

COUNCIL OF THE DISTRICT OF COLUMBIA

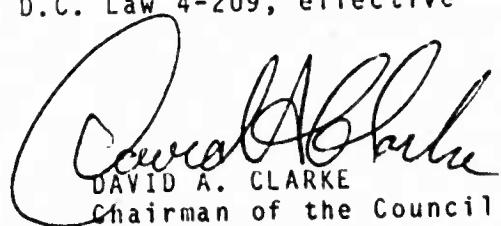
NOTICE

D.C. LAW 4-209

"District of Columbia Real Estate Licensure Act of 1982".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 4-230 on first and second readings, November 16, 1982, and December 14, 1982, respectively. Following the signature of the Mayor on December 30, 1982, this legislation was assigned Act No. 4-299, published in the January 28, 1983, edition of the D.C. Register, (Vol. 30 page 390) and transmitted to Congress on January 7, 1983 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 4-209, effective March 10, 1983.



DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

January 25, 26, 27, 28, 31

February 1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 22, 23, 24, 25, 28

March 1, 2, 3, 4, 7, 8, 9

D.C. LAW 4-209
EFFECTIVE DATE MAR 10 1983

AN ACT

Enrolled Original

D.C. ACT 4-299

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DEC 30 1982

To revise the real estate and business chance licensure law; to establish educational and other qualifications for real estate and business chance brokers, salespersons and property managers; to provide increased protection to the public against incompetence, fraud, and deception in real estate transactions; to establish a real estate guaranty fund; and for other purposes.

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BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,
That this act may be cited as the "District of Columbia Real
Estate Licensure Act of 1982".

Sec. 2. Purposes The purposes of this act are to

revise the real estate and business chance licensure law; to establish educational and other qualifications for real estate and business chance brokers, salespersons, and property managers; to protect the public against incompetence, fraud, and deception in real estate transactions; to establish a Real Estate Guaranty and Educational Fund to compensate victims of unlawful real estate and business chance practices; and for other purposes.

CODIFICATION
New
D.C.Code,
sec. 45-1921
(1981 ed.)

Sec. 3. Definitions

For the purposes of this act:

(1) The term "advance fee" means any fee, commission, or other valuable consideration contracted for, claimed, demanded, charged, received, or collected prior to the listing, advertisement, or offer to sell or lease real estate, paid or offered to be paid for the purpose of promoting the sale or lease of real estate, or for referral to any real estate broker, salesperson, or both, other than by newspaper of general circulation.

(2) The term "business chance broker" means any person, firm, partnership, association, copartnership, or corporation, who for compensation, or valuable consideration, sells or offers for sale, buys or offers to buy, leases or offers to lease, or negotiates the purchase, sale, or exchange of a business, business opportunity, or the good will of a business for others.

(3) The term "business chance salesman" means any person employed by or affiliated with a licensed business

chance broker to list for sale, sell, or offer for sale, to buy or offer to buy, or to negotiate the purchase or sale, or exchange of a business, business opportunity, or good will of an existing business for or on behalf of the business chance broker.

(4) The term "Commission" means the Real Estate Commission of the District of Columbia as established in section 4(a).

(5) The term "Council" means the Council of the District of Columbia.

(6) The term "District" means the District of Columbia.

(7) The term "Fund" means the Real Estate Guaranty and Education Fund established by section 29.

(8) The term "Mayor" means the Mayor of the District of Columbia or the Mayor's authorized representative.

(9) The term "person" means any individual, partnership, association, unincorporated business, firm, business trust, or corporation.

(10) The term "property manager" means an agent for the owner of real estate in all matters pertaining to the operation of the property or properties which are under his or her direction, who is paid a commission, fee, or other valuable consideration for his or her services.

(11) The term "real estate" means condominiums, leaseholds, any other interest or estate in land, whether corporeal, incorporeal, freehold, or nonfreehold, and whether located in the District or elsewhere. The term

"real estate" also means any share or membership in a cooperative organized pursuant to the District of Columbia Cooperative Association Act, approved June 19, 1940 (54 Stat. 480; D.C. Code, sec. 29-1101 et seq.) to engage in activities relating to real estate, even though such shares or membership may be deemed to be securities or personal property for purposes of such act.

(12) The term "real estate broker" means any person, firm, association, partnership, or corporation (foreign or domestic) who, for another and for a fee, commission, or other valuable consideration, or who, with the intention or expectation, or upon the promise of receiving or collecting a fee, commission or other valuable consideration, lists for sale, sells, exchanges, purchases, rents, leases, or offers, attempts, or agrees to negotiate a sale, exchange, purchase, lease, or rental of an estate or interest in real estate, or collects or offers or attempts or agrees to collect rent or income for the use of real estate, or negotiates or offers or attempts to negotiate, a loan secured or to be secured by a mortgage, deed of trust, or other encumbrance upon transfer of real estate, or who is engaged in the business of erecting homes or causing the creation of houses for sale on his, her, or its land and who sells, offers, or attempts to sell such houses, or who, as owner or otherwise and as a whole or partial vocation, sells or through solicitation, advertising, or otherwise, offers or attempts to sell or negotiate the sale of any lot in any subdivision of land comprising 5 lots or more. This definition shall not apply

to the sale of space for the advertising of real estate in any newspaper, magazine, or other publication.

(13) The term "real estate salesperson" means a person affiliated with or employed by a licensed real estate broker to list for sale, sell, or offer for sale, to buy or offer to buy, or negotiate the purchase or sale, or exchange of real estate, or to negotiate a loan on real estate.

(14) The term "written listing contract" means a contract between a broker and an owner in which the owner grants to the broker the right to find a purchaser for a designated property at the price and terms the owner agrees to accept, and the broker, for a fee, commission, or other valuable consideration, promises to make a reasonable effort to obtain a purchaser for the term of the contract.

Sec. 4. Establishment of Real Estate Commission of the

District of Columbia

New
D.C.Code,
sec. 45-1923
(1981 ed.)

(a) There is established a Real Estate Commission of the District of Columbia which shall consist of 7 members. The Mayor shall appoint 7 members of the Commission, with the advice and consent of the Council, each of whom, at the time of appointment, shall have been a resident of the District for a period of 1 year immediately preceding appointment. Each member shall maintain residency in the District Columbia while serving as a member of the Commission. Two of the Commission members shall be licensed in the District as real estate brokers and shall have been actively engaged in the real estate business for not less than 5 years immediately preceding their appointment and

while serving with the Commission. One Commission member shall represent the interest of real estate consumers and shall not have been actively engaged in or been closely connected to the business or vocation of real estate within the 5 years immediately preceding his or her appointment, or while serving on the Commission. One Commission member shall be licensed in the District as a business chance broker and have been actively engaged in the sale of business for not less than 5 years immediately preceding his or her appointment and while serving with the Commission. One Commission member shall be licensed in the District as a certified property manager and have been actually engaged in the property management business for not less than 5 years immediately preceding his or her appointment, and while serving with the Commission. One Commission member shall be an attorney who has been actively engaged in the practice of law in the District for not less than 1 year immediately preceding his or her appointment. One Commission member shall be an employee of the District government. The Mayor shall appoint 1 member of the Commission to serve as Chairperson of the Commission. The Chairperson shall appoint 1 member of the Commission to serve as Chairperson during the Chairperson's absence.

(b) Persons who are members of the existing Real Estate Commission, as established by Reorganization Order No. 59, dated June 30, 1953, on the effective date of this act shall continue to serve until the members of the Commission established by this act are appointed.

Commission members appointed under this act shall serve until their successors are appointed and qualified.

(c) The Mayor is the continuation of the predecessor Real Estate Commission. Any pending matters not disposed of by the predecessor Real Estate Commission shall be deemed of a continuing nature and may be disposed of by the Commission.

(d) At the expiration of the term of any member of the Commission, the Mayor shall appoint a successor for a term of 3 years. In the event of a vacancy the Mayor shall fill the vacancy by appointing a member to serve during the unexpired term of the member whose office has become vacant. No member shall be appointed for more than 2 successive 3-year terms. The Mayor may remove members of the Commission at any time for failure to maintain the qualifications specified in subsection (a), for neglect of duties required by this act, or for incompetency. Four members of the Commission shall constitute a quorum at official meetings. The action of a majority of the members of the Commission present at any meeting where a quorum exists shall be deemed to be the action of the Commission.

(e) The District government member of the Commission shall not be entitled to additional compensation for duties performed as a member of the Commission.

Sec. 5. Powers and Duties.

