

CHAPTER 25

[House Bill No. 341]

REAL ESTATE BROKERS AND SALESMEN—CODE CORRECTION

AN ACT Relating to real estate brokers and salesmen; reenacting section 10, chapter 222, Laws of 1951 as last amended by section 2, chapter 24, Laws of 1977 ex. sess. and by section 3, chapter 370, Laws of 1977 ex. sess. and RCW 18.85.120; reenacting section 12, chapter 222, Laws of 1951 as last amended by section 3, chapter 24, Laws of 1977 ex. sess. and by section 4, chapter 370, Laws of 1977 ex. sess. and RCW 18.85.140; reenacting section 13, chapter 222, Laws of 1951 as last amended by section 4, chapter 24, Laws of 1977 ex. sess. and by section 5, chapter 370, Laws of 1977 ex. sess. and RCW 18.85.150; reenacting and amending section 19, chapter 252, Laws of 1941 as last amended by section 1, chapter 204, Laws of 1977 ex. sess. and by section 1, chapter 261, Laws of 1977 ex. sess. and RCW 18.85.230; and declaring an emergency.

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

Section 1. Section 10, chapter 222, Laws of 1951 as last amended by section 2, chapter 24, Laws of 1977 ex. sess. and by section 3, chapter 370, Laws of 1977 ex. sess. and RCW 18.85.120 are each reenacted 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 twenty-five dollars if a salesman's license is applied for and of forty 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) 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. 2. Section 12, chapter 222, Laws of 1951 as last amended by section 3, chapter 24, Laws of 1977 ex. sess. and by section 4, chapter 370, Laws of 1977 ex. sess. and RCW 18.85.140 are each reenacted to read as follows:

Before receiving his license every real estate broker must pay a license fee of forty dollars, every associate real estate broker must pay a license fee of forty dollars, and every real estate salesman must pay a license fee of twenty-five 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 fifty-five dollars for a real estate broker and associate real estate broker and thirty-five 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 canceled. 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 active licensee a license and a pocket identification card in such form and size as he shall prescribe.

Sec. 3. Section 13, chapter 222, Laws of 1951 as last amended by section 4, chapter 24, Laws of 1977 ex. sess. and by section 5, chapter 370, Laws of 1977 ex. sess. and RCW 18.85.150 are each reenacted to read as follows:

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. 4. Section 19, chapter 252, Laws of 1941 as last amended by section 1, chapter 204, Laws of 1977 ex. sess. and by section 1, chapter 261, Laws of 1977 ex. sess. and RCW 18.85.230 are each amended and reenacted 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) 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, 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 relies upon the word, representation or conduct of the licensee;

(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 state or national real estate association;

(18) 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; ((or))

(27) Acting as a mobile home and travel trailer dealer or salesman, as defined in RCW 46.70.011 as now or hereafter amended, without having a license to do so; ((or))

(28) Failing to assure that the title is transferred under chapter 46.12 RCW when engaging in a transaction involving a mobile home as a broker or salesman((:)); or

((27)) (29) Violation of an order to cease and desist which is issued by the director under this chapter.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

EXPLANATORY NOTE

Section 1. RCW 18.85.120 was amended twice during the 1977 extraordinary session of the legislature, each without reference to the other.

(1) 1977 ex.s. c 24 § 2 changed the application fee for a salesman's license from fifteen to twenty-five dollars, and for a broker's license from twenty-five to forty dollars.

(2) 1977 ex.s. c 370 § 3 in subsection (3) deleted requirements as to suits, actions and service of process pertaining to nonresidents, and enacted new material relating to proof of residency within state of Washington.

Sec. 2. RCW 18.85.140 was amended twice during the 1977 extraordinary session of the legislature, each without reference to the other.

(1) 1977 ex.s. c 24 § 3 changed the license fee for real estate brokers from twenty-five to forty dollars, for associate real estate brokers from twenty-five to forty dollars, and for real estate salesmen from fifteen to twenty-five dollars. The late renewal fees were raised from thirty-five to fifty-five dollars for real estate brokers and associate real estate brokers, and from twenty to thirty-five dollars for real estate salesmen.

(2) 1977 ex.s. c 370 § 4 provides for cancellation of licenses of real estate brokers, associate real estate brokers, and salesmen who do not pay license renewal fees within one year of expiration date, and also prescribes procedures for obtaining new licenses. The last sentence referring to the license and pocket identification cards changed "broker, associate broker, and salesman" to "active licensee".

Sec. 3. RCW 18.85.150 was amended twice during the 1977 extraordinary session of the legislature, each without reference to the other.

(1) 1977 ex.s. c 24 § 4 deleted the first two paragraphs relating to temporary permits for salesmen.

(2) 1977 ex.s. c 370 § 5 also deleted the first two paragraphs. In reference to temporary broker's permits being issued to an accredited or qualified representative of a "deceased" broker, the language was changed to "deceased or incapacitated" broker.

Sec. 4. RCW 18.85.230 was amended twice during the 1977 extraordinary session of the legislature, each without reference to the other.

(1) 1977 ex.s. c 204 § 1 added two new subsections at the end of the section relating to sales of mobile homes.

(2) 1977 ex.s. c 261 § 1 also added a new subsection at the end of the section regarding violation of cease and desist orders issued by the director.

As these amendments appear to be in different respects, the purpose of this act is to give effect to each by reenacting the sections with both amendments included therein.

Passed the House January 24, 1979.

Passed the Senate February 26, 1979.

Approved by the Governor March 13, 1979.

Filed in Office of Secretary of State March 13, 1979.

CHAPTER 26

[Substitute House Bill No. 796]

HYDROPLANE RACES—ADMISSION FEES

AN ACT Relating to local government; and adding new sections to chapter 35.21 RCW.

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

NEW SECTION. Section 1. There is added to chapter 35.21 RCW a new section to read as follows:

Any city or town may provide restrooms and other services in its public parks to be used by spectators of any hydroplane race held on a lake or river which is located adjacent to or within the city or town, and in addition any city or town may charge admission fees for persons to observe a hydroplane race from public park property which is sufficient to defray the costs of the city or town accommodating spectators, cleaning up after the race, and other costs related to the hydroplane race. Any city or town may authorize the organization which sponsors a hydroplane race to provide restroom and other services for the public on park property and may authorize the organization to collect any admission fees charged by the city or town.

NEW SECTION. Sec. 2. There is added to chapter 35.21 RCW a new section to read as follows:

It is hereby declared to be a legitimate public park purpose for any city or town to levy an admission charge for spectators to view hydroplane races from park property. Property which has been conveyed to a city or town by the state for exclusive use in the city's or town's public park system or exclusively for public park, parkway, and boulevard purposes shall not revert to the state upon the levying of admission fees authorized in section 1 of this act.

Passed the House February 22, 1979.

Passed the Senate March 1, 1979.

Approved by the Governor March 13, 1979.

Filed in Office of Secretary of State March 13, 1979.