

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Committee Substitute

for

House Bill 4241

(BY DELEGATES HOWELL, ARVON, ZATEZALO, BORDER,
R. PHILLIPS, HARTMAN, IHLE, CADLE, MOFFATT,
ATKINSON AND MORGAN)

[Originating in the Committee on Government
Organization, January 25, 2016]

1 A BILL to amend and reenact §30-40-6 of the Code of West Virginia, 1931, as amended, relating
2 to the West Virginia Real Estate Commission; changing the qualifications for membership
3 on the commission; providing for continued service of qualifying board members; adding
4 party affiliation limitation; and providing for the disqualification of certain members who
5 become licensees.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 40. WEST VIRGINIA REAL ESTATE LICENSE ACT.

**§30-40-6. Commission created; membership; appointment and removal of members;
qualifications; terms; organization.**

1 (a) The West Virginia Real Estate Commission is hereby continued. The members of the
2 commission in office on the date this section takes effect shall, unless sooner removed, continue
3 to serve until their respective terms expire and until their successors have been appointed and
4 qualified.

5 (b)(1) Commencing with the terms beginning with July 1, ~~2002~~ 2016, the commission shall
6 consist of ~~five~~ seven persons appointed for terms of four years by the Governor with the advice
7 and consent of the Senate. ~~Four~~ Three commissioners must be licensed under the provisions of
8 this article; two commissioners must be bankers or attorneys and may not be licensed under the
9 provisions of this article; and ~~one commissioner~~ two commissioners must be a citizen ~~member~~
10 members who ~~is~~ are not licensed under the provisions of this article: Provided, That members of
11 the commission as of the effective date of this section shall continue to serve their term without
12 regarding to the status of their license until a successor is appointed by the Governor.

13 (2) Each licensed commissioner, at the time of his or her appointment, must have been
14 licensed and practiced in this state as a real estate broker, associate broker or salesperson as
15 his or her primary vocation for a period of not less than ten years immediately preceding the

16 appointment. Each commissioner must have been a resident of this state for at least six years
17 prior to his or her appointment and must remain a resident during the appointment term. No more
18 than four commissioners shall belong to the same political party.

19 (3) The appointment of three licensed commissioners, whether for a full term or to fill a
20 vacancy, shall be made by the Governor with the advice and consent of the Senate. The
21 appointment of one licensed commissioner, whether for a full term or to fill a vacancy, shall be
22 made by the Governor from among three nominees selected by the West Virginia association of
23 realtors. If the appointment is for a full term, the nominations must be submitted to the Governor
24 not later than three months prior to the date on which the appointment becomes effective. If the
25 appointment is to fill a vacancy, the nominations must be submitted to the Governor within thirty
26 days after a request for the nominations has been made by the Governor to the West Virginia
27 association of realtors. If the association fails to submit nominations in accordance with the
28 requirements of this section, the Governor may make the appointment without the nominations.
29 Provided, that no more than four members may be from the same political party.

30 (c) Any commissioner immediately and automatically forfeits his or her membership on the
31 commission if he or she has his or her license to practice as a real estate broker, associate broker
32 or salesperson suspended or revoked by the board, is convicted of a felony under the laws of this
33 state or of the United States, becomes a nonresident of this state, or holds any elective public
34 office or becomes a member of any political committee.

35 (d) Any member who is unlicensed or who holds a retired, inactive, or emeritus license
36 immediately and automatically forfeits his or her membership on the commission if he or she
37 obtains a license under the provisions of this article, or obtains a similar license from another
38 jurisdiction.

39 ~~(d)~~ (e) No member of the commission may be removed from office by the Governor except
40 for official misconduct, incompetency, neglect of duty, gross immorality or other good cause, but
41 then only in the manner prescribed by law for the removal by the Governor of state elective
42 officials.

43 ~~(e)~~ (f) No member of the commission may serve more than two consecutive full terms and
44 any member having served two full terms may not be appointed for one year after completion of
45 his or her second full term. A member shall continue to serve until his or her successor has been
46 appointed and qualified.

47 ~~(f)~~ (g) The Governor shall designate one member of the commission as chairman and the
48 members shall choose a vice chairman and a secretary, each of whom shall continue to serve in
49 their respective capacity until replaced.

50 ~~(g)~~ (h) Three members shall constitute a quorum for the conduct of official business.

51 ~~(h)~~ (i) Each commissioner shall receive the same compensation as is paid to members of
52 the Legislature for their interim duties as recommended by the citizens legislative compensation
53 commission and authorized by law for each day or portion thereof engaged in the discharge of
54 official duties. Each commissioner shall be reimbursed for his or her actual and necessary
55 expenses for each day or portion thereof engaged in the discharge of official duties in a manner
56 consistent with guidelines of the travel management office of the Department of Administration.

NOTE: The purpose of this bill is to add citizen and nonpracticing members to the board
and to provide for their removal upon obtaining an active license.

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