

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 155

H. P. 133

In House of Representatives, January 15, 1969

Referred to Committee on Business Legislation. Sent up for concurrence and Ordered Printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Hewes of Cape Elizabeth.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT to Revise the Laws Relating to Real Estate Brokers and Salesmen.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 32, § 4001, repealed and replaced. Section 4001 of Title 32 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 4001. Definitions and exceptions

As used in this chapter, the following words and phrases shall have the following meanings:

1. Option dealer. "Option dealer" means any person, firm, partnership, association or corporation who shall directly or indirectly take, obtain or use an option to purchase, exchange, rent or lease real property, or any interest therein, with the intent or for the purpose of buying, selling, exchanging, renting or leasing said real property or interest therein for another or others whether or not said option shall be in his or its name and whether or not title to said property shall pass through the name of said person, firm, partnership, association or corporation in connection with the purchase, sale, exchange, rental or lease of said real property, or interest therein.

2. Real estate. "Real estate" shall include leaseholds and other interests in real estate less than leaseholds.

3. Real estate broker. A "real estate broker" is any person, firm, partnership, association or corporation who for a compensation or valuable consideration engages in or offers or attempts to engage in, either directly or indirectly, by a continuing course of conduct or by any single act or transaction, any of the following acts:

- A. Selling, exchanging, buying, renting or leasing real estate, or interest therein, or improvements affixed thereon;
- B. Offering to sell, exchange, buy, rent or lease real estate, or interest therein, or improvements affixed thereon;
- C. Selling or offering to sell or exchange an existing lease of real estate, or interest therein, or improvements affixed thereon;
- D. Negotiating the purchase, sale or exchange of real estate, or interest therein, or improvements affixed thereon;
- E. Listing, offering, attempting or agreeing to list real estate, or interest therein, or improvements affixed thereon for sale, exchange, rent or lease;
- F. Auctioning, offering, attempting or agreeing to auction real estate or interest therein, or improvements affixed thereon;
- G. Buying, selling, offering to buy or sell or otherwise dealing in options on real estate, or interest therein, or improvements affixed thereon, or acting as an "option dealer";
- H. Performing any of the acts enumerated in paragraphs A to G as an employee of, or in behalf of, the owner of real estate, or interest therein, or improvements affixed thereon, at a salary or for a fee, commission or other consideration.

4. Real estate salesman. "Real estate salesman" means any person employed or engaged by or on behalf of a licensed real estate broker to do or deal in any activity of a real estate broker for compensation or otherwise.

The terms "real estate broker" or "real estate salesman", as used in this chapter, shall not apply to any of the following:

Any attorney in fact acting without compensation under power of attorney, duly executed by an owner of real estate, authorizing the consummation of a real estate transaction;

Any public official in the conduct of his official duties;

Any receiver, trustee, administrator, conservator, executor or guardian acting under order of any court;

Any owner of real estate acting personally, or a corporation acting through its officers in his or its own behalf with respect to property owned or leased by him or it except as provided in subsection 1;

Any person, firm, partnership, association acting personally, or a corporation acting through its officers or regular salaried employees, in his or its own behalf as principal in acquiring or in negotiating to acquire any interest in real estate;

An attorney-at-law in connection with his representation of clients in the practice of law.

Sec. 2. R. S., T. 32, § 4003, amended. The last sentence of section 4003 of Title 32 of the Revised Statutes is amended to read as follows:

A licensed broker may share his commission with a nonresident broker, ~~even though the latter is not licensed in his own state or in this State~~, provided such nonresident broker is ~~doing business regularly and legally~~ licensed as a real estate broker within his own state.

Sec. 3. R. S., T. 32, § 4004, amended. Section 4004 of Title 32 of the Revised Statutes is amended to read as follows:

§ 4004. Expiration of listing contracts; renewals

~~Any contract~~ All contracts made by a real estate broker or salesman to list real estate for sale shall be in writing and shall contain a specific expiration date. If the parties to the contract desire to continue the contract, a new contract must be executed.

Sec. 4. R. S., T. 32, § 4004-A, amended. The last sentence of section 4004-A of Title 32 of the Revised Statutes, as enacted by section 2 of chapter 223 of the public laws of 1965, is amended to read as follows:

The broker shall notify the commission within 30 days after opening any such account of the banking institution in which said account is located and shall authorize the commission, in writing, to confirm the balance of the funds held in his trust account with the banking institution in which the trust account is maintained, following an examination of the broker's records by the commission or its duly authorized agents.

Sec. 5. R. S., T. 32, § 4052, amended. Section 4052 of Title 32 of the Revised Statutes, as amended by section 2 of chapter 359 of the public laws of 1967, is further amended to read as follows:

§ 4052. Compensation

Each member of the commission shall receive as full compensation for each day actually spent on the work of said commission the sum of ~~\$25~~ \$50 and his actual and necessary expenses incurred in the performance of duties pertaining to his office.

Sec. 6. R. S., T. 32, § 4102-A, additional. Title 32 of the Revised Statutes is amended by adding a new section 4102-A, to read as follows:

§ 4102-A. Temporary license in case of death

In the event of the death of a licensed broker, who is the sole proprietor of a real estate business, the commission shall, upon application by his legal representative, issue, without examination, a temporary license to such legal representative, or to an individual designated by him and approved by the commission, upon the filing of a bond as provided in section 4106-A and the payment of the prescribed fee, which shall authorize such temporary licensee to continue to transact said business for a period not to exceed one year from the date of death subject to all other provisions of sections 4001 to 4119, except that such temporary license shall not be renewed.

