

## APPENDIX B: STATE LAW AND AGENCIES

All 50 states and the District of Columbia require real estate brokers and salespersons to be licensed. The licensure statutes form the framework for state control of those professions, delineating the licensure prerequisites, the prohibited practices for which licenses may be suspended or revoked, and the structure and powers of the regulatory agency.

Although the specific licensure requirements and regulatory structures vary considerably from state to state, the general statutory approaches to licensure are fairly uniform nationwide. Each state's law specifies the requirements for licensure of brokers and salespeople, as well as the legal responsibilities of each profession. All of the state laws create a regulatory body, usually designated as a real estate commission or board, to administer and enforce the statutory provisions. These categories of state regulation are described in Sections 1 and 2 below.

Section 3 summarizes the comments of state and local officials which were submitted in response to the staff's invitation to address the major issue areas under study in this investigation.

### 1. State Laws and Regulations

#### a. Licensure Requirements

All of the states have established two separate categories of real estate licenses: one for salespersons and one for brokers. Each of the statutes establishes the prerequisites to licensure, which typically include minimum age, education and experience requirements. Applicants for brokers' licenses usually are required to have proportionately more education and experience than those for salespersons' licenses.

Table A, published by the National Association of Real Estate License Law Officials (NARELLO),<sup>1</sup> summarizes the requirements for broker and salesperson licenses in each state. The prerequisites vary considerably from state to state, ranging from no education or experience requirements for either class of licensee in the District of Columbia, to 240 classroom hours and 3 years of sales experience for broker applicants in Pennsylvania.

Table B, also compiled by NARELLO, shows the type of licensure examination used by each state,<sup>2</sup> the length of examinations, and the number of times applicants who fail may re-take the tests each

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<sup>1</sup> NARELLO Interstate Cooperation Committee, 1980 NARELLO Annual Report, at 15-25.

<sup>2</sup> Twenty-eight states use a standardized examination produced by the Educational Testing Service of Princeton, New Jersey.

year.<sup>3</sup> The licensure examination pass/fail rates for each state in 1977-78 are shown in NARELLO Table C.<sup>4</sup> The pass rates for broker examinations in those years ranged from a low of 34% in Massachusetts to a high of 92% in South Dakota.

The states vary widely in their willingness to accept the denials of licensees from other states. Thirty states have no reciprocity agreements.<sup>5</sup> Most of the remaining states participate in reciprocity agreements with a small number of other jurisdictions, in many cases waiving only a portion of their requirements for such transferees.<sup>6</sup>

Nine states require licensees to be bonded,<sup>7</sup> in amounts ranging from \$1,000<sup>8</sup> to \$10,000.<sup>9</sup> Twenty-five states have established recovery funds to which all license applicants are required to contribute.<sup>10</sup> The funds are used to compensate victims of license law violations.

All states charge various types of licensure and examination fees, as listed in NARELLO Table E.<sup>11</sup> The average initial fee for a one-year salesperson's license is \$24, although the fees vary considerably from a low of \$5 in Missouri and New York to a high of \$75 in Connecticut.<sup>12</sup> The average broker's fee for an initial one-year license is \$38, with the fees ranging from \$10 in Kentucky to \$150 in Connecticut.<sup>13</sup>

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3 NARELLO Interstate Cooperation Committee, 1980 NARELLO Annual Report, at 9-14.

4 Id. at 48-51.

5 Id. at 31-36 (Table D).

6 Id.

7 Id. at 15-25 (Table A).

8 Wyoming Statutes, §33-355.7(c).

9 Montana Real Estate License Act of 1963, §66-1933.

10 NARELLO Interstate Cooperation Committee, 1980 NARELLO Annual Report, at 15-25 (Table A).

11 Id. at 26-30.

12 Id.

13 Id.

b. Business Practice Requirements

All of the state licensure laws contain various requirements and proscriptions concerning the business practices of real estate licensees. Several categories of legal responsibilities are described below, and are summarized in Table F.<sup>14</sup>

(1) Advertising

All of the states prohibit false, misleading, and deceptive representations by real estate licensees. Nearly identical phrases prohibiting "substantial misrepresentations," "false promises," and "pursuing a continued and flagrant course" of such violations appear in most of the statutes as grounds for license suspension and revocation. Several statutes also specifically mention false advertising as a separate ground for disciplinary action; adjectives such as "misleading," "inaccurate," and "untruthful" are most commonly used to describe such prohibited advertising.

The primary variation among state approaches to banning false and misleading advertising is whether the element of intent is included as part of the proscription. Several statutes specify that the licensee must have "knowingly" or "willfully" made such misrepresentations in order for disciplinary action to be warranted.<sup>15</sup> Also, while most states hold the supervising broker responsible for violations committed by any salespersons under his charge, many require that the broker must have had "guilty knowledge" of such transgressions in order for his own license to be put in jeopardy.<sup>16</sup>

Although the staff's survey of state laws revealed no other general prohibitions on advertising, various restrictions appear in some of the statutes. For example, California prohibits advertising of services which require "front-end" payments by home sellers to licensees, unless such advertisements are approved in advance by the state regulatory commission.<sup>17</sup>

Several states require advertising brokers to identify themselves as brokers (rather than principals),<sup>18</sup> and in some states

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14 The information in Table F is derived from the statutes and regulations submitted to the staff by the state agencies in the early stages of the investigation. Most of the statutes and rules were current as of 1977-1978.

15 E.g., Annotated Code of Maryland, 1957 Ed., as amended, Article 56, §224(b).

16 E.g., Delaware Code, Title 24, Chapter 29, §2912(b).

17 California Business and Professions Code, Division 4, §10085.

18 E.g., Massachusetts Board of Registration of Real Estate Brokers and Salesmen, Rules and Regulations, Article IV(1).

they must also include their names.<sup>19</sup> Many states also specifically prohibit "blind advertisements," or those which contain only a post office box or telephone number.<sup>20</sup>

The recent trend toward franchising of real estate offices is reflected in the advertising regulations of 13 of the state commissions, which specify that the users of franchise trade names must also include the licensee's name in advertising, logos, and signs.<sup>21</sup> Seven of those states further require that advertisements which use the franchise name must also include the phrase, "each office is independently owned and operated."<sup>22</sup>

## (2) Disclosures

Forty-seven states require that any licensee representing more than one party to a transaction must disclose that fact to all of the parties involved.<sup>23</sup> Similarly, in forty-one states, a licensee who is himself a party to a transaction, either directly or indirectly, must disclose his dual capacity as agent and principal to all parties concerned.<sup>24</sup>

A requirement that agents disclose to prospective purchasers the existence of known defects in the property for sale is found in some form in 11 states' laws or rules.<sup>25</sup>

Nebraska, New York, Texas, and Wyoming are unique in their requirement of one additional disclosure: that the licensee "make clear for which party he is acting" in a transaction.<sup>26</sup>

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19 E.g., Illinois Revised Statutes 1977, Chapter 111, §5732(e)(22).

20 E.g., Arkansas Real Estate Commission, Amended Rules and Regulations, §39(b).

21. E.g., Nevada Real Estate Advisory Commission, Rules and Regulations, §VII(4).

22 E.g., Georgia Real Estate Commission Rules, §520-1.-.27.

23 See Table F.

24 Id.

25 Id.

26 Nebraska Real Estate Commission Rules and Regulations, No. 6(3)(e); New York Department of State Rules and Regulations, §175.7; Texas Real Estate License Act, §15(4)(D); Wyoming Real Estate License Act of 1971, §33-355.11(n).



### (3) Codes of Ethics or Equivalents

Eight state agencies have included provisions in their regulations specifically designated as codes of ethics.<sup>27</sup> Two additional states, Idaho<sup>28</sup> and Wyoming,<sup>29</sup> incorporate by reference in their regulations the National Association of Realtors' Code of Ethics, requiring that licensees adhere to the NAR tenets. The licensee manuals published by the real estate regulatory agencies of five other states<sup>30</sup> either refer to the NAR Code or print it in verbatim or modified form, but do not incorporate the code in the state regulations or specify sanctions for non-adherence.

Several of the NAR Code Articles appear frequently in the provisions of statutes and regulations in identical or similar language. Table F shows those states which have reproduced certain of the NAR Articles verbatim or with similar wording in their laws and rules.

Instead of enacting specific codes of ethics, most of the states have included in the enumerated grounds for license suspension a blanket proscription covering several general categories of undesirable behavior. The language of the Maine statute's provision is typical of such proscriptions; it prohibits "any other conduct, whether of the same or different character [from that of other grounds for license suspension or revocation] which constitutes or demonstrate bad faith, incompetency or untrustworthiness, or dishonest, fraudulent or improper dealings."<sup>31</sup>

### (4) Forms

Three states--Colorado, Texas, and Wisconsin--require licensees to use standardized, state-approved forms for such documents as listing agreements and closing statements.<sup>32</sup> Several other states prescribe in detail the elements which such forms must contain;<sup>33</sup> some states, such as Pennsylvania, publish samples of forms

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27 See Table F.

28 Idaho Real Estate Commission Rules and Regulations, No. 28.

29 Wyoming Real Estate Commission Rules and Regulations, §12(a) (12).

30 See Table F.

31 Maine Revised Statutes, Title 32, Chapter 59, §4056(B).

32 Colorado Real Estate Commission, Rules and Regulations, §F; Texas Real Estate Commission, Rules, §402.04.02; Wisconsin Real Estate Examining Board, Rules, Chapter REB 7.01(2).

33 E.g., Illinois Department of Registration and Education, Rules and Regulations, §VII.

which comply with the requirements.<sup>34</sup>

The standard forms required by Texas were drafted by a committee composed of representatives of the State's Bar Association and Real Estate Commission. The committee's promulgation of the forms was accompanied by a declaration that the Real Estate Commission had agreed that brokers would use only the standardized contract forms unless an attorney was employed in the transaction. The Texas State Bar Association had in turn agreed that attorneys would not "negotiate sales unless employed to do so." The agreements further stipulate that a lawyer who is also a licensed broker "shall not advertise or hold himself out as being able to handle a real estate transaction less expensively or better because he is such licensee as well as a lawyer."<sup>35</sup>

In other states, such as California, the state bar and Real Estate associations have together produced "recommended" forms for use in real estate transactions.

(5) Net Listing Provisions

Seventeen states prohibit brokers from entering into "net listing" agreements with their clients.<sup>36</sup> Such contracts set a pre-established price for the property, with a provision that the broker may pocket any additional proceeds resulting from the sale.

(6) Anti-Rebating Provisions

Forty-three states prohibit the splitting of brokerage fees with non-licensees. Maryland's prohibition is typical of such provisions:

It shall be unlawful for any real estate broker, or real estate salesman, to pay any compensation, in money or other valuable thing, to any person other than a licensed real estate broker, ...or real estate salesman...[or attorneys and non-resident brokers exempted by the statutes], for the rendering of any service.... The violations of the provisions of this section by any licensee shall be sufficient cause for the suspension or revocation of his license, in the discretion of the [Real Estate] Commission.<sup>37</sup>

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34 Pennsylvania Real Estate Commission, Rules and Regulations, Ihibit A.

35 Texas Real Estate Commission, Rules, §402.04.01.

36 See Table F. E.g., Acts of Alabama, No. 422 (1951), as amended, §12(a)(21).

37 Annotated Code of Maryland, 1957 Edition, as amended, §22

(7) Fiduciary Responsibilities

Each of the states imposes some form of fiduciary responsibility on the broker, to ensure that the substantial sums of money customarily entrusted to him in the course of each real estate transaction are protected and properly accounted for. In addition to the statutory requirements regarding deposits made with the broker, the state agency regulations often prescribe detailed record-keeping and accounting procedures to be followed in each real estate office.<sup>38</sup>

(8) Other Business Practice Requirements

The statutes and regulations of each state contain numerous other requirements and restrictions affecting the business practices of licensees. For example, brokers are universally required to maintain close supervision over the actions of their salespersons, and are generally held personally accountable in the statutes for every facet of their business operations.<sup>39</sup> The licenses of salespersons typically are issued to and held in custody by their supervising brokers, and salespersons are often required to apply for new licenses when they wish to transfer to other brokers.<sup>40</sup>

Table F lists additional business practice provisions which appear most frequently in the statutes and rules, such as the requirements that each licensee maintain a fixed place of business, and display a sign identifying his name and his profession as a "broker" or "Realtor."<sup>41</sup> The sign requirements are often delineated in considerable detail, including the minimum height of the lettering to be used and other such size specifications.<sup>42</sup>

Two state agencies have promulgated rules concerning the minimum equipment required for a brokerage office, with the requisite number of desks, filing cabinets, and telephones expressed as a ratio to the number of employees using the office.<sup>43</sup>

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38 E.g., Colorado Real Estate Commission, Rules and Regulations, §E.

39 E.g., California Business and Professions Code, Division 4, §10177(h).

40 E.g., Florida Real Estate License Law, §475.23.

41 E.g., Oklahoma Real Estate Commission Rules, §106.4.

42 E.g., New Mexico Rules and Regulations, No. 11.

43 Pennsylvania Real Estate Commission Rules and Regulations, §6.4; Virginia Real Estate Commission Regulations, §6.1(a).

A majority of states prohibit the use of lotteries and contests, tests, as well as the offer of gifts or free lots, as an inducement to consumers to list with or buy realty from licensees.<sup>44</sup>

Restrictions on the use of the trademarked term "Realtor" also appear in the laws and rules of more than half of the states.<sup>45</sup> Ten statutes specifically protect the mark "Realtor,"<sup>46</sup> while 16 prohibit the use of "any trade name or insignia of membership in any real estate organization of which the licensee is not a member."<sup>47</sup>

Two final categories of legal requirements--those relating to brokerage commissions and multiple listing services--are not included in Table F because of their relative rarity.

The regulations of Ohio and South Carolina are unique in their mention of the negotiability of brokerage fees. The Canon of Ethics promulgated by Ohio's Real Estate Commission stipulates that "[t]he licensee should charge for his services only such fees as are fair and reasonable after discussion and negotiation with the client."<sup>48</sup> The penalty for noncompliance with the Canon is license suspension or revocation.<sup>49</sup>

The South Carolina Real Estate Commission has published an interpretation of its regulations concerning listing agreements which defines the brokerage commission as:

a negotiable fee [which]...may be any amount both parties agree to. It may be a fixed amount or a percentage of the sales price or a combination of both.<sup>50</sup>

Five states address the issue of fixed commission rates in their statutes or regulations. Three of those states have adopted identical statements of policy:

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44 See Table F.

45 See Table F.

46 E.g., Alaska Statutes, Title 8, §08.88.401(a).

47 E.g., District of Columbia Code, Title 45, §45-1408(k).

48 Ohio Division of Real Estate, Canon of Ethics For the Real Estate Industry, Article 15.

49 Ohio Division of Real Estate, Rules, §1301:5-3-08.

50 South Carolina Real Estate Commission, License Law and Regulations, Listings-Trust Accounts (September 1977), at 20.

The...Commission neither recommends nor recognizes any agreement to fix or impose uniform rates of commission on any real estate transaction.<sup>51</sup>

The Oklahoma Real Estate Commission's Rules state that "the Commission shall not establish the rate of commissions to be charged for real estate services and shall have no interest therein."<sup>52</sup> Tennessee's legislature included in its licensure statute the following provision:

Nothing herein shall allow the [Real Estate] commission to set fees or commissions for real estate contracts or transactions and if said practice is found to be an actual practice in the field, if because of action of the commission, all members of the commission shall forfeit their licenses.<sup>53</sup>

South Dakota and Washington are the only states which provide for regulation of multiple listing services. South Dakota requires that "listing exchanges" be licensed, pay a \$50 annual fee, and make semi-annual reports to the Real Estate Commission.<sup>54</sup> Those reports must "completely...[disclose] the amounts expended on each listing for advertising the sale of real estate in each particular case."<sup>55</sup> Further, the listing fees charged "must be reasonable under the circumstances," and all of the fee must be used to promote the sale of the listed property by advertising.<sup>56</sup> Listing exchanges in South Dakota must also use forms approved by the Real Estate Commission, which disclose such factors as the non-ability of fees and the lack of guarantees that listed property will be sold.<sup>57</sup>

Washington's approach to MLS regulation focuses on requirements for access to the listing exchange. The real estate licensing statute stipulates that MLS's may require only that each applicant:

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51 Idaho Real Estate Commission, Rules and Regulations, No. 30; North Dakota Real Estate Commission, Rules and Regulations, §R43-23-16; South Dakota Real Estate Commission, Rules and Regulations, §20:56:02:06.

52 Oklahoma Real Estate Commission, Rules, §111(a).

53 Tennessee Code Annotated, Chapter 13, §62-1312.

54 South Dakota Real Estate Commission, Rules, §20:56:15.

55 Id., §20:56:15:08.

56 Id., §20:56:15:06.

57 Id., §§20:56:15:05, :10.

(1) be a licensed broker who has operated in the MLS area for one year;

(2) have insurance, if all members are so required;

(3) pay an initiation fee--not to exceed \$2,500-- computed by dividing an amount equal to five times the book value of the MLS, by the number of MLS members; and

(4) adhere to any other rules of the MLS which apply to all members, provided that such rules do not violate federal or state law.<sup>58</sup>

### c. Sanctions for Violation of Laws and Regulations

In addition to the suspension and revocation of licenses, many of the licensure statutes specify criminal penalties which may be imposed on violators. Such sanctions, noted in Table G, range in severity from a maximum \$100 fine or 30 days' imprisonment in Iowa<sup>59</sup> to a fine of up to \$2,000 and/or two years' imprisonment in Louisiana.<sup>60</sup>

A few states also provide for private rights of action with damage awards of up to three times the amount of commissions or profits earned as a result of each violation.<sup>61</sup> New York allows recoveries of up to four times the illegally earned sums.<sup>62</sup>

## 2. State Agencies

The licensure laws of every state establish a regulatory agency to administer the licensing process and to enforce the statutory provisions. The composition and powers of these agencies, which usually are designated as real estate commissions or boards, are discussed below.

