

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

### **ENROLLED**

## **House Bill 5632**

BY DELEGATES LUCAS, WARNER, HOWELL, AKERS,  
ADKINS, CROUSE, DEAN, CAMPBELL, MAYNOR, AND ROSS

[Passed March 6, 2024; in effect ninety days from  
passage.]



1 AN ACT to amend and reenact §30-40-4, §30-40-12, and §30-40-17 of the Code of West Virginia,  
2 1931, as amended, relating to the West Virginia Real Estate License Act; adding a  
3 definition for "property management"; qualifications for broker's license; and obligations of  
4 nonresident brokers.

*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 used clearly requires a different meaning, as used in this article:

2 "Applicant" means any person who is making application to the commission for a license.

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

6 "Broker" means any person who for compensation or with the intention or expectation of  
7 receiving or collecting compensation:

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

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

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

14 "Cancelled" means a license that was not renewed by December 31 of the year in which  
15 license expired;

16 "Commission" means the West Virginia Real Estate Commission as established §30-40-  
17 6 of this code.

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

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

25 "Distance education" means courses of asynchronous instruction in which instruction  
26 takes place through media where the teacher and student are separated by time.

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

29 "Expired" means a license that was not renewed by July 1.

30 "Inactive" means a licensee who is not authorized to conduct any real estate business and  
31 is not required to comply with any continuing education requirements.

32 "License" means a license to act as a broker, associate broker, or salesperson.

33 "Licensee" means a person holding a license.

34 "Member" means a commissioner of the Real Estate Commission.

35 "Principal" means a person or entity that authorizes a licensee to act on his, her, or its  
36 behalf.

37 "Property management" means the overseeing and management of commercial and  
38 residential real estate properties. This includes taking care of all of the daily operations for a  
39 property which may include, but is not limited to, collecting rent, collecting or holding security  
40 deposits on behalf of the property owner, handling maintenance, paying vendors for repairs, and  
41 fielding tenant complaints. The amount of responsibilities the property manager has depends on  
42 their contract with the owner of the property.

43 "Real estate" means any interest or estate in land, and anything permanently affixed to  
44 land.

45 "Salesperson" means a person employed or engaged by or on behalf of a broker to do or  
46 deal in any activity included in this article, in the name of and under the direct supervision of a  
47 broker, other than an associate broker: *Provided*, That for the purposes of receiving  
48 compensation, a salesperson may designate an entity to receive any compensation payable to  
49 the salesperson, including, but not limited to, a limited liability corporation or an S-corporation.

50 "Team" means any group of two or more associate brokers and/or salespersons, and other  
51 non-licensed professionals, affiliated with the same broker or company acting as one agent  
52 representative for the principal.

**§30-40-12. Qualifications for broker's license.**

1 (a) An applicant for a broker's license shall:  
2 (1) Submit evidence satisfactory to the commission of either: (i) Real estate experience as  
3 a licensed real estate salesperson during the two years prior to the date of application showing  
4 the applicant's representation of a buyer or seller in a minimum of 20 closed transactions; if the  
5 applicant is engaged solely in the leasing or renting of real estate, representation of the landlord  
6 or tenant in a minimum of 20 closed transactions of at least one year in duration; or if the applicant  
7 is engaged solely in the management of a real estate brokerage company, active involvement in  
8 a minimum of 20 closed transactions; or (ii) regardless of the number of years as a licensed  
9 salesperson: a minimum of 40 closed transactions; if the applicant is engaged solely in the leasing  
10 or renting of real estate, representation of the landlord or tenant in a minimum of 40 closed  
11 transactions of at least one year duration; or if the applicant is engaged solely in the management  
12 of a real estate brokerage company, active involvement in a minimum of 40 closed transactions.  
13 For the purposes of this section, a "closed transaction" means a transaction that resulted in the  
14 real estate being conveyed from seller to buyer in which the applicant represented the seller,  
15 buyer, or both, or a transaction that resulted in the consummation of a lease of no less than one  
16 year in duration in which the applicant represented either the landlord or tenant of the real estate;

17 (2) Submit satisfactory evidence of having completed the required education course as  
18 provided for in §30-40-14 of this code; and

19 (3) Successfully pass the examination or examinations provided by the commission.

20 (b) No broker's license shall be issued in the name of an entity except through one of its  
21 members or officers.

22 (c) No broker's license may be issued in the name of an entity unless each member or  
23 officer who will engage in the real estate business, obtains a license as a real estate salesperson  
24 or associate broker.

**§30-40-17. Place of business; branch offices; display of certificates; custody of license  
certificates; change of address; change of employer by a salesperson or associate  
broker; license certificates; term of license.**

1 (a) Every person holding a broker's license under the provisions of this article shall:

2 (1) Have and maintain a definite place of business within this state, which shall be a room  
3 or rooms used for the transaction of real estate business and any allied business. The definite  
4 place of business shall be designated in the license certificate issued by the commission and the  
5 broker may not transact business at any other location within this state, unless such other location  
6 is properly licensed by the commission as a branch office. A broker who is a nonresident of this  
7 state may not be required to maintain an active place of business in this state if the nonresident  
8 broker's state of original licensure is party to an active reciprocity agreement with the commission  
9 that does not require West Virginia licensees holding licenses in that state to maintain an office in  
10 that state;

11 (2) Conspicuously display his or her branch office license in each branch office;

12 (3) Make application to the commission before changing the address of any office or within  
13 10 days after any change;

14 (4) Maintain in his or her custody and control the license of each associate broker and  
15 salesperson affiliated with him or her; and

16 (5) Promptly return the license of any associate broker or salesperson whose affiliation  
17 with the broker is terminated.

18 (b) Every person holding an associate broker's or salesperson's license under the  
19 provisions of this article shall:

20 (1) Conduct real estate brokerage activities only under the direct supervision and control  
21 of his or her affiliated broker, which shall be designated in the license certificate; and

22 (2) Promptly make application to the commission of any change of employing broker:  
23 *Provided*, That it shall be unlawful to perform any act contained in this article, either directly or  
24 indirectly, after affiliation has been terminated until the associate broker or salesperson has made  
25 application to the commission for a change of affiliated broker and the application is approved.

26 (c) The commission shall issue a license certificate which shall:

27 (1) Be in such form and size as shall be prescribed by the commission;

28 (2) Display the seal of the commission and shall contain such other information as the  
29 commission may prescribe: *Provided*, That a salesperson's and an associate broker's license  
30 shall show the name of the broker by whom he or she is affiliated;

31 (3) If an active licensee, be mailed or delivered to the broker's main office address;

32 (4) If an inactive licensee, be held in the commission office; and

33 (5) Be valid for a period that coincides with the fiscal year beginning on July 1 and ending  
34 on June 30.





The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

.....  
*Clerk of the House of Delegates*

.....  
*Clerk of the Senate*

Originated in the House of Delegates.

In effect ninety days from passage.

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within is ..... this the.....  
Day of ....., 2024.

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*Governor*