Sec. 7. R. S., T. 32, § 4103, sub-§ 1, ¶ E, amended. Paragraph E of subsection 1 of section 4103 of Title 32 of the Revised Statutes, as amended by section 1 of chapter 223 of the public laws of 1965, is further amended to read as follows:

E. Has a high school education or its equivalent approved by the commission. ~~If the applicant is applying for a real estate broker's license, he and must, in addition, have satisfactorily completed an educational course in the field of real estate approved by the commission or been employed as a licensed salesman full time for at least a year.~~ The conditions of this paragraph shall not be applicable to persons who have held any license from the commission prior to December 31, 1963;

Sec. 8. R. S., T. 32, § 4106-A, additional. Title 32 of the Revised Statutes is amended by adding a new section 4106-A, to read as follows:

§ 4106-A. Bond

A real estate broker's license shall be issued or renewed only after the applicant gives to the commission a bond in the form approved by said commission in the sum of \$5,000, executed by the applicant and by a surety company authorized to do business within the State or by the applicant and by 2 good and sufficient sureties approved by the commission. Said bond shall be payable to the commission for the benefit of any person aggrieved, and shall be conditioned upon the faithful accounting by the real estate broker for all funds entrusted to him in his capacity as such. Any person so aggrieved may bring an action on the bond in his own name, provided that the aggregate liability of the surety to all such persons shall, in no event, exceed the sum of such bond. The commission may revoke the license of a real estate broker whenever the bond filed by him ceases to be in full force and effect.

Sec. 9. R. S., T. 32, § 4107, amended. The last paragraph of section 4107 of Title 32 of the Revised Statutes, as last amended by section 5 of chapter 359 of the public laws of 1967, is further amended to read as follows:

The annual renewal fee for each real estate broker's license ~~shall be \$15~~ granted to an individual shall be \$25. The annual renewal fee for each real estate broker license granted to a corporation, partnership or association shall be \$50. The annual renewal fee for each real estate salesman's license shall be ~~\$10~~ \$20. When a partnership, association or corporation shall have paid a renewal fee of ~~\$15~~ \$50 and shall have designated one of its members or officers as a real estate broker as provided in section 4114, the fees payable by any other member or officer actively engaged in the real estate business of such partnership, association or corporation shall be ~~\$10~~ \$20 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 renewal fee therefor.

Sec. 10. R. S., T. 32, § 4107-A, amended. Section 4107-A of Title 32 of the Revised Statutes, as enacted by section 6 of chapter 359 of the public laws of 1967, is amended to read as follows:

§ 4107-A. Original fees; corporations, partnerships, associations

As a condition precedent to the conduct of business as a real estate broker, an association, partnership or corporation shall pay an original license fee of ~~\$20~~ \$50.

Sec. 11. R. S., T. 32, § 4114, amended. The 2nd sentence of section 4114 of Title 32 of the Revised Statutes is amended to read as follows:

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.

Sec. 12. R. S., T. 32, § 4117, amended. The last 2 sentences of the first paragraph of section 4117 of Title 32 of the Revised Statutes, as amended by section 5 of chapter 223 of the public laws of 1965, are further amended to read as follows:

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~~ \$10 shall be paid for each duplicate license. A fee of ~~\$2~~ \$5 shall be paid for a replacement license or a license for change of **principal business location** ~~or branch office~~.

Sec. 13. R. S., T. 32, § 4117, amended. The last paragraph of section 4117 of Title 32 of the Revised Statutes is amended to read as follows:

Notice in writing shall be given to the commission by each licensee of any change of principal business location no later than 10 days after the change of such location, whereupon the commission shall issue a new license for the unexpired period for a fee of ~~\$2~~ \$5. In the event such notice is not given before said date, the commission shall issue the new license for the unexpired period for a fee of \$10.

Sec. 14. R. S., T. 32, § 4118, amended. The 3rd sentence from the end of section 4118 of Title 32 of the Revised Statutes is amended to read as follows: The salesman shall pay a transfer fee of ~~\$2~~ \$5 for such new license.

Sec. 15. R. S., T. 32, § 4118-A, amended. The first 2 paragraphs of section 4118-A of Title 32 of the Revised Statutes, as enacted by section 6 of chapter 223 of the public laws of 1965 and as amended by section 70-A of chapter 513 of the public laws of 1965, are further amended to read as follows:

Any member of a partnership or association or officer or director of a corporation licensed under this chapter who does not desire to do, or perform, any of the acts or services enumerated in section 4001, ~~subsection 2~~ **subsections 1, 3 and 4**, and any registered broker ~~or salesman~~ who is a resident of Maine who desires to preserve his registration during a period while not engaged as a broker ~~or salesman~~, may surrender his license to the commission which shall hold said license until such time as the licensee shall apply for reinstatement to active status. During this period of inactive status, such broker ~~or salesman~~

shall be required to pay the same renewal fees as an active broker or salesman. Upon surrender of his license all listings in possession of ~~said~~ a broker shall be cancelled.

This section shall apply only to brokers and salesmen who continue to be bona fide residents of the State of Maine during the period of nonactice status.

Sec. 16. R. S., T. 32, § 4119, amended. Section 4119 of Title 32 of the Revised Statutes is amended to read as follows:

§ 4119. Lost licenses

In the event that any license issued under this chapter shall be lost or destroyed, a substitute therefor may be obtained upon payment of a fee of ~~\$2~~ \$5.