
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 863 Session of
2017

INTRODUCED BY ROTHMAN, KINSEY, SANTORA, DAVIS, R. BROWN,
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DRISCOLL, CARROLL, CUTLER, ROE, GODSHALL, PHILLIPS-HILL,
LONGIETTI, MASSER, SAYLOR, KNOWLES, HELM, BRIGGS, DEASY,
IRVIN, RYAN, TOEPEL, NEILSON AND MARKOSEK, MARCH 16, 2017

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, MARCH 16, 2017

AN ACT

1 Amending the act of February 19, 1980 (P.L.15, No.9), entitled
2 "An act establishing the State Real Estate Commission and
3 providing for the licensing of real estate brokers and
4 salesmen," in definitions, further providing for definitions;
5 in qualifications and applications for licenses and
6 registration certificates, further providing for
7 qualifications for license; in duties of licensees, further
8 providing for comparative market analysis disclosure and
9 providing for broker price opinion; and making a related
10 repeal.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. The definition of "comparative market analysis"
14 in section 201 of the act of February 19, 1980 (P.L.15, No.9),
15 known as the Real Estate Licensing and Registration Act, is
16 amended and the section is amended by adding definitions to
17 read:

18 Section 201. Definitions.

19 The following words and phrases when used in this act shall
20 have, unless the context clearly indicates otherwise, the

1 meanings given to them in this section:

2 * * *

3 "Broker price opinion." An estimate prepared by a broker,
4 associate broker or salesperson that details the probable
5 selling price of a particular parcel of real property and
6 provides a varying level of detail about the property's
7 condition, market and neighborhood, and information on
8 comparable sales, but does not include an automated valuation
9 model as defined in section 1125(d) of the Financial
10 Institutions Reform, Recovery, and Enforcement Act of 1989
11 (Public Law 101-73, 12 U.S.C. 3354(d)).

12 * * *

13 "Comparative market analysis." [A written analysis, opinion
14 or conclusion by a contracted buyer's agent, transactional
15 licensee or an actual or potential seller's agent relating to
16 the probable sale price of a specified piece of real estate in
17 an identified real estate market at a specified time, offered
18 either for the purpose of determining the asking/offering price
19 for the property by a specific actual or potential consumer or
20 for the purpose of securing a listing agreement with a seller.]
21 A written analysis, opinion or conclusion by a broker, associate
22 broker or salesperson relating to the probable sale or rental
23 price of a specified parcel of real property in an identified
24 real estate market at a specified time, which is prepared for
25 any of the following:

26 (1) An existing or potential seller, buyer, lessor or
27 lessee of a parcel of real property.

28 (2) A person making decisions or performing due
29 diligence related to the potential listing, offering, sale,
30 option, lease or acquisition price of a parcel of real

1 property.

2 * * *

3 "Short sale." A sale of a house in which the proceeds fall
4 short of the amount the owner owes on the mortgage.

5 * * *

6 Section 2. Section 521 of the act is amended and the section
7 is amended by adding a paragraph to read:

8 Section 521. Qualifications for license.

9 Each applicant shall as a condition precedent to obtaining a
10 license, take the salesperson license examination and score a
11 passing grade. Prior to taking the examination:

12 (1) The applicant shall be at least 18 years of age.

13 (2) [The] The following apply:

14 (i) Except as provided under subparagraph (ii), the
15 applicant shall have completed [60] 75 hours in real
16 estate instruction in areas of study prescribed by the
17 rules of the commission, which rules shall require
18 instruction in the areas of fair housing and professional
19 ethics.

20 (ii) An applicant shall be required to complete 60
21 hours of real estate instruction as prescribed under
22 subparagraph (i) if the applicant has completed a portion
23 of the hours before the effective date of this
24 subparagraph. An applicant who has not completed any of
25 the required hours of real estate instruction before the
26 effective date of this subparagraph shall complete 75
27 hours of real estate instruction within five years of
28 taking the salesperson license examination.

29 (3) The applicant shall be a high school graduate or
30 shall produce proof satisfactory to the commission of an

1 education equivalent to high school preparation. This
2 paragraph shall not apply to a person licensed before the
3 effective date of this paragraph.

4 Section 3. Section 608.3 of the act is amended to read:

5 Section 608.3. Comparative market analysis disclosure.

6 (a) A comparative market analysis must contain the following
7 statement printed conspicuously and without change on the first
8 page:

9 This analysis has not been performed in accordance with
10 the Uniform Standards of Professional Appraisal Practice
11 which require valuers to act as unbiased, disinterested
12 third parties with impartiality, objectivity and
13 independence and without accommodation of personal
14 interest. It is not to be construed as an appraisal and
15 may not be used as such for any purpose.

16 (b) A comparative market analysis prepared in accordance
17 with this act shall not be deemed to be an appraisal within the
18 scope of the act of July 10, 1990 (P.L.404, No.98), known as the
19 "Real Estate Appraisers Certification Act."

20 (c) Any fees charged for a comparative market analysis shall
21 be paid to the broker.

