

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-24-80

Time 4:10 p.m.

**WEST VIRGINIA LEGISLATURE**  
**REGULAR SESSION, 1980**



**ENROLLED**

**SENATE BILL NO. 236**

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

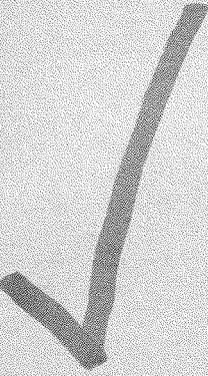


PASSED March 5, 1980

In Effect July 1, 1980 ~~Page~~



*No. 236*



## ENROLLED

### Senate Bill No. 236

(By MR. BROTHERTON, MR. PRESIDENT, MR. GALPERIN,  
MR. NELSON, MR. ROLLINS and MISS HERNDON)

---

[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 mean-
- 2 ing of this article includes all persons, partnerships,

3 associations and corporations, foreign and domestic, who  
4 for a fee, commission or other valuable consideration  
5 or who with the intention or expectation of receiving  
6 or collecting the same, lists, sells, purchases, exchanges,  
7 rents, manages, leases or auctions any real estate or  
8 the improvements thereon, including options, or who  
9 negotiates or attempts to negotiate any such activity;  
10 or who advertises or holds himself, itself or themselves  
11 out as engaged in such activities; or who directs or as-  
12 sists in the procuring of a purchaser or prospect cal-  
13 culated or intended to result in a real estate transac-  
14 tion. The term "real estate broker" shall also include  
15 any person, partnership, association or corporation em-  
16 ployed by or on behalf of the owner or owners of lots,  
17 or other parcels of real estate, at a stated salary or  
18 upon a fee, commission or otherwise to sell such real  
19 estate, or any parts thereof, in lots or other parcels,  
20 and who shall sell, manage, exchange, lease, offer, at-  
21 tempt or agree to negotiate the sale, exchange or lease  
22 of any such lot or parcel of real estate.

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

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

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

40 (e) One act in consideration of or with the expecta-  
41 tion or intention of or upon the promise of receiving  
42 compensation by fee, commission or otherwise, in the

43 performance of any act or activity contained in this  
44 section, constitutes such persons, partnerships, asso-  
45 ciation or corporation, a real estate broker and make him,  
46 them or it subject to the provisions and requirements of  
47 this article.

48 (f) The term "real estate broker" or "real estate  
49 salesman" shall not include any person, partnership, as-  
50 sociation or corporation, who, as a bona fide owner or  
51 lessor, performs any aforesaid act:

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

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

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

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

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

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

#### §47-12-4. Qualifications for licenses.

1 (1) Licenses shall be granted only to persons who are  
2 trustworthy, of good character and competent to transact  
3 the business of a real estate broker or real estate sales-

4 man in such manner as to safeguard the interests of the  
5 public. Every applicant for a license as a real estate  
6 broker shall be of the age of eighteen years or over, a  
7 citizen of the United States and shall have served a bona  
8 fide apprenticeship as a licensed real estate salesman  
9 for two years or shall produce to the real estate com-  
10 mission satisfactory evidence of real estate experience.  
11 No broker's license shall be issued to a partnership,  
12 association or corporation unless each member or officer  
13 thereof who will actively engage in the real estate busi-  
14 ness be licensed as a real estate salesman or associate  
15 broker, when and after said broker shall have been grant-  
16 ed a broker's license.

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

20 (3) Applicants for a broker's license shall show evi-  
21 dence satisfactory to the commission that they have com-  
22 pleted at least one hundred eighty clock-hours (twelve  
23 credit hours) of formal instruction in a real estate course  
24 or courses approved by the commission. Such courses  
25 must cover real estate principles, real estate law, real  
26 estate appraising, and real estate finance and such other  
27 topics approved by the commission. The applicant shall  
28 satisfactorily pass an examination or examinations cover-  
29 ing the material taught in each such course.

30 (4) Applicants for a salesperson's license shall show  
31 evidence satisfactory to the commission that they have  
32 completed at least ninety clock-hours (six credit hours)  
33 of formal instruction in a real estate course or courses  
34 approved by the commission. Such courses must cover  
35 real estate principles, real estate law, real estate apprais-  
36 ing, and real estate finance, and such other topics ap-  
37 proved by the commission. The applicant shall satis-  
38 factorily pass an examination covering the material  
39 taught in each such course.

40 (5) Subsections (3) and (4) of this section do not apply  
41 to any applicant who holds a valid broker's or sales-  
42 person's license issued prior to the first day of July, one  
43 thousand nine hundred eighty. Each such applicant

44 shall complete at least ninety clock-hours (six credit  
45 hours) of instruction as specified in subsection (3) of  
46 this section if he has not completed the broker's exami-  
47 nation required under section seven of this article by the  
48 first day of July, one thousand nine hundred eighty-two.

49 (6) The commission, pursuant to this section, shall  
50 publish a list of real estate courses which are approved  
51 and shall update such list yearly. Additionally, the com-  
52 mission shall, on request of any person, evaluate a specific  
53 course or courses which are not on the approved list and  
54 approve or disapprove such course or courses promptly  
55 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.**

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

4 (a) Examination fee—twenty-five dollars, with no ad-  
5 ditional fee for second examination.

6 (b) Investigation fee—ten dollars.

7 (c) Broker's license—fifty dollars.

8 (d) Salesperson's license—twenty-five dollars.

9 (e) Broker's renewal fee—fifty dollars, payable by  
10 the thirtieth day of June of each year.

11 (f) Salesperson's renewal fee—twenty-five dollars,  
12 payable by the thirtieth day of June of each year.

13 (g) Branch office fee—fifty dollars.

14 (h) Renewal of branch office license—five dollars.

15 (i) Transfer of salesperson's license—ten dollars.

16 (j) Duplicate license or certification—five dollars.

17 (k) Change of name—five dollars.

18 (l) Change of office—ten dollars.

19 Willful failure to pay any of the fees required under  
20 this article is just cause for revocation of or refusal to  
21 issue or renew a license: *Provided*, That no such action  
22 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

Clarence C. Chester, Jr.  
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1980.

Jodd C. Willis  
Clerk of the Senate

Ch. Blankenship  
Clerk of the House of Delegates

H. C. Brinkley  
President of the Senate

Clayton M. Lee, Jr.  
Speaker House of Delegates

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

John H. Raley  
Governor



RECEIVED  
MAR 14 2 05 PM '80  
OFFICE OF THE GOVERNOR

OFFICE  
OF STATE

30 MAR 25 P 3: 36

RECEIVED