
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 835 Session of
2017

INTRODUCED BY DINNIMAN, FOLMER AND RAFFERTY, AUGUST 29, 2017

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
AUGUST 29, 2017

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," in definitions, further providing for definitions;
5 in application of act and penalties, further providing for
6 unlawful to conduct business without license or registration
7 certificate, for criminal penalties and for exclusions; in
8 powers and duties of the State Real Estate Commission in
9 general, further providing for administration and
10 enforcement; adding provisions relating to land agent
11 registration certificates; and, in duties of licensees,
12 further providing for prohibited acts.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. The definition of "broker" in section 201 of the
16 act of February 19, 1980 (P.L.15, No.9), known as the Real
17 Estate Licensing and Registration Act, is amended and the
18 section is amended by adding a definition to read:

19 Section 201. Definitions.

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

23 * * *

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, lease or an acquisition of interest
5 in any real estate;

6 (2) negotiates the listing, sale, purchase, exchange,
7 lease, time share and similarly designated interests,
8 financing or option for any real estate;

9 (3) manages any real estate;

10 (4) represents himself to be a real estate consultant,
11 counsellor, agent or finder;

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

16 (5.1) undertakes to perform a comparative market
17 analysis; or

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

19 The term "broker" shall not include a land agent.

20 * * *

21 "Land agent." A person who, in the course and scope of the
22 person's business in this Commonwealth and on acting on the
23 person's own behalf or on behalf of a prospective lessee or
24 buyer, has been engaged primarily in:

25 (1) negotiating the acquisition or divestiture of oil,
26 gas or mineral rights, including the acquisition or
27 divestiture of land or oil, gas or mineral rights for a
28 pipeline;

29 (2) negotiating business agreements that provide for the
30 exploration for or development of oil, gas or minerals;

1 (3) determining ownership of oil, gas or minerals
2 through research of public and private records;

3 (4) reviewing the status of title, curing title defects,
4 and otherwise reducing title risk associated with ownership
5 of oil, gas or minerals;

6 (5) managing rights or obligations derived from
7 ownership of interests and oil, gas or minerals; or

8 (6) activities to secure the unitization or pooling of
9 interests in oil, gas or minerals.

10 * * *

11 Section 2. Sections 301, 303 and 304(3) of the act are
12 amended to read:

13 Section 301. Unlawful to conduct business without license or
14 registration certificate.

15 It shall be unlawful for any person, directly or indirectly,
16 to engage in or conduct, or to advertise or hold himself out as
17 engaging in or conducting the business, or acting in the
18 capacity of a broker or salesperson, cemetery broker, cemetery
19 salesperson, campground membership salesperson, time-share
20 salesperson, builder-owner salesperson, rental listing referral
21 agent [or], cemetery company or land agent within this
22 Commonwealth without first being licensed or registered as
23 provided in this act, unless he is exempted from obtaining a
24 license or registration certificate under the provisions of
25 section 304.

26 Section 303. Criminal penalties.

27 Any person who shall engage in or carry on the business, or
28 act in the capacity of a broker, salesperson, cemetery broker,
29 cemetery salesperson, campground membership salesperson, time-
30 share salesperson, builder-owner salesperson, rental listing

1 referral agent [or], cemetery company or land agent, within this
2 Commonwealth, without a license or registration certificate, or
3 shall carry on or continue business after the suspension or
4 revocation of any such license or registration certificate
5 issued to him, or shall employ any person as a salesperson or
6 cemetery salesperson to whom a license has not been issued, or
7 whose license or registration certificate as such shall have
8 been revoked or suspended, shall be guilty of a summary offense
9 and upon conviction thereof for a first offense shall be
10 sentenced to pay a fine not exceeding \$500 or suffer
11 imprisonment, not exceeding three months, or both and for a
12 second or subsequent offense shall be guilty of a felony of the
13 third degree and upon conviction thereof, shall be sentenced to
14 pay a fine of not less than \$2,000 but not more than \$5,000 or
15 to imprisonment for not less than one year but not more than two
16 years, or both.

17 Section 304. Exclusions.

18 Except as otherwise provided in this act, the provisions of
19 this act shall not apply to the following:

20 * * *

21 (3) The officers or employees of a partnership or
22 corporation whose principal business is the discovery,
23 extraction, distribution or transmission of energy or mineral
24 resources, provided that the purchase, sale or lease of real
25 estate is a common and necessary transaction in the conduct
26 of such principal business, unless otherwise provided under
27 Subchapter K of Chapter 5.

