

SENATE BILL 493

IN THE SENATE

February 13, 1979

Introduced and referred to
Committee on Business and
Industry.

April 20, 1979

Died in Committee.

1 *Senat* BILL NO. *493*
 2 INTRODUCED BY *Tom Rasmussen J. Brown*

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAW
 5 RELATING TO LICENSURE OF REAL ESTATE BROKERS OR SALESMEN; TO
 6 REQUIRE APPLICANTS FOR A REAL ESTATE BROKER OR SALESMAN
 7 LICENSE TO COMPLETE AN APPROVED COURSE OF INSTRUCTION; TO
 8 REQUIRE LICENSED BROKERS AND SALESMEN TO COMPLETE CONTINUING
 9 EDUCATION REQUIREMENTS; TO PROVIDE FOR REVOCATION OR
 10 SUSPENSION OF A LICENSE FOR FALSIFICATION OF APPLICATIONS,
 11 CERTIFICATES, OR STATEMENTS TO THE BOARD; AMENDING SECTIONS
 12 37-51-302 AND 37-51-321, MCA."

13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 37-51-302, MCA, is amended to read:

16 "37-51-302. Broker or salesman license --
 17 qualifications of applicant. (1) Licenses may be granted
 18 only to individuals considered by the board to be of good
 19 repute and competent to transact the business of a broker or
 20 salesman in a manner as to safeguard the interests of the
 21 public.

- 22 (2) An applicant for a broker's license shall:
 23 (a) be a citizen of the United States;
 24 (b) be at least 18 years of age;
 25 (c) have graduated from an accredited high school or

1 completed an equivalent education as determined by the
 2 board;

3 (d) have been actively engaged as a licensed real
 4 estate salesman for a period of 2 years or have had
 5 experience or special education equivalent to that which a
 6 licensed real estate salesman ordinarily would receive
 7 during this 2-year period as determined by the board, except
 8 that if the board finds that an applicant could not obtain
 9 employment as a licensed real estate salesman because of
 10 conditions existing in the area where he resides, the board
 11 may waive this experience requirement; and

12 ~~(e) have completed 60 hours of classroom instruction~~
 13 ~~under a program approved by the board in addition to the~~
 14 ~~classroom instruction required for the issuance of a~~
 15 ~~salesman's license; and~~

16 ~~(f) file an application for license with the~~
 17 ~~department.~~

18 (3) The board shall require information it considers
 19 necessary from an applicant to determine his honesty,
 20 trustworthiness, and competency.

- 21 (4) (a) An applicant for a salesman's license shall:
 22 (i) be at least 18 years of age;
 23 (ii) have received credit for completion of 2 years of
 24 full curriculum study at an accredited high school or
 25 completed an equivalent education as determined by the

1 board; end
 2 (iii) have completed 30 hours of classroom instruction
 3 under a program approved by the board; and

4 ~~(iii)~~(iv) file an application for license with the
 5 department.

6 (b) His application shall be accompanied by the
 7 recommendation of the licensed broker by whom the applicant
 8 will be employed or placed under contract, certifying that
 9 the applicant is of good repute and that the broker will
 10 actively supervise and train the applicant during the period
 11 the requested license remains in effect.

12 (5) The department shall issue to each licensed broker
 13 and to each licensed salesman a license and a pocket card in
 14 a form and size as the board prescribes."

15 Section 2. Section 37-51-321, MCA, is amended to read:

16 "37-51-321. Revocation or suspension of license --
 17 initiation of proceedings -- grounds. The board may on its
 18 own motion and shall on the sworn complaint in writing of a
 19 person investigate the actions of a real estate broker or a
 20 real estate salesman, subject to 37-1-101 and 37-1-102, and
 21 may revoke or suspend a license issued under this chapter
 22 when the broker or salesman has been found guilty by a
 23 majority of the board of any of the following practices:

24 (1) intentionally misleading, untruthful, or
 25 inaccurate advertising, whether printed or by radio,

1 display, or other nature, which advertising in any material
 2 particular or in any material way misrepresents any
 3 property, terms, values, policies, or services of the
 4 business conducted,

