

No. 2003-58

AN ACT

HB 1000

Amending the act of February 19, 1980 (P.L.15, No.9), entitled "An act establishing the State Real Estate Commission and providing for the licensing of real estate brokers and salesmen," further providing for licensing requirements and penalties.

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

Section 1. Section 201 of the act of February 19, 1980 (P.L.15, No.9), known as the Real Estate Licensing and Registration Act, is amended by adding definitions to read:

Section 201. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

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"License." *The term includes both a standard license and a reciprocal license.*

"Licensee." *A person who holds a standard license or a reciprocal license.*

* * *

"Reciprocal license." *A license issued under section 602(a) through (e).*

* * *

"Standard license." *Any license issued under this act that is not a reciprocal license.*

* * *

Section 1.1. Section 501(a) of the act, amended July 1, 1990 (P.L.304, No.69), is amended to read:

Section 501. Reputation; inactive licensee; revoked license.

(a) Licenses shall be granted only to and renewed only for persons who bear a good reputation for honesty, trustworthiness, integrity and competence to transact the business of broker, salesperson, cemetery broker, cemetery salesperson, campground membership salesperson, time-share salesperson, builder-owner salesperson or rental listing referral agent, in such manner as to safeguard the interest of the public, and only after satisfactory proof of such qualifications has been presented to the commission as it shall by regulation require. *An applicant for renewal of a reciprocal license shall provide evidence that the applicant continues to hold a current license in the state where the applicant's principal place of business is located.*

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Section 2. Section 601 of the act, amended June 29, 1990 (P.L.246, No.58), is amended to read:

Section 601. Duty of brokers, cemetery brokers and rental listing referral agents to maintain office.

(a) Each [**resident licensed**] broker (which term in this section shall include cemetery broker) and rental listing referral agent *who holds a standard license* shall maintain a fixed office within this Commonwealth. The current license of *such* a rental listing referral agent or broker and of each licensee employed by such broker *or rental listing referral agent* shall be prominently displayed in an office of the broker or rental listing referral agent. The address of the office shall be designated on the current license. In case of removal of a broker's office from the designated location, all licensees registered at that location shall make application to the commission before such removal or within ten days thereafter, designating the new location of the office, and shall pay the required fees, whereupon the commission shall issue a current license at the new location for the unexpired period, if the new location complies with the terms of this act. Each [**licensed**] broker *who holds a standard license* shall maintain a sign on the outside of his office indicating the proper licensed brokerage name.

(b) If the applicant for a *standard* broker's license intends to maintain more than one place of business within the Commonwealth, he shall apply for and obtain an additional license in his name at each office. Every such application shall state the location of such office. Each office shall be under the direction and supervision of a manager who is either the broker or an associate broker: Provided, however, That such broker or an associate broker may direct and supervise more than one office.

Section 3. Section 602 of the act, amended March 29, 1984 (P.L.162, No.32), is amended to read:

Section 602. [Nonresident licensees.] *Reciprocal licenses.*

[Any nonresident of this Commonwealth who meets the equivalent experience requirements and other standards and qualifications, as the commission shall by rule provide, shall qualify for a license under this act.]

(a) *Any person who holds a current license to provide real estate services issued by another state and whose principal place of business for the provision of those services is outside of this Commonwealth may be issued a reciprocal license under this act in accordance with this section. The reciprocal license shall be the type of license that the commission determines is most similar to the type of license issued by the other state.*

(b) *Obtaining a reciprocal license shall constitute sufficient contact with this Commonwealth for the exercise of personal jurisdiction by the commission and the courts of this Commonwealth over the licensee in any action or proceeding arising out of acts or omissions by the licensee:*

(1) *in this Commonwealth; or*

(2) relating to an actual or proposed transaction involving real property located in this Commonwealth.

