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HOUSE BILL 1286

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State of Washington

55th Legislature

1997 Regular Session

By Representatives McMorris, Honeyford, Conway, Cole and Thompson; by request of Department of Licensing

Read first time 01/21/97. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to real estate brokers and salespersons; amending  
2 RCW 18.85.010, 18.85.030, 18.85.060, 18.85.085, 18.85.095, 18.85.100,  
3 18.85.110, 18.85.120, 18.85.130, 18.85.140, 18.85.150, 18.85.155,  
4 18.85.165, 18.85.170, 18.85.180, 18.85.210, 18.85.230, 18.85.281,  
5 18.85.317, 18.85.330, 18.85.340, 18.85.343, 18.85.345, 18.85.350, and  
6 18.85.360; and repealing RCW 18.85.290 and 18.85.300.

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

8 **Sec. 1.** RCW 18.85.010 and 1987 c 332 s 1 are each amended to read  
9 as follows:

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

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

16 (a) Sells or offers for sale, lists or offers to list, buys or  
17 offers to buy real estate or business opportunities, or any interest  
18 therein, for others;

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

4 (c) Negotiates or offers to negotiate, either directly or  
5 indirectly, the purchase, sale, or exchange of a used mobile home in  
6 conjunction with the purchase, sale, exchange, rental, or lease of the  
7 land upon which the used mobile home is located;

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

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

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

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

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

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

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

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

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

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

36 (b) Which require in a real estate listing agreement between the  
37 seller and the broker, that the members of the real estate multiple  
38 listing association shall have the same rights as if each had executed  
39 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 (~~(vocational-~~  
3 ~~technical institution)~~) technical college, community college, or any  
4 other institution of higher learning or a correspondence course from  
5 any of the aforementioned institutions certified by such institution as  
6 the equivalent of the required number of clock hours, and the real  
7 estate commission may certify courses of instruction other than in the  
8 aforementioned institutions; and

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

11 **Sec. 2.** RCW 18.85.030 and 1972 ex.s. c 139 s 2 are each amended to  
12 read as follows:

13 The director shall appoint an adequate staff to assist him or her.

14 **Sec. 3.** RCW 18.85.060 and 1972 ex.s. c 139 s 5 are each amended to  
15 read as follows:

16 The director shall adopt a seal with the words real estate  
17 director, state of Washington, and such other device as ((he)) the  
18 director may approve engraved thereon, by which he or she shall  
19 authenticate the proceedings of ((his)) the office. Copies of all  
20 records and papers in the office of the director certified to be a true  
21 copy under the hand and seal of the director shall be received in  
22 evidence in all cases equally and with like effect as the originals.  
23 The director may deputize one or more ((of his)) assistants to certify  
24 records and papers.

25 **Sec. 4.** RCW 18.85.085 and 1977 ex.s. c 24 s 1 are each amended to  
26 read as follows:

27 The commission shall have authority to hold educational conferences  
28 for the benefit of the industry, and shall conduct examinations of  
29 applicants for licenses under this chapter. ((It shall be charged with  
30 the preparation of such examinations and shall administer them at least  
31 once a month, with not less than six examinations per year in each of  
32 the following six areas of the state: Northwest Washington, southwest  
33 Washington, northeast Washington, southeast Washington, north central  
34 Washington, and south central Washington.)) The commission shall  
35 ensure that examinations are prepared and administered at examination  
36 centers throughout the state.

1       **Sec. 5.** RCW 18.85.095 and 1994 c 291 s 2 are each amended to read  
2 as follows:

3       (1) The minimum requirements for an individual to receive a  
4 salesperson's license are that the individual:

5       (a) Is eighteen years of age or older;

6       (b) Except as provided in RCW (~~18.85.087~~) 18.85.097, has  
7 furnished proof, as the director may require, that the applicant has  
8 successfully completed a sixty clock-hour course, approved by the  
9 director, in real estate fundamentals. The applicant must pass a  
10 course examination approved by the director. This course must be  
11 completed within five years prior to applying for the salesperson's  
12 license examination; and

13       (c) Has passed a salesperson's license examination.

