

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 507

Session of 1979

INTRODUCED BY O'PAKE, SCHAEFER, McKINNEY, ZEMPRELLI, ROSS, HAGER, MOORE, JUBELIRER, FUMO, ORLANDO, DWYER, HOWARD, STAUFFER, SCANLON, GEKAS, MELLOW, LINCOLN, MESSINGER, HESS, KELLEY, CORMAN, STAPLETON, HOPPER, KUSSE, BODACK AND STOUT, MARCH 20, 1979

SENATOR SCHAEFER, PROFESSIONAL LICENSURE, AS AMENDED, JUNE 25, 1979

AN ACT

1 Establishing the State Real Estate Commission and providing for  
2 the licensing of real estate brokers and salesmen.

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18 The General Assembly of the Commonwealth of Pennsylvania  
19 hereby enacts as follows:

20 CHAPTER 1

21 GENERAL PROVISIONS

22 Section 101. Short title.

23 This act shall be known and may be cited as the "Real Estate  
24 Licensing Act."

25 CHAPTER 2

26 DEFINITIONS

27 Section 201. Definitions.

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

1 "Associate broker." A broker employed by another broker.

2 "Broker." Any person who:

3 (1) negotiates with or aids any person in locating or  
4 obtaining for purchase or lease any real estate;

5 (2) negotiates the listing, sale, purchase, exchange,  
6 lease, financing or option for any real estate;

7 (3) manages or appraises any real estate;

8 (4) represents himself as a real estate consultant,  
9 counsellor, house finder;

10 (5) undertakes to promote the sale, exchange, purchase  
11 or rental of real estate ~~through listing it in a publication;~~ <—

12 ~~(6) collects rental information for purposes of~~  
13 ~~referring prospective tenants to rental units or locations of~~  
14 ~~such units;~~ or

15 ~~(7) (6) attempts to perform any of the above acts.~~ <—

16 "Broker of record." ~~The~~ A SOLE PROPRIETOR OR principal <—  
17 individual broker of a licensed corporation, partnership or  
18 association OR OTHER ENTITY, FOREIGN OR DOMESTIC. <—

19 "Builder-owner salesperson." Any person who is a full-time  
20 employee of a builder-owner of single and multifamily dwellings  
21 located within the Commonwealth and as such employee shall be  
22 authorized and empowered to list for sale, sell or offer for  
23 sale, or to negotiate the sale or exchange of real estate, or to  
24 lease or rent, or offer to lease, rent or place for rent, any  
25 real estate owned by his builder-owner employer, or collect or  
26 offer, or attempt to collect, rent for the use of real estate  
27 owned by his builder-owner employer, for and on behalf of such  
28 builder-owner employer.

29 "Commission." The State Real Estate Commission.

30 "Commissioner." Commissioner of Professional and

1 Occupational Affairs.

2 "Department." The Department of State ACTING THROUGH THE <—  
3 COMMISSIONER OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS.

4 "Employ, employed, employee, employment." The use of the  
5 words employ, employed, employee or employment in this act shall  
6 apply to the relationship of independent contractor as well as  
7 to the relationship of employment, except as applied to builder-  
8 owner salespersons. ~~in which case the word shall have its common~~ <—  
9 ~~law meaning.~~

10 "Limited broker." Any person, partnership, association or  
11 corporation engaging in or carrying on the business or act in  
12 the capacity of a broker within the Commonwealth exclusively  
13 within the limited field or branch of business which applies to  
14 cemetery lots, plots and mausoleum spaces or openings.

15 "Limited salesperson." Any person employed by a broker or  
16 limited broker to perform duties as defined hereinunder limited  
17 broker. No person employed by a broker to perform duties other  
18 than those activities as defined herein under limited broker  
19 shall be required to be licensed as a limited salesperson.

20 "Person." Any individual, corporation, partnership,  
21 association or other entity foreign or domestic.

22 "Real estate." Any interest or estate in land, whether  
23 corporeal, incorporeal, freehold or nonfreehold, whether the  
24 land is situated in this Commonwealth or elsewhere including  
25 leasehold interests.

26 "RENTAL LISTING REFERRAL AGENT." ANY PERSON WHO OWNS OR <—  
27 MANAGES A BUSINESS WHICH COLLECTS RENTAL INFORMATION FOR THE  
28 PURPOSE OF REFERRING PROSPECTIVE TENANTS TO RENTAL UNITS OR  
29 LOCATIONS OF SUCH UNITS.

30 "Salesperson." Any person employed by a broker to

1 participate in any activity included in this definition of  
2 "broker." No person employed by a broker to perform duties other  
3 than those activities as defined herein under "broker" shall be  
4 required to be licensed as a salesperson.

5 "School." Any person, CORPORATION, PARTNERSHIP, ASSOCIATION <—  
6 OR OTHER ENTITY, FOREIGN OR DOMESTIC, which conducts classes in  
7 real estate subjects, but which is not a college or university  
8 duly accredited by the Middle States Association of Colleges and  
9 Secondary Schools OR EQUIVALENT ACCREDITATION. <—

10 CHAPTER 3

11 APPLICATION OF THE ACT AND PENALTIES

12 Section 301. Unlawful to conduct business without license.

13 From and after the effective date of this act, it shall be  
14 unlawful for any person, directly or indirectly, to engage in or  
15 conduct, or to advertise or hold himself out as engaging in or  
16 conducting the business, or acting in the capacity of a broker  
17 or salesperson, limited broker, limited salesperson, ~~or~~ builder- <—  
18 owner salesperson, OR RENTAL LISTING REFERRAL AGENT within this <—  
19 Commonwealth without first being licensed as such as provided in  
20 this act, unless he is exempted from obtaining a license under  
21 the provisions of section 304.

