
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 906 Session of
2019

INTRODUCED BY OTTEN, MURT, RABB, FREEMAN, KRUEGER, CIRESI,
VITALI, STURLA AND McCLINTON, MARCH 20, 2019

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, MARCH 20, 2019

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

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

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

20 Section 201. Definitions.

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

1 * * *

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

4 (1) negotiates with or aids any person in locating or
5 obtaining for purchase, lease or an acquisition of interest
6 in any real estate;

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

10 (3) manages any real estate;

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

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

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

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

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

21 * * *

22 "Hydraulic fracturing chemical." A chemical substance or
23 combination of substances, including any chemicals and
24 proppants, that is intentionally added to a base fluid for
25 purposes of preparing a stimulation fluid for use in hydraulic
26 fracturing.

27 "Land agent." A person who, in the course and scope of the
28 person's business in this Commonwealth and on acting on the
29 person's own behalf or on behalf of a prospective lessee or
30 buyer, has been engaged in:

1 (1) negotiating the acquisition or divestiture of oil,
2 natural gas or mineral rights, including the acquisition or
3 divestiture of land or oil, natural gas or mineral rights for
4 a pipeline;

5 (2) negotiating business agreements that provide for the
6 exploration for or development of oil, natural gas or
7 minerals;

8 (3) determining ownership of oil, natural gas or
9 minerals through research of public and private records;

10 (4) reviewing the status of title, curing title defects
11 and otherwise reducing title risk associated with ownership
12 of oil, natural gas or minerals;

13 (5) managing rights or obligations derived from
14 ownership of interests in oil, natural gas or minerals;

15 (6) activities to secure the unitization or pooling of
16 interests in oil, natural gas or minerals;

17 (7) negotiating rights of way, easements and other
18 nonpossesory land rights for public utilities, including
19 water, sewer, telecommunications, electric and natural gas;
20 or

21 (8) negotiating rights of way, easements and other
22 nonpossesory land right for pipelines transmitting oil,
23 natural gas, natural gas liquids, hydraulic fracturing
24 chemicals or by-products of the natural gas hydraulic
25 fracturing process.

26 * * *

27 "Natural gas." A fossil fuel consisting of a mixture of
28 hydrocarbon gases, primarily methane, and possibly including
29 ethane, propane, butane, pentane, carbon dioxide, oxygen,
30 nitrogen and hydrogen sulfide and other gas species. The term

1 includes natural gas from oil fields known as associated gas or
2 casing head gas, natural gas fields known as nonassociated gas,
3 coal beds, shale beds and other formations. The term does not
4 include coal bed methane.

5 "Natural gas liquids." Hydrocarbons in natural gas that are
6 separated from the gas as liquids through the process of
7 Absorption, condensation, Adsorption or other methods in gas
8 processing of cycling plants.

9 "Oil." Hydrocarbons in liquid form at standard temperature
10 of 60 degrees Fahrenheit and pressure 14.7 PSIA, also referred
11 to as petroleum.

12 * * *

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

15 Section 301. Unlawful to conduct business without license or
16 registration certificate.

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

28 Section 303. Criminal penalties.

29 Any person who shall engage in or carry on the business, or
30 act in the capacity of a broker, salesperson, cemetery broker,

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

19 Section 304. Exclusions.

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

22 * * *

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

30 * * *

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

3 Section 406. Administration and enforcement.

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

6 * * *

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

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

13 SUBCHAPTER K

14 LAND AGENT REGISTRATION CERTIFICATE

15 Section 596.1. Requirements for registration certificate.

16 An applicant shall as a condition precedent to obtaining a
17 land agent registration certificate:

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

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

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

28 (ii) If the applicant has not been a resident of
29 this Commonwealth for the two years immediately preceding
30 the date of application, the applicant shall submit a

1 report of Federal criminal history record information
2 obtained pursuant to 28 CFR Pt. 16 Subpt. C (relating to
3 production of FBI identification records in response to
4 written requests by subjects thereof).

5 Section 596.2. Application and fee for registration
6 certificate.

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

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

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

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

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

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

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

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

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

1 Section 596.3. Establishment of registry.

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

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

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

9 Section 596.4. Proof of registration.

10 Upon first contact with a property owner, a land agent shall
11 provide to the property owner all of the following:

12 (1) A copy of his land agent registration certificate.

13 (2) The name, address, telephone number and web address
14 for the publicly accessible Internet website of the company
15 that employs the land agent.

16 (3) If applicable, the name, address, telephone number
17 and web address for the publicly accessible Internet website
18 of the prospective lessee or buyer that the land agent
19 represents.

20 Section 596.5. Time of contact.

21 A land agent may contact a property owner only from Monday
22 through Friday between 8 a.m. and 8 p.m. A land agent may not
23 contact a property owner on a national holiday.

24 Section 5. Section 604(a)(30) of the act is amended to read:

25 Section 604. Prohibited acts.

26 (a) The commission may upon its own motion, and shall
27 promptly upon the verified complaint in writing of any person
28 setting forth a complaint under this section, ascertain the
29 facts and, if warranted, hold a hearing for the suspension or
30 revocation of a license or registration certificate or for the

1 imposition of fines not exceeding \$1,000, or both. The
2 commission shall have power to refuse a license or registration
3 certificate for cause or to suspend or revoke a license or
4 registration certificate or to levy fines up to \$1,000, or both,
5 where the said license has been obtained by false
6 representation, or by fraudulent act or conduct, or where a
7 licensee or registrant, in performing or attempting to perform
8 any of the acts mentioned herein, is found guilty of:

9 * * *

10 (30) Having been disciplined under a real estate
11 licensing law of another jurisdiction or, in the case of a
12 land agent, under a similar registration or licensing law of
13 another jurisdiction, including, but not limited to, having a
14 license or registration certificate suspended or revoked, a
15 fine or penalty imposed or being censured or reprimanded
16 publicly or privately, except that the commission shall not
17 have the authority to levy a fine solely on the basis of this
18 paragraph.

19 * * *

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