5 (2) making any false promises of a character likely to
 6 influence, persuade, or induce;

7 (3) pursuing a continued and flagrant course of
 8 misrepresentation or making false promises through agents or
 9 salesmen or any medium of advertising or otherwise;

10 (4) use of the term "realtor" by a person not
 11 authorized to do so or using another trade name or insignia
 12 of membership in a real estate organization of which the
 13 licensee is not a member;

14 (5) failing to account for or to remit money coming
 15 into his possession belonging to others;

16 (6) accepting, giving, or charging an undisclosed
 17 commission, rebate, or profit on expenditures made for a
 18 principal;

19 (7) acting in a dual capacity of broker and
 20 undisclosed principal in a transaction;

21 (8) guaranteeing, authorizing, or permitting a person
 22 to guarantee future profits which may result from the resale
 23 of real property;

24 (9) offering real property for sale or lease without
 25 the knowledge and consent of the owner or his authorized

1 agent or on terms other than those authorized by the owner
2 or his authorized agent;

3 (10) inducing a party to a contract of sale or lease to
4 break the contract for the purpose of substituting a new
5 contract with another principal;

6 (11) accepting employment or compensation for
7 appraising real property contingent on the reporting of a
8 predetermined value or issuing an appraisal report on real
9 property in which he has an undisclosed interest;

10 (12) negotiating a sale, exchange, or lease of real
11 property directly with an owner or lessee if he knows that
12 the owner has a written, outstanding contract in connection
13 with the property granting an exclusive agency to another
14 broker;

15 (13) soliciting, selling, or offering for sale real
16 property by conducting lotteries for the purpose of
17 influencing a purchaser or prospective purchaser of real
18 property;

19 (14) representing or attempting to represent a real
20 estate broker other than the employer without the express
21 knowledge or consent of the employer;

22 (15) failing voluntarily to furnish a copy of a written
23 instrument to a party executing it at the time of its
24 execution;

25 (16) paying a commission in connection with a real

1 estate sale or transaction to a person who is not licensed
2 as a real estate broker or real estate salesman under this
3 chapter;

4 (17) intentionally violating a rule adopted by the
5 board in the interests of the public and in conformity with
6 this chapter;

7 (18) failing, if a salesman, to place, as soon after
8 receipt as is practicably possible, in the custody of his
9 registered broker, deposit money or other money entrusted to
10 him as salesman by a person;

11 (19) demonstrating his unworthiness or incompetency to
12 act as a broker or salesman; or

13 (20) conviction of a felony;

14 ~~(21) knowingly misrepresenting or falsifying~~
15 ~~information contained in any application, certificate, or~~
16 ~~statement required by this chapter to be submitted to the~~
17 ~~board."~~

18 NEW SECTION. Section 3. Classroom instruction
19 required for renewal. (1) After July 1, 1979, no broker's or
20 salesman's license may be renewed unless the applicant for
21 renewal has completed the program of continuing education
22 required by this section.

23 (2) During the years 1979 and 1980, each real estate
24 broker and agent shall complete 7 hours of classroom
25 instruction under a program approved by the board.

1 (3) During the years 1981 and 1982, each real estate
2 broker and salesman shall complete 14 hours of classroom
3 instruction under a program approved by the board.

4 (4) During the years 1983 and 1984, each real estate
5 broker and salesman shall complete 21 hours of classroom
6 instruction under a program approved by the board.

7 (5) After 1984, each real estate broker and salesman
8 shall complete 21 hours of classroom instruction under a
9 program approved by the board each 2 years during which the
10 broker or salesman holds a license.

11 (6) Upon completion of a course of classroom
12 instruction, a licensee shall send to the board a
13 certificate from an approved school, institution, or program
14 or other evidence of completion of a course of approved
15 classroom instruction. The certificate shall state the
16 course name and number of hours completed.

17 (7) The board shall allow a broker credit for 1 hour
18 of classroom instruction for each year he has been licensed
19 as a broker.

20 (8) The board may not test a licensee on any course he
21 has completed pursuant to this section or require a licensee
22 to be retested as a condition of license renewal.