14       (2) The minimum requirements for a salesperson to be issued the  
15 first renewal of a license are that the salesperson:

16       (a) Has furnished proof, as the director may require, that the  
17 salesperson has successfully completed a thirty clock-hour course, from  
18 a prescribed curriculum approved by the director, in real estate  
19 practices. The salesperson must pass a course examination approved by  
20 the director. This course shall be commenced after issuance of a first  
21 license; and

22       (b) Has furnished proof, as the director may require, that the  
23 salesperson has completed an additional thirty clock hours of  
24 continuing education in compliance with RCW 18.85.165. Courses for  
25 continuing education clock-hour credit shall be commenced after  
26 issuance of a first license.

27       (3) Nothing in this section applies to persons who are licensed as  
28 salespersons under any real estate law in Washington which exists prior  
29 to this law's enactment, but only if their license has not been  
30 subsequently canceled or revoked.

31       **Sec. 6.** RCW 18.85.100 and 1972 ex.s. c 139 s 9 are each amended to  
32 read as follows:

33       It shall be unlawful for any person to act as a real estate broker,  
34 associate real estate broker, or real estate (~~salesman~~) salesperson  
35 without first obtaining a license therefor, and otherwise complying  
36 with the provisions of this chapter.

37       No suit or action shall be brought for the collection of  
38 compensation as a real estate broker, associate real estate broker, or

1 real estate ((~~salesman~~)) salesperson, without alleging and proving that  
2 the plaintiff was a duly licensed real estate broker, associate real  
3 estate broker, or real estate ((~~salesman~~)) salesperson prior to the  
4 time of offering to perform any such act or service or procuring any  
5 promise or contract for the payment of compensation for any such  
6 contemplated act or service.

7       **Sec. 7.** RCW 18.85.110 and 1989 c 161 s 1 are each amended to read  
8 as follows:

9       This chapter shall not apply to (1) any person who purchases  
10 property and/or a business opportunity for his or her own account, or  
11 that of a group of which he or she is a member, or who, as the owner or  
12 part owner of property, and/or a business opportunity, in any way  
13 disposes of the same; nor, (2) any duly authorized attorney in fact  
14 acting without compensation, or an attorney at law in the performance  
15 of his or her duties; nor, (3) any receiver, trustee in bankruptcy,  
16 executor, administrator, guardian, or any person acting under the order  
17 of any court, or selling under a deed of trust; nor, (4) any secretary,  
18 bookkeeper, accountant, or other office personnel who does not engage  
19 in any conduct or activity specified in any of the definitions under  
20 RCW 18.85.010; nor, (5) any owner of rental or lease property, members  
21 of the owner's family whether or not residing on such property, or a  
22 resident manager of a complex of residential dwelling units wherein  
23 such manager resides; nor, (6) any person who manages residential  
24 dwelling units on an incidental basis and not as his or her principal  
25 source of income so long as that person does not advertise or hold  
26 ((~~himself~~)) out to the public by any oral or printed solicitation or  
27 representation that he or she is so engaged; nor, (7) only with respect  
28 to the rental or lease of individual storage space, any person who owns  
29 or manages a self-service storage facility as defined under chapter  
30 19.150 RCW.

31       **Sec. 8.** RCW 18.85.120 and 1987 c 332 s 4 are each amended to read  
32 as follows:

33       Any person desiring to be a real estate broker, associate real  
34 estate broker, or real estate salesperson, must pass an examination as  
35 provided in this chapter. Such person shall make application for an  
36 examination and for a license on a form prescribed by the director.  
37 Concurrently, the applicant shall:

1 (1) Pay an examination fee as prescribed by the director by rule.

2 (2) If the applicant is a corporation, furnish a certified copy of  
3 its articles of incorporation, and a list of its officers and directors  
4 and their addresses. If the applicant is a foreign corporation, the  
5 applicant shall furnish a certified copy of certificate of authority to  
6 conduct business in the state of Washington, a list of its officers and  
7 directors and their addresses, and evidence of current registration  
8 with the secretary of state. If the applicant is a limited liability  
9 company, the applicant shall furnish a list of the members and managers  
10 of the company and their addresses. If the applicant is a  
11 (~~copartnership~~) partnership, the applicant shall furnish a list of  
12 the members thereof and their addresses.

13 (3) Furnish such other proof as the director may require concerning  
14 the honesty, truthfulness, and good reputation, as well as the  
15 identity, which may include fingerprints, of any applicants for a  
16 license, or of the officers of a corporation, or limited liability  
17 company, making the application.

