

# MAINE STATE LEGISLATURE

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REVISED STATUTES

OF THE

STATE OF MAINE

1954

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1961 CUMULATIVE SUPPLEMENT

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ANNOTATED

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IN FIVE VOLUMES

VOLUME 2

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**Discard Previous Pocket Part Supplement**

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THE MICHIE COMPANY  
CHARLOTTESVILLE, VIRGINIA  
1961

the expiration of his certificate and the amount of the fee that shall be required for its renewal for one year. Such notice shall be mailed at least one month in advance of the date of the expiration of said certificate. Renewal may be effected at any time during the month of December by the payment of a fee designated by the board, which shall not exceed \$3 nor be less than \$1. The failure on the part of any registrant to renew his certificate annually in the month of December as required above shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate after the month of December shall be increased 10% for each month or fraction of a month that payment of renewal is delayed; provided, however, that the maximum fee for delayed renewal shall not exceed twice the normal renewal fee. (R. S. c. 74, § 16. 1961, c. 288, § 4.)

**Effect of amendment.**—The 1961 amendment divided the former second sentence into two sentences and substituted “one month” for “1 day” in the present third sentence.

**Effective date.**—Section 6 of c. 288, P. L. 1961, amending this section, provides that the act shall become effective July 1, 1962.

**Sec. 21. Reciprocity.**—The board may, upon application therefor and the payment of a fee established by the board as provided in section 13, issue a certificate of registration as a professional engineer to any person whose qualifications meet the requirements of section 12, subsection I, paragraph A. (R. S. c. 74, § 20. 1961, c. 288, § 5.)

**Effect of amendment.**—The 1961 amendment rewrote this section.

L. 1961, amending this section, provides that the act shall become effective July 1, 1962.

**Effective date.**—Section 6 of c. 288, P.

1962.

## Chapter 84.

### Registration of Real Estate Brokers and Salesmen.

**Sec. 1. Maine real estate commission; powers; duties; 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 \$15 and his actual and necessary expenses incurred in the performance of duties pertaining to his office.

The commission may employ a secretary and such clerical assistants as it deems necessary to discharge the duties imposed by this chapter, and shall outline their duties and fix their compensation, subject to the personnel law. The commission may employ such technical assistants and investigators as may be necessary.

The fees collected under the provisions of 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 and approved by the state controller, the cost and expenses of administering the provisions of 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 commission. (R. S. c. 75, § 1. 1955, c. 299, § 1. 1961, c. 138, § 1.)

**Effect of amendments.** — The 1955 amendment added the last two sentences to the last paragraph of this section.

The 1961 amendment increased the com-

pensation in the second paragraph from \$10 to \$15, substituted "clerical assistants" for "clerks and assistants" in the third paragraph and added the second sentence to that paragraph.

As the rest of the section was not affected by the amendments, it is not set out.

Cited in *United Interchange, Inc. v. Harding*, 154 Me. 128, 145 A. (2d) 94.

### Sec. 2. Definitions and exceptions.

**I.** A "real estate broker" is any person, firm, partnership, association or corporation who for a compensation or valuable consideration sells or offers for sale, buys or offers to buy, or negotiates the purchase or sale or exchange of real estate, or who leases or offers to lease, or rents or offers for rent, or lists or offers to list for sale, lease or rent, any real estate or the improvements thereon for others, as a whole or partial vocation. (1955, c. 299, § 2. 1957, c. 32. 1959, c. 363, § 40)

**III.** A "real estate salesman" shall mean and include any person employed or engaged by or on behalf of a licensed real estate broker to do or deal in any activity as included in subsection I hereof, for compensation or other valuable consideration. (1955, c. 299, § 3) (1955, c. 299, §§ 2, 3. 1957, c. 32. 1959, c. 363, § 40.)

**Effect of amendments.** — The 1955 amendment inserted the words "or lists or offers to list for sale, lease or rent" in subsection I and rewrote subsection III.

