

ferring powers and imposing duties on local officers and the Department of Highways; and making an appropriation out of the Motor License Fund; and repealing existing legislation," is amended to read:

Further conditional appropriations.

Section 4.1. If the sum appropriated by section three amounts to less than thirty million dollars (\$30,000,000) *annually* during the calendar years 1956 or 1957, 1958 or 1959, there is appropriated for each of said years out of the Motor License Fund an amount equal to the difference between thirty million dollars (\$30,000,000) and the lesser amount provided by section three, which sum shall be paid to the municipalities in accordance with the provisions of section four.

APPROVED—The 9th day of July, A. D. 1957.

GEORGE M. LEADER

No. 329

AN ACT

Amending the act of May 1, 1929 (P. L. 1216), entitled "An act to define real estate brokers and real estate salesmen; and providing for the licensing, regulation, and supervision of resident and non-resident real estate brokers and real estate salesmen and their business," changing examination, licensing, suspension and revocation provisions increasing fees, and prescribing additional fees and penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Real Estate Brokers License Act of 1929.

Subsection (b), section 4, act of May 1, 1929, P. L. 1216, amended May 25, 1945, P. L. 1023, further amended.

Section 1. Subsection (b) of section 4, act of May 1, 1929 (P. L. 1216), known as the "Real Estate Brokers License Act of one thousand nine hundred and twenty-nine," amended May 25, 1945 (P. L. 1023), is amended to read:

Section 4. * * *

Fees for copies.

(b) For every copy of paper filed with the department in any proceedings before the commission, the department may charge such fees as it may by general rule or regulation prescribe, not exceeding [twenty-five cents (25c)] *fifty cents (50c)* per folio.

Section 6 and subsection (c), section 7 of the act, amended January 18, 1952, P. L. 2117, further amended.
License required.

Section 2. Section 6 and subsection (c) of section 7 of the act, amended January 18, 1952 (P. L. 2117), are amended to read:

Section 6. From and after January 1, 1930, it shall be unlawful for any person, copartnership, association, or corporation to engage in or carry on the business, or act in the capacity of a real estate broker, or a real estate salesman, within this Commonwealth, without first

obtaining a license as a real estate broker or real estate salesman from the department. *After the effective date of this act no real estate salesman's license shall be issued by the department or commission to a copartnership, association or a corporation.*

No person [, copartnership, association, or corporation] may be licensed by the department or commission as a real estate broker unless such person [and all of the members of any such copartnership or association who are actively engaged in the real estate business and all of the officers of any such corporation who are actively engaged are] is of the age of twenty-one years and upwards, [are citizens] a citizen of the United States, and shall have served an apprenticeship in active practice, as a duly licensed real estate salesman, of not less than two years, in the employ of a duly licensed real estate broker or brokers, or upon application, proof of experience equivalent thereto, *and no copartnership, association or corporation shall be licensed by the department or commission as a real estate broker, unless all of the members of any such copartnership or association and all of the officers of any such corporation, intending to actually engage in or actually engaging in the real estate business, are duly licensed real estate brokers.*

[Any person engaged in the real estate business for a period of two years or more prior to January 1, 1930, may be admitted to an examination for a real estate broker's license: Provided, That he or she shall meet all of the prerequisites of applicants for such licenses, except that he or she shall not be required to have served in the employ of a duly licensed real estate broker or brokers as a duly licensed real estate salesman for a period of two years.]

Any person who remains inactive for a period of seven years without renewing his license shall, prior to having a license reissued to him, submit to and pass an examination.

Section 7. * * *

(c) Application for license as real estate salesman shall be made in writing to the department, signed by the applicant, setting forth that he is at least eighteen years of age, the period of time during which he has been engaged in the business, stating the name of the last employer, and the name and place of business of the person, firm, copartnership, association, or corporation then employing him, or into whose employ he is then about to enter. No person may be licensed by the department as a real estate salesman unless such person is a citizen of the United States. All applications shall be made upon a blank provided for the purpose by the department, and shall contain such information as to

Qualifications for licensing as real estate broker.

Examination without apprenticeship.

Proviso.

Duration of non-activity.

Application for real estate salesman's license.

Contents.

