

authority charged with the duty of receiving such reports shall provide sufficient report forms in compliance with the form devised. The report forms shall be designated so as to provide that a copy may be retained by the reporting person.

Passed the House June 21, 1977.

Passed the Senate June 21, 1977.

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CHAPTER 370

[Substitute House Bill No. 446]

REAL ESTATE BROKERS AND SALESMEN—LICENSING—STUDY

AN ACT Relating to real estate brokers and salesmen; amending section 2, chapter 252, Laws of 1941 as last amended by section 1, chapter 57, Laws of 1973 1st ex. sess. and RCW 18.85.010; amending section 7, chapter 139, Laws of 1972 ex. sess. and RCW 18.85.095; amending section 3, chapter 252, Laws of 1941 as last amended by section 10, chapter 139, Laws of 1972 ex. sess. and RCW 18.85.110; amending section 10, chapter 222, Laws of 1951 as last amended by section 1, chapter 42, Laws of 1973 1st ex. sess. and RCW 18.85.120; amending section 12, chapter 222, Laws of 1951 as last amended by section 12, chapter 139, Laws of 1972 ex. sess. and RCW 18.85.140; amending section 13, chapter 222, Laws of 1951 as last amended by section 13, chapter 139, Laws of 1972 ex. sess. and RCW 18.85.150; amending section 14, chapter 139, Laws of 1972 ex. sess. and RCW 18.85.155; amending section 21, chapter 222, Laws of 1951 as last amended by section 15, chapter 139, Laws of 1972 ex. sess. and RCW 18.85.161; and adding a new section to chapter 18.85 RCW.

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 57, Laws of 1973 1st ex. sess. 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))~~ while acting for another for commissions or other compensation or the promise thereof, or a licensee under this chapter while acting in his own behalf, ((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 state of Washington, or holds himself out to the public as being so engaged)) who:

(a) Sells or offers for sale, lists or offers to list, buys or offers to buy real estate or business opportunities, or any interest therein, for others;

(b) Negotiates or offers to negotiate, either directly or indirectly, the purchase, sale, exchange, lease, or rental of real estate or business opportunities, or any interest therein, for others;

(c) Advertises or holds himself out to the public by any oral or printed solicitation or representation that he is so engaged; or

(d) Engages, directs, or assists in procuring prospects or in negotiating or closing any transaction which results or is calculated to result in any of these acts;

(2) "Real estate salesman" or "salesman" means any natural person employed, either directly or indirectly, by a real estate broker, or any person who represents a real estate broker in ((any of his activities)) the performance of any of the acts specified in subsection 1 of this section;

(3) An "associate real estate broker" is a person who has qualified as a "real estate broker" who works with a broker and whose license states that he is associated with a 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, and the real estate commission may certify courses of instruction other than in the aforementioned institutions; and

(10) "Incapacitated" means the physical or mental inability to perform the duties of broker prescribed by this chapter.

Sec. 2. Section 7, chapter 139, Laws of 1972 ex. sess. and RCW 18.85.095 are each amended to read as follows:

It is hereby established that the minimum requirements for an individual to receive a salesman's license ((is)) are that the individual ((~~must have obtained his eighteenth birthday and has a high school diploma or its equivalent~~));

(1) Is eighteen years of age or older;

(2) Is a resident of the state of Washington; and

(3) Has passed a salesman's examination.

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. 3. Section 10, chapter 222, Laws of 1951 as last amended by section 1, chapter 42, Laws of 1973 1st ex. sess. and RCW 18.85.120 are each amended to read as follows:

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:

(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.

(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.

(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))~~ Furnish such proof as the director may require that the applicant is a resident of the state of Washington or, if the applicant is a corporation or copartnership, that the designated broker of the corporation or copartnership is a resident of the state of Washington.

(4) Furnish such other proof as the director may require concerning the honesty, truthfulness, and good reputation, as well as the identity, including but not limited to fingerprints, of any applicants for a license, or of the officers of a corporation making the application.

Sec. 4. Section 12, chapter 222, Laws of 1951 as last amended by section 12, chapter 139, Laws of 1972 ex. sess. 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 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 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 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 the renewal date shall not be a waiver of the delinquency.

The license of any person whose license renewal fee is not received within one year from the date of expiration shall be cancelled. This person may obtain a new license by satisfying the procedures and qualifications for initial licensing, including the successful completion of any applicable examinations.

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

Sec. 5. Section 13, chapter 222, Laws of 1951 as last amended by section 13, chapter 139, Laws of 1972 ex. sess. 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 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 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 or incapacitated broker, the senior qualified salesman in that office or other qualified representative of the deceased or incapacitated broker, 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. 6. Section 14, chapter 139, Laws of 1972 ex. sess. and RCW 18.85.155 are each amended to read as follows:

Responsibility for any salesman, associate broker or branch manager in conduct covered by this (~~(1972 amendatory act)~~) chapter 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. 7. Section 21, chapter 222, Laws of 1951 as last amended by section 15, chapter 139, Laws of 1972 ex. sess. 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 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.