The 1957 amendment inserted a second paragraph under subsection I, including in the definition of "real estate broker" persons, etc., promoting the sale of real estate through listing in a publication. This former second paragraph of subsection I was repealed by the 1959 amendment.

As the rest of the section was not changed by the amendments, only subsections I and III are set out.

**1957 amendment unconstitutional.**—The

1957 amendment inserting the last paragraph under subsection I is unconstitutional. The legislature may not regulate the lawful business of advertising by arbitrarily and unreasonably defining that business as something that it is not. Accordingly, P. L. 1957, Chap. 32, amending this subsection, may not embrace as a "broker" one who "promotes the sale of real estate through listing (of property) in a publication \* \* \*." *United Interchange, Inc. v. Harding*, 154 Me. 128, 145 A. (2d) 94. See Const. of Maine, Art. 1, § 4 and notes.

### Sec. 2-A. Applications for licenses; examinations; grant or denial.—

**I. Qualifications of applicants.** An applicant for a real estate broker's or salesman's license shall submit to the commission written evidence, verified by oath, that the applicant:

**A.** Is 21 years of age or over;

**B.** Has resided in the state for at least one year;

**C.** Has not had an application rejected in this or any other state within 6 months prior to date of application;

**D.** Has not had a real estate license revoked in this or any other state within 2 years prior to date of application.

### II. License.

**A. Application.** Every applicant for a real estate broker's or salesman's license shall apply therefor in writing upon blanks prepared or furnished by the commission.

**B. Sworn statement.** Every such applicant shall furnish a sworn statement, setting forth his present address, both of business and residence, a complete list of all former places where he may have resided and been engaged in business for a period of 60 days or more during the last 2 years, together with the name and address of one real estate owner in each of said places where he may have resided or been engaged in business. If the applicant is a partnership or an association, the name and address of

each member thereof shall be stated. If the applicant is a corporation, the name and address of each officer and director thereof shall be stated. The applicant shall state whether he has been convicted of a criminal offense involving moral turpitude, and if so, what offense; if the applicant is a partnership or association, whether any member thereof has been so convicted; if the applicant is a corporation, whether any officer or director has been so convicted.

**C. Recommendations.** Such application shall be accompanied by the recommendation of at least 3 citizens, not related to the applicant, who have known the applicant for a period of 3 years and who have owned real estate for a period of one year or more in the county in which said applicant resides or has his place of business. The recommendation shall certify that the applicant bears a good reputation for honesty, truthfulness, fair dealing and competency and recommend that a license be granted to the applicant. If applicant cannot procure such recommendations for the reason that he has not resided within the county for a period of 3 years, he may furnish similar recommendations from 3 persons with like qualifications from any county where the applicant has resided within the 3 years prior to the filing of his application. The commission, with due regard to the paramount interests of the public, may require such other proof as shall be deemed desirable as to the honesty, truthfulness, integrity, reputation and competency of the applicant. The application for a salesman's license shall in addition be accompanied by a written statement by the broker into whose service he is about to enter, stating that in his opinion the applicant is honest, truthful and of good reputation and recommending that the license be granted to the applicant.

**D. License fee.** Every application for a license under this chapter shall be accompanied by the license fee prescribed. In the event that the commission does not issue the license, the fee shall be returned to the applicant.

**E. Additional requirement for brokers.** Every applicant for a broker's license shall state the name of the person, firm, partnership, association or corporation with which he will be associated in the business of real estate, and the location of the place or places for which said license is desired, and set forth the period of time, if any, in which said applicant has been engaged in the real estate business.

**F. Additional requirement for salesmen.** Every applicant for a salesman's license shall in addition set forth the period of time during which he has been engaged in the real estate business, stating the name and address of his last employer and the name and the place of business of the person, firm, partnership, association or corporation then employing him or into whose service he is about to enter.

