

vetoed the words 'thirty day' from this second paragraph to conform this language to the fifteen-day time limit for filing petitions for reassessment intended by the Legislature.

Veto
Message

With the exception of this item in Section 3, Engrossed House Bill No. 221 is approved."

CHAPTER 139
[House Bill No. 228]
REAL ESTATE BROKERS AND SALESMEN

AN ACT Relating to real estate brokers and salesmen; amending section 2, chapter 252, Laws of 1941 as as last amended by section 1, chapter 78, Laws of 1969 and RCW 18.85.010; amending section 5, part, chapter 252, Laws of 1941 as last amended by section 2, chapter 222, Laws of 1951 and RCW 18.85.030; amending section 4, chapter 252, Laws of 1941 as last amended by section 2, chapter 235, Laws of 1953 and RCW 18.85.040; amending section 5, part, chapter 252, Laws of 1941 as last amended by section 3, chapter 235, Laws of 1953 and RCW 18.85.050; amending section 8, chapter 252, Laws of 1941 and RCW 18.85.060; amending section 17, chapter 235, Laws of 1953 and RCW 18.85.071; amending section 15, chapter 252, Laws of 1941 as last amended by section 5, chapter 235, Laws of 1953 and RCW 18.85.090; amending section 8, chapter 222, Laws of 1951 and RCW 18.85.100; amending section 3, chapter 252, Laws of 1941 as amended by section 9, chapter 222, Laws of 1951 and RCW 18.85.110; amending section 11, chapter 222, Laws of 1951 and RCW 18.85.130; amending section 12, chapter 222, Laws of 1951 as amended by section 7, chapter 235, Laws of 1953 and RCW 18.85.140; amending section 13, chapter 222, Laws of 1951 as amended by section 8, chapter 235, Laws of 1953 and RCW 18.85.150; amending section 21, chapter 222, Laws of 1951 as amended by section 9, chapter 235, Laws of 1953 and RCW 18.85.161; amending section 10, chapter 252, Laws of 1941 as last amended by section 14, chapter 222, Laws of 1951 and RCW 18.85.170; amending section 42, chapter 52, Laws of 1957 and RCW 18.85.190; amending section 27, chapter 252, Laws of 1941 as last amended by section 10, chapter 235, Laws of 1953 and RCW 18.85.210; amending section 19, chapter 252, Laws of 1941 as last amended by section 3, chapter 22, Laws of 1967 and RCW 18.85.230; amending section 25, chapter 222, Laws of 1951 and

RCW 18.85.271; amending section 17, chapter 222, Laws of 1951 as last amended by section 62, chapter 81, Laws of 1971 and RCW 18.85.290; adding new sections to chapter 252, Laws of 1941 and to chapter 18.85 RCW; and providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Section 1. Section 2, chapter 252, Laws of 1941 as last amended by section 1, chapter 78, Laws of 1969 and RCW 18.85.010 are each amended to read as follows:

In this chapter words and phrases have the following meanings unless otherwise apparent from the context:

(1) "Real estate broker," or "broker," means a natural or artificial person, acting independently, who for commissions or other compensation, engages in the purchase, sale, exchange, rental, or negotiation therefor, of real estate, or interests including leases and/or options therein, and for business opportunities or interest therein, belonging to others, or sale of any interest in any formal or informal association in which the purchaser acquires use of real property unless the offering is registered with the securities broker-dealer licensed by the state of Washington, or holds himself out to the public as being so engaged;

(2) "Real estate salesman" or "salesman" means any natural person who represents a real estate broker in any of his activities;

(3) An "associate real estate broker" is a person who has qualified as a "real estate broker" who works with a ((designated)) broker and whose license states that he is associated with a ((designated)) broker;

(4) The word "person" as used in this chapter shall be construed to mean and include a corporation or copartnership, except where otherwise restricted;

(5) "Business opportunity" shall mean and include business, business opportunity and good will of an existing business or any one or combination thereof;

(6) "Commission" means the real estate commission of the state of Washington;

(7) "Director" means the director of motor vehicles;

(8) "Real estate multiple listing association" means any association of real estate brokers:

(a) Whose members circulate listings of the members among themselves so that the properties described in the listings may be sold by any member for an agreed portion of the commission to be paid; and

(b) Which require in a real estate listing agreement between the seller and the broker, that the members of the real estate multiple listing association shall have the same rights as if each had executed a separate agreement with the seller.