22 Section 302. Civil suits.

23 No action or suit shall be instituted, nor recovery be had,  
24 in any court of this Commonwealth by any person for compensation  
25 for any act done or service rendered, the doing or rendering of  
26 which is prohibited under the provisions of this act by a person  
27 other than a licensed broker, salesperson, limited broker,  
28 limited salesperson, ~~or~~ builder-owner salesperson OR RENTAL <—  
29 LISTING REFERRAL AGENT, unless such person was duly licensed AND <—  
30 REGISTERED hereunder as broker or salesperson ~~prior to~~ AT the <—

1 time of offering to perform any such act or service or procuring  
2 any promise or contract for the payment of compensation for any  
3 such contemplated act or service.

4 Section 303. Criminal penalties.

5 ~~(a)~~ Any person who shall, after the effective date of this <—  
6 act, engage in or carry on the business, or act in the capacity  
7 of a broker, salesperson, limited broker, limited salesperson,  
8 ~~or~~ builder-owner salesperson OR RENTAL LISTING REFERRAL AGENT, <—  
9 within this Commonwealth, without a license, or shall carry on  
10 or continue business after the suspension or revocation of any  
11 such license ISSUED to him, ~~or it issued,~~ or shall employ any <—  
12 person as a salesperson or limited salesperson to whom a license  
13 has not been issued, or whose license as such shall have been  
14 revoked or suspended, shall be ~~guilty of a misdemeanor and, upon~~ <—  
15 ~~conviction thereof, shall be sentenced for the first offense to~~  
16 ~~pay a fine of not less than \$200 nor more than \$400 or undergo~~  
17 ~~imprisonment for not more than 30 days, or both, and for a~~  
18 ~~second and any subsequent offense shall be sentenced to pay a~~  
19 ~~fine of not less than \$500 nor more than \$1,000, or undergo~~  
20 ~~imprisonment for a period of not more than one year, or both.~~

21 ~~(b)~~ Any holder of a license who shall willfully fail to  
22 apply for a renewal of his or her license on or before the  
23 renewal date in each year, and who continues the practice of  
24 broker, salesperson, limited broker, limited salesperson, or  
25 builder owner salesperson, shall, upon conviction thereof, be  
26 subject to a fine of not more than \$100 or undergo an  
27 ~~imprisonment for a period not to exceed ten days.~~ GUILTY OF A <—  
28 SUMMARY OFFENSE AND UPON CONVICTION THEREOF FOR A FIRST OFFENSE  
29 SHALL BE SENTENCED TO PAY A FINE NOT EXCEEDING \$500 OR SUFFER  
30 IMPRISONMENT, NOT EXCEEDING THREE MONTHS, OR BOTH AND FOR A

1 SECOND OR SUBSEQUENT OFFENSE SHALL BE GUILTY OF A FELONY OF THE  
2 THIRD DEGREE AND UPON CONVICTION THEREOF, SHALL BE SENTENCED TO  
3 PAY A FINE OF NOT LESS THAN \$2,000 BUT NOT MORE THAN \$5,000 OR  
4 TO IMPRISONMENT FOR NOT LESS THAN ONE YEAR BUT NOT MORE THAN TWO  
5 YEARS, OR BOTH.

6 Section 304. Exclusions.

7 The provisions of this act shall not apply to an owner of  
8 real estate with respect to property owned or leased by such  
9 owner, ~~unless performed as a principal vocation not through~~ <—  
10 ~~brokers licensed hereunder,~~ PROVIDED THAT IN THE CASE OF A <—  
11 PARTNERSHIP OR CORPORATION, THIS EXCLUSION SHALL ONLY EXTEND TO  
12 ALL OF ITS PARTNERS OR OFFICERS, RESPECTIVELY, BUT TO NO OTHER  
13 PARTNERSHIP OR CORPORATION PERSONNEL OR EMPLOYEE, or to an  
14 attorney in fact under a duly executed and recorded power of  
15 attorney from the owner or lessor (provided such power of  
16 attorney ~~relates to a single transaction, terminates no more~~ <—  
17 ~~than one year from the date of its inception and~~ is not utilized  
18 to circumvent the intent of this act); nor shall this act be  
19 construed to include in any way the services rendered by an  
20 attorney at law, ~~in the performance of his duties as such~~ <—  
21 ~~attorney at law,~~ nor shall it be held to include a person acting  
22 as receiver, trustee in bankruptcy, administrator, executor or  
23 guardian, or while acting under a court order or under the  
24 authority of a will or of a trust instrument, nor shall this act  
25 apply to the duly elected officer of any banking institution or  
26 trust company operating under Federal or State banking laws  
27 where real estate of the banking institution or trust company  
28 only is involved, NOR SHALL THEY BE HELD TO INCLUDE ANY OFFICER <—  
29 OR EMPLOYEE OF A CEMETERY COMPANY WHO, AS INCIDENTAL TO HIS  
30 PRINCIPAL DUTIES AND WITHOUT RENUMERATION THEREFOR, SHOWS LOTS



1 IN SUCH COMPANY'S CEMETERY TO PERSONS FOR THEIR USE AS A FAMILY  
2 BURIAL LOT, AND WHO ACCEPTS DEPOSITS ON SUCH LOTS FOR THE  
3 REPRESENTATIVES OF THE CEMETERY COMPANY, LEGALLY AUTHORIZED TO  
4 SELL THE SAME.