(a) The Mayor shall maintain a register of all persons licensed under this act as real estate brokers, business chance brokers, and property managers, and shall publish at

New
D.C.Code,
sec. 45-1924
(1981 ed.)

least annually a list of the names and addresses of those persons, and a list of all persons whose licenses have been suspended within 1 year prior to the publication or revoked within 3 years prior to the publication.

(b) The Mayor shall maintain a register of schools which are approved as affording adequate training in matters relating to real estate in accordance with this act.

(c) The Mayor may make studies, investigations, and obtain or require the furnishing of information under oath or affirmation, or otherwise, as the Mayor deems necessary to assist in the issuance of any rule or the issuance of any order under this act, or in the administration and enforcement of this act or any rule issued thereunder. For purposes of this section, the Mayor may administer oaths and affirmations, and require by subpoena or otherwise, the attendance and testimony of witnesses and the production of documents. In the event of contumacy or refusal to obey any subpoena or requirements under this subsection, the Mayor may make application to the Superior Court of the District of Columbia for an order requiring obedience thereto. Thereupon the Court shall issue any order that is proper and may punish any person who fails to obey an order of the court as a contempt thereof.

(d) Copies of all records and papers in the office of the Commission, duly certified and authenticated by the proper officer of the Commission, shall be received in evidence in all courts equally and with the same effect as the originals. The Commission shall keep a record of all

its proceedings, including public hearings, authorized under this act.

(e) The Mayor may license, authorize, conduct, or assist in conducting or sponsoring, real estate institutes, seminars, and other educational programs and may incur and authorize the payment of necessary expenses in connection therewith, subject to the availability of appropriations for these purposes. The institutes, seminars, and educational programs shall be open to all licensees and applicants for licenses.

(f) The Mayor shall regulate the issuance of licenses, shall revoke or suspend licenses, shall censure licensees pursuant to this act.

(g) The Mayor shall issue rules to carry out the provisions of this act and may delegate this authority to the Commission. All rules issued by the Mayor pursuant to this act shall be submitted to the Council for approval and go into effect automatically within 45 days, excluding Saturdays, Sundays, and legal holidays, unless disapproved by resolution of the Council, in whole or in part, within the 45-day period.

Sec. 6. Fees

The Mayor may, after a public hearing, establish the fees required for licensure and establish other fees and charges for services rendered by the Commission or the District government in connection with this act, in the amounts as may, in the judgment of the Mayor be reasonably necessary to defray the approximate cost of administering

New
D.C.Code,
sec. 45-1925
(1981 ed.)

this act or rendering the required services. Any proposed action with respect to the establishment or modification of the fees or charges shall be submitted to the Commission for review and comments at least 30 days prior to the action taking effect. The Mayor may delegate his or her authority under this section to the Commission.

Sec. 7. Licensure of Real Estate Brokers, Business Chance Brokers, Salespersons, and Property Managers

(a) Except as otherwise provided in this act, it shall be unlawful for any person, directly or indirectly, to engage in conduct, or advertise or hold himself or herself out as engaging in or conducting the business of a real estate broker or business chance broker, real estate salesperson, business chance salesperson, or property manager, within the District, unless, during the course of the activity described above, that person held a valid real estate broker, business chance broker, appropriate salesperson's, or property manager's license, whichever is applicable, issued by the Mayor.

New
D.C.Code,
sec. 45-1926
(1981 ed.)

(b) One act for a fee, commission, or other valuable consideration of listing for sale, buying, selling, exchanging real estate or a business of or for another, or offering for another to list for sale, buy, sell, exchange, real estate or a business, or leasing, renting, or offering to lease or rent, real estate or a business, or leasing, renting, or offering to lease or rent, real estate or a business, or negotiating or offering to negotiate a loan secured by a mortgage, deed of trust, or other encumbrance

upon or transfer of real estate or a business, or other activity specified in section 3(12), except as specifically excepted in section 3(12), shall constitute a person performing, offering, or attempting to perform or offer any of the acts enumerated herein, a real estate broker or business chance broker, unless such act shall be performed, offered, or attempted to be performed or offered, by a person for or on behalf of a real estate or business chance broker, in which event such act shall constitute such person a real estate salesperson or business chance salesperson.

Enrolled Original

(c) No person engaged in or conducting the business, or acting in the capacity of a real estate broker, business chance broker, real estate salesperson, business chance salesperson, or property manager within the District shall bring or maintain any action in the courts of the District for the collection of compensation for any services performed in that capacity, or for the enforcement of any contract relating to real estate or business without alleging that he or she was duly licensed under this act to perform the duties which are the subject of the action at the time the alleged cause of action arose.

Sec. 8. Qualifications for Licensure

(a) The Mayor shall, upon receipt of a properly completed application and the requisite fees, issue a license to serve as a real estate broker, business chance broker, or real estate or business chance salesperson in the District to any person who:

- (1) is 18 years of age or older;

New
D.C.Code,
sec. 45-1927
(1981 ed.)

- (2) is able to read, write, and understand the English language;
- (3) is a high school graduate or the holder of a high school equivalency certificate;
- (4) has furnished the Mayor with a certificate that he or she has successfully completed a course of study prescribed by the Mayor at a school approved by the Mayor;
- (5) has passed an examination or examinations given by or under direction of the Mayor or approved by the Mayor;
- (6) has not had an application for a real estate or business chance license denied, for reasons other than failure to pass the required examination or examinations, in the District or elsewhere within 1 year prior to the date on which the application is filed;
- (7) has not had a real estate or business chance license suspended in the District or elsewhere, which suspension is still in effect on the date on which the application is filed; and
- (8) has not had a real estate or business chance license revoked in the District or elsewhere within 3 years prior to the date on which his or her application is filed.

(b) In addition to the requirements specified in subsection (a), no real estate broker's license shall be issued to any person who has not been licensed and actively engaged in business as a real estate broker or salesperson in the District or elsewhere the 2 years immediately preceding the date on which the application for a real

estate broker license is filed, unless the person furnishes proof of equivalent experience acceptable to the Mayor.

(c) No business chance broker's license will be issued to any person who has not met the requirements specified in subsection (a) and who has not worked as a business chance salesperson the 2 years immediately preceding the date on which the application for business chance broker's license is filed, unless the person furnishes proof of equivalent experience acceptable to the Mayor.

(d) After January 1, 1983, the Mayor may require each licensee, as a condition for renewal of his or her license, to furnish the Commission with a certificate that he or she has successfully completed such continuing education courses as the Commission may, with the prior approval of the Mayor, prescribe at a school approved by the Mayor.

(e) In the event that an applicant for licensure presents satisfactory evidence that he or she has acquired, from experience or other sources, the educational requirements prescribed pursuant to subsection (a)(4), the Mayor may waive the educational requirements, in whole or in part.

(f) The Mayor may provide by rule for the classification of Associate Broker.

Sec. 9. Status of Person Previously Licensed

(a) Notwithstanding the provisions of section 8, any person who, on the effective date of this act, holds a valid broker's license issued by the District shall be deemed to be licensed and shall be entitled to retain that status so

New
D.C.Code,
sec. 45-1928
(1981 ed.)

long as he or she complies with the provisions of this act, including the requirements for license renewal.

(b) Notwithstanding the provisions of section 8, any person who, on the effective date of this act, holds a valid real estate salesperson's or business chance salesperson's license issued by the District shall be deemed to be a real estate salesperson or a business chance salesperson licensed under this act and shall be entitled to retain such status so long as he or she complies with the provisions of this act, including the requirements for license renewal.

Sec. 10. Licensure Required for Property Managers

Except as provided in this act, it shall be unlawful for any person, directly or indirectly, to engage in, conduct, advertise, or hold himself or herself out as engaging in or conducting the business of property management within the District, unless that person holds a valid license issued by the Mayor.

New
D.C.Code,
sec. 45-1929
(1981 ed.)

Sec. 11. Qualifications for Licensure of Property Managers

(a) The Mayor shall, upon receipt of a properly completed application and the requisite fees, issue a property manager's license to any person who:

(1) is 18 years of age or older;

(2) is able to read, write, and understand the English language;

(3) has passed an examination or examinations given by or under the direction of the Mayor;

(4) is a high school graduate or the holder of a

New
D.C.Code,
sec. 45-1930
(1981 ed.)

high school equivalency certificate;

(5) has not had an application for a property manager's license denied, for reasons other than failure to pass the required examination or examinations, in the District or elsewhere within 1 year prior to the date on which the application is filed;

(6) has not had a property manager's license suspended in the District or elsewhere which suspension is still in effect on the date on which the application is filed; and

(7) has not had a property manager's license revoked in the District or elsewhere within 3 years prior to the date on which his or her application is filed.