An applicant for a nonresident license shall irrevocably consent to having suits and actions commenced against him in any county of this state in which the plaintiff resides, and to service of any process or pleadings by delivery thereof to the director. The service shall be valid and binding upon the applicant. The 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. One copy shall

be filed in the office of the director, and one copy shall be immediately forwarded by registered mail to the applicant's office address given in his application. Service shall be deemed to have been made upon the applicant on the third day following the deposit of the copy in the mail.

NEW SECTION. Sec. 8. There is added to chapter 18.85 RCW a new section to read as follows:

(1) Any license issued under this chapter and not otherwise revoked shall be deemed "inactive" at any time it is delivered to the director. Until reissued under this chapter, the holder of an inactive license shall be deemed to be unlicensed.

(2) An inactive license may be renewed on the same terms and conditions as an active license, and failure to renew shall result in cancellation in the same manner as an active license. An inactive license may be placed in an active status upon completion of an application as provided by the director and upon compliance with this chapter and the rules adopted pursuant thereto.

(3) The provisions of this chapter relating to the denial, suspension, and revocation of a license shall be applicable to an inactive license as well as an active license, except that when proceedings to suspend or revoke an inactive license have been initiated, the license shall remain inactive until the proceedings have been completed.

Sec. 9. Section 3, chapter 252, Laws of 1941 as last amended by section 10, chapter 139, Laws of 1972 ex. sess. 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 that of a group of which he is a member, or who, as the owner or part owner of property, and/or a business opportunity, in any 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 secretary, bookkeeper, accountant, or other office personnel who does not engage in any conduct or activity specified in any of the definitions under RCW 18.85.010; nor, (5) any owner of rental or lease property, members of the owner's family whether or not residing on such property, or a resident manager of a complex of residential dwelling units wherein such manager resides; nor, (6) any person who manages residential dwelling units on an incidental basis and not as his principal source of income so long as that person does not advertise or hold himself out to the public by any oral or printed solicitation or representation that he is so engaged.

NEW SECTION. Sec. 10. The department of motor vehicles shall undertake a study of chapter 18.85 RCW and submit recommendations to the legislature at its first meeting after January 1, 1978, for revisions to the statutes regulating the real estate industry. The examination shall determine the most appropriate means of regulating commercial and residential property managers, sales personnel, developers and other appropriate phases of the industry. The department shall coordinate

its review with any interim study efforts by the senate and house commerce committees.

Passed the House June 20, 1977.

Passed the Senate June 19, 1977.

Approved by the Governor July 14, 1977.

Filed in Office of Secretary of State July 14, 1977.

CHAPTER 371

[Engrossed Substitute Senate Bill No. 2910]

ENERGY FACILITY SITES

AN ACT Relating to energy facility sites; amending section 1, chapter 45, Laws of 1970 ex. sess. as amended by section 29, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 80.50.010; amending section 2, chapter 45, Laws of 1970 ex. sess. as amended by section 30, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 80.50.020; amending section 3, chapter 45, Laws of 1970 ex. sess. as last amended by section 31, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 80.50.030; amending section 4, chapter 45, Laws of 1970 ex. sess. as amended by section 32, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 80.50.040; amending section 6, chapter 45, Laws of 1970 ex. sess. as amended by section 34, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 80.50.060; amending section 8, chapter 45, Laws of 1970 ex. sess. and RCW 80.50.080; amending section 9, chapter 45, Laws of 1970 ex. sess. and RCW 80.50.090; amending section 10, chapter 45, Laws of 1970 ex. sess. as amended by section 36, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 80.50.100; amending section 11, chapter 45, Laws of 1970 ex. sess. as amended by section 37, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 80.50.110; amending section 12, chapter 45, Laws of 1970 ex. sess. as amended by section 38, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 80.50.120; amending section 14, chapter 45, Laws of 1970 ex. sess. and RCW 80.50.140; amending section 15, chapter 45, Laws of 1970 ex. sess. and RCW 80.50.150; adding new sections to chapter 80.50 RCW; repealing section 5, chapter 45, Laws of 1970 ex. sess., section 33, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 80.50.050; repealing section 7, chapter 45, Laws of 1970 ex. sess., section 35, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 80.50.070; repealing section 1, chapter 110, Laws of 1974 ex. sess., section 39, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 80.50.170; amending section 2, chapter 110, Laws of 1974 ex. sess. as amended by section 40, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 80.50.175; making an appropriation; and declaring an emergency.

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

****Section 1. Section 1, chapter 45, Laws of 1970 ex. sess. as amended by section 29, chapter 108, Laws of 1975-'76 2nd ex. sess. and RCW 80.50.010 are each amended to read as follows:***

The legislature finds that the present and predicted growth in energy demands in the state of Washington requires the development of a procedure for the selection and utilization of sites for energy facilities and the identification of a state position with respect to each proposed site. The legislature recognizes that the selection of sites will have a significant impact upon the welfare of the population, the location and growth of industry and the use of the natural resources of the state.

It is the policy of the state of Washington to recognize the pressing need for increased energy facilities, and to ensure through available and reasonable methods, that the location and operation of such facilities will produce minimal adverse effects on the environment((= ecology)) of the land and its wildlife, and ((the ecology)) of state waters and their aquatic life.

It is the intent to seek courses of action that will balance the increasing demands for energy facility location and operation in conjunction with the broad interests of the public. Such action will be based on these premises: