

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 695
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Business & Commerce
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Committee Report (Substituted)

DIGEST AND PURPOSE

The Texas Real Estate Commission regulates real estate brokers, salespersons, inspectors, and other related professionals. Certain provisions in The Real Estate License Act make regulating such professionals inefficient. C.S.H.B. 695 modifies language to facilitate the administration of provisions relating to The Real Estate License Act.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Real Estate Commission in SECTIONS 4 and 14 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 6(a), The Real Estate License Act (Article 6573a, V.T.C.S.), to require a person desiring to act as a real estate salesperson in this state to apply, rather than previously licensed as a salesperson may apply, for a salesperson license on a form prescribed by the Texas Real Estate Commission (commission). Authorizes the commission, if the person satisfies all requirements for a salesperson license, to issue an inactive salesperson license to the person. Prohibits the person from acting as a salesperson unless the person is sponsored by a licensed broker who has notified the commission and paid the fee for issuance of an active license to the salesperson as required by Section 13(b) of this Act. Deletes text regarding a broker. Deletes text regarding status of a broker.

SECTION 2. Amends Sections 7(b), (d), and (e), The Real Estate License Act (Article 6573a, V.T.C.S.), as follows:

(b) Authorizes the commission by rule to perform certain procedures.

(d) Requires each applicant for a broker license to furnish the commission satisfactory evidence that the applicant has had not less than two years active experience in this state as a licensed real estate salesperson or broker during the 36-month period immediately preceding the filing of the application; and, in addition, to furnish the commission satisfactory evidence of having completed successfully 60 semester hours, or equivalent classroom hours, of postsecondary education, of which a minimum of 18 semester hours or equivalent classroom hours must be completed in core real estate courses. Requires the remaining 42 hours to be completed in core real estate courses or related courses accepted by the commission. Deletes text regarding postsecondary education.

(e) 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, eight, rather than six, hours of which must be completed in core real estate courses, of which a minimum of four, rather than two, hours must be completed in Principles of Real Estate as described in Subsection (a)(1) of this section, a minimum of two hours must be completed in Law of Agency as

described in Subsection (a)(10) of this section, and a minimum of two hours must be completed in Law of Contracts as described in Subsection (a)(11) of this section. Requires the remaining four, rather than six, hours to be completed in core real estate courses or related courses. Requires the applicant, as a condition for the first renewal of a salesperson license, to furnish the commission satisfactory evidence of having completed a minimum of 14 semester hours, or equivalent classroom hours, 10, rather than eight, hours of which must be completed in core real estate courses. Requires the applicant, as condition for the second renewal of a salesperson license, to furnish the commission satisfactory evidence of having completed a minimum of 16 semester hours, or equivalent classroom hours, 12, rather than 10, hours of which must be completed in core real estate courses. Requires the applicant, as a condition for the third renewal of a salesperson license, to furnish the commission satisfactory evidence of having completed a minimum of 18 semester hours, or equivalent classroom hours, 14, rather than 12, hours of which is required to be completed in core real estate courses.

SECTION 3. Amends Section 7(a), The Real Estate License Act (Article 6573a, V.T.C.S.), to authorize the commission by rule to prescribe the title, content, and duration of continuing education courses that a licensee is required to attend to renew a license and to authorize the substitution of relevant educational experience or correspondence courses approved by the commission instead of classroom attendance.

SECTION 4. Amends Sections 8(c) and (f), The Real Estate License Act (Article 6573a, V.T.C.S.), as follows:

(c) Requires each real estate broker and each real estate salesperson, on the next renewal of the license, on determination by the commission at any time that the balance remaining in the real estate recovery fund is less than \$1 million, to pay, in addition to the license renewal fee, a fee of \$10, which is required to be deposited in the real estate recovery fund, or a pro rata share of the amount necessary to bring the fund to \$1.7 million, whichever is less. Deletes text regarding December 31 of any year. Authorizes the commission by rule, to ensure the availability of a sufficient amount to pay anticipated claims on the fund, to provide for the collection of assessments at different times and under conditions other than those specified by this Act.

(f) Deletes text regarding judgment under Subsection (e).

SECTION 5. Amends Section 11, The Real Estate License Act (Article 6573a, V.T.C.S.), to require the commission to charge and collect certain fees.

SECTION 6. Amends Section 15(a), The Real Estate License Act (Article 6573a, V.T.C.S.), to authorize the commission, on its own motion, and require the commission, on the signed complaint in writing 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, provides reasonable cause, to 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 certain conditions exists.