### a. Composition

Table G shows the composition and structure of each state agency, as delineated in the statutes.<sup>63</sup> Industry members comprise

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58 Washington Revised Code, §18.85.400.

59 Code of Iowa, Chapter 117, §117.43.

60 Louisiana Revised Statutes, 1950, Title 37, Chapter 17, §1458.

61 E.g., Montana Real Estate License Act of 1963, §66-1940.

62 New York Real Property Law, Article 12-A, §442-e(3).

63 The information in Table G is derived from the statutes submitted to the staff by the state agencies, most of which were current as of 1977-1978.

the majorities on every state's commission except that of Rhode Island, where four public members preside with three brokers.<sup>64</sup> The statutes of more than half of the states require that at least one commission member be a nonlicensed representative of the public.

In most states the governor appoints the commission members, while in a few another public official is so empowered.<sup>65</sup> Arkansas<sup>66</sup> and Kentucky<sup>67</sup> require their governors to make appointments from nominees supplied by the respective state Realtor associations. The laws of three other states direct the governor to "consider" a list of nominees provided by the state trade association.<sup>68</sup>

b. Powers

With few exceptions, the state agencies are granted broad and exclusive rulemaking and enforcement powers by the licensing statutes.<sup>69</sup> In 41 states, the commissions have full authority to deny, suspend and revoke licenses, as well as to interpret and implement the statutory provisions through rulemaking.<sup>70</sup> The remaining states have generally divided the mandates between two regulatory entities, with the commission serving either as an examining committee charged with administering the licensing tests,<sup>71</sup> as a board of appeals from the primary agency's decisions,<sup>72</sup> or in a purely advisory capacity.<sup>73</sup>

While many of the statutes delineate in some detail the grounds for suspension and revocation of licenses, the legislatures in most states have delegated to the licensing agencies considerable latitude in interpreting and enforcing the various proscriptions. For example, the Alabama Real Estate Commission is empowered to adopt "all rules and regulations in its opinion neces-

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64 Rhode Island General Laws; Title 5, Chapter 20.5, §12(a).

65 See Table G.

66 Arkansas Statutes 1947, §71-1303.

67 Kentucky Revised Statutes, §324.281.

68 Illinois, Iowa, and Nevada.

69 See Table G.

70 Id.

71 E.g., Oregon Revised Statutes, §696.425.

72 E.g., Rhode Island General Laws, Title 5, Chapter 20.5, §13.

73 E.g., California Business and Professions Code, §10056.

sary ... for the enforcement and administration of this Act."<sup>74</sup> The Alaska statute directs that its commission "shall adopt substantive regulations making more specific the general grounds for revoking or suspending a license."<sup>75</sup>

Several states specifically qualify the grant of authority with a requirement that the regulations be "not inconsistent with" the statutory provisions.<sup>76</sup> Mississippi's license law contains the most restrictive caveat:

No regulation, rule or interpretation shall be adopted or applied which establishes additional qualifications [for licensure] other than those established under this section. Any existing regulation, rule or interpretation which is not in accord with this section is hereby abrogated and without effect.<sup>77</sup>

### 3. Comments of State and Local Agencies

In July, 1979, a Notice of Intent to Make Recommendations and Invitation to Comment was sent to 320 state and local government officials. The staff's notice and invitation, accompanied by a letter from Isaiah T. Creswell, Director of Federal/State and Consumer Relations, was sent to the governors, real estate regulatory agencies, attorneys general, district attorneys, and consumer protection agencies in every state, U.S. territory, and the District of Columbia. A copy of the notice and invitation is included in this Appendix as Attachment 1.

The purpose of the notice was to announce our intention to make recommendations to the Commission based on the results of the real estate brokerage industry investigation then underway. The notice contained a general description of the issues under investigation, the kinds of recommendations the staff might make to the Commission, and an invitation to the state and local officials to comment and offer suggestions concerning the issues outlined.

The issue areas under investigation were described in the notice as follows:

- (1) the nature and role of state law and state agencies  
--any study of the real estate industry must include an understanding of the state regulatory process, and

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74 Alabama Real Estate License Law of 1951, §19.

75 Alaska Statutes, Title 8, §08.88.081.

76 E.g., Massachusetts General Laws, Chapter 112, §56.

77 Mississippi Real Estate Brokers License Act of 1954 As Amended, §73-35-7.



of the role of state departments of real estate;

- (2) the nature and role of private trade associations -- the staff seeks an understanding of the policies and practices of the brokers' trade associations, and the impact of those policies on competitors and consumers;
- (3) the structure and operations of multiple listing services -- nearly all observers agree upon the importance of multiple listing systems in most residential real estate markets; the staff is studying how such services are organized and operated;
- (4) problems facing industry innovators -- brokers who describe their prices or services as "alternative" have complained of harassment and boycotting by others in the industry; the staff is looking into barriers--both structural and behavioral--to innovation; and
- (5) the role of the broker in the residential real estate transaction -- some brokers and consumers have contended that problems of conflicting duties and interests make adequate representation of buyers and sellers difficult; the staff is interested in these issues of agency law and practice, as well as the efforts within the industry to increase the overall level of broker professionalism.

We also asked the officials to suggest other issues which might merit inclusion in the investigation, and to provide information about any known pending legal actions or studies concerning the real estate brokerage industry. We emphasized our hope that the officials' responses would help us both to increase our knowledge of the industry, and to structure the inquiry so that it addressed issues of importance to state and local governments.

We received 79 letters in response to the notice and invitation, 55 of which contained comments and suggestions. The remaining letters were from officials acknowledging receipt of the notice, and in most cases stating that it had been forwarded to other state agencies which were more familiar with the issues outlined.

We have carefully reviewed each of the official's comments and recommendations, and devote this section to a summary of those responses. Our analysis is organized by subsections pertaining to the four categories of officials who submitted comments: governors, real estate regulatory agencies, attorneys general and local district attorneys, and consumer agencies. Within those subsections, we have followed the format of the notice and invitation, addressing first the comments concerning the staff's five issue areas, and then other comments and recommendations.

a. Comments of Governors

Comments were received from the governors of four states--Mississippi, Nebraska, Oregon, and Texas--and of the territory of Guam. Their comments concerning the issue areas were as follows.

(1) Nature and Role of State Law and State Agencies

Four of the governors described the role of their respective state agencies in licensing brokers and salespersons and in enforcing the statutes.<sup>78</sup> Three of them emphasized the effectiveness of those agencies in ensuring competence and professionalism among licensees and thereby protecting consumers.<sup>79</sup>

(2) Nature and Role of Private Trade Associations

None of the governors mentioned problems in connection with this issue. Nebraska's governor said that his state's Association of Realtors was not overly restrictive in its membership requirements;<sup>80</sup> Oregon's governor noted that the state Real Estate Division has always maintained a constructive working relationship with the state trade associations.<sup>81</sup>

(3) Structure and Operations of Multiple Listing Services

The two governors who commented on this issue stated that multiple listing services have not posed competitive or consumer problems in their states.<sup>82</sup>

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78 Comments of Paul M. Calvo, Governor of Guam, Aug. 14, 1979; Comments of Cliff Finch, Governor of Mississippi, July 24, 1979; Comments of Charles Thone, Governor of Nebraska, Aug. 1, 1979; Comments of Victor Atiyeh, Governor of Oregon, Aug. 1, 1979.

79 Comments of Cliff Finch, Governor of Mississippi, July 24, 1979; Comments of Charles Thone, Governor of Nebraska, Aug. 1, 1979; Comments of Victor Atiyeh, Governor of Oregon, Aug. 1, 1979.

80 Comments of Charles Thone, Governor of Nebraska, Aug. 1, 1979.

81 Comments of Victor Atiyeh, Governor of Oregon, Aug. 1, 1979.

82 Comments of Charles Thone, Governor of Nebraska, Aug. 1, 1979; Comments of Victor Atiyeh, Governor of Oregon, Aug. 1, 1979.

(4) Problems Facing Industry Innovators

Here again, the two governors concluded that this issue did not appear to be an area of concern in their states.<sup>83</sup>

(5) Role of the Broker

The governor of Nebraska, the only commenter on this issue, stated that although brokers usually represent sellers as principals in real estate transactions, buyers also frequently establish an agency relationship by employing brokers to work for them. He added that,

[a]lthough it is possible that many members of the public fail to understand that brokers usually are working in the best interests of the seller... I believe that most brokers understand their concurrent responsibility of treating the buyer honestly and fairly.<sup>84</sup>

(6) Other Comments and Recommendations

The governors of Nebraska and Texas commented that the real estate industry is effectively regulated at the state level in their jurisdictions.<sup>85</sup> Nebraska's governor added that any problems identified in our investigation should be brought to the attention of state authorities for remedial action at the state, rather than federal, level.<sup>86</sup>

The governor of Oregon offered his state's cooperation in our investigation, with the hope of avoiding "any potential conflict between FTC actions and our regulatory process."<sup>87</sup>

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83 Id.

84 Comments of Charles Thone, Governor of Nebraska, Aug. 1, 1979.

85 Comments of Charles Thone, Governor of Nebraska, Aug. 1, 1979; Comments of the Office of the Governor of Texas, Aug. 28, 1979.

86 Comments of Charles Thone, Governor of Nebraska, Aug. 1, 1979.

87 Comments of Victor Atiyeh, Governor of Oregon, Aug. 1, 1979.

b. Comments of Real Estate Regulatory Agencies

Twenty-six real estate regulatory agencies submitted comments.

(1) Nature and Role of State Law and State Agencies

The most frequent comment made by the 14 agencies who addressed this issue was that the state laws are adequate to protect the public in real estate transactions.<sup>88</sup> Two commenters added that additional resources are needed to adequately enforce those laws.<sup>89</sup>

Other agencies commented that no barriers to entry in licensing of brokers and agents exist in their jurisdictions,<sup>90</sup> and that they strive to raise the professionalism of licensees through means such as continuing education requirements.<sup>91</sup>

The Wisconsin Department of Registration and Licensing which provides administrative services to the state Examining Board, mentioned that it has urged the Board to revise its Code of Ethics for licensees. Of particular concern to the Department are code provisions which encourage exclusive listings and co-brokerage, prohibit solicitations of current listings, and restrict advertising.<sup>92</sup>

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88 Comments of Alaska Real Estate Board, Aug. 8, 1979; Comments of Iowa Real Estate Commission, Aug. 31, 1979; Comments of Maryland Real Estate Commission, Aug. 3, 1979; Comments of New Mexico Real Estate Commission, Oct. 10, 1979; Comments of South Dakota Real Estate Commission, Aug. 7, 1979.

89 Comments of Alaska Real Estate Board, Aug. 8, 1979; Comments of Maryland Real Estate Commission, Aug. 3, 1979.

90 Comments of Idaho Real Estate Commission, Aug. 15, 1979.

91 Comments of Maine Real Estate Commission, July 26, 1979; Comments of Tennessee Real Estate Commission, Aug. 13, 1979.

92 Comments of Wisconsin Department of Regulation and Licensing, Aug. 20, 1979.

(2) Nature and Role of Private Trade Associations

Several agencies said that they enjoy a cooperative relationship with the Realtors' associations in their states.<sup>93</sup> Commenters cited the associations' arbitration and grievance procedures,<sup>94</sup> continuing education programs,<sup>95</sup> codes of ethics,<sup>96</sup> and emphasis on increased professionalism<sup>97</sup> as beneficial to the public. Arkansas' agency said that its state association had been very active in making the profession aware of the "perils of anticompetitive conduct."<sup>98</sup> Two agencies observed that membership in the associations is voluntary.<sup>99</sup>

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- 93 Comments of New Mexico Real Estate Commission, Oct. 10, 1979; Comments of Tennessee Real Estate Commission, Aug. 13, 1979. The Wisconsin Department of Regulation Land Licensing commented that while the state association strives to maintain a close relationship with the Examining Board, the Department "see[s] diametrically opposed purposes for each group and indeed perceive[s] a conflict of interest in such a close relationship." (Comments of Aug. 20, 1979).
- 94 Comments of Illinois Commissioner of Real Estate, Aug. 14, 1979; Comments of New Mexico Real Estate Commission, Oct. 10, 1979.
- 95 Comments of Illinois Commissioner of Real Estate, Aug. 14, 1979; Comments of Iowa Real Estate Commission, Aug. 31, 1979; Comments of New Mexico Real Estate Commission, Oct. 10, 1979.
- 96 Comments of Iowa Real Estate Commission, Aug. 31, 1979.
- 97 Comments of Tennessee Real Estate Commission, Aug. 13, 1979.
- 98 Comments of Arkansas Real Estate Commission, Aug. 21, 1979.
- 99 Comments of Illinois Commissioner of Real Estate, Aug. 14, 1979; Comments of Texas Real Estate Commission, July 31, 1979.

(3) Structure and Operations of Multiple Listing Service

The most frequently addressed question in this area was whether MLS's pose anticompetitive problems. Two state agencies said that MLS's do not have the effect of restraining trade;<sup>100</sup> took the opposite position.<sup>101</sup> North Dakota's agency mentioned that industry members complain about MLS fees, and suggested that a review may be warranted to determine if the fees are justified, or are imposed to restrain MLS membership.<sup>102</sup>

Other points mentioned by commenters were that MLS's are open to all licensees,<sup>103</sup> and provide a valuable service to the public.<sup>104</sup>

Wisconsin's department said that it is working with the examining board to draft a rule providing for disclosure to sellers of the licensee's relationship to the MLS. The proposed disclosure would indicate the commission split, "which would impact on the real estate person's degree of activity in his or her sales priorities."<sup>105</sup>

(4) Problems Facing Industry Innovators

Several agencies said they had received inquiries from consumers and competitors concerning the services offered by innovators,<sup>106</sup> and two had received complaints about advertising by alternative brokers.<sup>107</sup> Two agencies had received complaints from

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- 100 Comments of Alaska Real Estate Board, Aug. 8, 1979; Comments of Iowa Real Estate Commission, Aug. 31, 1979.
- 101 Comments of Washington Department of Licensing, Sept. 7, 1979.
- 102 Comments of North Dakota Real Estate Commission, Aug. 14, 1979.
- 103 Comments of Alaska Real Estate Board, Aug. 8, 1979; Comments of New Mexico Real Estate Commission, Oct. 10, 1979.
- 104 Comments of Alaska Real Estate Board, Aug. 8, 1979; Comments of Iowa Real Estate Commission, Aug. 31, 1979.
- 105 Comments of Wisconsin Department of Regulation and Licensing, Aug. 20, 1979.
- 106 Comments of Georgia Real Estate Commission, July 10, 1979; Comments of Iowa Real Estate Commission, Aug. 31, 1979; Comments of Texas Real Estate Commission, July 31, 1979.
- 107 Comments of Iowa Real Estate Commission, Aug. 31, 1979; Comments of New Mexico Real Estate Commission, Oct. 10, 1979.

innovators about harassment from other brokers.<sup>108</sup>

Two commenters stated that brokerage firms which had attempted innovative practices in their states had failed because of a lack of public acceptance of their services.<sup>109</sup> One of them, the Alaska Real Estate Board, added that no brokers are providing full services "for a drastically altered commission rate from what seems to be the normal range of prices for such services in the area."<sup>110</sup>

The Colorado agency observed that a broker has no obligation to sell another's listings, and that there "is no doubt that many brokers will hesitate to cooperate and extend selling efforts when the fee paid for cooperation is too small to warrant the effort."<sup>111</sup>

Washington's agency commented that multiple listing services place floors under commission rates, and thus penalize member brokers who attempt to offer price competition. Legislation has been proposed in that state to prohibit MLS's from interfering with free price competition among brokers.<sup>112</sup>

#### (5) Role of the Broker

The state agencies were evenly divided over the question of whether there are problems associated with the broker's role in the real estate transaction. Of the eleven commenters who addressed this issue, five stated that problems do result either from conflicting interests being represented by one agent,<sup>113</sup> or from consumer confusion over whose interests the broker represents.<sup>114</sup> For example, the Alaska Real Estate Board commented:

There is a very real problem with the licensee representing both the buyer and the seller. Even...[the state law

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108 Comments of Colorado Real Estate Commission, Aug. 3, 1979; Comments of Minnesota Commissioner of Securities, Sept. 7, 1979.

109 Comments of Alaska Real Estate Board, Aug. 8, 1979; Comments of New Mexico Real Estate Commissioner, Oct. 10, 1979.

110 Comments of Alaska Real Estate Board, Aug. 8, 1979.

111 Comments of Colorado Real Estate Commission, Aug. 3, 1979.

112 Comments of Washington Department of Licensing, Sept. 7, 1979.

113 Comments of Alaska Real Estate Board, Aug. 8, 1979; Comments of Colorado Real Estate Commission, Aug. 3, 1979; Comments of Oklahoma Real Estate Commission, Aug. 30, 1979.

114 Comments of Georgia Real Estate Commission, July 10, 1979; Comments of Iowa Real Estate Commission, Aug. 31, 1979.

prohibiting dual representation] does not come close to eliminating the problem. There is currently a need for an effective means whereby the buyer and seller can both obtain adequate representation from licensees without increasing the cost of the transaction to the parties.<sup>115</sup>

The Colorado agency said it is attempting to change "this non-apparent conflict of interest" by approving a form of employment agreement which brokers could use to represent buyers.<sup>116</sup> The Georgia Board said that it had attempted to remedy consumers' misunderstandings concerning the broker's role by disseminating information about subagency responsibilities.<sup>117</sup>

In contrast, five of the agencies stated that the role of the broker is not a source of problems. Three of those commenters said that this is so because buyers have access to other avenues of protection aside from brokers.<sup>118</sup> As the New Mexico agency commented, "[b]uyers are well protected by the infinite number of rules and regulations of each local board, and by the Realtors' code of ethics."<sup>119</sup>

Of the two remaining agencies which saw no difficulties in this area, one explained that "it is usually in the best interests of the buyer, seller, and broker to treat all parties fairly."<sup>120</sup> The other agency's view was that "[t]here are no conflicts in duties and interests except those which individuals themselves create."<sup>121</sup>

Finally, the Arkansas agency commented that the major problem regarding this issue is a lack of broker supervision over sales agents.<sup>122</sup>

#### (6) Other Comments and Recommendations

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- 115 Comments of Alaska Real Estate Board, Aug. 8, 1979.
- 116 Comments of Colorado Real Estate Commission, Aug. 3, 1979.
- 117 Comments of Georgia Real Estate Commission, July 10, 1979.
- 118 Comments of Illinois Commissioner of Real Estate, Aug. 14, 1979; Comments of New Mexico Real Estate Commission, Oct. 10, 1979; Comments of Tennessee Real Estate Commission, Aug. 13, 1979.
- 119 Comments of New Mexico Real Estate Commission, Oct. 10, 1979.
- 120 Comments of Maine Real Estate Commission, July 26, 1979.
- 121 Comments of Texas Real Estate Commission, July 31, 1979.
- 122 Comments of Arkansas Real Estate Commission, Aug. 21, 1979.



