
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 THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
DECEMBER 10, 1979

AN ACT

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

3 TABLE OF CONTENTS

4 Chapter 1. General Provisions

5 Section 101. Short title.

6 Chapter 2. Definitions

7 Section 201. Definitions.

8 Chapter 3. Application of the Act and Penalties

9 Section 301. Unlawful to conduct business without license.

10 Section 302. Civil suits.

11 Section 303. Criminal penalties.

12 Section 304. Exclusions.

13 Chapter 4. Powers and Duties of the State Real Estate

14 Commission - General

15 Section 401. Duty to issue licenses.

1 Section 402. Approval of schools.
2 Section 403. Authority to examine applicants.
3 Section 404. Power to promulgate regulations.
4 Section 405. Duty to keep records confidential.

5 SECTION 406. ADMINISTRATION AND ENFORCEMENT. <—

6 Chapter 5. Qualifications and Applications for Licenses

7 Subchapter A. General

8 Section 501. Reputation; INACTIVE LICENSEE. <—

9 Subchapter B. Broker's License

10 Section 511. Qualifications for license.

11 Section 512. Application for license.

12 Section 513. Corporations, partnerships and associations.

13 Subchapter C. Salesperson's License

14 Section 521. Qualifications for license.

15 Section 522. Application for license.

16 Subchapter D. Limited Broker's License

17 Section 531. Qualifications for license.

18 Section 532. Application for license.

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

21 Subchapter E. Limited Salesperson's License

22 Section 541. Qualifications for license.

23 Section 542. Application for license.

24 Subchapter F. Builder-Owner Salesperson's License

25 Section 551. Qualifications for license.

26 Section 552. Application for license.

27 Subchapter G. Rental Listing Referral Agent's License

28 Section 561. Qualifications for license.

29 Chapter 6. Duties of Licensees

30 Section 601. Duty of brokers and limited brokers to

1 maintain office.
2 Section 602. Nonresident licensees.
3 Section 603. Employment of associate brokers, salesperson.
4 Section 604. Prohibited acts.
5 Section 605. ~~Sales of a promotional nature~~ OUT-OF-STATE ←
6 LAND SALES; approval.

7 Chapter 7. Proceedings Before the Commission

8 Section 701. Hearings held by commission.
9 Section 702. Imputed knowledge, limitations.

10 Chapter 8. Real Estate Recovery Fund

11 Section 801. Establishment of the fund.
12 Section 802. Funding of the fund.
13 Section 803. Application for recovery from fund.

14 Chapter 9. Repealer and Effective Date

15 Section 901. Repealer.
16 Section 902. Effective date.

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

19 CHAPTER 1

20 GENERAL PROVISIONS

21 Section 101. Short title.

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

24 CHAPTER 2

25 DEFINITIONS

26 Section 201. Definitions.

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

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

<—

1 "Broker." Any person who, FOR ANOTHER AND FOR A FEE,
2 COMMISSION OR OTHER VALUABLE CONSIDERATION:

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

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

7 (3) manages or appraises any real estate;

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

10 (5) undertakes to promote the sale, exchange, purchase
11 or rental of real estate: PROVIDED, HOWEVER, THAT THIS <—

12 PROVISION SHALL NOT INCLUDE ANY PERSON WHOSE MAIN BUSINESS IS
13 THAT OF ADVERTISING, PROMOTION OR PUBLIC RELATIONS; or

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

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

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

28 "Commission." The State Real Estate Commission.

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

1 "Department." The Department of State acting through the
2 Commissioner of Professional and Occupational Affairs.

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

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

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

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

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

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

28 "~~Salesperson.~~ ~~Any person employed by a broker to~~ <—
29 ~~participate in any activity included in this definition of~~
30 ~~broker.~~ ANY PERSON EMPLOYED BY A LICENSED REAL ESTATE BROKER <—

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

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

15 CHAPTER 3

16 APPLICATION OF THE ACT AND PENALTIES

17 Section 301. Unlawful to conduct business without license.

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

27 Section 302. Civil suits.

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

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

9 Section 303. Criminal penalties.

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

27 Section 304. Exclusions.

28 The provisions of this act shall not apply ~~TO THE EMPLOYEES~~ ←
29 ~~OF A PUBLIC UTILITY ACTING IN THE ORDINARY COURSE OF THE~~
30 ~~BUSINESS OF THE UTILITY UNDER PROVISIONS OF TITLE 66 OF THE~~

