

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

House Bill 5070

By Delegates Lucas, Crouse, Clark, Dean, and

Bridges

[Originating in the Subcommittee on Government

Administration; Reported on February 17, 2026]

1 A BILL to amend and reenact §30-40-19 of the Code of West Virginia, 1931, as amended, relating
2 to real estate licenses; and requiring a brokerage to pay a licensee leaving the brokerage
3 commissions resulting from the licensee's business in contract.

Be it enacted by the Legislature of West Virginia:

ARTICLE 40. WEST VIRGINIA REAL ESTATE LICENSE ACT.

§30-40-19. Refusal, suspension, or revocation of a license.

1 (a) The commission may refuse a license for reasonable cause or revoke, suspend, or
2 impose any other sanction against a licensee if the licensee:

3 (1) Obtains, renews, or attempts to obtain or renew a license, for himself, herself, or
4 another, through the submission of any application or other writing that contains false, fraudulent,
5 or misleading information;

6 (2) Makes any substantial misrepresentation;

7 (3) Makes any false promises or representations of a character likely to influence,
8 persuade, or induce a person involved in a real estate transaction;

9 (4) Pursues a course of misrepresentation or makes false promises or representations
10 through agents or any medium of advertising or otherwise;

11 (5) Uses misleading or false advertising;

12 (6) Uses any trade name or insignia of membership in any organization in which the
13 licensee is not a member;

14 (7) Acts for more than one party in a transaction without the knowledge and written consent
15 of all parties for whom he or she acts;

16 (8) Fails, within a reasonable time, to account for or to remit moneys or other assets
17 coming into his or her possession, which belong to others;

18 (9) Commingles moneys belonging to others with his or her own funds;

19 (10) Advertises or displays a "for sale", "for rent", or other such sign on any property
20 without an agency relationship being established or without the owner's knowledge and written

21 consent;

22 (11) Advertises any property on terms other than those authorized by the owner;

23 (12) Fails to disclose, on the notice of agency relationship form promulgated by the
24 commission, whether the licensee represents the seller, buyer, or both;

25 (13) Fails to voluntarily furnish copies of the notice of agency relationship, listing contract,
26 sale contract, lease contract, or any other contract to each party executing the same;

27 (14) Pays or receives any rebate, profit, compensation, commission, or other valuable
28 consideration, resulting from a real estate transaction, to or from any person other than the
29 licensee's principal: *Provided*, That this subsection may not be construed to prevent the sharing of
30 compensation or other valuable consideration between licensed brokers: *Provided, however, That*
31 when a licensee has given notice to the licensee's current broker about moving his or her license
32 to a different broker and the licensee has pending contracts that may result in one or more
33 commissions, the broker with whom the licensee was affiliated when such pending contracts were
34 entered into shall, after the licensee leaves the brokerage, remit to the licensee, upon receipt by
35 the broker of the commission, any compensation due to the licensee under those contracts, and
36 the licensee may receive such compensation notwithstanding the change of broker;

37 (15) Induces any person to a contract to break the contract for the purpose of substituting a
38 new contract with a third party;

39 (16) Except as provided in §30-40-19(a)(14) of this code, ~~Accepts~~ accepts compensation
40 as a salesperson or associate broker for any act specified in this article from any person other than
41 his or her broker;

42 (17) Pays compensation to any person for acts or services performed either in violation of
43 this article or the real estate licensure laws of any other jurisdiction;

44 (18) Pays compensation to any person knowing that they will pay a portion or all of that
45 which is received, in a manner that would constitute a violation of this article if it were paid directly
46 by a licensee of this state;

47 (19) Violates any provision of this article, any rule, or any order or final decision issued by
48 the commission;

49 (20) Procures an attorney for any client or customer, or solicits legal business for any
50 attorney-at-law;

51 (21) Engages in the unlawful or unauthorized practice of law as defined by the Supreme
52 Court of Appeals of West Virginia;

53 (22) Commits or is a party to any material fraud, misrepresentation, concealment,
54 conspiracy, collusion, trick, scheme, or other device whereby any other person relies upon the
55 word, representation, or conduct of the licensee;

56 (23) Continues in the capacity of, or accepts the services of, any broker, associate broker,
57 or salesperson who is not properly licensed;

58 (24) Fails to disclose any information within his or her knowledge or to produce any
59 document, book, or record in his or her possession for inspection of and copying by the
60 commission or its duly authorized representatives;

