

BILL ANALYSIS

C.S.S.B. 810

By: Averitt

Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Real Estate Commission regulates real estate brokers, salespersons, inspectors, and right-of-way agents. C.S.S.B. 810 is primarily a house-keeping bill that addresses educational requirements, application procedures, training of instructors, and other regulatory matters.

C.S.S.B. 810 addresses fees for continuing education instructors, complaint limitation periods, application procedures for moral character determinations, educational requirements required for salespersons, the categorization of continuing education subjects, procedures for intermediaries, enforcement authority, required notices to the commission by licensees convicted of criminal felonies, recovery fund procedures, the licensing of inspectors under a corporate or LLC entity, and continuing education hours for inspectors.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Real Estate Commission in SECTION 3 (Section 1101.353, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1101.152 (b), Occupations Code, authorizes the commission to set and collect a fee, of not more than \$100, for attendance at a program to train instructors of a continuing education course prescribed under Section 1101.455, to implement the continuing education requirements for license holders.

SECTION 2. Amends Section 1101.204 (c), Occupations Code, prohibits the commission from conducting an investigation of a person licensed under this chapter or Chapter 1102, 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 provide to the commission evidence that the applicant has completed 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.

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(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, to provide that a broker, rather than a license holder, who represents a party in a real estate transaction is, rather than acts as, that party's agent.

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, authorizes 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:

(3) engages in misrepresentation, dishonesty, or fraud when selling, buying, trading, or leasing real property in the name of certain persons;

(9) 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 nolo contendere, that a person has been convicted of or entered a plea of nolo contendere to a felony or criminal offense involving fraud;

SECTION 10. Amends Section 1101.655 (c), Occupations Code, deletes 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) Provides that to be eligible for a professional inspector license under this chapter certain eligibility requirements must be met.

(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, requires 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 preceding the renewal. 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) Provides that to renew a professional inspector license under this chapter a corporation must designate one of its officers or employees as its agent for purposes of this chapter; and a limited liability company must designate one of its managers or employees as its agent for purposes of 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. Repealer: Sections 1101.454 (b) and (c), Occupations Code.

SECTION 15. (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 16. Effective date.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.S.B. 810 modifies the bill by providing language to clarify that the 16 hours of required continuing education courses for inspectors is 16 hours for each year during the renewal period.

The substitute modifies the bill by adding language providing that a corporation may also designate one of its employees as its agent for purposes of this chapter.