SECTION 7. Amends Section 15B(e), The Real Estate License Act (Article 6573a, 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 under certain conditions.

SECTION 8. Amends Section 19(a), the Real Estate License Act (Article 6573a, V.T.C.S.), to provide that a person acting as a real estate broker or real estate salesperson without first obtaining a license or a person required to register under Section 9A of this Act who sells, purchases, leases, or

transfers a right-of-way or easement without first obtaining a certificate of registration under Section 9A of this Act commits an offense. Provides that an offense under this subsection is a Class A misdemeanor. Deletes text regarding conviction.

SECTION 9. Amends Sections 19A(a), (b), (d), (h), (m), and (o), The Real Estate License Act (Article 6573a, V.T.C.S.), as follows:

(a) Deletes text regarding a person licensed under this Act.

(b) Authorizes each day a violation continues or occurs to be considered a separate violation for purposes of penalty assessment if the commission finds that the person charged violated certain conditions.

(d) Authorizes the commission to authorize the administrator to delegate to another commission employee the administrator's authority to act under this section.

(h) Provides that all proceedings under this subsection are subject to Chapter 2001 (Administrative Procedure), Government Code. Authorizes the commission to authorize the hearing examiner to conduct the hearing and enter a final decision. Deletes text regarding the Administrative Procedure and Texas Register Act.

(m) Makes conforming changes.

(o) Requires a penalty collected under this section for a violation by a person who is not licensed under this Act to be deposited in the real estate recovery fund or the real estate inspection recovery fund, as determined by the commission.

SECTION 10. Amends Sections 23(f)(3)-(6), The Real Estate License Act (Article 6573a, V.T.C.S.), to prohibit the person, if a person's license expires, rather than has been expired for one year or longer, from renewing the license. Deletes text the commission renewing without reexamination.

SECTION 11. Amends Section 23(h)(1), The Real Estate License Act (Article 6573a, V.T.C.S.), to require the commission to charge and collect certain fees to recover the cost of administering this section.

SECTION 12. Amends Section 23(k), The Real Estate License Act (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 license, rather than licensed, renewal is issued. Requires a professional inspector to submit satisfactory evidence to the commission of successful completion of at least 16, rather than eight, classroom hours of core, rather than related, real estate inspection courses annually before a license renewal is issued.

SECTION 13. Amends Section 23(m)(2), The Real Estate License Act (Article 6573a, V.T.C.S.), to provide that an offense under this subsection is a Class A, rather than B, misdemeanor.

SECTION 14. Amends Sections 23(o)(3), (7), and (15), The Real Estate License Act (Article 6573a, V.T.C.S.), as follows:

(3) Authorizes the commission by rule, to ensure the availability of a sufficient amount to pay anticipated claims on the fund, to provide for the collection of assessments at different times and under conditions other than those specified by this Act. Deletes text regarding December 31 and year.

(7) Deletes text regarding obtaining a judgment.

(15) Provides that payments from the real estate inspection recovery fund are subject to certain conditions and limitations.

SECTION 15. Amends Section 24(f), The Real Estate License Act (Article 6573a, V.T.C.S.), to make a conforming change.

SECTION 16. Amends Section 18, Residential Service Company Act (Article 6573b, Revised Statutes), by adding Subsection (c) to authorize the commission to authorize a hearing examiner to conduct a hearing and enter a final decision in a proceeding under this section. Provides that a final decision of a hearing examiner under this subsection is appealable to the commission as provided by commission rule.

SECTION 17. Amends Section 39.002(b), Business & Commerce Code, to provide that notwithstanding Subsection (a), this chapter does not apply to certain transactions.

SECTION 18. (a) Provides that except as provided by Subsection (b) of this section, this Act takes effect September 1, 2001.

(b) Makes application of Sections 7(d) and (e), The Real Estate License Act (article 6573a, V.T.C.S.) prospective to January 1, 2002.

(c)-(g) Makes application of certain specified sections prospective.

SUMMARY OF COMMITTEE CHANGES

SECTION 16. Amends as Filed H.B. 695 by amending proposed Section 18, Residential Service Company Act (Article 6573b, Revised Statutes).

SECTION 17. Deletes previously proposed SECTION 17 and replaces with Section 39.002(b), Business & Commerce Code.

SECTION 18. Amends Subsection (g) by deleting reference to the Residential Service Company Act (Article 6573b, Revised Statutes).