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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 507**      Session of  
1979

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**Report of the Committee of Conference**

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To the Members of the Senate and House of Representatives:

We, the undersigned, Committee of Conference on the part of the Senate and House of Representatives for the purpose of considering Senate Bill No. 507, entitled:  
"An act establishing the State Real Estate Commission and providing for the licensing of real estate brokers and salesmen."

respectfully submit the following bill as our report:

MICHAEL P. SCHAEFER

MICHAEL A. O'PAKE

CLARENCE D. BELL

(Committee on the part of the Senate.)

EUGENE GEESEY

ROOSEVELT I. POLITE

THOMAS J. MURPHY, JR.

(Committee on the part of the House of Representatives.)

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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2 The General Assembly of the Commonwealth of Pennsylvania  
3 hereby enacts as follows:

4 CHAPTER 1

5 GENERAL PROVISIONS

6 Section 101. Short title.

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

9 CHAPTER 2

10 DEFINITIONS

11 Section 201. Definitions.

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

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

16 "Broker." Any person who, for another and for a fee,  
17 commission or other valuable consideration:

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

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

22 (3) manages or appraises any real estate;

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

25 (5) undertakes to promote the sale, exchange, purchase  
26 or rental of real estate: Provided, however, That this  
27 provision shall not include any person whose main business is  
28 that of advertising, promotion or public relations; or

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

30 "Broker of record." A sole proprietor or principal

1 individual broker of a licensed corporation, partnership or  
2 association or other entity, foreign or domestic.

3 "Builder-owner salesperson." Any person who is a full-time  
4 employee of a builder-owner of single and multifamily dwellings  
5 located within the Commonwealth and as such employee shall be  
6 authorized and empowered to list for sale, sell or offer for  
7 sale, or to negotiate the sale or exchange of real estate, or to  
8 lease or rent, or offer to lease, rent or place for rent, any  
9 real estate owned by his builder-owner employer, or collect or  
10 offer, or attempt to collect, rent for the use of real estate  
11 owned by his builder-owner employer, for and on behalf of such  
12 builder-owner employer.

13 "Commission." The State Real Estate Commission.

14 "Commissioner." Commissioner of Professional and  
15 Occupational Affairs.

16 "Department." The Department of State acting through the  
17 Commissioner of Professional and Occupational Affairs.

18 "Employ, employed, employee, employment." The use of the  
19 words employ, employed, employee or employment in this act shall  
20 apply to the relationship of independent contractor as well as  
21 to the relationship of employment, except as applied to builder-  
22 owner salespersons.

23 "Limited broker." Any person, partnership, association or  
24 corporation engaging in or carrying on the business or act in  
25 the capacity of a broker within the Commonwealth exclusively  
26 within the limited field or branch of business which applies to  
27 cemetery lots, plots and mausoleum spaces or openings.

28 "Limited salesperson." Any person employed by a broker or  
29 limited broker to perform duties as defined hereinunder limited  
30 broker. No person employed by a broker to perform duties other

1 than those activities as defined hereinunder limited broker  
2 shall be required to be licensed as a limited salesperson.

3 "Person." Any individual, corporation, partnership,  
4 association or other entity foreign or domestic.

5 "Real estate." Any interest or estate in land, whether  
6 corporeal, incorporeal, freehold or nonfreehold, whether the  
7 land is situated in this Commonwealth or elsewhere including  
8 leasehold interests.

9 "Rental listing referral agent." Any person who owns or  
10 manages a business which collects rental information for the  
11 purpose of referring prospective tenants to rental units or  
12 locations of such units. The term "rental listing referral  
13 agent" shall not include any employee or official of any public  
14 housing authority created pursuant to State or Federal law.

15 "Salesperson." Any person employed by a licensed real estate  
16 broker to list for sale, sell or offer for sale, to buy or offer  
17 to buy or to negotiate the purchase or sale or exchange of real  
18 estate or to negotiate a loan on real estate or to lease or rent  
19 or offer to lease, rent or place for rent any real estate or  
20 collect or offer or attempt to collect rent for the use of real  
21 estate for or in behalf of such real estate broker. No person  
22 employed by a broker to perform duties other than those  
23 activities as defined herein under "broker" shall be required to  
24 be licensed as a salesperson.