The most prevalent general comment was that the real estate industry is best regulated at the state, rather than Federal, level.<sup>123</sup> One agency which stated that view added that regulations to protect consumers in real estate transactions should be made uniform throughout the nation.<sup>124</sup> Another agency recommended that national conferences of state boards be established to develop model regulations.<sup>125</sup>

Other frequent comments were that the real estate industry is currently meeting the public's needs,<sup>126</sup> and that the major problems affecting the industry are uncontrollable factors such as inflation, housing shortages, and high mortgage interest rates.<sup>127</sup>

Two agencies raised issues concerning brokerage commissions. The Alaska Board stated that although "[m]ost members of the public and most licensees know...the unmentionable going commission rate in the area," this price structure uniformity appears primarily to be a result of market pressure.<sup>128</sup> That is, brokers cannot charge more than their competitors; if they charge less, they face economic failure.<sup>129</sup> The Board added that where legal action has restricted the flow of information concerning commission rates, increases in the rate structure have resulted. As an example of this perceived phenomenon, the Board said that Anchorage's commission rates of 4% to 6% are lower than prevailing rates in the rest of the nation, due to less government intervention in that juris-

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- 123 Comments of Iowa Real Estate Commission, Aug. 31, 1979; Comments of Maine Real Estate Commission, July 26, 1979; Comments of Michigan Department of Licensing and Regulation, Aug. 17, 1979; Comments of Nevada Real Estate Division, Aug. 14, 1979; Comments of South Dakota Real Estate Commission, Aug. 7, 1979; Comments of Wisconsin Real Estate Examining Board, Aug. 13, 1979.
- 124 Comments of Michigan Department of Licensing and Regulation, Aug. 13, 1979.
- 125 Comments of Wisconsin Department of Regulation and Licensing, Aug. 20, 1979.
- 126 Comments of Alabama Real Estate Commission, Sept. 11, 1979; Comments of South Dakota Real Estate Commission, Aug. 7, 1979.
- 127 Comments of Illinois Commissioner of Real Estate, Aug. 14, 1979; Comments of Tennessee Real Estate Commission, Aug. 13, 1979; Comments of Texas Real Estate Commission, July 31, 1979.
- 128 Comments of Alaska Real Estate Board, Aug. 1979.
- 129 Id.

California's agency mentioned its support of a state legislature bill to require a disclosure in listing contracts that commission rates are negotiable. The agency said it supports the bill because "[w]e believe the almost universal use of a six percent commission figure indicates that few consumers are aware of the negotiability of real estate commissions."<sup>131</sup> The agency also commented that the amount of commissions has increased at the same rate as home prices, but without evidence that the amount of effort expended in selling homes has increased.<sup>132</sup>

Two agencies mentioned their concern that advertising a home as "For Sale By Owner," for example on "for sale" signs at the home or in newspapers, may be misleading if, in fact, a licensed broker is assisting the seller in the sale of the home.<sup>133</sup> The recent trend of large brokerage firms entering the industry was also mentioned as a concern by two commenters, because of the potential impact on small businesses.<sup>134</sup>

Finally, four of the agencies stated their willingness to cooperate with the Federal Trade Commission in our investigation,<sup>135</sup> and three commented that the staff's five issue areas were well chosen.<sup>136</sup>

c. Comments of Attorneys General and District Attorneys

Fourteen attorneys general and five district attorneys

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130 Id.

131 Comments of California Department of Real Estate, July 12, 1979.

132 Id.

133 Comments of Tennessee Real Estate Commission, Aug. 13, 1979; Comments of Texas Real Estate Commission, July 31, 1979.

134 Comments of Illinois Commissioner of Real Estate, Aug. 14, 1979; Comments of Tennessee Real Estate Commission, Aug. 13, 1979.

135 Comments of Arkansas Real Estate Commission, Aug. 21, 1979; Comments of Mississippi Real Estate Commission, July 30, 1979; Comments of Oklahoma Real Estate Commission, Aug. 30, 1979; Comments of South Carolina Real Estate Commission, July 16, 1979.

136 Comments of Indiana Real Estate Commission, Aug. 6, 1979; Comments of Maryland Real Estate Commission, Aug. 3, 1979; Comments of Virginia Real Estate Commission, Sept. 19, 1979.

submitted comments.

(1) Nature and Role of State Law and State Agencies

Three of the public attorneys observed that the real estate regulatory agencies in their states have no clear mandate, as one stated, "to seek out and punish those who fix prices or harass innovators."<sup>137</sup> Two attorneys general explained that they work with the state regulatory agency to resolve complaints regarding the industry.<sup>138</sup>

Other commenters addressed the issues of licensing standards and state agency composition. The District Attorney of Pima County, Arizona said that although that office generally favors deregulation of licensed occupations, the Tucson real estate industry "desperately needs increased regulation to eliminate incompetence and a lack of financial equity."<sup>139</sup>

The commenter from the San Diego District Attorney's office disagreed, contending that "state deregulation of entry would appear to open the trade in a way that would restore competition, without measurably affecting quality of performance."<sup>140</sup> He stated that real estate licensing constitutes a barrier to entry which is primarily supported by the industry, and is of no significant benefit in protecting consumers.<sup>141</sup>

The attorneys general of Iowa and New Jersey cited a

constant, and perhaps unsolvable problem of having the regulators come from the ranks of the regulated industry, carrying with them their preconceived biases toward the industry's common practices, many of which may be anticompetitive.<sup>142</sup>

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137 Comments of Delaware Attorney General, Aug. 13, 1979; Comments of New Hampshire Attorney General's Office, July 31, 1979; Comments of Jefferson Parish (Louisiana) District Attorney's Office, Aug. 10, 1979.

138 Comments of Idaho Attorney General's Office, Aug. 14, 1979; Comments of Massachusetts Attorney General's Office, Aug. 15, 1979.

139 Comments of Pima County (Arizona) Attorney's Office, July 23, 1979.

140 Comments of San Diego District Attorney's office, July 10, 1979.

141 Id.

142 Comments of Iowa Attorney General's Office, July 25, 1979; Comments of New Jersey Attorney General's Office, July 24, 1979.

New Jersey's Attorney General proposed a new role for the state regulatory agencies as data banks, which would aid small brokerage firms by disseminating statistics for use in areas such as cost accounting and break-even analysis.<sup>143</sup>

(2) Nature and Role of Private Trade Associations

Six of the seven commenters who addressed this issue took the position that such associations engage in anticompetitive practices.<sup>144</sup> Such practices cited by the public attorneys include price fixing,<sup>145</sup> membership restrictions,<sup>146</sup> excessive dues,<sup>147</sup> group boycotts<sup>148</sup> and other barriers to innovators,<sup>149</sup> and "extra-political, self-serving, self-regulation."<sup>150</sup> One of those commenters also remarked that association membership is voluntary, and that the Realtor boards serve the public advantageously through educational activities, codes of ethics, and lobbying and other

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- 143 Comments of New Jersey Attorney General's Office, July 24, 1979.
- 144 Comments of Arizona Attorney General's Office, Aug. 6, 1979; Comments of Massachusetts Attorney General's Office, Aug. 15, 1979; Comments of New Jersey Attorney General's Office, July 24, 1979; Comments of Washington Attorney General's Office, Nov. 1, 1979; Comments of Jefferson Parish (Louisiana) District Attorney's Office, Aug. 10, 1979; Comments of San Diego District Attorney's Office, July 10, 1979.
- 145 Comments of Arizona Attorney General's Office, Aug. 6, 1979; Comments of New Jersey Attorney General's Office, July 24, 1979; Comments of Washington Attorney General's Office, Nov. 1, 1979; Comments of Jefferson Parish (Louisiana) District Attorney's Office, Aug. 10, 1979.
- 146 Comments of Arizona Attorney General's Office, Aug. 6, 1979; Comments of Washington Attorney General's Office, Nov. 1, 1979.
- 147 Comments of Arizona Attorney General's Office, Aug. 6, 1979; Comments of San Diego District Attorney's Office, July 10, 1979.
- 148 Comments of Washington Attorney General's Office, Nov. 1, 1979.
- 149 Comments of Arizona Attorney General's Office, Aug. 6, 1979; Comments of Massachusetts Attorney General's Office, Aug. 15, 1979.
- 150 Comments of Massachusetts Attorney General's Office, Aug. 15, 1979.

political activity.<sup>151</sup>

The comment of the seventh agency--the Pima County, Arizona District Attorney's office--was that the associations have provided neither hindrance nor assistance to that office.<sup>152</sup>

(3) Structure and Operations of Multiple Listing Services

A conclusion by Washington's attorney general was echoed in seven of the nine comments on this issue:<sup>153</sup>

The MLS provides a convenient forum for industry members to exchange information...this of course has serious anticompetitive implications.<sup>154</sup>

Several specific anticompetitive factors associated with MLS's were mentioned by various commenters:

(1) requirements that the commission rate<sup>155</sup> and split<sup>156</sup> be listed on MLS forms;

(2) restrictions on access to MLS's;<sup>157</sup>

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<sup>151</sup> Id.

<sup>152</sup> Comments of Pima County (Arizona) Attorney's Office, July 23, 1979.

<sup>153</sup> Comments of Arizona Attorney General's Office, Aug. 6, 1979; Comments of Iowa Attorney General's Office, July 25, 1979; Comments of Massachusetts Attorney General's Office, Aug. 15, 1979; Comments of New Jersey Attorney General's Office, July 24, 1979; Comments of Washington Attorney General's Office, Nov. 1, 1979; Comments of Los Angeles District Attorney's Office, Aug. 21, 1979; Comments of San Diego District Attorney's Office, July 10, 1979.

<sup>154</sup> Comments of Washington Attorney General's Office, Nov. 1, 1979.

<sup>155</sup> Comments of Arizona Attorney General's Office, Aug. 6, 1979; Comments of Los Angeles District Attorney's Office, Aug. 21, 1979.

<sup>156</sup> Comments of Massachusetts Attorney General's Office, Aug. 15, 1979; Comments of Washington Attorney General's Office, Nov. 1, 1979; Comments of San Diego District Attorney's Office, July 10, 1979.

<sup>157</sup> Comments of Arizona Attorney General's Office, Aug. 6, 1979; Comments of Iowa Attorney General's Office, July 25, 1979; Comments of Massachusetts Attorney General's Office, Aug. 15, 1979.  
(Footnote Continued)

- (3) unreasonable dues structures;<sup>158</sup>
- (4) exclusive listing requirements;<sup>159</sup>
- (5) shared commissions--the essence of the MLS--as a fact keeping commission rates high;<sup>160</sup>
- (6) use of the MLS as an enforcement mechanism to maintain uniform commission rates,<sup>161</sup> and to harass discounters;<sup>162</sup> and
- (7) exclusive territorial MLS assignments in accordance with the NAR's model by-laws.<sup>163</sup>

Several of the public attorneys specifically charged that the MLS is a vehicle for price fixing.<sup>164</sup> For example, the commenter

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157 (Footnote Continued)

- 1979; Comments of New Jersey Attorney General's Office, July 24, 1979; Comments of Washington Attorney General's Office, Nov. 1, 1979; Comments of Los Angeles District Attorney's Office, Aug. 21, 1979; Comments of San Diego District Attorney Office, July 10, 1979.
- 158 Comments of Arizona Attorney General's Office, Aug. 6, 1979; Comments of San Diego District Attorney's Office, July 10, 1979.
- 159 Comments of San Diego District Attorney's Office, July 10, 1979.
- 160 Comments of New Jersey Attorney General's Office, July 24, 1979.
- 161 Comments of Arizona Attorney General's Office, Aug. 6, 1979; Comments of Massachusetts Attorney General's Office, Aug. 1 1979; Comments of New Jersey Attorney General's Office, July 24, 1979; Comments of Washington Attorney General's Office, Nov. 1, 1979; Comments of Los Angeles District Attorney's Office, Aug. 21, 1979; Comments of San Diego District Attorney Office, July 10, 1979.
- 162 Comments of Los Angeles District Attorney's Office, Aug. 21 1979; Comments of San Diego District Attorney's Office, July 10, 1979.
- 163 Comments of Arizona Attorney General's Office, Aug. 6, 1979.
- 164 Comments of Massachusetts Attorney General's Office, Aug. 1 1979; Comments of New Jersey Attorney General's Office, July 24, 1979; Comments of Washington Attorney General's Office, Nov. 1, 1979; Comments of San Diego District Attorney's Office, July 10, 1979.

from the San Diego District Attorney's office stated:

To look at a phone-book-sized publication that is the critical working document of this trade, and to review page after page after page of houses and properties--some overpriced, some underpriced, some costly to sell, others instant sales, some cheap and some very expensive, and see on every one '6% split 50-50' as the commission, is the most telling and stark evidence imaginable of the existence of the price fix and of the multiple listing service as its facilitator.<sup>165</sup>

The commenter from the New Jersey attorney general's office cited data which showed that MLS's operated by Boards of Realtors were the subject of proportionally more consumer complaints in that state than were independent MLS's. "Thus," he concluded, "it would appear that conditioning MLS access on becoming a Realtor is ineffective, at best, in improving ethical practice and competence."<sup>166</sup>

Four of the commenters recommended that the public be given access to MLS's as a means of ameliorating some of the anti-competitive effects cited above.<sup>167</sup>

In summary, the New Jersey attorney general's office offered this recommendation:

The overriding objective of the antitrust law's confrontation with Realtors on this issue should be to change a private trademark group from a virtual arbiter of the features of the delivery and access system for buying and selling homes into simply advocates whose point of view must compete with others in the economic marketplace.<sup>168</sup>

#### (4) Problems Facing Industry Innovators

All of those addressing this issue agreed with the statement of one attorney general that "the real estate industry is highly re-

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<sup>165</sup> Comments of San Diego District Attorney's Office, July 10, 1979.

<sup>166</sup> Comments of New Jersey Attorney General's Office, July 24, 1979.

<sup>167</sup> Comments of Arizona Attorney General's Office, Aug 6, 1979; Comments of Massachusetts Attorney General's Office, Aug. 15, 1979; Comments of New Jersey Attorney General's Office, July 24, 1979; Comments of San Diego District Attorney's Office, July 10, 1979.

<sup>168</sup> Comments of New Jersey Attorney General's Office, July 24, 1979.

sistant to innovations that have the effect of introducing price competition."<sup>169</sup> The commenters cited seven principal means through which such innovations are discouraged:

- (1) use of discriminatory commission splits;<sup>170</sup>
- (2) refusal of brokers to show innovators' properties, to co broke;<sup>171</sup>
- (3) denial of access by innovators to MLS's;<sup>172</sup>
- (4) use of Realtor Boards to discipline member innovators, through means such as codes of ethics;<sup>173</sup>
- (5) use of multiple listings to monitor commission rates and detect price-cutters;<sup>174</sup>
- (6) organized group boycotts of innovators;<sup>175</sup> and

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- 169 Comments of Washington Attorney General's Office, Nov. 1, 1979; Comments of Arizona Attorney General's Office, Aug. 6, 1979; Comments of Massachusetts Attorney General's Office, Aug. 15, 1979; Comments of New Jersey Attorney General's Office, July 24, 1979; Comments of Jefferson Parish (Louisiana) District Attorney's Office, Aug. 10, 1979; Comments of Los Angeles District Attorney's Office, Aug. 21, 1979; Comments of San Diego District Attorney's Office, July 10, 1979.
- 170 Comments of New Jersey Attorney General's Office, July 24, 1979.
- 171 Comments of Arizona Attorney General's Office, Aug. 6, 1979; Comments of Washington Attorney General's Office, Nov. 1, 1979; Comments of Los Angeles District Attorney's Office, Aug. 21, 1979.
- 172 Comments of Washington Attorney General's Office, Nov. 1, 1979.
- 173 Comments of Massachusetts Attorney General's Office, Aug. 15, 1979.
- 174 Comments of Los Angeles District Attorney's Office, Aug. 21, 1979; Comments of San Diego District Attorney's Office, July 10, 1979.
- 175 Comments of Arizona Attorney General's Office, Aug. 6, 1979; Comments of Washington Attorney General's Office, Nov. 1, 1979.



