
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 RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, NOVEMBER 27, 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.~~ ANY PERSON EMPLOYED BY A LICENSED REAL ESTATE BROKER <—
30 TO LIST FOR SALE, SELL OR OFFER FOR SALE, TO BUY OR OFFER TO BUY

1 OR TO NEGOTIATE THE PURCHASE OR SALE OR EXCHANGE OF REAL ESTATE
2 OR TO NEGOTIATE A LOAN ON REAL ESTATE OR TO LEASE OR RENT OR
3 OFFER TO LEASE, RENT OR PLACE FOR RENT ANY REAL ESTATE OR
4 COLLECT OR OFFER OR ATTEMPT TO COLLECT RENT FOR THE USE OF REAL
5 ESTATE FOR OR IN BEHALF OF SUCH REAL ESTATE BROKER. No person
6 employed by a broker to perform duties other than those
7 activities as defined herein under "broker" shall be required to
8 be licensed as a salesperson.

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

14 CHAPTER 3

15 APPLICATION OF THE ACT AND PENALTIES

16 Section 301. Unlawful to conduct business without license.

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

26 Section 302. Civil suits.

27 No action or suit shall be instituted, nor recovery be had,
28 in any court of this Commonwealth by any person for compensation
29 for any act done or service rendered, the doing or rendering of
30 which is prohibited under the provisions of this act by a person

1 other than a licensed broker, salesperson, limited broker,
2 limited salesperson, builder-owner salesperson or rental listing
3 referral agent, unless such person was duly licensed and
4 registered hereunder as broker or salesperson at the time of
5 offering to perform any such act or service or procuring any
6 promise or contract for the payment of compensation for any such
7 contemplated act or service.

8 Section 303. Criminal penalties.

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

26 Section 304. Exclusions.

27 The provisions of this act shall not apply TO THE EMPLOYEES
28 OF A PUBLIC UTILITY ACTING IN THE ORDINARY COURSE OF THE
29 BUSINESS OF THE UTILITY UNDER PROVISIONS OF TITLE 66 OF THE
30 PENNSYLVANIA CONSOLIDATED STATUTES WITH RESPECT TO NEGOTIATING

<—

1 THE PURCHASE, SALE OR LEASE OF PROPERTY, OR to an owner of real
2 estate with respect to property owned or leased by such owner,
3 provided that in the case of a partnership or corporation, this
4 exclusion shall only extend to all of its partners or officers,
5 respectively, but to no other partnership or corporation
6 personnel or employee, or to an attorney in fact under a duly
7 executed and recorded power of attorney from the owner or lessor
8 (provided such power of attorney is not utilized to ~~circumvent~~ ←
9 CIRCUMVENT the intent of this act); nor shall this act be ←
10 construed to include in any way the services rendered by an
11 attorney at law, nor shall it be held to include a person acting
12 as receiver, trustee in bankruptcy, administrator, executor,
13 TRUSTEE, or guardian. or while acting under a court order or ←
14 under the authority of a will or of a trust instrument, nor
15 shall this act apply to the duly elected officer of any banking
16 institution or trust company operating under Federal or State
17 banking laws where real estate of the banking institution or
18 trust company only is involved, nor shall they be held to
19 include any officer or employee of a cemetery company who, as
20 incidental to his principal duties and without remuneration
21 therefor, shows lots in such company's cemetery to persons for
22 their use as a family burial lot, and who accepts deposits on
23 such lots for the representatives of the cemetery company,
24 legally authorized to sell the same, NOR SHALL IT BE HELD TO ←
25 INCLUDE ANY PROPERLY LICENSED AUCTIONEER, UNDER STATUTES OF THIS
26 STATE, WHILE PERFORMING AUTHORIZED DUTIES AT ANY BONA FIDE
27 AUCTION.

28 CHAPTER 4

29 POWERS AND DUTIES OF THE

30 STATE REAL ESTATE COMMISSION - GENERAL

1 Section 401. Duty to issue licenses.

2 It shall be the duty of the department to issue licenses to
3 individuals, copartnerships and corporations, who shall comply
4 with the provisions of this act.

