

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1530
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Business & Commerce
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Committee Report (Substituted)

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.

C.S.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 is granted to the Texas Real Estate Commission in SECTION 3 (Section 1101.152, Occupations Code) of this bill.

Rulemaking authority previously granted to the Texas Real Estate Commission is modified in SECTION 11 (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 1101.152(a), Occupations Code, as follows:

- (a) Requires the commission to adopt rules to charge and collect reasonable fees, including a fee for certain purposes. Includes amongst these fees a fee for conducting a criminal history check for issuing or renewing a real estate license (license). Deletes existing limitations on the amount of certain fees.

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 Subchapter H, Chapter 1101, Occupations Code, by adding Section 1101.3521, as follows:

- Sec. 1101.3521. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE. (a) Requires the commission to require that an applicant for a license or

renewal of an unexpired license submit a complete and legible set of fingerprints, on a form prescribed by the commission, to the commission or to the Department of Public Safety (DPS) for the purpose of obtaining criminal history record information from DPS and the Federal Bureau of Investigation.

(b) Requires the commission to refuse to issue a license to or renew the license of a person who does not comply with the requirement of Subsection (a).

(c) Requires the commission to conduct a criminal history check of each applicant for a license or renewal of a license using certain information.

(d) Authorizes the commission to enter into an agreement with DPS to administer a criminal history check required under this section and to authorize DPS to collect from each applicant the costs incurred by DPS in conducting the criminal history check.

SECTION 6 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 7. Amends Subchapter J, Chapter 1101, Occupations Code, by adding Section 1101.4521, as follows:

Sec. 1101.4521. **CRIMINAL HISTORY RECORD INFORMATION FOR RENEWAL.**
Requires an applicant for the renewal of an unexpired license to comply with the criminal history record check requirements of Section 1101.3521.

SECTION 8. 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 9. 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 10. 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 11. 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 12. 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 13. 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 14. 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 15. 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 16. Requires the commission to adopt rules as required by Section 1101.152, Occupations Code, as amended by this Act, not later than January 1, 2008.

SECTION 17. (a) Makes application of the change in law made by this Act to Section 1101.356(a), Occupations Code, prospective to January 1, 2008.

(b) Provides that the requirement that a person applying for or renewing a license under Chapter 1101, Occupations Code, is required to submit to a criminal history check under Sections 1101.3521 and 1101.4521, Occupations Code, as added by this Act, applies only to an application filed on or after January 1, 2008.

SECTION 18. Effective date: September 1, 2007.