
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,
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MARCH 20, 1979

AS REPORTED FROM COMMITTEE ON PROFESSIONAL LICENSURE, HOUSE OF
REPRESENTATIVES, AS AMENDED, OCTOBER 31, 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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16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 CHAPTER 1

19 GENERAL PROVISIONS

20 Section 101. Short title.

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

23 CHAPTER 2

24 DEFINITIONS

25 Section 201. Definitions.

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

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

30 "Broker." Any person who, FOR ANOTHER AND FOR A FEE, ←

1 COMMISSION OR OTHER VALUABLE CONSIDERATION:

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

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

6 (3) manages or appraises any real estate;

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

9 (5) undertakes to promote the sale, exchange, purchase
10 or rental of real estate: PROVIDED, HOWEVER, THAT THIS ←
11 PROVISION SHALL NOT INCLUDE ANY PERSON WHOSE MAIN BUSINESS IS
12 THAT OF ADVERTISING, PROMOTION OR PUBLIC RELATIONS; or

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

14 "Broker of record." A sole proprietor or principal
15 individual broker of a licensed corporation, partnership or
16 association or other entity, foreign or domestic.

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

27 "Commission." The State Real Estate Commission.

28 "Commissioner." Commissioner of Professional and
29 Occupational Affairs.

30 "Department." The Department of State acting through the

1 Commissioner of Professional and Occupational Affairs.

2 "Employ, employed, employee, employment." The use of the
3 words employ, employed, employee or employment in this act shall
4 apply to the relationship of independent contractor as well as
5 to the relationship of employment, except as applied to builder-
6 owner salespersons.

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

12 "Limited salesperson." Any person employed by a broker or
13 limited broker to perform duties as defined hereinunder limited
14 broker. No person employed by a broker to perform duties other
15 than those activities as defined hereinunder limited broker
16 shall be required to be licensed as a limited salesperson.

17 "Person." Any individual, corporation, partnership,
18 association or other entity foreign or domestic.

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

23 "Rental listing referral agent." Any person who owns or
24 manages a business which collects rental information for the
25 purpose of referring prospective tenants to rental units or
26 locations of such units.

27 "Salesperson." Any person employed by a broker to
28 participate in any activity included in this definition of
29 "broker." No person employed by a broker to perform duties other
30 than those activities as defined herein under "broker" shall be

1 required to be licensed as a salesperson.

2 "School." Any person, corporation, partnership, association
3 or other entity, foreign or domestic, which conducts classes in
4 real estate subjects, but which is not a college or university
5 duly accredited by the Middle States Association of Colleges and
6 Secondary Schools or equivalent accreditation.

7 CHAPTER 3

8 APPLICATION OF THE ACT AND PENALTIES

9 Section 301. Unlawful to conduct business without license.

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

19 Section 302. Civil suits.

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

1 Section 303. Criminal penalties.

2 Any person who shall, after the effective date of this act,
3 engage in or carry on the business, or act in the capacity of a
4 broker, salesperson, limited broker, limited salesperson,
5 builder-owner salesperson or rental listing referral agent,
6 within this Commonwealth, without a license, or shall carry on
7 or continue business after the suspension or revocation of any
8 such license issued to him, or shall employ any person as a
9 salesperson or limited salesperson to whom a license has not
10 been issued, or whose license as such shall have been revoked or
11 suspended, shall be guilty of a summary offense and upon
12 conviction thereof for a first offense shall be sentenced to pay
13 a fine not exceeding \$500 or suffer imprisonment, not exceeding
14 three months, or both and for a second or subsequent offense
15 shall be guilty of a felony of the third degree and upon
16 conviction thereof, shall be sentenced to pay a fine of not less
17 than \$2,000 but not more than \$5,000 or to imprisonment for not
18 less than one year but not more than two years, or both.

