

## **BILL ANALYSIS**

Senate Research Center

S.B. 810  
By: Averitt  
Business & Commerce  
6/8/2005  
Enrolled

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

The Texas Real Estate Commission regulates real estate brokers, salespersons, and inspectors. During the interim, several changes to statute were proposed that would improve the education of licensees and provide greater protection to the public. S.B. 810 requires training for instructors of continuing education courses, increases education requirements for salespersons, allows the board to suspend or revoke a license if the licensee engages in misrepresentation, dishonesty, or fraud when selling, buying, or leasing property, and provides for the licensing of corporations and limited liability companies as professional inspectors.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Real Estate Commission in SECTION 3 (Section 1101.353, Occupations Code) and SECTION 16 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 1101.152(b), Occupations Code, to include a fee for attendance at a program to train instructors of a continuing education course prescribed under Section 1101.455 (Continuing Education Requirements), of not more than \$100, amongst the fees the Texas Real Estate Commission (commission) is authorized to set and collect to implement the continuing education requirements for license holders.

SECTION 2. Amends Section 1101.204(c), Occupations Code, to specify that the commission is prohibited from conducting an investigation of a person licensed under this chapter or Chapter 1102 (Real Estate Inspectors), rather than a license holder, in connection with a complaint submitted later than the fourth anniversary of the date of the incident that is the subject of the complaint.

SECTION 3. Amends Section 1101.353, Occupations Code, by adding Subsection (d), to authorize the commission to issue a provisional moral character determination. Requires the commission, by rule, to adopt reasonable terms for issuing a provisional moral character determination.

SECTION 4. Amends Section 1101.358(a), Occupations Code, to require an applicant for a salesperson license to complete 14, rather than 12, semester hours of postsecondary education, including at least four semester hours of core real estate courses on the principles of real estate, at least two semester hours each of certain core real estate courses and an additional core real estate course and at least four semester hours of core real estate courses or related courses. Makes nonsubstantive changes.

SECTION 5. Amends Section 1101.454(a), Occupations Code, to require an applicant for the first renewal of a salesperson license to complete at least 18, rather than 14, semester hours of postsecondary education including 14, rather than 10, hours of core real estate courses.

SECTION 6. Amends Sections 1101.455(e) and (h), Occupations Code, as follows:

(e) Requires at least six of the continuing education hours required by Subsection (b) to cover certain legal topics.

(h) Requires the commission to automatically approve certain courses as courses that satisfy the mandatory continuing education requirements of Subsection (f).

SECTION 7. Amends Section 1101.557, Occupations Code, as follows:

Sec. 1101.557. New heading: ACTING AS AGENT; REGULATION OF CERTAIN TRANSACTIONS. (a) Provides that a broker, rather than a license holder, who represents a party in a real estate transaction or who lists real estate for sale under an exclusive agreement for a party is, rather than acts as, that party's agent.

(b) Sets forth certain requirements for a broker described by Subsection (a).

(c) Sets forth certain provisions for the purposes of this section.

SECTION 8. Amends Section 1101.561, Occupations Code, as follows:

Sec. 1101.561. DUTIES OF INTERMEDIARY PREVAIL. (a) Creates this subsection from existing text.

(b) Requires a broker to agree to act as an intermediary under this subchapter if the broker agrees to represent a buyer or tenant and a seller or landlord in a transaction.

SECTION 9. Amends Section 1101.652(a), Occupations Code, to include engaging in misrepresentation, dishonesty, or fraud when selling, buying, trading, or leasing real property in the name of certain persons and failing to notify the commission, not later than the 30th day after the date of a final conviction or the entry of a plea of nolo contendere, that a person has been convicted of or entered a plea of nolo contendere to a felony or criminal offense involving fraud amongst the actions for which the commission is authorized to suspend or revoke a license issued under this chapter. Makes nonsubstantive changes.

SECTION 10. Amends Section 1101.655(c), Occupations Code, by deleting existing text specifying that this subsection applies to a person whose license or certificate is revoked under this section.

SECTION 11. Amends Subchapter C, Chapter 1102, Occupations Code, by adding Section 1102.1035, as follows:

Sec. 1102.1035. ADDITIONAL GENERAL ELIGIBILITY REQUIREMENTS FOR CERTAIN BUSINESS ENTITIES. (a) Sets forth eligibility requirements for a professional inspector license under this chapter.

(b) Prohibits a corporation or limited liability company from acting as a professional inspector unless the entity's designated agent is a licensed professional inspector according to the commission's records.

SECTION 12. Amends Section 1102.205(b), Occupations Code, to require an inspector, as a prerequisite for renewal of a real estate inspector license, professional inspector license, or apprentice inspector license, to participate in the continuing education program and complete at least 16 classroom hours of core real estate inspection courses for each year of the license period. Deletes existing text specifying the number of semester hours necessary to renew certain licenses.

SECTION 13. Amends Subchapter E, Chapter 1102, Occupations Code, by adding Section 1102.2051, as follows:

Sec. 1102.2051. ADDITIONAL RENEWAL REQUIREMENTS FOR CERTAIN BUSINESS ENTITIES. (a) Sets forth requirements for renewing a professional inspector license under this chapter.

(b) Prohibits a corporation or limited liability company from renewing a professional inspector license unless the entity's designated agent is a licensed professional inspector according to the commission's records.

SECTION 14. Amends Subchapter A, Chapter 5, Property Code, by adding Section 5.014, as follows:

Sec. 5.014. PROHIBITED FEES. Prohibits certain individuals from charging a fee for declining to exercise certain rights, such as a fee for providing written evidence for the declination.

SECTION 15. Repealer: Sections 1101.454(b) and (c) (relating to an applicant's second and third renewal of a salesperson license), Occupations Code.

SECTION 16. (a) Requires the Texas Real Estate Commission to adopt rules necessary to administer the changes in law made by this Act not later than January 1, 2006.

(b) Makes application of Section 1101.358, Occupations Code, as amended by this Act, prospective to January 1, 2006.

(c) Makes application of Section 1101.454, Occupations Code, as amended by this Act, prospective to January 1, 2006.

(d) Makes application of Section 1101.652, Occupations Code, as amended by this Act, prospective.

(e) Makes application of Section 1102.205, Occupations Code, as amended by this Act, prospective to January 1, 2006.

SECTION 17. Makes application of Section 5.014, Property Code, as added by this Act, prospective.

SECTION 18. Effective date: September 1, 2005.