
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 886 Session of
2007

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

AS REPORTED FROM COMMITTEE ON PROFESSIONAL LICENSURE, HOUSE OF
REPRESENTATIVES, AS AMENDED, OCTOBER 3, 2007

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) (A) If a prospective purchaser must attend a~~ <—
22 ~~time share sales presentation in order to obtain the~~
23 ~~benefits offered under the promotion, a disclosure of~~
24 ~~the requirement must be provided to the prospective~~
25 ~~purchaser. The required disclosure must be:~~

26 ~~(I) in writing or electronically~~
27 ~~transmitted;~~

28 ~~(II) communicated in a clear, coherent and~~
29 ~~conspicuous manner;~~

30 ~~(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
presentation is made to a prospective purchaser while the
purchaser is on the premises, the written disclosure
required under paragraph (v) may be provided directly to
the person prior to the sales presentation.~~

(V) (A) IF A PROSPECTIVE PURCHASER MUST ATTEND A
TIME SHARE SALES PRESENTATION AS A CONDITION OF THE
OFFERING, THE REQUIRED DISCLOSURES FOR THE OFFERING
SHALL:

(I) BE PROVIDED IN WRITING OR
ELECTRONICALLY, NOT ORALLY.

(II) BE STATED IN A CLEAR, COHERENT AND
CONSPICUOUS MANNER.

(III) FOR THE DISCLOSURE REGARDING THE
SCHEDULED SALES PRESENTATION, APPEAR IN BOLDFACE
TYPE.

1 (B) THE DISCLOSURES SHALL BE PROVIDED AT LEAST
2 ONCE BEFORE THE SCHEDULED SALES PRESENTATION AND IN A
3 REASONABLE PERIOD OF TIME BEFORE THE SCHEDULED SALES
4 PRESENTATION TO ENSURE THAT THE PROSPECTIVE PURCHASER
5 RECEIVES THE DISCLOSURES BEFORE DEPARTURE TO ATTEND
6 THE SALES PRESENTATION. IF THE INITIAL INVITATION TO
7 THE SALES PRESENTATION IS MADE TO A PROSPECTIVE
8 PURCHASER WHILE THE PURCHASER IS ON THE PREMISES, THE
9 DISCLOSURES MAY BE PROVIDED DIRECTLY TO THE
10 PROSPECTIVE PURCHASER PRIOR TO THE SALES
11 PRESENTATION.

12 (C) THE REQUIRED DISCLOSURES NEED NOT BE IN
13 EVERY ADVERTISEMENT OR OTHER WRITTEN, ORAL OR
14 ELECTRONIC COMMUNICATION PROVIDED OR MADE TO A
15 PROSPECTIVE PURCHASER BEFORE A SCHEDULED SALES
16 PRESENTATION.

17 [(v)] ~~(vii)~~ (VI) As used in this paragraph, the term ←
18 "prize" includes, but is not limited to, money, personal
19 property, vacations, travel certificates, motor vehicles
20 and appliances.

21 * * *

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