

Translation from Finnish

Legally binding only in Finnish and Swedish

Ministry of Economic Affairs and Employment, Finland

Act on Real Estate Brokerage and Letting Agencies

(1075/2000; amendments up to 465/2017 included)

By decision of Parliament, the following is enacted:

Section 1

Scope of application and definitions

This Act applies to the pursuit of real estate brokerage and letting agency activities (*agency activities*).

For the purposes of this Act, *real estate brokerage* means activities where, to receive an income or other financial gain, contracting parties are brought into contact with each other:

- 1) when conveying real estate or its part, a building or shares or participations providing the right of possession to particular real estate or its part or a particular building or building unit;
- 2) to conclude a lease agreement or other agreement on the transfer of the right of use concerning property referred to in paragraph 1, with the exception of activities referred to in subsection 3.

Letting agency activities means activities where, to receive an income or other financial gain, contracting parties are brought into contact with each other to conclude a residential lease agreement referred to in the Act on Residential Leases (481/1995) or a commercial lease agreement referred to in the Act on Commercial Leases (482/1995).

Agency means a real estate brokerage agency and a letting agency.

Section 2 (279/2013)

Limitations of scope of application

This Act does not apply to:

- 1) incidental agency activities if the activities are not marketed;

- 2) brokerage activities related to a deposit bank's business activity referred to in the Act on Credit Institutions (121/2007);
- 3) assignments to attorneys-at-law or other assignments whose primary purpose is other than real estate brokerage or letting agency activities;
- 4) intermediation of accommodation in accommodation establishments;
- 5) intermediation of the right to use a holiday dwelling or a secondary residence if the right of use agreement is concluded for a maximum of six months;
- 6) traders established in another state in the European Economic Area that pursue agency activities temporarily in Finland.

The Act on Credit Institutions 121/2007 was repealed by the Act on Credit Institutions 610/2014.

Section 3

Right to pursue agency activities

Real estate brokerage activities may be pursued only by such a private trader or legal person that has been registered as a real estate brokerage agency in accordance with this Act.

Letting agency activities may be pursued only by such a private trader or legal person that has been registered as a letting agency or real estate brokerage agency in accordance with this Act.

Section 4 (567/2008)

Good agency practice

Good agency practice shall be followed in agency activities. Provisions on conduct that is inappropriate or contrary to good practice from the point of view of consumers are, in addition, laid down in chapter 2 of the Consumer Protection Act (38/1978).

Section 5 (279/2013)

Person in charge

An agency shall have a person in charge who is obligated to ensure that good agency practice is followed in the agency activities and that the activities are also in other respects carried out lawfully. The person in charge shall additionally ensure that at least half of the persons performing agency tasks in the employ of the agency and at each of its places of business have a professional

qualification referred to in subsection 3 and that also others performing agency tasks possess sufficient professional competence required for the task. If the number of persons performing agency tasks in the employ of the agency or at its place of business who meet the professional qualification requirement referred to in subsection 3 non-temporarily falls below one half, the person in charge shall ensure that the minimum requirements referred to above are met within three months.

The person in charge shall be an adult and a fit and proper person who is not bankrupt and whose legal capacity has not been restricted. A person in charge is deemed fit and proper if he or she has not been sentenced, by a legally valid judgment, within the past five years to imprisonment or within the past three years to a fine for a criminal offence which can be deemed to demonstrate that he or she is manifestly unsuited to act as a person in charge. A person in charge shall not, however, be deemed fit and proper if he or she has otherwise by his or her earlier actions demonstrated that he or she is manifestly unsuited to act as a person in charge.

A person in charge of a real estate brokerage agency shall hold a professional qualification demonstrated through the qualifying examination for real estate agents and a person in charge of a letting agency shall hold a professional qualification demonstrated through the qualifying examination for letting agents or through the qualifying examination for real estate agents. A professional qualification demonstrated through a qualifying examination for agents shall contain particularly that a person who has successfully passed the examination knows the legislation necessary to the pursuit of the activities and good agency practice and masters the practical measures required for the performance of agency assignments.

