
HOUSE BILL 1440

State of Washington 58th Legislature 2003 Regular Session

By Representatives Conway, Chandler, Tom and Wood

Read first time 01/27/2003. Referred to Committee on Commerce & Labor.

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, as appropriate.

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 the
16 out-of-state broker;

17 (b) The out-of-state broker with whom the salesperson or associate
18 broker is associated meets all of the requirements under subsection (1)
19 of this section; and

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

26 (3) A person, partnership, association, limited liability company,
27 limited liability partnership, or corporation licensed in a
28 jurisdiction where there is no legal distinction between a real estate
29 broker license and a real estate salesperson license must meet the
30 requirements of subsection (1) of this section before engaging in any
31 activity described in this section that requires a real estate broker
32 license in this state.

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