(b) After January 1, 1983, the Mayor may require each property manager, as a condition for renewal of his or her license, to furnish the Mayor with a certificate that he or she has successfully completed such continuing education courses as the Mayor may prescribe at a school approved by the Mayor.

(c) Within 1 year from the effective date of this act, the Mayor shall waive the examination and education requirements and grant a license to any competent applicant who is living or working in the District, who has been actively engaged in the practice of property management for a period of 4 years immediately preceding application, and who presents proof of that practice to the Mayor in a manner prescribed by the Mayor.

(d) The Mayor shall develop rules requiring

accreditation or certification, or both, of resident managers of 50 housing units or more within 90 days of the effective date of this act.

(e) Persons licensed as real estate brokers in the District are deemed to have satisfied the educational and examination requirements for licensure as property managers, but shall be required to satisfy all other requirements as set forth in this act.

Sec. 12. Exemptions

Except as otherwise provided in this act, nothing contained in this act shall be construed to apply to:

New
D.C.Code,
sec. 45-1931
(1981 ed.)

(a)(1) Receivers, referees, administrators, executors, guardians, conservators, trustees, or other persons appointed or acting under the judgment or order of any court while acting in that capacity, or attorneys-at-law in the ordinary practice of their profession;

(2) Those persons enumerated in paragraph (1) shall not be regularly engaged in the real estate business and shall not hold themselves out as real estate brokers, business chance brokers, salespersons or property managers;

(b) Any person who, as an owner or lessor of real estate, shall perform any of the acts specified in section 3(10), (12) or (13), where the acts are performed in the regular course of, or as an incident to, the management of real estate, business and the investments therein owned by that person;

(c) Any trustee or auctioneer acting under authority of a power of sale in a mortgage, deed of trust, or similar

instrument securing the payment of a bona fide debt;

(d) Any bank, trust company, building and loan or savings and loan association, or insurance company, having a fiduciary interest such as a receiver, referee, administrator, executor, guardian, conservator or trustee, when the bank, trust company, building and loan or savings and loan association, or insurance company is so engaged;

(e) Any person who is employed by a licensed real estate broker, business chance broker, or property manager in a solely stenographic or clerical capacity and who does not perform, offer, agree, or attempt to perform, any of the activities specified in section 3(12) or (13);

(f) Any officer or employee of the United States or District government while performing his or her official duties, or any person, or employee thereof, who is employed on a contractual or other basis, by the United States or District governments to make appraisals of real estate for real property tax or other government purposes; or

(g) Any person who, for a fee, commission, or other valuable consideration, identifies for another person, or provides any other information about, any rental unit available for rent.

Sec. 13. Transfer of License; Brokerage Firms

(a)(1) A license issued to an individual shall not be transferred to another individual.

(2) An individual licensed as a broker may, upon written request to the Commission, change his or her status from that of an individual real estate or business chance

New
D.C.Code,
sec. 45-1932
(1981 ed.)

broker, to that of a member, partner, trustee, or officer of a firm, partnership, association, business trust, or corporation, or to that of a real estate or business chance broker affiliated with a corporation, for any unexpired portion of his or her licensure term, upon the payment of the requisite fees required pursuant to this act.

(3) Any broker who wishes to change his or her status to that of a broker affiliated with a corporation shall notify the Commission of the affiliation by certified mail.

(b) No real estate broker or business chance broker license shall be issued to any firm, partnership, association, business trust, or corporation unless every individual member, partner, trustee, or officer of such firm, partnership, association, business trust, or corporation, is licensed as a real estate broker or business chance broker.

Sec. 14. Place of Business

(a) Every real estate broker, business chance broker, or property manager licensed under this act shall maintain a place of business within the District. If a real estate broker, business chance broker or property manager maintains more than 1 place of business within the District, a duplicate license shall be issued to the broker or property manager for each branch office maintained upon payment of the required fee pursuant to this act.

New
D.C.Code,
sec. 45-1933
(1981 ed.)

(b) Whenever a real estate broker, business chance broker, or property manager changes the location of his or

her principal place of business, he or she shall, before the change occurs, notify the Mayor in writing, and return to the Mayor his or her license together with the licenses of all salespersons employed by or affiliated with the broker or manager; and the Mayor shall issue a new license to the broker or property manager and to each of the broker's salespersons upon payment of the required fee pursuant to this act.

(c) Failure to notify the Mayor or return the license as required by this section will result in immediate cancellation of the license until compliance with the provisions of this section.

(d) New licenses for the unexpired term may be issued by the Mayor upon written request by the applicant and the payment of the fees required pursuant to this act.

Sec. 15. Prohibited Names

The Mayor may refuse to issue a license in a name that:

New
D.C. Code,
sec. 45-1934
(1981 ed.)

(a) Is misleading or would constitute false advertising;

(b) Implies a partnership, association, or corporation when a partnership, association, or corporation does not exist;

(c) Includes the name of a salesperson;

(d) Is in violation of law;

(e) Is a name which has been used by any person whose license has been suspended;

(f) Includes the name of a person not otherwise

licensed; or

(g) Is a name which is deceptively similar to a name used by any other licensee.

Sec. 16. Injunctions

Whenever, in the judgment of the Mayor, any person has engaged in, is engaging in, or is about to engage in any act or practice which constitutes a violation of any provision of this act or the rules issued pursuant to this act, the Mayor may request the Corporation Counsel of the District to make application to the Superior Court of the District of Columbia for an order restraining or enjoining the act or practice, and, upon a showing by the Mayor that the person has engaged in, is engaging in, or is about to engage in any unlawful act or practice, a restraining order, injunction, or other order as may be appropriate shall be granted by the Court, without bond.

New
D.C.Code,
sec. 45-1935
(1981 ed.)

Sec. 17. Suspension or Revocation of Broker and Salesperson License

(a)(1) The Mayor may, upon his or her own, and shall, upon receipt of a verified written complaint, cause to be investigated the conduct of any real estate broker or business chance broker, real estate salesperson or business chance salesperson.

(2) The complaint referred to in paragraph (1), or that complaint together with evidence, documentary, or otherwise, presented in connection therewith, shall make out a *prima facie* case.

(b) Subject to section 19 of the District of Columbia

New
D.C.Code,
sec. 45-1936
(1981 ed.)

Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code, sec. 1-1501 *et seq.*), the Mayor shall have the power to suspend, revoke, or refuse to renew, transfer, or restore any license issued under the provisions of this act, or, in lieu of or in addition to any suspension or revocation, impose a penalty of not more than \$1000 per violation whenever the licensee has, by false or fraudulent representation, obtained a license under this act, or where the licensee, in performing or attempting to perform any of the acts specified in this act, has:

- (1) Made any substantial misrepresentation;
- (2) Made any false promise of a character likely to influence, persuade, or induce;
- (3) Pursued a continued and flagrant course of misrepresentation, or made false promises through agents or salespersons, or advertisement or otherwise;
- (4) Acted for more than 1 party in a transaction without the knowledge of all parties for whom he or she acted;
- (5) Accepted a fee, commission, or other valuable consideration as a real estate salesperson for the performance of any of the acts specified in this act from any person, except the broker under whose name he or she is or was licensed at the time the fee, commission, or other valuable consideration was earned;
- (6) Represented or attempted to represent any real estate broker or business chance broker, other than the broker under whose name he or she is licensed, as a real

estate salesperson or business chance salesperson without the express knowledge and written consent of the broker under whose name he or she is licensed;

(7) Placed an advertisement in any publication, or used a sign or business card which was misleading or which constituted false advertising;

(8) Failed, within a reasonable time, to account for or to remit any money, valuable document, or other property coming into his or her possession which belongs to others;

(9) Demonstrated unworthiness or incompetency to act as a real estate broker, business chance broker, and real estate salesperson or business chance salesperson so as to endanger the public interest;

(10) While acting or attempting to act as agent or broker, purchased or attempted to purchase any business or real estate for himself or herself, either in his or her own name or by use of a straw party, without disclosing that fact to the party he or she represents;

(11) Been guilty of any other conduct, whether of the same or of a different character from that herein specified, which constituted fraudulent or dishonest dealing;

(12) Used any trade name or insignia of membership in any real estate organization of which the licensee is not a member;

(13) Disregarded or violated any provision of this act, the rules issued pursuant to this act, or the code of

ethics adopted pursuant to this act;

(14) Guaranteed, authorized, or permitted any broker or salesperson to guarantee future profits which may result from the resale of real estate or a business or business opportunity, or the goodwill of any existing business;

(15) Offered any property or business for sale or rent or placed a sign on any real estate offering it for sale or for rent without the written consent of the owner or his or her authorized agent;

