WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1993

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ENROLLED

Committee Substitute for

SENATE BILL NO. 54

(By Senator Weston)

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PASSED April 9, 1993

In Effect 30 Days from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 54

(SENATOR WOOTON, original sponsor)

[Passed April 9, 1993; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, two, three, four, five, six, seven, seven-a, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, seventeen, eighteen and twenty-three, article twelve, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the real estate brokers licensing; changing compensation of commission members; changing secretary to director; requiring continuing legal education to be real estate related; changing fees; adding violations; amending purchase agreements; and requiring education to have been completed during preceding five years.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three, four, five, six, seven, seven-a, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, seventeen, eighteen and twenty-three, 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.

§47-12-1. Title of article; broker's or salesperson's license required.

1 This article shall be known, and may be cited, as the real estate brokers license act of one thousand nine hundred fifty-nine, and from and after the effective date of this article it shall be unlawful for any person, partnership, association or corporation to engage in or carry on, directly or indirectly, or to advertise or hold himself, herself, itself or themselves out as engaging in or carrying on the business or act in the capacity of a real estate broker or a real estate salesperson within this state without first obtaining a license as a real estate broker or real estate salesperson as provided for in this article.

§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, herself, itself or themselves out as engaged in such activities; or who directs or assists in the procuring of a purchaser or prospect calculated or intended to result in a real estate transaction. The term "real estate broker" shall also include any person, partnership, association or corporation employed 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, attempt 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, freehold or nonfreehold, and whether said property is situated 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 authorized by a broker's license only for and on behalf of such employing broker including, but not limited to, authority to supervise other salespersons employed by a broker and manage an office on behalf of a broker.

(d) The term "real estate salesperson" means and includes 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 expectation or intention of or upon the promise of receiving compensation by fee, commission or otherwise, in the performance of any act or activity contained in this section, constitutes such persons, partnerships, association or corporation, a real estate broker and make him or her, them or it subject to the provisions and requirements of this article.

(f) The term "real estate broker" or "real estate salesperson" 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 her 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.

§47-12-3. Commission created; powers generally; membership; appointment and removal of members; qualifications; terms; organization; salaries and expenses; executive director and assistants; seal; admissibility of and inspection of records; termination of commission.

There shall be a commission known as the "West Virginia Real Estate Commission", which commission shall be a corporation and as such may sue and be sued, may contract and be contracted with and shall have a common seal. The commission shall consist of three persons to be appointed by the governor by and with the advice and consent of the Senate. Two of such appointees each shall have been a resident and a citizen of this state for at least six years prior to his or her appointment and whose vocation for at least ten years shall have been that of a real estate broker or real estate salesperson and the third shall be a representative of the public generally. Members in office on the date this section becomes effective shall continue in office until their respective terms expire. The term of the members of said commission shall be for four
years and until their successors are appointed and qualify. No more than two members of such commission shall belong to the same political party. No member shall be a candidate for or hold any other public office or be a member of any political committee while acting as such commissioner. In case any commissioner be a candidate for or hold any other public office or be a member of any political committee, his or her office as such commissioner shall ipso facto be vacated. Members to fill vacancies shall be appointed by the governor for the unexpired term. No member may be removed from office by the governor except for official misconduct, incompetency, neglect of duty, gross immorality or other good cause shown and then only in the manner prescribed by law for the removal by the governor of state elective officers. The governor shall designate one member of the commission as the chairman thereof and the members shall choose one of the members thereof as secretary. Two members of the commission shall constitute a quorum for the conduct of official business.

(a) The commission shall do all things necessary and convenient for carrying into effect the provisions of this article and may from time to time promulgate reasonable, fair and impartial rules and regulations in accordance with the provisions of article three, chapter twenty-nine-a of this code. The board shall pay each member the same compensation as is paid to members of the Legislature for their interim duties as recommended by the citizens legislative compensation commission and authorized by law for each day or portion thereof engaged in the discharge of official duties and shall reimburse each member for actual and necessary expenses incurred in the discharge of official duties.

