

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

House of Representatives,

5th November, 1912.

Mr. Witty.

LAND AGENTS REGISTRATION.

ANALYSIS.

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A BILL INTITULED

AN ACT to provide for the Licensing of Land Agents.

Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Land Agents Act, 1912.
2. In this Act, if not inconsistent with the context,—

Short Title.

Interpretation.

“ Land agent ” means a person whose business, either alone or as part of or in connection with any other business, is to sell or otherwise dispose of land or any interest in land on commission otherwise than by auction ;

“ License ” means a license granted under this Act.

3. (1.) From and after the first day of January, nineteen hundred and thirteen, no person shall carry on the business of a land agent unless he is the holder of a license under this Act.

Land agents to be licensed.

(2.) Where a firm carries on the business of land agents it shall be sufficient if one member of the firm is the holder of a license on behalf of the firm.

(3.) Where a registered company carries on the business of land agents it shall be sufficient if some person appointed in writing by the company is the holder of a license on behalf of the company.

4. (1.) Every person who desires to obtain a license shall lodge with the Clerk of the Magistrate’s Court in the district wherein he resides an application in the prescribed form by regulations, together with a fidelity bond for five hundred pounds from some approved insurance company or other approved sureties for a like amount.

Application for license.

(2.) Such application shall state the principal place of business of the applicant and shall be accompanied by testimonials as to the character of the applicant signed by not less than five reputable persons.

(3.) If the Court is satisfied that the applicant is a fit person to be the holder of a license under this Act he shall, on payment of a fee of *five* pounds, issue to the applicant a license in the prescribed form by regulations.

License.

5. (1.) Such license shall take effect from the date of the issue thereof, and shall expire on the day on which the first ordinary sitting of the Magistrate's Court is held after the thirty-first day of December next following, and shall authorize the licensee to act as a land agent in any part of New Zealand during the currency of the license, unless the same is cancelled as hereinafter provided. 10

(2.) The issue of every license shall, within ten days after the issue thereof, be notified by the Clerk of the Court to the Minister of Internal Affairs.

(3.) A register of licenses issued under this Act shall be kept in the office of the said Minister, and a copy thereof as on the fifteenth day of January then last past shall be gazetted by him during the month of February of each year. 15

(4.) The *Gazette* containing any such copy shall be *prima facie* evidence in all judicial proceedings of the contents of the register on the said fifteenth day of January. 20

(5.) The absence of a person's name from any such copy shall, until the contrary is shown, be evidence that he was not registered on the date aforesaid :

Provided that in the case of any person whose name does not appear in such copy a certified copy, under the hand of the Under-Secretary of the Department of Internal Affairs, of the entry of the name of that person in the register shall be evidence of the contents of the register with respect to that entry. 25

Licensee may transfer license.

6. (1.) A licensee, or if he dies or is adjudged a bankrupt his executors or administrators or the assignee of his estate in bankruptcy, may transfer his license to any person approved by the Magistrate's Court, and on payment of a fee of *ten* shillings that person shall be deemed to be the holder of the license and may act as a land agent during the currency thereof. 30

(2.) Before giving its approval in any case the Magistrate's Court shall be satisfied that the requirements of section *four* hereof have been complied with by the proposed transferee, in the same manner as in the case of an application for a license. 35

Registered office of the licensee.

7. (1.) The place of business mentioned in the application for a license or such other place of business as the holder of a license from time to time, by notice in writing to the Clerk of the Magistrate's Court, appoints shall be the registered office of the licensee, and all writs, notices, or other documents required to be served or given to the licensee shall be deemed to be duly served or given if left at the said registered office. 40

(2.) Notice of the change of the address of the registered office shall be given by the Clerk of the Court to the Minister of Internal Affairs, and such change shall be entered in the register of licensees. 45

Application of trust moneys.

8. (1.) All moneys received by a land agent in respect of any sale of land shall be applied as follows:— 50

(a.) In payment of the expenses, commission, and other charges of or incidental to the sale.

(b.) In payment of the balance (if any) to the person on whose behalf the sale was made or as he may direct; and until payment such balance shall be paid into a bank to a general or separate trust account. 55

(2.) Every land agent who commits a breach of this section is liable to a fine not exceeding *fifty* pounds.

(3.) Moneys so paid into any such trust account shall not be available for payment of the debt of any other creditor of the land agent, or be liable to be attached or taken in execution under the order or process of any Court at the instance of any such creditor.

9. (1.) Within twenty-eight days after the receipt of any moneys in respect of the sale of land by a land agent he shall render to the person on whose behalf the sale was made an account in writing of all such moneys and of the application thereof, and shall within fourteen days of the completion of the sale pay the balance (if any) of such moneys as provided in the *last preceding* section to such person or as he directs.

Account of moneys received, and their application.

(2.) Every land agent who fails to render such account is liable to a fine not exceeding *ten* pounds.

10. Every land agent is liable on indictment to a fine not exceeding *two* hundred pounds or at the discretion of the Court to imprisonment not exceeding *five* years who—

Wrongful conversion and false accounts.

(a.) Fraudulently converts to his own use any moneys received by him in respect of any sale of land or any part thereof;

or

(b.) Fraudulently renders an account of any such moneys knowing the same to be false in any material particular.

11. If any land agent is convicted of a breach of section *eight* hereof or of the *last preceding* section his license shall be *ipso facto* cancelled; and if any land agent who has been convicted of any other offence against this Act is within twelve months thereafter convicted of a second or any subsequent offence of any kind against this Act, the Court may, if it thinks fit, in addition to any other penalty, cancel his license.

When license may be cancelled.

12. Nothing in this Act shall affect any civil remedy that any person may have against a land agent in respect of any matter.

Civil remedies not affected.

13. Every person (not being the holder of a license) who carries on business as a land agent or holds himself out as a land agent is liable to a fine not exceeding *fifty* pounds.

Carrying on business without a license.

14. In all proceedings against any person for having carried on business as a land agent without a license such person shall, unless he produces his license or brings other satisfactory proof of his having been licensed at the time when the offence was alleged to have been committed, be deemed to have been unlicensed.

Onus of proof that person is licensed.

15. (1.) All proceedings in respect of offences against this Act, except under section ten hereof, shall be heard and determined in a summary way by a Magistrate sitting alone.

Offences, fines, and fees.

(2.) All fines shall, when recovered, be paid into the Public Account and form part of the Consolidated Fund.

(3.) All license fees shall, after deducting any expenses incurred in respect of the license, be paid over to the Hospital and Charitable Aid Board of the district.

16. The Governor may from time to time, by Order in Council, make regulations prescribing such forms as are required for the carrying-out of this Act.

Regulations.