

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5267

Chapter 322, Laws of 1997

55th Legislature
1997 Regular Session

REAL ESTATE BROKERS AND SALESPERSONS--ADMINISTRATION AND TECHNICAL
CHANGES

EFFECTIVE DATE: 7/27/97

Passed by the Senate April 22, 1997
YEAS 44 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 15, 1997
YEAS 94 NAYS 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved May 12, 1997

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5267** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MIKE O'CONNELL

Secretary

FILED

May 12, 1997 - 3:32 p.m.

GARY LOCKE

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5267

AS AMENDED BY THE HOUSE

Passed Legislature - 1997 Regular Session

State of Washington 55th Legislature 1997 Regular Session

By Senate Committee on Commerce & Labor (originally sponsored by Senators Horn, Heavey, Schow and Newhouse; by request of Department of Licensing)

Read first time 02/13/97.

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, limited
24 liability partnership, or (~~copartnership~~) partnership, except where
25 otherwise restricted;

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

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

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

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

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

37 (b) Which require in a real estate listing agreement between the
38 seller and the broker, that the members of the real estate multiple

1 listing association shall have the same rights as if each had executed
2 a separate agreement with the seller;

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

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

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

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

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

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

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

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

1 ensure that examinations are prepared and administered at examination
2 centers throughout the state.

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

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

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

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

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

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

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

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

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

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

35 It shall be unlawful for any person to act as a real estate broker,
36 associate real estate broker, or real estate (~~salesman~~) salesperson

1 without first obtaining a license therefor, and otherwise complying
2 with the provisions of this chapter.

3 No suit or action shall be brought for the collection of
4 compensation as a real estate broker, associate real estate broker, or
5 real estate ((~~salesman~~)) salesperson, without alleging and proving that
6 the plaintiff was a duly licensed real estate broker, associate real
7 estate broker, or real estate ((~~salesman~~)) salesperson prior to the
8 time of offering to perform any such act or service or procuring any
9 promise or contract for the payment of compensation for any such
10 contemplated act or service.

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

13 This chapter shall not apply to (1) any person who purchases
14 property and/or a business opportunity for his or her own account, or
15 that of a group of which he or she is a member, or who, as the owner or
16 part owner of property, and/or a business opportunity, in any way
17 disposes of the same; nor, (2) any duly authorized attorney in fact
18 acting without compensation, or an attorney at law in the performance
19 of his or her duties; nor, (3) any receiver, trustee in bankruptcy,
20 executor, administrator, guardian, or any person acting under the order
21 of any court, or selling under a deed of trust; nor, (4) any secretary,
22 bookkeeper, accountant, or other office personnel who does not engage
23 in any conduct or activity specified in any of the definitions under
24 RCW 18.85.010; nor, (5) any owner of rental or lease property, members
25 of the owner's family whether or not residing on such property, or a
26 resident manager of a complex of residential dwelling units wherein
27 such manager resides; nor, (6) any person who manages residential
28 dwelling units on an incidental basis and not as his or her principal
29 source of income so long as that person does not advertise or hold
30 ((~~himself~~)) out to the public by any oral or printed solicitation or
31 representation that he or she is so engaged; nor, (7) only with respect
32 to the rental or lease of individual storage space, any person who owns
33 or manages a self-service storage facility as defined under chapter
34 19.150 RCW.

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

1 Any person desiring to be a real estate broker, associate real
2 estate broker, or real estate salesperson, must pass an examination as
3 provided in this chapter. Such person shall make application for an
4 examination and for a license on a form prescribed by the director.
5 Concurrently, the applicant shall:

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

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

19 (3) Furnish such other proof as the director may require concerning
20 the honesty, truthfulness, and good reputation, as well as the
21 identity, which may include fingerprints, of any applicants for a
22 license, or of the officers of a corporation, or limited liability
23 company, or the partners of a limited liability partnership or
24 partnership, making the application.

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

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

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

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

4 (3) An understanding of the principles of land economics and
5 appraisals;

6 (4) An understanding of the obligations between principal and
7 agent;

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

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

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

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

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

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

33 If the application for a renewal license is not received by the
34 director on or before the renewal date, a penalty fee as prescribed by
35 the director by rule shall be paid. Acceptance by the director of an
36 application for renewal after the renewal date shall not be a waiver of
37 the delinquency.

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

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

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

10 A temporary broker's permit may, in the discretion of the director,
11 be issued to the legally accredited representative of a deceased or
12 incapacitated broker, the senior qualified (~~(salesman)~~) salesperson in
13 that office or other qualified representative of the deceased or
14 incapacitated broker, which shall be valid for a period not exceeding
15 four months and in the case of a partnership, a limited liability
16 partnership, a limited liability company, or a corporation, the same
17 rule shall prevail in the selection of a person to whom a temporary
18 broker's permit may be issued.

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

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

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

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

29 All real estate brokers, associate brokers, and salespersons shall
30 furnish proof as the director may require that they have successfully
31 completed a total of thirty clock hours of instruction every two years
32 in real estate courses approved by the director in order to renew their
33 licenses. Up to fifteen clock hours of instruction beyond the thirty
34 hours in two years may be carried forward for credit in a subsequent
35 two-year period. To count towards this requirement, a course shall be
36 commenced within thirty-six months before the proof date for renewal.

1 Examinations shall not be required to fulfill any part of the education
2 requirement in this section. This section shall apply to renewal dates
3 after January 1, 1991.

