WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1980

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ENROLLED
SENATE BILL NO. 236

(By Mr. Bratton, Mr. President, et al.)

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PASSED March 5 1980

In Effect July 1, 1980
AN ACT to amend and reenact sections two, four, nine and fourteen, article twelve, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the licensing and qualifying of real estate brokers and salespersons; defining "associate broker"; requiring attorneys-at-law to take an examination in order to qualify for a broker's license; exempting attorneys-at-law who presently hold a broker's license from taking an examination; providing that an applicant must be a high school graduate; requiring applicants to meet certain instructional requirements; exempting certain applicants who hold a valid license from the instructional requirements; exempting coal, oil or gas transactions from effects of article; requiring the commission to approve instructional and provide correspondence courses and to publish a list of such approved courses; and providing a fee schedule.

Be it enacted by the Legislature of West Virginia:

That sections two, four, nine and fourteen, article twelve, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 12. REAL ESTATE COMMISSION, BROKERS AND SALESMEN.

§47-12-2. Definitions and exceptions.

1. (a) The term "real estate broker" within the meaning of this article includes all persons, partnerships,
associations and corporations, foreign and domestic, who
for a fee, commission or other valuable consideration
or who with the intention or expectation of receiving
or collecting the same, lists, sells, purchases, exchanges,
rents, manages, leases or auctions any real estate or
the improvements thereon, including options, or who
negotiates or attempts to negotiate any such activity;
or who advertises or holds himself, itself or themselves
out as engaged in such activities; or who directs or as-
sists in the procuring of a purchaser or prospect cal-
culated or intended to result in a real estate transac-
tion. The term "real estate broker" shall also include
any person, partnership, association or corporation em-
ployed by or on behalf of the owner or owners of lots,
or other parcels of real estate, at a stated salary or
upon a fee, commission or otherwise to sell such real
estate, or any parts thereof, in lots or other parcels,
and who shall sell, manage, exchange, lease, offer, at-
tempt or agree to negotiate the sale, exchange or lease
of any such lot or parcel of real estate.

(b) The term "real estate" as used in this article
includes leaseholds as well as any and every interest
or estate in land, whether corporeal or incorporeal, free-
hold or nonfreehold, and whether said property is situat-
ed in this state or elsewhere.

(c) The term "Associate Broker" means any person
who for compensation or other valuable consideration is
employed by a broker to perform all the functions au-
thorized by a broker's license only for and on behalf of
such employing broker including but not limited to
authority to supervise other salesmen employed by a
broker and manage an office on behalf of a broker.

(d) The term "real estate salesman" means and in-
cludes any person employed or engaged by or on behalf
of a licensed real estate broker to do or deal in any
activity as included in this section, for compensation or
otherwise.

(e) One act in consideration of or with the expecta-
tion or intention of or upon the promise of receiving
compensation by fee, commission or otherwise, in the
The term "real estate broker" or "real estate salesman" shall not include any person, partnership, association or corporation, who, as a bona fide owner or lessor, performs any aforesaid act:

(1) With reference to property owned or leased by him or to the regular employees thereof, where such acts are performed in the regular course of or as an incident to the management of, such property and the investment therein;

(2) Nor shall this article be construed to include attorneys-at-law, except that attorneys-at-law shall be required to submit to the written examination required under section seven of this article in order to qualify for a broker's license: Provided, That an attorney-at-law who is licensed as a real estate broker prior to the effective date of this section is exempt from the written examination required under section seven of this article;

(3) Nor any person holding in good faith a duly executed power of attorney from the owner authorizing the final consummation and execution for the sale, purchase, lease or exchange of real estate;

(4) Nor to the acts of any person while acting as a receiver, trustee, administrator, executor, guardian, or under the order of any court or while acting under authority of a deed of trust or will;

(5) Nor shall this article apply to public officers while performing their duties as such;

(6) Nor shall this article apply to the acquisition or disposition of coal, oil or gas leasehold or coal, oil or gas interests.

§47-12-4. Qualifications for licenses.