(9) "Clock hours of instruction" means actual hours spent in classroom instruction in any tax supported, public vocational-technical institution, community college, or any other institution of higher learning or a correspondence course from any of the aforementioned institutions certified by such institution as the equivalent of the required number of clock hours. The director, with the approval of the real estate commission, may certify courses of instruction other than in the aforementioned institutions, if a finding of necessity to provide the required education is made by the director and commission. Such approval shall be only for the period of time determined to be necessary.

Sec. 2. Section 5, part, chapter 252, Laws of 1941 as last amended by section 2, chapter 222, Laws of 1951 and RCW 18.85.030 are each amended to read as follows:

The director shall appoint ((at least two inspectors)) an adequate staff to assist him. ((No person shall be appointed as an inspector who has not been actively engaged in the real estate business in this state either as a broker or salesman.

The director may employ and discharge such clerks and employees as may be necessary; and fix the compensation of inspectors, clerks and employees.))

Sec. 3. Section 4, chapter 252, Laws of 1941 as last amended by section 2, chapter 235, Laws of 1953 and RCW 18.85.040 are each amended to read as follows:

The director, with the advice and approval of the commission, may issue rules and regulations to govern the activities of real estate brokers, associate real estate brokers and salesmen, consistent with this chapter, ((shall enforce all laws, rules and regulations relating to the licensing of real estate brokers, associate real estate brokers, and salesmen,)) fix the times and places for holding examinations of applicants for licenses and prescribe the method of conducting them ((; hold such examinations,)). The director shall enforce all laws, rules and regulations relating to the licensing of real estate brokers, associate real estate brokers, and salesmen, grant or deny licenses to real estate brokers, associate real estate brokers, and salesmen, hold hearings and suspend or revoke the licenses of violators ((found guilty of)) and may deny, suspend or revoke the authority of a broker to act as the designated broker of persons who commit violations of the real estate license law or of the rules and regulations ((set up and proclaimed by the commission)). The director ((also)) shall institute a program of education for the benefit of the licensees ((hereunder including at least one statewide educational conference each year)).

Sec. 4. Section 5, part, chapter 252, Laws of 1941 as last

amended by section 3, chapter 235, Laws of 1953 and RCW 18.85.050 are each amended to read as follows:

Neither the director nor any ~~((inspectors, clerks, or))~~ employees, shall be interested in any real estate business ~~((in any capacity))~~ regulated by this 1972 amendatory act: PROVIDED, That if any real estate broker, associate real estate broker, or salesman is employed by the director or by the commission as an ~~((inspector, clerk, or))~~ employee, the license of such broker, associate real estate broker, or salesman shall not be revoked, suspended, or canceled by reason thereof.

Sec. 5. Section 8, chapter 252, Laws of 1941 and RCW 18.85.060 are each amended to read as follows:

The director shall adopt a seal with the words real estate director, state of Washington, and such other device as he may approve engraved thereon, by which he shall authenticate the proceedings of his office. Copies of all records and papers in the office of the director certified to be a true copy under the hand and seal of the director shall be received in evidence in all cases equally and with like effect as the originals. The director may deputize one or more of his assistants to certify records and papers.

Sec. 6. Section 17, chapter 235, Laws of 1953 and RCW 18.85.071 are each amended to read as follows:

There is established the real estate commission of the state of Washington, consisting of the director of the commission and six ~~((board))~~ commission members who shall act in an advisory capacity to the director.

The six ~~((board))~~ commission members shall be appointed by the governor in the following manner: For a term of six years each, with the exception of the first appointees, who shall be appointed one for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years, and one for a term of six years, with all other subsequent appointees to be appointed for a six year term. ~~((Three))~~ At least two of the ~~((board))~~ commission members shall be selected from the area in the state west of the Cascade mountain range and ~~((three))~~ at least two shall be selected from that area of the state east of the Cascade mountain range. No commission member shall be appointed who has had less than five years experience in the sale, operation, or management of real estate in this state, or has had at least three years experience in investigative work of a similar nature, preferably in connection with the administration of real estate license law of this state or elsewhere. Any vacancies on the commission shall be filled by appointment by the governor for the unexpired term.

NEW SECTION. Sec. 7. There is added to chapter 252, Laws of

1941 and to chapter 18.85 RCW a new section to read as follows:

It is hereby established that the minimum requirements for an individual to receive a salesman's license is that the individual must have obtained his eighteenth birthday and has a high school diploma or its equivalent. No licensed salesman shall have his license renewed a second time unless he furnishes proof, as the director may require, that he has successfully completed thirty clock hours of instruction in real estate courses approved by the director.