5 Section 402. Approval of schools.

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

10 Section 403. Authority to examine applicants.

11 The commission is empowered to prescribe the subjects to be
12 tested. The ~~commission~~ DEPARTMENT shall arrange for the services ←
13 of professional testing services to write and administer
14 examinations on behalf of the commission in accordance with
15 commission guidance and approval.

16 Section 404. Power to promulgate regulations.

17 (a) The commission shall have the power to promulgate RULES ←
18 OR regulations in order to administer and effectuate the
19 purposes of this act. All existing RULES OR regulations adopted ←
20 pursuant to the act of May 1, 1929 (P.L.1216, No.427), known as
21 the "Real Estate Brokers License Act of one thousand nine
22 hundred and twenty-nine," shall remain in full force and effect
23 until modified by the commission. The proposed rules and
24 regulations shall be submitted to the Secretary of the Senate
25 and the Chief Clerk of the House of Representatives who shall
26 cause the RULES OR regulations to be printed and distributed ←
27 among all members of both chambers in the same manner as a
28 reorganization plan. If both bodies fail to act within 60 days
29 of receipt of such RULES OR regulations, or within ten ←
30 legislative days after receipt, whichever shall last occur,

1 RULES OR regulations adopted by the appropriate professional or ←
2 occupational board shall be promulgated pursuant to the
3 provisions of the act of July 31, 1968 (P.L.769, No.240),
4 referred to as the Commonwealth Documents Law and 45 Pa.C.S.
5 Part II (relating to publication and effectiveness of
6 Commonwealth documents).

7 (b) If either chamber disapproves any RULE OR regulation, ←
8 such information shall be certified by the Speaker of the House
9 of Representatives or President pro tempore of the Senate to the
10 appropriate professional or occupational board, ANY SUCH RULE OR ←
11 REGULATION SHALL NOT BE promulgated as a final RULE OR ←
12 regulation.

13 Section 405. Duty to keep records confidential.

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

1 upon the entry of such ruling or decision, become public records
2 of the department, subject to inspection by any person
3 interested.

4 CHAPTER 5

5 QUALIFICATIONS AND APPLICATIONS FOR LICENSES

6 SUBCHAPTER A

7 GENERAL

8 Section 501. Reputation; INACTIVE LICENSEE. <—

9 (A) Licenses shall be granted only to persons who bear a <—
10 good reputation for honesty, trustworthiness, integrity and
11 competence to transact the business of broker, salesperson,
12 limited broker, limited salesperson, builder-owner salesperson
13 or rental listing referral agent, in such manner as to safeguard
14 the interest of the public, and only after satisfactory proof of
15 such qualifications has been presented to the commission as it
16 shall by regulation require.

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

20 SUBCHAPTER B

21 BROKER'S LICENSE

22 Section 511. Qualifications for license.

23 The applicant for a broker's license, shall as a condition
24 precedent to obtaining a license, take the broker's license
25 examination and score a passing grade. Prior to taking the
26 examination:

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

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

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

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

8 Section 512. Application for license.

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

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

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

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

21 Section 513. Corporations, partnerships and associations.

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

29 SUBCHAPTER C

30 SALESPERSON'S LICENSE

1 Section 521. Qualifications for license.

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

5 Prior to taking the examination:

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

7 (2) The applicant shall have completed four 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 Section 522. Application for license.

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

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

18 (c) The application shall be received by the commission
19 within three years of the date upon which the applicant took the
20 examination.

21 SUBCHAPTER D

22 LIMITED BROKER'S LICENSE

23 Section 531. Qualifications for license.

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

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

29 (2) The applicant shall have been engaged full time as a
30 sales person or limited salesperson for at least three years

1 or possess educational or experience qualifications which the
2 commission deems to be the equivalent thereof.

3 Section 532. Application for license.

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

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

11 (c) The application shall be received by the commission
12 within three years of the date upon which the applicant took the
13 examination.

14 Section 533. Corporations, partnerships, associations
15 or other entities.

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

22 SUBCHAPTER E

23 LIMITED SALESPERSON'S LICENSE

24 Section 541. Qualifications for license.

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

27 Section 542. Application for license.

28 (a) An application for a license as a limited salesperson
29 shall be made, in writing, to the department, upon a form
30 provided for the purpose by the department, and shall contain

1 such information as to the applicant, as the commission shall
2 require.

