

No. 601

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 educational and training requirements for licensure, changing the place of hearing, specifying the nature and weight to be given to the report of a representative appointed by the commission to hold hearings in connection with any of its disciplinary proceedings, and providing for the taking of testimony.

Real Estate
Brokers License
Act.

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

Subsection (c),
section 2, act of
May 1, 1929, P.
L. 1216, amended
January 18,
1952, P. L. 2117,
further amended.

Section 1. Subsection (c) of section 2, 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 January 18, 1952 (P. L. 2117), is amended to read:

Section 2. * * *

Exceptions.

(c) Neither of the said terms "real estate broker" or "real estate salesman" shall be held to include within the meaning of this act any person, firm, association, partnership or corporation who, as owner, shall perform any of the acts with reference to property owned by them [nor any person who sells land by public auction] for or on behalf of the owner or owners thereof, nor any person holding in good faith a duly executed letter of attorney from the actual owner of any real estate, authorizing the sale, conveyance or leasing of such real estate for and in the name of such owner, or the negotiating of any loan thereon, where such letter of attorney is recorded in the office of the recorder of deeds, nor shall they be held to include, in any way, attorneys at law and justices of the peace, nor shall they be held to include any receiver, trustee in bankruptcy, administrator or executor, or any other person or corporation acting under the appointment or order of any court, or as trustee under the authority of a will or deed of trust where only the transactions pertaining thereto are involved, or the duly elected executive officer of any banking institution or trust company operating under the banking laws of Pennsylvania where real estate of the banking institution or trust company only is involved, nor shall they be held to include any officer or employe of a cemetery company who, as incidental to his principal duties and without remuneration therefor, shows lots in such company's cemetery to persons for their use as a family burial lot, and who accepts

deposits on such lots for the representatives of the cemetery company, legally authorized to sell the same.

Section 2. Section 6 of the act, amended July 9, 1957 (P. L. 608), is amended to read:

Section 6 of the act, amended July 9, 1957, P. L. 608, further amended.

License required.

Section 6. (a) 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 corporation.

(b) No person may be licensed by the department or commission as a real estate broker unless such person [is of the age of twenty-one years and upwards, 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] (1) is at least of the age of twenty-one years, (2) is a citizen of the United States, (3) shall have served an apprenticeship in active practice as a duly licensed real estate salesman of not less than three years in the employ of a duly licensed real estate broker or brokers, or upon application shall give proof of experience equivalent thereto, and (4) such professional education as the commission may, by rule and regulation, prescribe, but no such regulation shall bear upon the amount of general education possessed by any applicant.

Qualifications for licensing as real estate broker.

(c) 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.

Restriction on licensing associations.

(d) 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.

Duration of non-activity.

Section 3. The act is amended by adding, after section 6.1, a new section to read:

Act amended by adding a new section 6.2.

Section 6.2. (a) The professional educational requirements required pursuant to section 6 of this act shall be taken in schools and educational institutions approved by the commission.

Commission to approve schools.

School approval requirements.

(b) *No such approval shall be given unless the school or educational institution meets such standards with regard to its proper administration, the number and competency of its teachers, adequacy of its physical plant, and the character and qualifications of its owners and administrators, as the commission by rule or regulation shall require.*

Revocation and suspension.

(c) *The approval of any school or educational institution may be revoked or suspended by the commission for fraud or mistake in obtaining such approval or for failure to maintain the standards prescribed by the commission. Before revoking or suspending such approval, the school or educational institution shall be accorded a hearing with notice to be held and decided in accordance with the provisions of section 10 of this act and the Administrative Agency Law.*

Subsection (b), section 10 of the act, amended July 9, 1957, P. L. 608, further amended.

Section 4. Subsection (b) of section 10 of the act, amended July 9, 1957 (P. L. 608), is amended to read:

Section 10. * * *

Notice and copy of complaint to be furnished.

(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. 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 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] *with the commission. When a matter is referred to a representative of the commission for hearing; such person following the completion of the testimony in the hearing before him shall file a report with the commission setting forth his findings of fact and*

Hearings.

Hearing procedure upon referral to a representative.

recommendation. The commission may adopt the findings in the report or may, with or without additional testimony, either return the matter to the representative for such further consideration as the commission deems necessary or make additional further or other findings of fact on the basis of all the legally probative evidence in the record and enter its conclusions of law and order in accordance with the requirements for the issuance of an adjudication under the Administrative Agency Law the act of June 4, 1945 (P. L. 1388), section 1, as amended. 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 as it shall, by general rule or regulation, prescribe therefor, not exceeding however fifty cents per folio.

Section 5. Subsection (c) of section 13 of the act, amended May 25, 1945 (P. L. 1023), is amended to read:

Section 13. * * *

Subsection (c), section 13 of the act, amended May 25, 1945, P. L. 1023, further amended.

Commissions to take testimony.

(c) [The court of common pleas of any county shall, upon the application of the commission, issue commissions or letters rogatory to other States for the taking of evidence there for use in any proceeding before the commission. The commission shall make such application at the instance of any party to the proceeding before it, unless in the opinion of the commission such application is made for the purpose of delay.] *Testimony may be taken by the commission or any part to a proceeding before the commission in any state, territory or foreign country in accordance with the Pennsylvania Rules of Civil Procedure. Any such party shall be entitled as of right to subpoenas from the commission, directed to such witnesses, and for the production of such books and papers as the party may desire.*

APPROVED—The 16th day of September, A. D. 1961.

DAVID L. LAWRENCE

No. 602

AN ACT

Amending the act of June 21, 1939 (P. L. 626), entitled "An act providing for and regulating the assessment and valuation of all subjects of taxation in counties of the second class; creating and prescribing the powers and duties of a Board of Property Assessment, Appeals and Review; imposing duties on certain county and city officers; abolishing the board for the assessment and revision of taxes in such counties; and prescribing penalties," further regulating the assessment of property or subjects of taxation previously omitted from assessment and the payment of taxes thereon.