(c) The commission shall issue a reciprocal license upon the filing with the commission of an application and the receipt of:

(1) a duly certified copy of a current license issued to the applicant by the state in which the principal place of business of the applicant is located or a certified statement that the applicant holds a current license in that state, in either case sent to the commission by the appropriate licensing body in that state;

(2) a certified statement sent to the commission by that licensing body as to whether the applicant has been the subject of any disciplinary proceeding and the details of those proceedings; and

(3) a verified statement from the applicant that:

(i) to the knowledge of the applicant, the applicant is not the subject of discipline or a current investigation or proceeding alleging misconduct under a licensing law or criminal law of either this Commonwealth or another jurisdiction;

(ii) the applicant has reviewed and is familiar with this act and the rules and regulations of the commission and that the applicant agrees to be bound by this act and those rules and regulations; and

(iii) the applicant agrees to permit the disclosure to the commission of the record in any disciplinary proceeding involving alleged misconduct by the applicant from any jurisdiction in which the applicant is or has been licensed.

(4) payment of a fee in the same amount as the fee required to be paid in connection with the issuance of a standard license of the same type; and

(5) a consent to service of process in a form prescribed by the rules and regulations of the commission.

(d) This section may be implemented by written reciprocal licensing agreements with the real estate licensing authorities of other states as follows:

(1) The commission may enter into such an agreement whenever the commission in its discretion determines that such an agreement is necessary or desirable to provide residents of this Commonwealth with the opportunity to secure a license in the other state substantially comparable to the opportunity afforded to residents of the other state by this section.

(2) It shall not be necessary for the commission to have entered into an agreement with a particular state in order for the commission to issue a reciprocal license under this section to an applicant from that state, subject to the restrictions in subsection (e).

(e) Whenever the commission determines that another state does not offer reciprocal licensure opportunities to residents of this Commonwealth that are substantially comparable to those afforded to

residents of that state by this section, the commission shall require applicants from that state who apply for a reciprocal license to meet education, experience and examination requirements substantially comparable to those required by that state with respect to residents of this Commonwealth who seek reciprocal licensure in that state, except that any requirements imposed under this subsection shall not exceed the requirements for obtaining a license under this act imposed on residents of this Commonwealth.

(f) The commission shall publish annually in the Pennsylvania Bulletin and make available both on request and via the Internet:

(1) a list of those states with which the commission has signed agreements under subsection (d) and a summary of the terms of each agreement; and

(2) a list of those states that the commission has identified under subsection (e) as not offering substantially comparable reciprocal licensure opportunities and a description of the additional requirements the commission has determined are necessary to comply with that subsection.

(g) A person who holds a reciprocal license shall promptly notify the commission if the person's principal place of business for the provision of real estate services becomes located in this Commonwealth. Upon receipt of the notice by the commission, the person's reciprocal license shall not be renewed and the person shall be required to obtain a standard license.

(h) A reciprocal licensee shall have the same rights and responsibilities as if the person held a standard license, except that a person holding a reciprocal license:

(1) shall not be eligible to be a member of the commission;

(2) shall be exempt from the requirements of sections 404.1, 501(b), 513 and 533; and

(3) shall be exempt from taking and passing the examination required for standard licenses.

(i) An associate broker, salesperson, campground membership salesperson or time-share salesperson holding a reciprocal license shall not conduct business in this Commonwealth except in affiliation with a broker holding either a standard or a reciprocal license.

(j) If the applicant for a reciprocal broker's license is a corporation, partnership or association, the applicant must designate in its application a broker of record who is an individual holding a current reciprocal or standard broker's license.

Section 4. Section 604(a) of the act is amended by adding paragraphs to read:

Section 604. Prohibited acts.

(a) The commission may upon its own motion, and shall promptly upon the verified complaint in writing of any person setting forth a complaint under this section, ascertain the facts and, if warranted, hold a hearing for

the suspension or revocation of a license or registration certificate or for the imposition of fines not exceeding \$1,000, or both. The commission shall have power to refuse a license or registration certificate for cause or to suspend or revoke a license or registration certificate or to levy fines up to \$1,000, or both, where the said license has been obtained by false representation, or by fraudulent act or conduct, or where a licensee or registrant, in performing or attempting to perform any of the acts mentioned herein, is found guilty of:

* * *

(29) Violating section 602.

(30) Having been disciplined under a real estate licensing law of another jurisdiction, including, but not limited to, having a license suspended or revoked, a fine or penalty imposed or being censured or reprimanded publicly or privately, except that the commission shall not have the authority to levy a fine solely on the basis of this paragraph.

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Section 5. This act shall take effect in 60 days.

APPROVED—The 30th day of December, A.D. 2003.

EDWARD G. RENDELL