

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

AS AMENDED ON SECOND CONSIDERATION, JUNE 28, 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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14 The General Assembly of the Commonwealth of Pennsylvania

15 hereby enacts as follows:

16 CHAPTER 1

17 GENERAL PROVISIONS

18 Section 101. Short title.

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

21 CHAPTER 2

22 DEFINITIONS

23 Section 201. Definitions.

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

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

28 "Broker." Any person who:

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

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

3 (3) manages or appraises any real estate;

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

6 (5) undertakes to promote the sale, exchange, purchase
7 or rental of real estate; or

8 (6) attempts to perform any of the above acts.

9 "Broker of record." A sole proprietor or principal
10 individual broker of a licensed corporation, partnership or
11 association or other entity, foreign or domestic.

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

22 "Commission." The State Real Estate Commission.

23 "Commissioner." Commissioner of Professional and
24 Occupational Affairs.

25 "Department." The Department of State acting through the
26 Commissioner of Professional and Occupational Affairs.

27 "Employ, employed, employee, employment." The use of the
28 words employ, employed, employee or employment in this act shall
29 apply to the relationship of independent contractor as well as
30 to the relationship of employment, except as applied to builder-

1 owner salespersons.

2 "Limited broker." Any person, partnership, association or
3 corporation engaging in or carrying on the business or act in
4 the capacity of a broker within the Commonwealth exclusively
5 within the limited field or branch of business which applies to
6 cemetery lots, plots and mausoleum spaces or openings.

7 "Limited salesperson." Any person employed by a broker or
8 limited broker to perform duties as defined hereinunder limited
9 broker. No person employed by a broker to perform duties other
10 than those activities as defined hereinunder limited broker
11 shall be required to be licensed as a limited salesperson.

12 "Person." Any individual, corporation, partnership,
13 association or other entity foreign or domestic.

14 "Real estate." Any interest or estate in land, whether
15 corporeal, incorporeal, freehold or nonfreehold, whether the
16 land is situated in this Commonwealth or elsewhere including
17 leasehold interests.

18 "Rental listing referral agent." Any person who owns or
19 manages a business which collects rental information for the
20 purpose of referring prospective tenants to rental units or
21 locations of such units.

22 "Salesperson." Any person employed by a broker to
23 participate in any activity included in this definition of
24 "broker." No person employed by a broker to perform duties other
25 than those activities as defined herein under "broker" shall be
26 required to be licensed as a salesperson.

27 "School." Any person, corporation, partnership, association
28 or other entity, foreign or domestic, which conducts classes in
29 real estate subjects, but which is not a college or university
30 duly accredited by the Middle States Association of Colleges and

1 Secondary Schools or equivalent accreditation.

2 CHAPTER 3

3 APPLICATION OF THE ACT AND PENALTIES

4 Section 301. Unlawful to conduct business without license.

5 From and after the effective date of this act, it shall be
6 unlawful for any person, directly or indirectly, to engage in or
7 conduct, or to advertise or hold himself out as engaging in or
8 conducting the business, or acting in the capacity of a broker
9 or salesperson, limited broker, limited salesperson, builder-
10 owner salesperson, or rental listing referral agent within this
11 Commonwealth without first being licensed as such as provided in
12 this act, unless he is exempted from obtaining a license under
13 the provisions of section 304.

14 Section 302. Civil suits.

15 No action or suit shall be instituted, nor recovery be had,
16 in any court of this Commonwealth by any person for compensation
17 for any act done or service rendered, the doing or rendering of
18 which is prohibited under the provisions of this act by a person
19 other than a licensed broker, salesperson, limited broker,
20 limited salesperson, builder-owner salesperson or rental listing
21 referral agent, unless such person was duly licensed and
22 registered hereunder as broker or salesperson at the time of
23 offering to perform any such act or service or procuring any
24 promise or contract for the payment of compensation for any such
25 contemplated act or service.

26 Section 303. Criminal penalties.

27 Any person who shall, after the effective date of this act,
28 engage in or carry on the business, or act in the capacity of a
29 broker, salesperson, limited broker, limited salesperson,
30 builder-owner salesperson or rental listing referral agent,

1 within this Commonwealth, without a license, or shall carry on
2 or continue business after the suspension or revocation of any
3 such license issued to him, or shall employ any person as a
4 salesperson or limited salesperson to whom a license has not
5 been issued, or whose license as such shall have been revoked or
6 suspended, shall be guilty of a summary offense and upon
7 conviction thereof for a first offense shall be sentenced to pay
8 a fine not exceeding \$500 or suffer imprisonment, not exceeding
9 three months, or both and for a second or subsequent offense
10 shall be guilty of a felony of the third degree and upon
11 conviction thereof, shall be sentenced to pay a fine of not less
12 than \$2,000 but not more than \$5,000 or to imprisonment for not
13 less than one year but not more than two years, or both.

