

If a claim be not filed within the time aforesaid, or if it be not prosecuted in the manner and at the time aforesaid, its lien on real estate shall be wholly lost.

Loss of lien.

Section 3. No municipal tax lien heretofore entered shall be invalidated, discharged, or set aside for want of any formality in the claim, or for noncompliance with the requirements of section ten of the act to which this is an amendment, if the claim whereon the lien was entered was filed in the office of the prothonotary on or before the last day of the third calendar year after that in which the tax was first payable, and correctly shows the amount of the unpaid tax against the property for which the lien was filed for the year covered by the lien, and all such tax liens are hereby ratified, confirmed, and validated.

Saving certain tax liens.

Section 4. This act shall become effective immediately upon final enactment.

When effective.

APPROVED—The 2d day of July, A. D. 1937.

GEORGE H. EARLE

No. 590

AN ACT

To further amend the act, approved the first day of May, one thousand nine hundred and twenty-nine (Pamphlet Laws, one thousand two hundred sixteen), entitled "An act to define real estate brokers and real estate salesmen; and providing for the licensing, regulation, and supervision of resident and nonresident real estate brokers and real estate salesmen and their business," by further defining real estate brokers and real estate salesmen; and further providing for the licensing, regulation, and supervision of resident and nonresident real estate brokers and real estate salesmen and their business.

Section 1. Be it enacted, &c., That section two of the act, approved the first day of May, one thousand nine hundred and twenty-nine (Pamphlet Laws, one thousand two hundred sixteen), entitled "An act to define real estate brokers and real estate salesmen; and providing for the licensing, regulation, and supervision of resident and nonresident real estate brokers and real estate salesmen and their business," is hereby amended to read as follows:

Section 2, act of May 1, 1929 (P. L. 1216), amended.

Section 2. (a) The term "real estate broker" shall include all persons, copartnerships, associations, and corporations, foreign and domestic, who, for another and for a fee, commission, or other valuable consideration, shall sell, exchange, purchase, or rent, or shall negotiate the sale, exchange, purchase or rental, or shall offer or attempt to negotiate the sale, exchange, purchase, or rental, or shall hold himself or themselves out

Real estate broker defined.

as engaged in the business of selling, exchanging, purchasing, or renting of any real estate, interest in real estate, the property of another, whether the same shall be located within the State of Pennsylvania, or elsewhere, or shall collect or offer or attempt to collect rental for the use of real estate, the property of another, or shall negotiate or offer or attempt to negotiate a loan, secured or to be secured by mortgage or other encumbrance upon or transfer of any such real estate. It shall also include any person, copartnership, association, or corporation employed by the owner or owners of lots, or other parcels of real estate, *including cemetery lots*, at a stated salary, or upon a commission, or upon a salary and commission basis or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt to negotiate the sale or exchange of any such lot or parcel of real estate. One act in consideration of compensation, by fee, commission or otherwise, of buying, selling, renting or exchanging any such real estate of or for another, or attempting or offering so to do, or negotiating a loan upon or leasing or renting or placing for rent any such real estate, or collection of rent therefrom, shall constitute prima facie evidence that the person, copartnership, association, or corporation, so acting or attempting to act, is a real estate broker within the meaning of this act. *The term "real estate broker" shall also include all persons, copartnerships, associations, and corporations, foreign and domestic, the principal business of whom or which is the purchasing, selling, renting, trading or exchanging of real estate, whether for another or as purchaser, seller or owner of such real estate, and all real estate auctioneers and real estate appraisers, and all persons who negotiate or offer for sale any mortgage or other security for which real estate is the collateral, as well as all managers of office buildings, apartment buildings, and other buildings, and persons employed by banking institutions and trust companies for the foregoing purposes.*

Real estate salesman defined.

(b) The term "real estate salesman" shall mean and include any person employed by a licensed real estate broker to [sell or offer for sale, to buy or offer to buy, or to negotiate the purchase, sale or exchange of any real estate, or interest in real estate, the property of another, or to negotiate a loan upon real estate, or to lease or rent or offer to lease or rent or place for rent any such real estate.] *perform any or all of the functions of a real estate broker: Provided, however, That stenographic or other clerical help, employed solely in such capacity in the office of the broker, shall not be required to be licensed as real estate salesmen.*