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

30

CHAPTER 3

1 APPLICATION OF THE ACT AND PENALTIES

2 Section 301. Unlawful to conduct business without license.

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

12 Section 302. Civil suits.

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

24 Section 303. Criminal penalties.

25 Any person who shall, after the effective date of this act,  
26 engage in or carry on the business, or act in the capacity of a  
27 broker, salesperson, limited broker, limited salesperson,  
28 builder-owner salesperson or rental listing referral agent,  
29 within this Commonwealth, without a license, or shall carry on  
30 or continue business after the suspension or revocation of any

1 such license issued to him, or shall employ any person as a  
2 salesperson or limited salesperson to whom a license has not  
3 been issued, or whose license as such shall have been revoked or  
4 suspended, shall be guilty of a summary offense and upon  
5 conviction thereof for a first offense shall be sentenced to pay  
6 a fine not exceeding \$500 or suffer imprisonment, not exceeding  
7 three months, or both and for a second or subsequent offense  
8 shall be guilty of a felony of the third degree and upon  
9 conviction thereof, shall be sentenced to pay a fine of not less  
10 than \$2,000 but not more than \$5,000 or to imprisonment for not  
11 less than one year but not more than two years, or both.

12 Section 304. Exclusions.

13 The provisions of this act shall not apply to an owner of  
14 real estate with respect to property owned or leased by such  
15 owner, provided that in the case of a partnership or  
16 corporation, this exclusion shall not extend to more than five  
17 of its partners or officers, respectively, but to no other  
18 partnership or corporation personnel or employee, except the  
19 employees of a public utility acting in the ordinary course of  
20 utility related business under the provisions of Title 66 of the  
21 Pennsylvania Consolidated Statutes (relating to public  
22 utilities), with respect to negotiating the purchase, sale or  
23 lease of property nor shall this act be construed to include in  
24 any way the services rendered by an attorney in fact under a  
25 duly executed and recorded power of attorney from the owner or  
26 lessor (provided such power of attorney is not utilized to  
27 circumvent the intent of this act); nor by an attorney at law,  
28 nor shall it be held to include a person acting as receiver,  
29 trustee in bankruptcy, administrator, executor, trustee or  
30 guardian while acting under a court order or under the authority



1 of a will or of a trust instrument, nor shall this act apply to  
2 the duly elected officer of any banking institution or trust  
3 company operating under Federal or State banking laws where real  
4 estate of the banking institution or trust company only is  
5 involved, nor shall they be held to include any officer or  
6 employee of a cemetery company who, as incidental to his  
7 principal duties and without remuneration therefor, shows lots  
8 in such company's cemetery to persons for their use as a family  
9 burial lot, and who accepts deposits on such lots for the  
10 representatives of the cemetery company, legally authorized to  
11 sell the same, nor shall it be held to include any properly  
12 licensed auctioneer, under statutes of this State, while  
13 performing authorized duties at any bona fide auction.

14 CHAPTER 4

15 POWERS AND DUTIES OF THE

16 STATE REAL ESTATE COMMISSION - GENERAL

17 Section 401. Duty to issue licenses.

18 It shall be the duty of the department to issue licenses to  
19 individuals, copartnerships and corporations, who shall comply  
20 with the provisions of this act.

21 Section 402. Approval of schools.

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

26 Section 403. Authority to examine applicants.

27 The commission is empowered to prescribe the subjects to be  
28 tested. The department shall arrange for the services of  
29 professional testing services to write and administer  
30 examinations on behalf of the commission in accordance with

1 commission guidance and approval.

2 Section 404. Power to promulgate regulations.

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

22 (b) If either chamber disapproves any rule or regulation,  
23 such information shall be certified by the Speaker of the House  
24 of Representatives or President pro tempore of the Senate to the  
25 commission, any such rule or regulation shall not be promulgated  
26 as a final rule or regulation.