14 Section 304. Exclusions.

15 The provisions of this act shall not apply to an owner of
16 real estate with respect to property owned or leased by such
17 owner, provided that in the case of a partnership or
18 corporation, this exclusion shall only extend to all of its
19 partners or officers, respectively, but to no other partnership
20 or corporation personnel or employee, or to an attorney in fact
21 under a duly executed and recorded power of attorney from the
22 owner or lessor (provided such power of attorney is not utilized
23 to circumvent the intent of this act); nor shall this act be
24 construed to include in any way the services rendered by an
25 attorney at law, nor shall it be held to include a person acting
26 as receiver, trustee in bankruptcy, administrator, executor or
27 guardian, or while acting under a court order or under the
28 authority of a will or of a trust instrument, nor shall this act
29 apply to the duly elected officer of any banking institution or
30 trust company operating under Federal or State banking laws

1 where real estate of the banking institution or trust company
2 only is involved, nor shall they be held to include any officer
3 or employee of a cemetery company who, as incidental to his
4 principal duties and without remuneration therefor, shows lots
5 in such company's cemetery to persons for their use as a family
6 burial lot, and who accepts deposits on such lots for the
7 representatives of the cemetery company, legally authorized to
8 sell the same.

9 CHAPTER 4

10 POWERS AND DUTIES OF THE

11 STATE REAL ESTATE COMMISSION - GENERAL

12 Section 401. Duty to issue licenses.

13 It shall be the duty of the department to issue licenses to
14 individuals, copartnerships and corporations, who shall comply
15 with the provisions of this act.

16 Section 402. Approval of schools.

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

21 Section 403. Authority to examine applicants.

22 The commission is empowered to prescribe the subjects to be
23 tested. The commission shall arrange for the services of
24 professional testing services to write and administer
25 examinations on behalf of the commission in accordance with
26 commission guidance and approval.

27 Section 404. Power to promulgate regulations.

28 (a) The commission shall have the power to promulgate
29 regulations in order to administer and effectuate the purposes
30 of this act. All existing regulations adopted pursuant to the

1 act of May 1, 1929 (P.L.1216, No.427), known as the "Real Estate
2 Brokers License Act of one thousand nine hundred and twenty-
3 nine," shall remain in full force and effect until modified by
4 the commission. The proposed rules and regulations shall be
5 submitted to the Secretary of the Senate and the Chief Clerk of
6 the House of Representatives who shall cause the regulations to
7 be printed and distributed among all members of both chambers in
8 the same manner as a reorganization plan. If both bodies fail to
9 act within 60 days of receipt of such regulations, or within ten
10 legislative days after receipt, whichever shall last occur,
11 regulations adopted by the appropriate professional or
12 occupational board shall be promulgated pursuant to the
13 provisions of the act of July 31, 1968 (P.L.769, No.240),
14 referred to as the Commonwealth Documents Law and 45 Pa.C.S.
15 Part II (relating to publication and effectiveness of
16 Commonwealth documents).

17 (b) If either chamber disapproves any regulation, such
18 information shall be certified by the Speaker of the House of
19 Representatives or President pro tempore of the Senate to the
20 appropriate professional or occupational board, promulgated as a
21 final regulation.

22 Section 405. Duty to keep records confidential.

23 Neither the Commissioner of Professional and Occupational
24 Affairs, any member of the commission, nor any deputy,
25 secretary, representative, clerk or other employee of the
26 Commonwealth, shall directly or indirectly, willfully, exhibit,
27 publish, divulge, or make known to any person or persons any
28 record, report, statement, letter, or any other matter, fact or
29 thing except in accordance with the laws of this Commonwealth
30 dealing with the public's right to access to Commonwealth

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

13 CHAPTER 5

14 QUALIFICATIONS AND APPLICATIONS FOR LICENSES

15 SUBCHAPTER A

16 GENERAL

17 Section 501. Reputation.

18 Licenses shall be granted only to persons who bear a good
19 reputation for honesty, trustworthiness, integrity and
20 competence to transact the business of broker, salesperson,
21 limited broker, limited salesperson, builder-owner salesperson
22 or rental listing referral agent, in such manner as to safeguard
23 the interest of the public, and only after satisfactory proof of
24 such qualifications has been presented to the commission as it
25 shall by regulation require.