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

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

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

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

20 (3) When a license is issued to a (~~(copartnership)~~) limited
21 liability partnership or partnership it shall entitle one (~~(member)~~)
22 partner thereof to be named in the application, who shall qualify to
23 act as a real estate broker on behalf of the (~~(copartnership)~~) limited
24 liability partnership or partnership, without the payment of additional
25 license fees;

26 (~~((+3))~~) (4) A licensed broker, associate broker, or (~~(salesman)~~)
27 salesperson may operate and/or advertise under a name other than the
28 one under which the license is issued by obtaining the written consent
29 of the director to do so;

30 (~~((+4))~~) (5) A broker may establish one or more branch offices under
31 a name or names different from that of the main office if the name or
32 names are approved by the director, so long as each branch office is
33 clearly identified as a branch or division of the main office. No
34 broker may establish branch offices under more than three names. Both
35 the name of the branch office and of the main office must clearly
36 appear on the sign identifying the office, if any, and in any
37 advertisement or on any letterhead of any stationery or any forms, or

1 signs used by the real estate firm on which either the name of the main
2 or branch offices appears.

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

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

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

12 The director may publish ~~((annually a list of names and addresses
13 of brokers and salesmen licensed under the provisions hereof, together
14 with))~~ a copy of this chapter and such information relative to the
15 enforcement of ~~((the provisions hereof as he may deem of interest to
16 the public;))~~ this chapter and ~~((he))~~ may mail ~~((one))~~ a copy
17 ~~((thereof))~~ of this chapter and the information to each licensed
18 broker.

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

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

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

35 (2) Violating any of the provisions of this chapter or any lawful
36 rules or regulations made by the director pursuant thereto or violating

1 a provision of chapter 64.36, 19.105, or 58.19 RCW or RCW 18.86.030 or
2 the rules adopted under those chapters or section;

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

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

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

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

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

37 (8) Failing, upon demand, to disclose any information within his or
38 her knowledge to, or to produce any document, book or record in his or

1 her possession for inspection of the director or his or her authorized
2 representatives acting by authority of law;

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

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

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

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

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

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

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

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

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

33 (18) Discrimination against any person in hiring or in sales
34 activity, on the basis of (~~race, color, creed or national origin, or~~
35 ~~violating~~)) any of the provisions of any state or federal
36 antidiscrimination law;

37 (19) Failing to keep an escrow or trustee account of funds
38 deposited with him or her relating to a real estate transaction, for a
39 period of three years, showing to whom paid, and such other pertinent

1 information as the director may require, such records to be available
2 to the director, or his or her representatives, on demand, or upon
3 written notice given to the bank;

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

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

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

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

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

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

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

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

28 (28) Failing to assure that the title is transferred under chapter
29 46.12 RCW when engaging in a transaction involving a mobile home as a
30 broker, associate broker, or salesperson; or

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

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

35 (~~The filing of such notice and bond shall supersede the order of~~
36 ~~the director until the final determination of such appeal.~~) The
37 director shall prepare at appellant's expense and shall certify a
38 transcript of the whole record (~~to the director's office~~) of all

1 matters involved in the appeal, which shall be thereupon delivered by
2 the director to the court in which the appeal is pending. The
3 appellant shall be notified of the filing of the transcript and the
4 cost thereof and shall within fifteen days thereafter pay the cost of
5 said transcript. If the cost is not paid in full within fifteen days
6 the appeal shall be dismissed.

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

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

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

28 (1) It shall be unlawful for any licensed broker to pay any part of
29 his or her commission or other compensation to any person who is not a
30 licensed real estate broker in any state of the United States or its
31 possessions or any province of the Dominion of Canada((~~7~~)) or any
32 foreign jurisdiction with a real estate regulatory program.

33 (2) It shall be unlawful for any licensed broker to pay any part of
34 his or her commission or other compensation to a real estate
35 ((salesman)) salesperson not licensed to do business for such broker((~~7~~
36 or)).

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

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

6 Any person acting as a real estate broker, associate real estate
7 broker, or real estate (~~(salesman)~~) salesperson, without a license, or
8 violating any of the provisions of this chapter, shall be guilty of a
9 gross misdemeanor.

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

12 (1) The director may issue a cease and desist order to a person
13 after notice and hearing and upon a determination that the person has
14 violated a provision of this chapter or a lawful order or rule of the
15 director.

16 (2) If the director makes a written finding of fact that the public
17 interest will be irreparably harmed by delay in issuing an order, he or
18 she may issue a temporary cease and desist order. Before issuing the
19 temporary cease and desist order, whenever possible the director shall
20 give notice by telephone or otherwise of the proposal to issue a
21 temporary cease and desist order to the person. Every temporary cease
22 and desist order shall include a provision that a hearing will be held
23 upon request to determine whether or not the order will become
24 permanent.

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

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

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

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

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

13 The prosecuting attorney of each county shall prosecute any
14 violation of the provisions of this chapter which occurs in his or her
15 county, and if the prosecuting attorney fails to act, the director may
16 request the attorney general to take action in lieu of the prosecuting
17 attorney.

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

22 Whenever the director believes from evidence satisfactory to him or
23 her that any person has violated any of the provisions of this chapter,
24 or any order, license, decision, demand or requirement, or any part or
25 provision thereof, he or she may bring an action, in the superior court
26 in the county wherein such person resides, against such person to
27 enjoin any such person from continuing such violation or engaging
28 therein or doing any act or acts in furtherance thereof. In this
29 action an order or judgment may be entered awarding such preliminary or
30 final injunction as may be proper.

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

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

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

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

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

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

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

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

Passed the Senate April 22, 1997.

Passed the House April 15, 1997.

Approved by the Governor May 12, 1997.

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