

BILL ANALYSIS

Senate Research Center
76R6119 GJH-F

S.B. 1016
By: Wentworth
State Affairs
4/7/1999
As Filed

DIGEST

Currently, Texas law requires real estate brokers, salespersons, and inspectors to conform to certain requirements of the Real Estate License Act. S.B. 1016 would further regulate real estate brokers, salespersons, and inspectors and administration of certain recovery funds.

PURPOSE

As proposed, S.B. 1016 regulates real estate brokers, salespersons, and inspectors and administration of certain recovery funds.

RULEMAKING AUTHORITY

Rulemaking making authority is granted to Texas Real Estate Commission in SECTION 2 (Section 8(c), Article 6573a, V.T.C.S.) and in SECTION 9 (Section 23(o)(3), Article 6573a, V.T.C.S.) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 7(b) and (e), Article 6573a, V.T.C.S. (The Real Estate License Act), to require the Texas Real Estate Commission (commission) to prescribe the content of the core courses listed in Subsection (a) of this section. Requires each applicant for a salesperson license to furnish the commission satisfactory evidence of having completed 12 semester hours, or equivalent classroom hours, of postsecondary education, and eight, rather than six, hours which must be completed in core real estate courses. Requires the remaining four hours, rather than six, to be completed in core real estate courses or related courses.

SECTION 2. Amends Section 8(c) and (f), Article 6573a, V.T.C.S., to require each real estate broker to pay and each real estate salesperson to pay certain fees, if the commission determines at any time, rather than on December 31 of any year, the balance remaining in the real estate recovery account is less than \$1 million. Authorizes the commission to provide by rule for the collection of assessments at times and under conditions other than those specified by this Act, to ensure that sufficient money is available to pay anticipated claims on the fund. Deletes text regarding judgment. Makes conforming changes.

SECTION 3. Amends Section 11, Article 6573a, V.T.C.S., to require the commission to charge and collect certain fees including a fee of \$20, rather than \$15, for transcript evaluation. Makes a conforming change.

SECTION 4. Amends Section 15(a), Article 6573a, V.T.C.S., to require the commission, on its own motion, to investigate the signed and written complaint of any person, rather than a consumer or service recipient, provided the complaint, or the complaint together with evidence, documentary or otherwise, presented in connection with the complaint, and provides reasonable cause, as well as investigate the actions and records of a real estate broker or real estate salesperson. Authorizes the commission to suspend or revoke a license issued under the provisions of this Act or take other disciplinary action authorized by this Act at any time when it has been determined that the licensee, while performing an act constituting an act of a broker or salesperson, has been guilty of publishing an advertisement on the Internet or other display, which is misleading.

SECTION 5. Amends Section 15B(e), Article 6573(a), V.T.C.S., to authorize the commission to authorize a commission employee to file a signed written complaint against a licensee and to conduct an investigation if certain actions are taken.

SECTION 6. Amends Sections 19A(a), (b), (d), (h),(j), (m) and (o), Article 6573a, V.T.C.S., to require the penalty for each violation to be set in an amount not to exceed \$1,000 a day. Provides that each day a violation continues or occurs may be considered a separate violation for the purpose of the assessment of a penalty. Authorizes the commission to authorize the administrator to delegate authority to another employee of the commission to act under this section. Provides that all proceedings under this subsection are subjected to Chapter 2001, Government Code. Authorizes the commission to authorize the hearing examiner to conduct the hearing and to enter a final decision. Requires a penalty collected under this section for a violation by a person who is not licensed under this Act to be deposited either in the real estate recovery trust account or in the real estate inspection recovery fund. Deletes text regarding Administrative Procedure and Texas Register Act. Makes conforming changes.

SECTION 7. Amends Section 23(h)(1), Article 6573a, V.T.C.S., requires the commission to charge and collect reasonable and necessary fees to recover the cost of administering this section, including a fee not to exceed \$20 for filing a request for a change on name on a license, a return to active status, or a change in sponsoring a professional inspector.

SECTION 8. Amend Section 23(k), Article 6573a, V.T.C.S., to require an estate inspector to submit satisfactory evidence to the commission of successful completion of at least eight, rather than four, classroom hours of core real estate inspection courses annually before a licensed renewal is issued. Requires a professional inspector to submit satisfactory evidence to the commission of the successful completion of at least 16, rather than eight, classroom hours of core real estate inspection courses annually before a license renewal is issued.

SECTION 9. Amends Section 23(o)(3), (7), and (15), Article 6573a, V.T.C.S., to require payments for claims to be limited in the aggregate to \$10,000, rather than \$7,500, regardless of the number of claimants. Prohibits claims based on judgments against a licensed inspector from exceeding in the aggregate \$30,000, rather than \$15,000, until the fund has been reimbursed by the licensee for all amounts paid. Makes conforming changes.

SECTION 10. Effective date: September 1, 1999. Provides that Section 7(e), Article 6573a, V.T.C.S. applies only to an application filed on or after January 1, 2000. Provides that Section 23(k), Article 6573a, V.T.C.S. applies to only continuing education requirements for the renewal of an inspection license on or after December 31, 1999. Provides that application of Section 23(o)(15) Article 6573a, V.T.C.S. is prospective to the effective date.

SECTION 11. Amends Section 11, Article 6573a, V.T.C.S. to apply only to a fee for a transcript that is prospective.

SECTION 12. Amend Section 19A(a), Article 6573a, V.T.C.S. to apply to only to violations that are prospective.