(7) harassment of innovators,<sup>176</sup> through threats, phone calls, removal of lock boxes and signs.<sup>177</sup>

Several of the public attorneys provided specific examples of the above practices.<sup>178</sup>

(5) Role of the Broker

Seven public attorneys commented on this issue. Two of them said that many home buyers are not aware that brokers represent only sellers in a real estate transaction.<sup>179</sup>

One of those commenters recommended that brokers be required to disclose to the buyer their duties to the seller.<sup>180</sup> The other suggested that a better solution to this problem would be representation of buyers by independent agents.<sup>181</sup>

The view of Missouri's attorney general was that although brokers and consumers are at times confused by agency law, remedial action should be the province of the courts or state legislatures.<sup>182</sup>

The New Hampshire attorney general stated that case law has already established that agents must disclose their status as agent

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- 176 Comments of Los Angeles District Attorney's Office, Aug. 21, 1979.
- 177 Comments of San Diego District Attorney's Office, July 10, 1979.
- 178 Comments of Arizona Attorney General's Office, Aug. 6, 1979; Comments of Massachusetts Attorney General's Office, Aug. 15, 1979; Comments of New Jersey Attorney General's Office, July 24, 1979; Comments of Washington Attorney General's Office, Nov. 1, 1979; Comments of Los Angeles District Attorney's Office, Aug. 21, 1979; Comments of San Diego District Attorney's Office, July 10, 1979.
- 179 Comments of Massachusetts Attorney General's Office, Aug. 15, 1979; Comments of San Diego District Attorney's Office, July 10, 1979.
- 180 Comments of Massachusetts Attorney General's Office, Aug. 15, 1979.
- 181 Comments of San Diego District Attorney's Office, July 10, 1979.
- 182 Comments of Missouri Attorney General's Office, Aug. 15, 1979.

for one party to a real estate transaction.<sup>183</sup>

Others challenged the conventional notions of agency law. New Jersey's attorney general said that "[i]t is time to lay the myth of the broker's principal-agency relationship with the seller to rest."<sup>184</sup> The district attorney of Jefferson Parish, Louisiana commented that "[o]ne of the most disturbing aspects of the broker's role is dual representation of the buyer and the seller."<sup>185</sup>

The Washington attorney general's concern was that "[i]n many real estate transactions, it appears that the only party with effective and responsible representation is the real estate broker himself."<sup>186</sup>

#### (6) General Comments and Recommendations

Several of the public attorneys described antitrust investigations<sup>187</sup> and suits<sup>188</sup> they had initiated concerning MLS's and Boards of Realtors.

Others commented generally that competition is lacking in the real estate industry.<sup>189</sup> The Kentucky attorney general said that

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- 183 Comments of New Hampshire Attorney General's Office, July 31, 1979.
- 184 Comments of New Jersey Attorney General's Office, July 24, 1979.
- 185 Comments of Jefferson Parish (Louisiana) District Attorney's Office, Aug. 10, 1979.
- 186 Comments of Washington Attorney General's Office, Nov. 1, 1979.
- 187 Comments of Iowa Attorney General's Office, July 25, 1979; Comments of New Jersey Attorney General's Office, July 24, 1979; Comments of West Virginia Attorney General's Office, July 16, 1979.
- 188 Comments of Arizona Attorney General's Office, Aug. 6, 1979; Comments of Illinois Attorney General's Office, July 25, 1979; Comments of Iowa Attorney General's Office, July 25, 1979; Comments of Massachusetts Attorney General's Office, Aug. 15, 1979; Comments of Washington Attorney General's Office, Nov. 1, 1979; Comments of Los Angeles District Attorney's Office, Aug. 21, 1979; Comments of San Diego District Attorney's Office, July 10, 1979.
- 189 Comments of Dallas District Attorney's Office, Aug. 1, 1979; Comments of Jefferson Parish (Louisiana) District Attorney's Office, Aug. 10, 1979.

the industry appears to be "highly competitive in areas unrelated to price or the offering of alternative services."<sup>190</sup>

The New Jersey attorney general's office mentioned a prediction by industry experts that fewer than ten large firms will control 70% to 80% of home sales within five years. This predicted dominance by franchisors and corporate firms will aggravate the industry's lack of price competition, according to the commenter.<sup>191</sup>

The public attorneys differed on the issue of whether the Federal government should be involved in this area. Kentucky's attorney general said that consumer complaints in that state in 1978 constituted less than one percent of the total complaints. Thus, "Federal legislation in the real estate industry is unnecessary and unwarranted based upon our state's experience."<sup>192</sup> The commenter also stated that existing state legislation, as well as cooperation between the Real Estate Commission and state NAR chapter to resolve complaints, ensure responsive and responsible conduct in the real estate industry.<sup>193</sup>

The Pima County, Arizona attorney said that most consumer complaints in his jurisdiction relate to smaller firms and those which handle subdivision lots in remote areas, and stem primarily from brokers' incompetence and lack of financial equity. The commenter said he failed to see a need for FTC involvement in his local real estate market, because conditions there differ significantly from those in other parts of that state and the nation.<sup>194</sup>

Missouri's attorney general stated:

[W]e strongly urge the FTC to refrain from the promulgation of unnecessary trade rule regulations regarding this already highly regulated industry. Any federal preemption of current state law may only serve to impede enforcement efforts.<sup>195</sup>

The Delaware attorney general's office commented that al-

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190 Comments of Kentucky Attorney General, July 27, 1979.

191 Comments of New Jersey Attorney General's Office, July 24, 1979.

192 Comments of Kentucky Attorney General, July 27, 1979.

193 Id.

194 Comments of Pima County (Arizona) District Attorney's Office, July 23, 1979.

195 Comments of Missouri Attorney General's Office, Aug. 15, 1979.

though it had little evidence of problems with the competitive process, the rapidly rising cost of residential real estate has had an enormous impact on the state's consumers. Thus, the commenter added, "[a]ny problems which may exist in the competitive process would be of grave concern, and you can be sure of the support of this office should you need it."<sup>196</sup>

North Carolina's attorney general said that although that state had opposed FTC preemption of state law in other areas,

because the residential real estate industry has been a steady source of complaints and inquiries concerning anti-competitive and unfair practices, we feel an investigation report and possibly legislative proposals on the brokerage business are appropriate.<sup>197</sup>

The commenter added that the staff's five issue areas indicate an awareness of the structural problems in the real estate industry.<sup>198</sup>

The West Virginia attorney general's comment was as follows:

We welcome the investigation. It is important to examine both structural problems that limit competition and behavioral activities by participants in the real estate industry.<sup>199</sup>

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196 Comments of Delaware Attorney General, Aug. 13, 1979.

197 Comments of North Carolina Attorney General's Office, July 30, 1979.

198 Id.

199 Comments of West Virginia Attorney General's Office, July 16, 1979.

Other commenters indicated their support for Federal involvement by offering numerous specific recommendations for making the real estate industry more competitive.<sup>200</sup> Three of those commenters specified trade regulation rulemaking as the best method for accomplishing such changes.<sup>201</sup>

d. Comments of Consumer Agencies

Comments were received from six state and local consumer agencies.

(1) Nature and Rule of State Law and State Agencies

The Massachusetts Executive Office of Consumer Affairs stated that although the purpose of licensure is to protect the public, "the Boards of Registration tend to promulgate regulations which, conversely, benefit the profession."<sup>202</sup> The agency added that this situation results in a lessening of competition, a raising of fees, and discouragement of innovation.<sup>203</sup>

Puerto Rico's agency recommended that the effects of licensing on the availability and quality of real estate brokerage services be analyzed.<sup>204</sup>

(2) Nature and Role of Private Trade Associations

The Massachusetts agency, the only commenter on this issue, said that although it had conducted no in-depth studies of Realtor Boards, their regulations and Code of Ethics appear to have a beneficial effect on consumers.<sup>205</sup>

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200 Comments of Arizona Attorney General's Office, Aug. 6, 1979; Comments of Massachusetts Attorney General's Office, Aug. 15, 1979; Comments of New Jersey Attorney General's Office, July 24, 1979; Comments of Los Angeles District Attorney's Office, Aug. 21, 1979; Comments of San Diego District Attorney's Office, July 10, 1979.

201 Comments of Arizona Attorney General's Office, Aug. 6, 1979; Comments of Los Angeles District Attorney's Office, Aug. 21, 1979; Comments of San Diego District Attorney's Office, July 10, 1979.

202 Comments of Massachusetts Executive Office of Consumer Affairs, Aug. 9, 1979.

203 Id.

204 Comments of Puerto Rico Departamento de Asuntos del Consumidor, Sept. 28, 1979.

205 Comments of Massachusetts Executive Office of Consumer Affairs, Aug. 9, 1979.

(3) Structure and Operations of Multiple Listing Services

Massachusetts' agency, again the only commenter, said that it had no knowledge of any complaints about MLS's, and that they seem to perform a valuable service for the public.<sup>206</sup>

(4) Problems Facing Industry Innovators

The Massachusetts agency stated that reduced commission brokerage firms are having only limited success in that state, because the public appears to prefer full-service brokers.<sup>207</sup>

(5) Role of the Broker

The Michigan Consumers Council commented that the broker's obligation is to the seller, and the relationship between the sales price of property and the broker's commission make it difficult for the broker to adequately represent the buyer.<sup>208</sup> Complaints received by the Council show that brokers have withheld or refused to submit low offers on houses, have misrepresented the price of properties, and have failed to refund prospective buyers' earnest money.<sup>209</sup>

The Charleston, West Virginia Consumer Protection Department said it had encountered consumer confusion as to whether the broker's first obligation is to the buyer or the seller. The agency concluded that "[t]here is a need for a better job description, including areas of responsibility."<sup>210</sup>

Louisiana's Office of Consumer Protection said that its state Real Estate Commission claims that the broker's only responsibility is to bring the seller and the buyer together. However, the consumer agency believes that brokers should have a greater responsibility, since consumers depend on them to act in consumers' interests.<sup>211</sup>

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206 Id.

207 Id.

208 Comments of State of Michigan Consumers Council, Aug. 6, 1979.

209 Id.

210 Comments of Charleston Consumer Protection Department, Aug. 2, 1979.

211 Comments of Louisiana Office of Consumer Protection, July 18, 1979.

(6) General Comments and Recommendations

Several of the consumer agencies mentioned complaints they have received from the public concerning the real estate industry.<sup>212</sup>

The Louisiana agency said that most of the complaints it receives relate to home warranty and defects problems, and to failure to return prospective buyers' deposit money when the sale is not consummated.<sup>213</sup>

The Charleston, West Virginia agency commented that although residential real estate complaints are few in number, the monies involved are great.<sup>214</sup>

The Michigan Consumers Council said that its consumer complaints indicate a need for reform of the industry's competitive structure. The agency stated its concern about "the near universal use of a single commission rate (7 percent) by real estate sellers and the absence of price (commission rate) advertising."<sup>215</sup> The Council concluded:

We would support a staff recommendation that the Commission propose a trade regulation rule concerning the residential real estate industry should the staff investigation disclose any significant competitive or consumer problems.<sup>216</sup>

The Massachusetts agency said that it welcomes the Commission's investigation of the real estate industry.<sup>217</sup>

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212 One agency, the Consumer Affairs Division of Pasco County, Florida (July 30, 1979), wrote that it had received no complaints from Pasco County consumers concerning real estate brokerage practices, and therefore could offer no comments.

213 Comments of Louisiana Office of Consumer Protection, July 18, 1979.

214 Comments of Charleston Consumer Protection Department, Aug. 2, 1979.

215 Comments of State of Michigan Consumers Council, Aug. 6, 1979.

216 Id.

217 Comments of Massachusetts Executive Office of Consumer Affairs, Aug. 9, 1979.

TABLE A

FORMAL EDUCATION AND/OR EXPERIENCE REQUIREMENTS

STATE/ PROVINCE	LONG-RANGE PROFESSIONALIZATION PLAN	EDUCATION REQUIREMENTS		EXPERIENCE REQUIREMENTS	CONTINUING EDUCATION		APPLICATION REQUIREMENTS								
		BROKER	SALESMAN		BROKER	SALESMAN	PHOTOGRAPH	FINGERPRINTS	CREDIT REPORT	BROKER	SALESMAN	FUND AMOUNT	BOND AMOUNT		
ALABAMA	NO	2yrs. as sales. plus completion of approved course in R.E. or 15 semester hrs in R.E. courses or college grad with major in R.E.	45 hrs. taught over minimum period of 8 wks.	BROKER	SALESMAN	N/A	N/A	YES	-	-	-	-	-	\$8,000	\$8,000
ALASKA	NO	NO	NO	24 months continuous active experience.	NO	NO	NO	YES	NO	NO	50 M	50 M	-	-	-
ALBERTA	NO	NO	NO	1 yr licensing experience w/in last 5 years	NO	NO	NO	NO	NO	NO	-	-	-	10 M to 100 M	NO
ARIZONA	NO	YES	YES	3 yrs. as sales person	12hrs	12hrs	YES	YES	NO	NO	20 M	20 M	5 M	5 M	NO



FORMAL EDUCATION AND/OR EXPERIENCE REQUIREMENTS

STATE/ PROVINCE	LONG-RANGE PROFESSIONALIZATION PLAN	EDUCATION REQUIREMENTS		EXPERIENCE REQUIREMENTS	CONTINUING EDUCATION		APPLICATION REQUIREMENTS																	
		BROKER	SALESMAN		BROKER	SALESMAN	PHOTOGRAPH	FINGERPRINTS	CREDIT REPORT	BROKER	SALESMAN	RECOVERY FUND AMOUNT	BROKER	SALESMAN	BOND AMOUNT									
ARKANSAS	NO	90 classroom hrs or 6 coll. semester hrs. 30 classroom hrs or 3 semester hrs. R.E. if completed 24 of previous 48 mos. as R.E. salesman.	30 clock hrs in Principles of R.E. within 12 mos. after passing.	NO	BROKER	NO	BROKER	NO	SALESMAN	YES	NO	YES	CREDIT REPORT	BROKER	\$25	SALESMAN	\$25	NO	BROKER	NO	SALESMAN	NO		
BRITISH COLUMBIA	YES	High School grad & completion of 1 yr. pre-licensing course thru Univ. of British Columbia.	High School grad & completion of 16 wks pre-licensing course thru U. of Brit. Columbia.	2 yrs as a salesman	BROKER	NO	BROKER	NO	SALESMAN	NO	NO	NO	YES	NO	NO	NO	NO	NO	NO	NO	NO	NO	10M to 100M depending on # of sales. employed by broker.	-
CALIFORNIA	YES	Six 3-unit college level courses.	NO	2 yrs full-time sales experience or BA Degree	For active renewals, 45 clock hrs each renewal	NO	NO	NO	NO	NO	NO	NO	NO	NO	40M	40M	40M	NO	NO	NO	NO	-	-	

FORMAL EDUCATION AND/OR EXPERIENCE REQUIREMENTS

STATE/ PROVINCE	LONG-RANGE PROFESSIONALIZATION PLAN	EDUCATION REQUIREMENTS		EXPERIENCE REQUIREMENTS	CONTINUING EDUCATION		APPLICATION REQUIREMENTS												
		BROKER	SALESMAN		BROKER	SALESMAN	PHOTOGRAPH	FINGERPRINTS	CREDIT REPORT	BROKER	SALESMAN	BROKER	SALESMAN						
COLORADO	NO	48 classroom hrs of Principles of R.E. Law plus 24 classm. hrs. of R.E. Appraisal & R.E. Finance.	48 classroom hrs of R.E. Principles & R.E. Law.	BROKER 2 yrs active licensing as a R.E. sales. or exper equivalent.	BROKER NO	SALESMAN NO	NO	YES	NO	NO	50M	50M	50M	50M	BROKER	SALESMAN	BROKER	SALESMAN	BOND AMOUNT
CONNECTICUT	NO	30 classroom hrs of Principles & Practices of R.E. plus 30 classm. hrs. of Appraisal. I, 30 classm hrs of a related course in R.E.	30 classroom hrs of Principles & Practices of Real Estate.	2 yrs as licensed salesman.	NO	NO	NO	NO	NO	NO	10M	10M	10M	-	-	-	-	-	-
DELAWARE	NO	40 Hours	75 classroom hrs	5 yrs as licensed salesman.	NO	NO	-	-	YES, for brokers	YES	10M per trans	10M	-	-	-	-	-	-	-
DISTRICT OF COLUMBIA	NO	NO	NO	NO	NO	NO	-	-	YES	YES	-	-	-	2.5M	-	-	-	1M	-

FORMAL EDUCATION AND/OR EXPERIENCE REQUIREMENTS

STATE/ PROVINCE	LONG-RANGE PROFESSIONALIZATION PLAN	EDUCATION REQUIREMENTS		EXPERIENCE REQUIREMENTS	CONTINUING EDUCATION		APPLICATION REQUIREMENTS							
		BROKER	SALESMAN		BROKER	SALESMAN	PHOTOGRAPH	FINGERPRINTS	CREDIT REPORT	RECOVERY FUND AMOUNT	BOND AMOUNT			
FLORIDA	NO	48 classrm hrs	51 classroom hrs	12 mos. as sales person	BROKER 4 hrs each 2 yrs	SALESMAN 4 hrs each 2 yrs	YES	YES	-	-	-	-	-	-
GEORGIA	NO	60 classroom hrs or 15 quarter hrs.	24 classroom hrs or 5 quarter hrs	3 yrs sales person	6 per 2 yrs	80 1st 2 yrs	YES	NO	20M	20M	NO	NO	NO	NO
HAWAII	NO	Completion of a Hawaii approved pre-license broker course	Completion of a Hawaii approved pre-license sales man course	2 yrs real est. experience in Hawaii	NO	NO	YES	NO	40M	40M	NO	NO	NO	NO
IDAHO	NO	90 classroom hrs	30 classroom hrs of essentials of Real Estate	2 yrs of active license exper. or allied exper.	NO	NO	NO	YES	2M	2M	NO	NO	NO	NO
ILLINOIS	YES	1 yr. sales. license & 90 class hrs approved school; OR Bachelor's degree with equivalent of minor in R.E. OR License to practice law in Illinois.	30 class hour R. E. Transactions course from approved school.	1 year as Salesman	NO	NO	YES	NO	50M	50M	NO	NO	NO	NO

