

## **BILL ANALYSIS**

C.S.S.B. 2212  
By: Hancock  
Licensing & Administrative Procedures  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties have expressed a need, with regard to the regulation of real estate advertising and business practices, to ensure consumers have a clear understanding of services provided and a pathway to seek recourse on questions surrounding a real estate transaction. C.S.S.B. 2212 seeks to address these issues by, among other provisions, clarifying the ability of the Texas Real Estate Commission to regulate real estate advertising and clarifying certain activities relating to engaging in real estate brokerage.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.S.B. 2212 amends the Occupations Code to authorize a person to acquire an option or an interest in a contract to purchase real property and then sell or offer to sell the option or assign or offer to assign the contract without holding a license issued under the Real Estate License Act if the person does not use the option or contract to purchase to engage in real estate brokerage and discloses the nature of the equitable interest to any potential buyer. The bill establishes that a person selling or offering to sell an option or assigning or offering to assign an interest in a contract to purchase real property without disclosing the nature of that interest to a potential buyer is engaging in real estate brokerage.

C.S.S.B. 2212 prohibits the Texas Real Estate Commission (TREC) from including in rules to prohibit false, misleading, or deceptive practices by a person regulated by the TREC a rule restricting a person's advertisement under an assumed name that is authorized by state law and registered with the TREC or a rule that requires the term "broker," "agent," or a similar designation or term, a reference to the TREC, or the person's license number to be included in the person's advertisement.

C.S.S.B. 2212 revises the circumstances under which the TREC may suspend or revoke a license issued under the Real Estate License Act or take other disciplinary action authorized by that act against a license holder who, while engaged in real estate brokerage, publishes or causes to be published a certain type of advertisement by authorizing the TREC to take such action with regard to an advertisement that implies that a sales agent is responsible for the operation of the broker's real estate brokerage business and by replacing the authorization for the TREC to take such action with regard to an advertisement that fails to identify the person causing the

advertisement to be published as a licensed broker or agent with the authorization for the TREC to take such action with regard to an advertisement that fails to include the name of the broker for whom the license holder acts, which may be the licensed name, assumed name, or trade name of the broker as authorized by state law and registered with the TREC.

C.S.S.B. 2212, effective September 1, 2019, changes the amount that the TREC and the Texas Appraiser Licensing and Certification Board are required to remit to the general revenue fund not later than August 31 of each fiscal year from \$750,000 to the sum of \$750,000 minus amounts expended each fiscal year until September 1, 2029, to construct or maintain a building in the Capitol Complex, including amounts expended for repayment of a construction loan, to be developed, constructed, maintained, and operated in conjunction with the Texas Facilities Commission (TFC) and subject to certain Government Code provisions at 203 West Martin Luther King, Jr., Boulevard designated as parking lot 19. The bill grants the TFC, for purposes of constructing that building, the authority to enter into a ground lease with the TREC pursuant to Government Code provisions relating to the lease of public grounds for the location of a building at that specified site.

C.S.S.B. 2212 amends the Property Code to require a person selling an option or assigning an interest in a contract to purchase real property, before entering into a contract, to disclose to any potential buyer that the person is selling only an option or assigning an interest in a contract and that the person does not have legal title to the real property.

### **EFFECTIVE DATE**

Except as otherwise provided, September 1, 2017.

### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 2212 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Subchapter A, Chapter 1101, Occupations Code, is amended.	SECTION 1. Same as engrossed version.
SECTION 2. Section 1101.156(b), Occupations Code, is amended.	SECTION 2. Same as engrossed version.
SECTION 3. Section 1101.652(b), Occupations Code, is amended.	SECTION 3. Same as engrossed version.
No equivalent provision.	SECTION 4. Section 1105.003(f), Occupations Code, is amended to read as follows: (f) Not later than August 31 of each fiscal year, the agency shall remit [ <del>\$750,000</del> ] to the general revenue fund <u>the sum of \$750,000 minus amounts expended each fiscal year until September 1, 2029, to construct or maintain a building in the</u>

Capitol Complex, including amounts expended for repayment of a construction loan, to be developed, constructed, maintained, and operated in conjunction with the Texas Facilities Commission and subject to Chapters 443, 2165, and 2166, Government Code, at 203 West Martin Luther King, Jr., Boulevard designated as Parking Lot 19.

SECTION 4. Subchapter D, Chapter 5, Property Code, is amended.

No equivalent provision.

SECTION 5. This Act takes effect September 1, 2017.

SECTION 5. Same as engrossed version.

SECTION 6. Notwithstanding Section 2165.259, Government Code, for purposes of constructing a building in the Capitol Complex pursuant to Section 1105.003(f), Occupations Code, as amended by this Act, the Texas Facilities Commission has the authority to enter into a ground lease with the Texas Real Estate Commission pursuant to Subchapter D, Chapter 2165, Government Code, for the location of a building at the following described real property, also known as 203 West Martin Luther King, Jr., Boulevard and designated as Parking Lot 19:

The Northeast 1/4, the North 1/2 of the Southeast 1/4, and the East 5 feet of the Northwest 1/4 and East 5 feet of the North 1/2 of the Southwest 1/4, all in Out-lot No. 42, Division "E", in the City of Austin, Travis County Texas.

SECTION 7. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2017.

(b) Section 1105.003(f), Occupations Code, as amended by this Act, takes effect September 1, 2019.