Recommendation of employer.	the applicant, in addition to the above prescribed, as the commission shall require. The application shall be accompanied by the recommendation of his employer, or prospective employer, certifying that the applicant is honest, truthful, and of good repute, and recommending that such license be granted. All such licenses shall
Expiration date of license.	expire on the last day of February immediately following the date of issue, unless sooner revoked or suspended by the commission, or renewed annually, as hereinafter described.
Examinations.	No person may hereafter be licensed as a real estate salesman, and no person, copartnership, association, or corporation may hereafter be licensed as a real estate broker, by the department, unless such person and all of the members of any such copartnership or association, and all of the officers of any such corporation, intending to actually engage in, or actually engaging in, the real estate business as a real estate broker or salesman, shall first submit to and pass an examination conducted by the commission and prepared by the commission. The
Time and places for holding same.	commission shall hold examinations on the second Saturdays in [January, April, July, and October] <i>February, May, August, and November</i> in the cities of Philadelphia, Pittsburgh, Harrisburg, Wilkes-Barre, and Erie, at such hours and under such rules and regulations, as
Proviso.	the commission shall prescribe: Provided, That the commission may make a special dispensation or exception because of religious scruples of applicants as to the day of the week upon which the examination shall be held:
Further proviso.	Provided further, That the commission may hold real estate salesmen's examinations in the city of Harrisburg on the second Saturday of any month. The examination
Subjects of examination.	for a broker's license shall include questions on real estate practice, real estate law, the applicant's ability to read and write English, his knowledge of mathematics, and other common school branches. The examination for salesman's license shall be limited to mathematics applicable to real estate business, the Real Estate Brokers' License Act, and ethical practices thereunder:
Proviso.	Provided, however, That in event the license of any real estate broker or salesman shall be cancelled by the commission, subsequent to the enactment of this act, no new license shall be issued to such person, unless he complies with the provisions of this act: Provided further,
Further proviso.	however, That the commission may waive these requirements in the case of an application from a non-resident broker of those states having similar requirements under the laws of which, similar recognition and courtesies are extended to licensed real estate brokers and real estate salesmen of this State.

[Any individual, who fails to pass the examination at two successive examinations, shall be ineligible for a similar examination, until after the expiration of six months from the time such individual took the last examination.]

* * * * *

Section 3. Section 8 and subsections (a) and (b) of section 9 of the act, amended May 25, 1945 (P. L. 1023), are amended to read:

Section 8 and subsections (a) and (b), section 9, of the act, amended May 25, 1945, P. L. 1023, further amended.

Section 8. The fees to be charged by and paid to the department by licensees for all licenses and renewals thereof issued shall be as follows:

(1) A fee of ten dollars (\$10.00) shall accompany an application for examination for real estate broker's license, and in the event that the applicant successfully passes the examination, no additional fee shall be required for the issuance of a certificate of registration: Provided, That if the applicant fails to pass the examination, he may be eligible to take the next examination [without any additional fee], *and each succeeding examination for an additional fee of ten dollars (\$10.00)*: Provided, That there shall be an additional license fee of [two and one-half (\$2.50) dollars] *ten dollars (\$10.00)*, annually, for each additional office or place of business.

Fees.

(2) A fee of five dollars (\$5.00) shall accompany an application for examination for a real estate salesman's license, and in the event that the applicant successfully passes the examination, no additional fee shall be required for the issuance of a certificate of registration: Provided, however, That if the applicant fails to pass the examination, he may be eligible to take the next examination [without any additional fee], *and each succeeding examination for an additional fee of five dollars (\$5.00)*.

(3) It shall be the duty of all persons, licensed to practice as a real estate broker or real estate salesman, to register annually with the department and pay for each annual registration as a real estate broker, the sum of five dollars (\$5.00), and pay for each such annual registration as a real estate salesman, the sum of two dollars and one-half (\$2.50). Said applications for renewal of real estate broker's or salesman's license, shall be made to the department annually on or before March first of the next succeeding year.

A fee of two dollars and fifty cents (\$2.50) shall accompany applications for the reissue of lost or mislaid licenses, certificates or renewal cards.

A fee of two dollars and fifty cents (\$2.50) shall accompany applications for certification of licenses of Pennsylvania brokers applying for licenses in other states.

(4) The *commission [shall be required to] *may* publish annually a list of the persons, copartnerships, and corporations registered for that particular year, *and changes in rules and regulations and administrative procedure as they may from time to time occur.*

Place of business to be maintained.

