

MAINE STATE LEGISLATURE

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EIGHTY-FIRST LEGISLATURE

SENATE

NO. 78

In Senate, Feb. 9, 1923.

Referred to Committee on Legal Affairs and five hundred copies ordered printed. Sent down for concurrence.

L. ERNEST THORNTON, Secretary.

Presented by Senator Cram of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-THREE

AN ACT to Create the Maine Real Estate Commission; to
Provide for Licenses for Real Estate Brokers and Real
Estate Salesmen, and to Fix Penalties for Violation of
Provisions of This Act.

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

Section 1. *Unlawful to Engage in Business of Real Estate Broker or Real Estate Salesman without a License.*

It shall be unlawful for any person, partnership, association or corporation, from and after _____, to engage in the business of a real estate broker or real estate salesman within this state without first obtaining a license therefor under the provisions of this act.

Sect. 2. *Definition of Real Estate Broker and Real Estate*

2 *Salesman.* A real estate broker within the meaning of this
3 act is any person, partnership, association or corporation
4 who for a compensation or valuable consideration sells for
5 another or offers for sale, buys for another or offers to
6 buy, or negotiates or is instrumental in negotiating the pur-
7 chase, sale or exchange of any real estate not his own, or
8 any interest therein, or who for another for a compensation
9 or valuable consideration leases or offers to lease, rents or
10 offers to rent any real estate or interest therein, or any im-
11 provement thereon. One such act shall be sufficient to ren-
12 der a person, partnership, association or corporation a real
13 estate broker within the meaning of this act.

A real estate salesman within the meaning of this act is
2 any person who for a compensation or valuable considera-
3 tion is employed or induced, either directly or indirectly,
4 by a licensed real estate broker, or any member of the part-
5 nership, association or corporation in which a licensed real
6 estate broker is a member, to do or attempt to do any of
7 the above named acts or things. One such act shall be suffi-
8 cient to render the person doing or attempting to do the
9 same a real estate salesman.

Sect. 3. *Exemption of Owners, Officials, Etc.* The pro-
2 visions of this act shall not apply to any person, partner-
3 ship, association or corporation, who as owner or lessor of
4 any real estate shall perform any of the aforesaid acts in
5 connection with the property so owned by such person, part-

6 nership, association or corporation; nor to any person hold-
7 ing a duly executed power of attorney from the owner of
8 any real estate for the sale, leasing or exchange of the real
9 estate specifically described in said power of attorney; nor
10 to an attorney-at-law acting in the performance of his du-
11 ties as such an attorney-at-law; nor to a receiver, trustee
12 in bankruptcy, testamentary trustee or executor; nor to any
13 person selling real estate under order or license of any
14 court; nor to a trustee selling under a deed of trust; nor
15 to a public official acting in discharge of his official duty;
16 nor to a clerk employed in the office of a licensed real estate
17 broker, so long as said clerk does only clerical office work
18 in said office, and works only for a fixed salary.

Sect. 4. *Real Estate Commission.* Upon this act going
2 into effect or as soon thereafter as may be, the governor
3 with the approval of the council shall appoint three persons,
4 residents of the state, who shall be and constitute the Maine
5 Real Estate Commission.

The vocation of at least two of said appointees shall have
2 been that of a real estate broker or real estate salesman for
3 a period of not less than five years prior to the date of his
4 appointment.

At the time of the first appointment, one member shall be
2 appointed for a term of one year, one for a term of two
3 years and one for a term of three years, all from the first
4 day of January, A. D.

Thereafterwards, each member shall be appointed for a

2 term of three years, and each member shall hold office till
3 his successor is appointed and qualified. Two, at least, of
4 said members shall at all times be persons who are or have
5 been real estate brokers or real estate salesmen. Members
6 to fill vacancies shall be appointed for the unexpired term
7 of the member that they succeed.

The commission shall have and possess all powers and
2 authority necessary to enable them to do and perform the
3 duties and obligations required under the provisions of this
4 act.