Nothing in this section of this 1972 amendatory act shall apply to persons who are licensed as salesmen under any real estate license law in Washington which exists prior to this law's enactment and whose license has not been subsequently revoked.

Sec. 8. Section 15, chapter 252, Laws of 1941 as last amended by section 5, chapter 235, Laws of 1953 and RCW 18.85.090 are each amended to read as follows:

The commission shall ~~((prepare))~~ be responsible for the preparation of the examination ~~((questions))~~ to be submitted to applicants, and shall make and file with the director a list, which may be signed by ~~((a))~~ a majority of the members of the commission conducting the examination, of all applicants who successfully passed the examination and of those who failed.

Any applicant who fails to pass the examination may apply again ~~((: PROVIDED, That))~~.

No applicant shall be permitted to take the examination for a real estate broker's license without first satisfying the director that he :

(1) Has had a minimum of ((one)) two years of actual experience as a full time real estate salesman in this state or in another state having comparable requirements within the five years previous to applying for said examination or is, in the opinion of the director, otherwise and similarly qualified, or is otherwise qualified, ((or is otherwise qualified)) by reason of practical experience in a business allied with or related to real estate;

(2) Is eighteen years of age or older;

(3) Has a high school diploma or its equivalent;

(4) Has furnished proof, as the director may require, that he has completed successfully ninety clock hours of instruction in real estate.

The requirements of subsections (1) through (4) of this section shall not apply to persons who are licensed as brokers under any real estate license law in Washington which exists prior to this law's enactment and whose license has not been subsequently revoked; PROVIDED, That requirements for brokers created by this 1972 amendatory act shall apply to any person who is licensed as a salesman on or before the effective date of this 1972 amendatory act.

if such person shall apply to become a broker or associate broker after this 1972 amendatory act is in effect.

Sec. 9. Section 8, chapter 222, Laws of 1951 and RCW 18.85.100 are each amended to read as follows:

It shall be unlawful for any person to act as a real estate broker, associate real estate broker, or real estate salesman without first obtaining a license therefor, and otherwise complying with the provisions of this chapter.

No suit or action shall be brought for the collection of compensation as a real estate broker, associate real estate broker, or real estate salesman, without alleging and proving that the plaintiff was a duly licensed real estate broker, associate real estate broker, or real estate salesman ~~((at the time the alleged cause of action arose))~~ prior to the time of offering to perform any such act or service or procuring any promise or contract for the payment of compensation for any such contemplated act or service.

Sec. 10. Section 3, chapter 252, Laws of 1941 as amended by section 9, chapter 222, Laws of 1951 and RCW 18.85.110 are each amended to read as follows:

This chapter shall not apply to (1) any person who purchases property and/or a business opportunity for his own account, or who, as the owner of property, and/or a business opportunity, in any ~~((wise))~~ way disposes of the same; nor, (2) any duly authorized attorney in fact, or an attorney at law in the performance of his duties; nor, (3) any receiver, trustee in bankruptcy, executor, administrator, guardian, or any person acting under the order of any court, or selling under a deed of trust ~~((; nor, (4) any escrow agent))~~.

Sec. 11. Section 11, chapter 222, Laws of 1951 and RCW 18.85.130 are each amended to read as follows:

The director shall provide each original applicant for a license with a manual containing a sample list of questions and answers pertaining to real estate law and the operation of the business and may provide the same at cost to any licensee or to other members of the public. The director shall ascertain by written examination, that each applicant, and in case of a corporation, or copartnership, that each officer, agent, or member thereof whom it proposes to act as a licensee, has:

(1) Appropriate knowledge of the English language, including reading, writing, spelling, and arithmetic;

(2) An understanding of the principles of real estate conveyancing, the general purposes and legal effect of deeds, mortgages, land contracts of sale, exchanges, rental and option agreements, and leases;

(3) An understanding of the principles of land economics and

appraisals;

(4) An understanding of the obligations between principal and agent;

(5) An understanding of the principles of real estate practice and the canons of business ethics pertaining thereto; and,

(6) An understanding of the provisions of this chapter.

The examination for real estate brokers shall be more exacting than that for real estate salesmen.

All moneys received for the sale of the manual to licensees and members of the public shall be placed in the real estate commission fund to be returned to the current biennium operating budget.