(c) Neither of the said terms "real estate broker" or "real estate salesman" shall be held to include within the meaning of this act any person, firm, association, partnership or corporation who, as owner, shall perform any of the acts with reference to property owned by them, *unless the principal business of such person, firm, association, partnership or corporation is the purchasing, selling, renting, trading or exchanging of such property*, nor any person holding in good faith a duly executed letter of attorney from the actual owner of any real estate, authorizing the sale, conveyance or leasing of such real estate for and in the name of such owner, or the negotiating of any loan thereon, [nor shall they be held to include, in any way, attorneys at law and justices of the peace] *where only one transaction is involved, and where such letter of attorney is recorded in the office of the recorder of deeds*, nor shall they be held to include, in any way, attorneys at law and justices of the peace, nor shall they be held to include any receiver, trustee in bankruptcy, administrator or executor, or any other person or corporation acting under the appointment or order of any court, or as trustee under the authority of a will or deed of trust *where only the transactions pertaining thereto are involved*, or *the duly elected executive officer of any banking institution or trust company operating under the banking laws of Pennsylvania.*

Exceptions.

(d) The term "department" shall mean the Department of Public Instruction of this Commonwealth.

Department defined.

Section 2. Section six of said act, as amended by section one of the act, approved the twenty-sixth day of June, one thousand nine hundred and thirty-one (Pamphlet Laws, one thousand four hundred ten), is hereby further amended to read as follows:

Section 6, as amended by section 1, act of June 26, 1931 (P. L. 1410), further amended.

Section 6. From and after January 1, 1930, it shall be unlawful for any person, copartnership, association, or corporation to engage in or carry on the business, or act in the capacity of a real estate broker, or a real estate salesman, within this Commonwealth, without first obtaining a license as a real estate broker or real estate salesman from the department.

License required.

No person, copartnership, association, or corporation may be licensed by the department as a real estate broker unless such person and all of the members of any such copartnership or association who are actively engaged in the real estate business and all of the officers of any such corporation who are actively engaged are of the age of twenty-one years and upwards, [and] are citizens of the United States, *and shall have served an apprenticeship, as a duly licensed real estate salesman, of not less than two years, in the employ of a duly licensed real estate broker or brokers.*

Qualifications of applicants.

Clauses (b) and (c) of sections 7 and 8, as last amended by section 1, act of May 16, 1935 (P. L. 170), further amended.

Application for broker's license.

Recommendations.

License for additional offices.

Section 3. Clauses (b) and (c) of section seven and section eight of said act, as last amended by section one of the act, approved the sixteenth day of May, one thousand nine hundred and thirty-five (Pamphlet Laws, one hundred seventy), are hereby further amended to read as follows:

(b) Applications for licenses as real estate broker shall be made, in writing, to the department, upon a blank provided for the purpose by the department, and shall contain such information as to the applicant, or, when the application is made by a copartnership, association, or a corporation, as to its members or officers, as the department shall require. The application shall be signed by the applicant, and shall be accompanied by the recommendation of at least two citizens not related to the applicant, or, in the case of a copartnership or corporation, to any member or officer thereof, who shall be owners of real estate within, and residents of, the county in which the applicant resides or has his, their, or its place of business, certifying to the honesty, truthfulness, and good repute of the applicant, or, in the case of a copartnership, or association, or corporation, its members or officers by name, and recommending that a license be granted the applicant, *and by the recommendation of one licensed real estate broker, or licensed member, or officer of a copartnership, association, or corporation, licensed as a real estate broker.* If the applicant, or, in the case of a copartnership or corporation, any of its members or officers, shall have resided, or shall have engaged in business for less than one year in the county from which the application is made, such application shall also be accompanied by the recommendation of at least two (2) real estate owners, not related to the applicant, of each of the counties where he or each of such members or officers has formerly resided or engaged in business during the said period of one year prior to the filing of such application, certifying to the honesty, truthfulness, and good repute of the applicant, or its members or officers by name, and recommending that the license be granted. *Each application shall be accompanied by two photographs of the applicant, or, in the case of a copartnership, association or corporation, of the applicant, members, or officers thereof.* Where the applicant for a real estate broker's license maintains more than one place of business within the Commonwealth, he shall be required to apply for and procure a duplicate license for each branch office so maintained by him, such duplicate license to be issued with an additional charge of two dollars and fifty cents (\$2.50) for each additional office or place of business. Every such application shall state the name of the person, copartnership, association, or corporation, and the location of

the place or places of business for which such license is desired, and the license shall expire December thirty-first, of the year issued, unless sooner revoked or suspended by the department, or renewed annually, as hereinafter described.

Expiration date.

(c) Application for license as real estate salesman shall be made in writing to the department, signed by the applicant, setting forth the period of time during which he has been engaged in the business, stating the name of the last employer, and the name and place of business of the person, firm, copartnership, association, or corporation then employing him, or into whose employ he is then about to enter. All applications shall be made upon a blank provided for the purpose by the department, and shall contain such information as to the applicant, in addition to the above prescribed, as the department shall require. The application shall be accompanied by the recommendation of his employer, or prospective employer, certifying that the applicant is honest, truthful, and of good repute, and recommending that such license be granted. All such licenses shall expire December thirty-first, of the year issued, unless sooner revoked or suspended by the department, or renewed annually, as hereinafter described.