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

6 (e) (B) The applicant for a license shall submit a sworn <—
7 affidavit by the broker or limited broker with whom he desires
8 to be affiliated certifying that the broker will actively
9 supervise and train the applicant and certifying the truth and
10 accuracy of the certification of the applicant.

11 SUBCHAPTER F

12 BUILDER - OWNER SALESPERSON'S LICENSE

13 Section 551. Qualifications for license.

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

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

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

21 Section 552. Application for license.

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

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

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 SUBCHAPTER G

4 RENTAL LISTING REFERRAL AGENT'S LICENSE

5 Section 561. Qualifications for license.

6 The qualification for licensure as a rental listing referral
7 agent shall be the same as those set forth in sections 521 and
8 522 except that the applicant need not be affiliated with a
9 broker.

10 CHAPTER 6

11 DUTIES OF LICENSEES

12 Section 601. Duty of brokers and limited brokers
13 to maintain office.

14 (a) Each resident licensed broker (which term in this
15 section shall include limited broker) shall maintain a fixed
16 office within this Commonwealth. The original license of a
17 broker and of each licensee employed by such broker shall be
18 prominently displayed in ~~the broker's office~~ AN OFFICE OF THE <—
19 BROKER. The address of the office shall be designated on the
20 current renewal form. In case of removal of a broker's office
21 from the designated location, all licensees registered at that
22 location shall make application to the commission before such
23 removal or within ten days thereafter, designating the new
24 location of the office, and shall pay the required fees,
25 whereupon the commission shall issue a renewal form at the new
26 location for the unexpired period, if the new location complies
27 with the terms of this act. Each licensed broker shall maintain
28 a sign on the outside of his ~~office of such size and content as~~ <—
29 ~~the commission shall prescribe~~ OFFICE INDICATING THE PROPER <—
30 LICENSED BROKERAGE NAME.

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

12 Section 602. Nonresident licensees.

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

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

28 Section 603. Employment of associate brokers, salesperson.

29 No associate broker or salesperson (which term in this
30 section shall include limited salesperson) shall be employed by

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

17 Section 604. Prohibited acts.

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

- 29 (1) Making any substantial misrepresentation.
30 (2) Making any false promise of a character likely to

1 influence, persuade or induce any person to enter into any
2 contract or agreement when he could not or did not intend to
3 keep such promise.

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

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

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

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

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

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

27 (iv) every broker shall immediately deposit such
28 moneys, of whatever kind or nature, belonging to others,
29 in a separate custodial or trust fund account maintained
30 by the broker with some bank or recognized depository

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (18) Soliciting, selling or offering for sale real
10 property by offering free lots, or conducting lotteries or
11 contests or offering prizes for the purpose of influencing a <—
12 BY DECEPTIVE CONDUCT ANY purchaser or prospective purchaser <—
13 of real property. THE COMMISSION SHALL PROMULGATE NECESSARY <—
14 RULES AND REGULATIONS TO PROVIDE STANDARDS FOR NONDECEPTION
15 CONDUCT UNDER THIS PARAGRAPH.

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

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

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

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

1 (i) Accepting listings on the understanding that
2 illegal discrimination in the sale or rental of housing
3 is to be practiced due to race, color, religious creed,
4 sex, ancestry or national origin of a prospective lessee
5 or purchaser.

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

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

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

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

30 The 90-day waiting period delaying State Real Estate

1 Commission action against licensee accused of discrimination
2 applies only in initial complaints against such licensee, second
3 or subsequent complaints may be brought by individuals or the
4 Pennsylvania Human Relations Commission directly to the State
5 Real Estate Commission.

6 Section 605. ~~Sales of a promotional nature~~ OUT-OF-STATE LAND ←
7 SALES; approval.

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

15 CHAPTER 7

16 PROCEEDINGS BEFORE THE COMMISSION

17 Section 701. Hearings held by commission.

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

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

1 (c) Proceedings before the commission shall be conducted in
2 accordance with Title 1, Part 2 of the Pennsylvania Code.
3 Section 702. Imputed knowledge, limitations.

