

CHAPTER 235.

[H. B. 289.]

REAL ESTATE BROKERS AND SALESMEN—
REAL ESTATE COMMISSION.

AN ACT relating to real estate brokers and real estate salesmen, amending sections 18.85.010, 18.85.040, 18.85.050, 18.85.080, 18.85.090, 18.85.120, 18.85.140, 18.85.150, 18.85.161, 18.85.210, 18.85.220, 18.85.230, 18.85.310, 18.85.320, 18.85.330, and 18.85.350, RCW, adding two new sections to chapter 18.85, RCW, and repealing sections 18.85.020 and 18.85.070, RCW.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Section 18.85.010, RCW, as derived from section 2, chapter 252, Laws of 1941, as last amended by section 1, chapter 222, Laws of 1951, is amended to read as follows: Amendment.

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

(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 therein, and for business opportunities or interest therein, belonging to others, or holds himself out to the public as being so engaged; "Real estate broker" or "broker."

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

(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; "Associate real estate 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; "Person."

"Business opportunity."

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

"Commission."

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

"Director."

(7) "Director" means the director of licenses.

Amendment.

SEC. 2. Section 18.85.040, RCW, as derived from section 4, chapter 252, Laws of 1941, as last amended by section 3, chapter 222, Laws of 1951, is amended to read as follows:

Powers and duties of director of licenses.

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, 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 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.

Amendment.

SEC. 3. Section 18.85.050, RCW, as derived from section 5, chapter 252, Laws of 1941, as last amended by section 4, chapter 222, Laws of 1951, is amended to read as follows:

Employment of persons interested in real estate business.

Neither the director nor any inspectors, clerks or employees, shall be interested in any real estate business in any capacity: *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.

Employment of brokers or salesmen by director or commission; license not affected.

SEC. 4. Section 18.85.080, RCW, as derived from section 14, chapter 252, Laws of 1941, as last amended by section 6, chapter 222, Laws of 1951, is amended to read as follows:

Amendment.

The six board members of the commission shall receive as compensation twenty-five dollars for each day actually spent on official business, plus traveling, hotel and meal expenses when they shall be called into session by the director or when presiding at examinations for applicants for licenses or when otherwise engaged in the business of the commission.

Compensation of commission members.

SEC. 5. Section 18.85.090, RCW, as derived from section 15, chapter 252, Laws of 1941, as last amended by section 7, chapter 222, Laws of 1951, is amended to read as follows:

Amendment.

The commission shall prepare the examination questions to be submitted to applicants, and shall make and file with the director a list, signed by all the members of the commission conducting the examination, of all applicants who successfully passed the examination and of those who failed, together with all examination questions and the written answers thereto.

Examination duties of commission.

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 has had a minimum of one year of actual experience as a full time real estate salesman in this state or in another state having comparable requirements or is, in the opinion of the director, otherwise and similarly qualified, or is otherwise qualified, or is

Right to re-examination. Qualifications for real estate broker's examination.

otherwise qualified by reason of practical experience in a business allied with or related to real estate.

Amendment.

SEC. 6. Section 18.85.120, RCW, as derived from sections 11 and 16, chapter 252, Laws of 1941, as last amended by section 10, chapter 222, Laws of 1951, is amended to read as follows:

License applications.

Any person desiring to be a real estate broker, associate real estate broker, or real estate salesman with the exception of applicants meeting the requirements of RCW 18.85.161, must successfully pass an examination as provided in this chapter, and shall make application to the director for a license, and upon a form to be prescribed and furnished by the director, giving his full name and business address. With this application the applicant shall:

Examination fees.

(1) Pay an examination fee of fifteen dollars if a salesman's license is applied for and of twenty-five dollars if a broker's license is applied for, such fees to accompany the application.

Corporation and partnership applications.

(2) If the applicant is a corporation, furnish a list of its officers and directors and their addresses, and if the applicant is a copartnership, a list of the members thereof and their addresses.

Nonresident applicants.

(3) If the applicant is a nonresident of this state, give an irrevocable consent that suits and actions may be commenced against him in any county of this state in which the plaintiff resides, and that service of any process or pleadings may be made by delivery thereof to the director. Such service shall be held in all courts as valid and binding upon the applicant. The irrevocable consent shall be in a form prescribed by the director, acknowledged before a notary public and, if the applicant is a corporation, shall be accompanied by a certified copy of the resolution of the board of directors authorizing the execution of the same. Any process or pleading so served upon the director shall be in duplicate copies, one of which shall be filed in the office of the director,

and the other immediately forwarded by registered mail to the office address of the applicant given in his application, and service shall be deemed to have been made upon the applicant on the third day following the deposit in the mail of such copy.

(4) Furnish such other proof as the director may require concerning the honesty, truthfulness, and good reputation of any applicant for a license, or of the officers of a corporation making the application. Other proof.