19 Section 304. Exclusions.

20 The provisions of this act shall not apply to an owner of
21 real estate with respect to property owned or leased by such
22 owner, provided that in the case of a partnership or
23 corporation, this exclusion shall only extend to all of its
24 partners or officers, respectively, but to no other partnership
25 or corporation personnel or employee, or to an attorney in fact
26 under a duly executed and recorded power of attorney from the
27 owner or lessor (provided such power of attorney is not utilized
28 to circumvent the intent of this act); nor shall this act be
29 construed to include in any way the services rendered by an
30 attorney at law, nor shall it be held to include a person acting

1 as receiver, trustee in bankruptcy, administrator, executor,
2 TRUSTEE, or guardian. or while acting under a court order or <—
3 under the authority of a will or of a trust instrument, nor
4 shall this act apply to the duly elected officer of any banking
5 institution or trust company operating under Federal or State
6 banking laws where real estate of the banking institution or
7 trust company only is involved, nor shall they be held to
8 include any officer or employee of a cemetery company who, as
9 incidental to his principal duties and without remuneration
10 therefor, shows lots in such company's cemetery to persons for
11 their use as a family burial lot, and who accepts deposits on
12 such lots for the representatives of the cemetery company,
13 legally authorized to sell the same, NOR SHALL IT BE HELD TO <—
14 INCLUDE ANY PROPERLY LICENSED AUCTIONEER, UNDER STATUTES OF THIS
15 STATE, WHILE PERFORMING AUTHORIZED DUTIES AT ANY BONA FIDE
16 AUCTION.

17 CHAPTER 4

18 POWERS AND DUTIES OF THE

19 STATE REAL ESTATE COMMISSION - GENERAL

20 Section 401. Duty to issue licenses.

21 It shall be the duty of the department to issue licenses to
22 individuals, copartnerships and corporations, who shall comply
23 with the provisions of this act.

24 Section 402. Approval of schools.

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

29 Section 403. Authority to examine applicants.

30 The commission is empowered to prescribe the subjects to be

1 tested. The ~~commission~~ DEPARTMENT shall arrange for the services <—
2 of professional testing services to write and administer
3 examinations on behalf of the commission in accordance with
4 commission guidance and approval.

5 Section 404. Power to promulgate regulations.

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

26 (b) If either chamber disapproves any RULE OR regulation, <—
27 such information shall be certified by the Speaker of the House
28 of Representatives or President pro tempore of the Senate to the
29 appropriate professional or occupational board, ANY SUCH RULE OR <—
30 REGULATION SHALL NOT BE promulgated as a final RULE OR <—

1 regulation.

2 Section 405. Duty to keep records confidential.

3 Neither the Commissioner of Professional and Occupational
4 Affairs, any member of the commission, nor any deputy,
5 secretary, representative, clerk or other employee of the
6 Commonwealth, shall directly or indirectly, willfully, exhibit,
7 publish, divulge, or make known to any person or persons any
8 record, report, statement, letter, or any other matter, fact or
9 thing except in accordance with the laws of this Commonwealth
10 dealing with the public's right to access to Commonwealth
11 proceedings and records. A person violating the provisions of
12 this section shall be guilty of a misdemeanor and sentenced to
13 pay a fine not exceeding \$1,000: Provided, however, That the
14 provisions of this section shall not apply to any ruling or
15 decision of the commission, with the record relative thereto,
16 and upon which the same was founded, which ruling or decision
17 shall have been duly made and entered under and in accordance
18 with the provisions of this act, after investigation and hearing
19 as hereinafter provided. All such records shall, immediately
20 upon the entry of such ruling or decision, become public records
21 of the department, subject to inspection by any person
22 interested.

23 CHAPTER 5

24 QUALIFICATIONS AND APPLICATIONS FOR LICENSES

25 SUBCHAPTER A

26 GENERAL

27 Section 501. Reputation; INACTIVE LICENSEE. <—

28 (A) Licenses shall be granted only to persons who bear a <—
29 good reputation for honesty, trustworthiness, integrity and
30 competence to transact the business of broker, salesperson,

1 limited broker, limited salesperson, builder-owner salesperson
2 or rental listing referral agent, in such manner as to safeguard
3 the interest of the public, and only after satisfactory proof of
4 such qualifications has been presented to the commission as it
5 shall by regulation require.