Section 9. (a) Every person, copartnership, association, or corporation, licensed as a real estate broker under the provisions of this act, shall be required to have and maintain a definite place of business within the Commonwealth, which shall be a room or rooms used exclusively for the transaction of real estate business, or such business and any allied business, and which shall serve as his, their, or its office for the transaction of business under the authority of the said license, and where the certificate of registration and the current annual renewal card shall be prominently displayed. The said place of business shall be specified in the application for license, and designated in the license, and no license issued under the authority of this act shall authorize the licensee to transact business from any office other than that designated in the license, unless notice in writing shall be given within ten days to the department of any change of business location, designating the new location of such office, whereupon the department shall forthwith issue a new license for the new location for the unexpired period [without charge] *for a fee of two dollars and fifty cents (\$2.50).* The change of the specified business location, without notification to the department, shall automatically cancel the license theretofore issued. Every real estate broker shall display on the outside of his place of business a sign containing the words REAL ESTATE OR REALTOR, where such latter title is duly authorized. The commission shall adopt reasonable rules and regulations for the conduct of such places of business.

Change of office.

Display of sign.
Rules.

Display of salesmen's license.

Notice of change of employer.

(b) All real estate brokers shall also prominently display in their place or places of business the certificate of registration and the current annual renewal card of all real estate salesmen employed by them therein or in connection therewith. All licenses issued to real estate salesmen shall designate the employer of such salesmen by name. Prompt notice in writing, within ten (10) days, shall be given to the department by the real estate salesmen of any change of employer, and of the name of the new employer into whose service such salesman is

* "commisison" in original.

about to enter or has entered, and a new license shall thereupon be issued, [without charge] *for a fee of two dollars and fifty cents (\$2.50)*, by the department to such salesmen, for the unexpired term of the original license: Provided, That such new employer shall be a duly licensed real estate broker. The change of employer or employment by any licensed real estate salesman, without notice to the department as aforesaid, shall automatically cancel the license to him theretofore issued, and it shall be the duty of the employer named in such license to notify the department promptly of any such change of employer or employment.

Proviso.
Employer to give notice of change.

* * * * *

Section 4. Subsections (a), (b) and (d) of section 10 of the act, amended May 25, 1945 (P. L. 1023), and January 18, 1952 (P. L. 2117), are amended to read:

Subsections (a), (b) and (d), section 10 of the act, amended May 25, 1945, P. L. 1023, and January 18, 1952, P. L. 2117, further amended.

Section 10. (a) The commission may, upon its own motion, and shall, promptly, upon the verified complaint in writing of any person setting forth specifically the wrongful act or acts complained of, investigate any action or business transaction of any licensed real estate broker or real estate salesman; and shall have the power temporarily to suspend or permanently to revoke licenses theretofore issued by the department, under the provisions of this act, at any time when, after due proceedings as hereinafter provided, it shall find the holder thereof to have been guilty [, in the performance or attempt to perform any of the acts prohibited to others than licensed real estate brokers or real estate salesmen under the provisions of this act],

Investigation of complaints.

Causes for which license may be suspended or revoked.

- (1) Of knowingly making any substantial misrepresentation; or
- (2) Of knowingly making any false promise of a character likely to influence, persuade or induce; or
- (3) Of a continued or flagrant course of misrepresentation, or making of false promises through agents or salesmen; or
- (4) When it shall be shown that the licensee, within five years prior to the issuance of the license then in force, has pleaded guilty, entered a plea of nolo contendere, or has been found guilty in a court of competent jurisdiction of this or any other state of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, bribery, or other like offense or offenses.
- (5) Of any failure to account for, or to pay over, moneys belonging to others, which has come into his, her, or its possession arising out of a real estate transaction; or

(6) Of any misleading or untruthful advertising; or

(7) Of any act or conduct in connection with a real estate transaction which demonstrates incompetency, bad faith, or dishonesty;

(8) Of displaying a "for rent" or "for sale" sign on any property without an exclusive agency therefor or without the owner's consent;

(9) Of failing to furnish voluntarily a copy of the agreement of sale to the buyer and the seller, *and a copy of the lease to the lessor and lessee*;

(10) Of buying a property listed through a straw party with the intent of reselling to a buyer already secured thus making a profit in addition to the commission agreed upon with the owner listing the property;

(11) Of failure to [deposit in escrow or a trustee account all moneys belonging to others coming into the hands of the licensee] *comply with the following requirements:*

(i) All deposits or other moneys accepted by every person, copartnership, corporation or association, holding a real estate broker's license under the provisions of this act, must be retained by such real estate broker pending consummation or termination of the transaction involved, and shall be accounted for in the full amount thereof at the time of the consummation or termination.