Application for salesman's license.

Expiration date.

No person may hereafter be licensed as a real estate salesman, and no person, copartnership, association, or corporation may hereafter be licensed as a real estate broker, by the department, unless such person and all of the members of any such copartnership or association, and all of the officers of any such corporation, intending to actually engage in, or actually engaging in, the real estate business as a real estate broker or salesman, shall first submit to and pass an examination conducted by the department *and prepared by the department*: Provided, however, That any person, who has been licensed as a real estate salesman or real estate broker for a period of six (6) months, next preceding the effective date of this act, and is thus engaged in this Commonwealth at the time this act goes into effect, may secure the certificate of registration as a broker or a salesman without an examination, provided such person shall make application to the department for registration within ninety (90) days after the effective date of this act. The department shall hold examinations on the second Saturdays in January, April, July, and October in the cities of Philadelphia, Pittsburgh, Harrisburg, Wilkes-Barre, and Erie, at such hours, and under such rules and regulations, as the department shall prescribe. The examination for a broker's license shall [differ from the examination for a salesman's license, in that it shall be of a more exacting nature, and require higher standards of knowledge of real estate] *include*

Examination.

Proviso.

questions on real estate practice, real estate law, the applicant's ability to read and write English, his knowledge of mathematics, and other common school branches. The examination for salesman's license shall be limited

Proviso. *to the common school branches:* Provided, however, That in event the license of any real estate broker or salesman shall be cancelled by the department, subsequent to the enactment of this act, no new license shall be issued to such person, unless he complies with the provisions of this act: Provided further, however, That the department may waive these requirements in the case of an application from a nonresident broker of those states having similar requirements, under the laws of which, similar recognition and courtesies are extended to licensed real estate brokers and real estate salesmen of this State.

Temporary permit.

An individual may apply for, and receive from the department, a temporary permit to operate as a real estate [broker or as a real estate] salesman until the next regular examination, but not more than two successive temporary permits shall be issued to any individual. Any individual, who fails to pass the examination at two successive examinations, shall be ineligible for a similar examination, until after the expiration of [one full year] *two full years* from the time such individual took the last examination. [Provided, however, That any applicant who fails to pass a salesman's examination shall be ineligible to apply for, or operate under, a temporary broker's certificate.]

Fees.

Section 8. The fees to be charged by and paid to the department by licensees for all licenses and renewals thereof issued shall be as follows:

(1) A fee of ten dollars (\$10.00) shall accompany an application for examination for real estate broker's license, and in the event that the applicant successfully passes the examination, no additional fee shall be required for the issuance of a certificate of registration: Provided, That if the applicant fails to pass the examination, he may be eligible to take the next examination without any additional fee: Provided, That there shall be an additional license fee of two and one-half (\$2.50) dollars, annually, for each additional office or place of business.

(2) A fee of five dollars (\$5.00) shall accompany an application for examination for a real estate salesman's license, and in the event that the applicant successfully passes the examination, no additional fee shall be required for the issuance of a certificate of registration: Provided, however, That if the applicant fails to pass the examination, he may be eligible to take the next examination without any additional fee.

(3) It shall be the duty of all persons, licensed to

practice as a real estate broker or real estate salesman, to register annually with the department and pay for each such annual registration as a real estate broker, the sum of five dollars (\$5.00), and pay for each such annual registration as a real estate salesman, the sum of two dollars and one-half (\$2.50). Said application, for renewal of real estate broker's or salesman's license, shall be made to the department annually on or before January first of the next succeeding year.

(4) *The department shall be required to publish annually a list of the persons, copartnerships, and corporations registered for that particular year.*

Section 4. Section nine, and clauses (a) and (d) of section ten of said act, as amended by sections four, five, and six of the act, approved the twenty-sixth day of June, one thousand nine hundred and thirty-one (Pamphlet Laws, one thousand four hundred ten), are hereby further amended to read as follows:

Section 9, and clauses (a) and (d) of section 10, as amended by sections 4, 5, and 6, act of June 26, 1931 (P. L. 1410), further amended.

