

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

House Bill No. 5275



INTRODUCED BY REPRESENTATIVE ARTHUR C. YAP

EXPLANATORY NOTE

Republic Act (R.A.) No. 9646, otherwise known as "The Real Estate Service Act of the Philippines" or "the RESA law" was signed into law on June 29, 2009 as a measure to regulate and professionalize real estate industry practices in the Philippines. One of its objectives is the development of technically competent, well-trained, professional and accountable real estate practitioners in the country.

The RESA law requires that only licensed real estate practitioners are authorized to engage and conduct the practice of real estate in the Philippines, subject to a few exemptions. While the purpose of the RESA law is highly commendable, there are certain provisions which result in undue restriction instead of promotion of employment to less educated individuals.

Thus, the proposed measure seeks to amend provisions which require the applicants of the licensure examination to be holders of Bachelor's degree in Real Estate Service. This is not a necessary. Persons from different backgrounds should be allowed to practice as long as they have undergone training and accreditation. The educational requirement is too stringent. Ample experience or accreditation is sufficient to allow an individual to enter the Real Estate Profession.

Moreover, this measure also amends Section 4 of the law pertaining to the Creation and Composition of the Professional Regulatory Board of Real Estate Service (PRBRES). The industry exists primarily due to extensive investment by owners and developers, and is facilitated by the support service providers. In the present law however, the PRBRES is composed entirely of service practitioners. Developers and owners should be given representation in the board. It is not reasonable to have the service providers outweigh the owner/investors in decisions pertaining to the conduct of their business just because their number of members is bigger than that of actual investors and operators.

Furthermore, Section 28 of RESA law which excludes real estate developers from the practice of real estate service is also proposed to be deleted. Developers should have the same rights as other owners to dispose of their own properties. The provision provides that any, natural, or juridical person may act as a Real Estate Service Practitioner (Broker, Appraiser, Assessor, or Consultant) with respect to his own property except if you are a developer. This provision should be deleted for the following reasons, to wit:

1. In the case of Real Estate Broker, the owner of the property cannot act as “agent” or “Broker” for himself/herself since he/she is the owner of the property. Article I, Section 3 of this Law defines Real Estate Broker as a duly registered and licensed natural person, who, for a professional fee, commission or other valuable consideration, acts as an agent of a party in a real estate transaction, xxx. In this regard section 28 does not serve any legally valid purpose.

2. In the case of real estate Appraiser or Assessor, the owner of the real estate property cannot and must not be allowed to officially undertake appraisal, assessment or consulting of his own property since this will be self- serving, a conflict of interest and will be legally defective.

Finally, Section 32 of the RESA law is also amended to remove the 1:20 ratio for accredited salespersons and licensed broker. A real estate broker’s business should be allowed to flourish based on his ability to manage the people just as other professionals like lawyers, engineers, and architects. There is no restriction in the number of assistants they have. This ratio requirement unduly reduces the promotion and growth of employment and livelihood opportunities in our country. We must allow the real estate and housing industry to contribute more significantly in addressing the unemployment crisis and the alleviation of poverty. Since the quality of service is still maintained by licensed practitioner.

For the foregoing reasons, the immediate passage of the bill is earnestly sought.



ARTHUR C. YAP

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

16th Congress
First Regular Session
House Bill No. 5275

Introduced by
REPRESENTATIVE ARTHUR C. YAP

AN ACT
INSTITUTING REFORMS IN THE REAL ESTATE SERVICE PRACTICE,
AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9646, ENTITLED "AN
ACT REGULATING THE PRACTICE OF REAL ESTATE SERVICE IN THE
PHILIPPINES, CREATING FOR THE PURPOSE A PROFESSIONAL
REGULATORY BOARD OF REAL ESTATE SERVICE, APPROPRIATING
FUNDS THEREFOR AND FOR OTHER PURPOSES," AND FOR OTHER
PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Section 1. Short Title. - This Act shall be known as the "*Real Estate Service Practice Reforms Act of 2014.*"

