

FILED

2015 MAR 24 P 5:10

WEST VIRGINIA LEGISLATURE
EIGHTY-SECOND LEGISLATURE

OFFICE OF THE CLERK
SECRETARY OF STATE

REGULAR SESSION, 2015



ENROLLED

Senate Bill No. 412

(BY SENATOR BLAIR)

[PASSED MARCH 12, 2015; IN EFFECT NINETY DAYS FROM PASSAGE.]

SB 412

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

Senate Bill No. 412

(BY SENATOR BLAIR)

[Passed March 12, 2015; in effect ninety days from passage.]

AN ACT to amend and reenact §30-40-20 of the Code of West Virginia, 1931, as amended, relating to the Real Estate Commission; licenses issued by commission; establishing time limitations on filing complaints of unprofessional conduct against a licensee; and tolling the time limits during criminal investigations and prosecutions.

Be it enacted by the Legislature of West Virginia:

That §30-40-20 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 40. WEST VIRGINIA REAL ESTATE LICENSE ACT.

§30-40-20. Complaints; investigation.

- 1 (a) The commission may upon its own motion and shall
- 2 upon the filing of a complaint setting forth a cause of action
- 3 under this article, or the rules promulgated thereunder,
- 4 ascertain the facts and if warranted hold a hearing for the
- 5 suspension or revocation of a license, or the imposition of
- 6 sanctions against a licensee: *Provided*, That no disciplinary

7 action may be brought against a licensee upon any complaint
8 that is filed more than two years after the acts or omissions
9 alleged in the complaint or, where the licensee is alleged to
10 have engaged in fraud, deceit or misrepresentation, more than
11 two years after the date at which the complainant discovered,
12 or through reasonable diligence should have discovered, the
13 alleged unprofessional conduct. Time limits for the filing of
14 a complaint shall be tolled during any period in which
15 material evidence necessary for the commission's evaluation
16 or use is unavailable to the commission due to an ongoing
17 criminal investigation or prosecution.

18 (b) All complaints must be submitted in writing and must
19 fully describe the acts or omissions constituting the alleged
20 unprofessional conduct.

21 (c) Upon initiation or receipt of the complaint, the
22 commission shall provide a copy of the complaint to the
23 licensee for his or her response to the allegations contained in
24 the complaint. The accused party shall file an answer within
25 twenty days of the date of service. Failure of the licensee to
26 file a timely response may be considered an admission of the
27 allegations in the complaint: *Provided*, That nothing
28 contained herein shall prohibit the accused party from
29 obtaining an extension of time to file a response, if the
30 commission, its executive director or other authorized
31 representative permits the extension.

32 (d) The commission may cause an investigation to be
33 made into the facts and circumstances giving rise to the
34 complaint and any person licensed by the commission has an
35 affirmative duty to assist the commission, or its authorized
36 representative, in the conduct of its investigation.

37 (e) After receiving the licensee's response and reviewing
38 any information obtained through investigation, the

39 commission shall determine if probable cause exists that the
40 licensee has violated any provision of this article or the rules.

41 (f) If a determination that probable cause exists for
42 disciplinary action, the commission may hold a hearing in
43 compliance with section twenty-one of this article or may
44 dispose of the matter informally through a consent agreement
45 or otherwise.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
.....
Chairman Senate Committee

[Signature]
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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
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Clerk of the Senate

[Signature]
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Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
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Speaker of the House of Delegates

The within *is approved* this the *24th*
March
Day of, 2015.

[Signature]
.....
Governor

MAR 18 2015

Time 10:30 AM