(16) Made or accepted a listing contract to sell real estate or a business unless the contract is in writing and provides for a definite termination date which is not subject to prior notice from either party;

(17) Failed to furnish a copy of any listing, sale, lease, or other contract relevant to a real estate or business transaction to all signatories thereof at the time of execution;

(18) Accepted compensation from more than 1 party to a transaction without the knowledge and consent of all other parties to the transaction;

(19) Failed to keep an escrow or trustee accounting of funds deposited with him or her relating to real estate and business transactions, and to maintain records for a period of 3 years, showing to whom the money belongs, the date of deposit, the date of withdrawal, to whom paid, and other pertinent information as the Commission may require by regulation; the records to be made available

to the Commission on demand or upon written notice given to the depository;

(20) Commingled escrow or trustee funds held by the licensee with his or her personal funds, other than a nominal amount necessary to keep active the escrow or trustee account;

(21) Induced any party to a written agreement in a real estate or business sales transaction to break the agreement for the purpose of substituting a new agreement where the substitution is motivated by the personal gain of the concerned licensee;

(22) Failed to advise the Commission in writing within 15 days of the entry of any judgment against the licensee in a civil or criminal proceeding by a court of competent jurisdiction;

(23) Failed, as a broker, to return immediately to the Commission the license of a salesperson affiliated with or employed by the broker, wherein the salesperson has been discharged or has terminated his or her employment or affiliation with the broker;

(24) Failed, as a salesperson, to place in the custody of the employing broker, as soon after receipt as is practicable, all money, valuable documents, or other property entrusted to him or her by any person dealing with him or her as the representative of the broker;

(25) Accepted, offered, agreed, or attempted to accept, employment for a fee, commission, or other valuable consideration for appraising real estate or a business,

contingent upon the reporting of a predetermined value;

Enclosed Original

(26) Issued an appraisal report on real estate or a business in which the licensee has an undisclosed interest;

(27) Violated, as determined by the Mayor or a court of competent jurisdiction, any provision of the Residential Real Property Transfer Excise Tax Act of 1978, effective July 13, 1978 (D.C. Law 2-91; D.C. Code, sec. 47-1401) or the rules issued pursuant to that act;

(28) Violated, as determined by the District of Columbia Commission on Human Rights, as established by Commissioner's Order No. 71-224, effective July 8, 1971, the Mayor, or a court of competent jurisdiction, any provision of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Code, section 1-2501 et seq.) or the rules issued pursuant to that act, or failed to comply with an order of the District of Columbia Commission on Human Rights, as established by Commissions' Order No. 71-224, effective July 8, 1971, pursuant to that act;

(29) Violated, as determined by the Office of Consumer Protection, as established by section 3(a) of the District of Columbia Consumer Protection Procedures Act, effective July 22, 1976 (D.C. Law 1-76; D.C. Code, sec. 28-3902(a)), the Mayor, or a court of competent jurisdiction, any provision of the District of Columbia Consumer Protection Procedures Act, effective July 22, 1976, (D.C. Law 1-76; D.C. Code, sec. 28-3902(a)) or the rules issued pursuant to that act, or failed to comply with an

order of the Office of Consumer Protection, as established by section 3(a) of the District of Columbia Protection Procedures Act, effective July 22, 1976 (D.C. Law 1-76; D.C. Code, sec. 28-3902(a)) or its administrative law judge pursuant to that act; or

(30) Made any oral or written representations, after or prior to conveyance, to a prospective buyer of a business or residential real estate that repairs, renovations, improvements, installations, or additions will be made to the business or real estate after the conveyance, or continued to act on behalf of a seller who made those representations, unless all the representations are furnished in writing to the buyer at least 5 days prior to the conveyance.

(c)(1) When the Mayor, in his or her discretion, determines that the public interest would be best served by the continued licensure of any person, the Mayor may, with the consent of the licensee, impose a penalty as provided for in subsection (a) in lieu of suspension.

(2) The licensee shall execute a written waiver of appeal and judicial review and pay the penalty imposed by the Mayor within the time directed by the Mayor. Failure to pay the penalty within the time directed by the Mayor shall result in automatic suspension of the person's license. All penalties collected pursuant to this section shall be deposited with the D.C. Treasurer and shall be credited to the General Fund.

(d) The execution of a penalty of suspension may be

stayed by the Mayor, and the licensee placed on probation for the suspension period, after satisfactory completion of which his or her license shall be fully reinstated. Any violation of this act or the rules issued pursuant to this act by the licensee during the period of probation shall result in immediate suspension.

(e) The Mayor shall establish procedures governing the reinstatement of revoked or suspended licenses within 6 months from the effective date of this act.

Sec. 18. Escrow Funds

(a) In any real estate or business transaction in which any person is entrusted, receives, and accepts, or otherwise holds or deposits monies or other trust instruments, of whatever kind or nature, pending consummation or termination of the transaction involved, whether or not the person is required to be licensed under this act, the monies, in the absence of written instructions to the contrary signed by all parties to the transaction, shall be:

New
D.C.Code,
sec. 45-1937
(1981 ed.)

(1) Deposited expeditiously in an account in a financial institution located within the District whose deposits are insured either by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or their successors;

(2) Maintained by the escrow holder or trustee as a separate account for monies belonging to others; and

(3)(A) Retained in an account until the transaction involved is consummated or terminated, or until proper written instructions have been received by the escrow

holder or trustee directing the withdrawal and disposition of the monies, at which time, all the monies shall be promptly and fully accounted for by the escrow holder or trustee. In no event shall any escrow holder or trustee commingle any of the monies with his or her own funds or use any of the monies for any purpose other than the purpose for which the monies were entrusted to him or her.

(B) The escrow holder or trustee may keep a nominal amount of his or her personal funds in an escrow or trustee account for the purpose of keeping active the escrow or trustee account.

(b)(1) Each escrow holder or trustee shall notify the Commission within 14 calendar days of the name and post office address of the financial institution in which an escrow or trust account has been established and also the name and number of the account.

(2) All escrow holders or trustees shall notify the Commission of all escrow in trust accounts existing on the effective date of this act and within 30 calendar days after the effective date.

(c) Each escrow holder or trustee shall give written authorization to the Commission to examine escrow or trust accounts maintained by him or her and shall permit the Commission to examine all books, records, and contracts relating to the escrow accounts. The examinations shall be made at any time the Commission may direct.

(d) An escrow holder or trustee shall not be entitled to any part of the earnest money or other money paid to, or

held by, the escrow holder or trustee in connection with any real estate or business transaction as a part or all of his or her commission or fee or for any other purpose until the transaction has been consummated or terminated.

(e) If an escrow or trust is held for 45 days or more, it shall earn interest from the date received by the escrow holder or trustee to the date the transaction is consummated or terminated, at the highest of the following interest rates:

(1) The legal maximum rate under federal law for interest on ordinary savings deposits in commercial banks;

(2) The rate on the account in which the escrow is deposited; or

(3) The rate on the certificate of deposit or other security given as the escrow or trust.

(f) A service fee of not more than \$15 may be subtracted from the interest by the financial institution into which the escrow or trust funds are deposited.

Sec. 19. Proceedings

(a) Before refusing to issue a license on any grounds, other than the applicant's failure to pass a required examination or for a criminal conviction as provided for in section 22, the Mayor shall notify the applicant in writing of the Mayor's intended action and of the grounds therefor. Before suspending, revoking, or refusing to renew, transfer, or restore a license on any grounds, other than for a criminal conviction as provided for in section 22, or before imposing a penalty pursuant to section 31, the Mayor shall

New
D.C.Code,
sec. 45-1938
(1981 ed.)

notify the applicant or licensee in writing of its intended action and of the grounds therefor. The notice shall be served on the applicant or licensee by personal service or by mailing the notice to the address of record of the applicant or licensee.

(b) The notice to the applicant or licensee provided for in subsection (a) shall be in the form of an order for a public hearing setting forth the time and place of the hearing, which time shall be no less than 30 days or more than 60 days from the date of personal service or service by certified mail. The applicant or licensee shall have an opportunity to be heard in person or by counsel. The broker sponsoring an applicant for a salesperson license or a broker with whom a salesperson is affiliated or by whom the salesperson is employed, shall also be notified of the hearing by written notice sent by certified mail to the broker's address of record.

(c) The Mayor shall have the power to issue subpoenas for the taking of testimony by deposition or for attendance at public hearings in the same manner as prescribed by law in civil cases in the Superior Court of the District of Columbia. The Mayor shall have the power to require the production of books, records, papers, and documents by subpoena or otherwise. Any party to any hearing before the Mayor shall have the right to the attendance of witnesses in his or her behalf at the hearing upon written request therefor to the Mayor, designating the name and address of the person or persons to be subpoenaed.

