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SENATE BILL NO. 993

Offered January 8, 2025

Prefiled January 7, 2025

A *BILL to amend and reenact § 54.1-2103 of the Code of Virginia, relating to Department of Professional and Occupational Regulation; real estate brokers, salespersons, and rental location agents; exemptions; emergency.*

Patron—Williams Graves

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2103 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2103. Exemptions from chapter.

A. The provisions of this chapter shall not apply to:

1. Any person, partnership, association, corporation, entity, or their regular employees, who as owner or lessor perform any of the acts enumerated in § 54.1-2100 with reference to property owned or leased by them, where the acts are performed in the regular course of or incident to the management of the property and the investment therein. For property governed by the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), the term "owner" for purposes of this subdivision shall include affiliated entities, provided that (i) the owner has a controlling interest in the affiliated entity or (ii) the affiliated entity and the owner have a common parent company;

2. Any person acting without compensation as attorney-in-fact under a power of attorney issued by a property owner solely for the purpose of authorizing the final performance required of such owner under a contract for the sale, lease, purchase, or exchange of real estate;

3. Service rendered by an attorney-at-law in the performance of his duties as such;

4. A person acting as a receiver, trustee in bankruptcy, administrator, or executor, or any person selling real estate under order of any court;

5. A trustee acting under a trust agreement, deed of trust, or will, or the regular salaried employees thereof;

6. Any corporation managing rental housing when the officers, directors, and members in the ownership corporation and the management corporation are the same and the management corporation manages no other property for other persons, partnerships, associations, or corporations;

7. Any existing tenant of a residential dwelling unit who refers a prospective tenant to the owner of the unit or to the owner's duly authorized agent or employee and for the referral receives, or is offered, a referral fee from the owner, agent, or employee;

8. Any auctioneer licensed in accordance with Chapter 6 (§ 54.1-600 et seq.) ~~of this title~~ selling real estate at public auction when employed for such purpose by the owner of the real estate and provided the bidding at such auction is held open for no longer than ~~forty-eight~~ 48 hours. An auctioneer shall not advertise that he is authorized to sell real estate. An auctioneer may advertise for sale at public auction any real estate when employed to do so as herein provided, and may advertise that he is authorized to auction real estate at public auction;

9. [Expired.]

10. Any person who is licensed and is in good standing as a real estate broker or salesperson in another state, and who assists a prospective purchaser, tenant, optionee, or licensee located in another state to purchase, lease, option, or license an interest in commercial real estate, as defined in § 55.1-1100, in the Commonwealth. Such real estate licensee from another state may be compensated by a real estate broker in the Commonwealth. Nothing in this subdivision shall be construed to permit any person not licensed and in good standing as a real estate broker or salesperson in the Commonwealth to otherwise act as a real estate broker or salesperson under this chapter.

B. The provisions of this chapter shall not prohibit the selling of real estate (i) by an attorney-at-law in the performance of his duties as such, (ii) by a receiver, trustee in bankruptcy, administrator ~~or~~, executor, ~~a~~ or special commissioner, or any person selling real estate under order of court, or (iii) by a trustee acting under the trust agreement, deed of trust, or will, or the regular salaried employees thereof.

C. The provisions of this chapter shall not apply to any ~~salaried~~ person employed by a licensed real estate broker for and on behalf of the owner of any real estate or the improvements thereon ~~which~~ *that* the licensed broker has contracted to manage for the owner if the actions of such ~~salaried~~ employee are limited to (i) exhibiting residential units on such real estate to prospective tenants, if the employee is employed on the premises of such real estate; (ii) providing prospective tenants with factual information about the ~~lease~~ *rental*

59 of residential real estate; (iii) accepting applications for ~~lease~~ *the rental* of such real estate; ~~and~~ (iv) accepting
60 *and signing broker-approved rental agreements, state or federal required disclosures, and any documents*
61 *required for compliance with Chapter 5.1 (§ 36-96.1 et seq.) of Title 36 related to such rental transaction;*
62 *and (v) accepting security deposits ~~and rentals~~, periodic rent, and other payments as contracted for in the*
63 *rental agreement* for such real estate. Such deposits and ~~rentals~~ *rent* shall be made payable to the owner or
64 the broker employed by such owner. The ~~salaried~~ employee shall not negotiate the amounts of such security
65 deposits ~~or rentals~~, *periodic rent, or other payments contracted for in the rental agreement* and shall not
66 negotiate any ~~leases~~ *rental agreements* on behalf of such owner or broker.

67 D. A licensee of the Board shall comply with the Board's regulations, notwithstanding the fact that the
68 licensee would be otherwise exempt from licensure under subsection A. Nothing in this subsection shall be
69 construed to require a person to be licensed in accordance with this chapter if he would be otherwise exempt
70 from such licensure.

71 E. An attorney-at-law referring a client to a licensee shall not be entitled to receive any compensation
72 from a listing firm or offered by a common source information company to cooperating brokers, unless the
73 attorney is also licensed under this chapter as a real estate broker or salesperson.

74 **2. That an emergency exists and this act is in force from its passage.**

75 **3. That the provisions of this act shall be applicable to any pending matter that has not been finally**
76 **adjudicated prior to January 1, 2025.**