(ii) Every real estate salesman promptly on receipt by him of a deposit or other moneys on any transaction in which he is engaged on behalf of his broker-employer, shall pay over the deposit to the real estate broker.

(iii) A real estate broker shall not commingle the money or other property of his principal with his own.

(iv) Every real estate broker shall immediately deposit such moneys, of whatever kind or nature, belonging to others, in a separate custodial or trust fund account maintained by the real estate broker with some bank or recognized depository until the transaction involved is consummated or terminated, at which time the real estate broker shall account for the full amount received. Under no circumstances shall a real estate broker permit any advance payment of funds belonging to others to be deposited in the real estate broker's business or personal account, or to be commingled with any funds he may have on deposit.

(v) Every real estate broker shall keep records of all funds deposited therein, which records shall indicate clearly the date and from whom he received money, the date deposited, the dates of withdrawals, and other per-

inent information concerning the transaction, and shall show clearly for whose account the money is deposited and to whom the money belongs. All such records and funds shall be subject to inspection by the commission. Such separate custodial or trust fund account shall designate the real estate broker, as trustee, and such account must provide for withdrawal of funds without previous notice.

(12) Of failure to provide his client with a fully executed copy of any sole or exclusive sales listing contract at the time of the execution thereof.

(13) Of failure to truthfully disclose information sought in the application for license.

(b) Before refusing, suspending or revoking any license, the commission shall, in writing, notify the applicant or licensee of the charges against him, accompanying the notice with a copy of the complaint, if any filed, and the commission shall accord the applicant or licensee ample opportunity to be heard thereon in person or by counsel. If the applicant or licensee shall so desire, the commission shall grant a hearing upon such charges, to be held on not less than ten (10) days prior notice in writing to the applicant or licensee given [, and shall furnish licensee at the time of giving the said notice with copies of any and all communications, reports, affidavits, and dispositions in the possession of the department touching or relating to the matter in question]. At such hearing, the applicant or licensee shall be entitled to examine, either in person or by counsel, any and all persons complaining against him, and as well all other witnesses whose testimony is relied upon to substantiate the charges made. He shall also be entitled to present such evidence, oral and written, as he may see fit, and as may be pertinent to the inquiry. The said hearings may be held by the commission, or any member thereof, or by any of its duly authorized representatives, or by any other person duly authorized by the commission for such purpose in any particular case, and they shall be held [, if the applicant or licensee so desires, within the county where the applicant's or licensee's principal place of business is situated] *in Harrisburg*. At such hearings, all witnesses shall be duly sworn by the duly authorized representatives, general or special, before whom the hearing is held, and stenographic notes of the proceedings shall be taken and filed as part of the record in the cause. Any party to the proceedings desiring it shall be furnished with a copy of such stenographic notes, upon the payment to the department of such fee

Hearings.

as it shall, by general rule or regulation, prescribe therefor, not exceeding however [twenty-five] *fifty* cents per folio.

* * * * *

Docket.

Notice of
decision.

(d) The decision of the commission in suspending or revoking any license issued under this act shall be subject to review by the court of common pleas of Dauphin County. The commission shall maintain in its main office a public docket or other record, in which it shall record, from time to time as made, the rulings or decisions upon all complaints filed with it, and all investigations instituted by it in the first instance, upon or in connection with which any such hearing shall have been had, or in which the licensee charged shall have made no defense. The commission shall also give immediate notice in writing of such ruling or decision to the licensee affected thereby, and as well, where the investigation shall have been instituted by complaint filed, to the party or parties by whom the complaint was made. If such ruling shall be to the prejudice of, or shall injuriously affect, the licensee, the commission shall also state in said notice the date upon which the said ruling or decision shall become effective [, if not theretofore appealed from, and such date shall be not less than thirty (30) days from and after the date of the said notice]. If the licensee cannot at such time be found, his whereabouts being then unknown, such notice may be given by the commission by advertisement inserted in one issue of a newspaper of general circulation published within the county where was located the principal office of the licensee as designated in the license. When any revocation or suspension shall become final, the commission shall publish notice thereof in one issue of one or more newspapers of general circulation published within the county in which the licensee was practicing or engaged in the real estate business at the time of such revocation or suspension.

Appeal to Court
of Common
Pleas of
Dauphin County.