Section 5a (465/2017)

Fitness and propriety

A submitter of a registration notification shall not be deemed fit and proper in the manner referred to in section 8, subsection 1, paragraph 3 if:

- 1) he or she has been sentenced, by a legally valid judgment, to imprisonment within the five years preceding the assessment or to a fine within the three years preceding the assessment for a criminal offence which can be deemed to demonstrate that he or she is manifestly unsuited to pursue agency activities;
- 2) he or she has otherwise by his or her earlier actions demonstrated that he or she is manifestly unsuited to hold a position referred to in paragraph 1.

In addition to the provisions of subsection 1, the notifier referred to in the said subsection shall not be deemed fit and proper if he or she has:

- 1) within the five years preceding the assessment repeatedly or to a significant extent failed to comply with his or her registration, notification and payment obligations relating to taxes, statutory pension, accident insurance or unemployment insurance contributions or payments levied by Customs; or
- 2) according to a distraint or other assessment is not capable of honouring his or her debts.

Where the notifier is a legal person, the fitness and propriety requirement shall apply to the managing director and his or her deputy, a member and deputy member of the board of directors, a member and deputy member of a supervisory board or equivalent body, a general partner and other member of senior management as well as anyone who directly or indirectly holds more than 25 per cent of the shares or the votes conferred by shares in a limited liability company or has equivalent holding or control in another corporation.

A Regional State Administrative Agency shall have the right, notwithstanding secrecy provisions and free of charge, to obtain from the authorities or from those performing a public task information about compliance by the notifier with his or her registration, notification and payment obligations relating to taxes, statutory pension, accident insurance or unemployment insurance contributions or payments levied by Customs, and about his or her activities, finances and links that is necessary for determining his or her fitness and propriety referred to in this section or for removal from the register referred to in section 19.

A Regional State Administrative Agency shall have the right to obtain information corresponding to that referred to in subsection 4 also on an organisation referred to in section 2 of the Act on the Grey Economy Information Unit (1207/2010) relating to a notifier and on persons referred to in subsection 3.

Information referred to above in this section may be accessed by means of a technical interface or otherwise electronically without the consent of the person for the protection of whose interests the secrecy obligation has been laid down.

Section 6

Liability for damages of a person in charge

A principal of an agency, his or her counterparty or other person shall have the right to claim damages from the person in charge in respect of loss or damage caused by the agency's error if the error, loss or damage was caused by the person in charge having deliberately or through gross negligence failed to comply with an obligation provided in section 5, subsection 1. This provision shall not prejudice any right of the person suffering the loss or damage to receive damages for the loss or damage from the agency or any other party liable for damages.

The provisions of chapters 2 and 6 of the Tort Liability Act (412/1974) apply to the adjustment of damages as well as to the allocation of liability among two or more parties liable for damages.

Section 7 (1523/2009)

Agency register, register notification and notifying of amendments

A Regional State Administrative Agency shall keep a register of agencies (*agency register*). Everyone shall have the right to access information about matters entered in the register and to obtain extracts from the register.

Anyone who intends to pursue agency activities shall submit a notification for the purpose of registration to the Regional State Administrative Agency in whose region the administration of the agency is primarily intended to take place. Provisions on the content of register notifications shall be issued by government decree.

Any amendments to information entered in the register shall be notified to the Regional State Administrative Agency without delay. A change of a person in charge shall be notified no later than within one month of the termination of the previous person's position.

Section 8 (1523/2009)

Conditions for registration

A Regional State Administrative Agency shall register a submitter of a register notification referred to in section 7, subsection 2 as a real estate brokerage agency or a letting agency if:

- 1) the notifier has the right to pursue a trade in Finland;
- 2) the notifier is not bankrupt and, where the notifier is a natural person, he or she is an adult and not subject to any restriction of competency;
- 3) the notifier is fit and proper;

- 4) the notifier holds liability insurance the sum insured of which can, taking into account the nature and scope of the agency activities, be assessed as being sufficient to cover any loss or damage caused by the activities and the other terms and conditions of which correspond to the common insurance practice in the sector;
- 5) the notifier has notified a person in charge who fulfils the conditions laid down in section 5, subsections 2 and 3.

(465/2017)

The Regional State Administrative Agency may refuse the registration if, taking into account the circumstances, it is apparent that the notifier intends to pursue agency activities as an intermediary for a third party.

