

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)



115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 116

S.P. 64

In Senate, January 8, 1991

Submitted by the Department of Professional and Financial Regulations pursuant to Joint Rule 24.

Reference to the Committee on Business Legislation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

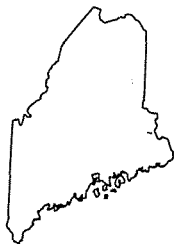
JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BALDACCI of Penobscot.
Cosponsored by Representative REED of Falmouth.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Amend the Real Estate Brokerage Laws.



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

2

Sec. 1. 32 MRSA §13002, as amended by PL 1989, c. 471, §1, is
4 further amended to read:

6

§13002. Exceptions to brokerage

8

Real estate brokerage shall does not include the following:

10

1. **Transactions by owner or lessor.** Transactions conducted
12 by any person who is the owner or lessor of the real estate, or
to their regular employees with regard to the employer's real
estate, provided that:

14

A. The real estate transaction services rendered by the
16 employee are performed as an incident to the usual duties
performed for the employer; or

18

B. The real estate transaction services are subject to the
20 provisions of the Maine Condominium Act, Title 33, chapter
31.

22

2. **Attorney-at-law in the performance of duties as an
24 attorney-at-law.** This exception does not apply to attorneys who
are regularly engaged in real estate brokerage; and

26

3. **Auctioneers hired to call bids.** Any person licensed as
28 an auctioneer under chapter 5, hired to call bids at an auction,
if the person employed does not prepare contracts or otherwise
30 control the actual sale or take custody of any part of the
purchase price.

32

Sec. 2. 32 MRSA §13062, sub-§2, as enacted by PL 1987, c. 395,
34 Pt. A, §212, is amended to read:

36

2. **Qualifications.** Each industry member of the commission
shall must have been a real estate broker or associate broker by
38 vocation in this State for at least 5 years prior to appointment.
The public member-~~shall~~ members must have had no professional or
40 financial connection with the real estate business.

42

Sec. 3. 32 MRSA §13067, sub-§1, ¶I, as enacted by PL 1987, c.
395, Pt. A, §212, is amended to read:

44

I. Violation of this chapter by a licensed or unlicensed
46 ~~employee or independent contractor shall be~~ person acting on
the agency's behalf is cause for disciplinary action against
48 the agency and designated broker if:

50

(1) The designated broker had prior knowledge and did
not take reasonable action to prevent the violation;

52

2 (2) The designated broker permitted or authorized a
person to engage in activity for which they-were that
4 person was not properly licensed; or

6 (3) The designated broker failed to exercise a
reasonable degree of supervision over employees and
8 independent contractors commensurate with their
qualifications and experience;

10 **Sec. 4. 32 MRSA §13067, sub-§1, ¶¶K and L**, as enacted by PL
12 1987, c. 395, Pt. A, §212, are amended to read:

14 K. Continuing to act in a capacity requiring a license
under this chapter after expiration, suspension or
16 revocation of that license; and

18 L. Failure to produce to the director any requested
documents in the licensee's possession or under his the
20 licensee's control concerning any transaction under
investigation; and

22 **Sec. 5. 32 MRSA §13067, sub-§1, ¶M** is enacted to read:

24 M. Failing to comply with a commission order or the terms
26 of an executed and approved consent agreement.

28 **Sec. 6. 32 MRSA §13192, sub-§§3 and 4**, as enacted by PL 1987,
c. 395, Pt. A, §212, are amended to read:

30 3. **Revocation of license.** Who has had any professional or
occupational license revoked for disciplinary reasons or an
32 application rejected for reasons relating to untrustworthiness
within 3 years prior to the date of application; er

34 4. **Conviction of crime.** Subject to Title 5, chapter 341,
36 who has been convicted of any Class A, B or C crime or any crime
which that bears directly on the practice of real estate
38 brokerage; or

40 **Sec. 7. 32 MRSA §13192, sub-§5** is enacted to read:

42 5. Meeting requirements of subchapter. Who fails to meet
44 the professional qualifications for licensure as provided in this
subchapter.

46 **Sec. 8. 32 MRSA §13196, first ¶**, as enacted by PL 1987, c. 395,
Pt. A, §212, is amended to read:

48 Any resident licensee, who does not desire to perform any of
50 the activities described in section 13001, and who wants to
preserve his the license while not engaged in any brokerage
52 activity, may surrender his that license to the commission for
placement on inactive status. The commission may only place the

license on inactive status only upon proper application by the
2 licensee. During inactive status, the licensee shall--be is
3 required to renew his the license biennially, but shall is not be
4 required to maintain a place of business or meet the educational
5 provisions of section 13197.

6
7 **Sec. 9. 32 MRSA §13239**, as affected by PL 1989, c. 600, Pt.
8 A, §§15 and 16, is repealed.

10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42

STATEMENT OF FACT

This bill addresses errors and omissions in the real estate
brokerage laws. The bill:

1. Makes technical corrections to the exceptions to
brokerage provision, including changing the heading for a
subsection to make it consistent with the section heading;
2. Amends the definition for public members to be appointed
to the Real Estate Commission by requiring that the public
members have no current professional or financial connection to
the real estate business;
3. Amends the causes for disciplinary action against a
designated broker to include any person who may be acting on the
agency's behalf, such as an owner or corporate officer;
4. Amends the causes for disciplinary action to include
failing to comply with a commission order or consent agreement;
5. Amends the list of reasons why a license may be denied
to include failing to meet the professional qualifications for a
license;
6. Amends the law on inactive licenses to permit both
resident and nonresident licensees to place their license on the
inactive status; and
7. Repeals the transitional provisions that are no longer
applicable.