



SPONSOR: Sen. Brown & Rep. Bennett
Sens. Lockman, Sokola, Walsh; Reps. Chukwuocha,
Yearick

DELAWARE STATE SENATE
150th GENERAL ASSEMBLY

SENATE BILL NO. 118

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO REAL ESTATE SERVICES,
BROKERS, ASSOCIATE BROKERS AND SALESPERSONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 2907, Title 24 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 2907. Qualifications of applicant; application; examination; report to Attorney General; judicial review.

4 (a) All applicants shall meet all of the following conditions:

5 (1) Shall be competent to transact real estate services by meeting the requirements of this section and the rules
6 and ~~regulations~~; regulations.

7 (2) ~~Shall~~ Must not have been the recipient of any administrative penalties regarding real estate services, in this
8 or any other jurisdiction, including ~~but not limited to fines~~, formal reprimands, license suspensions or revocation
9 (except for license revocations for nonpayment of license renewal fees), probationary limitations, ~~and/or~~ or has not
10 entered into any "consent agreements" which contain conditions placed by a licensing commission or board on that
11 applicant's professional conduct and practice, including any voluntary surrender of a license. Notwithstanding the
12 foregoing, the Commission, after a hearing, may determine whether such administrative penalty is grounds to deny
13 licensure.

14 (3) ~~Shall~~ Must not have any impairment related to drugs, ~~alcohol~~ alcohol, or a finding of mental incompetence
15 by a physician that would limit the applicant's ability to undertake that applicant's practice in a manner consistent with
16 the safety of the public.

17 (4) ~~Shall~~ Must not have a criminal conviction record, nor pending criminal charge relating to an offense the
18 circumstances of which are substantially related to the practice of providing real estate services. In determining
19 whether a crime is substantially related to the professions regulated by this chapter, the Board may not consider a
20 conviction where more than 10 years have elapsed since the date of the conviction, if there have been no other criminal
21 convictions in the intervening time. In addition, ~~shall~~ must not have been convicted of fraud. Applicants who have
22 criminal conviction records or pending criminal charges shall request appropriate authorities to provide information

about the conviction or charge directly to the Commission in sufficient specificity to enable the Commission to make a determination whether the conviction or charge is substantially related to the applicant's area of practice. ~~However,~~ After a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Commission, by an affirmative vote of a majority of the quorum, or during the time period between Commission meetings, the Commission Chairperson or Chairperson's designee, may waive this paragraph (a)(4) of this section, if it finds all of the following:

a. For waiver of a felony conviction where the crime was committed against a person, more than ~~5~~ 3 years have elapsed since the date of the conviction and for all other felonies, more than 2 years have elapsed since the date of conviction. At the time of the application the applicant may not be incarcerated, on work release, ~~on probation, on parole or serving any part of a suspended sentence or on probation or parole at Level III Supervision or higher~~ on probation, on parole or serving any part of a suspended sentence or on probation or parole at Level III Supervision or higher and must be in substantial compliance with all court orders pertaining to fines, ~~restitution~~ restitution, and community service.

b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole at Level III Supervision or higher, or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, ~~restitution~~ restitution, and community service.

c. The applicant is capable of providing real estate services in a competent and professional manner.

d. The granting of the waiver will not endanger the public health, safety or welfare.

(b) *Salesperson.* — An applicant who is applying for licensure as a salesperson under this chapter shall submit evidence, verified by oath and satisfactory to the Commission, that such applicant meets all of the following conditions:

(1) Meets the requirements ~~of~~ under subsection (a) of this section.

(2) Is at least 18 years of age.

(3) Has successfully completed a prescribed preclicensing course of instruction including real estate principles and practices and Delaware real estate law.

(4) Has passed a uniform national and state examination for salespersons, as is contractually arranged for, with a nationally recognized independent testing service, by the ~~Division~~; and Division.

(5) Has provided such information as may be required on an application form designed and furnished by the Commission with the approval of the Division. No application form shall require information relating to citizenship, place of birth or length of state residency; nor require personal references.

(c) *Associate broker.* — An applicant who is applying for licensure as an associate broker under this chapter shall submit evidence, verified by oath and satisfactory to the Commission, that such applicant meets all of the following conditions:

- (1) Meets the requirements ~~of~~ under subsection (a) of this section.
- (2) Is at least 23 years of age.
- (3) Has the experience requirements as specified under the rules and regulations.
- (4) Has the financial prerequisites set forth in the rules and regulations.
- (5) Has successfully completed a prescribed prelicensing course of instruction for brokers including real estate principles and practices and Delaware real estate law.
- (6) Has passed a uniform national and state examination for brokers, as is contractually arranged for, with a nationally recognized independent testing service, by the ~~Division~~; and Division.
- (7) Has provided such information as may be required on an application form designed and furnished by the Commission with the approval of the Division. No application form shall require a picture of the applicant; require information relating to citizenship, place of birth or length of State residency; nor require personal references.

(d) *Broker.* — In addition to the requirements ~~of~~ under subsection (c) of this section, an applicant who is applying for licensure as a broker under this chapter shall submit verification of the applicant's responsibility for the day to day management and supervision of a brokerage organization and meet the experience and education requirements as defined in the rules and regulations.

(e) Where the Commission has found to its satisfaction that an applicant has been intentionally fraudulent or that false information has been intentionally supplied, it shall report its findings to the Attorney General for further action.

(f) Where the applicant has been refused or rejected and such applicant feels that the Commission has acted without justification; has imposed higher or different standards than for other applicants or licensees; or has in some other manner contributed to or caused the failure of such application, the applicant may appeal to the Superior Court.

(g) Every application for a license under this chapter shall be accompanied by the fee prescribed by § 2908 of this title and payment of a Guaranty Fund fee.

SYNOPSIS

This Act revises the circumstances under which an applicant can be denied a license by the Real Estate Commission because of a criminal conviction. Similar to the recent changes made other professional license requirements, this Act does all of the following:

1. Defines when a crime is substantially related to the professions regulated by the Real Estate Commission.
2. Reduces the time since conviction to be eligible for a waiver of a felony conviction for a crime against a person from 5 years to 3 years.
3. Reduces the time since conviction to be eligible for a waiver of all other felony conviction for a crime from 5 years to 2 years.

4. Clarifies what is meant by being on parole.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Brown