5 CHAPTER 4

6 POWERS AND DUTIES OF THE  
7 STATE REAL ESTATE COMMISSION - GENERAL

8 Section 401. Duty to issue licenses.

9 It shall be the duty of the ~~commission~~ DEPARTMENT to issue ←  
10 licenses to individuals, copartnerships and corporations, who  
11 shall comply with the provisions of this act.

12 ~~Section 402. Executive director.~~ ←

13 ~~The commission shall employ an executive director, whose~~  
14 ~~duties shall be set by commission rules and regulations. The~~  
15 ~~commission may employ such other persons including legal counsel~~  
16 ~~as it shall deem necessary and proper to implement the~~  
17 ~~requirements of this act.~~

18 Section ~~403~~ 402. Approval of schools. ←

19 Any school which shall offer or conduct any course or courses  
20 of study in real estate shall first obtain approval from, and  
21 thereafter abide by the rules and regulations of the commission  
22 covering such schools.

23 SECTION 403. AUTHORITY TO EXAMINE APPLICANTS. ←

24 THE COMMISSION IS EMPOWERED TO PRESCRIBE THE SUBJECTS TO BE  
25 TESTED. THE COMMISSION SHALL ARRANGE FOR THE SERVICES OF  
26 PROFESSIONAL TESTING SERVICES TO WRITE AND ADMINISTER  
27 EXAMINATIONS ON BEHALF OF THE COMMISSION IN ACCORDANCE WITH  
28 COMMISSION GUIDANCE AND APPROVAL.

29 Section 404. Power to promulgate regulations.

30 (A) The commission shall have the power to promulgate ←

1 regulations in order to administer and effectuate the purposes  
2 of this act. All existing regulations adopted pursuant to the  
3 act of May 1, 1929 (P.L.1216, No.427), known as the "Real Estate  
4 Brokers License Act of one thousand nine hundred and twenty-  
5 nine," shall remain in full force and effect until modified by  
6 the commission. THE PROPOSED RULES AND REGULATIONS SHALL BE ←  
7 SUBMITTED TO THE SECRETARY OF THE SENATE AND THE CHIEF CLERK OF  
8 THE HOUSE OF REPRESENTATIVES WHO SHALL CAUSE THE REGULATIONS TO  
9 BE PRINTED AND DISTRIBUTED AMONG ALL MEMBERS OF BOTH CHAMBERS IN  
10 THE SAME MANNER AS A REORGANIZATION PLAN. IF BOTH BODIES FAIL TO  
11 ACT WITHIN 60 DAYS OF RECEIPT OF SUCH REGULATIONS, OR WITHIN TEN  
12 LEGISLATIVE DAYS AFTER RECEIPT, WHICHEVER SHALL LAST OCCUR,  
13 REGULATIONS ADOPTED BY THE APPROPRIATE PROFESSIONAL OR  
14 OCCUPATIONAL BOARD SHALL BE PROMULGATED PURSUANT TO THE  
15 PROVISIONS OF THE ACT OF JULY 31, 1968 (P.L.769, NO.240),  
16 REFERRED TO AS THE COMMONWEALTH DOCUMENTS LAW AND 45 PA.C.S.  
17 PART II (RELATING TO PUBLICATION AND EFFECTIVENESS OF  
18 COMMONWEALTH DOCUMENTS).

19 (B) IF EITHER CHAMBER DISAPPROVES ANY REGULATION, SUCH  
20 INFORMATION SHALL BE CERTIFIED BY THE SPEAKER OF THE HOUSE OF  
21 REPRESENTATIVES OR PRESIDENT PRO TEMPORE OF THE SENATE TO THE  
22 APPROPRIATE PROFESSIONAL OR OCCUPATIONAL BOARD, PROMULGATED AS A  
23 FINAL REGULATION.

24 Section 405. Duty to keep records confidential.

25 Neither the Commissioner of Professional and Occupational  
26 Affairs, any member of the commission, nor any deputy,  
27 secretary, representative, clerk or other employee of the  
28 Commonwealth, shall directly or indirectly, willfully, exhibit,  
29 publish, divulge, or make known to any person or persons any  
30 record, report, statement, letter, or any other matter, fact or

1 thing except in accordance with the laws of this Commonwealth  
2 dealing with the public's right to access to Commonwealth  
3 proceedings and records. A person violating the provisions of  
4 this section shall be guilty of a misdemeanor and sentenced to  
5 pay a fine not exceeding \$1,000: Provided, however, That the  
6 provisions of this section shall not apply to any ruling or  
7 decision of the commission, with the record relative thereto,  
8 and upon which the same was founded, which ruling or decision  
9 shall have been duly made and entered under and in accordance  
10 with the provisions of this act, after investigation and hearing  
11 as hereinafter provided. All such records shall, immediately  
12 upon the entry of such ruling or decision, become public records  
13 of the department, subject to inspection by any person  
14 interested.

15 CHAPTER 5

16 QUALIFICATIONS AND APPLICATIONS FOR LICENSES

17 SUBCHAPTER A

18 GENERAL

19 Section 501. Reputation.

20 Licenses shall be granted only to persons who bear a good  
21 reputation for honesty, trustworthiness, integrity and  
22 competence to transact the business of broker, salesperson,  
23 limited broker, limited salesperson, ~~or~~ builder-owner <—  
24 salesperson OR RENTAL LISTING REFERRAL AGENT, in such manner as <—  
25 to safeguard the interest of the public, and only after  
26 satisfactory proof of such qualifications has been presented to  
27 the commission as it shall by regulation require.

28 SUBCHAPTER B

29 BROKER'S LICENSE

30 Section 511. Qualifications for license.

1 The applicant for a broker's license, shall as a condition  
2 precedent to obtaining a license, take the broker's license  
3 examination and score a passing grade. Prior to taking the  
4 examination:

5 (1) The applicant shall be at least 21 years of age.

