
SENATE BILL 5125

State of Washington

65th Legislature

2017 Regular Session

By Senators Braun, Conway, Rossi, and Wilson

Read first time 01/13/17. Referred to Committee on Commerce, Labor & Sports.

1 AN ACT Relating to defining independent contractor relationships
2 in the context of real estate licensing; and amending RCW 18.85.011.

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

4 **Sec. 1.** RCW 18.85.011 and 2015 c 133 s 1 are each amended to
5 read as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) "Advertising" means any attempt by publication or broadcast,
9 whether oral, written, or otherwise, to induce a person to use the
10 services of a real estate firm, broker, managing broker, or
11 designated broker.

12 (2) "Broker" means a natural person acting on behalf of a real
13 estate firm to perform real estate brokerage services under the
14 supervision of a designated broker or managing broker.

15 (3) "Business opportunity" means and includes business, business
16 entity, and good will of an existing business or any one or
17 combination thereof when the transaction or business includes an
18 interest in real property.

19 (4) "Clear and conspicuous" in an advertising statement means the
20 representation or term being used is of such a color, contrast, size,

1 or audibility, and presented in a manner so as to be readily noticed
2 and understood.

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

10 (6) "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
15 subdivision when sold, leased, or otherwise conveyed on a unit-by-
16 unit basis, even when those units are part of a larger building or
17 parcel of real estate, unless the property is sold or leased for a
18 commercial purpose.

19 (7) "Commission" means the real estate commission of the state of
20 Washington.

21 (8) "Controlling interest" means the ability to control either
22 the operational or financial, or both, decisions of a firm.

23 (9) "Department" means the Washington department of licensing.

24 (10) "Designated broker" means:

25 (a) A natural person who owns a sole proprietorship real estate
26 firm; or

27 (b) A natural person with a controlling interest in the firm who
28 is designated by a legally recognized business entity such as a
29 corporation, limited liability company, limited liability
30 partnership, or partnership real estate firm, to act as a designated
31 broker on behalf of the real estate firm, and whose managing broker's
32 license receives an endorsement from the department of "designated
33 broker."

34 (11) "Director" means the director of the department of
35 licensing.

36 (12) "Inactive license" means the status of a license that is not
37 expired and is not affiliated with a firm.

38 (13) "Independent contractor relationship" means a relationship
39 between a broker or managing broker and a real estate firm that
40 satisfies both of the following conditions: (a) No written agreement

1 with the broker or managing broker provides that the broker or
2 managing broker is an employee of the firm; and (b) substantially all
3 of the broker's or managing broker's compensation is for services
4 related to real estate brokerage services provided by the firm.
5 Nothing in this subsection is intended to relieve the managing broker
6 or real estate firm of the supervisory duties identified in this
7 chapter.

8 (14) "Licensee" means a person holding a license as a real estate
9 firm, managing broker, or broker.

10 ~~((14))~~ (15) "Managing broker" means a natural person acting on
11 behalf of a real estate firm to perform real estate brokerage
12 services under the supervision of the designated broker, and who may
13 supervise other brokers or managing brokers licensed to the firm.

14 ~~((15))~~ (16) "Person" includes a natural person, corporation,
15 limited liability company, limited liability partnership,
16 partnership, or public or private organization or entity of any
17 character, except where otherwise restricted.

18 ~~((16))~~ (17) "Real estate brokerage services" means any of the
19 following services offered or rendered directly or indirectly to
20 another, or on behalf of another for compensation or the promise or
21 expectation of compensation, or by a licensee on the licensee's own
22 behalf:

23 (a) Listing, selling, purchasing, exchanging, optioning, leasing,
24 renting of real estate, or any real property interest therein; or any
25 interest in a cooperative; or any interest in a floating home or
26 floating on-water residence, as defined in RCW 90.58.270;

27 (b) Negotiating or offering to negotiate, either directly or
28 indirectly, the purchase, sale, exchange, lease, or rental of real
29 estate, or any real property interest therein; or any interest in a
30 cooperative; or any interest in a floating home or floating on-water
31 residence, as defined in RCW 90.58.270;

32 (c) Listing, selling, purchasing, exchanging, optioning, leasing,
33 renting, or negotiating the purchase, sale, lease, or exchange of a
34 manufactured or mobile home in conjunction with the purchase, sale,
35 lease, exchange, or rental of the land upon which the manufactured or
36 mobile home is or will be located;

37 (d) Advertising or holding oneself out to the public by any
38 solicitation or representation that one is engaged in real estate
39 brokerage services;

1 (e) Advising, counseling, or consulting buyers, sellers,
2 landlords, or tenants in connection with a real estate transaction;

3 (f) Issuing a broker's price opinion. For the purposes of this
4 chapter, "broker's price opinion" means an oral or written report of
5 property value that is prepared by a licensee under this chapter and
6 is not an appraisal as defined in RCW 18.140.010 unless it complies
7 with the requirements established under chapter 18.140 RCW;

8 (g) Collecting, holding, or disbursing funds in connection with
9 the negotiating, listing, selling, purchasing, exchanging, optioning,
10 leasing, or renting of real estate or any real property interest; and

11 (h) Performing property management services, which includes with
12 no limitation: Marketing; leasing; renting; the physical,
13 administrative, or financial maintenance of real property; or the
14 supervision of such actions.

15 (~~(17)~~) (18) "Real estate firm" or "firm" means a sole
16 proprietorship, partnership, limited liability partnership,
17 corporation, limited liability company, or other legally recognized
18 business entity conducting real estate brokerage services in this
19 state and licensed by the department as a real estate firm.

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