

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 863 Session of 2017

INTRODUCED BY ROTHMAN, KINSEY, SANTORA, DAVIS, R. BROWN, A. HARRIS, MARSICO, WATSON, STEPHENS, KORTZ, QUIGLEY, BAKER, DRISCOLL, CARROLL, CUTLER, ROE, GODSHALL, PHILLIPS-HILL, LONGIETTI, MASSER, SAYLOR, KNOWLES, HELM, BRIGGS, DEASY, IRVIN, RYAN, TOEPEL, NEILSON, MARKOSEK, RAVENSTAHL, O'BRIEN, FARRY, MACKENZIE, BOYLE, SCHLEGEL CULVER, WHEELAND, READSHAW AND C. QUINN, MARCH 16, 2017

AS REPORTED FROM COMMITTEE ON PROFESSIONAL LICENSURE, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 7, 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; IN REAL ESTATE RECOVERY <--
10 FUND, FURTHER PROVIDING FOR ESTABLISHMENT OF THE FUND; and
11 making a related repeal RELATED REPEALS. <--

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

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

19 Section 201. Definitions.

1 The following words and phrases when used in this act shall
2 have, unless the context clearly indicates otherwise, the
3 meanings given to them in this section:

4 * * *

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

14 * * *

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

28 (1) An existing or potential seller, buyer, lessor or
29 lessee of a THE parcel of real property. <--

30 (2) A person making decisions or performing due

1 diligence related to the potential listing, offering, sale,
2 option, lease or acquisition price of a THE parcel of real <--
3 property.

4 * * *

5 "Short sale." A sale of a house in which the proceeds fall <--
6 short of the amount the owner owes on the mortgage. REAL <--
7 PROPERTY IN WHICH THE SELLER'S PROCEEDS ARE LESS THAN THE AMOUNT
8 REQUIRED TO PAY OFF ALL LIENS SECURED BY THE PROPERTY.

9 * * *

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

12 Section 521. Qualifications for license.

13 Each applicant shall as a condition precedent to obtaining a
14 license, take the salesperson license examination and score a
15 passing grade. Prior to taking the examination:

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

17 (2) [The] The following apply:

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

24 (ii) An applicant shall be required to complete 60
25 hours of real estate instruction as prescribed under
26 subparagraph (i) if the applicant has completed a portion
27 of the hours before the effective date of this
28 subparagraph. An applicant who has not completed any of
29 the required hours of real estate instruction before the
30 effective date of this subparagraph shall complete 75

1 hours of real estate instruction within five years of
2 taking the salesperson license examination.

3 (3) The applicant shall be a high school graduate or
4 shall produce proof satisfactory to the commission of an
5 education equivalent to high school preparation. This
6 paragraph shall not apply to a person licensed before the
7 effective date of this paragraph.

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

9 Section 608.3. Comparative market analysis disclosure.

10 (a) A comparative market analysis must contain the following
11 statement printed conspicuously and without change on the first
12 page:

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

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

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

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

27 Section 608.6. Broker price opinion.

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

30 This analysis has not been prepared in accordance with

1 the Uniform Standards of Professional Appraisal Practice
2 which require valuers to act as unbiased, disinterested
3 third parties with impartiality, objectivity and
4 independence and without accommodation of personal
5 interest. It is not to be construed as an appraisal and
6 may not be used as such for any purpose.

7 (b) A broker price opinion prepared in accordance with this
8 act shall:

9 (1) Not be deemed to be an appraisal within the scope of
10 the act of July 10, 1990 (P.L.404, No.98), known as the "Real
11 Estate Appraisers Certification Act," or a valuation of real
12 estate for purposes of section 8(b)(1) of the act of February
13 2, 2012 (P.L.30, No.4), known as the "Appraisal Management
14 Company Registration Act."

15 (2) Be deemed to be a comparative market analysis for
16 the purposes of the "Appraisal Management Company
17 Registration Act."