6 (2) The applicant shall be a high school graduate or  
7 shall produce proof satisfactory to the commission of an  
8 education equivalent thereto.

9 (3) The applicant shall have completed 16 semester  
10 credit hours of 15 hours each in real estate instruction in  
11 areas of study prescribed by the rules of the commission.

12 (4) The applicant shall have been engaged full time as a  
13 sales person for at least three years or possess educational  
14 or experience qualifications which the commission deems to be  
15 the equivalent thereof.

16 Section 512. Application for license.

17 (a) An application for a license as real estate broker shall  
18 be made in writing, to the ~~commission~~ DEPARTMENT, upon a form <—  
19 provided for the purpose by the ~~commission~~ DEPARTMENT and shall <—  
20 contain such information as to the applicant as the commission  
21 shall require.

22 (b) The application shall be accompanied by two photographs  
23 of the applicant or in the case of a copartnership, association  
24 or corporation of the applicant members ~~of~~ OR officers thereof. <—

25 (c) The application shall state the place of business for  
26 which such license is desired.

27 (d) The application shall be received by the commission  
28 within three years of the date upon which the applicant took the  
29 examination.

30 Section 513. Corporations, partnerships and associations.

1 If the applicant for a broker's license is a corporation,  
2 partnership or association, then the provisions of sections 511  
3 and 512 shall apply to the individual designated as broker of  
4 record, AS WELL AS THOSE MEMBERS ACTUALLY ENGAGING IN OR <—  
5 INTENDING TO ENGAGE IN THE REAL ESTATE BUSINESS.

6 SUBCHAPTER C

7 SALESPERSON'S LICENSE

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 within three years of the issuance of the license.  
12 Prior to taking the examination:

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

14 (2) The applicant shall have completed four semester  
15 credit hours of 15 hours each in real estate instruction in  
16 areas of study prescribed by the rules of the commission.

17 Section 522. Application for license.

18 (a) An application for a license as salesperson shall be  
19 made, in writing to the department, upon a form provided for the  
20 purpose by the department, and shall contain such information as  
21 to the applicant, as the commission shall require.

22 ~~(b) The application shall be accompanied by two photographs <—~~  
23 ~~of the applicant.~~

24 ~~(c)~~ (B) The applicant shall submit a sworn statement by the <—  
25 broker with whom he desires to be affiliated certifying that the  
26 broker will actively supervise and train the applicant.

27 ~~(d)~~ (C) The application shall be received by the commission <—  
28 within three years of the date upon which the applicant took the  
29 examination.

30 SUBCHAPTER D

LIMITED BROKER'S LICENSE

Section 531. Qualifications for license.

Each applicant for a limited broker's license shall as a condition to obtaining a license take the limited broker's license examination and score a passing grade within three years of the issuance of the license. Prior to taking the examination:

(1) The applicant shall be at least 21 years of age.

(2) The applicant shall have been engaged full time as a sales person or limited salesperson for at least three years or possess educational or experience qualifications which the commission deems to be the equivalent thereof.

Section 532. Application for license.

(a) An application for a license as a limited broker shall be made, in writing, to the department, upon a form provided for the purpose by the ~~commission~~ DEPARTMENT and shall contain such information as to the applicant, as the commission shall require.

~~(b) Each application shall be accompanied by two photographs of the applicant or in the case of a partnership, association or corporation of the applicant members or officers thereof.~~

~~(c)~~ (B) The applicant shall have completed four semester credit hours of 15 hours each in real estate instruction in areas of study prescribed by the rules of the commission.

~~(d)~~ (C) The application shall be received by the commission within three years of the date upon which the applicant took the examination.

Section 533. Corporations, partnerships, ~~and~~ associations  
OR OTHER ENTITIES.

If the applicant for a limited broker's license is a corporation, partnership, ~~or~~ association, OR OTHER ENTITY,

1 FOREIGN OR DOMESTIC, then the provisions of sections 531 and 532  
2 shall apply to the individual designated as Broker of Record, AS <—  
3 WELL AS THOSE MEMBERS ACTUALLY ENGAGING IN OR INTENDING TO  
4 ENGAGE IN THE REAL ESTATE BUSINESS.

5 SUBCHAPTER E

6 LIMITED SALESPERSON'S LICENSE

7 Section 541. Qualifications for license.

8 The applicant for a limited salesperson's license shall be at  
9 least 18 years of age.

10 Section 542. Application for license.

11 (a) An application for a license as a limited salesperson  
12 shall be made, in writing, to the department, upon a form  
13 provided for the purpose by the ~~commission~~ DEPARTMENT, and shall <—  
14 contain such information as to the applicant, as the commission  
15 shall require.

16 (b) The application shall be accompanied by two photographs  
17 of the applicant or in the case of a partnership, association or  
18 corporation of the applicant members or officers thereof.

19 (c) The applicant for a license shall submit a sworn  
20 affidavit by the broker or limited broker with whom he desires  
21 to be affiliated certifying that the broker will actively  
22 supervise and train the applicant AND CERTIFYING THE TRUTH AND <—  
23 ACCURACY OF THE CERTIFICATION OF THE APPLICANT.

24 ~~(d) The application shall be received by the commission <—~~  
25 ~~within three years of the date upon which the applicant took the~~  
26 ~~examination.~~

27 SUBCHAPTER F

28 BUILDER - OWNER SALESPERSON'S LICENSE

29 Section 551. Qualifications for license.

30 Each applicant for a builder-owner salesperson's license,

1 shall as a condition precedent to obtaining a license take the  
2 ~~builder-owner~~ STANDARD REAL ESTATE salesperson's license <—  
3 examination and score a passing grade. ~~within three years of the~~ <—  
4 ~~issuance of the license.~~ Prior to taking the examination:

5 (1) The applicant shall be 18 years of age.