The commission, immediately upon the qualification of its
2 members after the first appointment and thereafter upon
3 the qualification of each new member appointed at the
4 expiration of the term of a former member, shall organize
5 by the choice of a member as chairman and another mem-
6 ber as secretary. The secretary shall keep a record of the
7 proceedings of the commission and shall upon the vote of
8 the commission issue all licenses and perform such other
9 duties as the commission shall require. The commission
10 may employ such clerical assistance for the secretary as they
11 shall deem necessary.

The secretary shall receive the sum of fifty dollars per
2 annum in full compensation for his duties as secretary, in
3 addition to the salary to be paid to him as one of the mem-
4 bers of the commission. Each member shall receive his
5 actual and necessary expenses incurred in the performance
6 of his duties as a member of the commission. Each member

7 shall also receive a compensation of ten dollars a day for
8 each full day actually spent on the work of said commission,
9 provided, however, that in no one year shall the payment
10 by the state treasurer on account of clerk hire, expenses
11 and salaries or compensation to members of the commission
12 in any way arising from or connected with said commission
13 and its work exceed the total amount of the fees received
14 by the said commission that year for fees from applicants
15 for licenses. If in any year the fees received by said com-
16 mission are not enough to pay all such clerk hire, expenses
17 and salaries or compensation of members, the clerk hire and
18 expenses shall first be paid in full and the balance of the
19 sum received for said fees shall be applied, so far as it will
20 go, equally to said members on account of salary or com-
21 pensation otherwise due them as above provided, the unpaid
22 balance of said salaries or compensation for that year to
23 be cancelled.

The commission shall adopt a seal with such design as it
2 may decide and shall impress said seal upon all licenses is-
3 sued by it.

Records of all proceedings of the commission shall be open
2 to public inspection, under such rules and regulations as shall
3 be prescribed by the commission.

In any proceeding for the revocation of any license issued
2 by the commission, the commission shall have authority to
3 compel attendance of witnesses and the giving of testimony
4 pertinent to the matter in issue.

Sect. 5. *Licenses: How Obtained.* Every applicant for
2 a license as broker shall with his application furnish a sworn
3 statement setting forth his present address, both business
4 and residence, and also the name of the partnership, asso-
5 ciation or corporation, if any, with which he is associated
6 and for whose benefit said license is to be used. Such appli-
7 cation shall also be accompanied by a recommendation for
8 the issuing of such license, signed by at least two citizens,
9 who are real estate owners and who are not related to the
10 applicant. Said application shall also be accompanied by
11 the license fee herein prescribed for the license applied for.

Every applicant for a license as a salesman shall with his
2 application furnish a sworn statement as above set forth,
3 but shall substitute for the recommendation by the real es-
4 tate owners as above provided, a recommendation by the
5 licensed real estate broker by whom he is employed or is to
6 be employed.

The commission shall prepare and furnish forms of appli-
2 cation to comply with the above requirements.

When an applicant shall have complied with all the above
2 requirements, the commission shall forthwith issue a license
3 to such applicant.

When a broker's license has been issued to one member
2 of a partnership or association or to an officer of a corpora-
3 tion, such member or officer shall do and perform all acts
4 of a real estate broker required by said partnership, asso-
5 ciation or corporation and no other member of said partner-

6 ship, association or corporation shall be so licensed or act.
7 Other members of such partnership or association or offi-
8 cers of such corporation may be licensed as real estate sales-
9 men.

Every real estate broker shall maintain a place of business
2 in this state so long as he shall hold a license, and in case
3 a broker maintains more than one office or place of business,
4 said commission shall, upon application of such licensed
5 broker, issue a duplicate license or licenses for each addi-
6 tional place so maintained, upon the payment by such li-
7 censed broker for each such duplicate license so issued, of
8 the sum of one dollar.

It shall be the duty of every licensed real estate broker
2 to at all times conspicuously display his license in his place
3 of business. All licenses shall be duly authenticated by the
4 seal of the commission. The commission shall with each
5 original real estate broker's or real estate salesman's license
6 issued, at the same time issue a pocket card to the licensee,
7 showing his name and address, date of issue and expiration
8 of his license, and certifying that he is such a licensed real
9 estate broker or real estate salesman, as the case may be.
10 Such licensee shall, upon request by any person interested,
11 exhibit for the inspection of such person, his pocket license
12 card.

