
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 991 Session of
2015

INTRODUCED BY DINNIMAN, SEPTEMBER 21, 2015

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
SEPTEMBER 21, 2015

AN ACT

1 Amending the act of February 19, 1980 (P.L.15, No.9), entitled
2 "An act establishing the State Real Estate Commission and
3 providing for the licensing of real estate brokers and
4 salesmen," further providing for definitions; in application
5 of act and penalties, further providing for unlawful to
6 conduct business without license or registration certificate,
7 for criminal penalties and for exclusions; in powers and
8 duties of the State Real Estate Commission in general,
9 further providing for administration and enforcement; adding
10 provisions relating to land acquisition broker registration
11 certificates; and, in duties of licensees, further providing
12 for prohibited acts.

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

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

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

22 * * *

23 "Land acquisition broker." A person who, in the course and

1 scope of the person's business in this Commonwealth:

2 (1) acquires or manages oil, gas or mineral interests;

3 (2) performs title or contract functions related to the
4 exploration, exploitation or disposition of oil, gas or
5 mineral interests;

6 (3) negotiates for the acquisition or divestiture of
7 oil, gas or mineral rights, including the acquisition or
8 divestiture of land or oil, gas or mineral rights for a
9 pipeline; or

10 (4) negotiates business agreements that provide for the
11 exploration for or development of oil, gas or minerals.

12 * * *

13 Section 2. Sections 301 and 303 of the act, amended June 29,
14 1990 (P.L.246, No.58) and July 1, 1990 (P.L.304, No.69), are
15 amended to read:

16 Section 301. Unlawful to conduct business without license or
17 registration certificate.

18 It shall be unlawful for any person, directly or indirectly,
19 to engage in or conduct, or to advertise or hold himself out as
20 engaging in or conducting the business, or acting in the
21 capacity of a broker or salesperson, cemetery broker, cemetery
22 salesperson, campground membership salesperson, time-share
23 salesperson, builder-owner salesperson, rental listing referral
24 agent [or], cemetery company or land acquisition broker within
25 this Commonwealth without first being licensed or registered as
26 provided in this act, unless he is exempted from obtaining a
27 license or registration certificate under the provisions of
28 section 304.

29 Section 303. Criminal penalties.

30 Any person who shall engage in or carry on the business, or

1 act in the capacity of a broker, salesperson, cemetery broker,
2 cemetery salesperson, campground membership salesperson, time-
3 share salesperson, builder-owner salesperson, rental listing
4 referral agent [or], cemetery company or land acquisition
5 broker, within this Commonwealth, without a license or
6 registration certificate, or shall carry on or continue business
7 after the suspension or revocation of any such license or
8 registration certificate issued to him, or shall employ any
9 person as a salesperson or cemetery salesperson to whom a
10 license has not been issued, or whose license or registration
11 certificate as such shall have been revoked or suspended, shall
12 be guilty of a summary offense and upon conviction thereof for a
13 first offense shall be sentenced to pay a fine not exceeding
14 \$500 or suffer imprisonment, not exceeding three months, or both
15 and for a second or subsequent offense shall be guilty of a
16 felony of the third degree and upon conviction thereof, shall be
17 sentenced to pay a fine of not less than \$2,000 but not more
18 than \$5,000 or to imprisonment for not less than one year but
19 not more than two years, or both.

20 Section 3. Section 304(3) of the act, amended June 29, 1990
21 (P.L.246, No.58), is amended to read:

22 Section 304. Exclusions.

23 Except as otherwise provided in this act, the provisions of
24 this act shall not apply to the following:

25 * * *

26 (3) The officers or employees of a partnership or
27 corporation whose principal business is the discovery,
28 extraction, distribution or transmission of energy or mineral
29 resources, provided that the purchase, sale or lease of real
30 estate is a common and necessary transaction in the conduct

1 of such principal business, unless otherwise provided under
2 Subchapter K of Chapter 5.

3 * * *

4 Section 4. Section 406 of the act is amended by adding a
5 paragraph to read:

6 Section 406. Administration and enforcement.

7 The commission shall have the power and its duty shall be to
8 administer and enforce the laws of the Commonwealth relating to:

9 * * *

10 (4) Those activities involving land acquisition brokers
11 for which registration is required under this act to instruct
12 and require its agents to bring prosecutions for unauthorized
13 and unlawful practice.

