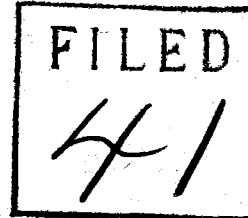


REAL ESTATE COMMISSION: There is no authority for requiring the applicant to pay his 1942 fees before obtaining his 1943 license.

March 4, 1943



Mr. J. W. Hobbs  
Secretary  
Missouri Real Estate Commission  
Jefferson City, Missouri

Dear Sir:

This is in reply to your letter of February 11, 1943, which contains the following request for an opinion.

"The Commission would appreciate an opinion in regard to an applicant for a 1943 Real Estate License that was in the Real Estate Business and conducted a Real Estate Business in the year of 1942.

"The Commission sent out notices to all County Clerks and City Tax Collectors in the form of a placard notifying all persons of the Act passed by the 61st General Assembly prohibiting the sale, leasing, or making loans on real estate for a commission or valuable consideration without first securing a license from the Missouri Real Estate Commission. This warning was sent out again in January of 1943 to all Counties and to all City Tax Collectors and the Commission has written many reported violators informing them of the law.

"Now the Commission asks if it has proper knowledge that the applicant did operate in 1942 without a license may the Commis-

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sion demand that the applicant pay a fee for both 1942 and 1943 if he applies for a 1943 license."

We find no section in the Missouri Real Estate Commission Laws of 1941 that authorizes the Commission to demand that the applicant pay a fee for 1942 before he shall be granted a license to operate during the year 1943. However, if the applicant should offer to pay a fee for 1942, this office perceives of no reason why the Commission would not be allowed to accept and retain the same.

The only sections that seem to be applicable to your case are Sections 1 and 17. Section 1 requires a real estate agent or real estate broker to have a license.

"After January 1, 1942, it shall be unlawful for any person, copartnership, association or corporation, foreign or domestic, to act as a real estate broker or real estate salesman, or to advertise or assume to act as such without a license first procured from the Missouri Real Estate Commission."

Section 17 provides the penalty for anyone who violates any provision of this act.

"Any person or corporation violating any provision of this act shall be guilty of a misdemeanor, and, if a person, be punished by a fine of not more than \$500 or by imprisonment in the county jail, not exceeding six months, or by both such fine and imprisonment, and if a corporation shall be punished by a fine of not more than \$1,000. Any officer or agent of a corporation, or member or agent of a copartnership or association, who shall personally participate in or be an accessory to any violation of this act, shall be subject to the penalties herein prescribed for individuals.

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This law shall not be construed to release any person from civil liability or criminal prosecution under the general laws of this state. The commission may cause complaint to be filed for violation of Section 1 of this act in any court of competent jurisdiction, and perform such other act as may be necessary to enforce the provisions hereof."

Under the facts of your case, the Commission may proceed against the present applicant, under Section 17, because under the facts stated in your letter he has violated Section 1.

CONCLUSION

There is no authority for requiring the applicant to pay his 1942 fees before obtaining his 1943 license.

Respectfully submitted

WILLIAM C. BLAIR  
Assistant Attorney General

APPROVED:

ROY McRITTRICK  
Attorney General of Missouri

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