
SENATE BILL 5050

State of Washington

67th Legislature

2021 Regular Session

By Senator Hasegawa

Prefiled 12/31/20. Read first time 01/11/21. Referred to Committee on Business, Financial Services & Trade.

1 AN ACT Relating to real estate firms and brokers; and amending
2 RCW 18.85.361 and 18.85.275.

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

4 **Sec. 1.** RCW 18.85.361 and 2008 c 23 s 32 are each amended to
5 read as follows:

6 In addition to the unprofessional conduct described in RCW
7 18.235.130, the director may take disciplinary action against any
8 person engaged in the business or acting in the capacity of a real
9 estate broker, managing broker, designated broker, or real estate
10 firm, regardless of whether the transaction was for the person's own
11 account or in a capacity as broker, managing broker, designated
12 broker, or real estate firm, and may impose any of the sanctions and
13 fines specified in RCW 18.235.110 for any holder or applicant who is
14 guilty of:

15 (1) Violating any of the provisions of this chapter or any lawful
16 rules made by the director pursuant thereto or violating a provision
17 of chapter 64.36, 19.105, or 18.235 RCW or RCW 18.86.030 or the rules
18 adopted under those chapters or section;

19 (2) Making, printing, publishing, distributing, or causing,
20 authorizing, or knowingly permitting the making, printing,
21 publication or distribution of false statements, descriptions or

1 promises of such character as to reasonably induce any person to act
2 thereon, if the statements, descriptions, or promises purport to be
3 made or to be performed by either the licensee or his or her
4 principal and the licensee then knew or, by the exercise of
5 reasonable care and inquiry, could have known, of the falsity of the
6 statements, descriptions or promises;

7 (3) Knowingly committing, or being a party to, any material
8 fraud, misrepresentation, concealment, conspiracy, collusion, trick,
9 scheme, or device whereby any other person lawfully relies upon the
10 word, representation or conduct of the licensee;

11 (4) Accepting the services of, or continuing in a representative
12 capacity, any broker or managing broker who has not been granted a
13 license, or after his or her license has been revoked or during a
14 suspension thereof;

15 (5) Conversion of any money, contract, deed, note, mortgage, or
16 abstract or other evidence of title, to the person's own use or to
17 the use of that person's principal or of any other person, when
18 delivered in trust or on condition, in violation of the trust or
19 before the happening of the condition; and failure to return any
20 money or contract, deed, note, mortgage, abstract, or other evidence
21 of title within thirty days after the owner thereof is entitled
22 thereto, and makes demand therefor, is prima facie evidence of such
23 conversion;

24 (6) Failing, upon demand, to disclose any information within the
25 person's knowledge, or to produce any document, book, or record in
26 the person's possession for inspection by the director or the
27 director's authorized representatives acting by authority of law;

28 (7) Continuing to sell any real estate, or operating according to
29 a plan of selling, whereby the interests of the public are
30 endangered, after the director has, by order in writing, stated
31 objections thereto;

32 (8) Advertising in any manner without including the real estate
33 firm's name or assumed name as licensed in a clear and conspicuous
34 manner in the advertisement; except, that real estate brokers,
35 managing brokers, or firms advertising their personally owned real
36 property must only disclose that they hold a real estate license;

37 (9) Accepting other than cash or its equivalent as earnest money
38 unless that fact is communicated to the owner before the owner's
39 acceptance of the offer to purchase, and such fact is shown in the
40 purchase and sale agreement;

- 1 (10) Charging or accepting compensation from more than one party
2 in any one transaction without first making full disclosure in
3 writing of all the facts to all the parties interested in the
4 transaction;
- 5 (11) Accepting, taking, or charging any undisclosed commission,
6 rebate, or direct profit on expenditures made for the principal;
- 7 (12) Accepting employment or compensation for appraisal of real
8 property contingent upon reporting a predetermined value;
- 9 (13) Issuing a report on any real property in which the broker,
10 managing broker, or real estate firm has an interest unless that
11 interest is clearly stated in the report;
- 12 (14) Misrepresentation of membership in any state or national
13 real estate association;
- 14 (15) Discrimination against any person in hiring or in real
15 estate brokerage service activity, on the basis of any of the
16 provisions of any local, county, state, or federal antidiscrimination
17 law;
- 18 (16) Failing to keep an escrow or trustee account of funds
19 deposited relating to a real estate transaction, for a period of
20 three years, showing to whom paid, and other pertinent information as
21 the director may require, such records to be available to the
22 director, or the director's representatives, on demand, or upon
23 written notice given to the bank;
- 24 (17) In the case of a firm and its designated broker, failing to
25 preserve records relating to any real estate transaction for three
26 years following the submission of the records to the firm;
- 27 (18) Failing to furnish a copy of any listing, sale, lease, or
28 other contract relevant to a real estate transaction to all
29 signatories thereof within a reasonable time following execution;
- 30 (19) In the case of a broker or managing broker, acceptance of a
31 commission or any valuable consideration for the performance of any
32 acts specified in this chapter, from any person, except the licensed
33 real estate firm with whom the broker or managing broker is licensed;
- 34 (20) To direct any transaction involving his or her principal, to
35 any lending institution for financing or to any escrow company, in
36 expectation of receiving a kickback or rebate therefrom, without
37 first disclosing the expectation to his or her principal;
- 38 (21) Buying, selling, or leasing directly, or through a third
39 party, any interest in real property without disclosing in writing
40 that the person is a real estate licensee;