18 **Sec. 9.** RCW 18.85.130 and 1972 ex.s. c 139 s 11 are each amended  
19 to read as follows:

20 The director shall provide each original applicant for ((a  
21 license)) an examination with a manual containing a sample list of  
22 questions and answers pertaining to real estate law and the operation  
23 of the business and may provide the same at cost to any licensee or to  
24 other members of the public. The director shall ascertain by written  
25 examination, that each applicant, and in case of a corporation, limited  
26 liability company, or (~~copartnership~~) partnership, that each officer,  
27 agent, or member thereof whom it proposes to act as licensee, has:

28 (1) Appropriate knowledge of the English language, including  
29 reading, writing, spelling, and arithmetic;

30 (2) An understanding of the principles of real estate conveyancing,  
31 the general purposes and legal effect of deeds, mortgages, land  
32 contracts of sale, exchanges, rental and option agreements, and leases;

33 (3) An understanding of the principles of land economics and  
34 appraisals;

35 (4) An understanding of the obligations between principal and  
36 agent;

37 (5) An understanding of the principles of real estate practice and  
38 the canons of business ethics pertaining thereto; and,

1 (6) An understanding of the provisions of this chapter.

2 The examination for real estate brokers shall be more exacting than  
3 that for real estate ((salesmen)) salespersons.

4 All moneys received for the sale of the manual to licensees and  
5 members of the public shall be placed in the real estate commission  
6 fund to be returned to the current biennium operating budget.

7 **Sec. 10.** RCW 18.85.140 and 1991 c 225 s 2 are each amended to read  
8 as follows:

9 Before receiving his or her license every real estate broker, every  
10 associate real estate broker, and every real estate salesperson must  
11 pay a license fee as prescribed by the director by rule. Every license  
12 issued under the provisions of this chapter expires on the applicant's  
13 second birthday following issuance of the license. Licenses issued to  
14 partnerships, limited liability companies, and corporations expire on  
15 a date prescribed by the director by rule(~~(. — Licenses issued to~~  
16 ~~corporations expire on a date prescribed by the director by rule)~~),  
17 except that if the ((~~corporation~~)) registration or certificate of  
18 authority filed with the secretary of state expires, the real estate  
19 broker's license issued ((~~to the corporation~~)) shall expire on that  
20 date. Licenses must be renewed every two years on or before the date  
21 established under this section and a biennial renewal license fee as  
22 prescribed by the director by rule must be paid.

23 If the application for a renewal license is not received by the  
24 director on or before the renewal date, a penalty fee as prescribed by  
25 the director by rule shall be paid. Acceptance by the director of an  
26 application for renewal after the renewal date shall not be a waiver of  
27 the delinquency.

28 The license of any person whose license renewal fee is not received  
29 within one year from the date of expiration shall be canceled. This  
30 person may obtain a new license by satisfying the procedures and  
31 requirements as prescribed by the director by rule.

32 The director shall issue to each active licensee a license and a  
33 pocket identification card in such form and size as he or she shall  
34 prescribe.

35 **Sec. 11.** RCW 18.85.150 and 1979 c 25 s 3 are each amended to read  
36 as follows:

1 A temporary broker's permit may, in the discretion of the director,  
2 be issued to the legally accredited representative of a deceased or  
3 incapacitated broker, the senior qualified (~~(salesman)~~) salesperson in  
4 that office or other qualified representative of the deceased or  
5 incapacitated broker, which shall be valid for a period not exceeding  
6 four months and in the case of a partnership, a limited liability  
7 company, or a corporation, the same rule shall prevail in the selection  
8 of a person to whom a temporary broker's permit may be issued.

9 **Sec. 12.** RCW 18.85.155 and 1977 ex.s. c 370 s 6 are each amended  
10 to read as follows:

11 Responsibility for any (~~(salesman)~~) salesperson, associate broker  
12 or branch manager in conduct covered by this chapter shall rest with  
13 the broker to which such licensees shall be licensed.

14 In addition to the broker, a branch manager shall bear  
15 responsibility for (~~(salesmen)~~) salespersons and associate brokers  
16 operating under the branch manager at a branch office.

17 **Sec. 13.** RCW 18.85.165 and 1991 c 225 s 1 are each amended to read  
18 as follows:

19 All real estate brokers, associate brokers, and salespersons shall  
20 furnish proof as the director may require that they have successfully  
21 completed a total of thirty clock hours of instruction every two years  
22 in real estate courses approved by the director in order to renew their  
23 licenses. Up to fifteen clock hours of instruction beyond the thirty  
24 hours in two years may be carried forward for credit in a subsequent  
25 two-year period. To count towards this requirement, a course shall be  
26 commenced within thirty-six months before the proof date for renewal.  
27 Examinations shall not be required to fulfill any part of the education  
28 requirement in this section. This section shall apply to renewal dates  
29 after January 1, 1991.

