

BILL ANALYSIS

Senate Research Center
76R11165 GJH-F

C.S.S.B. 1016
By: Wentworth
State Affairs
4/12/1999
Committee Report (Substituted)

DIGEST

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

PURPOSE

As proposed, C.S.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 (Sections 7(b), Article 6573a, V.T.C.S.) and SECTION 11 (Section 23(o)(3), Article 6573a, V.T.C.S.) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 6(a), Article 6573a, V.T.C.S. (The Real Estate License Act), to authorize, rather than require, a broker desiring to engage a person to participate in real estate brokerage activity to join the person in filing an application for an active salesperson license on a form prescribed by the Texas Real Estate Commission (commission). Authorizes a person to apply for a salesperson license on inactive status without the participation of a broker. Deletes text regarding persons previously licensed as a broker applying for inactive status.

SECTION 2. Amends Sections 7(a), (b), and (e), Article 6573a, V.T.C.S., to prohibit a license applicant who fails the examination four consecutive times in connection with the same application from applying for reexamination or submitting a new license application before the 180th day after the date the applicant failed the fourth examination. Authorizes the commission, by rule, to prescribe the content of core real estate 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 of postsecondary education, eight hours, rather than six hours, of which must be completed in core real estate courses. Requires the remaining four hour, rather than six hours to be completed in core real estate courses or related courses. Requires the applicant to furnish the commission satisfactory evidence of having completed a minimum of 14 semester, hours 10, rather than eight hours, of which must be completed in core real estate courses.

SECTION 3. Amends Sections 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 trust 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 trust account. Deletes text regarding a judgment. Makes conforming changes.

SECTION 4. 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 5. 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 6. 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 including if the license fails to provide, with a reasonable time, information requested by the commission in connection with an application for the renewal of a license.

SECTION 7. 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 to another employee of the commission the administrator's authority 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 the Administrative Procedure and Texas Register Act. Makes conforming changes.

SECTION 8. Amends Section 23(h)(1), Article 6573a, V.T.C.S., to require 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 9. Amends Section 23(i)(1), Article 6573a, V.T.C.S., to prohibit the applicant from applying for reexamination or submitting a new license application with the commission for six months from the date the applicant, rather than he, failed the last examination, if a license applicant fails the examination four, rather than three, consecutive times in connection with the same application.

SECTION 10. Amend Section 23(k), Article 6573a, V.T.C.S., to require a real 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 11. Amends Sections 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 12. 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 the application of Section 23(o)(15) Article 6573a, V.T.C.S. is prospective to the effective date.

SECTION 13. Makes application of this Act prospective.

SECTION 14. Makes application of this Act prospective.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Deletes proposed changes to Sections 7(b) and (e), Article 6573a, V.T.C.S., regarding the Texas

Real Estate Commission.

Amends Section 6(a), Article 6573a, V.T.C.S., to authorize, rather than require, a broker desiring to engage a person to participate in real estate brokerage activity to join the person in filing an application for an active salesperson license on a form prescribed by the commission. Authorizes a person to apply for a salesperson license on inactive status without the participation of a broker. Deletes text regarding persons previously licensed as a broker applying for inactive status.

SECTION 2.

Amends Sections 7(a), (b), and (e), Article 6573a, V.T.C.S., to prohibit a license applicant who fails the examination four consecutive times in connection with the same application from applying for reexamination or submitting a new license application before the 180th day after the date the applicant failed the fourth examination. Authorizes the commission, by rule, to prescribe the content of core real estate 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 of postsecondary education, eight hours, rather than six hours, of which must be completed in core real estate courses. Requires the remaining four hours, rather than six hours, to be completed in core real estate courses or related courses. Requires the applicant to furnish the commission satisfactory evidence of having completed a minimum of 14 semester hours 10 hours, rather than eight hours, of which must be completed in core real estate courses.

SECTION 3.

Amends Section 8(c), Article 6573a, V.T.C.S., regarding a trust account. Makes conforming changes.

SECTION 6.

Amends Section 15B(e), Article 6573(a), V.T.C.S., regarding information requested by the commission in connection with an application for the renewal of a license.

SECTION 7.

Amends Section 19A(d), Article 6573(a), V.T.C.S., to authorize the commission to authorize the administrator to delegate to another employee of the commission the administrator's authority to act under this section, rather than to authorize the commission administrator to delegate authority to another employee of the commission to act under this section.

SECTION 9.

Adds new SECTION 9 to amend Section 23(i)(1), Article 6573a, V.T.C.S., to prohibit the applicant from applying for reexamination or submitting a new license application with the commission for six months from the date the applicant, rather than he, failed the last examination, if a license applicant fails the examination four, rather than three, consecutive times in connection with the same application.

Redesignates existing SECTIONS accordingly.