Section 2. Amendatory Provisions. - For purposes of this Act, and in order to institute the reforms needed to make Republic Act (R.A.) No. 9646, entitled: "An Act Regulating the Practice of Real Estate Service in the Philippines, Creating for the Purpose a Professional Regulatory Board of Real Estate Service, Appropriating Funds Therefore and for Other Purposes" more relevant and more responsive to current real estate conditions, the following provisions are hereby amended to read as follows:

(a) Section 2 of Republic Act No. 9646 is hereby amended to read as follows:

"Section 2. Declaration of Policy. - The State recognizes the vital role of real estate service practitioners in the social political, economic development and progress of the country by promoting the real estate market, stimulating economic activity, **WIDENING ECONOMIC OPPORTUNITIES IN THE SECTOR** and enhancing government income from real property-based transactions. Hence, it shall develop and nurture through proper and effective regulation and supervision a corps of technically-

competent, responsible and respected professional real estate service practitioners whose standards of practice and service shall be globally competitive and will promote the growth of the real estate industry **AS WELL AS CONTINUE TO ALLOW THE LESS EDUCATED APPROPRIATE AND INVALUABLE OPPORTUNITIES IN THIS SECTOR UNDER THE SUPERVISION OF THOSE ACCREDITED."**

- (b) On Section 3. Definition of Terms. Sub-paragraph (4) and (5), Paragraph(g), of R.A. 9646 is hereby amended to read as follows :

"Section 3. Definition of Terms. - As used in this Act, the following terms shall mean:

x x x

- (g) "Real estate service practitioners" shall refer to and consist of the following:

x x x

(4) Real estate broker - a duly registered and licensed 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.

"(5) Real estate salesperson - a duly accredited natural person who [performs service] [for and in behalf] **ACTS AS AN AGENT OF A PARTY IN A REAL ESTATE TRANSACTION TO** ~~[a real estate broker who is registered and licensed by the Professional Regulatory Board of Real Estate Service (PRBRES) for [or in expectation of a share in the]~~ **OFFER, SOLICIT, MEDIATE, NEGOTIATE OR EFFECT THE MEETING OF THE MINDS ON THE SALE, PURCHASE, EXCHANGE, OR OTHER SIMILAR TRANSACTIONS ON REAL ESTATE OR ANY INTEREST THEREIN UNDER THE SUPERVISION OF**

**DULY A REGISTERED AND LICENSED REAL ESTATE
BROKER** in expectation of a share in the commission
[professional fee, compensation or other valuable consideration.]"

- (c) Section 3 is hereby amended to add the preceding provision under sub-paragraph (6), to wit:

**"(6) GENERAL SERVICE AND INFORMATION PROVIDER
– A NATURAL PERSON, WHO DOES NOT NEED A
LICENSE OR ACCREDITATION SINCE THEY PERFORM
ACTS THAT OF THEMSELVES DO NOT CREATE UNDUE
RISK FOR NORMAL PERSONS SUCH AS DISTRIBUTION
OF FLYERS OR SALES BROCHURES, ANSWERING
PHONE INQUIRIES AND GIVING GENERAL
INFORMATION WITHOUT ENDORSING OR ADVISING
LEGALLY, AS THE ASSISTANTS, CLERKS AND
MESSENGERS DO FOR ACCOUNTING, LAW AND
MEDICAL INSTITUTIONS.**

X X X"

- (d) Section 4 of Republic Act No. 9646 is hereby amended to read as follows:

Section 4. *Creation and Composition of the Board.* There is hereby created a Professional Regulatory Board of Real Estate Service (PRBRES), hereinafter referred to as the Board, under the supervision and administrative control of the Professional Regulation Commission (PRC), hereinafter referred to as the Commission, **WHICH SHALL BE** composed ~~[of a chairperson, four (4) members who shall be appointed by the President of the Philippines from the three (3) recommendees chosen by the Commission from a list of five (5) nominees per position submitted by the accredited and integrated professional organization of real estate service practitioners: *Provided, That* two (2) of the members of the Board shall represent the government assessors and appraisers.]~~ **OF THE FOLLOWING FIVE (5) MEMBERS, A CHAIRMAN AND A CONSULTATIVE BODY TO BE SELECTED AS FOLLOWS:**