26 SUBCHAPTER B

27 BROKER'S LICENSE

28 Section 511. Qualifications for license.

29 The applicant for a broker's license, shall as a condition
30 precedent to obtaining a license, take the broker's license

1 examination and score a passing grade. Prior to taking the
2 examination:

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

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

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

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

14 Section 512. Application for license.

15 (a) An application for a license as real estate broker shall
16 be made in writing, to the department, upon a form provided for
17 the purpose by the department and shall contain such information
18 as to the applicant as the commission shall require.

19 (b) The application shall be accompanied by two photographs
20 of the applicant or in the case of a copartnership, association
21 or corporation of the applicant members or officers thereof.

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

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 Section 513. Corporations, partnerships and associations.

28 If the applicant for a broker's license is a corporation,
29 partnership or association, then the provisions of sections 511
30 and 512 shall apply to the individual designated as broker of

1 record, as well as those members actually engaging in or
2 intending to engage in the real estate business.

3 SUBCHAPTER C

4 SALESPERSON'S LICENSE

5 Section 521. Qualifications for license.

6 Each applicant shall as a condition precedent to obtaining a
7 license, take the salesperson license examination and score a
8 passing grade within three years of the issuance of the license.

9 Prior to taking the examination:

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

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

14 Section 522. Application for license.

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

19 (b) The applicant shall submit a sworn statement by the
20 broker with whom he desires to be affiliated certifying that the
21 broker will actively supervise and train the applicant.

22 (c) The application shall be received by the commission
23 within three years of the date upon which the applicant took the
24 examination.

25 SUBCHAPTER D

26 LIMITED BROKER'S LICENSE

27 Section 531. Qualifications for license.

28 Each applicant for a limited broker's license shall as a
29 condition to obtaining a license take the limited broker's
30 license examination and score a passing grade within three years

1 of the issuance of the license. Prior to taking the examination:

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

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

7 Section 532. Application for license.

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

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

15 (c) The application shall be received by the commission
16 within three years of the date upon which the applicant took the
17 examination.

18 Section 533. Corporations, partnerships, associations
19 or other entities.

20 If the applicant for a limited broker's license is a
21 corporation, partnership, association, or other entity, foreign
22 or domestic, then the provisions of sections 531 and 532 shall
23 apply to the individual designated as Broker of Record, as well
24 as those members actually engaging in or intending to engage in
25 the real estate business.

26 SUBCHAPTER E

27 LIMITED SALESPERSON'S LICENSE

28 Section 541. Qualifications for license.

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

1 Section 542. Application for license.

2 (a) An application for a license as a limited salesperson
3 shall be made, in writing, to the department, upon a form
4 provided for the purpose by the department, and shall contain
5 such information as to the applicant, as the commission shall
6 require.

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

10 (c) The applicant for a license shall submit a sworn
11 affidavit by the broker or limited broker with whom he desires
12 to be affiliated certifying that the broker will actively
13 supervise and train the applicant and certifying the truth and
14 accuracy of the certification of the applicant.

15 SUBCHAPTER F

16 BUILDER - OWNER SALESPERSON'S LICENSE

17 Section 551. Qualifications for license.

18 Each applicant for a builder-owner salesperson's license,
19 shall as a condition precedent to obtaining a license take the
20 standard real estate salesperson's license examination and score
21 a passing grade. Prior to taking the examination:

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

23 (2) The applicant shall be employed by a builder-owner
24 possessing those qualifications as contained in section 501.

25 Section 552. Application for license.

26 (a) An application for a license as a builder-owner
27 salesperson shall be made, in writing to the department, upon a
28 form provided for the purpose by the department, and shall
29 contain such information as to the applicant as the commission
30 shall require.

1 (b) The applicant shall submit a sworn statement by the
2 builder-owner by whom he is employed certifying to such
3 employment.

4 (c) The application shall be received by the commission
5 within three years of the date upon which the applicant took the
6 examination.

7 SUBCHAPTER G

8 RENTAL LISTING REFERRAL AGENT'S LICENSE

9 Section 561. Qualifications for license.

10 The qualification for licensure as a rental listing referral
11 agent shall be the same as those set forth in sections 521 and
12 522 except that the applicant need not be affiliated with a
13 broker.

