

## Republic Act No. 9646 – Real Estate Service Act of the Philippines

### Who are “real estate practitioners” under RA 9646?

#### ➤ Real estate consultant

- A natural person who, for a professional fee, compensation or other valuable consideration, offers or renders professional advice and judgment on:
  - The acquisition, enhancement, preservation, utilization or disposition of lands or improvements thereon; and
  - The conception, planning, management and development of real estate projects.
- Must be registered with and licensed by the Professional Regulatory Board of Real Estate Service.

#### ➤ Real estate appraiser

- A natural person who, for a professional fee, compensation or other valuable consideration:
  - Performs, or offers to perform, services in estimating and arriving at an opinion on real estate values; or
  - Acts as an expert on real estate values.
- His/her services shall be finally rendered by the preparation of the report in acceptable written form.
- Must be registered with and licensed by the Professional Regulatory Board of Real Estate Service.

#### ➤ Real estate assessor

- A natural person who works in a local government unit and performs appraisal and assessment of real properties, including plants, equipment, and machinery, essentially for taxation purposes.
- Must be registered with and licensed by the Professional Regulatory Board of Real Estate Service.

#### ➤ Real estate broker

- A natural person who, for a professional fee, commission or other valuable consideration, acts as an agent of a party in a real estate transaction to offer,

advertise, solicit, list, promote, mediate, negotiate or effect the meeting of the minds on the sale, purchase, exchange, mortgage, lease or joint venture, or other similar transactions on real estate or any interest therein.

- Must be registered and licensed by the Professional Regulatory Board of Real Estate Service.

➤ **Real estate salesperson**

- A natural person who performs service on behalf of a duly registered and licensed real estate broker, for or in expectation of a share in the commission, professional fee, compensation or other valuable consideration.
- Must be accredited by the Professional Regulatory Board of Real Estate Service.

**What body will regulate the practice/service of real estate practitioners?**

The **Professional Regulatory Board of Real Estate Service** (“the Board”).

- Created by the Real Estate Service Act to regulate real estate service in the Philippines.
- Under the supervision and administrative control of the Professional Regulation Commission (PRC).
- **Composition**
  - A chairperson and 4 members to be appointed by the President of the Philippines from the 3 recommendees chosen by the PRC from a list of 5 nominees per position submitted by the accredited and integrated professional organization of real estate service practitioners.
  - 2 of the Board members must represent the government assessors and appraisers.
- **Qualifications of Board Members**
  - A citizen and resident of the Philippines.
  - A holder of a bachelor's degree related to real estate.
  - An active licensed practitioner of real estate service for at least 10 years prior to his/her appointment.
  - A *bona fide* member in good standing of the accredited and integrated professional organization of real estate service practitioners, but *not* an officer or trustee at the time of his/her appointment.

- Not a member of the faculty of an institute, school, college or university where review classes or lectures in preparation for the licensure examination are being offered or conducted.
- Does not have any pecuniary interest, direct or indirect, in any institution or association where review classes or lectures in preparation for the licensure examination are being offered or conducted.
- Of good moral character
- Must not have been convicted by final judgment, by a competent court, of a criminal offense involving moral turpitude

➤ **Term of Office; Vacancy; Suspension and Removal**

- 3 years from date of appointment and until their successor/s are appointed.
- Members of the first appointed Board shall serve as follows:
  - Chairperson – 3 years
  - 2 members – 2 years
  - 2 members – 1 year.
- A Board member may be reappointed for a second term but in no case can he/she serve continuously for more than 6 years.
- In case of vacancy, the new appointee will serve only for the unexpired portion of his/her predecessor's term.
- Suspension or removal of a Board member
  - Authority to suspend or remove belongs to the President of the Philippines
  - Suspension or removal is upon the recommendation of the PRC
  - Grounds for suspension or removal are:
    - neglect of duty
    - abuse of power
    - oppression
    - incompetence
    - unprofessional conduct
    - unethical, immoral or dishonorable conduct
    - commission or toleration of irregularities in the conduct of examination or tampering of the grades in the examination
    - any final judgment or conviction of any criminal offense involving moral turpitude

**Does the Board have power to hear and investigate violations of the Real Estate Service Act?** Yes, the Board has the power to hear or investigate any violation of the

Real Estate Service Act, its implementing rules and regulations, and the Code of Ethics and Responsibilities for real estate service practitioners.

The Board also has the power to issue a subpoena to secure the appearance of witnesses, and a subpoena *duces tecum* to secure the production of documents, in connection with the case.

### **Can the PRC review the decisions of the Board?**

The Board's decisions, resolutions or orders which are not interlocutory, rendered in an administrative case, are subject to review by the PRC only on appeal.

### **Is there a government examination to be taken before one can become a registered and licensed real estate practitioner?**

Yes, every applicant seeking to be registered as a real estate practitioner, *except* a real estate salesperson, must take the Licensure Examination which will be given by the Board at least once every year in such places and on such dates as the Board will designate.