(b) The commission shall employ an executive director and such clerks, investigators and assistants as it shall deem necessary to discharge the duties imposed by the provisions of this article and to effect its purposes, and the commission shall determine the duties and fix the compensation of such executive
director, clerks, investigators and assistants, subject to
the general laws of the state.

(c) The commission shall adopt a seal by which it
shall authenticate its proceedings. Copies of all records
and papers in the office of the commission, duly
certified and authenticated by the seal of said commis-
ion, shall be received in evidence in all courts equally
and with like effect as the original. All records kept in
the office of the commission under authority of this
article shall be open to public inspection under
reasonable rules and regulations as shall be prescribed
by the commission.

(d) After having conducted a performance and fiscal
audit through its joint committee on government
operations, pursuant to section nine, article ten,
chapter four of this code, the Legislature hereby finds
and declares that the West Virginia real estate com-
mission should be continued and reestablished.
Accordingly, notwithstanding the provisions of section
four of said article, the West Virginia real estate
commission shall continue to exist until the first day
of July, one thousand nine hundred ninety-four.

§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 salesperson 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 salesperson 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 salesperson 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. Any applicant for a broker's license who is licensed as a salesperson at the time a broker's application is submitted to the commission, shall only be required to show evidence satisfactory to the commission that they have completed the additional ninety clock-hours (six credit hours) of formal instruction in a real estate course or courses 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) Effective the first day of July, one thousand nine hundred ninety-four, any applicant for either a broker's or salesperson's license must have completed the required education course or courses during the five year period preceding the date of application.

(6) 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 appli-
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58 shall complete at least ninety clock-hours (six credit hours) of instruction as specified in subsection (3) of this section if he or she 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.

(7) 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.

§47-12-5. Applications for licenses.

1 Every applicant for a real estate broker's license shall apply therefor in writing upon blanks prepared by the commission which shall contain such data and information as the commission shall require.

5 (a) Such application for broker's license shall be accompanied by the recommendation of at least two citizens who are property owners at the time of signing said application and have been property owners for at least twelve months preceding such application, who have known the applicant for two years and are not related to the applicant, certifying that the applicant bears a good reputation for honesty and trustworthiness, and recommending that a license be granted to the applicant.

(b) Every applicant for a salesperson's license shall apply therefor in writing upon blanks prepared by the commission which shall contain such data and information as the commission may require. The application shall be accompanied by a sworn statement by the broker in whose employ the applicant desires to enter, certifying that, in his or her opinion, the applicant is honest and trustworthy, and recommending the license be granted to the applicant.

§47-12-6. Licensing nonresidents; reciprocity; consent to service of process, etc.; manner of service; judgment by default; bond.
A nonresident of this state may become a real estate broker by conforming to all the provisions of this article, except that such nonresident broker regularly engaged in the real estate business as a vocation and who maintains a definite place of business and is licensed in some other state, which offers the same privileges to the licensed brokers of this state, shall not be required to maintain a place of business in this state. The commission shall recognize the license issued to a real estate broker or salesperson by another state as satisfactorily qualifying him or her for license as a broker or salesperson: Provided, That said nonresident broker or salesperson has qualified for license in his or her own state by written examination and also that said other state permits license to be issued to licensed brokers or salespersons in this state without examination. Every nonresident applicant shall file an irrevocable written consent that suits and actions may be commenced against such applicant in the proper court of any county of the state in which a cause of action growing out of a real estate transaction may arise, in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this state, on any member of the commission, or the executive director, said consent stipulating and agreeing that such service of such process or pleading shall be taken and held in all courts to be as valid and binding as if due service had been made upon said applicant in this state. Said consent shall be duly acknowledged and if made by a corporation shall be authenticated by the seal of such corporation. Any service of process or pleading shall be by duplicate copies, one of which shall be filed in the office of the commission and the other immediately forwarded by registered mail to the last-known main office of the applicant against whom said process or pleading is directed; and no default in any such proceeding or action shall be taken except upon certification of the commission or the executive director that a copy of said process or pleading was mailed to the defendant as herein required; and no judgment by default shall be taken in any such action or proceeding until after
(a) Before a license as a real estate broker shall be issued to any person who does not have his or her principal place of business in the state of West Virginia, he or she shall file with the commission a bond in the penalty of two thousand dollars, in form and with security to be approved by the commission and conditioned so as to be for the benefit of and to indemnify any person in the state who may have any cause of action against the principal.

