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[CHAPTER 664]

AN ACT

August 10, 1939
[H. R. 5685]
[Public, No. 377]

To amend the Act of Congress entitled "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.

District of Columbia.
Regulation of real-estate brokers, etc.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the title of the Act entitled "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 (Public, Numbered 356, Seventy-fifth Congress), is amended to read as follows:

50 Stat. 787.
20 D. C. Code, Supp. IV, §§ 1970-1988.
Amendment to title of Act.

"An Act to define, regulate, and license real-estate brokers, real-estate salesmen, business-chance brokers, and business-chance salesmen; to create a Real Estate Commission in the District of Columbia; to protect the public against fraud in real-estate transactions and in real-estate promotions and in business-chance transactions; and for other purposes".

License requirement.

SEC. 2. Section 1 of said Act is hereby amended to read as follows:

"SECTION 1. That on and after ninety days from the date of enactment of this Act it shall be unlawful in the District of Columbia for any person, firm, partnership, copartnership, association, or corporation (foreign or domestic) to act as a real-estate broker, real-estate salesman, business-chance broker or business-chance salesman, or to advertise or assume to act as such, without a license issued by the Real Estate Commission of the District of Columbia."

50 Stat. 787.
20 D. C. Code, Supp. IV, § 1971.
"Real-estate broker," defined.

SEC. 3. Section 2 of said Act is hereby amended to read as follows:

"SEC. 2. Whenever used in this Act '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 in the expectation or upon the promise of receiving or collecting a fee, commission, or other valuable consideration, lists for sale, sells, exchanges, purchases, rents, or leases or offers or 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 or agrees to negotiate, a loan secured or to be secured by a mortgage, deed of trust, or other encumbrance upon or transfer of real estate, or who is engaged in the business of erecting houses or causing the erection of houses for sale on his, their, 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 to negotiate the sale of any lot or lots in any subdivision of land comprising ten lots or more: *Provided, however*, That this definition shall not apply to the sale of space for advertising of real estate in any newspaper, magazine, or other publication. A 'business-chance broker' within the meaning of this Act is any person, firm, partnership, association, copartnership, or corporation who for a compensation or valuable consideration sells or offers for sale, buys or offers to buy, leases or offers to lease, or negotiates the purchase or sale or exchange of a business, business opportunity, or the goodwill of a business for others.

Proviso.
Sale of advertising space in newspapers, etc.
"Business-chance broker" defined.

"Real-estate salesman" defined.

"'Real-estate salesman' means a person employed by a licensed real-estate 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 real estate, or to negotiate a loan on real estate, or to lease or rent or offer to lease, rent, or place for rent, any real estate, or collect or offer or attempt to collect rent or income for the use of real estate.

"Business-chance salesman" defined.

"'Business-chance salesman' means any person employed by a licensed business-chance broker to list for sale, sell, or offer for sale, to buy or offer to buy, to lease or offer to lease, or to negotiate the purchase or sale or exchange of a business, business opportunity, or goodwill of an existing business for or in behalf of such business-chance broker.

Exceptions.

"Persons employed by a licensed broker in a clerical capacity or in subordinate positions who receive a fixed compensation and who receive no additional commission or compensation for specific acts of renting or leasing real estate and who do not sell or exchange, or offer or attempt to sell or exchange, real estate or a business, business opportunity, or the goodwill of a business shall not be required to obtain licenses.

Real-estate broker.

"One act for a compensation or valuable consideration of buying or selling real estate for or of another, or offering for another to buy, sell, or exchange real estate, or leasing, renting, or offering to lease or rent real estate, or negotiating or offering to negotiate a loan secured by a mortgage, deed of trust, or other incumbrance upon or transfer of real estate, except as herein specifically excepted, shall constitute a person, firm, partnership, copartnership, association, or corporation performing, or offering, or attempting to perform any of the acts enumerated herein, a real-estate broker, unless such act shall be performed or offered or attempted to be performed by a person for and in behalf of a real-estate broker in which event such act shall constitute such person a real-estate salesman.

Real-estate salesman.

Business-chance broker.