6 (2) The applicant shall be employed by a builder-owner  
7 possessing those qualifications as contained in section 501.  
8 Section 552. Application for license.

9 (a) An application for a license as a builder-owner  
10 salesperson shall be made, in writing to the department, upon a  
11 form provided for the purpose by the ~~commission~~ DEPARTMENT, and <—  
12 shall contain such information as to the applicant as the  
13 commission shall require.

14 ~~(b) The application shall be accompanied by two photographs~~ <—  
15 ~~of the applicant.~~

16 ~~(c)~~ (B) The applicant shall submit a sworn statement by the <—  
17 builder-owner by whom he is employed certifying to such  
18 employment.

19 ~~(d)~~ (C) The application shall be received by the commission <—  
20 within three years of the date upon which the applicant took the  
21 examination.

22 SUBCHAPTER G <—

23 RENTAL LISTING REFERRAL AGENT'S LICENSE

24 SECTION 561. QUALIFICATIONS FOR LICENSE.

25 THE QUALIFICATION FOR LICENSURE AS A RENTAL LISTING REFERRAL  
26 AGENT SHALL BE THE SAME AS THOSE SET FORTH IN SECTIONS 521 AND  
27 522 EXCEPT THAT THE APPLICANT NEED NOT BE AFFILIATED WITH A  
28 BROKER.

29 CHAPTER 6

30 DUTIES OF LICENSEES



1 Section 601. Duty of brokers and limited broker to maintain  
2 office.

3 (a) Each resident licensed broker (which term in this  
4 section shall include limited broker) shall maintain a fixed  
5 office within this Commonwealth. The original license of a  
6 broker and of each licensee employed by such broker shall be  
7 prominently displayed in the broker's office. The address of the  
8 office shall be designated ~~in the broker's license~~ ON THE ←  
9 CURRENT RENEWAL FORM. In case of removal of a broker's office  
10 from the designated location, all licensees registered at that  
11 location shall make application to the commission before such  
12 removal or within ten days thereafter, designating the new  
13 location of the office, and shall pay the required fees,  
14 whereupon the commission shall issue a ~~license~~ RENEWAL FORM at ←  
15 the new location for the unexpired period, if the new location  
16 complies with the terms of this act. Each licensed broker shall  
17 maintain a sign on the outside of his office of such size and  
18 content as the commission shall prescribe.

19 (b) If the applicant for a broker's license intends to  
20 maintain more than one place of business within the  
21 Commonwealth, he shall apply for and obtain an additional  
22 license in his name at each branch office. Every such  
23 application shall state the location of such branch office and  
24 the name of the person in charge of it. Effective 24 months  
25 after the effective date of this act, each branch office shall  
26 be under the direction and supervision of a manager who is  
27 either the broker of record or an associate broker.

28 Section 602. Nonresident licensees.

29 (a) A nonresident of this Commonwealth may be licensed as a  
30 broker or a salesperson, upon complying with all provisions and

1 ~~conditions of this act relative to resident brokers and~~ <—  
2 ~~salespersons.~~ AS PROMULGATED BY THE COMMISSION. <—

3 (b) In connection with the application of a nonresident of  
4 this Commonwealth for a license as broker or salesperson, the  
5 commission may accept, in lieu of the recommendations and  
6 statements otherwise required to accompany the application for  
7 such licensure, the license as broker or salesperson issued to  
8 such applicant by the proper authority of the state of his  
9 ~~domicile~~ LICENSURE. In such case the licensee need not maintain <—  
10 a place of business within this Commonwealth. It is hereby  
11 expressly stipulated, that the provisions of this subsection  
12 shall apply to licensed brokers and salespersons of those states  
13 under the laws of which similar recognition and courtesies are  
14 extended to licensed brokers and salespersons of this  
15 Commonwealth.

16 Section 603. Employment of associate brokers, salesperson.

17 No associate broker or salesperson (which term in this  
18 section shall include limited salesperson) shall be employed by  
19 any other broker than is designated upon the ~~license~~ RENEWAL <—  
20 FORM issued to said associate broker or said salesperson.

21 Whenever a licensed salesperson or associate broker desires to  
22 change his employment from one licensed broker to another, he  
23 shall notify the commission in writing at least ten days prior  
24 to the intended date of change, pay the required fee, and return  
25 his pocket card. The commission, shall, upon receipt of  
26 acknowledgement from the new broker, of the change of employment  
27 forthwith issue a new ~~license~~ RENEWAL FORM and pocket card, but <—  
28 in the interim at such time as the change in affiliation of the  
29 salesperson or associate broker occurs, he shall ~~mark out the~~ <—  
30 ~~name and address of the former broker on the license and~~

1 ~~substitute in writing the name and address of the broker to whom~~  
2 ~~the change has been made. Upon receipt of the new license, the~~  
3 ~~associate broker or salesperson shall forthwith submit his~~  
4 ~~former license to the commission for cancellation.~~ MAINTAIN A ←  
5 COPY OF THE NOTIFICATION SENT TO THE COMMISSIONER AS HIS  
6 TEMPORARY LICENSE PENDING RECEIPT OF HIS RENEWAL FORM. IT SHALL  
7 BE THE DUTY OF THE APPLICANT TO NOTIFY THE COMMISSION IF A NEW  
8 RENEWAL FORM OR OTHER PERTINENT COMMUNICATION IS NOT RECEIVED  
9 FROM THE COMMISSION WITHIN 30 DAYS.