SEC. 7. Section 18.85.140, RCW, as derived from sections 11 and 12, chapter 252, Laws of 1941, as last amended by section 12, chapter 222, Laws of 1951, is amended to read as follows: Amendment.

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. On or before the first day of January thereafter an annual renewal license fee in the same amount must be paid. License fees.

Every license issued under the provisions of this chapter expires on the thirty-first day of December of the year of its issue. On or before the first day of January thereafter an annual renewal license fee in the same amount must be paid. Expiration date.

On or before the first day of January thereafter an annual renewal license fee in the same amount must be paid. Renewal fee.

If the application for a renewal license is not received by the director on or before January 1st, 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 shall not be a waiver of the delinquency.

SEC. 8. Section 18.85.150, RCW, as derived from sections 11 and 12, chapter 252, Laws of 1941, as last amended by section 13, chapter 222, Laws of 1951, is amended to read as follows: Amendment.

The director may issue a temporary salesman's permit pending examination, to any applicant who, Temporary salesman's permit.

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 salesmen 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 licensees 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.

Application fee.

Examination fee.

Duration of permit.

Examination date limitation.

One permit per person.

Failure to take or pass examination.

Temporary broker's permit.

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.

SEC. 9. Section 18.85.161, RCW, as derived from section 21, chapter 222, Laws of 1951, is amended to read as follows: Amendment.

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 act relating to the handling and depositing of closing funds. Nonresident broker's license; requirements.

Any privileges accorded herein to a nonresident shall apply only to a licensed real estate broker of one year's 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. Conditions.
Reciprocity.

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. Waiver of examination.

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 Salesmen of nonresident broker licensee.

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.

Amendment.

SEC. 10. Section 18.85.210, RCW, as derived from section 27, chapter 252, Laws of 1941, as last amended by section 8, chapter 203, Laws of 1947, is amended to read as follows:

Annual
publication
of director.

The director shall 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 15th, and such information relative to the enforcement of the provisions hereof as he may deem of interest to the public; and he shall 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.

Amendment.

SEC. 11. Section 18.85.220, RCW, as derived from section 7, chapter 252, Laws of 1941, is amended to read as follows:

Disposition
of license and
examination
fees.

All fees required under the provisions of this chapter shall be paid to the state treasurer. The sum of five dollars from each license fee and each renewal fee received from a broker, associate real estate broker, or salesman, shall be placed in the general fund. The balance of such fees and all other fees paid under the provisions of this chapter shall be placed in a special fund to be designated the real estate commission fund, at least one half of which shall be held and used for the sole purpose of inspecting the books, records and operations of the brokers, associate brokers, and salesmen.

SEC. 12. Section 18.85.230, RCW, as derived from section 19, chapter 252, Laws of 1941, as last amended by section 16, chapter 222, Laws of 1951, is 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; Investigation by director; authorized.
- (2) Violating any of the provisions of this chapter or any lawful rules or regulations made by the director pursuant thereto; Grounds for license suspension, revocation or denial:
- (3) A crime against the laws of this or any other state or government, involving moral turpitude or dishonest dealings; License wrongfully obtained.
- (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; Violation of act.
- (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 upon the word, representation or conduct of the licensee acts to his injury or damage; Criminal conduct.
- (6) Accepting the services of, or continuing in a representative capacity, any salesman who has not False statements.
- Fraudulent conduct.
- Employing unlicensed salesman.

been granted a license, or after his license has been revoked or during a suspension thereof;

Conversion.

(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;

Failure to disclose information to director.

(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;

Making sales after objections made.

(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;

Dishonest acts.

(10) Committing any act of fraudulent or dishonest dealing 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;

Advertising improperly.

(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;

Taking other than cash as earnest money.

(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;

Compensation from more than one party.

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

Undisclosed commissions, etc.

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

Appraisal on a pre-determined 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;

Undisclosed interest in appraisal report.

(17) Misrepresentation of his membership in any state or national real estate association.

Misrepresentation of membership.

SEC. 13. Section 18.85.310, RCW, as derived from section 18, chapter 252, Laws of 1941, as last amended by section 19, chapter 222, Laws of 1951, is amended to read as follows:

Amendment.

Every licensed real estate broker shall keep adequate records of all real estate transactions handled by or through him. The records shall include, but are not limited to, a copy of the earnest money receipt, and an itemization of the broker's receipts and disbursements with each transaction. These records and all other records hereinafter specified shall be open to inspection by the director or his authorized representatives.

Brokers; records required to be kept.

Inspection.

Every real estate broker shall also deliver or cause to be delivered to all parties signing the same, at the time of signing, conformed copies of all earnest money receipts, listing agreements and all other like or similar instruments signed by the parties, including the closing statement.

Copies of earnest money receipts, etc., to parties.