(d) If the Mayor shall determine that an applicant is not qualified to be licensed, no license shall be issued, and if the Mayor shall determine that a licensee is guilty of a violation of any of the provisions of this act or is otherwise subject to suspension or revocation of his or her license, the license shall be suspended or revoked. All evidence before the Mayor, all findings of fact made by the Mayor, and questions of law involved in any final decision or determination of the Mayor shall be subject to review by the District of Columbia Court of Appeals in accordance with title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code, sec. 1-1501 et seq.). Any party to the proceeding, upon written request, shall be furnished with a copy of the transcript of the proceedings upon the payment to the Mayor of a reasonable fee as the Mayor shall prescribe.

Sec. 20. Suspension of Salesperson Licenses

(a) The revocation or suspension of a real estate broker's license or business chance broker's license shall automatically be suspended without a public hearing, when a real estate or business chance salesperson's license issued to any person who is employed by or affiliated with the broker whose license has been revoked or suspended, pending a change of employer or affiliation and the issuance of a new salesperson's license, or the reinstatement of the broker's license which was revoked or suspended. The new salesperson's license shall be issued without charge if issued prior to the expiration of the original salesperson's

New
D.C.Code,
sec. 45-1939
(1981 ed.)

license.

(b) When a salesperson is discharged by or terminates his or her employment or affiliation with the real estate broker or business chance broker by whom he or she is employed or with whom he or she is affiliated, the broker shall deliver or mail, by certified mail, within 5 calendar days to the discharged or terminated real estate or business chance salesperson notification that his or her license has been delivered or mailed to the Mayor. The notice shall be sent to the address of record of the salesperson. A copy of the notice to the salesperson shall accompany the license when it is delivered or mailed to the Mayor. It shall be unlawful for any real estate salesperson or business chance salesperson to perform any of the acts specified in this act, either directly or indirectly, under authority of the license from and after the discharge or termination until the time he or she has been employed by or affiliated with another licensed broker and a license has been reissued to him or her by the Mayor.

(c) When a salesperson is discharged by or terminates his or her employment or affiliation with the broker by whom he is employed or with whom he or she is affiliated, it shall be the duty of the salesperson to notify the Mayor immediately, by certified mail, of the discharge or termination. It shall be unlawful for the salesperson to perform any of the acts specified in this act, either directly or indirectly, from the date of discharge or termination until the time he or she has been employed by or

affiliated with another licensed broker and a license has been reissued to him or her by the Mayor.

Sec. 21. Contractual Agreements

(a) No person shall enter into or become a party to any contract, agreement, or understanding, or in any manner whatsoever consider, combine, conspire, or act with another or others:

(1) To execute a deed or other instrument conveying real estate or a business of any interest therein situated in the District that is not a bona fide sale or transfer, but which is instead a simulated sale or transfer of the real estate, business, or interest therein executed for the purpose and with the intent of defrauding others or misleading others as to the value of the business, real estate or interest therein, and which does so mislead or defraud others, to their detriment; or

(2) To execute a mortgage, deed of trust, or chattel mortgage upon any real estate, business, or interest therein situated in the District that does not represent security for a bona fide indebtedness, but which is a simulated transaction, executed for the purpose and with the intent of misleading or deceiving others as to the value of a business, real estate, or interest therein and which does mislead, deceive, or defraud others to their detriment.

(b) No person shall offer, give, award, promise, use any method, scheme or plan, offering, giving, awarding or promising, free lots in connection with the sale or the offering for sale, or attempt to sell or negotiate the sale

New
D.C.Code,
sec. 45-1940
(1981 ed.)

of any real estate, business, or interest therein, wherever situated, for the purpose of attracting, inducing, persuading, or influencing a purchaser or prospective purchaser; or offer, promise, or give prizes of any name or nature for attendance at or participation in any sale of any real estate, business, or interest therein, by auction or otherwise including an owner of the real estate, business, or interest therein.

(c) No person shall knowingly pay a fee, commission, or compensation to anyone for the performance of any service or act within the District defined in this act as the act of a real estate broker, business chance broker, real estate salesperson, or business chance salesperson, to any person who was not duly licensed as such at the time the service or act was performed. This subsection shall not apply to the payment of a referral fee by a broker licensed under this act to a nonresident cooperating broker who is properly licensed in his or her own jurisdiction.

(d) No person knowingly shall prepare, distribute, or circulate, or cause the preparation, distribution, or circulation of, any false or misleading advertising in connection with the sale, exchange, purchase, lease, or rental of real estate or business.

(e) No person shall assume or use the title or designation "real estate broker", "business chance broker", "real estate salesperson", or "business chance salesperson"; the abbreviation "R.E.B.", "B.C.B.", "R.E.S.", or "B.C.S."; or any other title designation, words, letters,

abbreviations, sign, card, or device tending to indicate that the person is licensed as a real estate broker, business chance broker, or real estate salesperson or business chance salesperson, unless the person is licensed as provided for in this act.

Sec. 22. License Suspended or Revoked on Conviction of Crime

Where during the term of any license issued by the Mayor, the licensee shall be convicted in a court of competent jurisdiction in the District or any state or territory of the United States, or federal court, of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, criminal conspiracy to defraud, or similar offense or offenses, or forfeits collateral or pleads guilty or nolo contendere to any offense, and a duly certified or exemplified copy of the record in the proceedings is filed with the Mayor, the Mayor shall suspend forthwith the license issued to the licensee so convicted and convene a revocation hearing within 30 days.

New
D.C.Code,
sec. 45-1941
(1981 ed.)

Sec. 23. Disqualification for Criminal Offense

No license shall be issued by the Mayor to any person who, within 5 years prior to the person's application for a license, has been convicted of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, criminal conspiracy to defraud, or similar offense or offenses, or who has forfeited collateral, or pleaded guilty or nolo contendere to any offense or

New
D.C.Code,
sec. 45-1942
(1981 ed.)

offenses, or to any partnership of which the person is a member, or to any association or corporation of which the person is an officer, director, or employee or in which, as a stockholder, the person has or exercises a controlling interest, either directly or indirectly.

Sec. 24. Partnership, Associations, and Corporations

In the event of the revocation or suspension of the license issued to any member of a partnership or director or officer of an association or corporation, the license issued to the partnership, association, or corporation shall be revoked or suspended by the Mayor; unless, where a partnership, the connection therewith of the member whose license has been revoked or suspended shall be severed within the time prescribed by the Mayor, and his or her share in the partnership's activities shall be terminated, or wherein an association or corporation, the director or officer whose license has been revoked or suspended shall be discharged and shall have no further participation in the association's or corporation's activities.

New
D.C.Code,
sec. 45-1943
(1981 ed.)

Sec. 25. Suspension or Revocation of Property Manager License

(a) Upon the Mayor's verified complaint, or upon a verified complaint in writing by any person (provided the complaint, or the complaint together with evidence, documentary or otherwise, presented in connection therewith, makes out a prima facie case), the Mayor shall investigate the conduct of any property manager. Subject to the

New
D.C.Code,
sec. 45-1944
(1981 ed.)

provisions of section 19 and the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code, sec. 1-1501 et seq.), the Mayor shall have the power to suspend, revoke, or refuse to renew, transfer, or restore any license issued under the provisions of this act, or in lieu of or in addition to any suspension or revocation, impose a penalty of not more than \$1,000 per violation, whenever the licensee has, by false or fraudulent representation, obtained a license under this act, or where the licensee, in performing or attempting to perform any of the acts specified in the act, has:

- (1) Made any substantial misrepresentation;
- (2) Made any false promise of a character likely to influence, persuade, or induce;
- (3) Pursued a continued and flagrant course of misrepresentation, or made false promises through agents, advertising or otherwise;
- (4) Disclosed to a 3rd party confidential information which would be injurious concerning the business or personal affairs of a client without prior written consent of the client, except as may be required or compelled by applicable law or rules;
- (5) Failed to maintain accurate accounting records concerning the property managed for the client and failed to keep the records available for inspection by each client;
- (6) Acted for more than 1 party in a transaction without the knowledge and consent of all parties for whom the property manager acts;

Code, sec. 1-1501 et seq.), the Mayor shall have the power to suspend, revoke, or refuse to renew, transfer, or restore any license issued under the provisions of this act, or in lieu of or in addition to any suspension or revocation, impose a penalty of not more than \$1,000 per violation, whenever the licensee has, by false or fraudulent representation, obtained a license under this act, or where the licensee, in performing or attempting to perform any of the acts specified in the act, has:

- (1) Made any substantial misrepresentation;
- (2) Made any false promise of a character likely to influence, persuade, or induce;
- (3) Pursued a continued and flagrant course of misrepresentation, or made false promises through agents, advertising or otherwise;
- (4) Disclosed to a 3rd party confidential information which would be injurious concerning the business or personal affairs of a client without prior written consent of the client, except as may be required or compelled by applicable law or rules;
- (5) Failed to maintain accurate accounting records concerning the property managed for the client and failed to keep the records available for inspection by each client;
- (6) Acted for more than 1 party in a transaction without the knowledge and consent of all parties for whom the property manager acts;
- (7) Placed an advertisement in any publication, or used a sign or business card, which was misleading or which constituted false advertising;
- (8) Failed, within a reasonable time, to account for or to remit any money, valuable documents, or other property coming into possession of the property manager which belongs to others;
- (9) Demonstrated such unworthiness or incompetency to act as a property manager as to endanger the public interest;
- (10) Been guilty of any conduct which constitutes fraudulent or dishonest dealings;
- (11) Used any trade name or insignia of membership in any property or real estate organization of which the property manager is not a member;
- (12) Disregarded or violated any provision of this act, the rules issued pursuant to this act, or the code of ethics adopted by the Mayor pursuant to this act;
- (13) Offered any property for rent or otherwise without the written consent of the owner or his or her authorized agent;
- (14) Made or accepted a contract to manage property of another, unless the contract is in writing;
- (15) Failed to furnish a copy of any lease or other contract relevant to a property management transaction to all signatories thereof at the time of execution;
- (16) Accepted compensation from more than 1 party to a transaction without the knowledge and consent of all parties to the transaction;
- (17) Failed to keep an escrow or trustee accounting of funds deposited with the property manager relating to property management transactions, and to maintain records for a period of 3 years, showing to whom the money belongs, the date of deposit, the date of withdrawal, to whom paid, and the other pertinent information as the Mayor may require by rule, the records to be available to the Mayor on demand or upon written notice given to the depository;
- (18) Commingled escrow or trustee funds held by the licensee with his or her personal funds, other than a nominal amount necessary to keep active the escrow or trustee account;
- (19) Failed to advise the Mayor in writing within 15 days of the entry if any judgment against the licensee in a civil or criminal proceeding by a court of competent jurisdiction;
- (20) Violated, as determined by the Mayor or a court of competent jurisdiction, any provision of the District of Columbia Consumer Protection Procedures Act, effective July 22, 1976 (D.C. Law 1-76; D.C. Code, sec. 28-3902 et seq.), the Rental Housing Act of 1980, effective March 4, 1981 (D.C. Law 3-131; D.C. Code, sec. 45-1401 et seq.) and the Human Rights Act of 1977, or any rules issued pursuant to those acts;
- (21) Refused or prevented, directly or indirectly, a prospective licensee inspection of residential real estate upon reasonable request and scheduling for inspections, for the purpose of reviewing, examining, or having 3rd parties examine the real estate and the condition of its fixtures; or

parties to the transaction;

(17) Failed to keep an escrow or trustee accounting of funds deposited with the property manager relating to property management transactions, and to maintain records for a period of 3 years, showing to whom the money belongs, the date of deposit, the date of withdrawal, to whom paid, and the other pertinent information as the Mayor may require by rule, the records to be available to the Mayor on demand or upon written notice given to the depository;

(18) Commingled escrow or trustee funds held by the licensee with his or her personal funds, other than a nominal amount necessary to keep active the escrow or trustee account;

(19) Failed to advise the Mayor in writing within 15 days of the entry of any judgment against the licensee in a civil or criminal proceeding by a court of competent jurisdiction;

(20) Violated, as determined by the Mayor or a court of competent jurisdiction, any provision of the District of Columbia Consumer Protection Procedures Act, effective July 22, 1976 (D.C. Law 1-76; D.C. Code, sec. 28-3902 et seq.), the Rental Housing Act of 1980, effective March 4, 1981 (D.C. Law 3-131; D.C. Code, sec. 45-1401 et seq.) and the Human Rights Act of 1977, or any rules issued pursuant to those acts;

(21) Refused or prevented, directly or indirectly, a prospective lessee inspection of residential real estate

upon reasonable request and scheduling for inspections, for the purpose of reviewing, examining, or having 3rd parties examine the real estate and the condition of its fixtures; or

Enrolled Original

(22) Made any oral or written representations, at or prior to conveyance to a prospective lessee of residential real estate that repairs, renovations, improvements, installation, or additions will be made to the property after the conveyance unless all the representations are furnished in writing to the lessee at or prior to the conveyance of the premises.

(b) Within 1 year after the effective date of this act, the Mayor shall formulate and adopt, after a public hearing, a code of ethics which shall be regarded as the standard of conduct required by the Mayor of all persons licensed under this act and shall be designed to protect the public interest.

Sec. 26. Real Estate Listing Contract

A written listing contract is required in the District for the sale of all real property.

New
D.C.Code,
sec. 45-1945
(1981 ed.)

Sec. 27. Criminal Penalties

(a) Any person who violates any provision of this act or the rules issued pursuant to this act shall upon conviction thereof be punished, if an individual, by a fine of not more than \$1,000 or by imprisonment for not more than 1 year, or both; or, if a corporation, by a fine of not more than \$5,000. Any officer, director, employee, or agent of a corporation, or member, employee, or agent of a firm,

New
D.C.Code,
sec. 45-1946
(1981 ed.)

partnership, or association, who personally participates in or is an accessory to any violation of this act or the rules issued pursuant to this act, by a firm, partnership, association, or corporation, shall be subject to the penalties provided for in this subsection for individuals, except that corporations shall be subject only to the monetary penalties. The penalties provided for in this subsection shall be in addition to and not in lieu of, any penalties provided for in any other law or regulation. Nothing contained in this act shall be construed as releasing any person from civil liability or criminal prosecution under the laws applicable to the District.

(b) All prosecutions for violation of this act or the rules issued pursuant to this act shall be brought in the Superior Court of the District of Columbia by the Corporation Counsel of the District or his or her assistant in the name of the District of Columbia.

Sec. 28. Corporation Counsel

The Corporation Counsel of the District or his or her assistant shall serve as counsel to the Mayor in all suits to which the Mayor may be a party and shall, at the Mayor's request, attend and represent the Mayor at all public hearings which the Mayor may hold in the performance of his or her duties under this act.

New
D.C.Code,
sec. 45-1947
(1981 ed.)

Sec. 29. Establishment of Real Estate Guaranty and Education Fund

(a) There is established a Real Estate Guaranty and Education Fund ("Fund").

New
D.C.Code,
sec. 45-1948
(1981 ed.)

(b) Except as provided in section 30(k), on or after the effective date of this act, every real estate broker, business chance broker, salesperson, and property manager licensed under this act shall, as a condition for renewing his or her license, pay in addition to any other fees required under this act, the sum to be established by the Mayor for deposit into the Fund. On or after the effective date of this act, any person, before receiving an original business chance broker, real estate broker, salesperson or property manager license, shall pay, in addition to any other fees required under this act, a sum to be established by the Mayor for deposit into the Fund.

Sec. 30. Applications

(a) Any person who (1) obtains a final judgment, including a settlement reduced to a final judgment, in any court of competent jurisdiction in the District against any other person on the grounds of fraud, misrepresentation, deceit, embezzlement, false pretenses, forgery, failure to account for or conversion of trust funds, or violation of the provisions of this act, arising directly out of any transaction which occurred when the other person was licensed under this act, during the course of which the licensee performed acts for which a license is required under this act, and which transaction occurred on or after the effective date of this act, and (2) meets the requirements of subsection (b), may, upon termination of all proceedings, including reviews and appeals in connection with the judgment, file a written application, under oath,

Now
D.C.Code,
sec. 45-1949
(1981 ed.)

with the Mayor for an order directing payment from the Fund of the amount of actual and direct loss in the transaction (excluding the amount of any interest, attorney's fees, court costs, or punitive or exemplary damages) which remains unpaid upon the judgment. The application shall be filed no later than 12 months after the date on which the judgment became final.

(b) A person filing an application meets the requirements of this subsection if:

(1) The person is not a licensee or the personal representative of a licensee and is not the spouse or child of the licensee against whom the final judgment was awarded, or the personal representative of the spouse or child;

(2) The person has made the investigation as is reasonably necessary to determine whether the judgment debtor possesses real or personal property or other assets which are liable to be sold or applied in satisfaction of the final judgment and has filed with the Commission an affidavit which states that the investigation has been made; and

(3) The investigation required by paragraph (2) has not disclosed the existence of any real or personal property or other assets, or, if the investigation has disclosed the existence of real or personal property or other assets (which shall be described in the affidavit) the person has taken all action necessary for the sale or application, and the amount so realized is insufficient to satisfy the judgment (which amount shall have been stated in

the affidavit together with the balance remaining due on the judgment after the sale or application).

