

By: Flores (Senate Sponsor - Fraser) H.B. No. 1508
(In the Senate - Received from the House April 14, 2003;
April 15, 2003, read first time and referred to Committee on
Business and Commerce; April 16, 2003, rereferred to Committee on
Administration; April 23, 2003, reported favorably by the
following vote: Yeas 4, Nays 0; April 23, 2003, sent to printer.)

A BILL TO BE ENTITLED
AN ACT

relating to the regulation of certain occupations by the Texas Real
Estate Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1101.152(a), Occupations Code, is
reenacted to conform to Section 5, Chapter 997, Acts of the 77th
Legislature, Regular Session, 2001, and amended to read as follows:

(a) The commission shall charge and collect the following
fees:

(1) for filing an original application for a broker
license, not more than \$100;

(2) for annual renewal of a broker license, not more
than \$100;

(3) for filing an original application for a
salesperson license, not more than \$75 [~~\$50~~];

(4) for annual renewal of a salesperson license, not
more than \$50;

(5) for annual registration, \$80;

(6) for an application for a license examination, not
more than \$100;

(7) for filing a request for a branch office license,
not more than \$20;

(8) for filing a request for a change of place of
business, change of name, return to active status, or change of
sponsoring broker, not more than \$20;

(9) for filing a request to replace a lost or destroyed
license or certificate of registration, not more than \$20;

(10) for filing an application for approval of an
education program under Subchapter G, not more than \$400;

(11) for annual operation of an education program
under Subchapter G, not more than \$200;

(12) for filing an application for approval of an
instructor of core real estate courses, not more than \$40;

(13) for transcript evaluation, \$20;

(14) [~~(13)~~] for preparing a license or registration
history, not more than \$20 [~~\$10~~]; and

(15) [~~(14)~~] for filing an application for a moral
character determination, not more than \$50.

SECTION 2. Section 1101.152, Occupations Code, is amended
by amending Subsection (b) and adding Subsection (c) to read as
follows:

(b) The commission may set and collect reasonable fees to
implement the continuing education requirements for license
holders, including the following fees:

(1) for an application for approval of a continuing
education provider, not more than \$400; ~~and~~

(2) for an application for approval of a continuing
education course of study, not more than \$100; and

(3) for an application for approval of an instructor
of continuing education courses, not more than \$40.

(c) Notwithstanding Subsection (a), if the commission
issues an original inactive salesperson license under Section
1101.363(b) to a salesperson who is not sponsored by a licensed
broker and the salesperson is subsequently sponsored by a licensed
broker, the commission may not charge:

(1) the salesperson a fee for filing a request to place
the salesperson license on active status; or

2-1 (2) the broker a fee for filing a request to sponsor
 2-2 the salesperson.

2-3 SECTION 3. Section 1101.202(a), Occupations Code, is
 2-4 amended to read as follows:

2-5 (a) The commission by rule shall establish methods by which
 2-6 consumers and service recipients are notified of the name, mailing
 2-7 address, and telephone number of the commission for the purpose of
 2-8 directing a complaint to the commission. The commission may
 2-9 provide for that notice:

2-10 (1) on each application for a license or certificate
 2-11 of registration or written contract for services of a person
 2-12 regulated under this chapter or Chapter 1102;

2-13 (2) on a sign prominently displayed in the place of
 2-14 business of each person regulated under this chapter or Chapter
 2-15 1102;

2-16 (3) in a bill for services provided by a person
 2-17 regulated under this chapter or Chapter 1102; ~~or~~

2-18 (4) in conjunction with the notice required by Section
 2-19 1101.615; or

2-20 (5) to be prominently displayed on the Internet
 2-21 website of a person regulated under this chapter or Chapter 1102.

2-22 SECTION 4. Section 1101.352, Occupations Code, is amended
 2-23 to conform to Section 1, Chapter 997, Acts of the 77th Legislature,
 2-24 Regular Session, 2001, to read as follows:

2-25 Sec. 1101.352. LICENSE APPLICATION. (a) Each applicant
 2-26 for a broker or salesperson license must submit an application on a
 2-27 form prescribed by the commission.

2-28 (b) ~~[A broker who intends to associate with an applicant for~~
 2-29 ~~a salesperson license must join the applicant in filing the~~
 2-30 ~~application.~~

2-31 ~~[(c)]~~ Each applicant for a broker or salesperson license
 2-32 must disclose in the license application whether the applicant has:

2-33 (1) entered a plea of guilty or nolo contendere to a
 2-34 felony; or

2-35 (2) been convicted of a felony and the time for appeal
 2-36 has elapsed or the judgment or conviction has been affirmed on
 2-37 appeal.

2-38 (c) ~~[(d)]~~ The disclosure under Subsection (b) ~~[(c)]~~ must
 2-39 be provided even if an order has granted community supervision
 2-40 suspending the imposition of the sentence.

2-41 SECTION 5. Section 1101.363, Occupations Code, is amended
 2-42 by adding a new Subsection (b) and relettering existing Subsection
 2-43 (b) as Subsection (c) to conform to Section 1, Chapter 997, Acts of
 2-44 the 77th Legislature, Regular Session, 2001, and is further amended
 2-45 to read as follows:

2-46 (b) The commission may issue an inactive salesperson
 2-47 license to a person who applies for a salesperson license and
 2-48 satisfies all requirements for the license. The person may not act
 2-49 as a salesperson unless the person is sponsored by a licensed broker
 2-50 who has notified the commission as required by Section 1101.367(b).
 2-51 Notwithstanding Section 1101.367(b), the licensed broker is not
 2-52 required to pay the fee required by that subsection.