(b) Before a license as a real estate salesperson shall be issued to any person who is not a bona fide resident of this state, whether he or she be an employee of a resident or a nonresident real estate broker, such applicant shall file with the commission a bond such as is herein required to be filed by a nonresident broker.

§47-12-7. Written examinations required; exceptions; requirements for reissuance of revoked license; reexamination after failure; examination where applicant a partnership, etc.; issuance of license.

In addition to proof of honesty, trustworthiness, good character and good reputation of any applicant for a license, the applicant shall submit to a written examination to be conducted by the commission which shall include reading, writing, spelling, elementary arithmetic, a general knowledge of the statutes of this state relating to real property, deeds, mortgages, agreements of sale, agency contract, leases, ethics, appraisals and the provisions of this article: Provided, That any person who has been actively engaged in the real estate business as a real estate broker or real estate salesperson within the year preceding the effective date of this article and is thus engaged in this state at the time this article goes into effect, may secure a license as a real estate broker or a salesperson without an examination: Provided, however, That such person shall make application to the commission for registration within ninety days after the effective date of this
19 article. The examination for a broker's license shall 20 differ from the examination for a salesperson's license 21 in that it shall be of a more exacting nature and 22 require higher standards of knowledge of real estate. 23 The commission shall conduct examinations at such 24 times and places as it shall determine.

25 (a) In event the license of any real estate broker or 26 salesperson shall be revoked by the commission, 27 subsequent to the enactment of this article, no new 28 license shall be issued to such person unless he or she 29 complies with the provisions of this article.

30 (b) No person shall be permitted or authorized to act 31 as a real estate broker until he or she has qualified by 32 examination, except as hereinbefore provided. Any 33 individual who fails to pass the examination upon two 34 occasions shall be ineligible for a similar examination 35 until after the expiration of three months from the 36 time such individual took the last examination and 37 then only upon making application as in the first 38 instance.

39 (c) If the applicant is a partnership, association or 40 corporation said examination shall be submitted to on 41 behalf of said partnership, association or corporation 42 by the member or officer thereof who is designated in 43 the application as the person to receive a license by 44 virtue of the issuing of a license to the partnership, 45 association or corporation.

46 (d) Upon satisfactorily passing such examination and 47 upon complying with all other provisions of law and 48 conditions of this article a license shall thereupon be 49 issued to the successful applicant and upon receiving 50 such license is authorized to conduct the business of a 51 real estate broker or real estate salesperson in this 52 state. A person who has qualified for a real estate 53 license as provided above is considered to be a profes- 54 sional in his or her trade.

§47-12-7a. Continuing education; license renewal.

1 In addition to other provisions of this article, begin- 2 ning the first day of July, one thousand nine hundred
ninety, and every year thereafter, every real estate
broker and salesperson shall complete seven actual
hours of continuing education, with each hour equal-
ing fifty minutes of instructions. The commission shall
establish the continuing education program by rules
and shall approve all courses, seminars and lectures:
Provided, That real estate related continuing legal
education courses approved by the West Virginia state
bar shall be approved by the commission. If approved
in advance by the real estate commission, correspon-
dence courses and audio or video tapes may be used to
satisfy the continuing education requirement.

Upon application for renewal of a real estate license
in each year following one thousand nine hundred
ninety, such real estate broker or salesperson must
furnish satisfactory evidence, as established by the
commission, that he or she has completed the required
number of continuing education hours: Provided, That
a real estate broker or salesperson holding a license on
the first day of July, one thousand nine hundred sixty-
nine, and continuously thereafter, shall be exempt
from continuing education requirements. When a real
estate broker or salesperson in an inactive status
reverts to an active status, he or she will obtain seven
hours continuing education each year without being
required to complete additional hours of education
resulting from his or her inactive status.