FORMAL EDUCATION AND/OR EXPERIENCE REQUIREMENTS

STATE/ PROVINCE	LONG-RANGE PROFESSIONALIZATION PLAN	EDUCATION REQUIREMENTS		EXPERIENCE REQUIREMENTS	CONTINUING EDUCATION		APPLICATION REQUIREMENTS									
		BROKER	SALESMAN		BROKER	SALESMAN	PHOTOGRAPH	FINGERPRINTS	CREDIT REPORT	BROKER	SALESMAN	BROKER	SALESMAN			
INDIANA	NO	NO	40 clock hours in an Indiana approved R.E. school.	2 years active experience as a salesperson or 2 years related real estate experience.	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
IOWA	NO	NO	30 contact hrs. during first 12 months.	1 year as sales person	7	7	NO	YES	YES	NO	NO	NO	NO	NO	NO	NO
KANSAS	YES	High school education	High School education	2 years as salesman	30	30	NO	NO	YES	50M	50M	50M	NO	NO	NO	NO
KENTUCKY	YES	6 academic hours or equivalent clock hrs. (96) in real estate courses.	3 academic hours or equivalent clock hrs. (48) in real estate courses.	2 years, reduced to 1 if applicant has attained assoc. degree in R.E. or baccalaureate degree with major in Real Estate.	NO	30	YES	NO	YES	10M	10M	10M	-	-	-	-
LOUISIANA	YES	YES	YES	YES	NO	NO	YES	NO	YES	20M	20M	20M	-	-	-	-



FORMAL EDUCATION AND/OR EXPERIENCE REQUIREMENTS

STATE/ PROVINCE	LONG-RANGE PROFESSIONALIZATION PLAN	EDUCATION REQUIREMENTS		EXPERIENCE REQUIREMENTS	CONTINUING EDUCATION		APPLICATION REQUIREMENTS													
		BROKER	SALESMAN		BROKER	SALESMAN	PHOTOGRAPH	FINGERPRINTS	CREDIT REPORT	BROKER	SALESMAN	BROKER	SALESMAN							
MONTANA	NO	High School Diploma.	2 years High School.	BROKER	2 years as salesperson.	NO	NO	YES	-	YES	-	YES	-	-	10M	10M	BROKER	SALESMAN	BROKER	SALESMAN
NEBRASKA	NO	2 years experience & 60 class hrs in a course of study appvd. by the Commissioner or 18 credit hrs or 180 class hrs. in courses appvd. by the Comm.	60 classrm hrs in a course of study approved by the Commissioner	BROKER	2 years, the equivalent of 2 years fulltime	NO	NO	YES	-	YES	-	-	-	-	-	-	-	-	-	-
NEVADA	YES	24 Semester Units	90 hours course in Principles & Practices.	BROKER	2 year active experience	10 hours every 2 yrs	NO	YES	-	-	-	-	20M	20M	-	-	-	-	-	-
NEW HAMPSHIRE	NO	None	None	BROKER	1 yr as a licensed salesman	NO	NO	-	-	-	-	-	-	-	-	-	-	-	-	-
NEW JERSEY	NO	90 Hours	45 Hours	BROKER	2 yrs apprenticeship under sponsoring broker.	NO	NO	-	YES	-	-	-	10M per	10M per	-	-	-	-	-	-

FORMAL EDUCATION AND/OR EXPERIENCE REQUIREMENTS

STATE/ PROVINCE	LONG-RANGE PROFESSIONALIZATION PLAN	EDUCATION REQUIREMENTS		EXPERIENCE REQUIREMENTS	CONTINUING EDUCATION		PHOTOGRAPH	FINGERPRINTS	CREDIT REPORT	APPLICATION REQUIREMENTS				
		BROKER	SALESMAN		BROKER	SALESMAN				BROKER	SALESMAN	BROKER	SALESMAN	RECOVERY FUND AMOUNT
NEW MEXICO	YES	180 Classroom hrs.	60 classroom hrs	NO	NO	NO	YES	YES	NO	-	-	1.5M	-	-
NEW YORK	YES	90 hr. apprvd. course.	45 hr. approved course	1 yr as sales. or 2 yr equiv.	45 hours every 3 yrs	YES	NO	NO	NO	NO	NO	NO	NO	NO
NORTH CAROLINA	NO	60 classroom hrs or 2hr. sales exp.	30 classroom hrs or equivalent exp	2 yrs. sales exp or equivalent	NO	YES	-	-	-	20M	20M	-	-	-
NORTH DAKOTA	NO	90 classroom hrs	30 classroom hrs completed within 1 yr after date of initial licen	2 yrs exp. as a salesperson or equivalent.	NO	NO	-	-	-	15M	15M	-	-	-
OHIO	YES	30 hrs real est. finance at inst. of higher learning & 30 classm hrs. real estate appraisal at inst. of higher learning.	30 classrm hrs. real est. prin. & 30 classrm hrs of real estate law at inst. of higher learning.	30 consumated transactions & 2 yrs as sales.	-	YES	NO	NO	NO	20M	20M	20M	NO	NO
OKLAHOMA	NO	30 clock hrs.	30 clock hrs or 3 semester credit hrs. in Principles.	1 yr license exp. as sales. associate.	NO	NO	YES	-	-	50M	50M	50M	-	-

FORMAL EDUCATION AND/OR EXPERIENCE REQUIREMENTS

STATE/ PROVINCE	LONG-RANGE PROFESSIONALIZATION PLAN	EDUCATION REQUIREMENTS		EXPERIENCE REQUIREMENTS	CONTINUING EDUCATION		PHOTOGRAPH	FINGERPRINTS	CREDIT REPORT	APPLICATION REQUIREMENTS					
		BROKER	SALESMAN		BROKER	SALESMAN				RECOVERY FUND AMOUNT		BOND AMOUNT			
										BROKER	SALESMAN	BROKER	SALESMAN	BROKER	SALESMAN
OREGON	YES	YES	SALESMAN	BROKER	24 hours every 2 yrs	NO	YES	-	YES	-	-	-	-	-	-
PENNSYLVANIA	YES	240 classroom hours, 16 credits	60 classroom hrs 4 credit hrs.	3 years fulltime apprenticeship or equivalent	NO	NO	YES	-	-	-	-	-	-	-	-
QUEBEC	NO	Grade Eleven	Grade Eleven	Sales. in Quebec for at least 2 yrs during last 5 yrs preceeding application.	NO	NO	YES	-	YES	-	-	5M	1M	-	-
RHODE ISLAND	NO	90 hrs. apprvd. study.	NO	1 yr as licensed salesperson.	NO	NO	NO	NO	NO	20M	20M	-	-	-	-
SASKATCHEWAN	NO	NO	NO	2 yrs. sales	NO	NO	-	-	-	-	-	10M	-	-	-
SOUTH CAROLINA	NO	60 hrs	30 hrs.	2 yrs. sales experience or 60 hours	NO	NO	YES	-	YES	-	-	-	-	-	-



FORMAL EDUCATION AND/OR EXPERIENCE REQUIREMENTS

STATE/ PROVINCE	LONG-RANGE PROFESSIONALIZATION PLAN	EDUCATION REQUIREMENTS		EXPERIENCE REQUIREMENTS	CONTINUING EDUCATION		APPLICATION REQUIREMENTS							
		BROKER	SALESMAN		BROKER	SALESMAN	PHOTOGRAPH	FINGERPRINTS	CREDIT REPORT	BROKER	SALESMAN	BROKER	SALESMAN	
SOUTH DAKOTA	NO	90 classroom hrs	30 classroom hrs	2 years	24 hrs every 2 Years	YES	-	YES	15M	15M	-	-	-	-
TENNESSEE	NO	60 classroom hrs of instruction under approved courses.	30 classroom hrs of instruction under approved courses.	Licensed as an affiliate broker 2 years	-	YES	NO	YES, Broker	-	-	10M	-	2.5M	-
TEXAS	YES	225 classroom (15 semester) hrs	180 classroom (12 semester) hrs	2 years as an active licensee with 3 yrs immediately preceding applic.	NO	NO	YES	-	40M	40M	-	-	-	-
UTAH	YES	120 classroom hrs	60 classroom hrs	3 yrs. active, full time exper. as a licensed salesperson or equivalent.	NO	NO	-	YES Brokers Only.	6M	6M	-	-	-	-
VERMONT	NO	High School Grad	High School Grad.	1 year sales.	NO	NO	YES	NO	NO	NO	NO	NO	NO	NO
VIRGINIA	NO	YES	YES	3 years as sales	NO	NO	-	-	-	-	-	-	-	Non-Resident Only 1M 1M

FORMAL EDUCATION AND/OR EXPERIENCE REQUIREMENTS

STATE/ PROVINCE	LONG-RANGE PROFES- SIONALIZATION PLAN	EDUCATION REQUIREMENTS		EXPERIENCE REQUIREMENTS	CONTINU- ING EDUCATION		PHOTOGRAPH	FINGERPRINTS	CREDIT REPORT	APPLICATION REQUIREMENTS		BOND AMOUNT	
		BROKER	SALESMAN		BROKER	SALESMAN				RECOVERY FUND AMOUNT	BROKER		SALESMAN
VIRGIN ISLANDS	NO		SALESMAN	BROKER	NO	NO	-	-	-	-	-	-	-
WASHINGTON	NO	90 clock hrs	30 clock hrs prior to 2nd re- newal of license	-	NO	NO	-	YES	YES	-	-	-	-
WEST VIRGINIA	NO	NO	NO	2 years appren- ticeship	NO	NO	-	-	-	NO	NO	2M	2M
WISCONSIN	YES	60 classroom hrs	30 classroom hrs within 2 yrs af- ter licensing.	NO	10 hours every 2 yrs	NO	YES	-	-	-	-	-	-
WYOMING	NO	NO	NO	2 years as a fulltime salesp	NO	NO	YES	YES	YES	-	-	1M	1M

TABLE B

## E X A M I N A T I O N

STATE/ PROVINCE	MANDATORY TRUST ACCOUNTS	MANDATORY OFFICE INSPECTIONS AND AUDITS	SOURCE OF EXAM	NUMBER OF EXAM SESSIONS		EXAM WRITING TIME (HOURS)		NUMBER OF RETAKE EXAMS PER YEAR		CALCULATORS PERMITTED	PARTIAL RETAKES PERMITTED ON MULTI-SECTION EXAM
				BROKER	SALESMAN	BROKER	SALESMAN	BROKER	SALESMAN		
ALABAMA	YES, Must be deposited in institution approved by Commission	YES	ACT	10	10	3hrs	3hrs	No Limit	No Limit	YES	NO
ALASKA	YES, Required by Statute	NO	ETS	11	11	4½hrs	4½hrs	No Limit	No Limit	YES	NO
ALBERTA	YES, All monies received to be placed in a trust account.	YES	Staff or Commission	50	50	2hrs	2hrs	---	---	YES	NO
ARIZONA	NO	NO	Staff or Commission	12	12	4hrs	4hrs	No Limit	No Limit	YES	N/A
ARKANSAS	YES	NO	ACT	5	6	4½hrs	4½hrs	No Limit	No Limit	YES	NO
BRITISH COLUMBIA	YES	NO	Univ. of Brit. Colum.	5	8	6hrs	3hrs	1	1	YES	N/A
CALIFORNIA	YES, In cases of advance rental fees and other special circumstances-	YES	Staff	14,932	106,269	5hrs	3½hrs	No Limit	No Limit	YES	NO
COLORADO	YES	YES	Staff	11	11	6½hrs	3½hrs	No Limit	No Limit	YES	NO
CONNECTICUT	YES, All earnest monies must be deposited in escrow account within 3 banking days of receipt.	NO	Univ. of CT	60	60	4hrs	4hrs	5	3	YES	YES
DELAWARE	YES	YES	ETS	11	11	4½hrs	4½hrs	3	3	YES	NO
DISTRICT OF COLUMBIA	NO	NO	ETS	11	11	4½hrs	4½hrs	No Limit	Twice Limit 6 mths	YES	NO

E X A M A T I O N

STATE/ PROVINCE	MANDATORY TRUST ACCOUNTS	MANDATORY OFFICE INSPECTIONS AND AUDITS	SOURCE OF EXAM	NUMBER OF EXAM SESSIONS		EXAM WRITING TIME (HOURS)		NUMBER OF RETAKE EXAMS PER YEAR		CALCULATORS PERMITTED	PARTIAL RETAKES PERMITTED ON MULTI-SECTION EXAM
				BROKER	SALESMAN	BROKER	SALESMAN	BROKER	SALESMAN		
FLORIDA	NO	NO	Staff or Commission	58	88	3½hrs	3½hrs	No Limit	No Limit	YES	NO
GEORGIA	YES, Non-interest bearing, unless otherwise agreed in writing by the parties.	YES	ACT	4	11	6hrs	3½hrs	No Limit	No Limit	YES	NO
HAWAII	YES, Every real estate broker who does not immediately place all funds entrusted to him in a neutral escrow depository, shall maintain a trust fund account.	NO	ETS	3	3	4hrs	3½hrs	No Limit	No Limit	YES	NO
IDAH0	YES, If any funds are deposited with the broker without instructions to place them with any other escrow.	YES.	ACT	4	12	5hrs	5hrs	No Limit	No Limit	YES	NO
ILLINOIS	YES, Only mandatory if broker holds funds of others	YES	ACT	12	12	4hrs	3hrs	Once Month	Once Month	YES	NO
INDIANA	YES, If Active.	NO	ETS	5-6	5-6	4½hrs	4½hrs	No Limit	No Limit	YES	NO
IOWA	YES, Separate from business, must file a consent to examine.	YES	ETS	10	10	4½hrs	4½hrs	No Limit	No Limit	YES	NO
KANSAS	YES, If funds belonging to others come into broker's possession.	YES	ETS	36	36	4½hrs	4½hrs	3	3	YES	NO

E X A M I N A T I O N

STATE/ PROVINCE	MANDATORY TRUST ACCOUNTS	MANDATORY OFFICE INSPECTIONS AND AUDITS	SOURCE OF EXAM	NUMBER OF EXAM SESSIONS		EXAM WRITING TIME (HOURS)		NUMBER OF RETAKE EXAMS PER YEAR		CALCULATORS PERMITTED	PARTIAL RETAKES PERMITTED ON MULTI-SECTION EXAM
				BROKER	SALESMAN	BROKER	SALESMAN	BROKER	SALESMAN		
KENTUCKY	YES, Notice of trust account must be filed with Commission upon authorization, to examine upon demand.	NO	ETS	6	6	4½hrs	4½hrs	2	2	YES	YES
LOUISIANA	YES	YES	ETS	11	11	4½hrs	4½hrs	No Limit	No Limit	YES	NO
MAINE	YES	NO	Univ. of Southern ME.	6	6	4½hrs	4½hrs	1	1	YES	YES
MARYLAND	YES	YES	ETS	12	12	4½hrs	4½hrs	3	3	YES	YES
MASSACHUSETTS	YES, For deposit monies not to be commingled with other funds.	---	ETS	11	11	4½hrs	4½hrs	No Limit	No Limit	YES	NO
MICHIGAN	NO	NO	Staff or Commission	24	36	3hrs	2 3/4	5	5	YES	NO
MINNESOTA	YES	NO	ETS	24	24	---	---	No Limit	No Limit	YES	YES
MISSISSIPPI	YES	YES	Staff or Commission	11	11	4hrs	4hrs	2	2	NO	NO
MISSOURI	NO	NO	ETS	11	11	4½hrs	4½hrs	No Limit	No Limit	YES	YES

E X A M I N A T I O N

STATE/ PROVINCE	MANDATORY TRUST ACCOUNTS	MANDATORY OFFICE INSPECTIONS AND AUDITS	SOURCE OF EXAM	NUMBER OF EXAM SESSIONS		EXAM WRITING TIME (HOURS)		NUMBER OF RETAKE EXAMS PER YEAR		CALCULATORS PERMITTED	PARTIAL RETAKES PERMITTED ON MULTI-SECTION EXAM
				BROKER	SALESMAN	BROKER	SALESMAN	BROKER	SALESMAN		
MONTANA	YES, Each broker shall maintain a separate bank account which shall be designated a trust account wherein all down payments, earnest money deposits, or other trust funds received by this broker or his salesman on behalf of his principal or any other person shall be deposited.	---	ETS	3	---	4hrs	4hrs	If fail, then wait six months	twice	YES	NO
NEBRASKA	YES, Each broker must maintain trust account in a bank located in this state.	YES	ETS	10	10	4½hrs	4½hrs	If fail, then wait six mos. for next.	thrice	YES	NO
NEVADA	YES	---	ETS	6	6	4½hrs	4½hrs	No Limit	No Limit	YES	NO
NEW HAMPSHIRE	YES	NO	ETS	4	4	4½hrs	4½hrs	No Limit	No Limit	YES	NO
NEW JERSEY	YES	YES	ETS	12	12	4½hrs	4½hrs	No Limit	No Limit	YES	NO
NEW MEXICO	No, Only that they use one when required.	NO	Staff	20	194	6hrs	3½hrs	No Limit	No Limit	YES	YES
NEW YORK	YES	NO	---	12	52	---	---	No Limit	No Limit	YES	NO
NORTH CAROLINA	YES, Subject to audit	NO	ETS	12	12	4½hrs	4½hrs	5	5	YES	NO

E X A M I N A T I O N

STATE/ PROVINCE	MANDATORY TRUST ACCOUNTS	MANDATORY OFFICE INSPECTIONS AND AUDITS	SOURCE OF EXAM	NUMBER OF EXAM SESSIONS		EXAM WRITING TIME (HOURS)		NUMBER OF RETAKE EXAMS PER YEAR		CALCULATORS PERMITTED	PARTIAL RETAKES PERMITTED ON MULTI-SECTION EXAM
				BROKER	SALESMAN	BROKER	SALESMAN	BROKER	SALESMAN		
NORTH DAKOTA	YES, Broker shall, at all times, maintain in his name or firm name a separate trust account designated as such in a federally insured bank or other depository.	NO	ETS	11	11	4½hrs	4½hrs	3	3	YES	NO
OHIO	YES	YES	Staff or Commission	11	80	5½hrs	3hrs	No Limit	No Limit	YES	NO
OKLAHOMA	NO	NO	ACT	50	350	6hrs	3hrs	No Limit	No Limit	YES	NO
OREGON	YES	NO	ETS	6	6	4hrs	4hrs	2	2	YES	YES
PENNSYLVANIA	YES, All monies received by a broker for escrow must be placed in an escrow account.	YES	ETS	4	12	4½hrs	4½hrs	3	6	YES	YES
QUEBEC	YES, For public protection	YES	Staff or Commission	as required	12	3hrs	3hrs	2	2	YES	NO
RHODE ISLAND	YES - Escrow Account	YES	Staff or Commission	50	50	4hrs	2hrs	No Limit	No Limit	YES	NO
SASKATCHEWAN	YES	NO	Real Estate Council	1	6	3hrs	2½hrs	1	1	YES	YES
SOUTH CAROLINA	YES - All binder monies escrowed.	YES	U. of S.C.	12	12	5hrs	2½hrs	3	3	YES	YES
SOUTH DAKOTA	YES, If holding any funds.	NO	ETS	4	4	4½hrs	4½hrs	2	2	YES	NO
TENNESSEE	YES, Separate escrow account labeled as such.	NO	ETS	5	11	4½hrs	4½hrs	-	-	YES	NO

