

## No. 602

## AN ACT

To further amend the act, approved the first day of May, one thousand nine hundred twenty-nine (Pamphlet Laws 1216), entitled "An act to define real estate brokers and real estate salesmen; and providing for the licensing, regulation, and supervision of resident and non-resident real estate brokers and real estate salesmen and their business," by further defining "real estate brokers" and "real estate salesmen"; further regulating licensing and the suspension and revocation of such licenses; regulating the use of names of real estate salesmen in the corporate or partnership names of corporations or partnerships engaged in the real estate business; and further regulating the payment of commissions.

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

Section 1. Subsections (a), (b) and (c) of section 2 of the act, approved the first day of May, one thousand nine hundred twenty-nine (Pamphlet Laws 1216), 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," subsection (a) of which was last amended by the act, approved the twenty-first day of June, one thousand nine hundred forty-seven (Pamphlet Laws 767), subsection (b) of which was last amended by the act, approved the twenty-fifth day of May, one thousand nine hundred forty-five (Pamphlet Laws 1023), and subsection (c) of which was last amended by the act, approved the ninth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1016), are hereby further amended to read as follows:

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 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

Real Estate  
Brokers License  
Act of 1929.

Subsections (a), (b) and (c) of section 2, act of May 1, 1929, P. L. 1216, subsection (a), of which was last amended by act of June 21, 1947, P. L. 767, subsection (b) of which was last amended by act of May 25, 1945, P. L. 1023, and subsection (c) of which was last amended by act of May 9, 1949, P. L. 1016, further amended.

Persons included  
within term "real  
estate broker."

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 real estate auctioneers and] real estate appraisers, as well as all managers of office buildings, apartment buildings, and other buildings, and persons employed by the owners of such buildings, banking institutions and trust companies for the foregoing purposes.

Meaning of and persons included within term "real estate salesman."

(b) The term "real estate salesman" shall mean and include any person employed by a licensed real estate broker to [perform any or all of the functions of a real estate broker] *list for sale, sell or offer for sale, to buy or offer to buy, or to negotiate the purchase or sale or exchange of real estate, or to negotiate a loan on real estate, or to lease or rent, or offer to lease, rent or place for rent, any real estate, or collect or offer, or attempt to collect, rent for the use of real estate, for or in behalf of such 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.

Proviso: Stenographic or other clerical help not required to be licensed.

Exceptions.

(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, nor any person who sells land by public auction for or on behalf of the owner or owners thereof, 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, 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 in-

clude 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 *where real estate of the banking institution or trust company only is involved*, nor shall they be held to include any officer or employe of a cemetery company who, as incidental to his principal duties and without remuneration therefor, shows lots in such company's cemetery to persons for their use as a family burial lot, and who accepts deposits on such lots for the representatives of the cemetery company, legally authorized to sell the same.

Section 2. Section 6 of said act, as last amended by the act, approved the fifth day of May, one thousand nine hundred forty-five (Pamphlet Laws 424), and by the act, approved the twenty-fifth day of May, one thousand nine hundred forty-five (Pamphlet Laws 1023), is hereby further amended to read as follows:

Section 6, said act, as last amended by act of May 5, 1945, P. L. 424, and act of May 25, 1945, P. L. 1023, 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, are citizens of the United States, and shall have served an apprenticeship *in active practice*, 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, or upon application, proof of experience equivalent thereto.

Qualifications for licensing as real estate broker.

Any person engaged in the real estate business for a period of two years or more prior to January 1, 1930, may be admitted to an examination for a real estate broker's license: Provided, That he or she shall meet all of the prerequisites of applicants for such licenses, except that he or she shall not be required to have served in the employ of a duly licensed real estate broker or brokers as a duly licensed real estate salesman for a period of two years [: Provided, however, That any

Examination without apprenticeship.

Proviso.

person, partnership, or unincorporated association who or which has been licensed as a private bank by the Department of Banking of the Commonwealth of Pennsylvania for a period of thirty (30) years or more prior to the first day of January, one thousand nine hundred forty-five shall, if application therefor is made within ninety (90) days of the effective date of this act, be entitled to apply for and to receive a real estate broker's license without examination].

Subsections (b) and (c) of section 7, said act, as last amended by act of June 21, 1947, P. L. 767, further amended.

Section 3. Subsections (b) and (c) of section 7 of said act, as last amended by the act, approved the twenty-first day of June, one thousand nine hundred forty-seven (Pamphlet Laws 767), are hereby further amended to read as follows:

Section 7.

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Application for real estate broker's license.

Contents.

Recommendations.

(b) Application 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 commission shall require. The application shall be signed by the applicant, *shall set forth that the applicant has been actively engaged in the business for a period of two years, together with a statement of such activity*, 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 on the last day of February immediately following the date of issue, unless sooner revoked or suspended by the commission, or renewed annually, as hereinafter described: Provided, That upon the filing of an application, the commission may investigate the allegations therein contained, and if, upon investigation, it finds such allegations untrue it may refuse to examine or license the applicant, setting forth, in writing, its findings, and the reasons for its refusal and furnishing a copy thereof, to the applicant.