Sec. 12. Section 12, chapter 222, Laws of 1951 as amended by section 7, chapter 235, Laws of 1953 and RCW 18.85.140 are each amended to read as follows:

Before receiving his license every real estate broker must pay a license fee of twenty-five dollars, every associate real estate broker must pay a license fee of twenty-five dollars, and every real estate salesman must pay a license fee of fifteen dollars. Every license issued under the provisions of this chapter expires on the ((thirty-first day of December of the year of its issue)) applicant's birthday following issuance of the license which date will henceforth be the renewal date. Licenses issued to corporations and partnerships expire December 31st, which date will henceforth be their renewal date. On or before the ((first day of January thereafter)) renewal date an annual renewal license fee in the same amount must be paid.

If the application for a renewal license is not received by the director on or before ((January 1st)) the renewal date, the renewal license fee shall be thirty-five dollars for a real estate broker and associate real estate broker and twenty dollars for a real estate salesman. Acceptance by the director of an application for renewal after ((January 1st)) the renewal date shall not be a waiver of the delinquency.

The director shall issue to each broker, associate broker, and salesman a license and a pocket identification card in such form and size as he shall prescribe.

Sec. 13. Section 13, chapter 222, Laws of 1951 as amended by section 8, chapter 235, Laws of 1953 and RCW 18.85.150 are each amended to read as follows:

The director may issue a temporary salesman's permit pending examination, to any applicant who, in his opinion, is qualified, except for the examination provided for in this chapter, when a satisfactory credit and character report shall have been made by the employing broker upon a form to be supplied by the director, with

full responsibility for such temporary salesman to rest with the employing broker, no temporary permit thus granted to be transferable from the originating broker to any other broker. The application fee for such temporary permit shall be five dollars which shall not be refunded for any cause, nor shall such application fee be considered any part of any license or examination fee. The examination fee for an applicant for a temporary permit shall be fifteen dollars, no part of which shall be refunded for any cause. Such temporary permit shall be valid only until the results of the next examination for licenses are available which in no event shall be longer than six months. The director, however, shall not require any such applicant to take such examination until at least sixty days have elapsed after the issuance of the temporary permit. Only one temporary permit shall be issued to any one person. No person issued a temporary permit who fails to take or pass the examination shall be entitled to have returned any fees previously paid. Failure to take the examination next following the sixty day period after issuance of the temporary permit shall cause forfeiture of the temporary permit and of any and all fees paid.

The holder of a temporary permit is required to obtain thirty hours of instruction in real estate within seventy days after his temporary permit is issued. Such instruction may be furnished by his broker or personnel in the office he is licensed to, any prelicense school, community college or other institution providing education. The employing broker and such temporary permit holder shall certify the completion of such instruction within five days thereafter upon forms provided by the director: PROVIDED, That failure to make such certification or falsification thereof shall be ground for disciplinary action under this 1972 amendatory act.

A temporary broker's permit may, in the discretion of the director, be issued to the legally accredited representative of a deceased broker, the senior qualified salesman in that office or other qualified representative of the deceased, which shall be valid for a period not exceeding four months and in the case of a partnership or a corporation, the same rule shall prevail in the selection of a person to whom a temporary broker's permit may be issued.

NEW SECTION. Sec. 14. There is added to chapter 252, Laws of 1941 and to chapter 18.85 RCW a new section to read as follows:

Responsibility for any salesman, associate broker or branch manager in conduct covered by this 1972 amendatory act shall rest with the broker to which such licensees shall be licensed.

In addition to the broker, a branch manager shall bear responsibility for salesmen and associate brokers operating under the branch manager at a branch office.

Sec. 15. Section 21, chapter 222, Laws of 1951 as amended by section 9, chapter 235, Laws of 1953 and RCW 18.85.161 are each amended to read as follows:

A nonresident broker may apply for and be issued a nonresident broker's license upon compliance with all of the provisions of this chapter. He shall not be required to maintain a definite place of business within this state, but shall retain in this state all funds arising from transactions within this state, until such funds are distributed to the proper parties involved, and he shall be subject to the requirements of this chapter relating to the handling and depositing of closing funds.