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

13 CHAPTER 8

14 REAL ESTATE RECOVERY FUND

15 Section 801. Establishment of the fund.

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

18 Section 802. Funding of the fund.

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

27 IF AT THE COMMENCEMENT OF ANY BIENNIAL RENEWAL PERIOD BEGINNING
28 IN 1982 AND THEREAFTER, THE BALANCE OF THE FUND IS LESS THAN
29 \$300,000, THE COMMISSION MAY ASSESS AN ADDITIONAL FEE, IN
30 ADDITION TO THE RENEWAL FEE, AGAINST EACH LICENSEE IN AN AMOUNT

1 NOT TO EXCEED \$10 WHICH WILL YIELD REVENUES SUFFICIENT TO BRING
2 THE BALANCE OF THE FUND TO \$500,000. All said fees shall be paid
3 into the State Treasury and credited to the Real Estate Recovery
4 Fund, and said deposits shall be allocated solely for the
5 purposes of the fund as provided in this act. The fund shall be
6 invested and interest/dividends shall accrue to the fund.

7 Section 803. Application for recovery from fund.

8 (a) When any aggrieved person obtains a final judgment in
9 any court of competent jurisdiction against any person licensed
10 under this act, upon grounds of fraud, misrepresentation or
11 deceit with reference to any transaction for which a license is
12 required under this act and which cause of action occurred on or
13 after the effective date of this act, the aggrieved person may,
14 upon termination of all proceedings, including reviews and
15 appeals, file an application in the court in which the judgment
16 was entered for an order directing payment out of the Real
17 Estate Recovery Fund of the amount unpaid upon the judgment.

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

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

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

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

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

29 (c) The commission shall have the right to answer actions
30 provided for under this section, and subject to court approval,

1 it may compromise a claim based upon the application of the
2 aggrieved party.

3 (d) When there is an order of the court to make payment or a
4 claim is otherwise to be levied against the fund, such amount
5 shall be paid to the claimant in accordance with the limitations
6 contained in this section. Notwithstanding any other provisions
7 of this section, the liability of that portion of the fund
8 allocated for the purpose of this act shall not exceed \$20,000
9 for any one ~~licensee regardless of the number of claimants.~~ <—

10 JUDGMENT. If the \$20,000 liability of the Real Estate Recovery <—
11 Fund as provided herein is insufficient to pay in full claims
12 adjudicated valid of all aggrieved persons against any one
13 licensee, such \$20,000 shall be distributed among them in such
14 ratio that the respective claims of the aggrieved applicants
15 bear to the aggregate of such claims held valid. If, at any
16 time, the money deposited in the Real Estate Recovery Fund is
17 insufficient to satisfy any duly authorized claim or portion
18 thereof, the commission shall, when sufficient money has been
19 deposited in the fund, satisfy such unpaid claims or portions
20 thereof, in the order that such claims or portions thereof were
21 originally filed, plus accumulated interest at the rate of 6% a
22 year.

23 (e) Upon petition of the commission the court may require
24 all claimants and prospective claimants against one licensee to
25 be joined in one action, to the end that the respective rights
26 of all such claimants to the Real Estate Recovery Fund may be
27 equitably adjudicated and settled.

28 (f) Should the commission pay from the Real Estate Recovery
29 Fund any amount in settlement of a claim as provided for in this
30 act against a licensee, the license of that person shall

1 automatically suspend upon the effective date of the payment
2 thereof by the commission. No such licensee shall be granted
3 reinstatement until he has repaid in full plus interest at the
4 rate of 6% a year, the amount paid from the Real Estate Recovery
5 Fund.

6 CHAPTER 9

7 REPEALER AND EFFECTIVE DATE

8 Section 901. Repealer.

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

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

17 (2) All proceedings in progress on the effective date
18 shall continue to proceed under ~~their~~ THE terms of THE act <—
19 under which THEY WERE brought. <—

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

23 Section 902. Effective date.

24 This act shall take effect in 90 days.