"One act for a compensation or valuable consideration of buying, selling or leasing or exchanging a business, business opportunity, or the goodwill of a business for or of another, or offering for another to buy, sell, exchange, or lease a business, business opportunity, or the goodwill of a business, except as herein specifically excepted, shall constitute the person, firm, partnership, copartnership, association, or corporation performing or offering or attempting to perform any of the acts enumerated herein, a business-chance broker, unless such act shall be performed or offered or attempted to be performed by a person for or on behalf of a business-chance broker, in which event such act shall constitute such person a business-chance salesman.

Business-chance salesman.

Exemptions.

"The provisions of this Act shall not apply to receivers, referees, administrators, executors, guardians, trustees, or other persons appointed or acting under the judgment or order of any court; or public officers while performing their official duty, or attorneys at law in the ordinary practice of their profession; nor to any person, copartnership, association, or corporation, who, as owner or lessor, shall perform any of the acts aforesaid with reference to property owned or leased by them, or to the regular officers and employees thereof, with respect to the property so owned or leased, where such acts are performed in the regular course of, or as an incident to, the management of such property and the investments therein, except as otherwise provided in this Act.

Application of provisions to business-chance broker or business-chancesalesman.

"Every provision of this Act applying specifically to an applicant or application for a license as a real-estate broker or a real-estate salesman, and to a real-estate license, and to a licensee licensed as a real-estate broker or a real-estate salesman, and to anyone acting in the capacity of a real-estate broker or a real-estate salesman without a license, shall likewise apply in a similar manner, respectively, to every applicant and application for a license as a business-chance

broker or a business-chance salesman, and to every business-chance license, and to every licensee licensed as a business-chance broker or a business-chance salesman, and to anyone acting in the capacity of a business-chance broker or a business-chance salesman without a license."

50 Stat. 788.
20 D. C. Code, Supp. IV, § 1972.
Compensation.

SEC. 4. The seventh paragraph of section 3 is amended to read as follows:

"The compensation of members of the Commission, except the ex officio member, shall be $10 each for personal attendance at each meeting, but shall not exceed for any member $1,500 per annum."

50 Stat. 789.
20 D. C. Code, Supp. IV, § 1973.
Qualifications for license.

SEC. 5. Section 4 of said Act is amended to read as follows:

"SEC. 4. No license under the provisions of this Act shall be issued to any person who has not attained the age of twenty-one years, nor to any person who cannot read, write, and understand the English language; nor until the Commission has received satisfactory proof that the applicant is trustworthy and competent to transact the business of a real-estate broker or real-estate salesman or business-chance broker or business-chance salesman in such a manner as to safeguard the interests of the public: *Provided, however*, That a salesman shall have six months from the date of the issuance of his original license to prove his competency, and failure to prove his competency to the satisfaction of the Commission within that period will automatically cancel his original license or any renewal thereof.

Proviso.
Probationary period to prove competency.

Proof of competency.

"In determining competency, the Commission shall require proof that every applicant for a license has a general and fair understanding of the obligations between principal and agent, as well as of the provisions of this Act; and that an applicant for a license as a real-estate broker has a fair understanding of the general purposes and effect of deeds, mortgages, and contracts for the sale or leasing of real estate, and of elementary real-estate practices; and that an applicant for a license as a business-chance broker has a fair understanding of the general purposes and effect of bills of sale, chattel mortgages and trusts, and the provisions of the law governing sales in bulk.

Real-estate brokers.

Business-chance brokers.

Applications recently rejected.

"No license shall be issued to any person, firm, partnership, copartnership, association, or corporation whose application has been rejected in the District of Columbia or any State within three months prior to date of application, or whose real-estate license has been revoked in the District of Columbia or any State within one year prior to date of application."

Bond.
50 Stat. 791.
20 D. C. Code, Supp. IV, § 1974.

SEC. 6. (a) The eighth paragraph of section 5 of said Act is amended by striking out the words, "executed by two good and sufficient sureties, to be approved by the Commission, or".

(b) Section 5 of said Act is further amended by inserting at the end of the tenth paragraph thereof the following:

New bond if surety insolvent or ceases to do business.

"In the event the surety becomes insolvent or a bankrupt, or ceases to do business or ceases to be authorized to do business in the District of Columbia, the principal shall, within ten days after notice thereof, given by the Commission, duly file a new bond in like amount and conditioned as the original and if the principal shall fail so to do the license of such principal shall terminate."