1 ~~PENNSYLVANIA CONSOLIDATED STATUTES WITH RESPECT TO NEGOTIATING~~
2 ~~THE PURCHASE, SALE OR LEASE OF PROPERTY, OR~~ to an owner of real
3 estate with respect to property owned or leased by such owner,
4 provided that in the case of a partnership or corporation, this
5 exclusion shall ~~only extend to all~~ NOT EXTEND TO MORE THAN FIVE <—
6 of its partners or officers, respectively, but to no other
7 partnership or corporation personnel or employee, ~~or to~~ EXCEPT <—
8 THE EMPLOYEES OF A PUBLIC UTILITY ACTING IN THE ORDINARY COURSE
9 OF UTILITY RELATED BUSINESS UNDER THE PROVISIONS OF TITLE 66 OF
10 THE PENNSYLVANIA CONSOLIDATED STATUTES (RELATING TO PUBLIC
11 UTILITIES), WITH RESPECT TO NEGOTIATING THE PURCHASE, SALE OR
12 LEASE OF PROPERTY NOR SHALL THIS ACT BE CONSTRUED TO INCLUDE IN
13 ANY WAY THE SERVICES RENDERED BY an attorney in fact under a
14 duly executed and recorded power of attorney from the owner or
15 lessor (provided such power of attorney is not utilized to
16 ~~circumvent~~ CIRCUMVENT the intent of this act); nor ~~shall this~~ <—
17 ~~act be construed to include in any way the services rendered by~~
18 an attorney at law, nor shall it be held to include a person
19 acting as receiver, trustee in bankruptcy, administrator,
20 executor, TRUSTEE, ~~or~~ guardian or while acting under a court <—
21 order or under the authority of a will or of a trust instrument,
22 nor shall this act apply to the duly elected officer of any
23 banking institution or trust company operating under Federal or
24 State banking laws where real estate of the banking institution
25 or trust company only is involved, nor shall they be held to
26 include any officer or employee of a cemetery company who, as
27 incidental to his principal duties and without remuneration
28 therefor, shows lots in such company's cemetery to persons for
29 their use as a family burial lot, and who accepts deposits on
30 such lots for the representatives of the cemetery company,

1 legally authorized to sell the same, NOR SHALL IT BE HELD TO <—
2 INCLUDE ANY PROPERLY LICENSED AUCTIONEER, UNDER STATUTES OF THIS
3 STATE, WHILE PERFORMING AUTHORIZED DUTIES AT ANY BONA FIDE
4 AUCTION.

5 CHAPTER 4
6 POWERS AND DUTIES OF THE
7 STATE REAL ESTATE COMMISSION - GENERAL

8 Section 401. Duty to issue licenses.

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

12 Section 402. Approval of schools.

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

17 Section 403. Authority to examine applicants.

18 The commission is empowered to prescribe the subjects to be
19 tested. The ~~commission~~ DEPARTMENT shall arrange for the services <—
20 of professional testing services to write and administer
21 examinations on behalf of the commission in accordance with
22 commission guidance and approval.

23 Section 404. Power to promulgate regulations.

24 (a) The commission shall have the power to promulgate RULES <—
25 OR regulations in order to administer and effectuate the
26 purposes of this act. All existing RULES OR regulations adopted <—
27 pursuant to the act of May 1, 1929 (P.L.1216, No.427), known as
28 the "Real Estate Brokers License Act of one thousand nine
29 hundred and twenty-nine," shall remain in full force and effect
30 until modified by the commission. The proposed rules and

1 regulations shall be submitted to the Secretary of the Senate
2 and the Chief Clerk of the House of Representatives who shall
3 cause the RULES OR regulations to be printed and distributed <—
4 among all members of both chambers in the same manner as a
5 reorganization plan. If both bodies fail to act within 60 days
6 of receipt of such RULES OR regulations, or within ten <—
7 legislative days after receipt, whichever shall last occur,
8 RULES OR regulations adopted by the ~~appropriate professional or~~ <—
9 ~~occupational board~~ COMMISSION shall be promulgated pursuant to <—
10 the provisions of the act of July 31, 1968 (P.L.769, No.240),
11 referred to as the Commonwealth Documents Law and 45 Pa.C.S.
12 Part II (relating to publication and effectiveness of
13 Commonwealth documents).

14 (b) If either chamber disapproves any RULE OR regulation, <—
15 such information shall be certified by the Speaker of the House
16 of Representatives or President pro tempore of the Senate to the
17 ~~appropriate professional or occupational board~~ COMMISSION, ANY <—
18 SUCH RULE OR REGULATION SHALL NOT BE promulgated as a final RULE <—
19 OR regulation.