Every real estate broker shall also keep separate real estate fund accounts in a recognized Washington state depository authorized to receive funds in

Separate real estate fund accounts.

which shall be kept separate and apart and physically segregated from licensee broker's own funds, all funds or moneys of clients which are being held by such licensee broker pending the closing of a real estate sale or transaction, or which have been collected for said client and are being held for disbursement for or to said client and such funds shall be deposited not later than the first banking day following receipt thereof.

Revocation of license; grounds.

Any violation by a real estate broker of any of the provisions of this section, or RCW 18.85.230, shall be grounds for revocation of the licenses issued to the broker.

Amendment.

SEC. 14. Section 18.85.320, RCW, as derived from section 26, chapter 252, Laws of 1941, as last amended by section 7, chapter 203, Laws of 1947, is amended to read as follows:

Salesmen and associate brokers; license.

The license of a real estate salesman or associate real estate broker shall be retained at all times by his designated broker and when any real estate salesman or associate real estate broker ceases to represent his broker his license shall cease to be in force. Notice of such termination shall be given by the broker to the director and such notice shall be accompanied by and include the surrender of the salesman's or associate real estate broker's license.

Notice of termination.

Failure to notify.

Failure of any broker to promptly notify the director of such salesman's or associate real estate broker's termination after demand by the affected salesman or associate real estate broker shall work a forfeiture of the broker's license. Upon application of the salesman or associate real estate broker and the payment of five dollars, the director shall issue a new license for the unexpired term, if such salesman or associate real estate broker is otherwise entitled thereto. When a real estate salesman's or associate real estate broker's services shall be terminated by his broker for a violation of any of the provisions of

Notice of termination for violation.

RCW 18.85.230, a written statement of the facts in reference thereto shall be filed forthwith with the director by the broker.

SEC. 15. Section 18.85.330, RCW, as derived from section 24, chapter 252, Laws of 1941, as last amended by section 6, chapter 118, Laws of 1943, is amended to read as follows: Amendment.

It shall be unlawful for any licensed broker to pay any part of his commission or other compensation to any person who is not a licensed real estate broker in any state of the United States or its possessions or any province of the Dominion of Canada, or to a real estate salesman not licensed to do business for such broker; or for any licensed salesman to pay any part of his commission or other compensation to any person, whether licensed or not, except through his broker. Sharing
commission
or com-
pensation;
brokers.

Salesmen.

SEC. 16. Section 18.85.350, RCW, as derived from sections 21 and 22, chapter 252, Laws of 1941, as last amended by section 6, chapter 203, Laws of 1947, is amended to read as follows: Amendment.

The director may prefer a complaint for violation of any section of this chapter before any court of competent jurisdiction. Enforcement
of chapter;
director.

The prosecuting attorney of each county shall prosecute any violation of the provisions of this chapter which occurs in his county, and if the prosecuting attorney fails to act, the director may request the attorney general to take action in lieu of the prosecuting attorney. Prosecuting
attorney.

Attorney
general.

Process issued by the director shall extend to all parts of the state, and may be served by any person authorized to serve process of courts of record. Process.

The director may petition the superior court in any county in this state for the immediate appointment of a receiver to take over, operate or close any real estate office in this state which is found, upon inspection of its books and records to be operating Receiver.

in violation of the provisions of this chapter, pending a hearing as herein provided.

New section.

SEC. 17. Chapter 18.85, RCW, as derived from chapter 252, Laws of 1941, as amended, is amended by adding a new section thereto reading as follows:

Real estate commission; creation and composition.

There is established the Real Estate Commission of the state of Washington, consisting of the director of the commission and six board members who shall act in an advisory capacity to the director.

Appointment. Terms of office.

The six board 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.

Geographic requirements.

Three of the board members shall be selected from the area in the state west of the Cascade mountain range and three shall be selected from that area of the state east of the Cascade mountain range.

Qualifications.

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 or work of a similar nature, preferably in connection with the administration of real estate license law of this state or elsewhere.

Vacancies.

Any vacancies on the commission shall be filled by appointment by the governor for the unexpired term.

New section.

SEC. 18. Chapter 18.85, RCW, as derived from chapter 252, Laws of 1941, as amended, is amended by adding a new section thereto reading as follows:

Real estate commission; powers and duties.

The commission shall have authority to hold educational conferences for the benefit of the industry, and shall conduct examinations of applicants for licenses under this chapter. It shall be charged with

the preparation of such examinations and shall administer them at stated periods, with not less than three examinations per year in each of the following six areas of the state per year: northwest Washington, southwest Washington, northeast Washington, southeast Washington, north central Washington, and south central Washington.

SEC. 19. Section 18.85.020, RCW, as derived from section 1, chapter 252, Laws of 1941, and section 18.85.070, RCW, as derived from section 13, chapter 252, Laws of 1941, as last amended by section 5, chapter 222, Laws of 1951, are repealed. Repealing clause.

Passed the House March 5, 1953.

Passed the Senate March 10, 1953.

Approved by the Governor March 20, 1953.