E X A M I N A T I O N

STATE/ PROVINCE	MANDATORY TRUST ACCOUNTS	MANDATORY OFFICE INSPECTIONS AND AUDITS	SOURCE OF EXAM	NUMBER OF EXAM SESSIONS		EXAM WRITING TIME (HOURS)		NUMBER OF RETAKE EXAMS PER YEAR		CALCULATORS PERMITTED	PARTIAL RETAKES PERMITTED ON MULTI-SECTION EXAM
				BROKER	SALESMAN	BROKER	SALESMAN	BROKER	SALESMAN		
TEXAS	NO	NO	Staff or Commission	264	390	3hrs	2hrs	No	No	YES	NO
UTAH	YES	YES	ACT	400	3,500- 4,000	5hrs	4hrs	3	4	YES	NO
VERMONT	YES, If Active Broker	YES	ETS	4	4	4½hrs	4½hrs	1	No Limit	NO	NO
VIRGINIA	YES	---	ETS	5	11	4½hrs	4½hrs	4	5	YES	NO
VIRGIN ISLANDS	YES	YES	ETS	2	2	4½hrs	4hrs	1	2	YES	NO
WASHINGTON	NO	NO	Staff or Commission	12	12	5hrs	4hrs	No Limit	No Limit	YES	NO
WEST VIRGINIA	YES, If funds are not turned over to principal.	YES	Staff or Commission	11	11	5hrs	5hrs	1	1	NO	NO
WISCONSIN	YES, It must be a demand account in a bank registered with Board.	YES	ETS	11	11	4½hrs	4½hrs	No Limit	No Limit	YES	YES
WYOMING	YES	NO	ETS	6	6	4½hrs	4½hrs	No Limit	No Limit	YES	YES



TABLE C

1977-1978 SUMMARY ON LICENSE LAW STATISTICS

STATE/ PROVINCE	LICENSED				EXAMINATIONS												
	BROKERS		SALESPERSONS		BROKERS						SALESPERSONS						
	1978	1977	1978	1977	1978	1977	1978	1977	Per Cent PASSED	Per Cent FAILED	Per Cent CANTS	EXAM- NEES	APPLI- CANTS	EXAM- NEES	PASSED	Per Cent PASSED	Per Cent FAILED
ALABAMA	5,516	5,537	9,928	9,259	621	495	208	42	287	58	6,987	5,642	3,132	56	2,510	44	
ALASKA	150	350+	1,000	1,900	600	500	300	60	200	40	2,000	1,500	800	55	700	45	
ALBERTA	1,163	1,071	7,553	6,528	---	293	214	73	79	27	---	3,779	3,121	82	658	18	
ARIZONA	7,000	3,000	26,000	14,300	1,017	894	571	64	323	36	13,980	11,686	7,333	63	4,353	37	
ARKANSAS		7,399		6,991	1,145	1,067	444	42	623	58	4,664	4,109	1,843	45	2,266	55	
BRITISH COLUMBIA	2,095	1,881	6,252	6,213	NOT	AVAIL- ABLE..	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	
CALIFORNIA	99,346	94,627	271,972	238,668	N/A	14,932	---	48	---	52	N/A	106,269	---	44	---	56	
COLORADO	1,412	701	7,215	5,766	---	2,090	1,412	67	678	33	---	11,601	7,215	62	4,386	38	
CONNECTICUT	18,427	16,649	12,789	14,249	294	244	140	57	104	43	5,210	5,003	3,884	77	1,119	23	
DELAWARE	115	---	496	---	87	67	54	79	13	21	605	487	407	83	80	17	
DISTRICT OF COLUMBIA	---	---	---	---	285	260	152	59	98	41	614	401	168	34	309	66	
FLORIDA	18,415	2,168	74,740	13,888	5,085	4,708	2,813	60	1,895	40	37,663	34,050	22,242	65	11,808	35	
GEORGIA	1,238	1,122	5,590	4,742	1,261	786	497	63	289	37	13,652	8,323	5,309	76	2,014	24	

1 9 7 7 - 1 9 7 8 S U M M A R Y O N L I C E N S E L A W S T A T I S T I C S

STATE/ PROVINCE	LICENSED				EXAMINATIONS											
	BROKERS		SALESPERSONS		BROKERS						SALESPERSONS					
	1978	1977	1978	1977	APPLI- CANTS	EXAMI- NEES	PASSED	Per Cent	FAILED	Per Cent	APPLI- CANTS	EXAMI- NEES	PASSED	Per Cent	FAILED	Per Cent
HAWAII	336	301	2,327	1,400	604	582	506	87	76	13	4,055	3,806	3,064	81	747	19
IDAHO	1,400	1,100	5,900	4,200	615	585	260	45	325	55	3,540	3,500	1,720	49	1,780	51
ILLINOIS	1,774	2,204	10,064	12,555		4,193	2,392	57	1,801	43		27,157	14,494	53	12,663	47
INDIANA	2,000	2,322	5,200	3,491	---	2,879	2,146	75	733	25	---	6,482	5,272	81	1,210	19
IOWA	8,379	8,142	9,952	7,747	795	795	485	61	310	39	4,551	4,551	2,640	58	1,911	41
KANSAS	4,988	269	13,257	2,293	621	547	303	55	244	45	5,831	4,954	2,680	54	2,274	46
KENTUCKY	979	758	4,767	4,044	1,327	1,219	979	75	240	25	6,782	6,043	4,767	68	1,276	32
LOUISIANA	5,000	4,912	25,600	17,254	NOT AVAILABLE	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
MAINE	5,527	5,220	1,580	1,407	657	603	328	54	275	46	1,182	994	390	39	604	61
MARYLAND	5,796	---	24,766	---	1,339	1,055	559	56	446	44	18,332	14,138	7,881	56	6,257	44
MASSACHUSETTS	5,612	5,597	2,117	1,368	15,532	13,546	4,860	34	8,686	66	4,316	3,662	2,159	59	1,503	41
MICHIGAN	15,559	14,874	39,543	35,432	---	1,082	806	75	276	25	---	17,284	10,771	62	6,513	38
MINNESOTA	8,000	600	22,000	6,200	UNKNOWN	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
MISSISSIPPI	239	2,345	1,350	3,526	544	475	239	50	236	50	2,154	2,013	1,350	67	663	33

1977 - 1978 SUMMARY ON LICENSE LAW STATISTICS

STATE/ PROVINCE	LICENSED				EXAMINATIONS											
	BROKERS		SALESPERSONS		BROKERS						SALESPERSONS					
	1978	1977	1978	1977	APPLI- CANTS	EXAMI- NEES	PASSED	Per Cent	FAILED	Per Cent	APPLI- CANTS	EXAMI- NEES	PASSED	Per Cent	FAILED	Per Cent
MISSOURI	15,000	2,200	36,000	8,700	---	---	---	56.5	---	43.5	---	---	---	---	---	54
MONTANA	764	97	1,718	618	332	299	164	55	135	45	2,077	1,738	904	52	834	48
NEBRASKA	4,990	4,895	7,062	6,164	460	460	322	70	138	30	3,102	3,102	1,838	59	1,264	41
NEVADA	192	1,466	2,572	2,097	641	499	345	69	154	31	4,148	3,276	1,939	59	1,337	41
NEW HAMPSHIRE	7,136	---	5,150	---	637	637	466	73	171	27	2,735	2,735	1,667	61	1,073	39
NEW JERSEY	---	---	---	---	2,479	1,954	1,087	---	867	---	17,437	14,497	11,325	---	3,172	---
NEW MEXICO	125	624	1,217	2,176	---	255	125	49	130	51	---	1,998	1,217	61	781	39
NEW YORK	28,000	---	95,000	---	---	2,917	1,642	56	795	44	---	30,663	18,340	60	6,737	40
NORTH CAROLINA	5,560	4,470	890	545	13,222	11,261	5,354	47	5,907	53	1,537	1,163	672	58	491	42
NORTH DAKOTA	902	736	1,478	1,257	102	98	85	86	13	14	648	617	422	67	195	33
OHIO	8,548	546	61,710	12,330	819	799	549	68.7	250	31.2	18,917	18,447	13,510	73.2	4,937	26.7
OKLAHOMA	11,575	10,904	19,353	15,694	1,525	1,458	874	60	584	40	11,076	8,703	5,814	67	2,889	33
OREGON	5,297	4,640	17,216	11,619	1,189	1,078	500	46	478	54	11,167	9,362	4,590	49	4,772	51
PENNSYLVANIA	635	17,016	7,805	38,213	866	809	376	47	433	53	22,483	20,040	7,679	39	12,36	61

1977-1978 SUMMARY ON LICENSE LAW STATISTICS

STATE/ PROVINCE	LICENSED				EXAMINATIONS											
	BROKERS		SALESPERSONS		BROKERS						SALESPERSONS					
	1978	1977	1978	1977	APPLI- CANTS	EXAMIN- NEES	PASSED	Per Cent	FAILED	Per Cent	APPLI- CANTS	EXAMIN- NEES	PASSED	Per Cent	FAILED	Per Cent
QUEBEC	920	---	6,268	---	177	184	95	57	89	49	2,281	2,746	1,400	51	1,346	49
RHODE ISLAND	3,600	3,970	2,400	2,573	200	150	130	87	20	13	700	650	500	77	150	23
SASKATCHEWAN	470	---	2,356	---	110	82	76	93	6	7	882	668	500	75	168	25
SOUTH CAROLINA	14,968	---	---	---	---	1,416	753	53	663	47	---	6,403	4,926	77	1,477	23
SOUTH DAKOTA	1,659	1,606	2,673	1,380	130	61	57	92	4	8	973	1,031	734	72	297	28
TENNESSEE	N/A	5,767	N/A	10,227	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
TEXAS	13,020	35,686	84,388	52,002	7,628	5,990	3,488	58	2,502	42	58,101	34,630	23,698	68	10,934	32
UTAH	1,866	1,616	14,634	12,727	420	380	210	55	170	45	4,941	4,118	2,862	69	1,256	31
VERMONT	---	153	---	575	260	224	163	73	61	27	1,204	985	663	67	322	33
VIRGINIA	15,000	282	26,000	7,029	488	395	348	88	47	12	9,681	9,387	7,187	76	2,200	24
WASHINGTON	---	8,613	---	33,898	1,754	1,587	830	52	757	48	19,739	16,152	9,327	58	6,825	42
WEST VIRGINIA	1,372	1,264	4,764	3,743	195	161	124	77	37	23	1,850	1,766	1,188	67	578	33
WISCONSIN	10,000	20,000	26,000	8,000	3,650	3,650	1,457	40	2,193	60	3,245	3,245	1,631	50	1,612	50
WYOMING	877	768	1,624	1,316	186	169	127	75	42	25	1,193	1,043	541	52	502	48
* VIRGIN ISLANDS	220	---	141	---	11	8	7	87	1	13	72	41	368	8	5	12

TABLE D

NON - RESIDENCY

STATE/ PROVINCE	RESIDENCY REQUIREMENTS	FULL RECIPROCITY AGREEMENT	PARTIAL RECIPROCITY AGREEMENT
ALABAMA	90 Days	NO	Co-brokering with any state which will allow Alabama brokers same privileges.
ALASKA	90 Days	NO	NO
ALBERTA	3 months in Canada	NO	NO
ARIZONA	90 Days - Salesmen 1 Year - Broker	NO	NO
ARKANSAS	NO	NO	Connecticut, District of Columbia, Illinois, Indiana, Kansas, Louisiana, Missouri, Nebraska, New Jersey, New York, North Carolina, Oklahoma, Tennessee.
BRITISH COLUMBIA	Not Specified	NO	NO
CALIFORNIA	NO	NO	NO
COLORADO	NO	NO	States which give Multi-State portion of exam, separated from local portion.
CONNECTICUT	NO	Arkansas, Delaware, District of Columbia, Georgia, Massachusetts, New Jersey, Oklahoma, Rhode Island Utah.	NO
DELAWARE	NO	Maryland, New Jersey, Pennsylvania District of Columbia, Virginia, North Carolina, Connecticut & New York.	--

NON - RES IDENCY

STATE/ PROVINCE	RESIDENCY REQUIREMENTS	FULL RECIPROCIITY AGREEMENT	PARTIAL RECIPROCIITY AGREEMENT
DISTRICT OF COLUMBIA	NO	NO	YES
FLORIDA	YES - No Set Period	NO	NO
GEORGIA	YES - No Set Period	NO	States giving ACT or ETS exam & Alabama, Connecticut, Delaware, District of Columbia, Kentucky, Massachusetts, New Jersey, North Carolina, South Carolina, Tennessee, Washington, West Virginia, Arkansas, and Nebraska
HAWAII	No duration, only legal residence	NO	NO
IDAHO	NO, Must be a resident upon activating license.	Utah, Oregon, Washington, & Montana	NO
ILLINOIS	NO	NO	NO
INDIANA	NO	Kentucky	NO
IOWA	NO	Nebraska, Missouri, South Dakota, North Dakota, Minnesota	NO
KANSAS	NO	Missouri, Oklahoma, Nebraska	Arkansas
KENTUCKY	NO	North Carolina, Indiana (brokers only) Ohio, and Tennessee	Georgia, New Jersey, West Virginia, Missouri
LOUISIANA	YES - Broker 6 months	NO	NO
MAINE	YES	NO	NO

NON - RES IDENCY

STATE/ PROVINCE	RESIDENCY REQUIREMENTS	FULL RECIPROCIITY AGREEMENT	PARTIAL RECIPROCIITY AGREEMENT
MARYLAND	YES - Permanent	Delaware, Pennsylvania, North Carolina, Virginia	District of Columbia
MASSACHUSETTS	May be waived - 1 year requirement	District of Columbia, Georgia, New Jersey, New York, Connecticut, Rhode Island, Virginia, West Virginia.	NO
MICHIGAN	NO	NO	NO
MINNESOTA	NO	Iowa, North Dakota, South Dakota, Nebraska	NO
MISSISSIPPI	6 months for Broker, resident only for Salesmen.	NO	NO
MISSOURI	NO	Iowa, Nebraska, Kansas, Oklahoma, Tennessee, Kentucky, Arkansas	NO
MONTANA	NO	Idaho, North Dakota	NO
NEBRASKA	NO	Arkansas, Georgia, Iowa, Kansas, Maryland, Missouri, New Jersey, New York, Ohio, Oklahoma, Oregon, South Dakota, North Dakota, Utah.	NO
NEVADA	Bona fide at time of application.	NO	NO
NEW HAMPSHIRE	YES - No time period	NO	NO

NON - RESIDENCY

STATE/ PROVINCE	RESIDENCY REQUIREMENTS	FULL RECIPROCIITY AGREEMENT	PARTIAL RECIPROCIITY AGREEMENT
NEW MEXICO	If applying as a resident: 6 months - Broker 1 day - Salesman	NO	Arkansas, (brokers only), California, Colorado, Idaho, Iowa, Kansas, Missouri, Michigan New Hampshire, New York, North Carolina, Oklahoma, Pennsylvania Vermont, Virginia, Wyoming (bro- kers only)
NEW YORK	NO	Arkansas, Connecticut, Delaware, Massachusetts, Nebraska, New Jersey, Ohio, Oklahoma, District of Columbia.	NO
NORTH CAROLINA	NO	NO	Arkansas, Connecticut, Delaware, District of Columbia, Georgia, Kentucky, New Jersey, South Carolina, Tennessee, West Virginia.
NORTH DAKOTA	NO	Nebraska, Iowa, South Dakota, Minnesota	NO
OHIO	NO	Kentucky, Nebraska, Broker's Only Kentucky, New York, Sales Only	NO
OKLAHOMA	NO	All states - not by agreement; but by regulation.	NO
OREGON	Establishment of residence sufficient.	Washington, Idaho	NO
PENNSYLVANIA	NO	NO	Maryland, Delaware, Virginia, Ohio
QUINTANA ROO	None Specified	NO	NO



NON - RES IDENCY

STATE/ PROVINCE	RESIDENCY REQUIREMENTS	FULL RECIPROCIITY AGREEMENT	PARTIAL RECIPROCIITY AGREEMENT
RHODE ISLAND	NO	Connecticut, Massachusetts	NO
SASKATCHEWAN	YES - No Time Period	NO	NO
SOUTH CAROLINA	Date residency is established	Georgia, North Carolina	NO
SOUTH DAKOTA	NO	North Dakota, Minnesota, Iowa, Nebraska	
TENNESSEE	45 Days	Arkansas, Georgia, Kentucky, North Carolina	Virginia
TEXAS	Six months	NO	California, Partial only in that an exam is required.
UTAH	No specified period of time	Idaho, Washington, Nebraska, Connecticut, & Colorado	Agreement with all states who subscribe to the Multi-State exam to accept certification of the raw scores of 70% or higher for brokers & waive them taking the multi-state exam again until 1-1-80.
VERMONT	Yes, six months	NO	NO
VIRGINIA	NO	YES, Delaware, Maryland, Massachusetts, Tennessee, West Virginia, District of Columbia.	NO
VIRGIN ISLANDS	1 Year Sales, 2 Year, Broker	NO	NO
WASHINGTON	Permanent	NO	Oregon, Idaho, Utah, Georgia