20 Section 405. Duty to keep records confidential.

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

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

11 SECTION 406. ADMINISTRATION AND ENFORCEMENT. <—

12 THE COMMISSION SHALL HAVE THE POWER AND ITS DUTY SHALL BE TO
13 ADMINISTER AND ENFORCE THE LAWS OF THE COMMONWEALTH RELATING TO
14 THOSE ACTIVITIES INVOLVING REAL ESTATE FOR WHICH LICENSING IS
15 REQUIRED UNDER THIS ACT AND TO INSTRUCT AND REQUIRE ITS AGENTS
16 TO BRING PROSECUTIONS FOR UNAUTHORIZED AND UNLAWFUL PRACTICE.

17 CHAPTER 5

18 QUALIFICATIONS AND APPLICATIONS FOR LICENSES

19 SUBCHAPTER A

20 GENERAL

21 Section 501. Reputation; INACTIVE LICENSEE. <—

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

30 (B) ANY PERSON WHO REMAINS INACTIVE FOR A PERIOD OF FIVE <—

1 YEARS WITHOUT RENEWING HIS LICENSES SHALL, PRIOR TO HAVING A
2 LICENSE REISSUED TO HIM, SUBMIT TO AND PASS AN EXAMINATION.

3 SUBCHAPTER B

4 BROKER'S LICENSE

5 Section 511. Qualifications for license.

6 The applicant for a broker's license, shall as a condition
7 precedent to obtaining a license, take the broker's license
8 examination and score a passing grade. Prior to taking the
9 examination:

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

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

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

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

21 Section 512. Application for license.

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

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

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

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

4 Section 513. Corporations, partnerships and associations.

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

12 SUBCHAPTER C

13 SALESPERSON'S LICENSE

14 Section 521. Qualifications for license.

15 Each applicant shall as a condition precedent to obtaining a
16 license, take the salesperson license examination and score a
17 passing grade ~~within three years of the issuance of the license.~~ <—
18 Prior to taking the examination:

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

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

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

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

1 (c) The application shall be received by the commission
2 within three years of the date upon which the applicant took the
3 examination.

4 SUBCHAPTER D

5 LIMITED BROKER'S LICENSE

6 Section 531. Qualifications for license.

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

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

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

16 Section 532. Application for license.

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

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

24 (c) 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 533. Corporations, partnerships, associations
28 or other entities.

29 If the applicant for a limited broker's license is a
30 corporation, partnership, association, or other entity, foreign

1 or domestic, then the provisions of sections 531 and 532 shall
2 apply to the individual designated as Broker of Record, as well
3 as those members actually engaging in or intending to engage in
4 the real estate business.

5 SUBCHAPTER E

6 LIMITED SALESPERSON'S LICENSE

7 Section 541. Qualifications for license.

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

10 Section 542. Application for license.

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

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

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

24 SUBCHAPTER F

25 BUILDER - OWNER SALESPERSON'S LICENSE

26 Section 551. Qualifications for license.

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

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

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

5 (a) An application for a license as a builder-owner
6 salesperson shall be made, in writing to the department, upon a
7 form provided for the purpose by the department, and shall
8 contain such information as to the applicant as the commission
9 shall require.

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

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

16 SUBCHAPTER G

17 RENTAL LISTING REFERRAL AGENT'S LICENSE

18 Section 561. Qualifications for license.

19 The qualification for licensure as a rental listing referral
20 agent shall be the same as those set forth in sections 521 and
21 522 except that the applicant need not be affiliated with a
22 broker.

23 CHAPTER 6

24 DUTIES OF LICENSEES

25 Section 601. Duty of brokers and limited brokers
26 to maintain office.

27 (a) Each resident licensed broker (which term in this
28 section shall include limited broker) shall maintain a fixed
29 office within this Commonwealth. The original license of a
30 broker and of each licensee employed by such broker shall be

1 prominently displayed in ~~the broker's office~~ AN OFFICE OF THE <—
2 BROKER. The address of the office shall be designated on the
3 current renewal form. In case of removal of a broker's office
4 from the designated location, all licensees registered at that
5 location shall make application to the commission before such
6 removal or within ten days thereafter, designating the new
7 location of the office, and shall pay the required fees,
8 whereupon the commission shall issue a renewal form at the new
9 location for the unexpired period, if the new location complies
10 with the terms of this act. Each licensed broker shall maintain
11 a sign on the outside of his ~~office of such size and content as~~ <—
12 ~~the commission shall prescribe~~ OFFICE INDICATING THE PROPER <—
13 LICENSED BROKERAGE NAME.

