licensee has not been or will
25 not be conducted honestly; **OR**

26 **(6) VIOLATES § 14–127 OF THE REAL PROPERTY ARTICLE.**

27 **Article – Insurance**

28 10–126.

29 (a) The Commissioner may deny a license to an applicant under §§ 2–210
30 through 2–214 of this article, or suspend, revoke, or refuse to renew or reinstate a

1 license after notice and opportunity for hearing under §§ 2–210 through 2–214 of this
2 article if the applicant or holder of the license:

3 (22) has failed to pay income tax or related interest or penalty under:

4 (i) an assessment under the Tax – General Article that is final
5 and no longer subject to review by the tax court; or

6 (ii) an order of the tax court that is final and no longer subject
7 to judicial review; [or]

8 (23) in providing information under § 10–118 of this subtitle regarding
9 the termination of an appointment with an insurer, has made an inaccurate statement
10 with actual malice; **OR**

11 **(24) VIOLATED § 14–127 OF THE REAL PROPERTY ARTICLE.**

12 (b) (1) The Commissioner may deny a license to an applicant business
13 entity under §§ 2–210 through 2–214 of this article, or suspend, revoke, or refuse to
14 renew or reinstate a license of a business entity after notice and opportunity for
15 hearing under §§ 2–210 through 2–214 of this article, if an individual listed in
16 paragraph (2) of this subsection has:

17 (i) violated any provision of this subtitle;

18 (ii) been convicted of a felony, a crime of moral turpitude, or any
19 criminal offense involving dishonesty or breach of trust; [or]

20 (iii) had any professional license suspended or revoked for a
21 fraudulent or dishonest practice; **OR**

22 **(IV) VIOLATED § 14–127 OF THE REAL PROPERTY ARTICLE.**

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