Section 9. (a) Every person, copartnership, association, or corporation, licensed as a real estate broker under the provisions of this act, shall be required to have and maintain a definite place of business within the Commonwealth, *which shall be a room or rooms used exclusively for the transaction of real estate business, or such business and any allied business, and which shall serve as his, their, or its office for the transaction of business under the authority of the said license, and where the [license] certificate of registration and the current annual renewal card shall be prominently displayed.* The said place of business shall be specified in the application for license, and designated in the license, and no license issued under the authority of this act shall authorize the licensee to transact business from any office other than that designated in the license, unless notice in writing shall be given within ten days to the department of any change of business location, designating the new location of such office, whereupon the department shall forthwith issue a new license for the new location for the unexpired period without charge. The change of the specified business location, without notification to the department, shall automatically cancel the license theretofore issued. Every real estate broker shall display on the outside of his place of business a sign containing the words REAL ESTATE OR REALTOR, *where such latter title is duly authorized.* The department, subject to the approval of the Real Estate Advisory Committee, shall adopt reasonable rules and regulations for the conduct of such places of business.

Place of business to be maintained.

Change of office.

Display of sign.

Rules.

(b) All real estate brokers shall also prominently display in their place or places of business the [licenses] *certificate of registration and the current annual renewal card of all real estate salesmen employed by them therein*

Display of salesmen's licenses.

Notice of change of employer.

or in connection therewith. All licenses issued to real estate salesmen shall designate the employer of such salesmen by name. Prompt notice in writing, within ten (10) days, shall be given to the department by the real estate salesmen of any change of employer, and of the name of the new employer into whose service such salesman is about to enter or has entered, and a new license shall thereupon be issued, without charge, by the department to such salesmen for the unexpired term of the original license: Provided, That such new employer shall be a duly licensed real estate broker. The change of employer or employment by any licensed real estate salesman, without notice to the department as aforesaid, shall automatically cancel the license to him theretofore issued, and it shall be the duty of the employer named in such license to notify the department promptly of any such change of employer or employment.

Proviso.

Employer to give notice of change.

Violation.

(c) The violation of any of the provisions of this section by any licensee shall be sufficient cause for the suspension or revocation of his, her, or its license, in the discretion of the department.

Suspension or revocation of license.

Section 10. (a) The department may, upon its own motion, and shall, promptly, upon the verified complaint in writing of any person setting forth specifically the wrongful act or acts complained of, investigate any action or business transaction of any licensed real estate broker or real estate salesman; and shall have the power temporarily to suspend or permanently to revoke licenses theretofore issued by the department, under the provisions of this act, at any time when, after due proceedings as hereinafter provided, it shall find the holder thereof to have been guilty, in the performance or attempt to perform any of the acts prohibited to others than licensed real estate brokers or real estate salesmen under the provisions of this act,

Investigation of complaints.

Causes for which license may be suspended or revoked.

(1) Of knowingly making any substantial misrepresentation; or

(2) Of knowingly making any false promise of a character likely to influence, persuade or induce; or

(3) Of a continued or flagrant course of misrepresentation, or making of false promises through agents or salesmen; or

(4) When it shall be shown that the licensee, within five years prior to the issuance of the license then in force, has been convicted in a court of competent jurisdiction of this or any other state of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, or other like offense or offenses.

(5) Of any failure to account for, or to pay over, moneys belonging to others, which has come into his,

her, or its possession arising out of a real estate transaction; or

(6) Of any misleading or untruthful advertising; or

(7) Of any act or conduct in connection with a real estate transaction which demonstrates incompetency, bad faith, or dishonesty.

(8) *Of displaying a "for rent" or "for sale" sign on any property without an exclusive agency therefor or without the owner's consent.*

(d) The decision of the department in suspending or revoking any license issued under this act shall be subject to review by the court of common pleas of Dauphin County. The department shall maintain in its main office a public docket or other record, in which it shall record, from time to time as made, the rulings or decisions upon all complaints filed with it, and all investigations instituted by it in the first instance, upon or in connection with which any such hearing shall have been had, or in which the licensee charged shall have made no defense. The department shall also give immediate notice in writing of such ruling or decision to the licensee affected thereby, and as well, where the investigation shall have been instituted by complaint filed, to the party or parties by whom the complaint was made. If such ruling shall be to the prejudice of, or shall injuriously affect, the licensee, the department shall also state in said notice the date upon which the said ruling or decision shall become effective, if not theretofore appealed from, and such date shall be not less than thirty (30) days from and after the date of the said notice. If the licensee cannot at such time be found, his whereabouts being then unknown, such notice may be given by the department by advertisement inserted in one issue of a newspaper of general circulation published within the county where was located the principal office of the licensee as designated in the license. *When any revocation or suspension shall become final, the department shall publish notice thereof in one issue of one or more newspapers of general circulation published within the county in which the licensee was practicing or engaged in the real estate business at the time of such revocation or suspension.*

Review of decision.