14 CHAPTER 6

15 DUTIES OF LICENSEES

16 Section 601. Duty of brokers and limited ~~broker~~ BROKERS
17 to maintain office.

←

18 (a) Each resident licensed broker (which term in this
19 section shall include limited broker) shall maintain a fixed
20 office within this Commonwealth. The original license of a
21 broker and of each licensee employed by such broker shall be
22 prominently displayed in the broker's office. The address of the
23 office shall be designated on the current renewal form. In case
24 of removal of a broker's office from the designated location,
25 all licensees registered at that location shall make application
26 to the commission before such removal or within ten days
27 thereafter, designating the new location of the office, and
28 shall pay the required fees, whereupon the commission shall
29 issue a renewal form at the new location for the unexpired
30 period, if the new location complies with the terms of this act.

1 Each licensed broker shall maintain a sign on the outside of his
2 office of such size and content as the commission shall
3 prescribe.

4 (b) If the applicant for a broker's license intends to
5 maintain more than one place of business within the
6 Commonwealth, he shall apply for and obtain an additional
7 license in his name at each branch office. Every such
8 application shall state the location of such branch office and
9 the name of the person in charge of it. Effective 24 months
10 after the effective date of this act, each branch office shall
11 be under the direction and supervision of a manager who is
12 either the broker of record or an associate broker.

13 Section 602. Nonresident licensees.

14 (a) A nonresident of this Commonwealth may be licensed as a
15 broker or a salesperson, upon complying with all provisions and
16 conditions as promulgated by the commission.

17 (b) In connection with the application of a nonresident of
18 this Commonwealth for a license as broker or salesperson, the
19 commission may accept, in lieu of the recommendations and
20 statements otherwise required to accompany the application for
21 such licensure, the license as broker or salesperson issued to
22 such applicant by the proper authority of the state of his
23 licensure. In such case the licensee need not maintain a place
24 of business within this Commonwealth. It is hereby expressly
25 stipulated, that the provisions of this subsection shall apply
26 to licensed brokers and salespersons of those states under the
27 laws of which similar recognition and courtesies are extended to
28 licensed brokers and salespersons of this Commonwealth.

29 Section 603. Employment of associate brokers, salesperson.

30 No associate broker or salesperson (which term in this

1 section shall include limited salesperson) shall be employed by
2 any other broker than is designated upon the renewal form issued
3 to said associate broker or said salesperson. Whenever a
4 licensed salesperson or associate broker desires to change his
5 employment from one licensed broker to another, he shall notify
6 the commission in writing at least ten days prior to the
7 intended date of change, pay the required fee, and return his
8 pocket card. The commission, shall, upon receipt of
9 acknowledgement from the new broker, of the change of employment
10 forthwith issue a new renewal form and pocket card, but in the
11 interim at such time as the change in affiliation of the
12 salesperson or associate broker occurs, he shall maintain a copy
13 of the notification sent to the commissioner as his temporary
14 license pending receipt of his renewal form. It shall be the
15 duty of the applicant to notify the commission if a new renewal
16 form or other pertinent communication is not received from the
17 commission within 30 days.

18 Section 604. Prohibited acts.

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

30 (1) Making any substantial misrepresentation.

1 (2) Making any false promise of a character likely to
2 influence, persuade or induce any person to enter into any
3 contract or agreement when he could not or did not intend to
4 keep such promise.

5 (3) Pursuing a continued and flagrant course of
6 misrepresentation or making of false promises through
7 salesperson, associate broker, other persons, or any medium
8 of advertising, or otherwise.

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

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

14 (i) all deposits or other moneys accepted by every
15 person, holding a real estate broker license under the
16 provisions of this act, shall be retained by such real
17 estate broker pending consummation or termination of the
18 transaction involved, and shall be accounted for in the
19 full amount thereof at the time of the consummation or
20 termination;

21 (ii) every salesperson and associate broker promptly
22 on receipt by him of a deposit or other moneys on any
23 transaction in which he is engaged on behalf of his
24 broker-employer, shall pay over the deposit to the
25 broker;

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

28 (iv) every broker shall immediately deposit such
29 moneys, of whatever kind or nature, belonging to others,
30 in a separate custodial or trust fund account maintained

1 by the broker with some bank or recognized depository
2 until the transaction involved is consummated or
3 terminated, at which time the broker shall account for
4 the full amount received. Under no circumstances shall a
5 broker permit any advance payment of funds belonging to
6 others to be deposited in the broker's business or
7 personal account, or to be commingled with any funds he
8 may have on deposit; or

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

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

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

29 (8) Placing a "for sale" or "for rent" sign on any
30 property without the written consent of the owner, or his

1 authorized agent.