Any privileges accorded herein to a nonresident shall apply only to a licensed real estate broker of ~~((one))~~ two years' experience or more and only so long as the broker shall (1) maintain an active place of business within the state of his domicile, and (2) maintain his license in good standing in the state of his domicile: PROVIDED, That such nonresident is domiciled in a state which extends similar recognition and courtesies to licensed real estate brokers of this state. When any broker moves into this state from a state having similar reciprocal laws and desires a license, and if such broker has maintained a license in his home state in good standing prior to his moving into this state, he shall, in the discretion of the director, not be required to take the state examination for a license.

The director may waive the requirement of examination of any applicant for a license in the case of an application from a nonresident who is licensed in a state having similar requirements, under the laws of which, similar recognition and courtesies are extended to licensees of this state by mutual written agreement of the directors and commissions of the concerned states.

Salesmen employed by a nonresident broker who has been issued a nonresident broker's license may operate for such broker in this state upon payment of the license fee required of salesmen during such time as they continue licensed under the nonresident broker in this state and if such salesman maintains a license in good standing under his broker in his home state.

Sec. 16. Section 10, chapter 252, Laws of 1941 as last amended by section 14, chapter 222, Laws of 1951 and RCW 18.85.170 are each amended to read as follows:

No license issued under the provisions of this chapter shall authorize any person other than the person to whom it is issued to do any act by virtue thereof nor to operate in any other manner than under his own name except:

(1) When a license is issued to a corporation it shall entitle one officer thereof, to be named by the corporation in its

application, who shall qualify the same as any other agent, to act as a real estate broker on behalf of said corporation, without the payment of additional fees;

(2) When a license is issued to a copartnership it shall entitle one member thereof to be named in the application, who shall qualify to act as a real estate broker on behalf of the copartnership, without the payment of additional license fees;

(3) A licensed broker, associate broker, or salesman may operate and/or advertise under a name other than the one under which the license is issued by obtaining the written consent of the director to do so;

(4) A broker may establish one or more branch offices under a name or names different from that of the main office if the name or names are approved by the director, so long as each branch office is clearly identified as a branch or division of the main office. No broker may establish branch offices under more than three names. Both the name of the branch office and of the main office must clearly appear on the sign identifying the office, if any, and in any advertisement or on any letterhead of any stationery or any forms, or signs used by the real estate firm on which either the name of the main or branch offices appears.

Sec. 17. Section 42, chapter 52, Laws of 1957 and RCW 18.85.190 are each amended to read as follows:

A real estate broker may apply to the director for authority to establish one or more branch offices under the same name as the main office upon the payment of five dollars for each branch office. The director shall issue a duplicate license for each of the branch offices showing the location of the main office and the particular branch. Each duplicate license shall be prominently displayed in the office for which it is issued. Each branch office shall be required to have ((at least one licensed broker)) a branch manager who shall be an associate broker authorized by the designated broker to perform the duties ((of a broker as herein described)) of a branch manager.

A branch office license shall not be required where real estate sales activity is conducted on and, limited to a particular subdivision or tract, if a licensed office or branch office is located within thirty-five miles of the subdivision or tract. A real estate broker shall apply for a branch office license if real estate sales activity on the particular subdivision or tract is five days or more per week.

Sec. 18. Section 27, chapter 252, Laws of 1941 as last amended by section 10, chapter 235, Laws of 1953 and RCW 18.85.210 are each amended to read as follows:

The director ((shall)) may publish annually a list of names and addresses of brokers and salesmen licensed under the provisions

hereof, together with a copy of this chapter (~~not later than August 45th~~) and such information relative to the enforcement of the provisions hereof as he may deem of interest to the public; and he (~~shall~~) may mail one copy thereof to each licensed broker. (~~The director may, if it seems advisable, recommend standard forms for use by real estate brokers and include them in the manual or directory.~~)

Sec. 19. Section 19, chapter 252, Laws of 1941 as last amended by section 3, chapter 22, Laws of 1967 and RCW 18.85.230 are each amended to read as follows:

The director may, upon his own motion, and shall upon verified complaint in writing by any person, investigate the actions of any person engaged in the business or acting in the capacity of a real estate broker, associate real estate broker, or real estate salesman, regardless of whether the transaction was for his own account or in his capacity as broker, and may temporarily suspend or permanently revoke or deny the license of any holder who is guilty of:

(1) Obtaining a license by means of fraud, misrepresentation, concealment, or through the mistake or inadvertence of the director;

(2) Violating any of the provisions of this chapter or any lawful rules or regulations made by the director pursuant thereto;