6 (B) ANY PERSON WHO REMAINS INACTIVE FOR A PERIOD OF FIVE
7 YEARS WITHOUT RENEWING HIS LICENSES SHALL, PRIOR TO HAVING A
8 LICENSE REISSUED TO HIM, SUBMIT TO AND PASS AN EXAMINATION.

←

9 SUBCHAPTER B

10 BROKER'S LICENSE

11 Section 511. Qualifications for license.

12 The applicant for a broker's license, shall as a condition
13 precedent to obtaining a license, take the broker's license
14 examination and score a passing grade. Prior to taking the
15 examination:

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

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

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

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

27 Section 512. Application for license.

28 (a) An application for a license as real estate broker shall
29 be made in writing, to the department, upon a form provided for
30 the purpose by the department and shall contain such information

1 as to the applicant as the commission shall require.

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

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

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

10 Section 513. Corporations, partnerships and associations.

11 If the applicant for a broker's license is a corporation,
12 partnership or association, then the provisions of sections 511
13 and 512 shall apply to the individual designated as broker of
14 record, ~~as well as those members.~~ THE EMPLOYEES OF SAID <—
15 CORPORATION, PARTNERSHIP OR ASSOCIATION actually engaging in or
16 intending to engage in the real estate business SHALL MEET THE <—
17 PROVISIONS OF SECTIONS 521 AND 522.

18 SUBCHAPTER C

19 SALESPERSON'S LICENSE

20 Section 521. Qualifications for license.

21 Each applicant shall as a condition precedent to obtaining a
22 license, take the salesperson license examination and score a
23 passing grade ~~within three years of the issuance of the license.~~ <—

24 Prior to taking the examination:

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

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

29 Section 522. Application for license.

30 (a) An application for a license as salesperson shall be

1 made, in writing to the department, upon a form provided for the
2 purpose by the department, and shall contain such information as
3 to the applicant, as the commission shall require.

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

7 (c) The application shall be received by the commission
8 within three years of the date upon which the applicant took the
9 examination.

10 SUBCHAPTER D

11 LIMITED BROKER'S LICENSE

12 Section 531. Qualifications for license.

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

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

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

22 Section 532. Application for license.

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

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

30 (c) The application shall be received by the commission

1 within three years of the date upon which the applicant took the
2 examination.

3 Section 533. Corporations, partnerships, associations
4 or other entities.

5 If the applicant for a limited broker's license is a
6 corporation, partnership, association, or other entity, foreign
7 or domestic, then the provisions of sections 531 and 532 shall
8 apply to the individual designated as Broker of Record, as well
9 as those members actually engaging in or intending to engage in
10 the real estate business.

11 SUBCHAPTER E

12 LIMITED SALESPERSON'S LICENSE

13 Section 541. Qualifications for license.

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

16 Section 542. Application for license.

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

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

25 ~~(c)~~ (B) The applicant for a license shall submit a sworn <—
26 affidavit by the broker or limited broker with whom he desires
27 to be affiliated certifying that the broker will actively
28 supervise and train the applicant and certifying the truth and
29 accuracy of the certification of the applicant.

30 SUBCHAPTER F

1 BUILDER - OWNER SALESPERSON'S LICENSE

2 Section 551. Qualifications for license.

3 Each applicant for a builder-owner salesperson's license,
4 shall as a condition precedent to obtaining a license, take the <—
5 standard real estate salesperson's license examination and score
6 a passing grade. Prior to taking the examination:

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

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

10 Section 552. Application for license.

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

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

19 (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 brokers

2 to maintain 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~~ AN OFFICE OF THE <—
8 BROKER. The address of the office shall be designated 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 renewal form at the new
15 location for the unexpired period, if the new location complies
16 with the terms of this act. Each licensed broker shall maintain
17 a sign on the outside of his ~~office of such size and content as~~ <—
18 ~~the commission shall prescribe~~ OFFICE INDICATING THE PROPER <—
19 LICENSED BROKERAGE NAME.

