

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL****No. 886** Session of  
2007

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INTRODUCED BY McILHINNEY, RAFFERTY, FERLO, ROBBINS, COSTA,  
O'PAKE AND ORIE, MAY 21, 2007

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SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL  
LICENSURE, AS AMENDED, JUNE 19, 2007

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## AN ACT

1 Amending the act of February 19, 1980 (P.L.15, No.9), entitled  
2 "An act establishing the State Real Estate Commission and  
3 providing for the licensing of real estate brokers and  
4 salesmen," further prohibiting certain acts.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Section 604(a)(18) of the act of February 19,  
8 1980 (P.L.15, No.9), known as the Real Estate Licensing and  
9 Registration Act, amended July 1, 1990 (P.L.304, No.69), is  
10 amended to read:

11 Section 604. Prohibited acts.

12 (a) The commission may upon its own motion, and shall  
13 promptly upon the verified complaint in writing of any person  
14 setting forth a complaint under this section, ascertain the  
15 facts and, if warranted, hold a hearing for the suspension or  
16 revocation of a license or registration certificate or for the  
17 imposition of fines not exceeding \$1,000, or both. The  
18 commission shall have power to refuse a license or registration

1 certificate for cause or to suspend or revoke a license or  
2 registration certificate or to levy fines up to \$1,000, or both,  
3 where the said license has been obtained by false  
4 representation, or by fraudulent act or conduct, or where a  
5 licensee or registrant, in performing or attempting to perform  
6 any of the acts mentioned herein, is found guilty of:

7 \* \* \*

8 (18) Soliciting, selling or offering for sale real  
9 property by offering free lots, or conducting lotteries or  
10 contests or offering prizes for the purpose of influencing by  
11 deceptive conduct any purchaser or prospective purchaser of  
12 real property. The commission shall promulgate necessary  
13 rules and regulations to provide standards for nondeception  
14 conduct under this paragraph.

15 (i) Any offering by mail or by telephone of any  
16 prize, gift, award or bonus in relation to the offering  
17 of sale of real property, including time sharing, shall  
18 be accompanied by a statement of the fair market value,  
19 not suggested retail price, of all prizes offered, plus a  
20 statement of the odds of receiving any such prize. If the  
21 offering is by mail the statement of value and odds shall  
22 be printed in a clear and conspicuous manner.

23 (ii) If a prize is to be awarded as a rebate, coupon  
24 or discount certificate, a statement of that fact shall  
25 be included. An offering by mail shall include a  
26 statement of any fees and the maximum amount of each  
27 which the prizewinner must pay in order to receive the  
28 prize. Such fees shall include, but not be limited to,  
29 dealer preparation, shipping, handling, redemption and  
30 shipping insurance. Each fee associated with a prize and

1 the odds of receiving the prize shall appear in a clear  
2 and conspicuous manner on any offering by mail.

3 (iii) An offering by mail shall be written in a  
4 clear and coherent manner, using common usages of words  
5 and terms. A concise description of the real property or  
6 interest being promoted shall appear in any offering and  
7 shall include a statement that the interest is a time  
8 share, where applicable. If the prospective prizewinner  
9 must personally visit and inspect the real property or  
10 interest being promoted and listen to a sales  
11 presentation in order to win a prize, the offering shall  
12 include a statement of that fact. An offering may include  
13 instructions for a recipient to contact a certain  
14 telephone number within a specified time period or by a  
15 specified date, if the offeror identifies the business  
16 entity and its relationship to the offeror and complies  
17 with this paragraph.

18 (iv) Substitutions of prizes having equal or greater  
19 fair market value may be made if the offeror complies  
20 with this paragraph.

21 ~~(v) If a recipient must attend a time share sales~~ <—  
22 ~~presentation as a condition of the offering, the required~~  
23 ~~disclosures for the offering shall be provided in writing~~  
24 ~~or electronically, be stated in a clear, coherent and~~  
25 ~~conspicuous manner and, for the disclosure regarding the~~  
26 ~~scheduled sales presentation, appear in boldface type.~~  
27 ~~The disclosures must be provided at least once before the~~  
28 ~~scheduled sales presentation and in a reasonable period~~  
29 ~~before the scheduled sales presentation to ensure that~~  
30 ~~the recipient receives the disclosures before leaving to~~

~~attend the sales presentation. The required disclosures need not be included in every advertisement or other written, oral or electronic communication provided or made to a recipient before a scheduled sales presentation.~~

(V) (A) IF A PROSPECTIVE PURCHASER MUST ATTEND A TIME SHARE SALES PRESENTATION IN ORDER TO OBTAIN THE BENEFITS OFFERED UNDER THE PROMOTION, A DISCLOSURE OF THE REQUIREMENT MUST BE PROVIDED TO THE PROSPECTIVE PURCHASER. THE REQUIRED DISCLOSURE MUST BE:

(I) IN WRITING OR ELECTRONICALLY TRANSMITTED;

(II) COMMUNICATED IN A CLEAR, COHERENT AND CONSPICUOUS MANNER;

(III) IN BOLDFACE TYPE;

(IV) PROVIDED AT LEAST ONCE BEFORE THE SCHEDULED TIME SHARE SALES PRESENTATION; AND

(V) PROVIDED WITHIN A REASONABLE PERIOD BEFORE THE SCHEDULED TIME SHARE SALES PRESENTATION TO ENSURE THAT THE INDIVIDUAL ATTENDING RECEIVES THE DISCLOSURE BEFORE DEPARTING TO ATTEND THE SCHEDULED TIME SHARE SALES PRESENTATION.

(B) THE REQUIREMENTS OF THIS PARAGRAPH NEED NOT BE INCLUDED IN EVERY ADVERTISEMENT OR OTHER WRITTEN, ORAL OR ELECTRONIC COMMUNICATION PROVIDED OR MADE TO A RECIPIENT BEFORE A SCHEDULED SALES PRESENTATION IF THE DISCLOSURE UNDER SUBPARAGRAPH (A) IS MADE AT LEAST ONCE.

(VI) IF THE INITIAL INVITATION TO THE SALES

1           PRESENTATION IS MADE TO A PROSPECTIVE PURCHASER WHILE THE  
2           PURCHASER IS ON THE PREMISES, THE WRITTEN DISCLOSURE  
3           REQUIRED UNDER PARAGRAPH (V) MAY BE PROVIDED DIRECTLY TO  
4           THE PERSON PRIOR TO THE SALES PRESENTATION.

5           [(v)] ~~(vi)~~ (VII) As used in this paragraph, the term ←  
6           "prize" includes, but is not limited to, money, personal  
7           property, vacations, travel certificates, motor vehicles  
8           and appliances.

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10          Section 2. This act shall take effect in 60 days.