30 **Sec. 14.** RCW 18.85.170 and 1972 ex.s. c 139 s 16 are each amended  
31 to read as follows:

32 No license issued under the provisions of this chapter shall  
33 authorize any person other than the person to whom it is issued to do  
34 any act by virtue thereof nor to operate in any other manner than under  
35 his or her own name except:



1 (1) When a license is issued to a corporation it shall entitle one  
2 officer thereof, to be named by the corporation in its application, who  
3 shall qualify the same as any other (~~(agent)~~) broker, to act as a real  
4 estate broker on behalf of said corporation, without the payment of  
5 additional fees;

6 (2) When a license is issued to a limited liability company it  
7 shall entitle one manager or member of the company, to be named by the  
8 limited liability company in its application, who shall qualify the  
9 same as any broker, to act as a real estate broker on behalf of the  
10 limited liability company, without the payment of additional fees;

11 (3) When a license is issued to a (~~(copartnership)~~) partnership it  
12 shall entitle one member thereof to be named in the application, who  
13 shall qualify to act as a real estate broker on behalf of the  
14 (~~(copartnership)~~) partnership, without the payment of additional  
15 license fees;

16 (~~((+3))~~) (4) A licensed broker, associate broker, or (~~(salesman)~~)  
17 salesperson may operate and/or advertise under a name other than the  
18 one under which the license is issued by obtaining the written consent  
19 of the director to do so;

20 (~~((+4))~~) (5) A broker may establish one or more branch offices under  
21 a name or names different from that of the main office if the name or  
22 names are approved by the director, so long as each branch office is  
23 clearly identified as a branch or division of the main office. No  
24 broker may establish branch offices under more than three names. Both  
25 the name of the branch office and of the main office must clearly  
26 appear on the sign identifying the office, if any, and in any  
27 advertisement or on any letterhead of any stationery or any forms, or  
28 signs used by the real estate firm on which either the name of the main  
29 or branch offices appears.

30 **Sec. 15.** RCW 18.85.180 and 1957 c 52 s 41 are each amended to read  
31 as follows:

32 Every licensed real estate broker must have and maintain an office  
33 in this state accessible to the public which shall serve as (~~(his)~~) the  
34 office for the transaction of business. Any office so established must  
35 comply with the zoning requirements of city or county ordinances and  
36 the broker's license must be prominently displayed therein.

1       **Sec. 16.** RCW 18.85.210 and 1972 ex.s. c 139 s 18 are each amended  
2 to read as follows:

3       The director may publish (~~annually a list of names and addresses~~  
4 ~~of brokers and salesmen licensed under the provisions hereof, together~~  
5 ~~with~~) a copy of this chapter and such information relative to the  
6 enforcement of (~~the provisions hereof as he may deem of interest to~~  
7 ~~the public~~) this chapter and ((he)) may mail ((one)) a copy  
8 ((thereof)) of this chapter and the information to each licensed  
9 broker.

10       **Sec. 17.** RCW 18.85.230 and 1996 c 179 s 18 are each amended to  
11 read as follows:

12       The director may, upon his or her own motion, and shall upon  
13 verified complaint in writing by any person, investigate the actions of  
14 any person engaged in the business or acting in the capacity of a real  
15 estate broker, associate real estate broker, or real estate  
16 salesperson, regardless of whether the transaction was for his or her  
17 own account or in his or her capacity as broker, associate real estate  
18 broker, or real estate salesperson, and may impose any one or more of  
19 the following sanctions: Suspend or revoke, levy a fine not to exceed  
20 one thousand dollars for each offense, require the completion of a  
21 course in a selected area of real estate practice relevant to the  
22 section of this chapter or rule violated, or deny the license of any  
23 holder or applicant who is guilty of:

24       (1) Obtaining a license by means of fraud, misrepresentation,  
25 concealment, or through the mistake or inadvertence of the director;

26       (2) Violating any of the provisions of this chapter or any lawful  
27 rules or regulations made by the director pursuant thereto or violating  
28 a provision of chapter 64.36, 19.105, or 58.19 RCW or RCW 18.86.030 or  
29 the rules adopted under those chapters or section;