20 (b) If the applicant for a broker's license intends to
21 maintain more than one place of business within the
22 Commonwealth, he shall apply for and obtain an additional
23 license in his name at each branch office. Every such
24 application shall state the location of such branch office ~~and~~ <—
25 ~~the name of the person in charge of it~~. Effective 24 months
26 after the effective date of this act, each branch office shall
27 be under the direction and supervision of a manager who is
28 either the broker of record or an associate broker: PROVIDED, <—
29 HOWEVER, THAT SUCH BROKER OF RECORD OR AN ASSOCIATE BROKER MAY
30 DIRECT AND SUPERVISE MORE THAN ONE BRANCH OFFICE.

1 Section 602. Nonresident licensees.

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

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

17 Section 603. Employment of associate brokers, salesperson.

18 No associate broker or salesperson (which term in this
19 section shall include limited salesperson) shall be employed by
20 any other broker than is designated upon the renewal form issued
21 to said associate broker or said salesperson. Whenever a
22 licensed salesperson or associate broker desires to change his
23 employment from one licensed broker to another, he shall notify
24 the commission in writing at least ten days prior to the
25 intended date of change, pay the required fee, and return his
26 pocket card. The commission, shall, upon receipt of
27 acknowledgement from the new broker, of the change of employment
28 forthwith issue a new renewal form and pocket card, but in the
29 interim at such time as the change in affiliation of the
30 salesperson or associate broker occurs, he shall maintain a copy

1 of the notification sent to the commissioner as his temporary
2 license pending receipt of his renewal form. It shall be the
3 duty of the applicant to notify the commission if a new renewal
4 form or other pertinent communication is not received from the
5 commission within 30 days.

6 Section 604. Prohibited acts.

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

18 (1) Making any substantial misrepresentation.

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

23 (3) Pursuing a continued and flagrant course of
24 misrepresentation or making of false promises through
25 salesperson, associate broker, other persons, or any medium
26 of advertising, or otherwise.

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

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

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

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

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

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

27 (v) every broker shall keep records of all funds
28 deposited therein, which records shall indicate clearly
29 the date and from whom he received money, the date
30 deposited, the dates of withdrawals, and other pertinent

1 information concerning the transaction, and shall show
2 clearly for whose account the money is deposited and to
3 whom the money belongs. All such records and funds shall
4 be subject to inspection by the commission. Such separate
5 custodial or trust fund account shall designate the
6 broker, as trustee, and such account must provide for
7 withdrawal of funds without previous notice. All such
8 records shall be available to the commission, or its
9 representatives, immediately after proper demand or after
10 written notice given, or upon written notice given to the
11 depository.

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

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

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

20 (9) Failing to voluntarily furnish a copy of any
21 listing, sale, lease, or other contract relevant to a real
22 estate transaction to all signatories thereof at the time of
23 execution.

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

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

30 (12) Accepting a commission or any valuable

1 consideration by a salesperson or associate broker for the
2 performance of any acts specified in this act, from any
3 person, except the licensed real estate broker with whom he
4 is affiliated.

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

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

17 (15) Violating any rule or regulation promulgated by the
18 commission in the interest of the public and consistent with
19 the provisions of this act.

20 (16) In the case of a broker licensee, failing to
21 exercise adequate supervision over the activities of his
22 licensed salespersons or associate brokers within the scope
23 of this act.

24 (17) Failing, within a reasonable time as defined by the
25 commission, to provide information requested by the
26 commission as the result of a formal or informal complaint to
27 the commission, which would indicate a violation of this act.

28 (18) Soliciting, selling or offering for sale real
29 property by offering free lots, or conducting lotteries or
30 contests or offering prizes for the purpose of influencing a <—

1 BY DECEPTIVE CONDUCT ANY purchaser or prospective purchaser <—
2 of real property. THE COMMISSION SHALL PROMULGATE NECESSARY <—
3 RULES AND REGULATIONS TO PROVIDE STANDARDS FOR NONDECEPTION
4 CONDUCT UNDER THIS PARAGRAPH.

