

WEST VIRGINIA LEGISLATURE
2022 SECOND EXTRAORDINARY SESSION

Introduced
House Bill 207

BY DELEGATES HANSHAW (MR. SPEAKER) AND SKAFF

(BY REQUEST OF THE EXECUTIVE)

[Introduced April 25, 2022]

1 A BILL to amend and reenact §30-40-4 of the Code of West Virginia, 1931, as amended, relating
2 to West Virginia Real Estate License Act; amending definitions; permitting a salesperson
3 to designate an entity to receive compensation.

Be it enacted by the Legislature of West Virginia:

ARTICLE 40. WEST VIRGINIA REAL ESTATE LICENSE ACT.

§30-40-4. Definitions.

1 Unless the context in which used clearly requires a different meaning, as used in this
2 article:

3 ~~(a)~~ "Applicant" means any person who is making application to the commission for a
4 license.

5 ~~(b)~~ "Associate broker" means any person who qualifies for a broker's license, but who is
6 employed or engaged by a licensed broker to engage in any activity regulated by this article, in
7 the name of and under the direct supervision of the licensed broker.

8 ~~(c)~~ "Broker" means any person who for compensation or with the intention or expectation
9 of receiving or collecting compensation:

10 (1) Lists, sells, purchases, exchanges, options, rents, manages, leases or auctions any
11 interest in real estate; or

12 (2) Directs or assists in the procuring of a prospect calculated or intended to result in a
13 real estate transaction; or

14 (3) Advertises or holds himself or herself out as engaged in, negotiates or attempts to
15 negotiate, or offers to engage in any activity enumerated in subdivision (1) of this subsection.

16 ~~(d)~~ "Commission" means the West Virginia Real Estate Commission as established in
17 section six of this article.

18 ~~(e)~~ "Compensation" means fee, commission, salary or other valuable consideration, in the
19 form of money or otherwise.

20 (~~f~~) “Designated broker” means a person holding a broker’s license who has been
21 appointed by a partnership, association, corporation, or other form of business organization
22 engaged in the real estate brokerage business, to be responsible for the acts of the business and
23 to whom the partners, members, or board of directors have delegated full authority to conduct the
24 real estate brokerage activities of the business organization.

25 (~~g~~) “Distance education” means courses of instruction in which instruction takes place
26 through media where the teacher and student are separated by distance and sometimes by time.

27 “Entity” means a business, company, corporation, limited liability company, association,
28 or partnership.

29 (~~h~~) “Inactive” means a licensee who is not authorized to conduct any real estate business
30 and is not required to comply with any continuing education requirements.

31 (~~i~~) “License” means a license to act as a broker, associate broker or salesperson.

32 (~~j~~) “Licensee” means a person holding a license.

33 (~~k~~) “Member” means a commissioner of the Real Estate Commission.

34 (~~l~~) “Real estate” means any interest or estate in land and anything permanently affixed to
35 land.

36 (~~m~~) “Salesperson” means a person employed or engaged by or on behalf of a broker to
37 do or deal in any activity included in this article, in the name of and under the direct supervision
38 of a broker, other than an associate broker: Provided, That for the purposes of receiving
39 compensation, a salesperson may designate an entity to receive any compensation payable to
40 the salesperson, including, but not limited to, a limited liability corporation or an S-corporation.

NOTE: The purpose of this bill is to amend the definitions in the Real Estate Licensure Act to distinguish the activity of a salesperson from the entity designated by him or her to receive compensation that is payable to the salesperson.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.