22 Section 4. The act is amended by adding a section to read:

23 Section 608.6. Broker price opinion.

24 (a) A broker price opinion must contain the following
25 statement displayed conspicuously and without change:

26 This analysis has not been prepared in accordance with
27 the Uniform Standards of Professional Appraisal Practice
28 which require valuers to act as unbiased, disinterested
29 third parties with impartiality, objectivity and
30 independence and without accommodation of personal

1 interest. It is not to be construed as an appraisal and
2 may not be used as such for any purpose.

3 (b) A broker price opinion prepared in accordance with this
4 act shall:

5 (1) Not be deemed to be an appraisal within the scope of
6 the act of July 10, 1990 (P.L.404, No.98), known as the "Real
7 Estate Appraisers Certification Act," or a valuation of real
8 estate for purposes of section 8(b)(1) of the act of February
9 2, 2012 (P.L.30, No.4), known as the "Appraisal Management
10 Company Registration Act."

11 (2) Be deemed to be a comparative market analysis for
12 the purposes of the "Appraisal Management Company
13 Registration Act."

14 (c) A broker price opinion must be signed manually or
15 electronically by the person who prepared it and must contain
16 all of the following information:

17 (1) An identification of the intended users and intended
18 uses of the broker price opinion, if known.

19 (2) A brief description of the subject property and the
20 property interest to be priced.

21 (3) The basis for the conclusion as to the price,
22 including applicable market data or capitalization
23 computation.

24 (4) Any assumption or limiting condition.

25 (5) Any existing or contemplated interest of the
26 licensee who prepared the broker price opinion.

27 (6) The effective date of the broker price opinion and
28 the date that the document is signed.

29 (7) The real estate license number of the preparer.

30 (d) Any fees charged for a broker price opinion shall be

1 paid to the broker.

2 (e) A broker price opinion may be prepared by a broker,
3 associate broker or salesperson only for use in conjunction
4 with:

5 (1) a property owned by a lender after an unsuccessful
6 sale at a foreclosure auction;

7 (2) a modification of a first or junior mortgage or
8 equity line of credit;

9 (3) a short sale of a property;

10 (4) an evaluation or monitoring of a portfolio of
11 properties; or

12 (5) the relocation of an individual who is the owner of
13 a property or a prospective purchaser of a property.

14 (f) A broker price opinion may not be used:

15 (1) as the basis to determine the value of a parcel of
16 real property for a mortgage loan origination, including a
17 first or junior mortgage, refinancing or equity line of
18 credit; or

19 (2) in connection with:

20 (i) an eminent domain proceeding;

21 (ii) a Federal, State or local tax appeal;

22 (iii) a bankruptcy or insolvency proceeding;

23 (iv) an action or proceeding involving divorce or
24 equitable distribution of property; or

25 (v) any other action or proceeding before a court of
26 record.

27 (g) The provisions of this section shall not preclude the
28 preparation of a broker price opinion to be used in conjunction
29 with or in addition to an appraisal.

30 (h) A registered appraisal management company may recruit,

1 engage and negotiate fees with a broker to prepare broker price
2 opinions and may receive orders for and submit broker price
3 opinions to clients.

4 (i) A broker, associate broker or salesperson may not
5 prepare a broker price opinion, and a broker or associate broker
6 may not sign a broker price opinion under subsection (j), unless
7 the broker, associate broker or salesperson:

8 (1) has satisfied the requirements prescribed by the
9 rules of the commission to obtain education in the
10 preparation of broker price opinions; and

11 (2) has completed at least three hours of continuing
12 education during the current or immediately preceding
13 two-year license period in broker price opinion topics
14 prescribed by the rules of the commission.

15 (j) In addition to the requirements under subsection (i), a
16 salesperson may not prepare a broker price opinion unless the
17 salesperson has held an active license for the three years
18 immediately preceding the effective date of the broker price
19 opinion. A broker price opinion prepared by a salesperson must
20 be signed by the broker or an associate broker designated by the
21 broker in addition to the salesperson.

22 (k) In order to facilitate the prompt implementation of this
23 section, regulations promulgated by the commission shall be
24 deemed temporary regulations which shall expire no later than
25 three years following the effective date of this section. The
26 commission may promulgate temporary regulations which shall not
27 be subject to:

28 (1) Sections 201, 202 and 203 of the act of July 31,
29 1968 (P.L.769, No.240), referred to as the Commonwealth
30 Documents Law.

1 (2) The act of June 25, 1982 (P.L.633, No.181), known as
2 the "Regulatory Review Act."

3 (1) The authority provided to the commission to adopt
4 temporary regulations under subsection (k) shall expire three
5 years from the effective date of this section. Regulations
6 adopted after that date shall be promulgated as provided by law.

7 Section 5. Repeals are as follows:

8 (1) The General Assembly declares that the repeal under
9 paragraph (2) is necessary to effectuate this act.

10 (2) The act of July 10, 1990 (P.L.404, No.98), known as
11 the Real Estate Appraisers Certification Act, is repealed
12 insofar as it is inconsistent with this act.

13 Section 6. This act shall take effect in 60 days.