

## **PENNSYLVANIA**

### **A. Actions Requiring Licensure**

Determination for whether licensure is required for acts typically performed by land or right-of-way agents in Pennsylvania is governed generally by Title 63 of the Pennsylvania Statutes (“P.S.”), general in 63 P.S. § 455.301, *et seq.* Specifically, 63 P.S. § 455.301, provides that it is unlawful to “engage in or conduct, or to advertise or hold himself out as engaging in or conducting the business, or acting in the capacity of a broker or salesperson . . . without first being licensed or registered as provided in this act, unless he is exempted from obtaining a license or registration certificate under the provisions of section 304.”

Pursuant to 63 P.S. § 455.201, a “broker” is someone who:

- “(1) negotiates with or aids any person in locating or obtaining for purchase, lease or an acquisition of interest in any real estate;
- (2) negotiates the listing, sale, purchase, exchange, lease, time share and similarly designated interests, financing or option for any real estate;
- (3) manages any real estate;
- (4) represents himself to be a real estate consultant, counsellor, agent or finder;
- (5) undertakes to promote the sale, exchange, purchase or rental of real estate . . .
- (5.1) undertakes to perform a comparative market analysis; or
- (6) attempts to perform any of the above acts.”

In addition, an “associate broker” is one who works for another broker and a “salesperson” is one who works for a broker, but is not qualified to be a broker.

### **B. Exclusions**

In many cases, if a statute appears to require inclusion in the licensure requirements, states set forth statutory exemptions or exceptions for licensure, particularly in the case where one performing duties does not hold himself out to the

public for services executed or where one is acting solely for a company or entity for its own purposes and not for the public as a whole. Specifically, 63 P.S. § 455.304 excludes the following:

(1) An owner of real estate with respect to property owned or leased by such owner (to not more than 5 members of a corporation or partnership;

(2) The **employees of a public utility** acting in the ordinary course of utility-related business under the statutory provisions relating to public utilities

(3) The officers or employees of a partnership or corporation whose principal business is the discovery, extraction, **distribution or transmission of energy or mineral resources**

The statute specifically includes in the definition of “employee” the **“relationship of independent contractor as well as to the relationship of employment, except as applied to builder-owner salespersons.”**