Section 9

Information entered in the agency register

The following information shall be entered in the agency register:

- 1) for a private trader, his or her full name and personal identity code or, in the absence of this, his or her date of birth as well as his or her company name, any auxiliary company name, Business ID or other equivalent identifier and the geographical address of each of the places of business from which agency activities are pursued;
- 2) for a legal person, its company name, any auxiliary company name, Business ID or other equivalent identifier and the geographical address of each of the places of business from which agency activities are pursued;
- 3) the full name and personal identity code or, in the absence of this, the date of birth of the persons whose fitness and propriety was assessed when processing the registration notification;
- 4) whether the agency is a real estate brokerage agency or a letting agency;
- 5) the full name and personal identity code, or in the absence of this, the date of birth of the person in charge;
- 6) the liability insurance provider and the sum insured;
- 7) the registration identifier and the date of registration;

8) any warnings, as well as such requests and prohibitions compliance with which has been enforced with a conditional fine, issued to the agency pursuant to section 18, subsection 2; such information shall be removed from the register after three years have elapsed from the end of the year in which the coercive measure was imposed;

9) the reason for and date of removal from the register.

(465/2017)

Details of those issued a prohibition referred to in section 18, subsection 1 to pursue agency activities without registration shall also be entered in the register.

Section 10

Assignments logbook

An agency shall keep a logbook of received assignments. The name and address of the principal and the serial number, content, date of receipt and period of validity of the assignment shall be entered in the assignments logbook. If an assignment lapses or is cancelled or its content amended, an entry on this shall be made in the logbook.

Once an agreement in accordance with an assignment has been concluded, the date of conclusion of the agreement, the names of the contracting parties, the subject of the agreement, the purchase price or amount of rent as well as the agency commission shall be entered in the assignments logbook without delay.

The assignments logbook, assignment agreements including their appendices, offer documents, brochures and other documents related to assignments shall be retained for five years from the ending of assignments.

Section 11

Client funds

An agency shall segregate funds of clients entrusted to it from the agency's own funds. Client funds shall be deposited in a bank account or stored in another reliable manner.

Section 12 (279/2013)

Board of Examiners for Real Estate Agents of the Finland Chamber of Commerce

The Finland Chamber of Commerce shall appoint a Board of Examiners for Real Estate Agents for three years at a time. The Board of Examiners for Real Estate Agents shall organise at least twice a year qualifying examinations for real estate agents and qualifying examinations for letting agents referred to in section 5, subsection 3 as further specified by government decree.

The Board of Examiners for Real Estate Agents shall comprise a chair, a deputy chair and a minimum of three and a maximum six other members. A personal deputy member shall be appointed for each of these. The chair, deputy chair and their deputy members shall be holders of a Master of Laws degree, other than a Master of International and Comparative Law, who cannot be deemed to represent any agencies. Of the other members, at least one member and his or her deputy member shall represent real estate brokerage agencies.

The Board of Examiners for Real Estate Agents shall be quorate when the chair of the meeting and at least half of the other members are present. When voting on a matter, the majority opinion shall be the decision of the Board. In the event of a tied vote, the opinion supported by the chair shall be the decision.

Section 13 (279/2013)

Costs of the Board of Examiners for Real Estate Agents and qualifying examination fees

The Finland Chamber of Commerce shall be responsible for costs arising from the activities of the Board of Examiners for Real Estate Agents and confirm the criteria for remuneration paid to the chair and members. The Finland Chamber of Commerce shall have the right to charge a fee for taking a qualifying examination for agents. The maximum amount of a fee shall equate the costs arising from organising the examination.

Section 14 (279/2013)

Liability for acts in office of members and staff of the Board of Examiners for Real Estate Agents

Provisions of law pertaining to criminal liability for acts in office apply to members and staff of the Board of Examiners for Real Estate Agents while they are attending to duties under this Act.

Section 15 (1010/2015)

Appeal against of a decision of the Board of Examiners for Real Estate Agents

A claim for a revised decision in respect of a decision made concerning a qualifying examination for agents may be filed as laid down in the Administrative Procedure Act (434/2003).

A decision made concerning a claim for a revised decision may be appealed to Helsinki Administrative Court as laid down in the Administrative Judicial Procedure Act (586/1996).

A decision of the administrative court may be appealed against only if the Supreme Administrative Court grants leave to appeal.

