

No. 2006-125

AN ACT

HB 2631

Amending the act of February 19, 1980 (P.L.15, No.9), entitled "An act establishing the State Real Estate Commission and providing for the licensing of real estate brokers and salesmen," defining "commercial property"; and further providing for disclosure at initial interview.

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

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

Section 201. Definitions.

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

* * *

"Commercial property." Any of the following:

(1) Any property, or portion thereof, which is used, occupied or is intended, arranged or designed to be used or occupied for the purpose of operating a business, an office, a manufacturing facility or any public accommodation. This paragraph does not include property which consists of less than five residential dwelling units.

(2) Any vacant land offered for sale or lease, or held, for the purpose of constructing or locating thereon a building, structure or facility, or portion thereof, which is intended, arranged or designed to be used or occupied for the purpose of operating a business, an office, a manufacturing facility or any public accommodation. This paragraph does not include vacant land suitable only for construction or location of less than five residential dwelling units.

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Section 2. Section 608(a) of the act, amended June 22, 2000 (P.L.371, No.47), is amended and the section is amended by adding a subsection to read:

Section 608. Information to be given at initial interview.

(a) Except as set forth in subsections (b), (c), (d) [and], (e) **and** (f), the commission shall establish rules or regulations which shall set forth the manner and method of disclosure of information to the prospective buyer/tenant or seller/landlord during the initial interview. For the purposes of this section, the initial interview is the first contact between a licensee and a consumer of real estate-related services where a substantive discussion about real estate needs occurs. Such disclosure shall be provided on a form

adopted by the commission by regulation and shall include, but shall not be limited to:

(1) A disclosure of the relationships in which the broker may engage with the consumer. The disclosure shall describe the duties that the broker owes in each relationship provided for in this act.

(2) A statement informing sellers and buyers of their option to have an agency relationship with a broker, that an agency relationship is not to be presumed and that it will exist only as set forth in a written agreement between the broker and consumer of real estate service acknowledged by the consumer.

(3) A statement that a real estate consumer has the right to enter into a negotiated agreement with the broker limiting the activities or practices that the broker will provide for on behalf of the consumer and that the fee and services to be provided are to be determined by negotiations between the consumer and the broker.

(4) A statement identifying any possibility that the broker may provide services to another consumer who may be party to the transaction and, if so, an explanation of the duties the broker may owe the other party and whether the broker may accept a fee for those services.

(5) A statement identifying any possibility that the broker may designate one or more licensees affiliated with the broker to represent the separate interest of the parties to the transaction.

(6) A statement of the broker's policies regarding cooperation with other brokers, including the sharing of fees.

(7) A statement that a buyer's broker may be paid a fee that is a percentage of the purchase price and the buyer's broker, even if compensated by the listing broker, will represent the interests of the buyer.

(8) A statement that the duration of the broker's employment and the broker's fees are negotiable.

(9) The purpose of the Real Estate Recovery Fund and the telephone number of the commission at which further information about the fund may be obtained.

(10) A statement that the duration of the listing agreement or contract and the broker's commission are negotiable.

(11) A statement that any sales agreement must contain the zoning classification of a property except in cases where the property (or each parcel thereof, if subdividable) is zoned solely or primarily to permit single-family dwellings.

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(f) The disclosures required under subsections (a), (b) and (c) do not apply in commercial property sale or lease transactions unless the prospective buyer/tenant or seller/landlord is an individual.

Section 3. This act shall take effect in 90 days.

APPROVED—The 27th day of October, A.D. 2006.

EDWARD G. RENDELL