30       (3) Being convicted in a court of competent jurisdiction of this or  
31 any other state, or federal court, of forgery, embezzlement, obtaining  
32 money under false pretenses, bribery, larceny, extortion, conspiracy to  
33 defraud, or any similar offense or offenses: PROVIDED, That for the  
34 purposes of this section being convicted shall include all instances in  
35 which a plea of guilty or nolo contendere is the basis for the  
36 conviction, and all proceedings in which the sentence has been deferred  
37 or suspended;

1 (4) Making, printing, publishing, distributing, or causing,  
2 authorizing, or knowingly permitting the making, printing, publication  
3 or distribution of false statements, descriptions or promises of such  
4 character as to reasonably induce any person to act thereon, if the  
5 statements, descriptions or promises purport to be made or to be  
6 performed by either the licensee or his or her principal and the  
7 licensee then knew or, by the exercise of reasonable care and inquiry,  
8 could have known, of the falsity of the statements, descriptions or  
9 promises;

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

14 (6) Accepting the services of, or continuing in a representative  
15 capacity, any associate broker or salesperson who has not been granted  
16 a license, or after his or her license has been revoked or during a  
17 suspension thereof;

18 (7) Conversion of any money, contract, deed, note, mortgage, or  
19 abstract or other evidence of title, to his or her own use or to the  
20 use of his or her principal or of any other person, when delivered to  
21 him or her in trust or on condition, in violation of the trust or  
22 before the happening of the condition; and failure to return any money  
23 or contract, deed, note, mortgage, abstract or other evidence of title  
24 within thirty days after the owner thereof is entitled thereto, and  
25 makes demand therefor, shall be prima facie evidence of such  
26 conversion;

27 (8) Failing, upon demand, to disclose any information within his or  
28 her knowledge to, or to produce any document, book or record in his or  
29 her possession for inspection of the director or his or her authorized  
30 representatives acting by authority of law;

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

34 (10) Committing any act of fraudulent or dishonest dealing or a  
35 crime involving moral turpitude, and a certified copy of the final  
36 holding of any court of competent jurisdiction in such matter shall be  
37 conclusive evidence in any hearing under this chapter;

38 (11) Advertising in any manner without affixing the broker's name  
39 as licensed, and in the case of a salesperson or associate broker,

1 without affixing the name of the broker as licensed for whom or under  
2 whom the salesperson or associate broker operates, to the  
3 advertisement; except, that a real estate broker, associate real estate  
4 broker, or real estate salesperson advertising their personally owned  
5 real property must only disclose that they hold a real estate license;

6 (12) Accepting other than cash or its equivalent as earnest money  
7 unless that fact is communicated to the owner prior to his or her  
8 acceptance of the offer to purchase, and such fact is shown in the  
9 earnest money receipt;

10 (13) Charging or accepting compensation from more than one party in  
11 any one transaction without first making full disclosure in writing of  
12 all the facts to all the parties interested in the transaction;

13 (14) Accepting, taking or charging any undisclosed commission,  
14 rebate or direct profit on expenditures made for the principal;

15 (15) Accepting employment or compensation for appraisal of real  
16 property contingent upon reporting a predetermined value;

17 (16) Issuing an appraisal report on any real property in which the  
18 broker, associate broker, or salesperson has an interest unless his or  
19 her interest is clearly stated in the appraisal report;

20 (17) Misrepresentation of his or her membership in any state or  
21 national real estate association;

22 (18) Discrimination against any person in hiring or in sales  
23 activity, on the basis of (~~race, color, creed or national origin, or~~  
24 ~~violating~~)) any of the provisions of any state or federal  
25 antidiscrimination law;

26 (19) Failing to keep an escrow or trustee account of funds  
27 deposited with him or her relating to a real estate transaction, for a  
28 period of three years, showing to whom paid, and such other pertinent  
29 information as the director may require, such records to be available  
30 to the director, or his or her representatives, on demand, or upon  
31 written notice given to the bank;

32 (20) Failing to preserve for three years following its consummation  
33 records relating to any real estate transaction;

34 (21) Failing to furnish a copy of any listing, sale, lease or other  
35 contract relevant to a real estate transaction to all signatories  
36 thereof at the time of execution;

37 (22) Acceptance by a branch manager, associate broker, or  
38 salesperson of a commission or any valuable consideration for the

1 performance of any acts specified in this chapter, from any person,  
2 except the licensed real estate broker with whom he or she is licensed;