Photographs.

License for additional offices.

Expiration date of license.

Proviso.

Application for real estate salesman's license.

Contents.

Recommendation of employer.

Expiration date of license.

Examinations.

(c) Application for license as real estate salesman shall be made in writing to the department, signed by the applicant, setting forth *that he is at least eighteen years of age*, 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. *No person may be licensed by the department as a real estate salesman unless such person is a citizen of the United States.* 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 commission 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 on the last day of February immediately following the date of issue, unless sooner revoked or suspended by the commission, or renewed annually, as hereinafter described.

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 commission and prepared by the commission. The commission 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 commission shall prescribe: Provided, That the commission may make a special dispensation or exception because of religious scruples of applicants as to the day of the week upon which the examination shall be held: *Provided further, That the commission may hold real estate salesmen's examinations in the city of Harrisburg on the second Saturday of any month.* The examination for a broker's license shall include 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 to mathematics applicable to real estate business, the Real Estate Brokers' License Act, and ethical practices thereunder: Provided, however, That in event the license of any real estate broker or salesman shall be cancelled by the commission, 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 commission may waive these requirements in the case of an application from a non-resident 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.

Time and places for holding same.

Proviso.

Further proviso.

Subjects of examination.

Proviso.

Further proviso.

[An individual who fails to pass the examination may apply for, and receive from the department, a temporary permit to operate as a real estate salesman until the next regular examination.] Any individual, who fails to pass the examination at two successive examinations, shall be ineligible for a similar examination, until after the expiration of six months from the time such individual took the last examination.

Section 9, said act, as last amended by act of May 25, 1945, P. L. 1023, further amended by adding, at end thereof, a new subsection (d).

Section 4. Section 9 of said act, as last amended by the act, approved the twenty-fifth day of May, one thousand nine hundred forty-five (Pamphlet Laws 1023), is hereby further amended by adding, at the end thereof, a new subsection to read as follows:

Section 9.  
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Business name.

(d) *No corporation or copartnership engaged in the real estate business shall include in the corporate or*

*partnership name the name of a licensed real estate salesman, unless there shall also be included in the name of such corporation or copartnership the name of a licensed real estate broker.*

Section 5. Subsection (a) of section 10 of said act, as last amended by the act, approved the twenty-first day of June, one thousand nine hundred forty-seven (Pamphlet Laws 767), is hereby further amended to read as follows:

Subsection (a) of section 10, said act, as last amended by act of June 21, 1947, P. L. 767, further amended.

Section 10. (a) The commission 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 suspension or revocation of licenses.

(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] *pleaded guilty, entered a plea of nolo contendere, or has been found guilty* in a court of competent jurisdiction of this or any other state of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, *bribery*, 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;

(9) Of failing to furnish voluntarily a copy of the agreement of sale to the buyer and the seller;

\* "possession" in original.

(10) Of buying a property listed through a straw party with the intent of reselling to a buyer already secured thus making a profit in addition to the commission agreed upon with the owner listing the property;

(11) *Of failure to deposit in escrow or a trustee account all moneys belonging to others coming into the hands of the licensee.*

Subsections (b) and (g) of section 11 and subsection (a) of section 15, said act, as last amended by act of May 25, 1945, P. L. 1023, further amended.

Section 6. Subsections (b) and (g) of section 11 and subsection (a) of section 15 of said act, as last amended by the act, approved the twenty-fifth day of May, one thousand nine hundred forty-five (Pamphlet Laws 1023), are hereby further amended to read as follows:

Section 11. \* \* \* \* \*

Revocation of license where licensee guilty of certain crimes.

(b) Where during the term of any license issued by the department, the licensee shall [be convicted] *have pleaded guilty, or entered a plea of nolo contendere, or has been found guilty* in a court of competent jurisdiction, in this or any other state, of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud, *bribery*, or other like offense or offenses, and a duly certified or exemplified copy of the record in such proceeding shall be filed with the commission, the commission shall revoke forthwith the license by it theretofore issued to the licensee so convicted.

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Department not to issue license to person convicted of certain crimes.

(g) No license shall be issued by the department to any person known by it to have been, within five (5) years theretofore, convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud, *bribery*, or other like offense or offenses, or to any copartnership of which such person is a member, or to any association or corporation of which said person is an officer or employe, or in which as a stockholder such person has or exercises a controlling interest, either directly or indirectly.

Payment of compensation to others than licensees.

Section 15. (a) It shall be unlawful for any licensed real estate broker, or real estate salesman, to pay any compensation, in money or other valuable thing, to any person other than a [licensed] real estate broker or real estate salesman *licensed under the provisions of this act or under the laws of another state having the same or similar provisions regarding payment of compensation*, for the rendering of any service, or the doing of any of the acts by this act forbidden to be rendered or performed by other than licensees.

APPROVED—The 18th day of January, A. D. 1952.

JOHN S. FINE