A. CHAIRPERSON- REFERS TO A PROFESSION-NEUTRAL PERSON FROM THE GOVERNMENT WHO WILL DRIVE FROM A PERSPECTIVE OF BALANCING REQUIREMENTS OF DIFFERENT SECTORS FOR A STABLE, COMPETENT AND VIBRANT INDUSTRY, TO BE APPOINTED BY THE PRESIDENT OF THE PHILIPPINES; FROM AMONG THE THREE(3) RECOMMENDEES CHOSEN BY THE COMMISSION, PROVIDED, SUCH NOMINEES COME FROM THE FIFTEEN (15) NOMINEES OF THE ACCREDITED AND INTEGRATED PROFESSIONAL ORGANIZATION (AIPO) OF REAL ESTATE PRACTITIONERS;

B. TWO (2) REPRESENTATIVES, FROM AMONG THE RECOMMENDATIONS OF THE COMMISSION, TO BE APPOINTED BY THE PRESIDENT, REPRESENTING THE THREE (3) SECTORS OF REAL ESTATE PROFESSION, SALES PERSONS/BROKERS, APPRAISERS, AND ASSESSORS, PROVIDED, SUCH NOMINEES COME FROM THE FIFTEEN (15) NOMINEES OF THE ACCREDITED AND INTEGRATED PROFESSIONAL ORGANIZATION (AIPO) OF REAL ESTATE PRACTITIONERS; AND FINALLY,

C. ONE (1) REPRESENTATIVE, OFFICIALLY ENDORSED FROM PRIVATE HOUSING, SUBDIVISION AND COMMERCIAL DEVELOPERS ASSOCIATIONS, AND A REPRESENTATIVE FROM THE ASSOCIATION OF A REGISTERED ENGINEERS, ARCHITECTS, OR URBAN PLANNERS AND A CONSULTATIVE BODY COMPOSED OF DULY SELECTED REPRESENTATIVES FROM, DOLE, DSWD AND ALIKE WHOSE INPUTS SHALL FORM PART OF THE MINUTES.

The first Board shall be organized within six (6) months from the effectivity of this Act.

(e) Paragraph (b), Section 14 of R.A. 9646 is hereby amended to read as follows:

“Section 14. *Qualification of Applicants for Examinations.* - In order to be admitted to the licensure examination for real estate service, a candidate shall, at the time of filing his/her application, establish to the satisfaction of the Board that he/she possesses the following qualifications:

X X X

(b) A holder of a [relevant] bachelor's degree from a state university or college, or other educational institution duly recognized by the **CHED OR AN EQUIVALENT OF ATLEAST FIVE (5) YEARS OF RELEVANT WORK EXPERIENCE FROM A REALTY FIRM OR DEVELOPER WHO IS A GOOD STANDING MEMBER OF A MAJOR REAL ESTATE INDUSTRY, DULY CERTIFIED BY THE COMPANY'S AUTHORIZED REPRESENTATIVE;** ~~[Provided, That as soon as a course leading to a Bachelor's degree in Real Estate Service is implemented by the CHED, the Board shall make this course a requirement for taking the licensure examination, and]~~

X X X”

(f) Section 28 of R.A. 9646 is hereby amended to read as follows:

“Section 28. ~~[Exemptions]~~ PERSONS EXEMPTED from the Acts Constituting the Practice of Real Estate Service. - The provisions of this Act and its rules and regulations shall not apply to the following”:

a. Any person, natural or juridical, who shall directly perform by himself/herself the acts mentioned in Section 3 hereof with reference to his/her or its own property; ~~[except real estate developers];~~

X X X”

- (g) The first paragraph of Section 31 of R.A. 9646 is hereby amended to read as follows:

“Section 31. Supervision of Real Estate Salespersons. - For real estate salespersons, no examination shall be given, but they shall be accredited by the Board: *Provided*, That they have completed at least two (2) years of ~~{college}~~ **TRADITIONAL HIGH SCHOOL OR JUNIOR HIGH SCHOOL FROM AN EDUCATIONAL INSTITUTION RECOGNIZED BY THE DEPARTMENT OF EDUCATION** and UNDERTAKEN OR HAS ACCUMULATED AN EQUIVALENT OF AT LEAST THREE (3) YEARS OF RELEVANT WORK EXPERIENCE FROM A REAL ESTATE DEVELOPER OR A REALTY PRACTICE FIRM WHO IS A GOOD STANDING MEMBER OF A MAJOR REAL ESTATE INDUSTRY ASSOCIATION OR in A real estate brokerage, as may be required by the Board. Real estate salespersons shall be under the ~~{direct}~~ supervision and accountability of a real estate broker. As such, they cannot by themselves be signatories to a written agreement involving a real estate transaction unless ~~{the}~~ **DULY AUTHORIZED BY A** real estate broker- ~~{who has direct supervision and accountability over them is also a signatory thereto}~~ No real estate salesperson, either directly or indirectly, can negotiate, mediate or transact ~~{any real estate transaction}~~ for, **WHEN** and in 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 shall be guilty of violating this Act for employing or utilizing the services of a real estate salesperson when he/she has not secured the required accreditation from the Board prior to such employment.”}~~

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- (h) We propose to include this paragraph under Section 31 paragraph b, to wit :

“Section 31B. SUPERVISION OF GENERAL SERVICE PROVIDER- - FOR GENERAL SERVICE PROVIDER, NO EXAMINATION AND/OR ACCREDITATION IS

REQUIRED. AS SUCH THEIR FUNCTION INCLUDES DISTRIBUTION OF FLYERS OR SALES BROCHURES, ANSWERING PHONE INQUIRIES AND GIVING GENERAL INFORMATION, MESSENGERIAL, COORDINATORS, DOCUMENT PROCESSORS, OR OTHER SIMILAR SERVICES TO PROSPECTIVE CLIENTS. THEY CANNOT, NEGOTIATE, MEDIATE OR TRANSACT ANY REAL ESTATE TRANSACTION FOR, WHEN AND IN BEHALF OF A REAL ESTATE BROKER WITHOUT THE ACTUAL PRESENCE OF THE REGISTERED BROKER AND/OR SALES PERSON DULY AUTHORIZED.

- (i) Paragraphs (a) and (b), Section 32 of R.A. 9646 are hereby amended to read as follows:

“Section 32. Corporate Practice of the Real Estate Service. –

a. No partnership or corporation shall engage in the **HABITUAL** business of real estate service unless it is duly registered with the Securities and Exchange Commission (SEC), and the persons authorized to act for the partnership or corporation are all duly registered and licensed real estate brokers, appraisers or consultants, as the case may be. The partnership or corporation **WHOSE PURPOSE IS REALTY BROKERAGE SERVICES** shall regularly submit ~~{a-list}~~ **AT LEAST ONE** of its real estate service practitioners, **PERFORMING RELEVANT FUNCTIONS** to the Commission and to the SEC as part of its annual reportorial requirements. ~~{There shall be at least be one (1) licensed real estate broker for every twenty (20) accredited salespersons.}~~

b. Divisions or departments of partnerships and corporations **TO SUPPORT THE MARKETING AND SELLING FUNCTIONS OF THE OWNER OR DEVELOPER IN ANY REAL ESTATE DEVELOPMENT PROJECT** must ~~[be-headed by-full-time]~~ **ENGAGED THE SERVICES OF** registered and licensed real estate broker[s].”