(3) (~~A crime against the laws of this or any other state or government, involving moral turpitude or dishonest dealings~~) Being convicted in a court of competent jurisdiction of this or any other state, or federal court, of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or any similar offense or offenses: PROVIDED, That for the purposes of this section being convicted shall include all instances in which a plea of guilty or nolo contendere is the basis for the conviction, and all proceedings in which the sentence has been deferred or suspended;

(4) Making, printing, publishing, distributing, or causing, authorizing, or knowingly permitting the making, printing, publication or distribution of false statements, descriptions or promises of such character as to reasonably induce any person to act thereon (~~to his damage or injury~~), if the statements, descriptions or promises purport to be made or to be performed by either the licensee or his principal and the licensee then knew or, by the exercise of reasonable care and inquiry, could have known, of the falsity of the statements, descriptions or promises;

(5) Knowingly committing, or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme or device whereby any other person lawfully (~~relying~~) relies upon the word, representation or conduct of the licensee (~~acts to his injury or damage~~);

(6) Accepting the services of, or continuing in a

representative capacity, any salesman who has not been granted a license, or after his license has been revoked or during a suspension thereof;

(7) Conversion of any money, contract, deed, note, mortgage, or abstract or other evidence of title, to his own use or to the use of his principal or of any other person, when delivered to him in trust or on condition, in violation of the trust or before the happening of the condition; and failure to return any money or contract, deed, note, mortgage, abstract or other evidence of title within thirty days after the owner thereof is entitled thereto, and makes demand therefor, shall be prima facie evidence of such conversion;

(8) Failing, upon demand, to disclose any information within his knowledge to, or to produce any document, book or record in his possession for inspection of the director or his authorized representatives acting by authority of law;

(9) Continuing to sell any real estate, or operating according to a plan of selling, whereby the interests of the public are endangered, after the director has, by order in writing, stated objections thereto;

(10) Committing any act of fraudulent or dishonest dealing or a crime involving moral turpitude, and a certified copy of the final holding of any court of competent jurisdiction in such matter shall be conclusive evidence in any hearing under this chapter;

(11) Advertising in any manner without affixing the broker's name as licensed, and in the case of a salesman or associate broker, without affixing the name of the broker as licensed for whom or under whom the salesman or associate broker operates, to the advertisement;

(12) Accepting other than cash or its equivalent as earnest money unless that fact is communicated to the owner prior to his acceptance of the offer to purchase, and such fact is shown in the earnest money receipt;

(13) Charging or accepting compensation from more than one party in any one transaction without first making full disclosure of all the facts to all the parties interested in the transaction;

(14) Accepting, taking or charging any undisclosed commission, rebate or direct profit on expenditures made for the principal;

(15) Accepting employment or compensation for appraisal of real property contingent upon reporting a predetermined value;

(16) Issuing an appraisal report on any real property in which the broker or salesman has an interest unless his interest is clearly stated in the appraisal report;

(17) Misrepresentation of his membership in any local, state or national real estate association;

(18) (~~Discriminating against any person or persons because of~~

race, creed, color or national origin while acting in the capacity of a real estate broker, associate real estate broker, or real estate salesman: PROVIDED, That prior to taking any action to suspend, revoke or deny the license of any broker or salesman upon grounds specified in this subsection, the director shall issue an order to any such broker or salesman to cease and desist in such act or practice of discrimination and upon receipt of an assurance in writing of discontinuance thereof shall take no further action to suspend, revoke or deny the license of such broker or salesman unless within six months thereafter such broker or salesman engages in a further act or practice of discrimination. Such assurance of discontinuance shall not be considered an admission of a violation for any purpose.)

Discrimination against any person in hiring or in sales activity, on the basis of race, color, creed or national origin, or violating any of the provisions of any state or federal antidiscrimination law:

(19) Failing to keep an escrow or trustee account of funds deposited with him relating to a real estate transaction, for a period of three years, showing to whom paid, and such other pertinent information as the director may require, such records to be available to the director, or his representatives, on demand, or upon written notice given to the bank;

(20) Failing to preserve for three years following its consummation records relating to any real estate transaction;

(21) Failing to furnish a copy of any listing, sale, lease or other contract relevant to a real estate transaction to all signatories thereof at the time of execution;

(22) Acceptance by a salesman, associate broker or branch manager of a commission or any valuable consideration for the performance of any acts specified in this 1972 amendatory act, from any person, except the licensed real estate broker with whom he is licensed;

(23) To direct any transaction involving his principal, to any lending institution for financing or to any escrow company, in expectation of receiving a kickback or rebate therefrom, without first disclosing such expectation to his principal;

(24) Failing to disclose to an owner his intention or true position if he directly or indirectly through third party, purchases for himself or acquires or intends to acquire any interest in, or any option to purchase, property;

(25) In the case of a broker licensee, failing to exercise adequate supervision over the activities of his licensed associate brokers and salesmen within the scope of this 1972 amendatory act;

(26) Any conduct in a real estate transaction which

demonstrates bad faith, dishonesty, untrustworthiness or incompetency.