Docket.

Notice of decision.

Such ruling or decision of the department shall be final when in favor of the licensee and in dismissal of the complaint filed, if any. If against the licensee, or in any way to the licensee's injury or prejudice, the licensee may, at any time prior to the date fixed by the department in its said notice as the date it shall become effective, appeal from such decision to the court of common pleas of Dauphin County, by [serving upon the department] *filing* written notice of such appeal, together with reasons for such appeal [Such service shall

Appeal to court of common pleas of Dauphin County.

Reasons.

be made] *in the office of the prothonotary of Dauphin County, and by serving a copy thereof on the department, either by filing the said notice of appeal in the office of the department or by delivering the same to the deputy, whether general or special, before whom the hearing in the case was had.*

Record to be filed with prothonotary.

Within thirty (30) days after the service of such notice of appeal, the department shall file with the prothonotary of the said court of common pleas a transcript of the records of the proceedings in its office, duly certified over the seal of the department, which record shall include all papers on file with the department affecting or relating to the inquiry or investigation conducted by the department, and all the evidence taken in the said hearing, including the stenographic notes of testimony. Notice of the filing of the said transcript, with the term and number to which filed, shall be forthwith given by the department to the licensee, and as well to the party or parties, if any, upon whose complaint the proceedings before the department were instituted. The cost of the said transcript, at twenty-five cents per folio, and one dollar for certification, shall be entered as part of the record costs in the cause, to be paid as the said court may direct. In all proceedings upon such appeal, the Department of Justice shall appear for and represent the Commonwealth.

Costs of record.

Hearing of appeal.

The appeal shall thereupon be heard, in due course, by the judge or judges of the said court of common pleas, without a jury, by whom the proceedings before the department, its findings and rulings, shall be given similar weight, force, and effect as are accorded to the findings and report of a referee selected or appointed under the provisions of the act, entitled "An act to provide for the submission of civil cases by agreement of the parties to the referee learned in the law," approved the fourteenth day of May, one thousand eight hundred and seventy-four, and its supplements.

Section 12, amended.

Section 5. Section twelve of said act is hereby amended to read as follows:

Violations.

Section 12. (a) Any person, copartnership, association, or corporation, who shall, after the first day of January, nineteen hundred and thirty, engage in or carry on the business, or act in the capacity of a real estate broker, or a real estate salesman, within this Commonwealth, without a license, or shall carry on or continue business after the suspension or revocation of any such license to him or it issued, or shall employ any person as a real estate salesman, to whom a license as a real estate salesman has not been issued, or whose license as such shall have been revoked or suspended, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced for the first offense to pay a

fine of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100), and for a second and any subsequent offense shall be sentenced to pay a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or undergo imprisonment for a period of not more than one (1) year, or both, in the discretion of the court.

(b) *Any holder of a certificate of registration who shall fail to apply for a renewal of his or her certificate of registration on or before the renewal date in each year, and who continues the practice of real estate broker or real estate salesman, shall, on conviction thereof, be subject to a fine of not more than ten dollars (\$10), to be collected by summary conviction as like fines are collected by law, and, in case of nonpayment of fine, to undergo an imprisonment for a period not to exceed ten (10) days. Any such person shall have the right of appeal as in other cases of summary conviction.*

Section 6. Any person who has, for a period of two years immediately preceding the effective date of this act, engaged in any business or occupation not heretofore required to be licensed as a real estate broker, and who is under the provisions of these amendments required to be so licensed, shall be issued a real estate broker's license by the Department of Public Instruction, without requiring him or her to submit to an examination as required by the act to which this is an amendment and its amendments: Provided, That such person makes application for such license within ninety days after the effective date of this act and pays the fee prescribed by law for such license.

Section 7. This act shall become effective immediately upon final enactment.

Persons engaging in real estate business for 2 years prior to this act.

Proviso.

When effective.

APPROVED—The 2d day of July, A. D. 1937.

GEORGE H. EARLE

No. 591

AN ACT

To regulate the sale, and advertising for sale, of goods, wares, and merchandise purporting to be an insurance, bankruptcy, mortgage, insolvent, assignees, receivers, trustees, removal, or closing-out sale, or sale of goods damaged by fire, smoke, or water, in cities and certain boroughs of this Commonwealth; and to prevent fraudulent practices in connection therewith, and providing penalties for the violation thereof, and for the imposition of license fees for permission to conduct the same.

Section 1. Be it enacted, &c., That from and after the first day of July, one thousand nine hundred and thirty-seven, it shall be unlawful for any person, part-

After July 1, 1937.