

By: Fraser

S.B. No. 818

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

1 sponsoring broker, not more than \$20;

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

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

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

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

10 (13) for transcript evaluation, \$20;

11 (14) [~~(13)~~] for preparing a license or registration
12 history, not more than \$20 [~~\$10~~]; and

13 (15) [~~(14)~~] for filing an application for a moral
14 character determination, not more than \$50.

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

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

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

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

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

27 (c) Notwithstanding Subsection (a), if the commission

1 issues an original inactive salesperson license under Section
2 1101.363(b) to a salesperson who is not sponsored by a licensed
3 broker and the salesperson is subsequently sponsored by a licensed
4 broker, the commission may not charge:

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

7 (2) the broker a fee for filing a request to sponsor
8 the salesperson.

9 SECTION 3. Section 1101.202(a), Occupations Code, is
10 amended to read as follows:

11 (a) The commission by rule shall establish methods by which
12 consumers and service recipients are notified of the name, mailing
13 address, and telephone number of the commission for the purpose of
14 directing a complaint to the commission. The commission may
15 provide for that notice:

16 (1) on each application for a license or certificate
17 of registration or written contract for services of a person
18 regulated under this chapter or Chapter 1102;

19 (2) on a sign prominently displayed in the place of
20 business of each person regulated under this chapter or Chapter
21 1102;

22 (3) in a bill for services provided by a person
23 regulated under this chapter or Chapter 1102; ~~or~~

24 (4) in conjunction with the notice required by Section
25 1101.615; or

26 (5) to be prominently displayed on the Internet
27 website of a person regulated under this chapter or Chapter 1102.

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

4 Sec. 1101.352. LICENSE APPLICATION. (a) Each applicant
5 for a broker or salesperson license must submit an application on a
6 form prescribed by the commission.

7 (b) ~~[A broker who intends to associate with an applicant for~~
8 ~~a salesperson license must join the applicant in filing the~~
9 ~~application.]~~

10 ~~[(c)]~~ Each applicant for a broker or salesperson license
11 must disclose in the license application whether the applicant has:

12 (1) entered a plea of guilty or nolo contendere to a
13 felony; or

14 (2) been convicted of a felony and the time for appeal
15 has elapsed or the judgment or conviction has been affirmed on
16 appeal.

17 (c) ~~[(d)]~~ The disclosure under Subsection (b) ~~[(c)]~~ must
18 be provided even if an order has granted community supervision
19 suspending the imposition of the sentence.

20 SECTION 5. Section 1101.363, Occupations Code, is amended
21 by adding a new Subsection (b) and relettering existing Subsection
22 (b) as Subsection (c) to conform to Section 1, Chapter 997, Acts of
23 the 77th Legislature, Regular Session, 2001, and is further amended
24 to read as follows:

25 (b) The commission may issue an inactive salesperson
26 license to a person who applies for a salesperson license and
27 satisfies all requirements for the license. The person may not act

1 as a salesperson unless the person is sponsored by a licensed broker
2 who has notified the commission as required by Section 1101.367(b).
3 Notwithstanding Section 1101.367(b), the licensed broker is not
4 required to pay the fee required by that subsection.

5 (c) A license remains in effect for the period prescribed by
6 the commission if the license holder complies with this chapter and
7 pays the appropriate renewal fees.

8 SECTION 6. Section 1101.367, Occupations Code, is amended
9 to conform to Section 1, Chapter 997, Acts of the 77th Legislature,
10 Regular Session, 2001, to read as follows:

11 Sec. 1101.367. INACTIVE LICENSE: SALESPERSON. (a) [~~The~~
12 ~~commission may place on inactive status the license of a person who~~
13 ~~was previously licensed as a salesperson if the person applies for~~
14 ~~inactive status on a form prescribed by the commission not later~~
15 ~~than the first anniversary of the expiration date of the license.~~
16 ~~An application under this subsection does not require the~~
17 ~~participation of a broker.~~

18 [~~(b)~~] When the association of a salesperson with the
19 salesperson's sponsoring broker terminates, the broker shall
20 immediately return the salesperson license to the commission. A
21 salesperson license returned under this subsection is inactive.

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

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

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

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

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

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

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

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

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

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

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

6 (1) in conjunction with the notice required by Section
7 1101.202;

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

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

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

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

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

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

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

27 SECTION 10. Section 1102.109, Occupations Code, is amended

1 to read as follows:

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

5 (1) at the time of application have:

6 (A) held a real estate inspector license for at
7 least 12 months; and

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

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

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

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

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

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

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

27 Sec. 1102.201. LICENSE TERM AND EXPIRATION. (a) The

1 commission may issue or renew a license for a period not to exceed
2 24 months.

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

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

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

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

14 (2) on a brochure that the inspector distributes;

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

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

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

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

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