Sec. 20. Section 25, chapter 222, Laws of 1951 and RCW 18.85.271 are each amended to read as follows:

If the director shall decide, after such hearing, that the evidence supports the accusation by a preponderance of evidence, he may revoke the license in question or withhold renewal of any such license or suspend any such license. In such event he shall enter an order to that effect and shall file the same in his office and immediately mail a copy thereof to the affected party at the address of record with the department. Such order shall not be operative for a period of ten days from the date thereof. ~~((If the licensee or applicant shall feel aggrieved by the decision of the director revoking or withholding the license, he may appeal to the superior court in the county in which he has his principal place of business by giving notice of such appeal to the director, and giving a) Any licensee or applicant aggrieved by a final decision by the director in a contested case whether such decision is affirmative or negative in form, is entitled to a judicial review in the superior court under the provisions of the Administrative Procedure Act, chapter 34.04 RCW. Upon instituting appeal in the superior court, the appellant shall give a cash bond to the state of Washington, which bond shall be filed with the clerk of the court ((of said county)), in the sum of five hundred dollars to be approved by the judge of said court, conditioned to pay all costs that may be awarded against such appellant in the event of an adverse decision, such bond and notice to be filed within ((ten)) thirty days from the date of the director's decision.~~

Sec. 21. Section 17, chapter 222, Laws of 1951 as last amended by section 62, chapter 81, Laws of 1971 and RCW 18.85.290 are each amended to read as follows:

~~((The superior court to which the appeal is taken shall summarily hear and determine the question involved upon the appeal, and such determination shall be based solely on the transcript of the record. Should the court find that the director has exceeded his authority or that his findings are not supported by a fair preponderance of the evidence, the order of the director shall be reversed or modified.))~~

If said appellant shall fail to perfect his appeal or fail to pay the expense of preparing the transcript as provided herein, said stay of proceedings shall automatically terminate.

~~((An appeal may be taken by an appellant whose license has been revoked or suspended by the director, from the final order of the superior court. The proceedings on appeal to the supreme court or the court of appeals shall be limited to a review of the~~

proceedings by the director and the superior court in the same manner and subject to the same procedure and requirements as provided for in the case of an appeal in a civil action from a judgment of the superior court of this state:)) An aggrieved party may secure review of a final judgment of the superior court under this 1972 amendatory act by appeal therefrom. Such appeal shall be taken in the manner provided by law for appeals from the superior court in other civil cases.

NEW SECTION. Sec. 22. There is added to chapter 252, Laws of 1941 and to chapter 18.85 RCW a new section to read as follows:

The provisions of this 1972 amendatory act are to be severable and if any section, subdivision, or clause of this act shall be held to be unconstitutional or invalid, such decision shall not effect the validity of the remaining portion of the act.

Passed the House February 2, 1972.

Passed the Senate February 16, 1972.

Approved by the Governor February 25, 1972 with the exception of an item in section 1 which is vetoed.

Filed in Office of Secretary of State February 28, 1972.

Note: Governor's explanation of partial veto is as follows: Veto
Message

"...This bill revises and strengthens the existing real estate license law. I commend the industry and the Real Estate Division for their involvement in the drafting of this piece of legislation.

In Section 1 there appears a definition of real estate broker. The amendatory language of this bill was designed to exclude from that definition persons promoting interests in camper clubs which have been issued a promotion permit by the Securities Division of the State of Washington. Those persons promoting such interests which have not been issued a promotion permit would be required under the language of Section 1 to obtain a real estate broker's license. The amendatory language finally enacted contains obvious errors that make the legislative intent unclear. I have therefore vetoed an item in Section 1 in order to clarify the legislative intent to enable the Real Estate Division to exempt persons promoting registered camping clubs from the licensing requirements of the Real Estate License Act.

The remainder of House Bill 228 is approved."