10 Section 604. Prohibited acts.

11 The commission may upon its own motion, and shall promptly  
12 upon the verified complaint in writing of any person setting  
13 forth a complaint under this section, ascertain the facts and,  
14 if warranted, hold a hearing for the suspension or revocation of  
15 a license or for the imposition of fines not exceeding \$500. The  
16 commission shall have power to refuse a license for cause or to  
17 suspend or revoke a license or to levy fines up to \$500 where  
18 the said license has been obtained by false representation, or  
19 by fraudulent act or conduct, or where a licensee, in performing  
20 or attempting to perform any of the acts mentioned herein, is  
21 found guilty of:

- 22 (1) Making any substantial misrepresentation.
- 23 (2) Making any false promise of a character likely to  
24 influence, persuade or induce any person to enter into any  
25 contract or agreement when he could not or did not intend to  
26 keep such promise.
- 27 (3) Pursuing a continued and flagrant course of  
28 misrepresentation or making of false promises through  
29 salesperson, associate broker, other persons, or any medium  
30 of advertising, or otherwise.

1 (4) Any misleading or untruthful advertising, or using  
2 any other trade name or insignia or membership in any real  
3 estate association or organization, of which the licensee is  
4 not a member.

5 (5) Failure to comply with the following requirements:

6 (i) all deposits or other moneys accepted by every  
7 person, holding a real estate broker license under the  
8 provisions of this act, shall be retained by such real  
9 estate broker pending consummation or termination of the  
10 transaction involved, and shall be accounted for in the  
11 full amount thereof at the time of the consummation or  
12 termination;

13 (ii) every salesperson and associate broker promptly  
14 on receipt by him of a deposit or other moneys on any  
15 transaction in which he is engaged on behalf of his  
16 broker-employer, shall pay over the deposit to the  
17 broker;

18 (iii) a broker shall not commingle the money or  
19 other property of his principal with his own;

20 (iv) every broker shall immediately deposit such  
21 moneys, of whatever kind or nature, belonging to others,  
22 in a separate custodial or trust fund account maintained  
23 by the broker with some bank or recognized depository  
24 until the transaction involved is consummated or  
25 terminated, at which time the broker shall account for  
26 the full amount received. Under no circumstances shall a  
27 broker permit any advance payment of funds belonging to  
28 others to be deposited in the broker's business or  
29 personal account, or to be commingled with any funds he  
30 may have on deposit; or

1 (v) every broker shall keep records of all funds  
2 deposited therein, which records shall indicate clearly  
3 the date and from whom he received money, the date  
4 deposited, the dates of withdrawals, and other pertinent  
5 information concerning the transaction, and shall show  
6 clearly for whose account the money is deposited and to  
7 whom the money belongs. All such records and funds shall  
8 be subject to inspection by the commission. Such separate  
9 custodial or trust fund account shall designate the  
10 broker, as trustee, and such account must provide for  
11 withdrawal of funds without previous notice. All such  
12 records shall be available to the commission, or its  
13 representatives, immediately after proper demand or after  
14 written notice given, or upon written notice given to the  
15 depository.

16 (6) Failing to preserve for three years following its  
17 consummation records relating to any real estate transaction.

18 (7) Acting for more than one party in a transaction  
19 without the knowledge and consent in writing of all parties  
20 for whom he acts.

21 (8) Placing a "for sale" or "for rent" sign on any  
22 property without the written consent of the owner, or his  
23 authorized agent.

24 (9) Failing to voluntarily furnish a copy of any  
25 listing, sale, lease, or other contract relevant to a real  
26 estate transaction to all signatories thereof at the time of  
27 execution.

28 (10) Failing to specify a definite termination date that  
29 is not subject to prior notice, in any listing contract.

30 (11) Inducing any party to a contract, sale or lease to

1 break such contract for the purpose of substitution in lieu  
2 thereof of a new contract, where such substitution is  
3 motivated by the ~~person~~ PERSONAL gain of the licensee. ←

4 (12) Accepting a commission or any valuable  
5 consideration by a salesperson or associate broker for the  
6 performance of any acts specified in this act, from any  
7 person, except the licensed real estate broker with whom he  
8 is affiliated.

9 (13) Failing to disclose to an owner in writing his  
10 intention or true position if he directly or indirectly  
11 through a third party, purchased for himself or acquires or  
12 intends to acquire any interest in or any option to purchase  
13 property which has been listed with his office to sell or  
14 lease.

15 (14) Being convicted in a court of competent  
16 jurisdiction of this or any other state, or Federal court, of  
17 forgery, embezzlement, obtaining money under false pretenses,  
18 bribery, larceny, extortion, conspiracy to defraud, or any  
19 similar offense or offenses, or pleading guilty or nolo  
20 contendere to any such offense or offenses.

21 (15) Violating any rule or regulation promulgated by the  
22 commission in the interest of the public and consistent with  
23 the provisions of this act.

24 (16) In the case of a broker licensee, failing to  
25 exercise adequate supervision over the activities of his  
26 licensed salespersons or associate brokers within the scope  
27 of this act.

28 (17) Failing, within a reasonable time AS DEFINED BY THE ←  
29 COMMISSION, to provide information requested by the  
30 commission as the result of a formal or informal complaint to

1 the commission, which would indicate a violation of this act.

2 (18) Soliciting, selling or offering for sale real  
3 property by offering free lots, or conducting lotteries or  
4 contests or offering prizes for the purpose of influencing a  
5 purchaser or prospective purchaser of real property.

6 (19) Paying or accepting, giving or charging any  
7 undisclosed commission, rebate, compensation or profit or  
8 expenditures for a principal, or in violation of this act.