28 * * *

29 Section 3. Section 406 of the act is amended by adding a
30 paragraph to read:

1 Section 406. Administration and enforcement.

2 The commission shall have the power and its duty shall be to
3 administer and enforce the laws of the Commonwealth relating to:

4 * * *

5 (4) Those activities involving land agents for which
6 registration is required under this act to instruct and
7 require its agents to bring prosecutions for unauthorized and
8 unlawful practice.

9 Section 4. Chapter 5 of the act is amended by adding a
10 subchapter to read:

11 SUBCHAPTER K

12 LAND AGENT REGISTRATION CERTIFICATE

13 Section 596.1. Requirements for registration certificate.

14 Each applicant shall as a condition precedent to obtaining a
15 land agent registration certificate:

16 (1) Be at least 18 years of age.

17 (2) Submit to the commission the following information:

18 (i) In accordance with 18 Pa.C.S. Ch. 91 (relating
19 to criminal history record information), a report of
20 criminal history record information from the Pennsylvania
21 State Police or a statement from the Pennsylvania State
22 Police that the State Police central repository contains
23 no such information relating to the applicant. The report
24 of criminal history record information shall be no more
25 than one year old.

26 (ii) If the applicant has not been a resident of
27 this Commonwealth for the two years immediately preceding
28 the date of application, the applicant shall submit a
29 report of Federal criminal history record information
30 obtained pursuant to 28 CFR Pt. 16, Subpt. C (relating to

1 production of FBI identification records in response to
2 written requests by subjects thereof).

3 Section 596.2. Application and fee for registration
4 certificate.

5 (a) Each applicant for a land agent registration certificate
6 shall submit an application for a registration certificate, in
7 writing to the department, upon a form provided for the purpose
8 by the department, and shall include such information as to the
9 applicant as the commission shall require, including, at a
10 minimum, all of the following information:

11 (1) The name of the applicant or, if the applicant is
12 not an individual, the names and addresses of all principals
13 of the applicant.

14 (2) The business address, telephone number and
15 electronic mail address of the applicant.

16 (3) The Social Security number of the applicant or, if
17 the applicant is not an individual, the Federal employer
18 identification number of the applicant.

19 (4) A list of any other state or other jurisdiction in
20 which the applicant holds or has held a similar registration
21 or license.

22 (5) A list of any other state or other jurisdiction in
23 which the applicant has had a similar registration or license
24 suspended or revoked.

25 (6) A statement whether a pending judgment or tax lien
26 exists against the applicant.

27 (b) A registration certificate shall be renewed biennially.

28 (c) The commission shall establish an initial application
29 fee and a biennial renewal fee by regulation.

30 Section 596.3. Establishment of registry.

1 The commission shall establish and maintain a registry of
2 land agents with registration certificates operating in this
3 Commonwealth. The registry shall:

4 (1) Be available for public inspection on the
5 commission's publicly accessible Internet website.

6 (2) Display the land agent's name, business address and
7 registration certificate.

8 Section 596.4. Proof of registration certificate prior to
9 obtaining any mineral rights.

10 Upon first contact with a property owner, a land agent shall
11 provide to the property owner proof that the land agent is
12 registered under this act.

13 Section 5. Section 604(a) (30) of the act is amended to read:
14 Section 604. Prohibited acts.

15 (a) The commission may upon its own motion, and shall
16 promptly upon the verified complaint in writing of any person
17 setting forth a complaint under this section, ascertain the
18 facts and, if warranted, hold a hearing for the suspension or
19 revocation of a license or registration certificate or for the
20 imposition of fines not exceeding \$1,000, or both. The
21 commission shall have power to refuse a license or registration
22 certificate for cause or to suspend or revoke a license or
23 registration certificate or to levy fines up to \$1,000, or both,
24 where the said license has been obtained by false
25 representation, or by fraudulent act or conduct, or where a
26 licensee or registrant, in performing or attempting to perform
27 any of the acts mentioned herein, is found guilty of:

28 * * *

29 (30) Having been disciplined under a real estate
30 licensing law of another jurisdiction or, in the case of a

1 land agent, under a similar registration or licensing law of
2 another jurisdiction, including, but not limited to, having a
3 license or registration certificate suspended or revoked, a
4 fine or penalty imposed or being censured or reprimanded
5 publicly or privately, except that the commission shall not
6 have the authority to levy a fine solely on the basis of this
7 paragraph.

8 * * *

9 Section 6. This act shall take effect in 60 days.