3 (23) To direct any transaction involving his or her principal, to  
4 any lending institution for financing or to any escrow company, in  
5 expectation of receiving a kickback or rebate therefrom, without first  
6 disclosing such expectation to his or her principal;

7 (24) Buying, selling, or leasing directly, or through a third  
8 party, any interest in real property without disclosing in writing that  
9 he or she holds a real estate license;

10 (25) In the case of a broker licensee, failing to exercise adequate  
11 supervision over the activities of his or her licensed associate  
12 brokers and salespersons within the scope of this chapter;

13 (26) Any conduct in a real estate transaction which demonstrates  
14 bad faith, dishonesty, untrustworthiness or incompetency;

15 (27) Acting as a (~~mobile home and travel trailer~~) vehicle dealer  
16 (~~or salesperson~~), as defined in RCW 46.70.011 (~~as now or hereafter~~  
17 ~~amended~~), without having a license to do so;

18 (28) Failing to assure that the title is transferred under chapter  
19 46.12 RCW when engaging in a transaction involving a mobile home as a  
20 broker, associate broker, or salesperson; or

21 (29) Violation of an order to cease and desist which is issued by  
22 the director under this chapter.

23 **Sec. 18.** RCW 18.85.281 and 1951 c 222 s 26 are each amended to  
24 read as follows:

25 (~~The filing of such notice and bond shall supersede the order of~~  
26 ~~the director until the final determination of such appeal.~~) The  
27 director shall prepare at appellant's expense and shall certify a  
28 transcript of the whole record (~~to the director's office~~) of all  
29 matters involved in the appeal, which shall be thereupon delivered by  
30 the director to the court in which the appeal is pending. The  
31 appellant shall be notified of the filing of the transcript and the  
32 cost thereof and shall within fifteen days thereafter pay the cost of  
33 said transcript. If the cost is not paid in full within fifteen days  
34 the appeal shall be dismissed.

35 **Sec. 19.** RCW 18.85.317 and 1993 c 50 s 4 are each amended to read  
36 as follows:

1 The real estate education account is created in the custody of the  
2 state treasurer. All moneys received for credit to this account  
3 pursuant to RCW 18.85.315 and all moneys derived from fines imposed  
4 under this chapter shall be deposited into the account. (~~Any fund~~  
5 ~~balance remaining in the real estate commission account attributable to~~  
6 ~~moneys received under RCW 18.85.315 and moneys derived from fines~~  
7 ~~imposed under this chapter as of July 1, 1993, shall be transferred to~~  
8 ~~the real estate education account.~~) Expenditures from the account may  
9 be made only upon the authorization of the director or a duly  
10 authorized representative of the director, and may be used only for the  
11 purposes of carrying out the director's programs for education of real  
12 estate licensees and others in the real estate industry as described in  
13 RCW 18.85.040(4). All expenses and costs relating to the  
14 implementation or administration of, or payment of contract fees or  
15 charges for, the director's real estate education programs may be paid  
16 from this account. The account is subject to appropriation under  
17 chapter 43.88 RCW.

18 **Sec. 20.** RCW 18.85.330 and 1953 c 235 s 15 are each amended to  
19 read as follows:

20 (1) It shall be unlawful for any licensed broker to pay any part of  
21 his or her commission or other compensation to any person who is not a  
22 licensed real estate broker in any state of the United States or its  
23 possessions or any province of the Dominion of Canada((~~r~~)) or any  
24 foreign jurisdiction with a real estate regulatory program.

25 (2) It shall be unlawful for any licensed broker to pay any part of  
26 his or her commission or other compensation to a real estate  
27 ((salesman)) salesperson not licensed to do business for such broker((~~r~~  
28 or)).

29 (3) It shall be unlawful for any licensed ((salesman)) salesperson  
30 to pay any part of his or her commission or other compensation to any  
31 person, whether licensed or not, except through his or her broker.

32 **Sec. 21.** RCW 18.85.340 and 1951 c 222 s 20 are each amended to  
33 read as follows:

34 Any person acting as a real estate broker, associate real estate  
35 broker, or real estate ((salesman)) salesperson, without a license, or  
36 violating any of the provisions of this chapter, shall be guilty of a  
37 gross misdemeanor.

1       **Sec. 22.** RCW 18.85.343 and 1989 c 175 s 67 are each amended to  
2 read as follows:

3       (1) The director may issue a cease and desist order to a person  
4 after notice and hearing and upon a determination that the person has  
5 violated a provision of this chapter or a lawful order or rule of the  
6 director.