50 Stat. 792.
20 D. C. Code, Supp. IV, § 1976.
Broker's license, fee.

SEC. 7 (a) The third paragraph of section 7 of said Act is amended to read as follows:

"The fee for an original broker's license and every renewal thereof shall be $30: *Provided, however*, That the fee for an original broker's license and every renewal thereof for individual members, partners, and officers of firms, partnerships, and corporations shall be $30 for the first member, partner, or officer to be designated by the firm, partnership, or corporation and $10 for each additional member, partner, or officer of such firm, partnership, or corporation."

Proviso.
Business partnerships, etc.

(b) The fifth paragraph of said section 7 of said Act is amended by striking out the words "real estate." Salesman's license, fee.

(c) Section 7 of said Act is further amended by inserting a new paragraph between the fifth and sixth paragraphs of said section 7 to read as follows: 50 Stat. 792. 20 D. C. Code, Supp. IV, § 1976.

"The fees provided herein for any original license shall be reduced by one-half in all cases where the application for such original license is filed between January 1 and July 1 of any year." Prorating of fee.

(d) The seventh paragraph of section 7 of said Act is hereby amended to read as follows:

"The Commission shall cause to be issued a new license for each ensuing year, in the absence of any reason or condition which might warrant the refusal of the granting of a license, upon receipt of the written request of the applicant and the annual fee therefor, as herein required: *Provided, however*, That an applicant who, on or before July 1, fails to file said written request and pay the annual fee must comply with all the provisions of this Act applicable to an original applicant except that the Commission may waive the requirement of furnishing proof of competency. The revocation of a broker's license shall automatically suspend every salesman's license granted to any person by virtue of his employment by the broker whose license has been revoked, pending a change of employer and the issuance of a new license. Such new license shall be issued without charge if granted during the same license year in which the original license is granted." Annual issuance of new license. *Proviso.* Delinquency provisions. Revocation of broker's license, effect.

(e) The eighth paragraph of section 7 of said Act is amended to read as follows:

"No person, firm, partnership, copartnership, association, or corporation engaged in the business or acting in the capacity of a real-estate broker or a real-estate salesman, or a business-chance broker or a business-chance salesman, within the District of Columbia shall bring or maintain any action in the courts of the District of Columbia for the collection of compensation for any services performed as a real-estate broker or a real-estate salesman or a business-chance broker or business-chance salesman, or enforcement of any contract relating to real estate without alleging and proving that such person, firm, partnership, copartnership, association, or corporation was a duly licensed real-estate broker or real-estate salesman, or business-chance broker or business-chance salesman, at the time the alleged cause of action arose." Actions for collecting compensation.

(f) The ninth paragraph of said section 7 of said Act is amended to read as follows: 50 Stat. 793. 20 D. C. Code, Supp. IV, § 1976.

"Every broker licensed hereunder shall maintain a place of business in the District of Columbia. If a broker maintains more than one place of business within the District of Columbia, a duplicate license shall be issued to such broker for each branch office maintained; and there shall be no fee charged for any such duplicate license." Maintenance of place of business.

(g) The tenth paragraph of said section 7 of said Act is amended to read as follows:

"When a broker changes the location of his principal place of business he must immediately notify the Commission in writing and return to the Commission his license together with the licenses of all salesmen in his employ, and the Commission shall issue a new license to the broker and to each of the salesmen without charge. Failure to notify the Commission and to return his license when the location of his principal place of business is changed, will automatically cancel the broker's license and the licenses of all salesmen in his employ. However, new licenses for the unexpired term may Change of location.

be issued by the Commission without the payment of any additional fee, provided a written request therefor, accompanied by a new bond, is filed."

Notice by salesman on termination of service.

(h) The eleventh paragraph of said section 7 of said Act is amended by striking out the last sentence thereof and inserting in lieu thereof the following: "When a salesman shall be discharged or shall terminate his employment with the broker by whom he is employed, it shall be the duty of such salesman to immediately notify the Commission, and it shall be unlawful for him to perform any of the acts contemplated by this Act either directly or indirectly from and after such termination of employment until such time as he has been employed by another licensed broker and a license has been reissued him by the Commission."

Acts while unemployed.

(i) Section 7 of said Act is further amended by adding at the end thereof two new paragraphs to read as follows:

License, transfer from one individual to another.
Change in status.

