

CHAPTER 49
HB 268 - FINAL VERSION

31Jan2019... 0036h

2019 SESSION

19-0456
10/04

HOUSE BILL **268**

AN ACT relative to real estate commissions paid to unlicensed entities.

SPONSORS: Rep. Barody, Hills. 43; Rep. Hinch, Hills. 21; Rep. DiSilvestro, Hills. 9;
Sen. Carson, Dist 14

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill allows a real estate broker to share a commission with an unlicensed entity.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in
regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT relative to real estate commissions paid to unlicensed entities.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 49:1 New Section; Real Estate Practice; Commission Payments to Unlicensed
2 Entities. Amend RSA 331-A by inserting after section 16-a the following new section:

3 331-A:16-b Commission Payments to Unlicensed Entities.

4 I. A principal broker may pay all or part of a fee, commission, or other
5 compensation earned by his or her firm, broker, associate broker, or salesperson to a
6 partnership, association, limited liability company, limited liability partnership, or
7 corporation only if all of the following conditions are satisfied:

8 (a) All of the partners, members, officers, or shareholders of any unlicensed
9 business entity, including a partnership, association, limited liability company, limited
10 liability partnership, or corporation, hold a valid and active license issued under this
11 chapter.

12 (b) At least one of the partners, members, officers, or shareholders of the
13 unlicensed business entity, including a partnership, association, limited liability
14 company, limited liability partnership, or corporation, is the licensee who earned the
15 fee, commission, or other compensation.

16 (c) The partnership, association, limited liability company, limited liability
17 partnership, or corporation does not engage in any of the prohibited acts specified in
18 RSA 331-A:26 and the partnership, association limited liability company, limited liability
19 partnership, or corporation is registered to do business in New Hampshire.

20 (d) The broker keeps a record of all of the following information for each
21 transaction, for a period of 3 years after the date of the transaction:

22 (1) The name of the licensee who earned the fee, commission, or other
23 compensation;

24 (2) The amount of the fee, commission, or other compensation that was
25 earned;

26 (3) The name of the partnership, association, limited liability company,
27 limited liability partnership, or corporation to which the broker paid the licensee's fee,
28 commission, or other compensation.

29 II. Compliance with this section does not relieve a broker of any obligations to
30 supervise a licensee, or of any other requirements of this chapter or rules adopted

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1 pursuant to this chapter.

2 III. Compliance with this section does not render a broker or licensee exempt
3 from any portion of the chapter, or immune from liability in a regulatory action against
4 the broker or licensee for a violation of this chapter or rules adopted pursuant to this
5 chapter.

6 49:2 Prohibited Conduct; Reference Added. Amend RSA 331-A:26, XXIV to read as
7 follows:

8 XXIV. Paying or offering to pay valuable consideration, as defined by the
9 commission, to any person not licensed under this chapter, except that valuable
10 consideration may be shared with a licensed broker of another jurisdiction who is doing
11 business regularly and legally within that broker's own jurisdiction, *or shared in*
12 *accordance with RSA 331-A:16-b*. No licensee shall knowingly pay a commission or other
13 valuable consideration to a licensed person knowing that the licensee will in turn pay a
14 portion or all of that which is received to a person who does not hold a valid real estate
15 license. A licensee who has allowed his or her license to expire or who has changed to
16 inactive status or who has transferred to another responsible broker may receive
17 compensation from the previous responsible broker for transactions in which the person
18 participated during the time that the licensee was under the supervision of that
19 responsible broker.

49:3 Effective Date. This act shall take effect 60 days after its passage.

Approved: June 05, 2019
Effective Date: August 04, 2019