Section 16

Right to use a title or acronym

Only a person who has passed the qualifying examination for real estate agents may use the title 'kiinteistönvälittäjä' or 'fastighetsmäklare' (in English: 'real estate agent') or the acronym 'LKV' or 'AFM'. Only a person who has passed the qualifying examination for real estate agents or the qualifying examination for letting agents may use the title 'vuokrahuoneiston välittäjä' or 'hyreslägenhets- och hyreslokalsmäklare' (in English: 'letting agent') or 'asunnonvälittäjä' or 'bostadsförmedlare' (in English: 'housing agent') or the acronym 'LVV' or 'AHM'.

Also real estate brokerage agencies may use the acronym 'LKV' or 'AFM' and letting agencies may use the acronym 'LVV' or 'AHM' in their company name or activities.

Section 16a (279/2013)

Register of those who have passed a qualifying examination for agents

The Board of Examiners for Real Estate Agents shall keep a register of those who have passed the qualifying examination for real estate agents and the qualifying examination for letting agents to provide information on whether those performing agency tasks hold a professional qualification demonstrated through a qualifying examination for agents. The names of the persons who have passed the examination, their personal identity code, municipality of residence and address as well as whether they have passed the qualifying examination for real estate agents or the qualifying examination for letting agents, and the date on which the examination was passed shall be entered in the register. The information shall be retained permanently in the register.

Notwithstanding the provisions of section 16, subsection 3 of the Act on the Openness of Government Activities (621/1999), the Board of Examiners for Real Estate Agents may, via an electronic information network, publish the information referred to in subsection 1 of this section

other than the personal identity code and address of those who have passed the examination. Those who have passed the examination shall, however, have the right to prohibit the publication of information concerning themselves.

A Regional State Administrative Agency shall have the right to access the information referred to in subsection 1 by means of a technical interface.

Section 17 (1523/2009)

Supervision and the right of the supervisory authority to obtain information

Compliance with this Act shall be supervised by the Regional State Administrative Agencies.

Notwithstanding secrecy provisions, an agency shall, upon request, provide a Regional State Administrative Agency with the assignments logbook and related documents as well as with other documents and information required for supervision.

Notwithstanding secrecy provisions, a Regional State Administrative Agency shall have the right to obtain from the register of fines referred to in section 46 of the Act on the Enforcement of Fines (672/2002) any information necessary for the determination of the fitness and propriety of a person in charge and of a person referred to in section 5a, subsection 3 and section 8, subsection 1, paragraph 3 or for removal from the register referred to in section 19. Separate provisions are issued on the right to obtain information from criminal records. (465/2017)

Section 18 (1523/2009)

Coercive measures

A Regional State Administrative Agency shall prohibit any agency activity pursued, contrary to this Act, without registration. On special grounds, a prohibition may also be imposed on a person employed by a party that pursues such activity or another person or party acting on behalf of him or her.

Where an agency fails to comply with an obligation provided in section 7, subsection 3 or in section 10 or 11 or with an obligation arising under section 17, subsection 2, a Regional State Administrative Agency may request the agency to comply with its obligation within a time limit. Where a person in charge fails to comply with an obligation laid down in section 5, subsection 1, a Regional State Administrative Agency may issue a warning to the agency. Where the failures are serious or repeated in spite of a request or warning issued, the Regional State Administrative

Agency may prohibit the activities of the agency, either in part or in full, for a fixed period not exceeding six months.

A Regional State Administrative Agency may issue a notice of a conditional fine to enforce a prohibition or request referred to in this section. A prohibition referred to in subsection 1 above shall, however, be enforced with a conditional fine, unless for specific reasons this is unnecessary. Other provisions on notices of conditional fines are laid down in the Act on Conditional Fines (1113/1990).

Section 19 (1523/2009)

Removal from the register

A Regional State Administrative Agency shall remove an agency from the register if:

- 1) the agency has terminated its activities;
- 2) the conditions for registration provided in section 8, subsection 1, paragraphs 1–4 are no longer fulfilled;
- 3) the agency pursues agency activities as an intermediary for a third party;
- 4) the agency no longer has in its employ the person in charge referred to in section 8, subsection 1, paragraph 5 and the agency has failed to notify a new person in charge within the time limit set in the request of the Regional State Administrative Agency; or
- 5) serious or repeated negligence becomes apparent in the activities of the agency or its person in charge and a fixed-term prohibition on activities has already earlier been imposed on the agency.

