

# CAPITOL ♦ TITLE

## MARYLAND LEGAL BULLETIN

### NEW LEGISLATION REGULATES SERVICES PROVIDED THROUGH “REAL ESTATE TEAMS”

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On May 20, 2010, Governor O’Malley signed into law Chapter 670, HB 406 entitled **“Real Estate Licensees – Services Provided Through Teams”** (the “Act”) which regulates the provision of real estate brokerage and sales services and activities provided through “Real Estate Teams”. The Act becomes effective October 1, 2010. The Maryland Real Estate Commission has provided summary guidance on the Act, **which is provided to you on the pages which follow this page.**

Please feel free to contact us if you have questions on this new legislation.

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# Do's and Don'ts for Teams and Groups

**As a result of a new law, the following rules apply to Teams and Groups beginning on October 1, 2010:**

## Teams

✓ A Team must consist of two or more Associate Brokers or Salespersons or a combination of the two who:

1. Work together on a regular basis;
2. Represent themselves to the public as being part of one entity; AND
3. Designate themselves by a collective name such as "Team or Group"

✓ All licensed team members must be affiliated with the same broker, and, if applicable, offer brokerage services at the same branch office.

✗ A licensed broker may **NOT** be a member of a Team.

✗ The name of the Team may **NOT** contain the terms "Real Estate", "Real Estate Brokerage", "Realty", or any other term that would lead the public to believe that the Team is offering real estate brokerage services independent of the Broker.

✓ Team members must conduct all real estate brokerage activities from the broker's office or the branch office where their licenses are displayed.

✗ A Team may **NOT** operate out of an office or location other than the broker's office or the branch office where their licenses are displayed.

## Advertising

✓ All Team advertising must contain:

1. The full name of the brokerage displayed in a meaningful and conspicuous way;
2. The name of at least one of the licensee members of the Team; and
3. The telephone number of the broker or the branch office manager.

✓ The Team name in the advertisement must be directly connected to the name of the brokerage.

✓ “Advertise” means the use of any oral, written, or visual advertisement by a licensed real estate salesperson, licensed real estate broker, licensed associate real estate broker, or other person on behalf of a licensed real estate salesperson, licensed real estate broker, or licensed associate real estate broker. “Advertisement” means, unless the context requires otherwise, any oral, written, or printed media advertisement. “Advertisement” includes any correspondence, mailing, newsletter, brochure, business card, for sale or for lease sign and sign rider, promotional item, automobile signage, telephone directory listing, television announcement, radio announcement, telephone solicitation, and World Wide Web and Internet voice-overs. (17-527.2 Annotated Code of MD)

## **Team Leaders**

✓ A Team must designate a team member as its Team Leader. The Team Leader must be an Associate Broker or a Salesperson with at least 3 years experience.

✓ The Team Leader must maintain a current list of all members and employees of the Team.

✓ The Team Leader must provide the list and any revisions to the list to the Broker or the Branch Office Manager where the Team Members’ licenses are displayed.

✓ The Team Leader must exercise reasonable and adequate supervision over the provision of real estate services by members of the Team

## **Brokers and Branch Office Managers**

✓ The Broker or Branch Office Manager must maintain copies of the lists of Team Members and Employees, and make the copies available to the Commission on request.

✓ The Broker and Branch Office Manager must supervise the Team Members, and this supervision is in addition to the supervision responsibilities of the Team Leader.

✗ The Broker and Branch Office Manager may not delegate their supervisory responsibilities over Team Members to the Team Leader.

## **Team Leaders and Members**

✓ The Team Leader and all Team Members must adhere to all office rules, practices, and procedures established by the Broker and the Branch Office Manager.

## Dual Agency

✓ THE Broker may designate two members of a team as intra-company agents for the Buyer and the Seller in the same transaction if the parties have **FIRST** been advised in writing that the Licensees are part of the same team and the team could have a financial interest in the outcome of the transaction. The Buyer and Seller must complete the “Consent for Dual Agency” form required under existing law before Dual Agency may occur. **A copy of the form is attached\*\***

✗ The Team Leader may **NOT** designate Team Members as intra-company agents. Only the Broker may make this designation.

✓ The Broker must insure that both parties have acknowledged in writing receipt of a “Notification of Dual Agency within a Team” form **PRIOR** to designating two Team Members as intra-company agents in a transaction.

**\*\* (notification of dual agency within a team form follows on next page . . . )**

**NOTIFICATION OF DUAL AGENCY WITHIN A TEAM**

Under Maryland law, a team that provides real estate brokerage services must consist of two or more associate brokers or salespersons, or a combination of the two, who:

1. work together on a regular basis;
2. represent themselves to the public as being part of one entity; and
3. Designate themselves by a collective name such as “team” or “group.”

The team operates within a brokerage, and team members are supervised by a team leader as well as by the broker, and, if they work in a brokerage branch office, by the branch office manager.

The law permits one member of a team to represent the buyer and one member to represent the seller in the same transaction only if certain conditions are met. If both parties agree, the **broker** of the real estate brokerage with which the salespersons or associate brokers are affiliated may designate one team member as the intracompany agent for the buyer and another team member as the intracompany agent for the seller. No one else may make that designation.

**The law also requires that the buyer and seller each be notified in writing that the two agents are members of the same team, and that the team could have a financial interest in the outcome of the transaction in addition to any financial benefit obtained by selling one of the broker’s own listings. THIS FORM CONSTITUTES YOUR NOTICE OF THOSE FACTS.**

Dual agency may occur only if both parties consent to it, and sign the Consent for Dual Agency form prescribed by the Real Estate Commission. If you have concerns or questions about being represented by a team member when another team member represents the other party, you should address these to the broker or branch office manager before signing the Consent form.

This form must be presented to the buyer and seller at the time that the real estate licensee presents the disclosure of agency relationships. For the seller, that should occur no later than when the seller signs the listing agreement. For the buyer, that should occur no later than the initial scheduled showing of property.

**ACKNOWLEDGMENT OF RECEIPT OF NOTICE**

I/we acknowledge receipt of the Notification of Dual Agency within a Team.

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Date

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