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**SUBSTITUTE HOUSE BILL 1440**

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**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Chandler, Tom and Wood)

READ FIRST TIME 02/12/03.

1 AN ACT Relating to allowing out-of-state licensees to practice  
2 commercial real estate; amending RCW 18.85.010; and adding a new  
3 section to chapter 18.85 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 18.85.010 and 1998 c 46 s 2 are each amended to read  
6 as follows:

7 In this chapter words and phrases have the following meanings  
8 unless otherwise apparent from the context:

9 (1) "Real estate broker," or "broker," means a person, while acting  
10 for another for commissions or other compensation or the promise  
11 thereof, or a licensee under this chapter while acting in his or her  
12 own behalf, who:

13 (a) Sells or offers for sale, lists or offers to list, buys or  
14 offers to buy real estate or business opportunities, or any interest  
15 therein, for others;

16 (b) Negotiates or offers to negotiate, either directly or  
17 indirectly, the purchase, sale, exchange, lease, or rental of real  
18 estate or business opportunities, or any interest therein, for others;

1 (c) Negotiates or offers to negotiate, either directly or  
2 indirectly, the purchase, sale, lease, or exchange of a manufactured or  
3 mobile home in conjunction with the purchase, sale, exchange, rental,  
4 or lease of the land upon which the manufactured or mobile home is, or  
5 will be, located;

6 (d) Advertises or holds himself or herself out to the public by any  
7 oral or printed solicitation or representation that he or she is so  
8 engaged; or

9 (e) Engages, directs, or assists in procuring prospects or in  
10 negotiating or closing any transaction which results or is calculated  
11 to result in any of these acts;

12 (2) "Real estate salesperson" or "salesperson" means any natural  
13 person employed, either directly or indirectly, by a real estate  
14 broker, or any person who represents a real estate broker in the  
15 performance of any of the acts specified in subsection (1) of this  
16 section;

17 (3) An "associate real estate broker" is a person who has qualified  
18 as a "real estate broker" who works with a broker and whose license  
19 states that he or she is associated with a broker;

20 (4) The word "person" as used in this chapter shall be construed to  
21 mean and include a corporation, limited liability company, limited  
22 liability partnership, or partnership, except where otherwise  
23 restricted;

24 (5) "Business opportunity" shall mean and include business,  
25 business opportunity and good will of an existing business or any one  
26 or combination thereof;

27 (6) "Commission" means the real estate commission of the state of  
28 Washington;

29 (7) "Director" means the director of licensing;

30 (8) "Real estate multiple listing association" means any  
31 association of real estate brokers:

32 (a) Whose members circulate listings of the members among  
33 themselves so that the properties described in the listings may be sold  
34 by any member for an agreed portion of the commission to be paid; and

35 (b) Which require in a real estate listing agreement between the  
36 seller and the broker, that the members of the real estate multiple  
37 listing association shall have the same rights as if each had executed  
38 a separate agreement with the seller;

1 (9) "Clock hours of instruction" means actual hours spent in  
2 classroom instruction in any tax supported, public technical college,  
3 community college, or any other institution of higher learning or a  
4 correspondence course from any of the aforementioned institutions  
5 certified by such institution as the equivalent of the required number  
6 of clock hours, and the real estate commission may certify courses of  
7 instruction other than in the aforementioned institutions; (~~and~~))

8 (10) "Incapacitated" means the physical or mental inability to  
9 perform the duties of broker prescribed by this chapter; and

10 (11) "Commercial real estate" means any parcel of real estate in  
11 this state other than real estate containing one to four residential  
12 units. "Commercial real estate" does not include a single-family  
13 residential lot or single-family residential units such as  
14 condominiums, townhouses, manufactured homes, or homes in a subdivision  
15 when sold, leased, or otherwise conveyed on a unit-by-unit basis, even  
16 when those units are part of a larger building or parcel of real  
17 estate, unless the property is sold or leased for a commercial purpose.

18 NEW SECTION. Sec. 2. A new section is added to chapter 18.85 RCW  
19 to read as follows:

20 (1) An out-of-state broker, for a fee, commission, or other  
21 valuable consideration, or in the expectation, or upon the promise of  
22 receiving or collecting a fee, commission, or other valuable  
23 consideration, may perform those acts that require a license under this  
24 chapter, with respect to commercial real estate, provided that the out-  
25 of-state broker does all of the following:

26 (a) Works in cooperation with a Washington real estate broker who  
27 holds a valid, active license issued under this chapter;

28 (b) Enters into a written agreement with the Washington broker that  
29 includes the terms of cooperation, oversight by the Washington broker,  
30 compensation, and a statement that the out-of-state broker and its  
31 agents will agree to adhere to the laws of Washington;

32 (c) Furnishes the Washington broker with a copy of the out-of-state  
33 broker's current license in good standing from any jurisdiction where  
34 the out-of-state broker maintains an active real estate license;

35 (d) Consents to jurisdiction that legal actions arising out of the  
36 conduct of the out-of-state broker or its agents may be commenced

1 against the out-of-state broker in the court of proper jurisdiction of  
2 any county in Washington where the cause of action arises or where the  
3 plaintiff resides;

4 (e) Includes the name of the Washington broker on all advertising  
5 in accordance with RCW 18.85.230(8); and

6 (f) Deposits all documentation required by this section and records  
7 and documents related to the transaction with the Washington broker,  
8 for a period of three years after the date the documentation is  
9 provided, or the transaction occurred, whichever is later.

10 (2) An out-of-state salesperson or associate broker may perform  
11 those acts that require a real estate salesperson or associate broker  
12 license under this chapter with respect to commercial real estate,  
13 provided that the out-of-state salesperson or associate broker meets  
14 all of the following requirements:

15 (a) Is licensed with and works under the direct supervision of an  
16 out-of-state broker who meets all of the requirements under subsection  
17 (1) of this section; and

18 (b) Provides the Washington broker who is working in cooperation  
19 with the out-of-state broker with whom the salesperson or associate  
20 broker is associated with a copy of the salesperson's or associate  
21 broker's current license in good standing from the jurisdiction where  
22 the out-of-state salesperson or associate broker maintains an active  
23 real estate license in connection with the out-of-state broker.

24 (3) A person licensed in a jurisdiction where there is no legal  
25 distinction between a real estate broker license and a real estate  
26 salesperson license must meet the requirements of subsection (1) of  
27 this section before engaging in any activity described in this section  
28 that requires a real estate broker license in this state.

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