§47-12-8. Place of business; display of certificates of registra-
tion; notice of change of address; branch
offices; change of employer or employment
by real estate salespersons.

Every person, partnership, association or corporation
licensed as a real estate broker shall be required to
have and maintain a definite place of business within
this state, which shall be a room or rooms used for the
transaction of the real estate business, or such business
and any allied business. The certificate of registration
as broker and the certificate of each real estate
salesperson employed by such broker shall be promi-
nently displayed in said office. The said place of
business shall be designated in the license and no
license issued under the authority of this article shall authorize the licensee to transact business at any other address. In case of removal from the designated address, the licensee shall make application to the commission before said removal or within ten days after said removal, designating the new location of such office, whereupon the commission shall forthwith issue a new license for the new location for the unexpired period, if said new location is satisfactory, upon return to the commission of the license previously issued.

(a) Each and every branch office owned or operated by a duly licensed broker shall be supervised and operated by a licensed broker or licensed salesperson.

(b) All licenses issued to a real estate salesperson shall designate the employer of such salesperson. Prompt notice in writing, within ten days, shall be given to the commission by any real estate salesperson of a change of employer, and of the licensed broker into whose employ the salesperson is about to enter, and a new license shall thereupon be issued by the commission to such salesperson for the unexpired term of the original license, upon return to the commission of the license previously issued. The change of employer or employment by any licensed real estate salesperson, without notice to the commission, as aforesaid, shall automatically cancel the license to him or her theretofore issued. Upon termination of salesperson's employment, the broker employer shall forthwith return the salesperson's license to the commission for cancellation. It shall be unlawful for any real estate salesperson to perform any of the acts contemplated by this article either directly or indirectly after his or her employment has been terminated and license as a salesperson has been returned for cancellation until said license has been reissued by the commission.

§47-12-9. License fees, annual registration; fee for additional offices, charge for change of location and for duplicate or transfer of license.
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 — eighty dollars.
(d) Salesperson's license — forty dollars.
(e) Broker's renewal fee — eighty dollars, payable by the thirtieth day of June of each year.
(f) Salesperson's renewal fee — forty dollars, payable by the thirtieth day of June of each year.
(g) Branch office fee — eighty dollars.
(h) Renewal of branch office license — eighty dollars.
(i) Transfer of salesperson's license — ten dollars.
(j) Duplicate license or certification — ten dollars.
(k) Change of name — ten dollars.
(l) Change of office — ten dollars.

Willful failure to pay any of the fees is just cause for revocation of or refusal to issue or renew a license.

§47-12-10. Disposition of fees; real estate license fund; expenditures by commission.

All fees charged and collected under this article shall be paid by the executive director at least once a month into the treasury of the state to credit of a fund to be known as the "real estate license fund", which is hereby created. All moneys which shall be paid into the state treasury and credited to the "real estate license fund" are hereby appropriated to the use of the commission in carrying out the provisions of this article, including the payment of salaries and expenses and the printing of an annual directory of licensees and for educational purposes.
The amount paid to or expended by the commission shall not exceed the revenues derived under the provisions of this article as hereinbefore provided.

§47-12-11. Procedure and grounds for refusal, suspension or revocation of license.

The commission may upon its own motion and shall, upon the verified complaint in writing of any person setting forth a cause of action under this section, ascertain the facts and if warranted hold a hearing for the suspension or revocation of a license. The commission shall have full power to refuse a license for reasonable cause or to revoke or suspend a license if the licensee:

(1) Obtains, renews or attempts to obtain or renew a license through the submission of any application or other writing that contains false or fraudulent information;

(2) Makes any substantial misrepresentation;

(3) Makes any false promises or representations of character likely to influence, persuade or induce a person involved in a real estate transaction;

(4) Pursues a continued or flagrant course of misrepresentation or makes false promises or representations through agents or salespersons or any medium of advertising or otherwise;

(5) Uses misleading or false advertising or uses any trade name or insignia of membership in any real estate organization, in which the licensee is not a member;

