

SECOND REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 1964

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE GAMBARO.

Read 1<sup>st</sup> time February 18, 2002, and 1000 copies ordered printed.

Read 2<sup>nd</sup> time February 19, 2002, and referred to the Committee on Municipal Corporations, February 28, 2002.

Reported from the Committee on Municipal Corporations March 14, 2002, with recommendation that the bill Do Pass by Consent.

Perfectured by Consent March 21, 2002.

TED WEDEL, Chief Clerk

4595L.01P

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### AN ACT

To repeal section 339.010, RSMo, and to enact in lieu thereof one new section relating to the selling of real estate.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 339.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 339.010, to read as follows:

339.010. 1. A "real estate broker" is any person, partnership, association or corporation, foreign or domestic who, for another, and for a compensation or valuable consideration, as a whole or partial vocation, does, or attempts to do, any or all of the following:

(1) Sells, exchanges, purchases, rents, or leases real estate;

(2) Offers to sell, exchange, purchase, rent or lease real estate;

(3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate;

(4) Lists or offers or agrees to list real estate for sale, lease, rental or exchange;

(5) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or improvements thereon;

(6) Advertises or holds himself **or herself** out as a licensed real estate broker while engaged in the business of buying, selling, exchanging, renting, or leasing real estate;

(7) Assists or directs in the procuring of prospects, calculated to result in the sale,

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

14 exchange, leasing or rental of real estate;

15 (8) Assists or directs in the negotiation of any transaction calculated or intended to result  
16 in the sale, exchange, leasing or rental of real estate;

17 (9) Engages in the business of charging to an unlicensed person an advance fee in  
18 connection with any contract whereby [he] **the real estate broker** undertakes to promote the sale  
19 of that person's real estate through its listing in a publication issued for such purpose intended  
20 to be circulated to the general public;

21 (10) Performs any of the foregoing acts as an employee of, or on behalf of, the owner of  
22 real estate, or interest therein, or improvements affixed thereon, for compensation.

23 2. A "real estate salesperson" is any person, who for a compensation or valuable  
24 consideration becomes associated, either as an independent contractor or employee, either  
25 directly or indirectly, with a real estate broker to do any of the things above mentioned, as a  
26 whole or partial vocation. The provisions of sections 339.010 to 339.180 shall not be construed  
27 to deny a real estate salesperson who is compensated solely by commission the right to be  
28 associated with a broker as an independent contractor.

29 3. The term "commission" as used in sections 339.010 to 339.180 means the Missouri  
30 real estate commission.

31 4. "Real estate" for the purposes of sections 339.010 to 339.180 shall mean, and include,  
32 leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold  
33 or nonfreehold, and whether the real estate is situated in this state or elsewhere.

34 5. The provisions of sections 339.010 to 339.180 shall not apply to:

35 (1) Any person, partnership or corporation who as owner or lessor shall perform any of  
36 the acts described in subsection 1 of this section with reference to property owned or leased by  
37 them, or to the regular employees thereof, provided such owner or lessor is not engaged in the  
38 real estate business as a vocation;

39 (2) Any licensed attorney at law;

40 (3) An auctioneer employed by the owner of the property;

41 (4) Any person acting as receiver, trustee in bankruptcy, administrator, executor, or  
42 guardian or while acting under a court order or under the authority of a will, trust instrument or  
43 deed of trust or as a witness in any judicial proceeding or other proceeding conducted by the state  
44 or any governmental subdivision or agency;

45 (5) Any person employed or retained to manage real property by, for, or on behalf of, the  
46 agent or the owner, of any real estate shall be exempt from holding a license, if the person is  
47 limited to one or more of the following activities:

48 (a) Delivery of a lease application, a lease, or any amendment thereof, to any person;

49 (b) Receiving a lease application, lease, or amendment thereof, a security deposit, rental

50 payment, or any related payment, for delivery to, and made payable to, a broker or owner;

51 (c) Showing a rental unit to any person, as long as the employee is acting under the direct  
52 instructions of the broker or owner, including the execution of leases or rental agreements;

53 (d) Conveying information prepared by a broker or owner about a rental unit, a lease, an  
54 application for lease, or the status of a security deposit, or the payment of rent, by any person;

55 (e) Assisting in the performance of brokers' or owners' functions, administrative, clerical  
56 or maintenance tasks;

57 (f) If the person described in this section is employed or retained by, for, or on behalf of  
58 a real estate broker, the real estate broker shall be subject to discipline under this chapter for any  
59 conduct of the person that violates this chapter or the regulations promulgated thereunder;

60 (6) Any officer or employee of a federal agency or the state government or any political  
61 subdivision thereof performing [his] official duties;

62 (7) Railroads and other public utilities regulated by the state of Missouri, or their  
63 subsidiaries or affiliated corporations, or to the officers or regular employees thereof, unless  
64 performance of any of the acts described in subsection 1 of this section is in connection with the  
65 sale, purchase, lease or other disposition of real estate or investment therein unrelated to the  
66 principal business activity of such railroad or other public utility or affiliated or subsidiary  
67 corporation thereof;

68 (8) Any bank, trust company, savings and loan association, credit union, insurance  
69 company or farm loan association organized under the laws of this state or of the United States  
70 when engaged in the transaction of business on its own behalf and not for others;

71 (9) Any newspaper or magazine or periodical of general circulation whereby the  
72 advertising of real estate is incidental to the operation of that publication or to any form of  
73 communications regulated or licensed by the Federal Communications Commission or any  
74 successor agency or commission;

75 (10) Any developer selling Missouri land owned by the developer if such developer has  
76 on file with the commission a certified copy of a currently effective statement of record on file  
77 with the Office of Interstate Land Sales pursuant to sections 1704 through 1706 of Title 15 of  
78 the United States Code or a current statement from the Office of Interstate Land Sales of the  
79 United States Department of Housing and Urban Development approving the documentation  
80 (together with a copy of such documentation) submitted to that office with respect to real estate  
81 falling within the scope of subsection 1702(a)(10) of Title 15 of the United States Code; [or]

82 (11) Any employee acting on behalf of a nonprofit community, or regional economic  
83 development association, agency or corporation which has as its principal purpose the general  
84 promotion and economic advancement of the community at large, provided that such entity:

85 (a) Does not offer such property for sale, lease, rental or exchange on behalf of another

86 person or entity;

87 (b) Does not list or offer or agree to list such property for sale, lease, rental or exchange;

88 or

89 (c) Receives no fee, commission or compensation, either monetary or in kind, that is  
90 directly related to sale or disposal of such properties. An economic developer's normal annual  
91 compensation shall be excluded from consideration as commission or compensation related to  
92 sale or disposal of such properties; or

93 **(12) Any neighborhood association, as that term is defined in section 441.500,**  
94 **RSMo, that without compensation, either monetary or in kind, provides to prospective**  
95 **purchasers or lessors of property the asking price, location, and contact information**  
96 **regarding properties in and near the association's neighborhood, including any publication**  
97 **of such information in a newsletter, web site, or other medium.**