2 (9) Failing to voluntarily furnish a copy of any
3 listing, sale, lease, or other contract relevant to a real
4 estate transaction to all signatories thereof at the time of
5 execution.

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

8 (11) Inducing any party to a contract, sale or lease to
9 break such contract for the purpose of substitution in lieu
10 thereof of a new contract, where such substitution is
11 motivated by the personal gain of the licensee.

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

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

23 (14) Being convicted in a court of competent
24 jurisdiction of this or any other state, or Federal court, of
25 forgery, embezzlement, obtaining money under false pretenses,
26 bribery, larceny, extortion, conspiracy to defraud, or any
27 similar offense or offenses, or pleading guilty or nolo
28 contendere to any such offense or offenses.

29 (15) Violating any rule or regulation promulgated by the
30 commission in the interest of the public and consistent with

1 the provisions of this act.

2 (16) In the case of a broker licensee, failing to
3 exercise adequate supervision over the activities of his
4 licensed salespersons or associate brokers within the scope
5 of this act.

6 (17) Failing, within a reasonable time as defined by the
7 commission, to provide information requested by the
8 commission as the result of a formal or informal complaint to
9 the commission, which would indicate a violation of this act.

10 (18) Soliciting, selling or offering for sale real
11 property by offering free lots, or conducting lotteries or
12 contests or offering prizes for the purpose of influencing a
13 purchaser or prospective purchaser of real property.

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

17 (20) Any conduct in a real estate transaction which
18 demonstrates bad faith, dishonesty, untrustworthiness, or
19 incompetency.

20 (21) ~~Perform~~ PERFORMING any act for which a license is ←
21 required.

22 (22) ~~Of violating~~ VIOLATING an order or a consent decree ←
23 of the Pennsylvania Human Relations Commission issued
24 pursuant to the act of October 27, 1955 (P.L.744, No.222),
25 known as the "Pennsylvania Human Relations Act," if such
26 order or consent decree resulted from a finding of
27 discrimination in the area of activities authorized by virtue
28 of this act. Such activities include but are not limited to:

29 (i) Accepting listings on the understanding that
30 illegal discrimination in the sale or rental of housing

1 is to be practiced due to race, color, religious creed,
2 sex, ancestry or national origin of a prospective lessee
3 or purchaser.

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

8 (iii) Making distinctions in locations of housing or
9 dates of availability of housing for purposes of
10 discrimination in the rental or sale of such housing due
11 to race, color, religious creed, sex, ancestry, or
12 national origin of the prospective lessee or purchaser.

13 Nothing contained in paragraph (22) is intended to preclude
14 the State Real Estate Commission from conducting its own
15 investigation and maintaining its own file on any complaint of
16 discrimination. The intent hereunder is to allow the
17 Pennsylvania Human Relations Commission a reasonable period of
18 time to conduct its own investigations, hold hearings, render
19 its decisions and inform the Pennsylvania Real Estate Commission
20 of its findings prior to the State Real Estate Commission taking
21 action against any broker, salesperson or sales associate
22 charged with a violation of paragraph (22).

23 If in the event the Pennsylvania Human Relations Commission
24 does not act on a discrimination complaint within 90 days after
25 it is filed with the Pennsylvania Human Relations Commission
26 then the State Real Estate Commission may proceed with action
27 against such licensee.

28 The 90-day waiting period delaying State Real Estate
29 Commission action against licensee accused of discrimination
30 applies only in initial complaints against such licensee, second

1 or subsequent complaints may be brought by individuals or the
2 Pennsylvania Human Relations Commission directly to the State
3 Real Estate Commission.

4 Section 605. Sales of a promotional nature; approval.

5 Any person who proposes to engage in sales of a promotional
6 nature in this Commonwealth for a property located inside or
7 outside of this Commonwealth, shall first apply to the
8 commission for its approval before so doing, and they and their
9 salesmen shall comply with such rules, regulations, restrictions
10 and conditions pertaining thereto as the commission may impose
11 as well as all those provisions set forth in this act.