(6) Acts for more than one party in a transaction without the knowledge of all parties for whom he or she acts;

(7) Fails, within a reasonable time, to account for or to remit any moneys coming into his or her possession belonging to others, or commingles moneys belonging to others with his or her own funds;

(8) Displays a “for sale” or “for rent” sign on any
property without an agency therefor or without the owner’s consent;

(9) Fails to disclose in writing to all parties to a real estate transaction, on the form promulgated by the commission, whether the licensee is representing the seller, the buyer or both;

(10) Fails to voluntarily furnish copies of a notice of agency disclosure, and all listing agreements, sales contracts, and lease agreements to all parties executing the same;

(11) Pays or receives any rebate, profit, compensation or commission as a result of a real estate transaction from any person other than his or her principal;

(12) Induces any party to a contract, sale or lease to enter into another contract, in lieu thereof, for the personal gain of the licensee;

(13) Accepts a commission or other valuable consideration as a real estate salesperson for the performance of any of the acts specified in this article, from any person, other than his or her employer, who must be a licensed real estate broker;

(14) Pays a commission or other valuable consideration to any person for acts or services performed either in violation of this article or the real estate licensure laws of any other state;

(15) Engages in the unlawful or unauthorized practice of law as defined by the supreme court of appeals of West Virginia;

(16) Procures an attorney for any customer or solicits legal business for any attorney-at-law;

(17) Engages in any act or conduct which constitutes or demonstrates bad faith, incompetency or untrustworthiness, or dishonest, fraudulent or improper dealing;

(18) Has been convicted in a court of competent jurisdiction in this or in any other state of forgery, embezzlement, obtaining money under false pretense,
extortion, conspiracy to defraud or of any other like
offense; or
(19) Has been convicted in a court of competent
jurisdiction in this or any other state of a felony.

As used in this section:
(1) The words "convicted in a court of competent
jurisdiction" mean a plea of guilty or nolo contendere
entered by a person or a verdict of guilt returned
against a person at the conclusion of a trial;
(2) A certified copy of a guilty verdict or plea
entered in such court is sufficient evidence to demon-
strate a person has been convicted in a court of
competent jurisdiction.

§47-12-12. Notice of hearing on complaint; conduct of
hearing.

1 Upon complaint initiated by the commission or filed
with it, the licensee shall be given ten days' written
notice of hearing upon the charges filed, together with
a copy of the complaint. The applicant or licensee shall
have an opportunity to be heard thereon in person, to
offer testimony in his or her behalf and to examine
the witnesses, appearing in connection with the
complaint. The hearing shall be conducted in accor-
dance with the provisions of article five, chapter
twenty-nine-a of this code, and all rights, procedures
and duties contained therein shall be observed.

§47-12-13. Appeals.

1 Any applicant or licensee, or person aggrieved, shall
have the right of appeal from any adverse ruling,
order, or decision of the commission to the circuit
court of the county where the hearing was held within
thirty days from the service of notice of the action of
the commission upon the parties in interest.

7 (a) Notice of appeal shall be filed in the office of the
clerk of the circuit court wherein the hearing was
held, who shall issue a writ of certiorari directed to
the commission, commanding it, within ten days after
service thereof, to certify to such court, its entire
record in the matter in which the appeal has been taken. The appeal shall thereupon be heard, in due course, by said court, which shall review the record and make its determination of the cause between the parties.

(b) In the event an appeal is taken by a licensee or applicant, such an appeal shall not stay enforcement of the commission's order or decision or act as a supersedeas thereof unless otherwise ordered by the circuit court.

(c) Any person taking an appeal shall post a satisfactory bond in the amount of two hundred dollars for the payment of any costs which may be adjudged against him or her.

(d) Appeal may be taken from the circuit court to the supreme court of appeals by manner prescribed by law.

§47-12-14. Real estate courses for licensees; assisting studies, surveys, etc.

(a) The commission is authorized to conduct or hold or to assist in conducting or holding real estate courses or institutes. The commission may incur and pay the necessary expenses in connection therewith. Such courses or institutes are open to any licensee.

