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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1991

ENROLLED

Committee Substitute for
SENATE BILL NO. 33

(By Senator *Pritt, et al*)

PASSED *March 4,* 1991

In Effect *90 days from* Passage

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 33

(BY SENATORS PRITT, M. MANCHIN, BLATNIK

AND J. MANCHIN, *original sponsors*)

[Passed March 4, 1991; in effect ninety days from passage.]

AN ACT to amend and reenact section seventeen, article twelve, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to real estate brokers and real estate salespersons; setting forth when actions for fees, commissions or other compensation may be brought; providing for the suspension of a salesperson's license upon revocation of the employing broker's license; setting forth specifications of listing agreements; requiring broker or salesperson to disclose whom he or she represents; permitting party not represented by the broker or salesperson to terminate relationship upon such disclosure; specifying when delivery of offer and acceptance thereof shall be made; and requiring all terms and conditions of a transaction to be included in the offer to purchase.

Be it enacted by the Legislature of West Virginia:

That section seventeen, 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 SALESPERSONS.

§47-12-17. Actions for commissions; revocation of broker's license as suspending salesperson's licenses; listing agreements; broker or salesperson to disclose agency status; purchase agreements.

1 No person, partnership, association or corporation
2 shall bring or maintain an action in any court of this
3 state for the recovery of a commission, a fee, or
4 compensation for any act done or service rendered,
5 the doing or rendering of which is prohibited under
6 the provisions of this article to other than licensed real
7 estate brokers, unless such person was duly licensed
8 hereunder as a real estate broker at the time of the
9 doing of such act or the rendering of such service.

10 (a) No real estate salesperson shall have the right to
11 institute suit in his or her own name for the recovery
12 of a fee, commission, or compensation for the services
13 as a real estate salesperson, but any such action shall
14 be instituted and brought by the broker employing
15 such salesperson: *Provided*, That a real estate salesper-
16 son shall have the right to institute suit in his or her
17 own name for the recovery of a fee, commission or
18 compensation for services as a real estate salesperson
19 due him or her from the broker by whom he or she
20 is employed.

21 (b) The revocation of a broker's license shall auto-
22 matically suspend every real estate salesperson's
23 license granted to any person by virtue of his or her
24 employment by the broker whose license has been
25 revoked, pending a change of employer and the
26 issuance of a new license. Such new license shall be
27 issued without charge, if granted during the same year
28 in which the original license was granted.

29 (c) A broker or salesperson who obtains a listing
30 shall, at the time of securing such listing, give the
31 person or persons signing such listing a true, legible
32 copy thereof. Every listing agreement, exclusive or
33 nonexclusive, shall have set forth in its terms a
34 definite expiration date; it shall contain no provision

35 requiring the party signing such listing to notify the
36 broker of his or her intention to cancel such listing
37 after such definite expiration date; however, an
38 exclusive listing agreement may provide that upon the
39 expiration of the exclusive feature the listing shall
40 continue to a definite expiration date as a nonexclu-
41 sive listing only.

42 (d) A broker or salesperson shall promptly, or at
43 least prior to any purchaser signing a written offer to
44 purchase, disclose in writing to all parties to a real
45 estate transaction, on a form promulgated by the
46 commission, whether the broker or salesperson repres-
47 ents the seller, the buyer, or both: *Provided*, That after
48 such disclosure, but prior to any purchaser signing a
49 written offer to purchase, the party not represented by
50 the broker or salesperson may terminate, without
51 incurring any liability, his or her relationship with
52 such broker or salesperson.

53 (e) A broker or salesperson shall promptly tender to
54 the seller every written offer to purchase obtained on
55 the property involved and, upon obtaining a proper
56 acceptance of the offer to purchase, shall promptly
57 deliver true executed copies of same, signed by the
58 seller and purchaser, to both purchaser and seller; all
59 brokers and salespersons shall make certain that all of
60 the terms and conditions of the real estate transaction
61 are included in such offer to purchase.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Hommer Heck
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Samuel R. Brown
.....
Clerk of the Senate

Donnell G. Goff
.....
Clerk of the House of Delegates

Walter Burdette
.....
President of the Senate

Bob C. Cole
.....
Speaker House of Delegates

The within is approved this the *12th*
day of *March*, 1991.

Yaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/7/91

Time 2:50 pm