(j) Section 36 of R.A. 9646 is hereby amended to read as follows:

“Section 36. Continuing Professional Education (CPE) Program. - The Board shall develop, prescribe and promulgate guidelines on CPE upon consultation with the accredited and integrated professional organization of real estate service practitioners, affiliated association of real estate service practitioners and other concerned sectors, and in accordance with such policies as may have been prescribed by the Board, subject to the approval of the Commission. The Board shall create a CPE Council that shall be composed of a chairperson coming from the Board, a member from the accredited and integrated professional organization of real estate service practitioners, **A MEMBER FROM THE REAL ESTATE DEVELOPER SECTOR AS SECONDED BY A MAJOR DEVELOPERS ASSOCIATION, A REPRESENTATIVE FROM THE ASSOCIATION OF A REGISTERED ENGINEER, ARCHITECTS, OR URBAN PLANNERS, BUT NOT NECESSARILY A REAL ESTATE PRACTITIONER** and a member from the academe. **ALL SHOULD HAVE REPUTATION FOR KNOWLEDGEABILITY AND NO MAJOR DEROGATORY CASE FILED WITH SUBSTANTIVE BASIS AGAINST THEIR PERSON AND INTEGRITY.”**

“CURRICULUM SHOULD HAVE CRITERIA OF SIGNIFICANCE, RELEVANCE, EFFICIENCY AND DELIVERY VERSUS VALUE CREATED.”

(k) Section 39 of R.A. 9646 is hereby amended to read as follows:

“Section 39. Penal Provisions. - Any violation of this Act, including violations of implementing rules and regulations, shall be meted the penalty of a fine of not less than [~~One hundred thousand pesos (P100,000.00)~~] **TWENTY (P 20,000.00) THOUSAND PESOS** or imprisonment of not less than [~~two (2) years~~]-**FIFTEEN (15) DAYS** , or

AS STATED IN THE IRR OR both such fine and imprisonment upon the discretion of the court. In case the violation is committed by an unlicensed real estate service practitioner, the penalty shall be double the aforesaid fine and imprisonment. OTHER PENAL LAWS ARE STILL APPLICABLE. x x x”

- (l) We hereby recommend for the amendment of Sections 42, 43, 44 and 45 of RA 9646 and new formulation is hereby proposed to be read as follows:

~~[Section 42. Implementing Rules and Regulations- If within six (6) months after the effectivity of this Act, the Commission, together with the Board and the accredited and integrated professional organization of real estate service practitioners, the Department of Finance, and the CHED, shall prepare the necessary rules and regulations, including the Code of Ethics and Responsibilities for real estate service practitioners, needed to implement the provisions of this Act.]~~

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SECTION 3. IMPLEMENTING RULES AND REGULATIONS. – WITHIN SIX (6) MONTHS AFTER THE APPROVAL OF THIS ACT, THE PROFESSIONAL REGULATORY BOARD OF REAL ESTATE SERVICE SHALL FORMULATE THE APPROPRIATE RULES AND REGULATIONS NECESSARY TO EFFECTIVELY IMPLEMENT THE PROVISIONS OF THIS ACT.

SECTION 4. ~~[Section 44.] Repealing Clause-~~ ~~[(a) Sections 3(e) and (ee) of Act No. 2728, as amended by Act No. 3715 and Act No. 3969, sections 472 and 473 of the Local Government Code of 1991 (Republic Act No. 7160), and pertinent provisions of the Civil Service law are hereby modified accordingly.]~~

~~[(b)] All laws, decrees, executive orders [department or memorandum orders, and other administrative issuances]~~

PROCLAMATIONS, RULES AND REGULATIONS AND OTHER ISSUANCES or part or parts thereof, which are inconsistent with the provisions of this Act, are hereby modified, ~~{superseded}~~ or repealed accordingly.

SECTION 5.—~~{Section 43.}~~ *Reparability Clause*- If **FOR ANY REASON**, any ~~[clause, sentence, paragraph or part of this Act shall be]~~ **PROVISION OF THIS ACT IS** declared unconstitutional or invalid; ~~{such judgment shall not affect, invalidate or impair any part of this Act.}~~ **THE REMAINING PROVISIONS NOT AFFECTED THEREBY SHALL CONTINUE TO BE IN FORCE AND EFFECT.**

SECTION 6. EFFECTIVITY CLAUSE. – This Act shall take effect ~~[fifteen days upon]~~ **FOLLOWING ITS** publication in ~~{the official Gazette or in a major daily}~~ **AT LEAST TWO (2) newspaper[s]** of general circulation ~~[in the Philippines].~~

Approved.