9 (20) Any conduct in a real estate transaction which  
10 demonstrates bad faith, dishonesty, untrustworthiness, or  
11 incompetency.

12 (21) PERFORM ANY ACT FOR WHICH A LICENSE IS REQUIRED. <—

13 ~~(21)~~ (22) Of violating an order or a consent decree of <—  
14 the Pennsylvania Human Relations Commission issued pursuant  
15 to the act of October 27, 1955 (P.L.744, No.222), known as  
16 the "Pennsylvania Human Relations Act," if such order or  
17 consent decree resulted from a finding of discrimination in  
18 the area of activities authorized by virtue of this act. Such  
19 activities include but are not limited to:

20 (i) Accepting listings on the understanding that  
21 illegal discrimination in the sale or rental of housing  
22 is to be practiced due to race, color, religious creed,  
23 sex, ancestry or national origin of a prospective lessee  
24 or purchaser.

25 (ii) Giving false information for purposes of  
26 discrimination in the rental or sale of housing due to  
27 race, color, religious creed, sex, ancestry or national  
28 origin of a prospective lessee or purchaser.

29 (iii) Making distinctions in locations of housing or  
30 dates of availability of housing for purposes of

1 discrimination in the rental or sale of such housing due  
2 to race, color, religious creed, sex, ancestry, or  
3 national origin of the prospective lessee or purchaser.

4 Nothing contained in paragraph ~~(21)~~ (22) is intended to <—  
5 preclude the State Real Estate Commission from conducting its  
6 own investigation and maintaining its own file on any complaint  
7 of discrimination. The intent hereunder is to allow the  
8 Pennsylvania Human Relations Commission a reasonable period of  
9 time to conduct its own investigations, hold hearings, render  
10 its decisions and inform the Pennsylvania Real Estate Commission  
11 of its findings prior to the State Real Estate Commission taking  
12 action against any broker, salesperson or sales associate  
13 charged with a violation of paragraph ~~(21)~~ (22). <—

14 If in the event the Pennsylvania Human Relations Commission  
15 does not act on a discrimination complaint within 90 days after  
16 it is filed with the Pennsylvania Human Relations Commission  
17 then the State Real Estate Commission may proceed with action  
18 against such licensee.

19 The 90-day waiting period delaying State Real Estate  
20 Commission action against licensee accused of discrimination  
21 applies only in initial complaints against such licensee, second  
22 or subsequent complaints may be brought by individuals or the  
23 Pennsylvania Human Relations Commission directly to the State  
24 Real Estate Commission.

25 Section 605. ~~Out of state land sales;~~ SALES OF A PROMOTIONAL <—  
26 NATURE; approval.

27 Any person who proposes to engage in sales of a promotional  
28 nature in this Commonwealth for a property located INSIDE OR <—  
29 outside of this Commonwealth, shall first apply to the  
30 commission for its approval before so doing, and they and their



1 salesmen shall comply with such rules, regulations, restrictions  
2 and conditions pertaining thereto as the commission may impose  
3 AS WELL AS ALL THOSE PROVISIONS SET FORTH IN THIS ACT. <—

4 CHAPTER 7

5 PROCEEDINGS BEFORE THE COMMISSION

6 ~~Section 701. Complaint and hearing.~~ <—

7 ~~Proceedings before the commission shall be conducted in~~  
8 ~~accordance with Title 2 (Administrative Law and Procedure) of~~  
9 ~~the Pennsylvania Consolidated Statutes.~~

10 SECTION 701. HEARINGS HELD BY COMMISSION. <—

11 (A) THE SAID HEARINGS MAY BE HELD BY THE COMMISSION OR ANY  
12 MEMBERS THEREOF, OR BY ANY OF ITS DULY AUTHORIZED  
13 REPRESENTATIVES, OR BY ANY OTHER PERSON DULY AUTHORIZED BY THE  
14 COMMISSION FOR SUCH PURPOSE IN ANY PARTICULAR CASE.

15 (B) THE COMMISSION MAY ADOPT THE FINDINGS IN THE REPORT OR  
16 MAY, WITH OR WITHOUT ADDITIONAL TESTIMONY, EITHER RETURN THE  
17 MATTER TO THE REPRESENTATIVE FOR SUCH FURTHER CONSIDERATION AS  
18 THE COMMISSION DEEMS NECESSARY OR MAKE ADDITIONAL OR OTHER  
19 FINDINGS OF FACT ON THE BASIS OF ALL THE LEGALLY PROBATIVE  
20 EVIDENCE IN THE RECORD AND ENTER ITS CONCLUSIONS OF LAW AND  
21 ORDER IN ACCORDANCE WITH THE REQUIREMENTS FOR THE ISSUANCE OF AN  
22 ADJUDICATION UNDER 2 PA.C.S. § 103, KNOWN AS THE ADMINISTRATIVE  
23 AGENCY LAW.

24 (C) PROCEEDINGS BEFORE THE COMMISSION SHALL BE CONDUCTED IN  
25 ACCORDANCE WITH TITLE 1, PART 2 OF THE PENNSYLVANIA CODE.

26 Section 702. Imputed knowledge, limitations.

27 No violation of any of the provisions of this act on the part  
28 of any salesperson, associate broker, or other employee of any  
29 licensed broker, shall be grounds for the revocation or  
30 suspension of the license of the employer of such salesperson,

1 associate broker, or employee, unless it shall appear upon the  
2 hearings held, that such employer had guilty knowledge of such  
3 violation. A course of dealing shown to have been followed by  
4 such employee shall constitute prima facie evidence of such  
5 knowledge upon the part of his employer.

