

HOUSE BILL NO. 1237

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws

on _____)

(Patron Prior to Substitute--Delegate Willett)

A BILL to amend and reenact §§ 54.1-2100, 54.1-2106.1, and 54.1-2110 of the Code of Virginia, relating to Department of Professional and Occupational Regulation; real estate brokers; places of business; prohibited locations.

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2100, 54.1-2106.1, and 54.1-2110 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2100. Definitions.

As used in this chapter:

"Branch office" means any place of business of a principal broker in the Commonwealth that is not his primary place of business.

"Distance learning" means instruction delivered by an approved provider through a medium other than a classroom setting. Such courses shall be those offered by an accredited institution of higher education, high school offering adult distributive education courses, other school or educational institution, or real estate professional association or related entities.

"Place of business" means a location where the principal broker, or individuals or business entities employed by or affiliated as an independent contractor with the principal broker, regularly transacts the business of a real estate broker or salesperson. The primary place of business is the physical address provided on the firm license application form submitted to the Real Estate Board.

"Real estate broker" means any individual or business entity, including a partnership, association, corporation, or limited liability company, who, for compensation or valuable consideration, (i) sells or offers for sale, buys or offers to buy, or negotiates the purchase or sale or exchange of real estate, including

27 units or interest in condominiums, cooperative interest as defined in § 55.1-2100, or time-shares in a time-
28 share program even though they may be deemed to be securities or (ii) leases or offers to lease, or rents
29 or offers for rent, any real estate or the improvements thereon for others.

30 "Real estate team" means two or more individuals, one or more of whom is a real estate salesperson
31 or broker, who (i) work together as a unit within the same brokerage firm, (ii) represent themselves to the
32 public as working together as one unit, and (iii) designate themselves by a fictitious name.

33 "Supervising broker" means a real estate broker who has been designated by a principal broker to
34 supervise the provision of real estate brokerage services by associate brokers and salespersons assigned
35 to a branch office or a real estate team.

36 **§ 54.1-2106.1. Licenses required.**

37 A. No business entity, other than a sole proprietorship, shall act, offer to act, or advertise to act, as
38 a real estate firm without a real estate firm license from the Board. Such firm may be granted a license in
39 a fictitious name. No business entity shall be granted a firm license unless (i) every managing member of
40 a limited liability company, officer of a corporation, partner within a partnership, or associate within an
41 association who actively participates in the firm brokerage business holds a license as a real estate broker;
42 and (ii) every employee or independent contractor who acts as a salesperson for such business entity holds
43 a license as a real estate salesperson or broker. An individual holding a broker's license may operate a real
44 estate brokerage firm which he owns as a sole proprietorship without any further licensure by the Board,
45 although such individual shall not operate the brokerage firm in a fictitious name. However, nothing herein
46 shall be construed to prohibit a broker operating a brokerage firm from having a business entity separate
47 from the brokerage firm for such broker's own real estate business, provided that such separate business
48 entity otherwise complies with this section. A non-broker-owned sole proprietorship shall obtain a license
49 from the Board.

50 B. No individual shall act as a broker without a real estate broker's license from the Board. An
51 individual who holds a broker's license may act as a salesperson for another broker. A broker may be an
52 owner, member, or officer of a business entity salesperson as defined in subsection C.

53 C. No individual shall act as a salesperson without a salesperson's license from the Board. A
54 business entity may act as a salesperson with a separate business entity salesperson's license from the
55 Board. No business entity shall be granted a business entity salesperson's license unless every owner or
56 officer who actively participates in the brokerage business of such entity holds a license as a salesperson
57 or broker from the Board. The Board shall establish standards in its regulations for the names of business
58 entity salespersons when more than one licensee is an owner or officer.

59 D. No group of individuals consisting of one or more real estate brokers or real estate salespersons,
60 or a combination thereof, shall act as a real estate team without first obtaining a business entity
61 salesperson's license from the Board. A real estate team may hire one or more unlicensed assistants, as
62 employees or independent contractors, as otherwise provided by law.

63 E. If any principal broker maintains more than one place of business within the Commonwealth,
64 such principal broker shall be required to obtain a branch office license from the Board for each additional
65 place of business maintained other than his primary place of business noted on the firm license application.
66 A copy of the branch office license shall be kept on the premises of the branch office. No branch office
67 license shall be required for (i) a location that the principal broker, or those employed by or affiliated as
68 an independent contractor with the principal broker, does not own, lease, or maintain exclusive access to,
69 maintenance of, and control of, unless it is held out to the public as a location where such persons or
70 entities are regularly engaging in the activities of a real estate broker or salesperson; (ii) a motor vehicle
71 or watercraft; (iii) a place that is solely devoted to advertising real estate matters of a general nature or to
72 making a real estate broker's business name generally known such as a trade show or expo; (iv) a residence,
73 unless it is held out to the public as a location where the principal broker, or those employed by or affiliated
74 as an independent contractor with the principal broker, is regularly engaging in the activities of a real
75 estate broker or salesperson; (v) a post office box, mail drop location, or other similar facility; or (vi) a
76 public location such as a coffee shop or restaurant.

77 **§ 54.1-2110. Resident broker to maintain place of business in Virginia.**

78 A. Every resident real estate broker shall maintain a place of business in ~~this~~ the Commonwealth.

79 B. Any nonresident real estate broker residing in a state that mandates resident real estate brokers
80 of the Commonwealth to maintain a place of business in such mandating state shall maintain a place of
81 business in the Commonwealth.

82 C. Every principal broker shall have readily available to the public in the primary place of business
83 the firm license, the principal broker license, and the license of every salesperson and broker active with
84 the firm. Each branch office shall have readily available to the public the branch office license and a roster
85 of every salesperson or broker assigned to that branch office.

86 #