1 (22) In the case of real estate firms, and managing and
2 designated brokers, failing to exercise adequate supervision over the
3 activities of their brokers and managing brokers within the scope of
4 this chapter;

5 (23) Any conduct in a real estate transaction which demonstrates
6 bad faith, dishonesty, untrustworthiness, or incompetence;

7 (24) Acting as a vehicle dealer, as defined in RCW 46.70.011,
8 without having a license to do so; ((~~or~~))

9 (25) Failing to ensure that the title is transferred under
10 chapter 46.12 RCW when engaging in a transaction involving a mobile
11 or manufactured home as a broker, managing or designated broker, or
12 firm; or

13 (26) Violating RCW 18.85.275(7) after an investigation of a
14 complaint by the department or as evidenced by a certified copy of a
15 final judgment or court order as provided in RCW 18.85.275(7).

16 **Sec. 2.** RCW 18.85.275 and 2008 c 23 s 21 are each amended to
17 read as follows:

18 (1) The designated broker or managing broker shall supervise the
19 conduct of brokers and managing brokers for compliance with this
20 chapter, chapter 18.235 RCW, and RCW 18.86.030.

21 (2) Listings, transactions, management agreements, and other
22 contracts relating to providing brokerage services are property of
23 the real estate firm. Brokers shall timely deliver to their appointed
24 managing broker all funds and records required to be held or
25 maintained by the real estate firm. A managing broker is responsible
26 for such funds and records only after they are received from the
27 broker. A managing broker shall timely deliver to the designated
28 broker all funds and records required to be held or maintained by the
29 real estate firm. The designated broker is responsible for such funds
30 and records only after they are received from the managing broker or
31 broker.

32 (3) The designated broker may delegate by written agreement the
33 duties of safe handling of client funds, maintenance of trust
34 accounts, and transaction and trust account records, along with
35 supervision of brokers, to a managing broker licensed to the firm.
36 The designated broker shall maintain a record of the firm's managing
37 brokers and delegations to managing brokers.

38 (4) The designated broker or the designated broker's delegate has
39 the authority to amend, modify, bind, create, rescind, terminate, or

1 release real estate brokerage service contracts on behalf of the real
2 estate firm. The designated broker has the authority to accept new or
3 transferred licensees to represent the real estate firm.

4 (5) A broker who supervises or exercises right of control over
5 other brokers in the performance of real estate brokerage services
6 must be licensed as a managing broker.

7 (6) During the first two years of a broker's licensure, a
8 managing broker must provide a heightened level of supervision as
9 provided by rule of the director.

10 (7) (a) Real estate firms and managing and designated brokers must
11 pay their brokers and managing brokers the portion of commissions due
12 to the brokers or managing brokers pursuant to their agreements
13 within a reasonable time period after receipt of the commissions.

14 (b) A person aggrieved by a violation of (a) of this subsection
15 may:

16 (i) File a complaint with the department for violations of (a) of
17 this subsection; or

18 (ii) Bring a civil action in superior court to recover the
19 portion of the commissions, to enjoin future violations, or for an
20 order requiring the department to suspend or revoke the license of a
21 licensee for willful violations of this subsection, or for any other
22 appropriate relief. The department must follow any court order
23 requiring the department to suspend or revoke the license of a
24 licensee for the violations of this subsection.

25 (c) Upon complaint by an aggrieved person, the department must
26 investigate to determine if there has been a violation of (a) of this
27 subsection. If the department finds that a violation has occurred,
28 the director may take action pursuant to RCW 18.85.361.

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