

- SUBJECT:** Registration of certain real estate correspondence courses
- COMMITTEE:** Licensing and Administrative Procedures — committee substitute recommended
- VOTE:** 5 ayes — Kuempel, Geren, Hamilton, Jones, Quintanilla
0 nays
4 absent — Thompson, Chisum, Gutierrez, Menendez
- WITNESSES:** For — Rick Knowles, Texas Tech University CPD, Capitol Real Estate Training; (*Registered, but did not testify:* Ken Trussell, CELI Texas A&M - Commerce)
Against — None
On — (*Registered, but did not testify:* Loretta DeHay, Texas Real Estate Commission)
- BACKGROUND:** Occupations Code ch. 1101 establishes licensing procedures for real estate brokers and salespersons, and ch. 1102 establishes licensing procedures for real estate inspectors. Subchapter G allows the Texas Real Estate Commission establish accreditation standards for real estate and real estate inspection education programs or courses of study that are not offered by accredited colleges or universities.
- DIGEST:** CSHB 3738 would require an accredited college or university that offered a noncredit real estate or real estate inspection correspondence course through a third-party marketing firm to register that course with the Texas Real Estate Commission (TREC).
- Application for a certificate of registration.** An application for a certificate of registration would have to include the educational institution's accreditation information and proof of the accreditation, information on the ownership or copyright interests in the correspondence course materials, the name of the person designated to issue the certificate upon completion of the course, the procedure for timely issuance of the certificate in the event of a holiday or break, a statement by a

representative of the educational institution that the institution would uphold the professional and academic standards required for completion of an approved correspondence course, and the name, address, telephone number, and any other required contact information for:

- the educational institution;
- the marketing firm or other third-party real estate course provider associated with providing the course;
- the person in an academic department who would review and approve a third-party firm's real estate correspondence course content and educational integrity, and;
- any additional person responsible for administering the course that had a correspondence course component.

A registered institution would have to notify the TREC of any change to the above information within 30 days of the change. The TREC would be required to issue a certificate of registration to any institution that met the requirements and rules for registration, and would not be allowed to deny the issuance of a certificate without reason. The TREC could charge a reasonable fee for the issuance of a certificate to cover program administration costs, and would be allowed to issue or renew a certificate of registration for a period of no more than 24 months.

Correspondence course requirements and approval. Any third-party correspondence course offered by an accredited and registered college or university would have to be based primarily on information found in a textbook, provide each student with printed copies of material that constituted a significant portion of the course and give each student the option of completing the course's requirements in paper format, be divided into multiple units of instruction unless the course was four hours or less or a continuing education course, provide a diagnostic assessment of each student's performance at regular intervals of each unit, and comply with all applicable statutory requirements and TREC rules if it was a core real estate or real estate inspection course. A registered educational institution would be required to select a textbook for the mandatory principles of real estate, law of contracts, and law of agency courses from the TREC's list of acceptable textbooks.

A registered educational institution would be required to establish reasonable procedures for confirming that a student who completed the coursework was the student who was enrolled in the course, including

receiving a written statement from the student attesting to that fact. Educational institutions would be prohibited from issuing a course completion certificate printed from a computer course program.

A registered educational institution that offered a correspondence course or third-party program would be required to have the course or program approved by the TREC. The college or university would be required to send the TREC a letter, on the school's letterhead and signed by the school's representative who was responsible for supervising the correspondence course's content, describing the course. A correspondence course would have to have been reviewed by a member of the school's academic department to ensure that its content, educational quality, and standards complied with all applicable statutory requirements and TREC rules before the course could be submitted to the commission. If the course was approved by the commission, it would be added officially to the TREC's listed of approved correspondence courses for that school.

Final exam and graduation. The final exam given by a third-party correspondence course would be required to have questions significantly different from the questions used in the course's diagnostic assessments and which were confidential, except in certain controlled circumstances where a student reviewed his or her final exam after it had been graded. The final exam could be either a proctored exam administered under controlled circumstances by a commission-approved official and graded by the instructor, an approved representative of the educational institution or by instructor-approved answer keys, or a computer-based exam administered by a student whose identify was verified either by the program or by another commission-approved method. The final exam could be either open- or closed-book. A student would have to complete all diagnostic assessments and complete the final exam successfully to receive course credit. A registered educational institution would be required to establish the correspondence program's graduate licensing examination passage rate.

Course ethics. A registered educational institution's representative would be required to sign an agreement to maintain the ethical and academic standards for correspondence courses required by the TREC. An education institution would be prohibited from entering into a business agreement with a third-party course provider that used the institution's name for a fee without any additional institution involvement in the course's administration, or that used a textbook for a mandatory prelicensing core

real estate course that was not on the list of commission-approved textbooks. A college or university that contracted or subcontracted with a third-party provider for the creation, administration, or marketing of a correspondence course would be considered responsible for the third-party provider's actions. The TREC would be allowed to suspend or revoke the certificate of registration of any educational institution that did not supervise a correspondence course or program or that failed to comply with the minimum course standards established under this bill or any existing statutory requirement or commission rule.

Advertising. Any print or electronic advertisement of a correspondence course sponsored by a registered educational institution would be required to display prominently the institution's name or logo. Brokers, salespersons, or inspectors engaged in student recruiting programs would be prohibited from suggesting the correspondence course could be completed in less time than the number of credit hours granted for successful completion, or from providing answer keys for diagnostic assessments or final examinations.

Compliance and effective dates. The TREC would be required to adopt rules to implement the provisions of CSHB 3738 no later than January 1, 2010, and an educational institution that provided a correspondence course through a third party would not be required to comply with the bill's provisions before September 1, 2010.

The bill would take effect September 1, 2009.

**SUPPORTERS
SAY:**

CSHB 3738 would provide greater oversight for real estate and real-estate inspector courses offered by third-party marketing firms. Colleges and universities currently may offer correspondence courses administered by external providers, but they are not always supervised by the schools' academic departments. As a result, oversight has waned, and the possibility exists for third-party course providers to circumvent TREC regulations. The bill would require academic institutions offering these noncredit courses to take a more active role in their administration, and would authorize the Texas Real Estate Commission to step in should a problem arise. Any increase in costs associated with implementing a new software system could be covered by increasing registration fees rather than by spending state funds.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

The Legislative Budget Board estimates that one additional staff person would need to be hired to process the registration applications, and a cost of \$117,410 in fiscal 2010 for additional computer hardware and software and 36 weeks of a contract programmer.

The substitute differs from the bill as filed by stating that educational institutions covered under the bill are those that offer a real estate or real estate inspection course using a third-party marketing firm and by defining a “correspondence course” as a distance learning course offered by an educational institution as a noncredit course that consists primarily of text material; by removing the requirement that an educational institution must present evidence that the TREC authorized it to offer noncredit adult education programs when applying for a certificate of registration; by limiting the textbooks required to be chosen from a commission-approved list to those for the core prelicensing real estate courses on principles of real estate, law of contracts, and law of agency; and by eliminating a requirement that a registered educational institution establish that at least 55 percent of the program’s graduates graduated the first time they took the final examination before their certificate could be renewed.