

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

REVISED STATUTES
OF THE
STATE OF MAINE
1954

1959 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 2

**Place in Pocket of Corresponding
Volume of Main Set**

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1959

Chapter 84.

Registration of Real Estate Brokers and Salesmen.

Sec. 1. Maine real estate commission; powers; duties; compensation.

The fees collected under the provisions of this chapter shall be paid forthwith by the commission to the treasurer of state with a detailed statement thereof and shall constitute a fund to be known as the "Real Estate Fund." Said fund shall be kept as a separate account by said treasurer of state and he shall pay therefrom, upon vouchers signed by the chairman of the commission and approved by the state controller, the cost and expenses of administering the provisions of this chapter. All of the costs and expenditures of the commission shall be paid only from said fund and in no event shall any payments for the expenses of the commission exceed the amount received by said treasurer from said commission. Any moneys remaining in the real estate fund at the end of the fiscal year shall be carried forward to the credit of the said fund for the succeeding year. The commission may, within the moneys available in the "Real Estate Fund" defray the cost of an educational program for real estate brokers and salesmen. Such program shall be under the direction and supervision of the commission. (R. S. c. 75, § 1. 1955, c. 299, § 1.)

Effect of amendment.—The 1955 amendment added the last sentence. As the rest of the section was not changed by the amendment, only the last paragraph is set

out. Cited in *United Interchange, Inc. v. Harding*, 154 Me. 128, 145 A. (2d) 94.

Sec. 2. Definitions and exceptions.

I. A "real estate broker" is any person, firm, partnership, association or corporation who for a compensation or valuable consideration sells or offers for sale, buys or offers to buy, or negotiates the purchase or sale or exchange of real estate, or who leases or offers to lease, or rents or offers for rent, or lists or offers to list for sale, lease or rent, any real estate or the improvements thereon for others, as a whole or partial vocation. (1955, c. 299, § 2. 1957, c. 32. 1959, c. 363, § 40)

III. A "real estate salesman" shall mean and include 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 subsection I hereof, for compensation or other valuable consideration. (1955, c. 299, § 3) (1955, c. 299, §§ 2, 3. 1957, c. 32. 1959, c. 363, § 40.)

Effect of amendments. — The 1955 amendment inserted the words "or lists or offers to list for sale, lease or rent" in subsection I and rewrote subsection III.

The 1957 amendment inserted a second paragraph under subsection I, including in the definition of "real estate broker" persons, etc., promoting the sale of real estate through listing in a publication. This former second paragraph of subsection I was repealed by the 1959 amendment.

As the rest of the section was not changed by the amendments, only subsections I and III are set out.

1957 amendment unconstitutional.—The

1957 amendment inserting the last paragraph under subsection I is unconstitutional. The legislature may not regulate the lawful business of advertising by arbitrarily and unreasonably defining that business as something that it is not. Accordingly, *P. L. 1957, Chap. 32*, amending this subsection, may not embrace as a "broker" one who "promotes the sale of real estate through listing (of property) in a publication * * *." *United Interchange, Inc. v. Harding*, 154 Me. 128, 145 A. (2d) 94. See *Const. of Maine, Art. 1, § 4* and notes.

Sec. 3. License required.

Cited in *United Interchange, Inc. v. Harding*, 154 Me. 128, 145 A. (2d) 94.

Sec. 4. Qualifications for license.—Brokers' licenses shall be granted only to persons who are 21 years of age or over. Licenses shall be granted only to persons who are trustworthy and competent to transact the business of a real estate broker or real estate salesman in such manner as to safeguard the interests of the public, and only after satisfactory proof has been presented to the commission. The applicant must be a person whose application has not been rejected in this or any other state within 6 months prior to date of application, or whose real estate license has not been revoked in this or any other state within 2 years prior to date of application. A license may be denied to any applicant who has been convicted of any crime involving moral turpitude. (R. S. c. 75, § 4. 1947, c. 196. 1955, c. 423.)