Notice in writing shall be given to the commission by each
2 licensed real estate broker of a change in the principal busi-
3 ness address as shown in his license, and thereupon, the

4 commission shall issue a new license to him at the new ad-
5 dress for the unexpired term, without charge.

When the employment as given in the application of any
2 real estate salesman is terminated, such salesman shall forth-
3 with cease to be a licensed real estate salesman and he shall
4 upon the termination of such employment immediately de-
5 liver to the real estate broker by whom he has been em-
6 ployed, his license and license card. It shall be the duty of
7 such real estate broker to immediately deliver or mail by
8 registered mail to the commission such real estate sales-
9 man's license and license card, together with information
10 as to the date of the termination of such service. Such per-
11 son is then eligible to apply for a license as a real estate
12 broker or as a real estate salesman in the employ of another
13 real estate broker.

Any resident of this or any other state shall be eligible to
2 be licensed as a real estate broker or a real estate salesman
3 upon conforming to the requirements of this act.

All licenses issued by the commission shall expire on the
2 last day of _____, following the date of issue of said
3 license.

The commission shall at least semi-annually publish a list
2 of the names and addresses of all licensees licensed by it
3 under the provisions of this act, and of all persons whose
4 license has been revoked within one year; and they may pub-
5 lish with such list such other information relative to the en-
6 forcement of the provisions of this act as it may deem of

7 interest to the public. One of such lists shall be mailed to
8 the county clerk in each county of the state and shall be
9 held by said county clerk as a public record. Such lists shall
10 also be mailed by the commission to any person in this state
11 upon request.

The commission shall establish some stated place as its
2 headquarters, to which place all applications and other mat-
3 ters addressed to the commission may be sent.

Sect. 6. *Fees.* The annual fee for each real estate bro-
2 ker's license shall be ten dollars. The annual fee for each
3 real estate salesman's license shall be two dollars. All fees
4 collected by the commission shall be paid forthwith by them
5 into the state treasury, and all salaries and expenses of said
6 commission shall be paid by the state treasurer upon war-
7 rants of the state auditor, issued on vouchers approved by
8 the commission.

Sect. 7. *Licenses May Be Revoked.* Whenever the
2 commission shall become satisfied that any real estate broker
3 or any real estate salesman licensed in this state has wil-
4 fully violated any of the laws of the state, or has wilfully
5 misrepresented any of the essential facts in connection with
6 any real estate transaction, accomplished or attempted, or
7 has dealt unjustly with or wilfully deceived any citizen of
8 this or another state in regard to facts relating to any real
9 estate transaction, accomplished or attempted, or has failed
10 or refused to pay over to the person entitled thereto, on
11 demand, any money or other thing of value in his hands

12 or under his control received by him or put under his con-
13 trol in connection with any real estate transaction, or has
14 in any other way become unfit for such licensed position,
15 they may, upon written charges, after notice and hearing,
16 revoke the license of such licensee. The person whose li-
17 cense is so revoked shall be notified by the commission by
18 registered mail of such revocation of his license. And the
19 person whose license is so revoked shall forthwith return
20 to the commission his license and license card and shall not
21 be eligible to receive a new license as real estate broker or
22 real estate salesman within one year from the date of said
23 revocation.

If, from the evidence presented at any such meeting, it
2 shall appear to the commission that any criminal violation
3 of this act or any part thereof has been committed, said
4 commission shall forthwith prepare and transmit to the
5 county attorney in the county where such violation has oc-
6 curred, an abstract showing the evidence so presented and
7 the names and addresses of the witnesses giving such evi-
8 dence.

Sect. 8. *Penalties.* Any person, partnership, or associa-
2 tion violating any of the provisions of this act, shall, upon
3 conviction by a court having jurisdiction, be punished by
4 a fine of not less than fifty dollars nor more than one thou-
5 sand dollars, or by imprisonment for a term of not exceed-
6 ing two years or by both fine and imprisonment. Any cor-
7 poration violating any of the provisions of this act shall,

8 upon conviction by a court having jurisdiction, be punished
9 by a fine of not less than fifty dollars, nor more than five
10 thousand dollars.

This act shall not be construed to relieve any person from
2 civil liability or criminal prosecution under the general laws
3 of the state.