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

25 Section 602. Nonresident licensees.

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

29 (b) In connection with the application of a nonresident of
30 this Commonwealth for a license as broker or salesperson, the

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

11 Section 603. Employment of associate brokers, salesperson.

12 No associate broker or salesperson (which term in this
13 section shall include limited salesperson) shall be employed by
14 any other broker than is designated upon the renewal form issued
15 to said associate broker or said salesperson. Whenever a
16 licensed salesperson or associate broker desires to change his
17 employment from one licensed broker to another, he shall notify
18 the commission in writing at least ten days prior to the
19 intended date of change, pay the required fee, and return his
20 ~~pocket card~~ CURRENT RENEWAL LICENSE. The commission, shall, upon ←
21 receipt of acknowledgement from the new broker, of the change of
22 employment forthwith issue a new renewal form and pocket card,
23 but in the interim at such time as the change in affiliation of
24 the salesperson or associate broker occurs, he shall maintain a
25 copy of the notification sent to the commissioner as his
26 temporary license pending receipt of his renewal form. It shall
27 be the duty of the applicant to notify the commission if a new
28 renewal form or other pertinent communication is not received
29 from the commission within 30 days.

30 Section 604. Prohibited acts.

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

12 (1) Making any substantial misrepresentation.

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

17 (3) Pursuing a continued and flagrant course of
18 misrepresentation or making of false promises through
19 salesperson, associate broker, other persons, or any medium
20 of advertising, or otherwise.

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

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

26 (i) all deposits or other moneys accepted by every
27 person, holding a real estate broker license under the
28 provisions of this act, shall be retained by such real
29 estate broker pending consummation or termination of the
30 transaction involved, and shall be accounted for in the

1 full amount thereof at the time of the consummation or
2 termination;

3 (ii) every salesperson and associate broker promptly
4 on receipt by him of a deposit or other moneys on any
5 transaction in which he is engaged on behalf of his
6 broker-employer, shall pay over the deposit to the
7 broker;

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

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

21 (v) every broker shall keep records of all funds
22 deposited therein, which records shall indicate clearly
23 the date and from whom he received money, the date
24 deposited, the dates of withdrawals, and other pertinent
25 information concerning the transaction, and shall show
26 clearly for whose account the money is deposited and to
27 whom the money belongs. All such records and funds shall
28 be subject to inspection by the commission. Such separate
29 custodial or trust fund account shall designate the
30 broker, as trustee, and such account must provide for

1 withdrawal of funds without previous notice. All such
2 records shall be available to the commission, or its
3 representatives, immediately after proper demand or after
4 written notice given, or upon written notice given to the
5 depository.

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

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

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

14 (9) Failing to voluntarily furnish a copy of any
15 listing, sale, lease, or other contract relevant to a real
16 estate transaction to all signatories thereof at the time of
17 execution.

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

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

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

29 (13) Failing to disclose to an owner in writing his
30 intention or true position if he directly or indirectly

1 through a third party, purchased for himself or acquires or
2 intends to acquire any interest in or any option to purchase
3 property which has been listed with his office to sell or
4 lease.

5 (14) Being convicted in a court of competent
6 jurisdiction of this or any other state, or Federal court, of
7 forgery, embezzlement, obtaining money under false pretenses,
8 bribery, larceny, extortion, conspiracy to defraud, or any
9 similar offense or offenses, or pleading guilty or nolo
10 contendere to any such offense or offenses.

11 (15) Violating any rule or regulation promulgated by the
12 commission in the interest of the public and consistent with
13 the provisions of this act.

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

18 (17) Failing, within a reasonable time as defined by the
19 commission, to provide information requested by the
20 commission as the result of a formal or informal complaint to
21 the commission, which would indicate a violation of this act.

22 (18) Soliciting, selling or offering for sale real
23 property by offering free lots, or conducting lotteries or
24 contests or offering prizes for the purpose of influencing a <—
25 BY DECEPTIVE CONDUCT ANY purchaser or prospective purchaser <—
26 of real property. THE COMMISSION SHALL PROMULGATE NECESSARY <—
27 RULES AND REGULATIONS TO PROVIDE STANDARDS FOR NONDECEPTION
28 CONDUCT UNDER THIS PARAGRAPH.

29 (19) Paying or accepting, giving or charging any
30 undisclosed commission, rebate, compensation or profit or

1 expenditures for a principal, or in violation of this act.