(c) Notwithstanding any other provision of this section, the maximum amount that may be paid from the Fund to satisfy in whole or in part a final judgment against a licensee as provided for herein shall be as follows:

Amount

\$10,000	Judgment is final during the 1st year following the effective date of this act;
\$20,000	Judgment is final during the 2nd year following the effective date of this act;
\$30,000	Judgment is final during the 3rd year following the effective date of this act;
\$40,000	Judgment is final during the 4th year following the effective date of this act; and
\$50,000	Judgment is final during the 5th year following the effective date of this act, and thereafter.

(d) The aggregate of claims by judgment creditors against the Fund based upon an unpaid final judgment arising out of the acts of the licensee in connection with a single transaction shall be \$50,000 regardless of the number of claimants. If the aggregate of claims exceeds \$50,000, the

Commission shall pay \$50,000 to the claimants in proportion to the amounts of their final judgments against the Fund which remain unpaid. If the Mayor has reason to believe that there may be additional claims against the Fund arising out of the same transaction, the Mayor may withhold payment from the Fund involving the licensee for a period of not more than 1 year.

(e) Any person who commences an action for a judgment which could be the basis for an order of the Mayor directing payment from the Fund shall notify the Mayor in writing within 30 days after the date of the commencement of the action. Any failure to notify the Mayor as required under this subsection shall be grounds for the Mayor to deny an application of the person for payment from the Fund. The Mayor may waive this requirement if good cause is shown for failure to notify. The Mayor may, in accordance with the provisions of this act, commence an investigation of the complaint and hold a hearing to determine whether any license issued pursuant to this act should be suspended or revoked.

(f) Whenever an aggrieved person who has become a judgment creditor as provided in this section files an application for an order directing payment from the Fund, the Mayor shall cause a copy of the application to be served on the licensee alleged to be the judgment debtor, by certified mail, return receipt requested, to the address of record of the licensee, and the matter shall be set for hearing before the Commission. Whenever the Mayor

determines that the applicant is entitled to payment from the Fund, the Mayor shall issue an order directing payment from the Fund in an amount consistent with this act.

(g) If the Mayor issues an order directing payment from the Fund of any amount towards satisfaction of a judgment against a licensed real estate broker, business chance broker, or property manager, the license of the person shall be automatically suspended upon the issuance of the order. No broker, salesperson, or property manager shall be eligible to have his or her license restored until he or she has repaid in full the amount ordered paid from the Fund, plus interest at an annual rate established by the Mayor from the date of payment of the amount from the Fund, and has satisfied all rules governing licensure as set forth in this act.

(h) Whenever amounts deposited in the Fund are insufficient to satisfy any duly authorized claim or portion thereof, the Mayor shall, when sufficient money has been deposited or portions thereof, satisfy the unpaid claims in the order that the applications relating thereto were originally filed with the Mayor, including accumulated interest at an annual rate established by the Mayor for a period not to exceed 1 year in duration.

(i) In addition to the requirements of this act, if the Mayor determines that it is necessary to require the bonding requirements of licensees, the Mayor shall by rule establish bonding requirements as are deemed necessary to protect the public.

(j) All sums paid pursuant to sections 29 and 30(c) shall be deposited with the D.C. Treasurer and shall be credited to the Fund. Any interest earned from any deposits and investments of the Fund also shall be credited to the Fund. The interest to be credited to the Fund may be determined, consistent with the financial management procedures of the District and may be revised from time to time, as a pro-rata share of the interest earned on pooled cash, deposits, and investments.

(k) The Mayor shall, by rule, establish minimum and maximum balances for the Fund.

(l) Whenever the amount deposited in the Fund is less than the minimum balance established pursuant to subsection (k), the Mayor shall assess each licensee an amount, not to exceed \$20 during any license year, within 30 calendar days, which is sufficient, when combined with similar assessments of other licensees, to bring the balance of the Fund up to the minimum established. Whenever the amount deposited in the Fund is more than the maximum balance established, the Mayor shall waive contributions to the Fund required by this act.

(m) Notice of an assessment required pursuant to subsection (l) shall be sent, by certified mail, to each licensee at his or her address of record. Payment of the assessment shall be made within 30 calendar days after the receipt by the licensee of the notice.

(n) A failure by any licensee to pay an assessment required pursuant to subsection (l) within 30 days after the

licensee has received notice of the assessment shall result in the automatic suspension of the license of the licensee. The Commission shall send a notice of the suspension, by certified mail, to the address of record of the licensee within 5 days after the suspension. The license shall be restored only upon the actual receipt by the Mayor of the delinquent assessment, plus any interest and penalties as the Mayor may prescribe by rule.

(o) The Commission may expend a sum not to exceed 20% of the amounts deposited in the Fund, on October 1 of each year, for the establishment and maintenance of educational programs for improving the competency of licensees and applicants for licensure so as to further protect the public interest, and for conferences, workshops, and educational programs for real estate license officials. The cost of administering the Fund shall be paid out of the Fund.

(p) When the Mayor has ordered a sum from the Fund to be paid to a judgment creditor, the Mayor shall be subrogated to all of the rights of the judgment creditor up to the amount paid and the judgment creditor shall assign to the Mayor all rights, title, and interest in the judgment up to the amount paid from the Fund. Any amount and interest so recovered by the Mayor or the judgment creditor on the judgment up to the amount paid shall be deposited in the Fund.

Sec. 31. Penalties

(a) Any person who knowingly files with the Mayor any application, notice, or other document required to be filed

New
D.C.Code,
sec. 45-1950
(1931 ed.)

under this act or any rule issued thereunder, which is false or fraudulent or contains any material misstatement of fact, shall, upon conviction, be punished by a fine of no more than \$3,000 or by imprisonment for no more than 1 year, or both.

(b) The Corporation Counsel of the District may enter an appearance, file an answer, appear at court hearings, defend the action, or take whatever other action he or she deems appropriate on behalf of any party to a court proceeding in the District in which the Mayor may be interested, and may take recourse through any appropriate method of review on behalf and in the name of any party to a court action.

(c) Nothing contained in this act shall be construed as limiting the authority of the Mayor to take disciplinary action against any licensee pursuant to this act for any violation of this act or any rules promulgated under this act, nor shall repayment in full of the amount paid from the Fund on the licensee's account nullify or modify the effect of any other disciplinary proceeding brought against the licensee pursuant to this act for any violation.

Sec. 32. Severability

If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application and to this end the provisions of this act are declared to be severable.

New
D.C.Code,
sec. 45-1951
(1981 ed.)

Sec. 33. Savings Clause

(a) The repeal of any provision of An Act To define, regulate, and license real estate brokers, business chance brokers, and real estate salesmen; to create a Real Estate Commission in the District of Columbia; to protect the public against fraud in real estate transactions; and for other purposes, approved August 25, 1937 (50 Stat. 787; D.C. Code, sec. 45-1901 *et seq.*) as amended by this act, or any rule issued pursuant to this act, shall not affect any act done, or any right accruing or accrued on any liability arising, or any suit or proceeding had or commenced in any civil cause under the act before repeal, but all rights and liabilities under the act shall continue and may be enforced in the same manner and to the same extent as if this act had not been enacted.

New
D.C.Code,
sec. 45-1952
(1981 ed.)

(b) Any violation of any provision of An Act To define, regulate, and license real estate brokers, business chance brokers, and real estate salesmen; to create a Real Estate Commission in the District of Columbia; to protect the public against fraud in real estate transactions; and for other purposes, approved August 25, 1937 (50 Stat. 787; D.C. Code, sec. 45-1901 *et seq.*) or any liability arising under the provision, shall, if the violation occurred prior to repeal, be prosecuted and punished in the same manner and with the same effect as if this act had not been enacted.

Sec. 34. Repealer

An Act To define, regulate, and license real-estate brokers, business chance brokers, and real-estate salesmen;

D.C.Code,
secs. 45-1901
to -1916, &
-1918
(1981 ed.)
repealed

to create a Real Estate Commission in the District of Columbia; to protect the public against fraud in real-estate transactions; and for other purposes, approved August 25, 1937 (50 Stat. 787; D.C. Code, secs. 45-1901- -1916 & -1918 et seq.) is repealed.

Sec. 35. Conforming Amendments

(a) The Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Code, sec. 1-2501 et seq.) is amended as follows:

(1) Section 102 (D.C. Code, sec. 1-2502) is amended as follows:

D.C. Code,
sec. 1-2502
(1981 ed.)