12 CHAPTER 7

13 PROCEEDINGS BEFORE THE COMMISSION

14 Section 701. Hearings held by commission.

15 (a) The said hearings may be held by the commission or any
16 members thereof, or by any of its duly authorized
17 representatives, or by any other person duly authorized by the
18 commission for such purpose in any particular case.

19 (b) The commission may adopt the findings in the report or
20 may, with or without additional testimony, either return the
21 matter to the representative for such further consideration as
22 the commission deems necessary or make additional or other
23 findings of fact on the basis of all the legally probative
24 evidence in the record and enter its conclusions of law and
25 order in accordance with the requirements for the issuance of an
26 adjudication under 2 Pa.C.S. § 103, known as the Administrative
27 Agency Law.

28 (c) Proceedings before the commission shall be conducted in
29 accordance with Title 1, Part 2 of the Pennsylvania Code.

30 Section 702. Imputed knowledge, limitations.

1 No violation of any of the provisions of this act on the part
2 of any salesperson, associate broker, or other employee of any
3 licensed broker, shall be grounds for the revocation or
4 suspension of the license of the employer of such salesperson,
5 associate broker, or employee, unless it shall appear upon the
6 hearings held, that such employer had guilty knowledge of such
7 violation. A course of dealing shown to have been followed by
8 such employee shall constitute prima facie evidence of such
9 knowledge upon the part of his employer.

10 CHAPTER 8

11 REAL ESTATE RECOVERY FUND

12 Section 801. Establishment of the fund.

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

15 Section 802. Funding of the fund.

16 Each licensee entitled to renew his license on or after
17 February 28, 1980, shall, when so renewing his license pay in
18 addition to the applicable license fee a further fee of \$25,
19 which shall be paid and credited to the Real Estate Recovery
20 Fund, thereafter any person upon receiving his initial real
21 estate license, shall, in addition to all fees, pay into the
22 Real Estate Recovery Fund a sum of \$25, but in no case shall any
23 licensee be required to pay said fee of \$25 more than once. All
24 said fees shall be paid into the State Treasury and credited to
25 the Real Estate Recovery Fund, and said deposits shall be
26 allocated solely for the purposes of the fund as provided in
27 this act. The fund shall be invested and interest/dividends
28 shall accrue to the fund.

29 Section 803. Application for recovery from fund.

30 (a) When any aggrieved person obtains a final judgment in

1 any court of competent jurisdiction against any person licensed
2 under this act, upon grounds of fraud, misrepresentation or
3 deceit with reference to any transaction for which a license is
4 required under this act and which cause of action occurred on or
5 after the effective date of this act, the aggrieved person may,
6 upon termination of all proceedings, including reviews and
7 appeals, file an application in the court in which the judgment
8 was entered for an order directing payment out of the Real
9 Estate Recovery Fund of the amount unpaid upon the judgment.

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

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

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

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

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

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

25 (d) When there is an order of the court to make payment or a
26 claim is otherwise to be levied against the fund, such amount
27 shall be paid to the claimant in accordance with the limitations
28 contained in this section. Notwithstanding any other provisions
29 of this section, the liability of that portion of the fund
30 allocated for the purpose of this act shall not exceed \$20,000

1 for any one license regardless of the number of claimants. If
2 the \$20,000 liability of the Real Estate Recovery Fund as
3 provided herein is insufficient to pay in full claims
4 adjudicated valid of all aggrieved persons against any one
5 licensee, such \$20,000 shall be distributed among them in such
6 ratio that the respective claims of the aggrieved applicants
7 bear to the aggregate of such claims held valid. If, at any
8 time, the money deposited in the Real Estate Recovery Fund is
9 insufficient to satisfy any duly authorized claim or portion
10 thereof, the commission shall, when sufficient money has been
11 deposited in the fund, satisfy such unpaid claims or portions
12 thereof, in the order that such claims or portions thereof were
13 originally filed, plus accumulated interest at the rate of 6% a
14 year.

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

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

28 CHAPTER 9

29 REPEALER AND EFFECTIVE DATE

30 Section 901. Repealer.

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

4 (1) All licenses issued thereunder in force on the
5 effective date of this act shall be presumed to meet the
6 requirements for issuance imposed by this act and shall
7 remain in full force and effect until their expiration date
8 or revocation by action of the commission.

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

12 (3) All offenses alleged to have occurred prior to the
13 effective date of this act shall be processed under the act
14 of May 1, 1929 (P.L.~~1215~~ 1216, No.427). ←

15 Section 902. Effective date.

16 This act shall take effect in 90 days.