

BILL ANALYSIS

Senate Research Center
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H.B. 1530
By: Flores (Eltife)
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, the Texas Real Estate Commission (commission) regulates real estate brokers, salespersons, inspectors, and right-of-way agents. Each session, the commission makes an effort to update and improve statutory powers involving the regulation of real estate licensees, inspectors, and right-of-way agents.

H.B. 1530 amends provisions related to educational requirements, application procedures, training of instructors, and other regulatory matters regarding real estate brokers, salespersons, inspectors, and right-of-way agents. This bill increases the surety bond requirement for an educational institution offering a real estate education program from \$10,000 to \$20,000. This bill also authorizes the commission to take disciplinary action against a licensee for failure to notify the commission of a guilty plea in a felony case or an offense involving fraud and authorizes the commission to revoke a license from a licensee who has had a judgment paid from the real estate inspection recovery fund.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Real Estate Commission is modified in SECTION 10 (Section 1102.111, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1101.005, Occupations Code, to provide that this chapter (Real Estate Brokers and Salespersons) does not apply to a person conducting a real estate transaction, rather than acting, under a court order or the authority of a will or written trust instrument.

SECTION 2. Amends Section 1101.057(a), Occupations Code, to delete existing text relating to grounds for removal from the Texas Real Estate Commission (commission) based on illness or disability.

SECTION 3. Amends Section 1101.204(g), Occupations Code, to authorize the commission to authorize a commission employee to file a signed, written complaint against a person licensed under this chapter or Chapter 1102 (Real Estate Inspectors) and to conduct an investigation if the person fails to pay the fee and complete required continuing education within the period prescribed by commission rules adopted under Section 1101.457 (Deferral of Continuing Education Requirements) or the person fails to provide, within a reasonable time, information required under Section 1102.652(a)(9).

SECTION 4. Amends Section 1101.302(b), Occupations Code, to require an educational institution to maintain a corporate surety bond or other security acceptable to the commission that is in the amount of \$20,000, rather than \$10,000, among other requirements set forth in this subsection.

SECTION 5. Amends Section 1101.356(a), Occupations Code, to require an applicant for a broker license to provide to the commission satisfactory evidence that the applicant has successfully completed at least 60 semester credit hours, or equivalent classroom hours, of postsecondary education, including at least 18 semester hours or equivalent classroom hours of core real estate courses, two semester hours of which is required to be real estate brokerage.

SECTION 6. Amends Section 1101.455, Occupations Code, by adding Subsection (k), to provide that a member of the legislature licensed under this chapter, notwithstanding the number of hours required by Subsection (e), is only required to complete three hours of continuing education on the legal topics under Subsection (e).

SECTION 7. Amends Section 1101.652(a), Occupations Code, to authorize the commission to suspend or revoke a license issued under this chapter or take other disciplinary action authorized by this chapter if the license holder fails to notify the commission, not later than the 30th day after the date of a final conviction or the entry of a plea of guilty or nolo contendere, that the person has been convicted of or entered a plea of guilty or nolo contendere to a felony or a criminal offense involving fraud.

SECTION 8. Amends Section 1101.655(a), Occupations Code, to authorize the commission to revoke a license, approval, or registration, rather than a license or certificate of registration, issued under this chapter or Chapter 1102 if the commission makes a payment from the real estate recovery trust account to satisfy all or part of a judgment against the license or registration, rather than certificate, holder. Deletes existing text making this section applicable to a certificate or certificate holder.

SECTION 9. Amends Section 1102.054(a), Occupations Code, to make a conforming change.

SECTION 10. Amends Section 1102.111, Occupations Code, as follows:

- (a) Requires the commission by rule to provide for substitution of relevant experience and, rather than or, additional education in place of certain requirements.
- (b) Prohibits rules adopted under Subsection (a) from requiring an applicant to have more than seven years of relevant experience. Makes nonsubstantive changes.

SECTION 11. Amends Sections 1102.402(a) and (c), Occupations Code, as follows:

- (a) Authorizes the commission to revoke a license issued under this chapter or a license, approval, or registration issued under Chapter 1101 if the commission makes a payment from the real estate inspection recovery fund to satisfy all or part of a judgment against the person issued the license, approval, or registration. Deletes existing text authorizing the commission to revoke the license of an inspector if the commission makes a payment from the fund to satisfy all or part of a judgment against the inspector.
- (c) Provides that a person, rather than a person whose license is revoked under this section (License Revocation for Claim on Fund), is not eligible for a license, rather than new license, until the person has repaid in full the amount paid from the fund on the person's account, plus interest at the legal rate.

SECTION 12. Amends Section 1303.302, Occupations Code, as follows:

Sec. 1303.302. CERTAIN CONDITIONAL SALES OF PROPERTY PROHIBITED. Prohibits a buyer of a residential property's agent from conditioning the sale of the property on the buyer's purchase of a residential service contract. Makes a conforming change.

SECTION 13. Repealer: Section 1102.1035 (Additional General Eligibility Requirements for Certain Business Entities) and Section 1102.2051 (Additional Renewal Requirement for Certain Business Entities), Occupations Code.

SECTION 14. Requires an educational institution that maintains a bond under Section 1101.302(b), Occupations Code, on the effective date of this Act, to obtain a bond in the amount required by Section 1101.302(b), Occupations Code, as amended by this Act, not later than January 1, 2008.

SECTION 15. Makes application of the change in law made by this Act to Section 1101.356(a), Occupations Code, prospective to January 1, 2008.

SECTION 16. Effective date: September 1, 2007.