(A) By striking subsection (z) (D.C. Code, sec. 1-2502(26));

(B) By redesignating subsections "(aa)" and "(bb)" (D.C. Code, secs. 1-2502(27) & (28)) as subsections "(z)" and "(aa)", respectively;

(C) By amending redesignated subsections "(z)" and "(aa)" (D.C. Code, secs. 1-2502(27) & (28)) to read as follows:

"(z) Real estate broker (or salesperson) means any person licensed as such in accordance with the provisions of the District of Columbia Real Estate Licensure Act of 1982;

"(aa) Real Estate Commission means the Real Estate Commission of the District of Columbia established by section 4 of the District of Columbia Real Estate Licensure Act of 1982"; and

(D) By redesignating subsections "(cc)" through "(ff)" (D.C. Code, secs. 1-2502(29) - (32)) as

subsections "(bb)" through "(ee)", respectively.

(2) Section 233 (D.C. Code, sec. 1-2517) is amended as follows:

D.C.Code,
sec. 1-2517
(1981 ed.)

(A) By striking the word "salesman" and inserting the word "salesperson" in lieu thereof;

(B) By striking section 8(h) of the Act of August 25, 1937, as amended (D.C. Code, sec. 45-1408(h)(1967)) and inserting the phrase "the District of Columbia Real Estate Licensure Act of 1982" in lieu thereof;

(C) By striking the phrase "interests of the public" and inserting the phrase "public interest" in lieu thereof.

(b) The Residential Real Property Transfer Excise Tax Act of 1978, effective July 13, 1978 (D.C. Law 2-91; D.C. Code, sec. 47-1401 et seq.) is amended as follows:

(1) Section 101(c) (D.C. Code, sec. 47-1401(3)) is amended by striking the phrase "section 3 of the Act of August 25, 1937 (50 Stat. 788; D.C. Code, sec. 45-1403)" and inserting the phrase "section 4 of the District of Columbia Real Estate Licensure Act of 1982" in lieu thereof;

D.C.Code,
sec. 47-1401
(1981 ed.)

(2) Section 401(a) and (b) (D.C. Code, secs. 47-1441(a) & (b)) is amended by striking the phrase "section 2 of the Act of August 25, 1937 (50 Stat. 787; D.C. Code, sec. 45-1402)" and inserting the phrase "section 3 of the District of Columbia Real Estate Licensure Act of 1982" in lieu thereof;

D.C.Code,
sec. 47-1441
(1981 ed.)

(3) Section 406(c) (D.C. Code, sec. 47-1446(c)) is amended by striking the phrase "section 10 of the Act of

D.C.Code,
sec. 47-1446
(1981 ed.)

August 25, 1937 (50 Stat. 795; D.C. Code, sec. 45-1410(2))"

and inserting the phrase section 10 of the District of Columbia Real Estate Licensure Act of 1982 in lieu thereof;

(4) Section 407(a) (D.C. Code, sec. 47-1447(a))

is amended by striking the phrase "Paragraphs (a), (b), (c), (j), (k), and (p) of section 8 of the Act of August 25, 1937 (50 Stat. 793; D.C. Code, sec. 45-1908)" and inserting the phrase "Section 17(b)(1), (2), (3), (11), and (12) of the District of Columbia Real Estate Licensure Act of 1982" in lieu thereof.

D.C.Code,
sec. 47-1447
(1981 ed.)

(5) Section 408(c) (D.C. Code, sec. 47-1448(c))

is amended by striking the phrase "Section 9 of the Act of August 25, 1937 (50 Stat. 794; D.C. Code, sec. 45-1409)" and inserting the phrase "the District of Columbia Real Estate Licensure Act of 1982" in lieu thereof.

D.C.Code,
sec. 47-1448
(1981 ed.)

(6) Section 411(c) (D.C. Code, sec. 47-1451(c))

is amended by striking the phrase "section 16 of the Act of August 25, 1937 (50 Stat. 797; D.C. Code, sec. 45-1416)" and inserting the phrase "the District of Columbia Real Estate Licensure Act of 1982" in lieu thereof.

D.C.Code,
sec. 47-1451
(1981 ed.)

(c) Section 1(11) of An Act To authorize the Commissioners of the District of Columbia to fix certain licensing and registration fees, approved June 5, 1953 (67 Stat. 43; D.C. Code, sec. 1-346) is amended as follows:

D.C.Code,
sec. 1-346
(1981 ed.)

(1) By striking paragraph (11); and

(2) By redesignating paragraphs "(12)" through "(16)" as paragraphs "(11)" through "(15)", respectively.

(d) Section 2(j) of An Act To authorize the

Commissioners of the District of Columbia to fix rates of compensation of members of certain examining and licensing boards and commissions, and for other purposes, approved July 14, 1956 (70 Stat. 534; D.C. Code, sec. 1-349) is amended to read as follows:

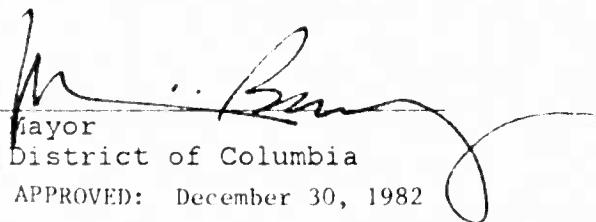
D.C. Code,
sec. 1-349
(1981 ed.)

"(j) The District of Columbia Real Estate Licensure Act of 1982."

Sec. 36. Effective Date

This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-233(c)(1)).


Chairman
Council of the District of Columbia


Mayor
District of Columbia

APPROVED: December 30, 1982



COUNCIL OF THE DISTRICT OF COLUMBIA

Council Period Four

Second Session

RECEIPT NO: B 4-230

[] Item on Consent Calendar

ACTION: Adopted First Reading, 11-16-82

[X] VOICE VOTE: Unanimous

Absentee: Shackleton

[] ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
JOHN. DIXON	[]	[]	[]	[]	KANE	[]	[]	[]	[]	SHACKLETON	[]	[]	[]	[]
WINTER	[]	[]	[]	[]	MASON	[]	[]	[]	[]	SPALDING	[]	[]	[]	[]
CLARKE	[]	[]	[]	[]	MORE, JR.	[]	[]	[]	[]	WILSON	[]	[]	[]	[]
CRAWFORD	[]	[]	[]	[]	RAY	[]	[]	[]	[]		[]	[]	[]	[]
JARVIS	[]	[]	[]	[]	THOLAK	[]	[]	[]	[]		[]	[]	[]	[]

X = Indicates Vote A.B. = Absent N.V. = Not Voting

CERTIFICATION OF RECORD

Laurie L. Cunningham 12/28/82
Secretary to the Council Date

[] Item on Consent Calendar

ACTION: Adopted Final Reading, 12-14-82

[X] VOICE VOTE: By Majority

Absentee: all present

[] ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
JOHN. DIXON	[]	[]	[]	[]	KANE	[]	[]	[]	[]	SHACKLETON	[]	[]	[]	[]
WINTER	[]	[]	[]	[]	MASON	[]	[]	[]	[]	SPALDING	[]	[]	[]	[]
CLARKE	[]	[]	[]	[]	MORE, JR.	[]	[]	[]	[]	WILSON	[]	[]	[]	[]
CRAWFORD	[]	[]	[]	[]	RAY	[]	[]	[]	[]		[]	[]	[]	[]
JARVIS	[]	[]	[]	[]	THOLAK	[]	[]	[]	[]		[]	[]	[]	[]

X = Indicates Vote A.B. = Absent N.V. = Not Voting

CERTIFICATION OF RECORD

Laurie L. Cunningham 12/28/82
Secretary to the Council Date

[] Item on Consent Calendar

ACTION:

[] VOICE VOTE:

Absentee:

[] ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
JOHN. DIXON	[]	[]	[]	[]	KANE	[]	[]	[]	[]	SHACKLETON	[]	[]	[]	[]
WINTER	[]	[]	[]	[]	MASON	[]	[]	[]	[]	SPALDING	[]	[]	[]	[]
CLARKE	[]	[]	[]	[]	MORE, JR.	[]	[]	[]	[]	WILSON	[]	[]	[]	[]
CRAWFORD	[]	[]	[]	[]	RAY	[]	[]	[]	[]		[]	[]	[]	[]
JARVIS	[]	[]	[]	[]	THOLAK	[]	[]	[]	[]		[]	[]	[]	[]

X = Indicates Vote A.B. = Absent N.V. = Not Voting

CERTIFICATION OF RECORD

44

Secretary to the Council

Date