Effect of amendment.—The 1955 amendment rewrote the last sentence, which formerly made conviction of embezzlement or obtaining money by false pretenses

grounds for denying a license.

Cited in *United Interchange, Inc. v. Harding*, 154 Me. 128, 145 A. (2d) 94.

Sec. 5. Application for license.

Cited in *United Interchange, Inc. v. Harding*, 154 Me. 128, 145 A. (2d) 94.

Sec. 7. Details relating to license, fees, etc.—The commission shall issue to each licensee a license in such form and size as shall be prescribed by the commission. This license shall show the name and address of the licensee, and in case of a real estate salesman's license, shall show the name of the real estate broker by whom he is employed. Each license shall have imprinted thereon the seal of the commission and in addition to the foregoing shall contain such matter as shall be prescribed by the commission. The license of each real estate salesman shall be delivered or mailed to the real estate broker by whom such real estate salesman is employed and shall be kept in the custody and control of such broker. It shall be the duty of each real estate broker to display conspicuously his license and the licenses of all his salesmen in his place of business.

The commission shall prepare and deliver to each licensee a pocket card, which card among other things shall contain an imprint of the seal of the commission and shall certify that the person whose name appears thereon is a licensed real estate broker or real estate salesman, as the case may be; and if it is a real estate salesman's card, it shall also contain the name and address of his employer. The matter to be printed on such pocket card, except as herein set forth, shall be prescribed by the commission.

The original fee for each real estate broker's license shall be \$10 and the annual renewal fee shall be \$5. The original fee for each real estate salesman's license shall be \$5 and the annual renewal fee shall be \$2; provided that when a partnership, association or corporation shall have paid an original fee of \$10 or a renewal fee of \$5 and shall have designated one of its members or officers as a real estate broker, as hereinafter provided in this section, the fees payable by any other member or officer actively engaged in the real estate business of such partnership, association or corporation shall be \$5 for the first registration fee and \$2 for the renewal fee, for which a salesman's license shall be issued; but any such member or officer shall be entitled to a broker's license upon the payment of the usual fee therefor.

Each real estate broker's license which may be granted to an individual shall entitle such individual to perform all of the acts contemplated by this chapter. When the real estate broker's license is granted to any partnership or association consisting of more than one person, or to any corporation, this shall entitle the partnership, association or corporation to designate one of its members or officers, who upon compliance with the terms of this chapter shall, without payment of any further fee upon issuance of said broker's license, be entitled to perform all of the acts of the real estate broker contemplated by this chapter. If, in any case,

the person so designated by a real estate broker shall be refused a license by the commission, or in case such person ceases to be connected with such real estate broker, said broker shall have the right to designate another person who shall make application as in the first instance.

Every license shall expire on the 30th day of June of each year. The commission shall issue a new license for each ensuing year in the absence of any reason or condition which might warrant the refusal of the granting of a license, upon receipt of the written request of the applicant and the annual fee therefor as herein required. The revocation of a broker's license shall automatically suspend every real estate salesman's license granted to any person by virtue of his 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.

No person, partnership or corporation engaged in the business or acting in the capacity of a real estate broker or a real estate salesman within this state shall bring or maintain any action in the courts of this state for the collection of compensation for any services performed as a real estate broker or real estate salesman without alleging and proving that such person, partnership or corporation was a duly licensed real estate broker or real estate salesman at the time the alleged cause of action arose.

Every resident real estate broker shall maintain a place of business in this state. If the real estate broker maintains more than one place of business within the state, a duplicate license shall be issued to such broker for each branch office maintained and a fee of \$2 shall be paid for each duplicate license. A fee of \$2 shall be paid for a license for change of business location or branch office.

Notice in writing shall be given to the commission by each licensee of any change of principal business location, whereupon the commission shall issue a new license for the unexpired period for a fee of \$2. The change of business location without notification to the commission shall automatically cancel the license issued.