7       (2) If the director makes a written finding of fact that the public  
8 interest will be irreparably harmed by delay in issuing an order, he or  
9 she may issue a temporary cease and desist order. Before issuing the  
10 temporary cease and desist order, whenever possible the director shall  
11 give notice by telephone or otherwise of the proposal to issue a  
12 temporary cease and desist order to the person. Every temporary cease  
13 and desist order shall include a provision that a hearing will be held  
14 upon request to determine whether or not the order will become  
15 permanent.

16       At the time the temporary cease and desist order is served, the  
17 licensee shall be notified that he or she is entitled to request a  
18 hearing for the sole purpose of determining whether or not the public  
19 interest imperatively requires that the temporary cease and desist  
20 order be continued or modified pending the outcome of the hearing to  
21 determine whether or not the order will become permanent. The hearing  
22 shall be held within thirty days after the department receives the  
23 request for hearing, unless the licensee requests a later hearing. A  
24 licensee may secure review of any decision rendered at a temporary  
25 cease and desist order review hearing in the same manner as an  
26 adjudicative proceeding.

27       **Sec. 23.** RCW 18.85.345 and 1941 c 252 s 9 are each amended to read  
28 as follows:

29       The attorney general shall render to the director opinions upon all  
30 questions of law relating to the construction or interpretation of this  
31 chapter, or arising in the administration thereof, that may be  
32 submitted to (~~him by~~) the director, and shall act as attorney for the  
33 director in all actions and proceedings brought by or against him or  
34 her under or pursuant to any provisions of this chapter.

35       **Sec. 24.** RCW 18.85.350 and 1967 c 22 s 2 are each amended to read  
36 as follows:

1 The director may prefer a complaint for violation of any section of  
2 this chapter before any court of competent jurisdiction.

3 The prosecuting attorney of each county shall prosecute any  
4 violation of the provisions of this chapter which occurs in his or her  
5 county, and if the prosecuting attorney fails to act, the director may  
6 request the attorney general to take action in lieu of the prosecuting  
7 attorney.

8 Process issued by the director shall extend to all parts of the  
9 state, and may be served by any person authorized to serve process of  
10 courts of record, or may be mailed by registered mail to the licensee's  
11 last business address of record in the office of the director.

12 Whenever the director believes from evidence satisfactory to him or  
13 her that any person has violated any of the provisions of this chapter,  
14 or any order, license, decision, demand or requirement, or any part or  
15 provision thereof, he or she may bring an action, in the superior court  
16 in the county wherein such person resides, against such person to  
17 enjoin any such person from continuing such violation or engaging  
18 therein or doing any act or acts in furtherance thereof. In this  
19 action an order or judgment may be entered awarding such preliminary or  
20 final injunction as may be proper.

21 The director may petition the superior court in any county in this  
22 state for the immediate appointment of a receiver to take over, operate  
23 or close any real estate office in this state which is found, upon  
24 inspection of its books and records to be operating in violation of the  
25 provisions of this chapter, pending a hearing as herein provided.

26 **Sec. 25.** RCW 18.85.360 and 1957 c 52 s 49 are each amended to read  
27 as follows:

28 The director may administer oaths; certify to all official acts;  
29 subpoena and bring before him or her any person in this state as a  
30 witness; compel the production of books and papers; and take the  
31 testimony of any person by deposition in the manner prescribed for  
32 procedure of the superior courts in civil cases, in any hearing in any  
33 part of the state.

34 Each witness, who appears by order of the director, shall receive  
35 for his or she attendance the fees and mileage allowed to a witness in  
36 civil cases in the superior court. Witness fees shall be paid by the  
37 party at whose request the witness is subpoenaed.



1        If a witness, who has not been required to attend at the request of  
2 any party, is subpoenaed by the director, his or her fees and mileage  
3 shall be paid from funds appropriated for the use of the real estate  
4 department in the same manner as other expenses of the department are  
5 paid.

6        NEW SECTION.    **Sec. 26.**    The following acts or parts of acts are  
7 each repealed:

8        (1) RCW 18.85.290 and 1972 ex.s. c 139 s 21, 1971 c 81 s 62, 1957  
9 c 52 s 46, & 1951 c 222 s 17; and

10       (2) RCW 18.85.300 and 1951 c 222 s 18, 1943 c 118 s 3, & 1941 c 252  
11 s 17.

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