(1) Licenses shall be granted only to persons who are trustworthy, of good character and competent to transact the business of a real estate broker or real estate sales-
man in such manner as to safeguard the interests of the public. Every applicant for a license as a real estate broker shall be of the age of eighteen years or over, a citizen of the United States and shall have served a bona fide apprenticeship as a licensed real estate salesman for two years or shall produce to the real estate commission satisfactory evidence of real estate experience. No broker's license shall be issued to a partnership, association or corporation unless each member or officer thereof who will actively engage in the real estate business be licensed as a real estate salesman or associate broker, when and after said broker shall have been granted a broker's license.

(2) A broker's or salesperson's license may be issued to any person who is either a high school graduate or the holder of a certificate of high school equivalency.

(3) Applicants for a broker's license shall show evidence satisfactory to the commission that they have completed at least one hundred eighty clock-hours (twelve credit hours) of formal instruction in a real estate course or courses approved by the commission. Such courses must cover real estate principles, real estate law, real estate appraising, and real estate finance and such other topics approved by the commission. The applicant shall satisfactorily pass an examination or examinations covering the material taught in each such course.

(4) Applicants for a salesperson's license shall show evidence satisfactory to the commission that they have completed at least ninety clock-hours (six credit hours) of formal instruction in a real estate course or courses approved by the commission. Such courses must cover real estate principles, real estate law, real estate appraising, and real estate finance, and such other topics approved by the commission. The applicant shall satisfactorily pass an examination covering the material taught in each such course.

(5) Subsections (3) and (4) of this section do not apply to any applicant who holds a valid broker's or salesperson's license issued prior to the first day of July, one thousand nine hundred eighty. Each such applicant
shall complete at least ninety clock-hours (six credit hours) of instruction as specified in subsection (3) of this section if he has not completed the broker’s examination required under section seven of this article by the first day of July, one thousand nine hundred eighty-two.

(6) The commission, pursuant to this section, shall publish a list of real estate courses which are approved and shall update such list yearly. Additionally, the commission shall, on request of any person, evaluate a specific course or courses which are not on the approved list and approve or disapprove such course or courses promptly and in writing.

§47-12-9. License fees; annual registration; fees for additional offices, charge for change of location and for duplicate or transfer of licenses.

To pay for the maintenance and operation of the office of the commission and the enforcement of this article, the commission shall charge the following fees:

(a) Examination fee—twenty-five dollars, with no additional fee for second examination.
(b) Investigation fee—ten dollars.
(c) Broker’s license—fifty dollars.
(d) Salesperson’s license—twenty-five dollars.
(e) Broker’s renewal fee—fifty dollars, payable by the thirtieth day of June of each year.
(f) Salesperson’s renewal fee—twenty-five dollars, payable by the thirtieth day of June of each year.
(g) Branch office fee—fifty dollars.
(h) Renewal of branch office license—five dollars.
(i) Transfer of salesperson’s license—ten dollars.
(j) Duplicate license or certification—five dollars.
(k) Change of name—five dollars.
(l) Change of office—ten dollars.

Willful failure to pay any of the fees required under this article is just cause for revocation of or refusal to issue or renew a license: Provided, That no such action may be taken because a check is returned unpaid.
§47-12-14. Real estate courses for licensees; assisting studies, surveys, etc.
1   (a) The commission is authorized to conduct, or hold
2   or to assist in conducting or holding real estate courses
3   or institutes. The commission may incur and pay the
4   necessary expenses in connection therewith. Such
5   courses or institutes are open to any licensee without
6   charge or fee.
7   (b) The commission is hereby authorized to assist
8   libraries, real estate institutes and foundations with
9   financial aid or otherwise, in providing texts, sponsoring
10  studies, surveys and programs for the benefit of real
11  estate and the elevation of the real estate business.
12  (c) The commission shall provide correspondence
13  courses for applicants for brokers' and salespersons'
14  licenses sufficient to meet the educational requirements
15  contained in section four, subsections (3) and (4) as
16  an alternative means of meeting said educational require-
17  ments.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James R. Davis  
Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect July 1, 1980.

Todd C. Willis  
Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 24th day of March, 1980.

Governor