NON - R E S I D E N C Y

STATE/ PROVINCE	RESIDENCY REQUIREMENTS	FULL RECIPROCIITY AGREEMENT	PARTIAL RECIPROCIITY AGREEMENT
WEST VIRGINIA	NO	District of Columbia, North Carolina, Tennessee, Kentucky, New Jersey, Virginia, Georgia.	NO
WISCONSIN	NO	NO	NO
WYOMING	YES, Just resident, no time limit only license non-resident brokers.	NO	NO

TABLE E

F E E S

STATE/ PROVINCE	BROKER								SALESMAN				RECOVERY FUND		CORPORATE LICENSE		
	ORIGINAL LICENSE	RENEWAL LICENSE	EXAM	RE-EXAM	ORIGINAL LICENSE	RENEWAL LICENSE	EXAM	RE-EXAM	EXAM	RE-EXAM	BROKER	SALESMAN					
ALABAMA	\$ 25 - 1YR	\$ 25-1YR	\$ 50	\$ 50	\$ 15-1YR	\$ 15-1YR	\$ 50	\$ 50	\$ 50	\$ 50	\$ 50	\$ 50	RE-EXAM	SALESMAN	---	---	\$ 15-1YR
ALASKA	\$ 100-2YR	\$ 100-2YR	\$ 50	\$ 50	\$ 50-2YR	\$ 50-2YR	\$ 50	\$ 50	\$ 50	\$ 50	\$ 50	\$ 50	RE-EXAM	SALESMAN	\$ 125-2YR	\$ 40-2YR	N/A
ALBERTA	\$ 40-1YR	\$ 40-1YR	--	--	\$ 20-1YR	\$ 20-1YR	--	--	\$ 35	\$ 35	\$ 35	\$ 35	RE-EXAM	SALESMAN	NONE	NONE	\$ 40-1YR
ARIZONA	\$ 100-2YR	\$ 100-2YR	\$ 50	\$ 50	\$ 50	\$ 50	\$ 50	\$ 50	\$ 25	\$ 25	\$ 25	\$ 25	RE-EXAM	SALESMAN	\$ 20, one time only.	\$ 10, one time only.	\$ 100-2YR
ARKANSAS	\$ 40	\$ 65-2YR	\$ 15	\$ 15	\$ 10	\$ 10	\$ 15	\$ 15	\$ 15	\$ 15	\$ 15	\$ 15	RE-EXAM	SALESMAN	\$ 25 with renewal	\$ 25 with renewal	N/A
BRITISH COLUMBIA	\$ 50-1YR	\$ 50-1YR	\$ 30	\$ 30	\$ 40-1YR	\$ 40-1YR	\$ 30	\$ 30	\$ 15	\$ 15	\$ 15	\$ 15	RE-EXAM	SALESMAN	---	---	\$ 60-1YR
CALIFORNIA	\$ 75-4YR	\$ 75-4YR	\$ 25	\$ 25	\$ 45-4YR	\$ 45-4YR	\$ 25	\$ 25	\$ 10	\$ 10	\$ 10	\$ 10	RE-EXAM	SALESMAN	---	---	\$ 75-4YR
COLORADO	\$ 20-cur-rent. YR	\$ 60-3YR	\$ 15	\$ 15	\$ 10-cur-rent. YR	\$ 30-3YR	\$ 15	\$ 15	\$ 10	\$ 10	\$ 10	\$ 10	RE-EXAM	SALESMAN	---	---	\$ 20 current YR. \$ 60-3YR
CONNECTICUT	\$ 150-1YR	\$ 100-1YR	\$ 15	\$ 5	\$ 75-1YR	\$ 75-1YR	\$ 5	\$ 5	\$ 10	\$ 10	\$ 10	\$ 5	RE-EXAM	SALESMAN	\$ 20-11fd	\$ 20-11fd	\$ 150-1YR, \$ 100-1YR, RENEWAL
DELAWARE	\$ 25-1YR	\$ 25-1YR	\$ 15	\$ 15	\$ 10-1YR	\$ 10-1YR	\$ 15	\$ 15	\$ 15	\$ 15	\$ 15	\$ 15	RE-EXAM	SALESMAN	\$ 25-11fd	\$ 25-11fd	NONE
DISTRICT OF COLUMBIA	\$ 40-1YR	\$ 40-1YR	\$ 40	\$ 40	\$ 40-1YR	\$ 40-1YR	\$ 40	\$ 40	\$ 30 1st exam \$ 20 2nd exam	\$ 30 1st exam \$ 20 2nd exam	\$ 30 1st exam \$ 20 2nd exam	\$ 30 1st exam \$ 20 2nd exam	RE-EXAM	SALESMAN	---	---	NONE

F E E S

STATE/ PROVINCE	BROKER								SALESMAN								RECOVERY FUND		CORPORATE LICENSE
	ORIGINAL LICENSE	RENEWAL LICENSE	EXAM	RE-EXAM	ORIGINAL LICENSE	RENEWAL LICENSE	EXAM	RE-EXAM	EXAM	RE-EXAM	BROKER	SALESMAN							
FLORIDA	\$ 40-2YR	\$40-2YR	\$ 50	\$ 50	\$20-2YR	\$20-2YR	\$ 50	\$ 50	\$20-2YR	\$20-2YR	\$ 25	\$ 25	\$ 25	\$ 25	--	--	\$40-2YR		
GEORGIA	\$ 50-bien	\$50-2YR	\$ 25	\$ 25	\$15-bien	\$15-2YR	\$ 25	\$ 25	\$15-2YR	\$15-2YR	\$ 25	\$ 25	\$ 25	\$ 25	\$20-11fd	\$10-11fd	\$50-2YR		
HAWAII	\$50-1YR	\$100-2YR	\$ 25	\$ 25	\$50-1YR	\$50-2YR	\$ 25	\$ 25	\$50-2YR	\$50-2YR	\$ 25	\$ 25	\$ 25	\$ 25	\$50-11fd	\$50-11fd	\$50-1YR		
IDAHO	\$40-1YR	\$40-1YR	\$ 25	\$ 25	\$40-1YR	\$40-1YR	\$ 10	\$ 10	\$40-1YR	\$40-1YR	\$ 25	\$ 25	\$ 10	\$ 10	--	--	--		
ILLINOIS	\$50-up to 2YR	\$20-2YR	\$ 10.25	\$ 10.25	\$25-up to 1YR	\$ 5-1YR	\$ 10.25	\$ 10.25	\$ 5-1YR	\$ 5-1YR	\$ 10.25	\$ 10.25	\$ 10.25	\$ 10.25	\$10-11fd	\$10-11fd	\$20-1YR		
INDIANA	\$20	\$20-2YR	\$ 50	\$ 50	\$10	\$10-2YR	\$ 50	\$ 50	\$10-2YR	\$10-2YR	\$ 50	\$ 50	\$ 50	NONE	NONE	NONE	\$20		
IOWA	\$20-1YR	\$20-1YR	\$ 11	\$ 11	\$10-1YR	\$10-1YR	\$ 11	\$ 11	\$10-1YR	\$10-1YR	\$ 11	\$ 11	\$ 11	--	--	--	\$20-1YR		
KANSAS	\$25-1YR	\$18-1YR	\$ 13	\$ 13	\$15-1YR	\$12-1YR	\$ 13	\$ 13	\$12-1YR	\$12-1YR	\$ 13	\$ 13	\$ 13	can be assessed if necessary	can be assessed if necessary	N/A	N/A		
KENTUCKY	\$10-1YR	\$10-1YR	\$ 25	\$ 25	\$10-1YR	\$ 5-1YR	\$ 25	\$ 25	\$ 5-1YR	\$ 5-1YR	\$ 25	\$ 25	\$ 25	\$30 1st yr. \$20 yr. renewal	\$30 1st yr. \$20 yr. renewal	N/A	N/A		
LOUISIANA	\$100-1YR	\$25-1YR	\$ 10	\$ 10	\$25-1YR	\$15-1YR	\$ 10	\$ 10	\$15-1YR	\$15-1YR	\$ 10	\$ 10	\$ 10	\$ 8	\$ 8	\$ 8	\$100-1YR		
MAINE	\$30-2YR	\$30-2YR	\$ 40	\$ 40	\$20-2YR	\$20-2YR	\$ 0	\$ 0	\$20-2YR	\$20-2YR	\$ 35	\$ 35	\$ 0	--	--	--	\$30-2YR		
MARYLAND	\$100-2YR	\$70-2YR	\$ 11	\$ 11	\$45-2YR	\$20-2YR	\$ 11	\$ 11	\$20-2YR	\$20-2YR	\$ 11	\$ 11	\$ 11	\$20	\$20	\$20	NONE		
MASSACHUSETTS	\$35 to \$51.05-2YR	\$25-2YR	\$15-MA \$11.50ETS	\$15-MA \$11.50ETS	\$20.83 - \$29.96-2YR	\$15-2YR	\$15-MA \$11.50ETS	\$15-MA \$11.50ETS	\$15-2YR	\$15-2YR	\$ 8-MA \$11.50ETS	\$ 8-MA \$11.50ETS	\$ 8-MA \$11.50ETS	N/A	N/A	N/A	\$ 75, no renewal fee.		

F E E S

STATE/ PROVINCE	BROKER							SALESMAN							RECOVERY FUND		CORPORATE LICENSE
	ORIGINAL LICENSE	RENEWAL LICENSE	EXAM	RF-EXAM	ORIGINAL LICENSE	RENEWAL LICENSE	EXAM	RF-EXAM	EXAM	RENEWAL LICENSE	EXAM	RF-EXAM	BROKER	SALESMAN			
MICHIGAN	\$30-1YR	\$15-1YR	\$ 5	\$ 15	\$25-1YR	\$10-1YR	\$ 5	\$ 15	\$25-1YR	\$10-1YR	\$ 5	\$ 15	--	--	\$ 30-1YR		
MINNESOTA	\$50-1YR	\$25-1YR	ETS	ETS	\$25-1YR	\$10-1YR	ETS	ETS	\$25-1YR	\$10-1YR	ETS	ETS	\$201ife	\$201ife	\$ 50		
MISSISSIPPI	\$35-1YR	\$30-1YR	\$ 30	NONE	\$25-1YR	\$20-2YR	\$ 30	NONE	\$25-1YR	\$20-2YR	\$ 30	NONE	N/A	N/A	\$ 30 1st year		
MISSOURI	\$10-1YR	\$10-1YR	\$ 11	\$ 11	\$ 5	\$ 5-1YR	\$ 11	\$ 11	\$ 5	\$ 5-1YR	\$ 11	\$ 11	N/A	N/A	\$ 10-1YR		
MONTANA	\$50-1YR	\$30-1YR	\$ 25	\$ 20	\$30-1YR	\$15-1YR	\$ 25	\$ 20	\$30-1YR	\$15-1YR	\$ 25	\$ 20	N/A	N/A	N/A		
NEBRASKA	\$30-1YR	\$30-1YR	\$ 25	\$ 25	\$15-1YR	\$15-1YR	\$ 25	\$ 25	\$15-1YR	\$15-1YR	\$ 25	\$ 25	N/A	N/A	N/A		
NEVADA	\$80-2YR	\$80-2YR	\$ 40	\$ 40	\$50-2YR	\$50-2YR	\$ 40	\$ 40	\$50-2YR	\$50-2YR	\$ 40	\$ 40	\$40-2YR	\$40-2YR	N/A		
NEW HAMPSHIRE	\$50-2YR	\$40-2YR	\$ 25	\$ 25	\$30-2YR	\$20-2YR	\$ 25	\$ 25	\$30-2YR	\$20-2YR	\$ 25	\$ 25	--	--	NO FEE		
NEW JERSEY	\$30-1YR	\$30-1YR	\$ 50 (11 to ETS)	\$ 0	\$30 (11 to ETS)	\$15-1YR	\$ 11	\$ 0	\$30 (11 to ETS)	\$15-1YR	\$ 11	\$ 0	\$10	\$ 5	\$30-1YR		
NEW MEXICO	\$30-1YR	\$30-1YR	\$ 25	\$ 25	\$30-1YR	\$30-1YR	\$ 25	\$ 25	\$30-1YR	\$30-1YR	\$ 25	\$ 25	--	--	N/A		
NEW YORK	\$50-2YR	\$50-2YR	--	--	\$10-2YR	\$10-2YR	--	--	\$10-2YR	\$10-2YR	--	--	--	--	\$50		
NORTH CAROLINA	\$30-1YR	\$10-1YR	NONE	NONE	\$20-1YR	\$10-1YR	NONE	NONE	\$20-1YR	\$10-1YR	NONE	NONE	NONE	NONE	\$30-1YR		
NORTH DAKOTA	\$35-1YR	\$30-1YR	Incl. in orig. lic. fee	\$ 10	\$30-1YR	\$20-1YR	Incl. in orig. lic. fee	\$ 5	\$30-1YR	\$20-1YR	Incl. in orig. lic. fee	\$ 5	\$20	\$20	\$35-1YR		

F E E S

STATE/ PROVINCE	BROKER								SALESMAN					RECOVERY FUND		CORPORATE LICENSE
	ORIGINAL LICENSE	RENEWAL LICENSE	EXAM	RE-EXAM	ORIGINAL LICENSE	RENEWAL LICENSE	EXAM	RE-EXAM	EXAM	RE-EXAM	BROKER	SALESMAN				
OHIO	\$47-1YR	\$22-1YR	\$ 47	\$ 47	\$27-1YR	\$12-1YR	\$ 27	\$ 27			--	--			NONE	
OKLAHOMA	\$20-1YR	\$20-1YR	\$ 30	\$ 30	\$10-1YR	\$10-1YR	\$ 20	\$ 20			\$5-1YR	\$5-1YR			\$20-1YR	
OREGON	\$75-2YR	\$75-2YR	\$ 25	\$ 25	\$60-2YR	\$60-2YR	\$ 25	\$ 25			--	--			\$75-2YR	
PENNSYLVANIA	\$25 (in exam fee)	\$25-2YR	\$ 25	\$ 10	\$20 (in exam fee)	\$20-2YR	\$ 20	\$ 10			--	--			\$25-2YR	
QUEBEC	\$200-1YR	\$150-1YR	\$ 10	\$ 15	\$60-1YR	\$40-1YR	\$ 10	\$ 15			--	--			\$200-1YR	
RHODE ISLAND	\$50-1YR	\$50-1YR	\$ 10	\$ 10	\$30-1YR	\$30-1YR	\$ 10	\$ 10			\$ 15	\$ 15			\$15	
SASKATCHEWAN	\$10-1YR	\$15-1YR	\$350 (in-cludes course)	\$ 15	\$10-1YR	\$10-1YR	\$100 (in-cludes course)	\$ 15			N/A	N/A			\$35-1YR	
SOUTH CAROLINA	\$50-1YR	\$30-1YR	\$ 30	\$ 25	\$ 25-1YR	\$15-1YR	\$ 30	\$ 25			--	--			N/A	
SOUTH DAKOTA	\$50-1YR	\$30-1YR	Part of original applic.	\$ 10	\$50-1YR	\$20-1YR	Part of original applic.	\$ 10			Pro-Rated	Pro-Rated			\$ 50-1YR	
TENNESSEE	\$25-1YR	\$10-1YR	Incl. with applica.	\$ 25	Incl. with applica.	\$10-1YR	\$ 25	\$ 25			--	--			\$10-1YR	
TEXAS	\$40-1YR	\$25-1YR	\$ 5	\$ 5	\$20-1YR	\$20-1YR	\$ 5	\$ 5			\$ 10 Initial Assessment.	\$ 10			\$40-1YR	

F E E S

STATE/ PROVINCE	BROKER								SALESMAN				RECOVERY FUND		CORPORATE LICENSE
	ORIGINAL LICENSE	RENEWAL LICENSE	EXAM	RE-EXAM	ORIGINAL LICENSE	RENEWAL LICENSE	EXAM	RE-EXAM	EXAM	RE-EXAM	BROKER	SALESMAN			
UTAH	\$40-1YR	\$25-1YR	\$ 25	\$ 25	\$15-1YR	\$12-1YR	\$ 15	\$ 15	\$10fee includ. in lic. fee.	\$5fee includ. in lic. fee.	--	--			
VERMONT	\$25-1YR	\$25-1YR	\$ 25	\$ 25	\$15-1YR	\$15-1YR	\$ 25	\$ 25	N/A	N/A	\$25-1YR				
VIRGINIA	\$75-2YR	\$50-2YR	\$ 75	\$ 25	\$55-2YR	\$30-2YR	\$ 55	\$ 25	\$10	\$10	\$50-2YR				
VIRGIN ISLANDS	\$100-1YR	\$100-1YR	\$ 20	\$ 20	\$50-1YR	\$50-1YR	\$ 5	\$ 5	--	--	\$100				
WASHINGTON	\$40-1YR	\$40-1YR	\$ 40	\$ 40	\$25-1YR	\$25-1YR	\$ 25	\$ 25	NONE	NONE	\$40-1YR				
WEST VIRGINIA	\$50-1YR	\$50-1YR	NONE	NONE	\$25-1YR	\$25-1YR	NONE	NONE	NONE	NONE	\$50-1YR				
WISCONSIN	\$50-2YR	\$30-2YR	Includ in lic. fee.	\$ 50	\$50-2YR	\$30-2YR	Includ in lic. fee.	\$ 50	N/A	N/A	\$50-2YR				
WYOMING	\$50-1YR	\$30-1YR	\$ 30	\$ 30	\$ 40-1YR	\$15-1YR	\$ 30	\$ 30	--	--	\$30-1YR				

TABLE F

SUBSTANTIVE PROVISIONS OF STATE STATUTES (S) AND REGULATIONS (R)

I. Advertising

License suspension/revocation for:

1. "making substantial misrepresentations" (or similar language)
2. "making false promises of a character likely to influence, persuade or induce" (or similar)
3. "pursuing a continued and flagrant course of misrepresentation or making of false promises through agents or salesmen or otherwise" (or similar)
4. "misleading," "inaccurate," "untruthful" advertising (or similar)

