

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 712

H. P. 577

House of Representatives, February 19, 1975

On motion of Mrs. Boudreau of Portland, referred to the Committee on State Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Boudreau of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT Relating to the Modification of the Laws of the Maine Real Estate Commission.

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

Sec. 1. 32 MRSA § 4002, 2nd ¶, 3rd and 6th sentences, are amended to read:

Every nonresident applicant shall file an irrevocable consent that actions may be commenced against such applicant in the proper court of any county of this State in which a cause of action may arise or in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this State on the ~~secretary~~ **director** of the commission, said consent stipulating and agreeing that such service of such process or pleadings on said ~~secretary~~ **director** shall be taken and held in all courts to be as valid and binding as if due service had been made upon said applicant personally within this State.

In case any process or pleadings mentioned in the case are served upon the ~~secretary~~ **director** of the commission, it 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 main office of the applicant against which said process or pleadings are directed.

Sec. 2. 32 MRSA § 4051 is repealed and the following enacted in place thereof:

§ 4051. Declaration of policy

It is declared to be the policy of the State of Maine that real estate brokers and salesmen shall be supervised by the Maine Real Estate Commission in a

manner to promote public understanding and confidence in the business of real estate and to assure that real estate brokers and salesmen are reputable and competent, consistent with the public interest.

Sec. 3. 32 MRSA § 4051-A is enacted to read:

§ 4051-A. Commission

1. Membership; term; vacancies. The Maine Real Estate Commission, as heretofore established and in this chapter called the "commission," shall consist of 4 residents of this State appointed by the Commissioner of the Department of Business Regulation, with the advice and consent of the Governor. Three members of the commission shall have been actively engaged as resident licensed real estate brokers or salesmen in this State for at least 5 years immediately prior to the date of appointment. The 4th member shall have an occupation other than that of a real estate broker or salesman and shall be appointed for a term of 4 years beginning on the effective date of this Act. Upon expiration of the term of office of any member, his or her successor shall be appointed for a term of 4 years, or serve until his or her successor is appointed and qualified. Members appointed to fill vacancies shall be appointed for the unexpired term.

2. Selection of chairman; rules and regulations. Upon qualification of a new member, the commission shall immediately organize by selecting from its members a chairman to preside over its meetings and shall establish written guidelines, consistent with the intent of this chapter, by which the chapter provisions shall be carried out. The commission may also promulgate and amend necessary rules and regulations to implement and enforce this chapter. At least 3 members must be present to constitute a quorum.

3. Director of Real Estate Commission. The commission shall employ a director with the advice and consent of the Commissioner of the Department of Business Regulation and subject to the Personnel Law. The director shall serve as the operating and administrative arm of the commission and supervise the commission's staff in carrying out the provisions of this chapter within the guidelines established by the commission. Under the supervision of the commission, the director shall license real estate brokers and salesmen, issue certificates of approval to real estate schools, investigate complaints, examine real estate brokerage offices, conduct educational programs and have overall responsibility for administration of the commission office.

Sec. 4. 32 MRSA § 4052, as last amended by PL 1973, c. 59, is repealed and the following enacted in place thereof:

§ 4052. Compensation

The salary of the director shall be fixed by the Commissioner of the Department of Business Regulation subject to the Personnel Law. Members of the commission shall receive annual salaries of \$2,000 each, except the chairman, who shall receive \$2,500 annually. In addition, each member shall receive his actual and necessary expenses incurred in the performance of duties pertaining to his office.

Sec. 5. 32 MRSA § 4053, as least repealed and replaced by PL 1973, c. 585, § 9, is amended to read:

§ 4053. Employees

The director, subject to the approval of the Commissioner of the Department of Business Regulation may employ ~~a secretary and~~ such clerical assistants, technical assistants and investigators as he deems necessary to discharge the duties imposed by this chapter and shall outline their duties and fix their compensation, subject to the Personnel Law.

Sec. 6. 32 MRSA § 4054, is amended to read:

§ 4054. Seal; evidence; inspection of records

The commission shall adopt a seal with such design as the commission may prescribe engraved thereon, 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 commission, 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 chapter shall be open to public inspection under such rules and regulations as shall be prescribed by the commission, and shall be made available to the public at cost.

Sec. 7. 32 MRSA § 4055, as amended by PL 1973, c. 585, § 10, is further amended to read:

§ 4055. Disposal of fees; expenses

The fees collected under 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~~ director and approved by the Commissioner of the Department of Business Regulation and the State Controller, the cost and expenses of administering 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 Commissioner of the Department of Business Regulation~~

Sec. 8. 32 MRSA § 4056, sub-§ 4, is repealed and the following is enacted in place thereof:

4. Investigations. The commission shall investigate any possible or alleged violations of this chapter and report its findings to all the parties involved. The commission may report violations to the office of the Attorney General or appropriate district attorney for prosecution.

Sec. 9. 32 MRSA § 4057 is amended to read:

§ 4057. Publication of list of licensees

The commission shall ~~annually publish~~ **maintain** a list of the names and addresses of all licensees licensed by it under this chapter and of all persons whose licenses have been suspended or revoked within one year, together with such other information relative to the enforcement of this chapter as it may deem of interest to the public. Such lists shall be ~~mailed by the commission to any person in this State upon request~~ **made available to the public at cost.**

FISCAL NOTE

This bill should reduce the expenditures of the commission by an estimated \$1,000.

STATEMENT OF FACT

The purpose of this Act is to modify the operational structure and managerial accountability of the Real Estate Commission into a form better suited to serve the public and the real estate industry. It is designed to provide a more efficient handling of the growing day to day workload, eliminate unnecessary functions, and help assure that the commission is responsive to the interests and needs of the public.