When any real estate salesman shall be discharged or shall terminate his employment with the real estate broker by whom he is employed, it shall be the duty of such real estate broker to immediately deliver or mail by registered mail to the commission such real estate salesman's license. The real estate broker shall, at the time of mailing such real estate salesman's license to the commission, address a communication to the last known residence address of such real estate salesman, which communication shall advise such real estate salesman that his license has been delivered or mailed to the commission. A copy of such communication to the real estate salesman shall accompany the license when mailed or delivered to the commission. It shall be unlawful for any real estate salesman to perform any of the acts contemplated by this chapter, either directly or indirectly, under authority of said license from and after the date of receipt of said communication advising him that his license has been delivered or mailed to the commission. Prompt notice in writing within 10 days shall be given to the commission by any real estate salesman of a change of employer, and of the name of the new employer into whose service such salesman is about to enter or has entered, and a new license shall thereupon be issued by the commission to such salesman for the unexpired term of the original license; provided that such new employer shall be a duly licensed real estate broker. The salesman shall pay a transfer fee of \$2 for such new license. Another license shall not be issued to such real estate salesman until he shall return his former pocket card to the commission or shall satisfactorily account to it for the same. Not more than one license shall be issued to any real estate salesman for the same period of time.

In the event that any license issued under the provisions of this chapter shall

be lost or destroyed, a substitute therefor may be obtained upon payment of a fee of \$2. (R. S. c. 75, § 7, 1957, c. 31; c. 35, §§ 1-3; c. 429, § 76.)

Effect of amendments.—The first 1957 amendment added the words “and the licenses of all his salesmen” in the last sentence of the first paragraph. The second 1957 amendment increased the fee and added the last sentence in the seventh paragraph, increased the fee and made minor changes in language in the ninth paragraph, and added the last paragraph. The third 1957 amendment, which became effective on its approval, October 31, 1957,

substituted the words “for a fee of \$2” for the words “without charge”, which formerly appeared at the end of the first sentence of the eighth paragraph of this section, and deleted the word “theretofore”, formerly appearing after the word “license” and before the word “issued” in the last sentence of the eighth paragraph.

Cited in *United Interchange, Inc. v. Harding*, 154 Me. 128, 145 A. (2d) 94.

Sec. 9. Hearing.

If the commission shall determine that any applicant is not qualified to receive a license, a license shall not be granted to such applicant, and if the commission shall determine that any licensee is guilty of a violation of any of the provisions of this chapter, the license shall be suspended or revoked. The commission, upon request of the applicant or licensee, shall furnish said applicant or licensee with a definite statement of its findings of facts and its reason or reasons for refusing to grant the license or for suspension of the rights of the licensee or for the revocation of the license, as the case may be. The findings of fact made by the commission acting within its powers shall be conclusive, but the supreme judicial court shall have the power to review questions of law involved in any final decision or determination of the commission; provided that an appeal is taken by the aggrieved party within 30 days after such determination, and said court may make such further orders in respect thereto as justice requires. (R. S. c. 75, § 9, 1959, c. 317, § 35.)

Effect of amendment.—The 1959 amendment rewrote the last sentence of this section which formerly provided for review on application by certiorari, mandamus or other permissible method. As the rest of the section was not affected by the amendment, only the last paragraph is set out.

Effective date and applicability of Public Laws 1959, c. 317.—Section 420, chapter 317, Public Laws 1959, provides as follows: “This act shall become effective

December 1, 1959. It shall apply to all actions brought after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail.”

Sec. 10. Nonresident brokers and salesmen.

Cited in *United Interchange, Inc. v. Harding*, 154 Me. 128, 145 A. (2d) 94.

Sec. 12. Penalties.

Cited in *United Interchange, Inc. v. Harding*, 154 Me. 128, 145 A. (2d) 94.

Chapter 85.

Art Commission.

Sec. 2. Powers and duties.

No painting, portrait, statue or tablet shall be accepted or placed in the state house without the permission of the commission. The commission shall advise the state director of public improvements where to hang paintings, portraits and