

CERTIFICATION OF ENROLLMENT

SENATE BILL 5253

Chapter 46, Laws of 1999

56th Legislature
1999 Regular Session

REAL ESTATE BROKERS OR SALESPERSONS--GROUNDS FOR DISCIPLINARY
ACTION

EFFECTIVE DATE: 7/25/99

Passed by the Senate March 9, 1999
YEAS 49 NAYS 0

BRAD OWEN
President of the Senate

Passed by the House April 7, 1999
YEAS 90 NAYS 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

FRANK CHOPP
**Speaker of the
House of Representatives**

Approved April 20, 1999

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5253** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK
Secretary

FILED

April 20, 1999 - 3:11 p.m.

**Secretary of State
State of Washington**

SENATE BILL 5253

Passed Legislature - 1999 Regular Session

State of Washington

56th Legislature

1999 Regular Session

By Senators Benton, Prentice, Winsley, Shin, Deccio, Heavey, Rasmussen, West, T. Sheldon, Hale, Gardner, Rossi and Oke; by request of Department of Licensing

Read first time 01/18/1999. Referred to Committee on Commerce, Trade, Housing & Financial Institutions.

1 AN ACT Relating to grounds for disciplinary action against real
2 estate brokers or salespersons; and amending RCW 18.85.230.

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

4 **Sec. 1.** RCW 18.85.230 and 1997 c 322 s 17 are each amended to read
5 as follows:

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

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

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

5 (3) Being convicted in a court of competent jurisdiction of this or
6 any other state, or federal court, of forgery, embezzlement, obtaining
7 money under false pretenses, bribery, larceny, extortion, conspiracy to
8 defraud, or any similar offense or offenses: PROVIDED, That for the
9 purposes of this section being convicted shall include all instances in
10 which a plea of guilty or nolo contendere is the basis for the
11 conviction, and all proceedings in which the sentence has been deferred
12 or suspended;

13 (4) Making, printing, publishing, distributing, or causing,
14 authorizing, or knowingly permitting the making, printing, publication
15 or distribution of false statements, descriptions or promises of such
16 character as to reasonably induce any person to act thereon, if the
17 statements, descriptions or promises purport to be made or to be
18 performed by either the licensee or his or her principal and the
19 licensee then knew or, by the exercise of reasonable care and inquiry,
20 could have known, of the falsity of the statements, descriptions or
21 promises;

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

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

30 (7) Conversion of any money, contract, deed, note, mortgage, or
31 abstract or other evidence of title, to his or her own use or to the
32 use of his or her principal or of any other person, when delivered to
33 him or her in trust or on condition, in violation of the trust or
34 before the happening of the condition; and failure to return any money
35 or contract, deed, note, mortgage, abstract or other evidence of title
36 within thirty days after the owner thereof is entitled thereto, and
37 makes demand therefor, shall be prima facie evidence of such
38 conversion;

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

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

8 (10) Committing any act of fraudulent or dishonest dealing or a
9 crime involving moral turpitude, and a certified copy of the final
10 holding of any court of competent jurisdiction in such matter shall be
11 conclusive evidence in any hearing under this chapter. However, RCW
12 9.96A.020 does not apply to a person who is required to register as a
13 sex offender under RCW 9A.44.130;

14 (11) Advertising in any manner without affixing the broker's name
15 as licensed, and in the case of a salesperson or associate broker,
16 without affixing the name of the broker as licensed for whom or under
17 whom the salesperson or associate broker operates, to the
18 advertisement; except, that a real estate broker, associate real estate
19 broker, or real estate salesperson advertising their personally owned
20 real property must only disclose that they hold a real estate license;

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

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

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

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

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

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

37 (18) Discrimination against any person in hiring or in sales
38 activity, on the basis of any of the provisions of any state or federal
39 antidiscrimination law;

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

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

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

12 (22) Acceptance by a branch manager, associate broker, or
13 salesperson of a commission or any valuable consideration for the
14 performance of any acts specified in this chapter, from any person,
15 except the licensed real estate broker with whom he or she is licensed;

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

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

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

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

28 (27) Acting as a vehicle dealer, as defined in RCW 46.70.011,
29 without having a license to do so;

30 (28) Failing to assure that the title is transferred under chapter
31 46.12 RCW when engaging in a transaction involving a mobile home as a
32 broker, associate broker, or salesperson; or

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

Passed the Senate March 9, 1999.

Passed the House April 7, 1999.

Approved by the Governor April 20, 1999.

Filed in Office of Secretary of State April 20, 1999.