**G. Examination.** The commission is authorized to require every applicant for a first-time broker's license or a first-time salesman's license to appear in person at such time and place as the commission shall designate for that purpose, for a written examination as to his qualifications to act as a broker or salesman, and the commission shall collect a fee of \$20 for such examination, which fee will entitle any applicant for a license to one retake examination, without additional charge, should the applicant fail to pass the first examination. The examination fee shall be in addition to any other fees authorized by this chapter.

**H. Rules and regulations.** The commission shall make and enforce rules and regulations connected with the application for any license as shall be deemed necessary to administer and enforce this chapter.

**I. License required.** It shall be unlawful for any person, partnership, association or corporation to act as a real estate broker or real estate sales-

man, or to advertise or assume to act as such real estate broker or real estate salesman, without a license issued by the commission.

**J. Granted.** Licenses shall be granted only to persons who are trustworthy and competent to transact the business of real estate broker or salesman in such manner as to safeguard the interests of the public, and only after satisfactory proof has been presented to the commission. No partnership, association or corporation shall be granted a license unless every member or officer of such partnership, association or corporation who actively participates in the brokerage business of such partnership, association or corporation shall hold a license as a real estate broker or salesman and unless every employee who acts as a salesman for such partnership, association or corporation shall hold a license as real estate salesman.

**K. Denial.** A license may be denied to any applicant who has been convicted of any crime involving moral turpitude. Before refusing to issue any license, the commission shall set the application down for a hearing and determination as provided in section 9. (1961, c. 138, § 2.)

**Secs. 3-6.** Repealed by Public Laws 1961, c. 138, § 5.

**Cross reference.** — See § 2-A of this chapter re present provisions as to applications for licenses for real estate brokers and salesmen.

**Editor's note.**—Section 6 of this chap-

ter, repealed by P. L. 1961, c. 138, was also amended by P. L. 1961, c. 394, § 48, which deleted "as provided in section 9" at the end of that section.

**Sec. 7. Details relating to license, fees, etc.**—The commission shall issue to each licensee a license in such form and size as shall be prescribed by the commission. This license shall show the name and address of the licensee, and in case of a real estate salesman's license, shall show the name of the real estate broker by whom he is employed. Each license shall have imprinted thereon the seal of the commission and in addition to the foregoing shall contain such matter as shall be prescribed by the commission. The license of each real estate salesman shall be delivered or mailed to the real estate broker by whom such real estate salesman is employed and shall be kept in the custody and control of such broker. It shall be the duty of each real estate broker to display conspicuously his license and the licenses of all his salesmen in his place of business.

The commission shall prepare and deliver to each licensee a pocket card, which card among other things shall contain an imprint of the seal of the commission and shall certify that the person whose name appears thereon is a licensed real estate broker or real estate salesman, as the case may be; and if it is a real estate salesman's card, it shall also contain the name and address of his employer. The matter to be printed on such pocket card, except as herein set forth, shall be prescribed by the commission.

The original fee for each real estate broker's license shall be \$15 and the annual renewal fee shall be \$10. The original fee for each real estate salesman's license shall be \$10 and the annual renewal fee shall be \$5. When a partnership, association or corporation shall have paid an original fee of \$15 or a renewal fee of \$10 and shall have designated one of its members or officers as a real estate broker, as provided in this section, 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 for the first registration fee and \$5 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 fee therefor.

Each real estate broker's license which may be granted to an individual shall entitle such individual to perform all of the acts contemplated by this chapter. 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. If, in any case, the person so designated by a real estate broker shall be refused a license by the commission, or in case such person ceases to be connected with such real estate broker, said broker shall have the right to designate another person who shall make application as in the first instance.

Every license shall expire on the 30th day of June of each year. The commission shall issue a new license for each ensuing year in the absence of any reason or condition which might warrant the refusal of the granting of a license, upon receipt of the written request of the applicant and the annual fee therefor as herein required. The revocation of a broker's license shall automatically suspend every real estate salesman's license granted to any person by virtue of his employment by the broker whose license has been revoked, pending a change of employer and the issuance of a new license. Such new license shall be issued without charge if granted during the same year in which the original license was granted.