Such ruling or decision of the commission shall be final when in favor of the licensee and in dismissal of the complaint filed, if any. If against the licensee, or in any way to licensee's injury or prejudice, the licensee may, at any time prior to the date fixed by the commission in its said notice as the date it shall become effective, appeal from such decision to the court of common pleas of Dauphin County, by filing written notice of such appeal, together with reasons for such appeal in the office of the prothonotary of Dauphin County, and by serving a copy thereof on the commission, either by filing the said notice of appeal in the office of the com-

mission or by delivering the same to the representative, whether general or special, before whom the hearing in the case was had.

Within thirty (30) days after the service of such notice of appeal, the commission shall file with the prothonotary of the said court of common pleas a transcript of the records of the proceedings in its office, duly certified over the seal of the department, which record shall include all papers on file with the commission affecting or relating to the inquiry or investigation conducted by the commission, and all the evidence taken in the said hearing, including the stenographic notes of testimony. Notice of the filing of the said transcript, with the term and number to which filed, shall be forthwith given by the commission to the licensee, and as well to the party or parties, if any, upon whose complaint the proceedings before the commission were instituted. The cost of the said transcript, at twenty-five cents per folio, and one dollar for certification, shall be entered as part of the record costs in the cause, to be paid as the said court may direct. In all proceedings upon such appeal, the Department of Justice shall appear for and represent the Commonwealth.

Record to be filed with prothonotary.

Costs of record.

The appeal shall thereupon be heard, in due course, by the judge or judges of the said court of common pleas, without a jury, by whom the proceedings before the commission, its findings and rulings, shall be given similar weight, force, and effect as are accorded to the findings and report of a referee selected or appointed under the provisions of the act, entitled "An act to provide for the submission of civil cases by agreement of the parties to the referee learned in the law," approved the fourteenth day of May, one thousand eight hundred seventy-four, and its supplements.

Hearing of appeal.

* * * * *

Section 5. Subsection (f) of section 11 and sections 12 and 14 of the act, amended May 25, 1945 (P. L. 1023), are amended to read:

Subsection (f), section 11, and sections 12 and 14 of the act, amended May 25, 1945, P. L. 1023, further amended.

Section 11. * * *

(f) After the revocation of any license, no new license shall be issued to the same licensee, within a period of one year from and after the date of such revocation, nor at any time thereafter except in the sole discretion of the commission, *and before any license is reissued, restitution of funds, if any, must be made and the costs of the proceedings must be paid by the licensee.*

* * * * *

Section 12. (a) Any person, copartnership, association, or corporation, who shall, after the first day of January, nineteen hundred and thirty, engage in or

Violations.

Penalty.

carry on the business, or act in the capacity of a real estate broker, or a real estate salesman, within this Commonwealth, without a license, or shall carry on or continue business after the suspension or revocation of any such license to him or it issued, or shall employ any person as a real estate salesman, to whom a license as a real estate salesman has not been issued, or whose license as such shall have been revoked or suspended, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be sentenced for the first offense to pay a fine of not less than [fifty dollars (\$50) nor more than one hundred dollars (\$100)] *two hundred dollars (\$200) nor more than four hundred dollars (\$400) or undergo imprisonment for not more than thirty (30) days, or both*, and for a second and any subsequent offense shall be sentenced to pay a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or undergo imprisonment for a period of not more than one (1) year, or both, in the discretion of the court.

(b) Any holder of a certificate of registration who shall *wilfully* fail to apply for a renewal of his or her certificate of registration on or before the renewal date in each year, and who continues the practice of real estate broker or real estate salesman, shall, on conviction thereof, be subject to a fine of not more than [ten dollars (\$10)] *fifty dollars (\$50)*, to be collected by summary conviction as like fines are collected by law, and, in case of nonpayment of fine, to undergo an imprisonment for a period not to exceed ten (10) days. Any such person shall have the right of appeal as in other cases of summary conviction.

Violation by
salesman not
ground for re-
voking em-
ployer's license.

Section 14. No violation of any of the provisions of this act on the part of any real estate salesman, or other employe of any licensed real estate broker, shall be ground for the revocation of the license of the employer of such salesman or employe, unless it shall appear upon the hearing had that such employer had guilty knowledge of such violation. A course of dealing shown to have been [persistently and consistently] followed by such employe shall constitute *prima facie* evidence of such knowledge upon the part of his employer.

APPROVED—The 9th day of July, A. D. 1957.

GEORGE M. LEADER