27 Section 405. Duty to keep records confidential.

28 Neither the Commissioner of Professional and Occupational  
29 Affairs, any member of the commission, nor any deputy,  
30 secretary, representative, clerk or other employee of the

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

18 Section 406. Administration and enforcement.

19 The commission shall have the power and its duty shall be to  
20 administer and enforce the laws of the Commonwealth relating to  
21 those activities involving real estate for which licensing is  
22 required under this act and to instruct and require its agents  
23 to bring prosecutions for unauthorized and unlawful practice.

24

## CHAPTER 5

25

### QUALIFICATIONS AND APPLICATIONS FOR LICENSES

26

#### SUBCHAPTER A

27

#### GENERAL

28 Section 501. Reputation; inactive licensee.

29 (a) Licenses shall be granted only to persons who bear a  
30 good reputation for honesty, trustworthiness, integrity and

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

7 (b) Any person who remains inactive for a period of five  
8 years without renewing his license shall, prior to having a  
9 license reissued to him, submit to and pass an examination.

10 SUBCHAPTER B

11 BROKER'S LICENSE

12 Section 511. Qualifications for license.

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

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

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

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

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

28 Section 512. Application for license.

29 (a) An application for a license as real estate broker shall  
30 be made in writing, to the department, upon a form provided for

1 the purpose by the department and shall contain such information  
2 as to the applicant as the commission shall require.

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

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

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

11 Section 513. Corporations, partnerships and associations.

12 If the applicant for a broker's license is a corporation,  
13 partnership or association, then the provisions of sections 511  
14 and 512 shall apply to the individual designated as broker of  
15 record. The employees of said corporation, partnership or  
16 association actually engaging in or intending to engage in the  
17 real estate business shall meet the provisions of sections 521  
18 and 522.

19 SUBCHAPTER C

20 SALESPERSON'S LICENSE

21 Section 521. Qualifications for license.

22 Each applicant shall as a condition precedent to obtaining a  
23 license, take the salesperson license examination and score a  
24 passing grade. 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. Prior to taking  
16 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 applicant for a license shall submit a sworn  
23 affidavit by the broker or limited broker with whom he desires  
24 to be affiliated certifying that the broker will actively  
25 supervise and train the applicant and certifying the truth and  
26 accuracy of the certification of the applicant.

27 SUBCHAPTER F

28 BUILDER - OWNER SALESPERSON'S LICENSE

29 Section 551. Qualifications for license.

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

1 shall as a condition precedent to obtaining a license, take the  
2 standard real estate salesperson's license examination and score  
3 a passing grade. Prior to taking the examination:

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

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

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

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

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

19 SUBCHAPTER G

20 RENTAL LISTING REFERRAL AGENT'S LICENSE

21 Section 561. Qualifications for license.

22 The qualification for licensure as a rental listing referral  
23 agent shall be the same as those set forth in sections 521 and  
24 522 except that the applicant need not be affiliated with a  
25 broker.

26 CHAPTER 6

27 DUTIES OF LICENSEES

28 Section 601. Duty of brokers and limited brokers  
29 to maintain office.

30 (a) Each resident licensed broker (which term in this



1 section shall include limited broker) shall maintain a fixed  
2 office within this Commonwealth. The original license of a  
3 broker and of each licensee employed by such broker shall be  
4 prominently displayed in an office of the broker. The address of  
5 the office shall be designated on the current renewal form. In  
6 case of removal of a broker's office from the designated  
7 location, all licensees registered at that location shall make  
8 application to the commission before such removal or within ten  
9 days thereafter, designating the new location of the office, and  
10 shall pay the required fees, whereupon the commission shall  
11 issue a renewal form at the new location for the unexpired  
12 period, if the new location complies with the terms of this act.  
13 Each licensed broker shall maintain a sign on the outside of his  
14 office indicating the proper licensed brokerage name.

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

26 Section 602. Nonresident licensees.

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

30 (b) In connection with the application of a nonresident of

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

12 Section 603. Employment of associate brokers, salesperson.

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

1 Section 604. Prohibited acts.

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

13 (1) Making any substantial misrepresentation.