14 Section 5. Chapter 5 of the act is amended by adding a
15 subchapter to read:

16 SUBCHAPTER K

17 LAND ACQUISITION BROKER REGISTRATION CERTIFICATE

18 Section 596.1. Requirements for registration certificate.

19 Each applicant shall as a condition precedent to obtaining a
20 land acquisition broker registration certificate:

21 (1) Be at least 18 years of age.

22 (2) Submit to the commission the following information:

23 (i) In accordance with 18 Pa.C.S. Ch. 91 (relating
24 to criminal history record information), a report of
25 criminal history record information from the Pennsylvania
26 State Police or a statement from the Pennsylvania State
27 Police that the State Police central repository contains
28 no such information relating to the applicant. The report
29 of criminal history record information shall be no more
30 than one year old.

1 (ii) If the applicant has not been a resident of
2 this Commonwealth for the two years immediately preceding
3 the date of application, the applicant shall submit a
4 report of Federal criminal history record information
5 obtained pursuant to 28 CFR Pt. 16, Subpt. C (relating to
6 production of FBI identification records in response to
7 written requests by subjects thereof).

8 Section 596.2. Application and fee for registration
9 certificate.

10 (a) Each applicant for a land acquisition broker
11 registration certificate shall submit an application for a
12 registration certificate, in writing to the department, upon a
13 form provided for the purpose by the department, and shall
14 include such information as to the applicant as the commission
15 shall require, including, at a minimum, all of the following
16 information:

17 (1) The name of the applicant or, if the applicant is
18 not an individual, the names and addresses of all principals
19 of the applicant.

20 (2) The business address, telephone number and
21 electronic mail address of the applicant.

22 (3) The Social Security number of the applicant or, if
23 the applicant is not an individual, the Federal employer
24 identification number of the applicant.

25 (4) A list of any other state or other jurisdiction in
26 which the applicant holds or has held a similar registration
27 or license.

28 (5) A list of any other state or other jurisdiction in
29 which the applicant has had a similar registration or license
30 suspended or revoked.

1 (6) A statement whether a pending judgement or tax lien
2 exists against the applicant.

3 (b) A registration certificate shall be renewed biennially.

4 (c) The commission shall establish an initial application
5 fee and a biennial renewal fee by regulation.

6 Section 596.3. Establishment of registry.

7 The commission shall establish and maintain a registry of
8 land acquisition brokers with registration certificates
9 operating in this Commonwealth. The registry shall:

10 (1) Be available for public inspection on the
11 commission's publicly accessible Internet website.

12 (2) Display the land acquisition broker's name, business
13 address and registration certificate.

14 Section 596.4. Proof of registration certificate prior to
15 obtaining any mineral rights.

16 Upon first contact with a property owner, a land acquisition
17 broker shall provide to the property owner proof that the land
18 acquisition broker is registered under this act.

19 Section 6. Section 604(a)(30) of the act, added December 30,
20 2003 (P.L.418, No.58), is amended to read:

21 Section 604. Prohibited acts.

22 (a) The commission may upon its own motion, and shall
23 promptly upon the verified complaint in writing of any person
24 setting forth a complaint under this section, ascertain the
25 facts and, if warranted, hold a hearing for the suspension or
26 revocation of a license or registration certificate or for the
27 imposition of fines not exceeding \$1,000, or both. The
28 commission shall have power to refuse a license or registration
29 certificate for cause or to suspend or revoke a license or
30 registration certificate or to levy fines up to \$1,000, or both,

1 where the said license has been obtained by false
2 representation, or by fraudulent act or conduct, or where a
3 licensee or registrant, in performing or attempting to perform
4 any of the acts mentioned herein, is found guilty of:

5 * * *

6 (30) Having been disciplined under a real estate
7 licensing law of another jurisdiction or, in the case of a
8 land acquisition broker, under a similar registration or
9 licensing law of another jurisdiction, including, but not
10 limited to, having a license or registration certificate
11 suspended or revoked, a fine or penalty imposed or being
12 censured or reprimanded publicly or privately, except that
13 the commission shall not have the authority to levy a fine
14 solely on the basis of this paragraph.

15 * * *

16 Section 7. This act shall take effect in 60 days.