No person, partnership or corporation engaged in the business or acting in the capacity of a real estate broker or a real estate salesman within this state shall bring or maintain any action in the courts of this state for the collection of compensation for any services performed as a real estate broker or real estate salesman without alleging and proving that such person, partnership or corporation was a duly licensed real estate broker or real estate salesman at the time the alleged cause of action arose.

Every resident real estate broker shall maintain a fixed and definite place of business in this state. 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 shall be paid for each duplicate license. A fee of \$2 shall be paid for a license for change of business location or branch office.

Notice in writing shall be given to the commission by each licensee of any change of principal business location, whereupon the commission shall issue a new license for the unexpired period for a fee of \$2. The change of business location without notification to the commission shall automatically cancel the license issued.

When any real estate salesman shall be discharged or shall terminate his employment with the real estate broker by whom he is employed, it shall be the duty of such real estate broker to immediately deliver or mail by registered mail to the commission such real estate salesman's license. The real estate broker shall, at the time of mailing such real estate salesman's license to the commission, address a communication to the last known residence address of such real estate salesman, which communication shall advise such real estate salesman that his license has been delivered or mailed to the commission. A copy of such communication to the real estate salesman shall accompany the license when mailed or delivered to the commission. It shall be unlawful for any real estate salesman to perform any of the acts contemplated by this chapter, either directly or indirectly, under authority of said license from and after the date of receipt of said communication advising him that his license has been delivered or mailed to the commission. Prompt notice in writing within 10 days shall be given to the commission by any real estate salesman of a change of employer, and of the name of the new employer into whose service such salesman is about to enter or has entered, and a new license shall thereupon be issued by the commission to such salesman for the unexpired term of the original license; provided that such new employer shall be a duly licensed real estate broker. The salesman shall pay a transfer fee of \$2 for such new license. Another license shall not be issued to such real estate salesman until he shall return his former pocket card to the commission or shall

satisfactorily account to it for the same. Not more than one license shall be issued to any real estate salesman for the same period of time.

In the event that any license issued under the provisions of this chapter shall be lost or destroyed, a substitute therefor may be obtained upon payment of a fee of \$2. (R. S. c. 75, § 7. 1957, c. 31; c. 35, §§ 1-3; c. 429, § 76. 1961, c. 138, §§ 3, 4.)

**Effect of amendments.**—The first 1957 amendment added the words “and the licenses of all his salesmen” in the last sentence of the first paragraph. The second 1957 amendment increased the fee and added the last sentence in the seventh paragraph, increased the fee and made minor changes in language in the ninth paragraph, and added the last paragraph. The third 1957 amendment, which became effective on its approval, October 31, 1957, substituted the words “for a fee of \$2” for the words “without charge”, which formerly appeared at the end of the first

sentence of the eighth paragraph of this section, and deleted the word “theretofore”, formerly appearing after the word “license” and before the word “issued” in the last sentence of the eighth paragraph.

The 1961 amendment divided the third paragraph into two sentences, increased the fees throughout that paragraph and inserted “fixed and definite” preceding “place of business” in the first sentence of the seventh paragraph.

**Cited in** United Interchange, Inc. v. Harding, 154 Me. 128, 145 A. (2d) 94.

### **Sec. 8. Investigation of complaints; suspension or revocation of license.**—

**I.** The commission may, upon its own motion, and shall, upon the verified complaint in writing of any person, provided such complaint or such complaint together with evidence, documentary or otherwise, presented in connection therewith shall make out a prima facie case, investigate the actions of any real estate broker or real estate salesman, or any person who shall assume to act in either such capacity within this state. After hearing, the hearing officer as designated in chapter 20-A shall have the power to suspend or to revoke any license issued under this chapter, at any time where the licensee has by false or fraudulent representation obtained a license or where the licensee, in performing or attempting to perform any of the acts mentioned herein, is deemed to be guilty of:

**II. Acts of licensee for which applicant would be refused license.** The hearing officer shall, in addition, have power, after hearing, to revoke or suspend any license issued under this chapter, at any time, where the licensee performs any act or acts, or offers or attempts or agrees to do any act or acts, for which the commission may lawfully refuse to issue a license to any applicant.