"A license issued to an individual cannot be transferred to another individual. However, an individual licensed as a broker may, upon written request to the Commission, change his status to that of an individual broker or to that of a partner of a partnership, or to that of an officer of a corporation, for any unexpired term of his license, without the payment of any additional fee, and such change shall not work a revocation or require a renewal of the bond of any such broker. This provision shall not be applicable to any real-estate broker in respect to a change of license to that of a business chance broker or vice versa.

No license to firm unless every participating member licensed.

"No license shall be issued to any firm, partnership, association, or corporation unless every individual member, partner or officer of such firm, partnership, association, or corporation who actively participates in the brokerage business thereof is licensed as a broker."

SEC. 8. Section 8 of said Act is amended to read as follows:

50 Stat. 793.
20 D. C. Code, Supp. IV, § 1977.
Suspension or revocation of license; causes enumerated.

"SEC. 8. The Commission may, upon its own motion, and shall, upon the verified complaint in writing of any person, provided such complaint or such complaint together with evidence, documentary or otherwise, presented in connection therewith, makes out a prima facie case, investigate the conduct of any real-estate broker or real-estate salesman, or business-chance broker or business-chance salesman, and shall have the power to suspend or to revoke any license issued under the provisions of this Act, at any time where the licensee has by false or fraudulent representation obtained a license, or where the licensee, in performing or attempting to perform any of the acts mentioned herein, has—

(a) Made any substantial misrepresentation;

(b) Made any false promises of a character likely to influence, persuade, or induce;

(c) Pursued a continued and flagrant course of misrepresentation, or making of false promises through agents or salesmen, or advertising or otherwise;

(d) Acted for more than one party in a transaction without the knowledge of all parties for whom he acts;

(e) Accepted a commission or valuable consideration as a real-estate salesman or as a business-chance salesman for the performance of any of the acts specified in this Act from any person, except the broker under whom he is licensed;

(f) Represented or attempted to represent a real-estate broker or a business-chance broker other than the employer, without the express knowledge and consent of the employer;

(g) Failed, within a reasonable time, to account for or to remit any money, valuable documents, or other property coming into his possession which belong to others;

(h) Demonstrated such unworthiness or incompetency to act as a real-estate broker or real-estate salesman or a business-chance broker or a business-chance salesman as to endanger the interests of the public;

(i) While acting or attempting to act as agent or broker, purchased or attempted to purchase any property or interest therein for himself, either in his own name or by use of a straw party, without disclosing such fact to the party he represents;

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

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

(l) Disregarded or violated any provisions of this Act;

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

(n) Placed a sign on any property offering it for sale or for rent or offering it for sale or rent without the written consent of the owner or his authorized agent;

(o) Accepted a compensation from more than one party to a transaction without the knowledge of all the parties to the transaction; or

(p) Failed to restore the bond to its original amount after a recovery on the bond as provided in section 5.

SEC. 9. Section 10 of said Act is amended by striking out the period at the end of the first paragraph thereof and inserting in lieu thereof a comma, and by adding after such comma the following: "and with the further exception that a nonresident of the District of Columbia need not maintain a place of business within the District of Columbia if he is licensed in and maintains a place of business in the State in which he resides."

50 Stat. 795.
20 D. C. Code, Supp. IV, § 1979.

Nonresident brokers and salesmen.
Maintenance of place of business in D. C.

SEC. 10. Section 12 of said Act is amended by adding at the end thereof the following:

"The exemption contained in this section shall not apply to any bank, trust company, building and loan association, insurance company, or any land-mortgage or farm-loan association, which for another and for a compensation, performs any of the acts defined herein as the acts of a real-estate broker or business-chance broker in connection with any property, wherein such bank, trust company, building and loan association, insurance company, land-mortgage or farm-loan association has no fiduciary interest such as receiver, referee, administrator, executor, guardian, or trustee."

50 Stat. 796.
20 D. C. Code, Supp. IV, § 1981.

Banks, etc., engaged in brokerage business not exempt from provisions of Act.