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

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

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

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

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

1 transaction involved, and shall be accounted for in the  
2 full amount thereof at the time of the consummation or  
3 termination;

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

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

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

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

1 broker, as trustee, and such account must provide for  
2 withdrawal of funds without previous notice. All such  
3 records shall be available to the commission, or its  
4 representatives, immediately after proper demand or after  
5 written notice given, or upon written notice given to the  
6 depository.

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

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

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

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

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

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

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

30 (13) Failing to disclose to an owner in writing his

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

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

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

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

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

23 (18) Soliciting, selling or offering for sale real  
24 property by offering free lots, or conducting lotteries or  
25 contests or offering prizes for the purpose of influencing by  
26 deceptive conduct any purchaser or prospective purchaser of  
27 real property. The commission shall promulgate necessary  
28 rules and regulations to provide standards for nondeception  
29 conduct under this paragraph.

30 (19) Paying or accepting, giving or charging any

1 undisclosed commission, rebate, compensation or profit or  
2 expenditures for a principal, or in violation of this act.

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

6 (21) Performing any act for which an appropriate real  
7 estate license is required and is not currently in effect.

8 (22) Violating any provision of the act of October 27,  
9 1955 (P.L.744, No.222), known as the "Pennsylvania Human  
10 Relations Act," or any order or consent decree of the  
11 Pennsylvania Human Relations Commission issued pursuant to  
12 such act if such order or consent decree resulted from a  
13 complaint of discrimination in the area of activities  
14 authorized by virtue of this act. Such activities include but  
15 are not limited to:

16 (i) Accepting listings on the understanding that  
17 illegal discrimination in the sale or rental of housing  
18 is to be practiced due to race, color, religious creed,  
19 sex, ancestry, national origin, physical handicap,  
20 disability or use of a guide dog because of blindness of  
21 user of a prospective lessee or purchaser.

22 (ii) Giving false information for purposes of  
23 discrimination in the rental or sale of housing due to  
24 race, color, religious creed, sex, ancestry, national  
25 origin, physical handicap, disability or use of a guide  
26 dog because of blindness of user of a prospective lessee  
27 or purchaser.

28 (iii) Making distinctions in locations of housing or  
29 dates of availability of housing for purposes of  
30 discrimination in the rental or sale of such housing due

1 to race, color, religious creed, sex, ancestry, national  
2 origin, physical handicap, disability or use of a guide  
3 dog because of blindness of user of the prospective  
4 lessee or purchaser.

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

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

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

26 Section 605. Out-of-state land sales; approval.

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



1 comply with such rules, regulations, restrictions and conditions  
2 pertaining thereto as the commission may impose as well as all  
3 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 Title 2 of the Pennsylvania Consolidated  
19 Statutes (relating to administrative law and procedure).

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 actual knowledge of such  
29 violation. A course of dealing shown to have been followed by  
30 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 \$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 \$10. If at the commencement  
15 of any biennial renewal period beginning in 1982 and thereafter,  
16 the balance of the fund is less than \$300,000, the commission  
17 may assess an additional fee, in addition to the renewal fee,  
18 against each licensee in an amount not to exceed \$10 which will  
19 yield revenues sufficient to bring the balance of the fund to  
20 \$500,000. All said fees shall be paid into the State Treasury  
21 and credited to the Real Estate Recovery Fund, and said deposits  
22 shall be allocated solely for the purposes of the fund as  
23 provided in this act. The fund shall be invested and  
24 interest/dividends shall accrue to the fund.

25 Section 803. Application for recovery from fund.

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

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

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

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

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

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

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

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

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

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

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

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

## 23 CHAPTER 9

### 24 REPEALER AND EFFECTIVE DATE

25 Section 901. Repealer.

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

29 (1) All valid licenses issued prior to the effective  
30 date of this act under the provisions of said 1929 act shall

1 continue with full force and validity during the period for  
2 which issued. For the subsequent license period, and each  
3 license period thereafter, the commission shall renew such  
4 licenses without requiring any license examination to be  
5 taken: Provided, however, That applicants for renewal or  
6 holders of such licenses shall be subject to all other  
7 provisions of this act.

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

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

14 Section 902. Effective date.

15 Section 561 shall take effect September 1, 1980 and the  
16 remaining provisions of this act shall take effect immediately.