### **Can anyone take the Licensure Examination?**

No. An applicant/candidate for Licensure Examination must be:

- A citizen of the Philippines
- A holder of a relevant bachelor's degree from a state university or college, or other educational institution duly recognized by the Commission on Higher Education (CHED).  
However, as soon as a course leading to a Bachelor's degree in Real Estate Service is implemented by the CHED, the Board will make this course a requirement for taking the Licensure Examination
- Of good moral character
- Must not have been convicted of any crime involving moral turpitude
- An applicant for the Licensure Examination for *real estate consultants* must have at least 10 years experience as a licensed real estate broker or an assessor, or as a bank or institutional appraiser or an employed person performing real property valuation, or at least 5 years experience as a licensed real estate appraiser.

### **What rating should an applicant obtain to pass the Licensure Examination?**

An average of at least 75% in all subjects, with no rating below 50% in any subject.

### **Who are exempt from taking the Licensure Examination?**

- Real estate brokers, real estate appraisers or real estate consultants who, on the date of the effectivity of the Real Estate Service Act:
    - are already licensed as real estate brokers, real estate appraisers or real estate consultants by the Department of Trade and Industry (DTI) by virtue of Ministry Order No. 39, as amended,
    - are in active practice as real estate brokers, real estate appraisers and real estate consultants, and
    - have undertaken relevant Continuing Professional Education (CPE) to the satisfaction of the Board.
  
  - Assessors and appraisers who, on the date of the effectivity of the Real Estate Service Act:
    - hold permanent appointments,
    - are performing actual appraisal and assessment functions for the last 5 years,
    - have passed the Real Property Assessing Officer (RPAO) examination conducted and administered by the Civil Service Commission in coordination with the Department of Finance, and
    - have undertaken relevant CPE to the satisfaction of the Board.
  
  - Assessors and appraisers who, on the date of the effectivity of the Real Estate Service Act:
    - hold permanent appointments,
    - have at least 10 years actual experience in real property appraisal or assessment,
    - have completed at least 120 hours of accredited training on real property appraisal conducted by national or international appraisal organizations or institutions/entities recognized by the Board, and
    - have undertaken relevant CPE to the satisfaction of the Board.
- ✚ Said exempt persons should file their application for registration with the Board within 2 years from the effectivity of the Real Estate Service Act.
- ✚ Those seeking to be licensed to a new credential level will be required to take the pertinent licensure examination.

### **What happens after an examinee passes the Licensure Examination?**

The Board will issue a Certificate of Registration and a Professional Identification Card to the successful examinee, upon the latter's payment of PRC-prescribed fees.

### **Can the Board refuse registration to a successful examinee?**

Yes, if the successful examinee has been:

- convicted by a court of competent jurisdiction of any criminal offense involving moral turpitude, or
- found guilty of immoral or dishonorable conduct after investigation by the Board, or
- found to be psychologically unfit.

### **Is the Professional Identification Card subject to renewal?**

Yes. The Professional Identification Card should be renewed every 3 years and upon satisfying the Board's requirements such as attendance in the CPE program. This renewal requirement equally applies to those exempt from taking the Licensure Examination.

### **Are real estate service practitioners from foreign countries allowed to practice in the Philippines?**

Yes, but not on a permanent basis. The Board may issue special/temporary permit to real estate service practitioners from foreign countries provided –

- Their services are urgently needed;
- Local real estate service practitioners are absent or unavailable;
- They will promote and enhance the real estate service profession in the Philippines;
- They have filed an application for such permit;
- They have paid the required fees; and
- The PRC approves the issuance of the permit.

### **Can a foreign real estate service practitioner be allowed to take the Licensure Examination and be issued a Certificate of Registration and a Professional Identification Card?**

Yes, but only if the country of which he/she is a citizen specifically allows Filipino real estate service practitioners to practice within its territorial limits on the same basis as citizens of such foreign country.

**Can the Certificate of Registration, the Professional Identification Card or the Special/Temporary Permit be revoked or suspended?**

Yes, after proper notice and hearing and on the following grounds:

- Procurement of a Certificate of Registration and/or Professional Identification Card, or Special/Temporary Permit by fraud or deceit
- Allowing an unqualified person to advertise or to practice the profession by using one's Certificate of Registration or Professional Identification Card, or Special/Temporary Permit
- Unprofessional or unethical conduct
- Malpractice or violation of any of the provisions of the Real Estate Service Act, its implementing rules and regulations, and the Code of Ethics and Responsibilities for real estate service practitioners; and
- Engaging in the practice of the profession during the period of one's suspension.

**Can a Certificate of Registration or Professional Identification Card that has been revoked or suspended, be reinstated?**

Yes, provided –

- 2 years have expired from the date of revocation.
- An application for reinstatement of the Certificate/reissuance of the Identification Card is filed with the Board.
- The applicant has complied with the required CPE units.
- The applicant takes another examination – subject to the discretion of the Board.
- The Board finds proper and sufficient reasons for the reinstatement/reissuance.

**Are real estate service practitioners required to post a bond?**

All *real estate brokers* and *private real estate appraisers* should post a professional indemnity insurance/cash or surety bond, renewable every 3 years, in an amount to be determined by the Board, which in no case should be less than ₱20,000.00, without prejudice to the additional requirement of the client.