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

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

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

25 (3) The basis for the conclusion as to the price,
26 including applicable market data or capitalization
27 computation.

28 (4) Any assumption or limiting condition.

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

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

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

4 (d) Any fees charged for a broker price opinion shall be
5 paid to the broker.

6 (e) A broker price opinion may be prepared by a broker,
7 associate broker or salesperson only for use in conjunction
8 with:

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

11 (2) a modification of a first or junior mortgage or
12 equity line of credit;

13 (3) a short sale of a property; OR <--

14 (4) an evaluation or monitoring of a portfolio of
15 properties; ~~or~~ <--

16 ~~(5) the relocation of an individual who is the owner of~~
17 ~~a property or a prospective purchaser of a property.~~

18 (f) A broker price opinion may not be used PREPARED BY A <--
19 BROKER, ASSOCIATE BROKER OR SALESPERSON FOR USE:

20 (1) as the basis to determine the value of a parcel of
21 real property for a mortgage loan origination, including a
22 first or junior mortgage, refinancing or equity line of
23 credit; or

24 (2) in connection with:

25 (i) an eminent domain proceeding;

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

27 (iii) a bankruptcy or insolvency proceeding;

28 (iv) an action or proceeding involving divorce or
29 equitable distribution of property; ~~or~~ <--

30 (v) any other action or proceeding before a court of

1 record; OR

2 (VI) THE DISTRIBUTION OF A DECEDENT'S ESTATE.

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

6 (h) A registered appraisal management company may recruit,
7 engage and negotiate fees with a broker to prepare broker price
8 opinions and may receive orders for and submit broker price
9 opinions to clients.

10 (i) A broker, associate broker or salesperson may not
11 prepare a broker price opinion, and a broker or associate broker
12 may not sign a broker price opinion under subsection (j), unless
13 the broker, associate broker or salesperson:

14 (1) has satisfied the requirements prescribed by the
15 rules of the commission to obtain education in the
16 preparation of broker price opinions; and

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

21 (j) In addition to the requirements under subsection (i), a
22 salesperson may not prepare a broker price opinion unless the
23 salesperson has held an active license for the three years
24 immediately preceding the effective date of the broker price
25 opinion. A broker price opinion prepared by a salesperson must
26 be signed by the broker or an associate broker designated by the
27 broker in addition to the salesperson.

28 (k) In order to facilitate the prompt implementation of this
29 section, regulations promulgated by the commission shall be
30 deemed temporary regulations which shall expire no later than

1 three years following the effective date of this section. The
2 commission may promulgate temporary regulations which shall not
3 be subject to:

4 (1) Sections 201, 202 and 203 of the act of July 31,
5 1968 (P.L.769, No.240), referred to as the Commonwealth
6 Documents Law.

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

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

13 SECTION 5. SECTION 801(B) OF THE ACT IS AMENDED TO READ: <--

14 SECTION 801. ESTABLISHMENT OF THE FUND.

15 * * *

16 (B) THE REAL ESTATE RECOVERY FUND SHALL NOT APPLY TO THE
17 FOLLOWING:

18 (1) THE SALE OF, OR THE OFFER TO SELL, A CAMPGROUND
19 MEMBERSHIP OR TO A CAMPGROUND MEMBERSHIP SALESPERSON.

20 (2) THE PREPARATION OR ISSUANCE OF A BROKER PRICE
21 OPINION.

22 Section 5 6. Repeals are as follows: <--

23 (1) The General Assembly declares that the repeal under
24 ~~paragraph (2) is~~ PARAGRAPHS (2) AND (3) ARE necessary to <--
25 effectuate this act.

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

29 (3) THE ACT OF FEBRUARY 2, 2012 (P.L.30, NO.4), KNOWN AS <--
30 THE APPRAISAL MANAGEMENT COMPANY REGISTRATION ACT, IS

1 REPEALED INSOFAR AS IT IS INCONSISTENT WITH THIS ACT.

2 Section 6 7. This act shall take effect in 60 days.

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