2-53 (c) A license remains in effect for the period prescribed by
 2-54 the commission if the license holder complies with this chapter and
 2-55 pays the appropriate renewal fees.

2-56 SECTION 6. Section 1101.367, Occupations Code, is amended
 2-57 to conform to Section 1, Chapter 997, Acts of the 77th Legislature,
 2-58 Regular Session, 2001, to read as follows:

2-59 Sec. 1101.367. INACTIVE LICENSE: SALESPERSON. (a) ~~[The~~
 2-60 ~~commission may place on inactive status the license of a person who~~
 2-61 ~~was previously licensed as a salesperson if the person applies for~~
 2-62 ~~inactive status on a form prescribed by the commission not later~~
 2-63 ~~than the first anniversary of the expiration date of the license.~~
 2-64 ~~An application under this subsection does not require the~~
 2-65 ~~participation of a broker.~~

2-66 ~~[(b)]~~ When the association of a salesperson with the
 2-67 salesperson's sponsoring broker terminates, the broker shall
 2-68 immediately return the salesperson license to the commission. A
 2-69 salesperson license returned under this subsection is inactive.

(b) ~~[(c)]~~ The commission may remove a salesperson license from inactive status under Subsection (a) ~~[(b)]~~ if, before the expiration date of the salesperson license, a licensed broker files a request with the commission advising the commission that the broker assumes sponsorship of the salesperson, accompanied by the appropriate fee.

(c) ~~[(d)]~~ As a condition of returning to active status, an inactive salesperson whose license is not subject to the annual education requirements of Section 1101.454 must provide to the commission proof of attending at least 15 hours of continuing education as specified by Section 1101.455 during the two years preceding the date the application to return to active status is filed.

SECTION 7. Sections 1101.558(a) and (c), Occupations Code, are amended to read as follows:

(a) In this section, "substantive dialogue" ~~["face-to-face meeting"]~~ means a meeting or written communication that involves ~~[at which]~~ a substantive discussion ~~[occurs]~~ relating to specific real property. The term does not include ~~[a meeting that occurs]~~:

(1) a meeting that occurs at a property that is held open for any prospective buyer or tenant; or

(2) a meeting or written communication that occurs after the parties to a real estate transaction have signed a contract to sell, buy, or lease the real property concerned.

(c) A license holder shall provide to a party to a real estate transaction at the time of the first substantive dialogue ~~[face-to-face meeting]~~ with the party the written statement prescribed by Subsection (d) unless:

(1) the proposed transaction is for a residential lease for not more than one year and a sale is not being considered; or

(2) the license holder meets with a party who is represented by another license holder.

SECTION 8. Section 1101.615(a), Occupations Code, is amended to read as follows:

(a) Each license and certificate holder shall provide notice to consumers and service recipients of the availability of payment from the trust account for aggrieved persons:

(1) in conjunction with the notice required by Section 1101.202;

(2) on a written contract for the license or certificate holder's services;

(3) on a brochure that the license or certificate holder distributes;

(4) on a sign prominently displayed in the license or certificate holder's place of business; ~~[or]~~

(5) in a bill or receipt for the license or certificate holder's services; or

(6) in a prominent display on the Internet website of a person regulated under this chapter.

SECTION 9. Section 1101.657(d), Occupations Code, is amended to read as follows:

(d) This subsection applies only to a hearing relating to a proposal to suspend or revoke a person's license or certificate of registration for a violation of Section 1101.652(a)(3) or (b). The hearing shall be held, if the license holder requests, in the county in which the principal place of business of the license holder is located, or, if the license holder is not a resident, the hearing may be held in any county in this state.

SECTION 10. Section 1102.109, Occupations Code, is amended to read as follows:

Sec. 1102.109. ELIGIBILITY FOR PROFESSIONAL INSPECTOR LICENSE. To be eligible for a professional inspector license, an applicant must:

(1) at the time of application have:
(A) held a real estate inspector license for at least 12 months; and

(B) performed at least 175 real estate inspections under indirect supervision;

(2) submit evidence satisfactory to the commission of successful completion of at least 30 classroom hours of core real estate inspection courses, in addition to the hours required by Section 1102.108, and at least eight classroom hours related to the study of standards of practice, legal issues, or ethics related to the practice of real estate inspecting; ~~and~~

(3) demonstrate competence based on the examination under Subchapter D; and

(4) satisfy the commission as to the applicant's honesty, trustworthiness, integrity, and competence.

SECTION 11. Section 1102.111(b), Occupations Code, is amended to read as follows:

(b) Rules adopted under Subsection (a) may not require an applicant to complete more than 320 ~~60~~ additional classroom hours of core real estate inspection courses.

SECTION 12. Section 1102.201, Occupations Code, is amended to read as follows:

Sec. 1102.201. LICENSE TERM AND EXPIRATION. (a) The commission may issue or renew a license for a period not to exceed 24 months.

(b) A renewal fee for a license under this chapter may not exceed, calculated on an annual basis, the amount of the fee established under Section 1102.251. [A license issued under this chapter expires on the first anniversary of the date of issuance.]

SECTION 13. Section 1102.364(a), Occupations Code, is amended to read as follows:

(a) Each inspector shall provide notice to consumers and service recipients of the availability of payment from the fund for aggrieved persons:

(1) on a written contract for the inspector's services;

(2) on a brochure that the inspector distributes;

(3) on a sign prominently displayed in the inspector's place of business; ~~or~~

(4) in a bill or receipt for the inspector's services; or

(5) in a prominent display on the Internet website of a person regulated under this chapter.

SECTION 14. Sections 1101.553(a) and (b), Occupations Code, are repealed.

SECTION 15. This Act takes effect September 1, 2003.

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