**Are all persons engaged in transactions involving real estate covered by the Real Estate Service Act?**

No, the Real Estate Service Act does not apply to the following:

- Any person, natural or juridical, who directly performs by himself/herself the acts of a real estate service practitioner with reference to his/her/its own property, except real estate developers.

- Any receiver, trustee or assignee in bankruptcy or insolvency proceedings.
- Any person acting pursuant to the order of any court of justice.
- Any person who is a duly constituted attorney-in-fact for purposes of sale, mortgage, lease or exchange, or other similar contracts of real estate, without requiring any form of compensation or remuneration.
- Public officers in the performance of their official duties and functions, except government assessors and appraisers.

### **Are there requirements before a real estate salesperson can lawfully engage in real estate service?**

Yes. While real estate salespersons are not required to take the Licensure Examination, they should nevertheless be *accredited* by the Board. To be accredited, they should have:

- completed at least two (2) years of college
- undergone training and seminars in real estate brokerage, as may be required by the Board.

### **What are the limitations on the practice of real estate salespersons?**

- Real estate salespersons should be under the direct supervision and accountability of a real estate broker.
- They cannot by themselves be signatories to a written agreement involving a real estate transaction unless the real estate broker who has direct supervision and accountability over them is also a signatory thereto.
- They cannot, either directly or indirectly, negotiate, mediate or transact any real estate transaction for and on behalf of a real estate broker without first securing an authorized accreditation as real estate salesperson for the real estate broker, as prescribed by the Board.

(A real estate broker violates the Real Estate Service Act if he employs or utilizes the services of a real estate salesperson when he/she has not secured the required accreditation from the Board prior to such employment.)

- They cannot receive or demand a fee, commission or compensation of any kind from any person, other than from the duly licensed real estate broker who has direct control and supervision over him.
  - ✚ In case of violation of any of these limitations, the real estate broker's Certificate of Registration may be revoked or suspended if there was actual knowledge of such violation or if the broker retains the benefits,

profits or proceeds of a transaction wrongfully negotiated by the salesperson.

### **What are the requirements for corporate practice of real estate service?**

- Partnership or corporation engaged in the business of real estate service –
  - Must be duly registered with the Securities and Exchange Commission (SEC).
  - The persons authorized to act for it must all be duly registered and licensed real estate brokers, appraisers or consultants, as the case may be.
  - Should regularly submit a list of its real estate service practitioners to the PRC and to the SEC as part of its annual reportorial requirements.
  - There should at least be 1 licensed real estate broker for every 20 accredited salespersons.
- Divisions or departments of partnerships and corporations engaged in marketing or selling any real estate development project in the regular course of business must be headed by full-time registered and licensed real estate brokers.
- Branch offices of real estate brokers, appraisers or consultants must be manned by a duly licensed real estate broker, appraiser or consultant, as the case may be.
- In case of resignation or termination from employment of a real estate service practitioner, the same should be reported by the employer to the Board within 15 days from the date of effectivity of the resignation or termination.
- Subject to the provisions of the Labor Code, a partnership or corporation may hire the services of registered and licensed real estate brokers, appraisers or consultants on commission basis to perform real estate services. Such real estate practitioners will be deemed independent contractors and not employees of the partnership or corporation.

### **Are real estate service practitioners required to display their license in their place of business?**

Yes. Every registered and licensed real estate service practitioner should conspicuously display, in his/her principal place of business and branch offices (if any), the original and/or certified true copies of his/her Certificate of Registration as well as the Certificates of Registration of all the real estate service practitioners employed in such office.

**What should real estate service practitioners indicate in the documents he/she signs, uses or issues in his/her practice of the real estate service profession?**

- Certificate of Registration
- Professional Identification Card
- Privilege Tax Receipt (PTR) number
- Accredited Professional Organization (APO) receipt number
- Date of issuance and duration of validity of the foregoing

**Is there an accredited real estate service association? How does one become a member of such organization? Can a member of such organization be a member of other associations of real estate service practitioners?**

- All real estate service associations shall be integrated into one national organization, which shall be recognized by the Board, subject to the PRC's approval, as the only accredited and integrated professional organization of real estate service practitioners.
- A real estate service practitioner duly registered with the Board automatically becomes a member of the accredited and integrated professional organization of real estate practitioners.
- Membership in the accredited and integrated professional organization of real estate service practitioners is not a bar to membership in other associations of real estate service practitioners.

**Are there penalties for violation of the Real Estate Service Act, or its implementing rules and regulations?**

Yes, a fine of not less than ₱100,000.00, or imprisonment of not less than 2 years, or both such fine and imprisonment in the court's discretion.

- If the violation is committed by an unlicensed real estate service practitioner, the penalty is double the fine and imprisonment.
- If the violation is committed by a partnership, corporation, association or any other juridical person, the partner, president, director or manager who has committed or consented to or knowingly tolerated such violation will be held directly liable as principal or as a co-principal with the other participants, if any.