SEC. 11. Section 14 of said Act is amended by adding at the end thereof the following:

"It shall be unlawful within the District of Columbia for any person, firm, partnership, association, or corporation, foreign or domestic, either as owner or otherwise, to offer, give, award, or promise, or to use any method, scheme or plan offering, giving, awarding, or promising free lots in connection with the sale or the offering for sale or an attempt to sell or negotiate the sale of any real estate or interest therein, wherever situated, for the purpose of attracting, inducing, persuading, or influencing a purchaser or a prospective purchaser; or to offer, promise, or give prizes of any name or nature for attendance at or participation in any sale of real estate, by auction or otherwise.

50 Stat. 796.
20 D. C. Code, Supp. IV, § 1983.

Fraudulent transfers or loans.
Inducing sale by offering free lots or prizes.

"It shall be unlawful for any person, firm, partnership, association, or corporation knowingly to pay a fee, commission, or com-

Payment of fee, etc., to unlicensed broker.

pensation to anyone for the performance within the District of Columbia of any service or act defined in this Act as the act of a real-estate broker, real-estate salesman, business-chance broker, or business-chance salesman, who was not duly licensed as such at the time such service or act was performed, provided that this paragraph shall not apply to the division of commission by a broker licensed hereunder with a nonresident cooperating broker."

Division of fee with a nonresident cooperating broker.

Bonds with corporate sureties.
50 Stat. 787.
20 D. C. Code, Supp. IV, §§ 1970-1988.

SEC. 12. No license heretofore issued under the authority of said Act of Congress approved March 25, 1937, where the application therefor was accompanied by a bond which does not conform with the requirements of said Act as amended hereby, shall be reissued or renewed unless the application for such reissuance or renewal shall be accompanied by a bond in accordance with said Act as amended by this Act.

Approved, August 10, 1939.

[CHAPTER 665]

August 10, 1939
[H. R. 6614]
[Public, No. 378]

AN ACT

To amend the Government Losses in Shipment Act.

Government Losses in Shipment Act, amendments.
50 Stat. 480.
5 U. S. C., Supp. IV, § 134b.
Public Debt Service, shipments of valuables.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second proviso of section 3 of the Government Losses in Shipment Act, approved July 8, 1937 (50 Stat. 480; U. S. C., 1934 edition, Supp. IV, title 5, sec. 134b), is hereby amended to read as follows: "*Provided further*, That the fund shall be available for the replacement of any loss or destruction of, or damage to, valuables shipped by or on behalf of the Public Debt Service of the Treasury Department prior to the effective date of this amendment, the replacement of which was chargeable against the securities trust fund established under authority of the indefinite appropriation 'Expenses of loans, Act of September 24, 1917, as amended and extended' (U. S. C., 1934 edition, title 31, secs. 760, 761); and the Secretary of the Treasury is hereby authorized and directed to transfer on the books of the Treasury Department the amount standing to the credit of the securities trust fund and credit the same to the fund."

40 Stat. 292.
31 U. S. C. §§ 760, 761.
Transfer of fund.

50 Stat. 479.

"SEC. 2. The Government Losses in Shipment Act (50 Stat. 479; U. S. C., 1934 edition, Supp. IV, title 5, secs. 134–134h; title 31, secs. 528, 738a), is hereby amended by adding the following sections to the end of section 3 thereof:

Losses of Post Office Department while acting as Treasury agent.

"SEC. 3a. All losses or destruction of, or damage to, internal revenue or other stamps, United States securities, or other obligations of the United States, and funds, occurring heretofore or hereafter, but not prior to February 4, 1935, while such stamps, securities, obligations, or funds were in the custody or possession of, or charged to, the Post Office Department or Postal Service while it was acting as agent for, or on behalf of, the Treasury Department for the sale of such stamps, securities, or obligations and for the collection of such funds, irrespective of the manner in which such loss, destruction, or damage occurred, shall be replaced out of the fund under such regulations as the Secretary of the Treasury may prescribe: *Provided, however*, That no postmaster, Navy mail clerk, or assistant Navy mail clerk having the custody or possession of such stamps, securities, obligations, or funds at the time of the loss, destruction, or damage shall be relieved of any liability to the United States or receive credit in his accounts for such loss, destruction, or damage under the provisions of the Act of March 17, 1882, as amended (U. S. C., 1934 edition, title 39, sec. 49), until the Postmaster General and the Secretary of the Treasury have jointly determined that such loss, destruction, or damage resulted

Proviso.
Liability of employees.

22 Stat. 29.
39 U. S. C. § 49.