

1977 WL 37451 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 24, 1977

*1 The Honorable Fred B. Beall,
Commissioner
S. C. Real Estate Commission
900 Elmwood Avenue
Columbia, SC 29202

Dear Commissioner Beall:

Recently you have requested an Opinion from this Office concerning a proposed procedure for licensing nonresident real estate salesmen operating out of Charlotte, North Carolina.

Essentially, the problem in question involves licensing Charlotte resident real estate salesmen for sales in the Tega Cay Development, which is located approximately 15 miles from Charlotte. The Tega Cay Company wishes to hire Charlotte resident salesmen on a trial basis for some six to nine months after which time the salesmen will become South Carolina residents and apply for licensing under South Carolina Resident Real Estate Laws.

Section 40-57-90 of the 1976 Code requires that real estate licenses shall be granted only to residents of this State. A 1963-64 Attorney General Opinion, No. 1686, interpreted this Section and determined that residency was a requirement but also recognized that the real estate law specifically provides for licensing of non-residents under certain conditions. Code Section 40-57-140 provides that the Commissioner may enter into reciprocal agreements with real estate regulatory authorities in other states concerning the licensing of non-residents if such agreements are deemed to be in the best public interest and if such non-residents meet the statutory qualifications and standards required of residents. Real Estate Commission Rule 105-11 also treats the subject of licensing non-resident real estate professionals. This Rule authorizes the Real Estate Commission to license non-resident salesmen by reciprocity where the other state (state of the licensee's residence) offers similar privileges to South Carolina real estate professionals. Requirements applicable in this case, under Rule 105-11 would be:

1. Verification of License and good standing by other state;
2. Filing of irrevocable consent to jurisdiction in South Carolina;
3. Evidence of surety bond where required by native state;
4. Maintain place of business in State of residence.

Based on the literal language of the South Carolina Real Estate Law and the above-referenced Attorney General's opinion considering the law, it is my opinion that it would be proper under the circumstances outlined above for you to consider licensing Charlotte residents as salesmen in the Tega Cay Development. Such a procedure would be valid if the State of North Carolina by reciprocation will allow the exact same situation to occur should a South Carolina real estate salesman wish to be licensed to sell real estate in Charlotte.

I therefore concur in the analysis of the South Carolina Real Estate Law set forth in the letter of counsel for Tega Cay, copy of which you supplied me with the request for an opinion. Please note that this concurrence is based on the existence of reciprocity on the part of the State of North Carolina Real Estate Commission.

*2 The facts present in the Tega Cay case are even more narrowly drawn than the Real Estate Law requires. Under the hypothetical presented by counsel for Tega Cay, all salesmen residing in Charlotte will file a statement of intent to become a resident of South Carolina within 270 days, and failure to become a resident during that time and to obtain a permanent license under South Carolina Law, would act as cancellation of the South Carolina out-of-state Real Estate License.

Therefore it would be possible for the State of South Carolina to license non-resident real estate salesmen if the non-residents domicile, by reciprocation, will license South Carolina State salesmen under similar circumstances. I hope this information will be helpful to you.

Sincerely,

George C. Beighley
Assistant Attorney General

1977 WL 37451 (S.C.A.G.)

End of Document

© 2016 Thomson Reuters. No claim to original U.S. Government Works.