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

5 (21) Performing any act for which a AN APPROPRIATE REAL ←
6 ESTATE license is required AND IS NOT CURRENTLY IN EFFECT. ←

7 ~~(22) Violating an order or a consent decree of the ←~~
8 ~~Pennsylvania Human Relations Commission issued pursuant to~~
9 ~~the act of October 27, 1955 (P.L.744, No.222), known as the~~
10 ~~"Pennsylvania Human Relations Act," if such order or consent~~

11 (22) VIOLATING ANY PROVISION OF THE ACT OF OCTOBER 27, ←
12 1955 (P.L.744, NO.222), KNOWN AS THE "PENNSYLVANIA HUMAN
13 RELATIONS ACT," OR ANY ORDER OR CONSENT DECREE OF THE
14 PENNSYLVANIA HUMAN RELATIONS COMMISSION ISSUED PURSUANT TO
15 SUCH ACT IF SUCH ORDER OR CONSENT decree resulted from a
16 ~~finding~~ COMPLAINT of discrimination in the area of activities ←
17 authorized by virtue of this act. Such activities include but
18 are not limited to:

19 (i) Accepting listings on the understanding that
20 illegal discrimination in the sale or rental of housing
21 is to be practiced due to race, color, religious creed,
22 sex, ancestry ~~or~~, national origin , PHYSICAL HANDICAP, ←
23 DISABILITY OR USE OF A GUIDE DOG BECAUSE OF BLINDNESS OF
24 USER of a prospective lessee 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, PHYSICAL HANDICAP, DISABILITY OR USE OF A GUIDE ←
29 DOG BECAUSE OF BLINDNESS OF USER of a prospective lessee
30 or purchaser.

1 (iii) Making distinctions in locations of housing or
2 dates of availability of housing for purposes of
3 discrimination in the rental or sale of such housing due
4 to race, color, religious creed, sex, ancestry, ~~or~~ ←
5 national origin , PHYSICAL HANDICAP, DISABILITY OR USE OF ←
6 A GUIDE DOG BECAUSE OF BLINDNESS OF USER of the
7 prospective lessee or purchaser.

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

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

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

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

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

8 CHAPTER 7

9 PROCEEDINGS BEFORE THE COMMISSION

10 Section 701. Hearings held by commission.

11 (a) The said hearings may be held by the commission or any
12 members thereof, or by any of its duly authorized
13 representatives, or by any other person duly authorized by the
14 commission for such purpose in any particular case.

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

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

26 Section 702. Imputed knowledge, limitations.

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

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

6 CHAPTER 8

7 REAL ESTATE RECOVERY FUND

8 Section 801. Establishment of the fund.

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

11 Section 802. Funding of the fund.

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

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

30 Section 803. Application for recovery from fund.

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

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

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

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

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

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

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

26 (d) When there is an order of the court to make payment or a
27 claim is otherwise to be levied against the fund, such amount
28 shall be paid to the claimant in accordance with the limitations
29 contained in this section. Notwithstanding any other provisions
30 of this section, the liability of that portion of the fund

1 allocated for the purpose of this act shall not exceed \$20,000
2 for any one ~~license regardless of the number of claimants.~~ <—
3 JUDGMENT. If the \$20,000 liability of the Real Estate Recovery <—
4 Fund as provided herein is insufficient to pay in full claims
5 adjudicated valid of all aggrieved persons against any one
6 licensee, such \$20,000 shall be distributed among them in such
7 ratio that the respective claims of the aggrieved applicants
8 bear to the aggregate of such claims held valid. If, at any
9 time, the money deposited in the Real Estate Recovery Fund is
10 insufficient to satisfy any duly authorized claim or portion
11 thereof, the commission shall, when sufficient money has been
12 deposited in the fund, satisfy such unpaid claims or portions
13 thereof, in the order that such claims or portions thereof were
14 originally filed, plus accumulated interest at the rate of 6% a
15 year.

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

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

29 CHAPTER 9

30 REPEALER AND EFFECTIVE DATE

1 Section 901. Repealer.

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

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

10 (1) ALL VALID LICENSES ISSUED PRIOR TO THE EFFECTIVE <—
11 DATE OF THIS ACT UNDER THE PROVISIONS OF SAID 1929 ACT SHALL
12 CONTINUE WITH FULL FORCE AND VALIDITY DURING THE PERIOD FOR
13 WHICH ISSUED. FOR THE SUBSEQUENT LICENSE PERIOD, AND EACH
14 LICENSE PERIOD THEREAFTER, THE COMMISSION SHALL RENEW SUCH
15 LICENSES WITHOUT REQUIRING ANY LICENSE EXAMINATION TO BE
16 TAKEN: PROVIDED, HOWEVER, THAT APPLICANTS FOR RENEWAL OR
17 HOLDERS OF SUCH LICENSES SHALL BE SUBJECT TO ALL OTHER
18 PROVISIONS OF THIS ACT.

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

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

25 Section 902. Effective date.

26 This act shall take effect ~~in 90 days.~~ IMMEDIATELY. <—