

1 before implementing the requirement for criminal history
2 record checks; and requiring the commission to issue a license
3 to an attorney in good standing.

4 *Be it enacted by the Legislature of West Virginia:*

5 That §30-40-11 of the Code of West Virginia, 1931, as amended,
6 be amended and reenacted to read as follows:

7 **ARTICLE 40. WEST VIRGINIA REAL ESTATE LICENSE ACT.**

8 **§30-40-11. Application for license.**

9 The commission shall only issue an original license to an
10 applicant if he or she:

11 (a) Submits an application, in writing, in a form prescribed
12 by the commission which must contain, but is not limited to:

13 (1) The applicant's social security number;

14 (2) The recommendation of at least two persons who:

15 (A) Are property owners at the time of signing the
16 application;

17 (B) Have been property owners for at least twelve months
18 preceding the signing of the application;

19 (C) Have known the applicant for at least two years;

20 (D) Are not related to the applicant;

21 (E) Are not affiliated with the applicant as an employer,
22 partner or associate or with the broker that will employ the
23 applicant;

24 (F) Believe the applicant bears a good reputation for honesty,
25 trustworthiness and fair dealing; and

26 (G) Believe the applicant is competent to transact the

1 business of a real estate broker, associate broker or salesperson,
2 as the case may be, in a manner that would protect the interest of
3 the public.

4 (3) A clear record indicating all jurisdictions where the
5 applicant holds or has held any professional license.

6 (4) A clear record indicating if the applicant has been
7 convicted of any criminal offense or if there is any criminal
8 charge pending against the applicant, or a member or officer of the
9 brokerage business, at the time of application.

10 (b) Is at least eighteen years of age.

11 (c) Is a high school graduate or the holder of an equivalency
12 diploma.

13 (d) Is trustworthy, of good moral character and competent to
14 transact the business of a broker, associate broker or salesperson.

15 (e) Has paid the appropriate fee, if any, which must accompany
16 all applications for original license or renewal.

17 (f) Has submitted to a state and national criminal history
18 record check, as set forth in this subsection.

19 (1) This requirement is found not to be against public policy.

20 (2) The criminal history record check shall be based on
21 fingerprints submitted to the West Virginia State Police or its
22 assigned agent for forwarding to the Federal Bureau of
23 Investigation.

24 (3) The applicant shall meet all requirements necessary to
25 accomplish the state and national criminal history record check,
26 including:

1 (A) Submitting fingerprints for the purposes set forth in this
2 subsection; and

3 (B) Authorizing the commission, the West Virginia State Police
4 and the Federal Bureau of Investigation to use all records
5 submitted and produced for the purpose of screening the applicant
6 for a license.

7 (4) The results of the state and national criminal history
8 record check may not be released to or by a private entity except:

9 (A) To the individual who is the subject of the criminal
10 history record check;

11 (B) With the written authorization of the individual who is
12 the subject of the criminal history record check; or

13 (C) Pursuant to a court order.

14 (5) The criminal history record check and related records are
15 not public records for the purposes of chapter twenty-nine-b of
16 this code.

17 (6) The applicant shall ensure that the criminal history
18 record check is completed within ninety days of the date of the
19 original licensure application. If the commission does not receive
20 the criminal history record check within the required timeframe,
21 the commission shall return the application to the applicant.

22 (7) The applicant shall pay the actual costs of the
23 fingerprinting and criminal history record check.

24 (8) Before implementing the provisions of this subsection, the
25 commission shall propose rules for legislative approval in
26 accordance with article three, chapter twenty-nine-a of this code.

1 The rules shall set forth the requirements and procedures for the
2 criminal history check and must be consistent with standards
3 established by the Federal Bureau of Investigation and the National
4 Crime Prevention and Privacy Compact as authorized by 42 U.S.C.A.
5 §14611, et seq.

6 (g) If the applicant is an attorney at law the commission
7 shall issue an original salesperson's license to an applicant if he
8 or she submits a letter of good standing from the Clerk of the
9 Supreme Court of Appeals of West Virginia.