61 (25) Accepts payment other than cash or its equivalent as earnest money or other deposit
62 unless this fact is disclosed in the contract to which the deposit relates;

63 (26) Accepts, takes, or charges any undisclosed compensation on expenditures made by
64 or on behalf of the licensee's principal;

65 (27) Discriminates against any person involved in a real estate transaction which is in
66 violation of any federal or state anti-discrimination law, including any fair housing law;

67 (28) Fails to preserve for five years following its consummation, records relating to any real
68 estate transaction;

69 (29) Fails to maintain accurate records on the broker's trust fund account;

70 (30) If a broker, fails to supervise all associate brokers and salespersons affiliated with him
71 or her;

72 (31) Breaches a fiduciary duty owed by a licensee to his or her principal in a real estate

73 transaction;

74 (32) Directs any party to a real estate transaction in which the licensee is involved, to any
75 lending institution for financing or to any affiliated business with the expectation of receiving a
76 financial incentive, rebate, or other compensation, without first obtaining from his or her principal
77 the signed acknowledgment of and consent to the receipt of the financial incentive, rebate, or other
78 compensation: *Provided*, That this subsection may not be construed to prevent the sharing of
79 compensation or other valuable consideration between licensed brokers;

80 (33) Represents to any lending institution, or other interested party either verbally or
81 through the preparation of false documents, an amount in excess of the true and actual sale price
82 of the real estate or terms differing from those actually agreed upon;

83 (34) Fails to disclose to an owner the licensee's true position if he or she directly or
84 indirectly through a third party, purchases for himself or herself or acquires or intends to acquire
85 any interest in or any option to purchase the property;

86 (35) Lends a broker's license to any person, including a salesperson, or permits a
87 salesperson to operate as a broker;

88 (36) Has been convicted in a court of competent jurisdiction in this or any other jurisdiction
89 of forgery, embezzlement, obtaining money under false pretense, bribery, larceny, extortion,
90 conspiracy to defraud, any other similar offense, a crime involving moral turpitude, or a felony;

91 (37) Engages in any act or conduct which constitutes or demonstrates bad faith,
92 incompetency, untrustworthiness, or dishonest, fraudulent, or improper dealing;

93 (38) Induces any person to alter, modify, or change another licensee's fee or commission
94 for brokerage services, without that licensee's prior written consent;

95 (39) Negotiates a real estate transaction directly with any person that is represented
96 exclusively by another broker, unless the conduct is specifically authorized by the other broker;

97 (40) Obtains, negotiates, or attempts to obtain or negotiate a contract whereby the broker
98 is entitled to a commission only to the extent that the sales price exceeds a given amount,

99 commonly referred to as a net listing;

100 (41) Fails or refuses, on demand, to furnish copies of a document to a person whose
101 signature is affixed to the document;

102 (42) In the case of an associate broker or salesperson, represents or attempts to represent
103 a broker other than his or her employing broker;

104 (43) Fails to reduce a bona fide offer to writing;

105 (44) Guarantees, or authorizes or permits another licensee to guarantee, future profits
106 which may result from a real estate transaction;

107 (45) Is disciplined by another jurisdiction if at least one of the grounds for that discipline is
108 the same as or equivalent to one of the grounds for discipline in this article; or

109 (46) Engages in any other act or omission in violation of professional conduct requirements
110 of licensees established by legislative rule of the commission.

111 (b) The provisions of this section shall be liberally construed in order to carry out the
112 objectives and purposes of this article.

113 (c) As used in this section:

114 (1) The words "convicted in a court of competent jurisdiction" mean a plea of guilty or nolo
115 contendere entered by a person or a verdict of guilt returned against a person at the conclusion of
116 a trial;

117 (2) A certified copy of a conviction order entered in a court is sufficient evidence to
118 demonstrate a person has been convicted in a court of competent jurisdiction.

119 (d) Every person licensed by the commission has an affirmative duty to report, in a timely
120 manner, any known or observed violation of this article or the rules, orders, or final decisions of the
121 commission.

122 (e) The revocation of a broker's license shall automatically suspend the license of every
123 associate broker and salesperson affiliated with the broker: *Provided*, That the commission shall
124 issue a replacement license for any licensee so affected to a new broker, without charge, if a

125 proper application is submitted to the commission during the same license term.

NOTE: The purpose of this bill is to require a broker to remit certain monies to a licensee who departs to work for another broker. Namely, the licensee would be entitled to any compensation deriving from his or her contracts that were pending at the time of the licensee's departure from the former broker.

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