(465/2017)

Where an agency has been declared bankrupt, the agency shall remain in the register for six months regardless of the bankruptcy. The estate administrator of the bankruptcy estate shall notify the Regional State Administrative Agency without delay of an agency having been declared bankrupt.

Section 20

Penal provisions

Anyone who intentionally or through gross negligence:

- 1) pursues agency activities without registration or uses the title 'kiinteistönvälittäjä' or 'fastighetsmäklare' (in English 'real estate agent') or the acronym 'LKV' or 'AFM' or the title 'vuokrahuoneiston välittäjä' or 'hyreslägenhets- och hyreslokalsmäklare' (in English: 'letting agent') or 'asunnonvälittäjä' or 'bostadsförmedlare' (in English: 'housing agent') or the acronym 'LVV' or 'AHM' in violation of this Act or
- 2) violates the provisions of section 11 on the segregation of client funds

shall be sentenced to a fine for an *agency activities violation*, unless a more severe punishment for the act is provided elsewhere by law.

Anyone who violates a prohibition or request imposed under section 18 this Act and enforced by a notice of a conditional fine may not be sentenced to a punishment for the same act.

Section 21 (1010/2015)

Appeal against a decision of a Regional State Administrative Agency

A decision of a Regional State Administrative Agency in a matter referred to in sections 18 and 19 may be appealed to an administrative court as laid down in the Administrative Judicial Procedure Act.

In respect of other decisions of a Regional State Administrative Agency, a claim for a revised decision may be filed as laid down in the Administrative Procedure Act. A decision made concerning a claim for a revised decision may be appealed to an administrative court as laid down in the Administrative Judicial Procedure Act. Provisions on appeal against the imposition of a notice of a conditional fine and an order for the payment of a conditional fine are laid down in the Act on Conditional Fines. (67/2017)

A decision of an administrative court may be appealed against only if the Supreme Administrative Court grants leave to appeal. (67/2017)

A decision on removal from the register and on a fixed-term prohibition of activities referred to in this Act shall be complied with irrespective of appeal, unless ordered otherwise by the appellate authority.

Section 22

Entry into force

This Act enters into force on 1 March 2001.

This Act repeals the Decree on Real Estate Agents (181/1993) of 12 February 1993 and the Decree on Letting Agents (761/1993) of 20 August 1993, as amended.

A register notification may be admitted for processing prior to the entry into force of this Act and a notifier may be registered as a real estate brokerage agency or a letting agency upon the entry into force of this Act.

Section 23

Transitional provisions

Those who, at the time of entry into force of this Act, pursue activities that under this Act require registration may continue their activities until a decision on entry in the register is made if the register notification referred to in section 7, subsection 2 is submitted within six months of the entry into force of the Act.

Upon request, a State Provincial Office may register a letting agency even where the person notified as a person in charge does not hold the professional qualification provided for in section 5, subsection 3 if the agency has submitted to the State Provincial Office the notification referred to in section 3 of the repealed Decree on Letting Agents and it pursues activities requiring registration at the time of entry into force of this Act. A person in charge referred to in this subsection may use the title 'asunnonvälittäjä' or 'bostadsförmedlare' (in English: 'housing agent') for two years from the entry into force of this Act, notwithstanding the provisions of section 16, subsection 1. The agency shall, on pain of removal from the register, notify a person in charge fulfilling the professional qualification requirement to the State Provincial Office within two years of the entry into force of this Act.

The professional qualification provided for in section 5, subsection 3 of this Act is not required of a person who, prior to the entry into force of the Act, had passed the qualifying examination for real estate agents referred to in section 4 of the repealed Decree on Real Estate Agents or of a person who, prior to the entry into force of the repealed Decree on Real Estate Agents had been accepted as a person in charge of a real estate brokerage agency on the basis of his or her training.

Notwithstanding the provisions of section 16, subsection 1, a person referred to in this subsection

may also use the title 'kiinteistönvälittäjä' or 'fastighetsmäklare' (in English: 'real estate agent') or the acronym 'LKV' or 'AFM'.

The term of the Board of Real Estate Agents referred to in section 10 of the repealed Decree on Real Estate Agents shall continue also upon the entry into force of this Act until the Board of Examiners for Real Estate Agents of the Finland Chamber of Commerce referred to in section 12 of this Act has been appointed.