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

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

11 (21) Performing any act for which a AN APPROPRIATE REAL <—
12 ESTATE license is required AND IS NOT CURRENTLY IN EFFECT. <—

13 (22) Violating an order or a consent decree of the
14 Pennsylvania Human Relations Commission issued pursuant to
15 the act of October 27, 1955 (P.L.744, No.222), known as the
16 "Pennsylvania Human Relations Act," if such order or consent
17 decree resulted from a finding of discrimination in the area
18 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 (22) is intended to preclude
5 the State Real Estate Commission from conducting its own
6 investigation and maintaining its own file on any complaint of
7 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 (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. ~~Sales of a promotional nature~~ OUT-OF-STATE LAND ←
26 SALES; approval.

27 Any person who proposes to engage in sales of a promotional
28 nature in this Commonwealth for a property located ~~inside~~ ←
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. Hearings held by commission.

7 (a) The said hearings may be held by the commission or any
8 members thereof, or by any of its duly authorized
9 representatives, or by any other person duly authorized by the
10 commission for such purpose in any particular case.

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

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

22 Section 702. Imputed knowledge, limitations.

23 No violation of any of the provisions of this act on the part
24 of any salesperson, associate broker, or other employee of any
25 licensed broker, shall be grounds for the revocation or
26 suspension of the license of the employer of such salesperson,
27 associate broker, or employee, unless it shall appear upon the
28 hearings held, that such employer had ~~guilty~~ ACTUAL knowledge of ←
29 such violation. A course of dealing shown to have been followed
30 by such employee shall constitute prima facie evidence of such

1 knowledge upon the part of his employer.

2 CHAPTER 8

3 REAL ESTATE RECOVERY FUND

4 Section 801. Establishment of the fund.

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

7 Section 802. Funding of the fund.

8 Each licensee entitled to renew his license on or after
9 February 28, 1980, shall, when so renewing his license pay in
10 addition to the applicable license fee a further fee of ~~\$25~~ \$10, <—
11 which shall be paid and credited to the Real Estate Recovery
12 Fund, thereafter any person upon receiving his initial real
13 estate license, shall, in addition to all fees, pay into the
14 Real Estate Recovery Fund a sum of ~~\$25, but in no case shall any~~ <—
15 ~~licensee be required to pay said fee of \$25 more than once.~~ \$10. <—

16 IF AT THE COMMENCEMENT OF ANY BIENNIAL RENEWAL PERIOD BEGINNING
17 IN 1982 AND THEREAFTER, THE BALANCE OF THE FUND IS LESS THAN
18 \$300,000, THE COMMISSION MAY ASSESS AN ADDITIONAL FEE, IN
19 ADDITION TO THE RENEWAL FEE, AGAINST EACH LICENSEE IN AN AMOUNT
20 NOT TO EXCEED \$10 WHICH WILL YIELD REVENUES SUFFICIENT TO BRING
21 THE BALANCE OF THE FUND TO \$500,000. All said fees shall be paid
22 into the State Treasury and credited to the Real Estate Recovery
23 Fund, and said deposits shall be allocated solely for the
24 purposes of the fund as provided in this act. The fund shall be
25 invested and interest/dividends shall accrue to the fund.

26 Section 803. Application for recovery from fund.

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

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

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

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

10 (2) That he has obtained a FINAL judgment as set out in <—
11 this section.

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

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

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

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

29 JUDGMENT. If the \$20,000 liability of the Real Estate Recovery <—
30 Fund as provided herein is insufficient to pay in full claims

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

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

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

25 CHAPTER 9

26 REPEALER AND EFFECTIVE DATE

27 Section 901. Repealer.

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

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

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

9 (3) All offenses alleged to have occurred prior to the
10 effective date of this act shall be processed under the act
11 of May 1, 1929 (P.L.1216, No.427).

12 Section 902. Effective date.

13 This act shall take effect in 90 days.