6 CHAPTER 8

7 REAL ESTATE RECOVERY FUND

8 Section 801. Establishment of the fund.

9 There is hereby established the Real Estate Recovery Fund for  
10 the purposes hereinafter set forth in this act.

11 Section 802. Funding of the fund.

12 Each licensee entitled to renew his license on or after  
13 February 28, 1980, shall, when so renewing his license pay in  
14 addition to the applicable license fee a further fee of \$25,  
15 which shall be paid and credited to the Real Estate Recovery  
16 Fund, ~~and~~ THEREAFTER any person upon receiving his initial ~~or~~ ←  
17 ~~first-time~~ real estate license, ~~each licensee,~~ ←  
18 shall, in addition to all fees, pay into the Real Estate Recovery Fund a  
19 sum of \$25, but in no case shall any licensee be required to pay  
20 said fee of \$25 more than once. All said fees shall be paid into  
21 the State Treasury and credited to the Real Estate Recovery  
22 Fund, and said deposits shall be allocated solely for the  
23 purposes of the fund as provided in this act. THE FUND SHALL BE ←  
24 INVESTED AND INTEREST/DIVIDENDS SHALL ACCRUE TO THE FUND.

25 Section 803. Application for recovery from fund.

26 (a) When any aggrieved person obtains a final judgment in  
27 any court of competent jurisdiction against any person licensed  
28 under this act, upon grounds of fraud, misrepresentation or  
29 deceit with reference to any transaction for which a license is  
30 required under this act and which cause of action occurred on or

1 after the effective date of this act, the aggrieved person may,  
2 upon termination of all proceedings, including reviews and  
3 appeals, file an application in the court in which the judgment  
4 was entered for an order directing payment out of the Real  
5 Estate Recovery Fund of the amount unpaid upon the judgment.

6 (b) The aggrieved person shall be required to show:

7 (1) That he is not a spouse of the debtor, or the  
8 personal representative of said spouse.

9 (2) That he has obtained a judgment as set out in this  
10 section.

11 (3) That all reasonable personal acts, rights of  
12 discovery and such other remedies at law and in equity as  
13 exist have been exhausted in the collection thereof.

14 (4) That he is making said application no more than one  
15 year after the termination of the proceedings, including  
16 reviews and appeals in connection with the judgment.

17 (c) The commission shall have the right to answer actions  
18 provided for under this section, and subject to court approval,  
19 it may compromise a claim based upon the application of the  
20 aggrieved party.

21 (d) When there is an order of the court to make payment or a  
22 claim is otherwise to be levied against the fund, such amount  
23 shall be paid to the claimant in accordance with the limitations  
24 contained in this section. Notwithstanding any other provisions  
25 of this section, the liability of that portion of the fund  
26 allocated for the purpose of this act shall not exceed \$20,000  
27 for any one license regardless of the number of claimants. If  
28 the \$20,000 liability of the Real Estate Recovery Fund as  
29 provided herein is insufficient to pay in full claims  
30 adjudicated valid of all aggrieved persons against any one

1 licensee, such \$20,000 shall be distributed among them in such  
2 ratio that the respective claims of the aggrieved applicants  
3 bear to the aggregate of such claims held valid. If, at any  
4 time, the money deposited in the Real Estate Recovery Fund is  
5 insufficient to satisfy any duly authorized claim or portion  
6 thereof, the commission shall, when sufficient money has been  
7 deposited in the fund, satisfy such unpaid claims or portions  
8 thereof, in the order that such claims or portions thereof were  
9 originally filed, plus accumulated interest at the rate of 6% a  
10 year.

11 (e) Upon petition of the commission the court may require  
12 all claimants and prospective claimants against one licensee to  
13 be joined in one action, to the end that the respective rights  
14 of all such claimants to the Real Estate Recovery Fund may be  
15 equitably adjudicated and settled.

16 (f) Should the commission pay from the Real Estate Recovery  
17 Fund any amount in settlement of a claim as provided for in this  
18 act against a licensee, the license of that person shall  
19 automatically suspend upon the effective date of the payment  
20 thereof by the commission. No such licensee shall be granted  
21 reinstatement until he has repaid in full plus interest at the  
22 rate of 6% a year, the amount paid from the Real Estate Recovery  
23 Fund.

## 24 CHAPTER 9

### 25 REPEALER AND EFFECTIVE DATE

26 Section 901. Repealer.

27 The act of May 1, 1929 (P.L.1216, No.427), known as the "Real  
28 Estate Brokers License Act of one thousand nine hundred and  
29 twenty-nine," is repealed to the following conditions:

30 ~~(1) All licenses issued thereunder on the effective date~~ <—

1 ~~of this act shall remain in full force and effect until their~~  
2 ~~expiration date or revocation by action of the commission.~~

3 (1) ALL LICENSES ISSUED THEREUNDER IN FORCE ON THE ←  
4 EFFECTIVE DATE OF THIS ACT SHALL BE PRESUMED TO MEET THE  
5 REQUIREMENTS FOR ISSUANCE IMPOSED BY THIS ACT AND SHALL  
6 REMAIN IN FULL FORCE AND EFFECT UNTIL THEIR EXPIRATION DATE  
7 OR REVOCATION BY ACTION OF THE COMMISSION.

8 (2) All proceedings in progress on the effective date  
9 shall continue to proceed under their terms of act under  
10 which brought.

11 (3) All offenses alleged to have occurred prior to the  
12 effective date of this act shall be processed under the act  
13 of May 1, 1929 (P.L.1215, No.427).

14 Section 902. Effective date.

15 This act shall take effect in 90 days.