23 NEW SECTION. Section 4. Extension of licenses. (1) If
24 an applicant for renewal of a license has submitted, in good
25 faith, evidence of completion of classroom instruction that

1 he had reason to believe would qualify him for license
2 renewal but the board finds that the evidence submitted does
3 not qualify under the standards used by the board for
4 approving continuing education programs, the board may
5 extend the license for 90 days in order to allow the
6 licensee to submit additional evidence of compliance.

7 (2) The board may extend for such period of time as it
8 considers proper the license of any licensee who submits
9 satisfactory evidence of inability to attend classroom
10 instruction because of health or other circumstances.

11 NEW SECTION. Section 5. Subjects of required
12 classroom instruction. (1) Approved classroom instruction
13 shall include but is not limited to:

- 14 (a) real estate ethics;
- 15 (b) administration of real estate license law and
16 other state or federal laws or regulations which affect real
17 estate practice;
- 18 (c) real estate finance;
- 19 (d) real estate marketing procedures, market
20 measurement, and market evaluation;
- 21 (e) real estate brokerage administration;
- 22 (f) real estate property management;
- 23 (g) real property exchange;
- 24 (h) land-use planning and land development;
- 25 (i) real estate securities and syndication;

1 (j) real estate appraising; and
 2 (k) accounting and taxation as applied to real
 3 property.

4 (2) The following subjects are not approved for
 5 classroom instruction:

- 6 (a) supportive office skills;
- 7 (b) speed reading and memory improvement courses; and
- 8 (c) personal motivation and sales psychology.

9 NEW SECTION. Section 6. Board approval of real estate
 10 schools. (1) Subject to [sections 5 and 7], the board shall
 11 make determinations regarding approval of real estate
 12 schools, instructional programs, and classroom courses.
 13 Schools licensed under the provisions of Title 20, chapter
 14 30, are eligible to offer instructional programs.

15 (2) Except as provided in [section 7], in order to
 16 operate a school offering courses in real estate instruction
 17 on a continuing basis, a person must first apply to the
 18 board for a real estate school license on forms prescribed
 19 by the board. The application must:

- 20 (a) state that the operator is 18 years of age or
 21 older;
- 22 (b) describe the courses proposed to be offered by the
 23 school;
- 24 (c) be accompanied by affidavits of two licensed real
 25 estate brokers attesting to the good moral character of the

1 operator;

2 (d) be accompanied by a surety bond to the state of
 3 Montana in the amount of \$10,000, conditioned that the
 4 operator will faithfully honor the contractual rights of
 5 real estate students; and

6 (e) be accompanied by an application fee fixed by the
 7 board in a reasonable amount.

8 (3) The board may issue a real estate school license,
 9 which shall be conspicuously displayed at the school, to an
 10 operator who fulfills the requirements of subsection (2).

11 (4) A real estate school license must be renewed
 12 annually by payment of a reasonable renewal fee fixed by the
 13 board.

14 (5) The board may, after notice and opportunity for
 15 hearing, revoke or suspend a real estate school license:

16 (a) if the surety bond required by subsection (2) is
 17 canceled, voided, or diminished; or

18 (b) for any reason relevant to the proper delivery of
 19 instructional services if the board reasonably considers
 20 revocation or suspension to be in the best interest of the
 21 people of Montana.

22 (6) Each real estate school licensed under this
 23 section shall provide the board with the name of each
 24 student within 30 days of his matriculation at the school.

25 NEW SECTION. Section 7. Certain courses to be

1 approved. Subject to [section 5], the board shall approve
2 real estate-related courses and programs offered by schools
3 or institutions accredited or approved by the board of
4 regents or by the national association of realtors or
5 licensed under Title 20, chapter 30, for purposes of the
6 classroom instruction requirements of this chapter. Such
7 schools or institutions are not subject to the licensing and
8 bonding requirements of [section 6].

9 Section 8. Codification. Sections 3 through 7 are
10 intended to be codified as an integral part of Title 37,
11 chapter 51, and the provisions contained in Title 37,
12 chapter 51, apply to sections 3 through 7.

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