

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1368

S. P. 447

In Senate, March 22, 1979

Referred to the Committee on Business Legislation. Sent down for concurrence and ordered printed.

Presented by Senator Clark of Cumberland.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Clarify Certain Definitions under the Real Estate Law.

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

Sec. 1. 32 MRSA § 4001, as amended by PL 1975, c. 248, is repealed.

Sec. 2. 32 MRSA §§ 4001-A and 4001-B are enacted to read:

§ 4001-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings.

1. Associate real estate broker. "Associate real estate broker" shall mean a person who has a real estate broker's license and who is employed by or associated with another real estate broker to participate in any activity described in subsection 5.

Associate real estate brokers, while licensed in that capacity, shall be subject to all provisions of this chapter applicable to real estate salesmen. Real estate brokers shall have the same responsibilities for supervising the activities of associate real estate brokers and real estate salesmen.

2. Business opportunity. "Business opportunity" shall include the purchase, sale or lease of the business and good will of an existing business enterprise or opportunity, which includes a conveyance of an interest in real estate.

3. Person. "Person" shall mean and include individuals, corporations and partnerships, foreign or domestic.

4. Real estate. "Real estate" shall mean any interest or estate in land, including condominiums and leaseholds, whether corporeal, incorporeal, freehold or nonfreehold and whether the real estate is situated in this State or elsewhere.

5. Real estate broker. "Real estate broker" shall mean any person who, for a fee, commission or any other valuable consideration or with the intent or expectation of receiving the same from another, negotiates or attempts to negotiate the listing, sale, purchase, exchange, rent or lease or option for any business opportunity, real estate or improvements thereon, or assists in procuring prospects or holds himself out as a referral agent for the purpose of securing prospects for the listing, sale, purchase, exchange, renting, leasing or optioning of any business opportunity or real estate or collects rents or attempts to collect rents or holds himself out as engaged in any of the foregoing. Real estate broker shall also include any person:

A. Employed by or on behalf of the owner or owners of lots or other parcels of real estate at a salary, fee, commission or any other valuable consideration to sell such real estate or any part thereof;

B. Who engages in the business of charging an advance fee in connection with any contract whereby he undertakes primarily to promote the sale of business opportunities or real estate either through its listing in a publication issued primarily for those purposes, or for referral of information concerning the business opportunities or real estate to real estate brokers, or both;

C. Who auctions, offers, attempts or agrees to auction real estate; or

D. Who buys or offers to buy or sell or otherwise deal in options to buy real estate.

6. Salesman. "Salesman" shall mean any person, other than an associate real estate broker, who is employed by or associated with a real estate broker to participate in any activity described in subsection 5.

§ 4001-B. Exceptions

This chapter shall not apply to:

1. Owner of property; employees. Any person with reference to property owned or leased by them, or to the regular employees thereof, with respect to the property so owned or leased where such acts are performed by the employee as an incident to his regular duties, provided that the regular employees shall not perform any of the acts described in section 4001-A, subsection 5 in connection with a vocation of selling or leasing any real estate or the improvements thereon;

2. Attorneys. An attorney-at-law in the performance of his duties as an attorney-at-law;

3. Receiver, trustee, administrator, executor or guardian. Any person acting as a receiver, trustee in bankruptcy, administrator, executor or guardian, or while acting under a court order;

4. Resident manager of apartments. Any person acting as the resident manager of an apartment building, duplex or apartment complex, when the resident manager resides on the premises and is engaged in the leasing of property in connection with his employment; or

5. Government employee. Any officer or employee of a state or federal agency in the performance of his official duties.

STATEMENT OF FACT

This bill is designed to clarify those areas of the real estate business requiring a license issued by the Maine Real Estate Commission and to legally create the license status of associate real estate broker which has been used administratively for many years.