(1961, c. 394, §§ 49, 50.)

**Effect of amendment.**—The 1961 amendment divided the first sentence of subsection I into two sentences, inserted “After hearing, the hearing officer as designated in chapter 20-A” at the beginning of the present second sentence, substituted “hearing officer” for “commission” near the be-

ginning of subsection II, inserted “after hearing” near the beginning of that subsection and made other minor changes.

As paragraphs A to N of subsection I and subsection III were not affected by the amendment, they are not set out.

**Sec. 9. Unqualified applicant denied license; suspension or revocation for violation of chapter.**—If the commission shall determine that any applicant is not qualified to receive a license, a license shall not be granted to such applicant, and if the hearing officer shall determine that any licensee is guilty of a violation of any of the provisions of this chapter, the license shall be suspended or revoked. (R. S. c. 75, § 9. 1959, c. 317, § 35. 1961, c. 394, § 51.)

**Effect of amendments.** — The 1959 amendment rewrote the former last sen-

tence of this section, subsequently deleted by the 1961 amendment.



The 1961 amendment deleted the former first five paragraphs of this section, substituted "hearing officer" for "commission" in the first sentence of the present first paragraph and deleted the remainder of that paragraph.

**Effective date and applicability of Public Laws 1959, c. 317.**—Section 420, chapter 317, Public Laws 1959, provides as follows: "This act shall become effective December 1, 1959. It shall apply to all

actions brought after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail."

### **Sec. 10. Nonresident brokers and salesmen.**

The resident qualifications and the examination requirements shall not apply on application of a nonresident broker or salesman for a license limited to transactions involving industrial plants, sites and parks, provided such applicant has been licensed in some other state as a broker or salesman for a period of 10 years and submits proof that he specializes in industrial real estate, and provided such other state allows similar privileges to residents of this state. (R. S. c. 75, § 10. 1961, c. 138, § 6.)

**Effect of amendment.**—The 1961 amendment added the third paragraph of this section.

As the first two paragraphs were not

affected by the amendment, they are not set out.

**Cited in** *United Interchange, Inc. v. Harding*, 154 Me. 128, 145 A. (2d) 94.

### **Sec. 12. Penalties.**

**Cited in** *United Interchange, Inc. v. Harding*, 154 Me. 128, 145 A. (2d) 94.

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## **Chapter 85.**

### **Art Commission.**

#### **Sec. 2. Powers and duties.**

No painting, portrait, statue or tablet shall be accepted or placed in the state house without the permission of the commission. The commission shall advise the state director of public improvements where to hang paintings, portraits and pictures and where to place statues and other works of art. (R. S. c. 76, § 2. 1957, c. 340, § 7.)

**Effect of amendment.** — The 1957 amendment substituted "state director of public improvements" for "superintendent of public buildings" in the last paragraph of this section. Section 12 of such amen-

datory act provided that it should be retroactive to July 1, 1957.

As the first two paragraphs were not charged by the amendment, they are not set out.

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## **Chapter 86.**

### **Harness Racing Commission.**

**Sec. 1. State harness racing commission.** — The state harness racing commission, as heretofore established and hereinafter in this chapter called the "commission," shall consist of 3 members who shall be appointed and may be for cause removed by the governor with the advice and consent of the council. No more than 2 members shall be of the same political party. One member shall, in some capacity, be connected with agricultural societies which operate pari mutuel racing. Upon the expiration of the term of office of any member, his successor shall be appointed for a term of 3 years. Any vacancy shall be filled by appoint-