(b) The commission is authorized to assist libraries, real estate institutes and foundations with financial aid or otherwise, in providing texts, sponsoring studies, surveys and programs for the benefit of real estate and the elevation of the real estate business.

(c) The commission may provide correspondence courses for applicants for brokers' and salespersons' licenses sufficient to meet the educational requirements contained in subsections (3) and (4), section four of this article as an alternative means of meeting said educational requirements.

§47-12-15. Executive director's bond.

The executive director appointed by the commission shall give bond in such sum with surety as the
§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.

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

(a) No real estate salesperson shall have the right to institute suit in his or her own name for the recovery of a fee, commission or compensation for the services as a real estate salesperson, but any such action shall be instituted and brought by the broker employing such salesperson: Provided, That a real estate salesperson shall have the right to institute suit in his or her own name for the recovery of a fee, commission or compensation for services as a real estate salesperson due him or her from the broker by whom he or she is employed.

(b) The revocation of a broker's license shall automatically suspend every salesperson's license granted to any person by virtue of his or her employment by the broker whose license has been revoked, pending a change of employer and the issuance of a new license. Such new license shall be issued without charge if granted during the same year in which the original license was granted.

(c) A broker or salesperson who obtains a listing shall, at the time of securing such listing, give the person or persons signing such listing a true, legible copy thereof. Every listing agreement, exclusive or nonexclusive, shall have set forth in its terms a definite expiration date; it shall contain no provision 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: Provided, That 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 nonexclusive
41 listing only. No provision shall be inserted in any
42 listing agreement which would obligate the person,
43 partnership, association or corporation signing such
44 listing to pay a commission or other valuable considera-
45 tion to the broker after such expiration date if the
46 property is then listed by a different broker: Provided,
47 however, That if there is a currently enforceable offer
48 to purchase pending on the listed property at the time
49 of the listing's expiration, the first broker may still be
50 entitled to a commission or other valuable consideration.
52 (d) A broker or salesperson shall promptly, or at
53 least prior to any purchaser signing a written offer to
54 purchase, disclose in writing to all parties to a real
55 estate transaction, on a form promulgated by the
56 commission, whether the broker or salesperson repre-
57 sents the seller, the buyer, or both.
58 (e) A broker or salesperson shall promptly tender to
59 the seller every written offer to purchase obtained on
60 the property involved and, upon obtaining a proper
61 acceptance of the offer to purchase, shall promptly
62 deliver true executed copies of same, signed by the
63 seller and purchaser, to both purchaser and seller; all
64 brokers and salespersons shall make certain that all of
65 the terms and conditions of the real estate transaction
66 are included in such offer to purchase.

§47-12-18. Trust fund accounts; records.

1 Every person, partnership or corporation holding a
2 broker's license under provisions of the real estate
3 license law who does not immediately place all funds
4 entrusted to him or her by his or her principal or
5 others in a neutral escrow depository or in the hands
6 of principals, shall maintain a trust fund account with
7 some bank or recognized depository and place all such
8 entrusted funds therein upon receipt.
Said trust fund account shall designate him or her as trustee and all such trust fund accounts must provide for withdrawal of the funds without previous notice.

Every broker required to maintain such trust fund account shall keep records of all funds deposited therein, which records shall clearly indicate the date and from whom he or she received the money, date deposited, date of withdrawals and other pertinent information concerning the transaction, and shall clearly show for whose account the money is deposited and to whom the money belongs.

All such records and funds shall be subject to inspection by the commission.

§47-12-23. Duration of existing licenses.

All licenses issued either to a real estate broker or real estate salesperson preceding the effective date of this article, shall be valid until the thirtieth day of June, one thousand nine hundred fifty-nine, in absence of any reason appearing to the commission to cancel and withdraw any license issued by it, for violation of any provisions of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Ernest C. Moore

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

President of the Senate

Speaker House of Delegates

The within is approved this the 12th day of May, 1993.

Governor
PRESENTED TO THE
GOVERNOR
Date 4/27/63
Time 3:16 pm