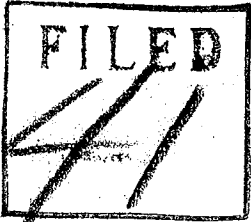


REAL ESTATE COMMISSION: : Missouri Real Estate Commission may
 EXAMINATIONS: : designate suitable persons to dis-
 : tribute examination papers and super-
 : vise the taking of written examinations
 : by applicants for real estate salesman
 : license; said examination having been
 : prepared, and to be graded, by the said Commission.



August 11, 1954

Honorable J. W. Hobbs
 Secretary
 Missouri Real Estate Commission
 222 Monroe Street
 Jefferson City, Missouri

Dear Sir:

You have requested an official opinion as follows:

"Can the members of the Missouri Real Estate Commission designate any person they may desire to give a salesman's examination as outlined in Section 7 and the other Sections of the Missouri Real Estate License Law?

"The grading of the examination papers would not be done by the person giving the examination, the papers would be graded by the office of the Missouri Real Estate Commission and all factors determined in regard to the applicant and the examination by the office of the Missouri Real Estate Commission."

The Missouri Real Estate Commission is created by Section 339.120, RSMo 1949. That section permits the Commission to employ a secretary and other necessary employees as follows:

"* * * The commission shall employ a secretary and such other employees as it shall deem necessary to discharge the duties imposed by the provisions of this chapter, and shall outline their duties and fix their

Honorable J. W. Hobbs:

compensation, and shall require such surety bonds as deemed necessary. The salary of the secretary shall not exceed three thousand six hundred dollars per annum, and no other employee shall receive a greater salary than is paid in other state departments for work of similar character. The secretary and all employees shall serve at the pleasure of the commission."

Section 339.040, RSMo 1949, makes the following provision:

"A license shall be granted only to persons who bear and to corporations or associations whose officers bear, a good reputation for honesty, integrity, fair dealing, and who are competent to transact the business of a real estate broker or a real estate salesman in such manner as to safeguard the interests of persons whom they represent; and in order to determine the applicant's qualification to receive a license under this chapter, the commission shall hold oral or written examinations, at such time and place as the commission may determine."

Your letter indicates that the Commission will prepare written examinations to be given to salesmen, grade the examination papers, and determine whether the applicant has passed the examination, but that you wish to know whether persons other than the Commissioners can be designated to distribute the examination papers to the applicants, and supervise the taking of the examination. The Commission cannot, of course, abdicate its responsibility to hold oral or written examinations. However, we perceive no reason why persons other than members of the Commission cannot supervise the examinations in the manner above stated if such persons are trustworthy, and qualified to discharge their duties. The power given to the Commission to hire employees indicates that the Legislature did not contemplate that the Commission would discharge by their own hand all of the routine ministerial duties imposed upon them.

Honorable J. W. Hobbs:

CONCLUSION

It is, therefore, the opinion of this office that the Missouri Real Estate Commission may designate suitable persons to distribute examination papers and supervise the taking of written examinations by applicants for real estate salesman license; said examination having been prepared, and to be graded, by the said Commission.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Paul McGhee.

Very truly yours,

JOHN M. DALTON
Attorney General

PMcG:lvd:irk