II. Other Business Practices

1. use of "REALTOR" or other trade names or insignia of organizations of which licensee not a member prohibited
2. prohibitions on use of lotteries, contests, prizes, gifts, free items or property as inducements to list, sell real estate
3. net listings prohibited
4. fixed or definite place of business required
5. (a) identifying office sign required  
(b) specific location, lettering sizes, etc. of sign
6. office furniture, equipment requirements
7. a. users of franchise trade names must also include licensee's name  
b. must include phrase "independently owned and operated"

State	1.	2.	3.	4.	5. (a)	5. (b)	6.	7. a.	7. b.
ALABAMA	S	S	S	S	S				
ALASKA	S	S	S	S	S				
ARIZONA	S	S	S	S	S				
ARKANSAS	S	S	S	S	S				
CALIFORNIA	S	S	S	S	S				
COLORADO	S	S	S	S	S				
CONNECTICUT	S	S	S	S	S				
DELAWARE	S	S	S	S	S				
DISTRICT OF COLUMBIA	S	S	S	S	S				
FLORIDA	S	S	S	S	S				
GEORGIA	S	S	S	S	S				
HAWAII	S	S	S	S	S				
IDAHO	S	S	S	S	S				
ILLINOIS	S	S	S	S	S				
INDIANA	S	S	S	S	S				
IOWA	S	S	S	S	S				
KANSAS	S	S	S	S	S				
KENTUCKY	S	S	S	S	S				
LOUISIANA	S	S	S	S	S				
MAINE	S	S	S	S	S				
MARYLAND	S	S	S	S	S				
MASSACHUSETTS	S	S	S	S	S				
MICHIGAN	S	S	S	S	S				
MINNESOTA	S	S	S	S	S				
MISSISSIPPI	S	S	S	S	S				
MISSOURI	S	S	S	S	S				









STATE AGENCIES--STRUCTURES AND POWERS

COMPOSITION

STATE	AGENCY	BROKERS	INDUSTRY BROKERS OR SALESMEN	COMPOSITION		APPOINTED BY	FROM INDUSTRY ASSN. NOMINEES	RULEMAKING POWER	SUSPEND/REVOKE LICENSES	OTHER SANCTIONS
				PUBLIC	OTHER					
ALABAMA	R.E. Commission	5	5	2		Gov.		Yes	Yes	Commission may publish actions in local newspapers
ALASKA	R.E. Com.					Gov.		Yes	Yes	
ARIZONA	(1) R.E. Advisory Bd.	2		3	2 (subdividers)	Gov.		No	No	
	(2) R.E. Commissioner					Gov.		Yes	Yes	
ARKANSAS	P.E. Com.		3			Gov.	Yes	Yes	Yes	
CALIFORNIA	(1) R.E. Advisory Bd.	5		3	1 (R.E. Commis'r.)	R.E. Com. Gov.		No	No	
	(2) R.E. Commissioner					Gov.		Yes	Yes	Person: 1st violation, max. \$500 fine and/or 6 mos. imprisonment; 2nd violation, \$1,000 and/or 6 mos. Corporation: max. \$5,000 fine
COLORADO	R.E. Com.					Gov.		Yes	Yes	Person: 1st violation: max. \$500 fine. In addition, 6 mos. imprisonment if violation of trust account provisions
CONNECTICUT	P.E. Com.		3	2		Gov.		Yes	Yes	1st violation: max. \$500 fine. Corporation: \$200-1,000 and/or 6 mos. imprisonment. Corporation: \$200-\$1,000 fine
DELAWARE	P.E. Com.		5			Gov.		Yes	Yes	Person: fines, \$200-\$1,000 and/or 6 mos. imprisonment. Corporation: \$200-\$1,000 fine
DIST. OF COLUMBIA	P.E. Com.			1	1 (D.C. Assessor, ex-officio)	D.C. Commissioner		Yes	Yes	Person: max. \$500 fine and/or 6 mos. imprisonment. Corporation: max. \$1,000 fine

COMPOSITION

STATE	AGENCY	PROBERS	INDUSTRY PROBERS OR SALESMEN	COMPOSITION		APPOINTED BY	FROM INDUSTRY ASSN. NOMINEES	RULEMAKING POWER	SUSPEND/REVOKE LICENSES	OTHER SANCTIONS
				PUBLIC	OTHER					
FLORIDA	R.E. Com.	4		1		Gov.		Yes	Yes	Violation = 2nd degree misdemeanor, except for violation of false advertising provision, which = 1st degree misdemeanor
GEORGIA	P.E. Com.	5				Gov.		Yes	Yes	Violation = misdemeanor
HAWAII	P.E. Com.	At least 4 of 7 total				Gov.		Yes	Yes	Max. \$500 fine
IDAHO	P.E. Com.	4				Gov.		Yes	Yes	
ILLINOIS	(1) Examining Committee  (2) R.E. Commissioner, Dept. of Registration & Education	5		2	1 (R.E. Com'r. nonvoting)	R.E. Com'r.	"shall give due consideration to list"	No	No	Person: 1st violation, max. \$500 fine and/or 30 days imprisonment; 2nd violation, max. \$1,000 fine and/or 1 yr. imprisonment. Corporation: 1st violation, max. \$2,000 fine; 2nd violation, \$2,000 - \$5,000 fine. Except: said penalties not applicable to misleading advertising provision
INDIANA	P.E. Com.	11		2		Gov.		Yes	Yes	Max. \$500 fine
IOWA	P.E. Com.	3 (at least 1 salesperson)		2 (but can't administer or grade exams)		Gov.	May recommend; Gov. not bound	Yes	Yes	Max. \$100 fine or 30 days imprisonment
KANSAS	P.E. Com.	3-4 of 5 total		1-2 of 5 total		Gov.		Yes	Yes	
KENTUCKY	P.E. Com.	4		1		Gov.	Yes	Yes	Yes	
KYISTANA	P.E. Com.	7				Gov.	Yes	Yes	Yes	Max. \$2,000 fine and/or 2 yrs. imprisonment

COMPOSITION

<u>STATE</u>	<u>AGENCY</u>	<u>PROKERS</u>	<u>INDUSTRY BROKERS OR SALESMEN</u>	<u>COMPOSITION</u>			<u>APPOINTED BY</u>	<u>FROM INDUSTRY ASSN. NOMINEES</u>	<u>RULEMAKING POWER</u>	<u>SUSPEND/REVOKE LICENSES</u>	<u>OTHER SANCTIONS</u>
				<u>PUBLIC</u>	<u>OTHER</u>						
MONTNE	R.E. Com.		3	1	1	1	Gov. (except Director)		Yes	Yes	Person: max. \$500 fine and/or 6 mos. imprisonment. Corporation: max. \$1,000 fine
MARYLAND	R.E. Com.		5	3			Gov.		Yes	Yes	Max. \$2,000 fine per violation
MASS.	Pr. of Regulation of R.E. Prokers & Salesmen	3		2			Gov.		Yes	Yes	
MICHIGAN	Dept. of Licensing & Regulation (no Pr. or Com.)								Yes	Yes	Person: 1st violation, max. \$100 fine or 90 days imprisonment; 2nd violation, max. \$500 fine and/or 2 yrs. imprisonment. Corporation: 1st violation, max. \$100 fine; 2nd, max. \$1,000
MINNESOTA	(1) P.E. Advisory Com. 5			2			Gov.		No (advises Com'r.)	No	
	(2) Commissioner of Securities						Gov.		Yes	Yes	Violation = gross misdemeanor
MISSISSIPPI	R.E. Com.		5				Gov.		Yes	Yes	Person: 1st violation, \$500-\$1,000 fine and/or 90 days imprisonment; 2nd violation, \$1,000-\$2,000 and/or up to 6 mos. Corporation: 1st violation max. \$2,000 fine; 2nd violation, \$2,000-\$5,000
MISSOURI	R.E. Com.	3					Gov.		Yes	Yes	Person: max. \$500 fine and/or 6 mos. imprisonment. Corporation: max. \$1,000 fine

COMPOSITION

<u>STATE</u>	<u>AGENCY</u>	<u>PROVIDERS</u>	<u>INDUSTRY PROKERS OR SALESMEN</u>	<u>COMPOSITION</u>		<u>APPOINTED BY</u>	<u>FROM INDUSTRY ASSN. NOMINEES</u>	<u>RULEMAKING POWER</u>	<u>SUSPEND/REVOKE LICENSES</u>	<u>OTHER SANCTIONS</u>
				<u>PUBLIC</u>	<u>OTHER</u>					
MONTANA	Pd. of P.E.		At least 2 of 5 total	1		Gov.		Yes	Yes	1st violation, \$100-\$500 fine and/or max. 90 days imprisonment; 2nd violation, \$500-\$2,000 and/or max. 6 mos. In civil action, also up to 3 times amount rec'd as result of violation. Private right of action with atty's fees.
NEBRASKA	P.E. Com.	4		1	1 (Sec'y of State)	Gov.		Yes	Yes	
NEVADA	(1) P.E. Advisory Com. (2) R.E. Division	5				Gov.	"shall consider list"	Yes	Yes	Max. \$2,500 fine
NEW HAMPSHIRE	P.E. Com.	No more than 3 of 5 total			(at least 1) 1 (atty) Gov.			Yes	Yes	
NEW JERSEY	P.E. Com.	5		1	1 ("Gov't Designee")	Gov.		Yes	Yes	Fines of up to \$200 for 1st violation, \$500 for 2nd, may be imposed instead of license suspension/re- vocation
NEW MEXICO	P.E. Com.	4		1		Gov.		Yes	Yes	Person: max. \$500 fine and/or 6 mos. imprisonment. Corporation: max. \$1,000 fine
NEW YORK	(1) Advisory Committee (2) Department of State	7				Sec'y. of State		No (provides assist.) Yes	No Yes	Violation = mis- demeanor, private right of action
NORTH CAROLINA	R.E. Licensing Bd.	2 of 5 total			(no un- specified)	Gov.		Yes	Yes	Violation = mis- demeanor
NORTH DAKOTA	P.E. Com.	3		2		Gov.		Yes	Yes	
OHIO	P.E. Com.	4		1		Gov.		Yes	Yes	

COMPOSITION

STATE	AGENCY	PROXERS	INDUSTRY PROXERS OF SALESMEN	COMPOSITION		APPOINTED BY	FROM INDUSTRY ASSN. NOMINEES	RULEMAKING POWER	SUSPEND/REVOKE LICENSES	OTHER SANCTIONS
				PUBLIC	OTHER					
OKLAHOMA	R.E. Com.	3		2		Gov.		Yes	Yes	Max. \$500 fine and/or 6 mos. imprisonment
OREGON	(1) R.E. Board  (2) R.E. Div., Dept. of Commerce	4		2	1 (R.E. Com'r.)	Dir. of Commerce w/Gov.'s approval		No (advisees & makes rec- ommendations)	No	Violation = Class A misdemeanor
PENNSYLVANIA	R.E. Com.	5		2 (1 cemetery lot broker & Com'r. of Prof. & Occ. Affairs)		Gov.		Yes	Yes	
RHODE ISLAND	(1) R.E. Com.  (2) Director of Business Reg.	3		4		Gov.		Yes	Yes (hears appeals of Director's decisions) Yes (w/consent of Com.)	
SOUTH CAROLINA	(1) R.E. Com.  (2) P.E. Com'r.	6		1 (at large mem.)		6 by legislative delegations of ea. Cong. Dist.; 1 by other members		Yes	Yes (hears appeals of Com'r.'s decisions) ment	Max. \$500 fine and/or 6 mos. imprison- ment
SOUTH DAKOTA	P.E. Com.  Mat. of 5 total	1				P.E. Commission  Gov.		Yes	Yes	
TENNESSEE	R.E. Com.	5				Gov.		Yes	Yes	
TEXAS	R.E. Com.	6				Gov.		Yes	Yes	
UTAH	(1) Bd. of R.E. Examiners  (2) Securities Com.	3				Sec. Com.		Yes	Yes	Person: 1st violation, \$100- \$500 fine and/or 90 days imprisonment; 2nd violation, \$500- \$1,000 and/or 2 yrs. Corporation: 1st violation, max. \$1,000 fine; 2nd violation, \$2,000-\$5,000. Plus, up to 3 times amt. rec'd. as result of violations



COMPOSITION

<u>STATE</u>	<u>AGENCY</u>	<u>PROKERS</u>	<u>INDUSTRY BROKERS OR SALESMEN</u>	<u>COMPOSITION</u>			<u>APPOINTED BY</u>	<u>FROM INDUSTRY ASSN. NOMINEES</u>	<u>RULEMAKING POWER</u>	<u>SUSPEND/REVOKE LICENSES</u>	<u>OTHER SANCTIONS</u>
				<u>PUBLIC</u>	<u>OTHER</u>						
VERMONT	R.E. Com.	4		1 (atty.)	Gov.	Yes	Yes	Max. \$500 fine			
VIRGINIA	R.E. Com.		5	2	Gov.	Yes					
WASHINGTON	(1) R.E. Com. (2) Dir. of Motor Vehicles		6	1 (Dir. of Motor Vehicles)	Gov.	Yes	Yes	(with advice & approval of Com.)			
WEST VIRGINIA	R.E. Com.		2	1	Gov.	Yes	Yes	Person: 1st violation, \$100-500 fine and/or 90 days imprisonment; 2nd violation, \$500-\$1,000 and/or 1 yr. Corporation: 1st violation, max. \$1,000 fine; 2nd violation \$2,000-\$5,000			
WISCONSIN	R.E. Examining Board	4	1 (but can't prepare or grade exams)	Gov.	Yes	Yes	Yes	Max. \$1,000 fine and/or 6 mos. imprisonment			
WYOMING	R.E. Com.	3-4 of 6 total	(no. un-specified) of Agr. ex-officio nonvoting)	1 (Com. Gov.)	Gov.	Yes	Yes	Up to 3 times amount rec'd. in violation of Act			

TO STATE AND LOCAL GOVERNMENTS  
NOTICE OF INTENT TO MAKE RECOMMENDATIONS  
AND INVITATION TO COMMENT

The Los Angeles and Seattle Regional Offices of the Federal Trade Commission are conducting a nationwide investigation of the residential real estate brokerage industry. Jointly sponsored by the FTC's Bureaus of Competition and Consumer Protection, the investigation is intended to ascertain how the competitive process is working and how the consumer is being served in the residential brokerage transaction.

The project staff will make recommendations to the Commission at the conclusion of the investigation. These recommendations could include: (1) a trade regulation rule or rules; (2) formal complaints against individuals or groups believed to be violating statutes the FTC enforces; (3) legislative proposals to Congress or the state legislatures; (4) a public report setting forth the findings of the staff, and/or other efforts aimed at educating the public; and (5) no FTC action.

Before making any recommendations--in fact, while the investigation is still in a middle phase--the staff wishes to solicit your views and suggestions concerning this industry. State officials have now and will continue to have a predominant role in the regulation of the real estate brokerage industry. We wish to benefit from this body of experience, both to increase our knowledge of the industry, and to help structure the inquiry so that it addresses issues of importance to the states.

Several concerns prompted this FTC inquiry. Articles and studies in legal and economic publications have suggested that problems may exist in the competitive process of the industry. Economists and other observers have questioned, in particular, whether the seemingly high degree of price and service uniformity is the product of problems with the competitive process.

Further, the FTC has received complaints from many sources within the industry. Brokers and sales agents throughout the country have contended that their competitive efforts have been frustrated in ways they consider unfair.

In addition, complaints and other input from individuals and consumer groups have called attention to alleged consumer difficulties in the market for brokerage services.

The FTC takes no position as yet on the validity of these criticisms. However, our statutory mandate is to inquire into such competition and consumer concerns.

The staff has identified five issue areas for particular emphasis:

(1) the nature and role of state law and state agencies--any study of the real estate industry must include an understanding of the state regulatory process, and of the role of state departments of real estate;

(2) the nature and role of private trade associations--the staff seeks an understanding of the policies and practices of the brokers' trade associations, and the impact of those policies on competitors and consumers;

(3) the structure and operations of multiple listing services--nearly all observers agree upon the importance of multiple listing systems in most residential real estate markets; the staff is studying how such services are organized and operated;

(4) problems facing industry innovators--brokers who describe their prices or services as "alternative" have complained of harassment and boycotting by others in the industry; the staff is looking into barriers--both structural and behavioral--to innovation; and

(5) the role of the broker in the residential real estate transaction--some brokers and consumers have contended that problems of conflicting duties and interests make adequate representation of buyers and sellers difficult; the staff is interested in these issues of agency law and practice, as well as the efforts within the industry to increase the overall level of broker professionalism;

The staff intends to focus on structural issues, rather than on anecdotes concerning individual behavior. This is not to say the staff will ignore individual practices. However, our priority is to achieve an understanding of how the industry functions, and to identify ways, if any, in which the system as a whole can work better for both competitors and consumers.

The staff is committed to a thorough understanding of the brokerage industry before we tender any recommendations. To aid us in this effort, we encourage you to provide us:

(1) comments reflecting your views on the concerns we have described and the issues we have identified above;

(2) suggestions of other issues you feel merit inclusion in the study;

(3) ideas or proposals for change, if any such are warranted;

(4) information about any pending legal actions in your state involving these issues; and

(5) a brief description of any studies, surveys or other information which might be of interest to the staff (if convenient, please forward copies of any such material, or indicate how we may obtain copies).

These are a few of the many ways in which your office can contribute to the staff's understanding. We also welcome any other contributions to our learning process.

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We wish to give careful consideration to all suggestions from state and local officials. Therefore, it is important that we receive your written comments soon enough to incorporate them into the remaining phases of our project. Input is welcome at any time, but comments should reach us by July 15, 1979, in order to be fully integrated into our study. Please address your response to:

Thomas A. Papageorge, Attorney  
Federal Trade Commission  
Los Angeles Regional Office  
11000 Wilshire Blvd., Suite 13209  
Los Angeles, CA 90024

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Please feel free to contact Mr. Papageorge or Mr. Paul R. Roark by telephone, at (213) 824-7575, if you have questions or thoughts regarding this notice or the project.

This investigation represents an opportunity for all levels of government to work together to achieve a better understanding of the real estate brokerage industry. We encourage you to take an active part in this process, and we thank you in advance for your contributions.