

BILL ANALYSIS

C.S.H.B. 1406
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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. Each session, the commission makes an effort to improve and update statutory powers involving the regulation of real estate licensees, inspectors, and right-of-way agents.

C.S.H.B. 1406 ensures that the commission imposes fees limited to amounts that are reasonable and necessary to carry out its functions and addresses the needs of the Texas Real Estate Research Center.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Real Estate Commission in SECTIONS 1 and 2 of this bill.

ANALYSIS

C.S.H.B. 1406 reenacts and amends Section 1101.152(a), Occupations Code, as amended by Chapters 297 (H.B. 1530) and 1411 (S.B. 914), Acts of the 80th Legislature, Regular Session, 2007, to specify that the fees referenced in the provision requiring the Texas Real Estate Commission by rule to charge and collect fees are in amounts reasonable and necessary to cover the costs of administering the law relating to the licensing of real estate brokers and salespersons. The bill amends the Occupations Code to specify that the fees referenced in the provision requiring the commission to adopt rules to set and collect reasonable fees to implement the continuing education requirements for real estate brokers and salespersons are in amounts reasonable and necessary to cover the costs of implementing those requirements.

C.S.H.B. 1406 modifies the distribution of revenue from the increase in the fee for filing an original application for an individual broker license and for annual renewal of such a license and makes these provisions effective September 1, 2011. The bill requires \$50 from the fee increase to be transmitted to Texas A&M University for deposit in a separate banking account that may be appropriated only to support, maintain, and carry out the purposes, objectives, and duties of the Texas Real Estate Research Center. The bill reduces from \$150 to \$100, the amount of the fee increase required to be deposited to the credit of the general revenue fund.

C.S.H.B. 1406 increases from \$17.50 to \$20 the amount of the additional fee for the issuance or renewal of a salesperson license.

EFFECTIVE DATE

Except as otherwise provided, on passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1406 removes a provision from the original that requires, for purposes of a claim for payment from the Real Estate Recovery Trust Account, an aggrieved person precluded by action of a bankruptcy court from executing a judgment or perfecting a judgment lien against a real estate broker or salesperson to verify to the commission that the person has made a good faith effort to protect the judgment from being discharged in bankruptcy. The substitute removes a provision from the original that authorizes the Texas Real Estate Commission by rule to prescribe the actions necessary for an aggrieved person to demonstrate that the person has made a good faith effort to protect the judgment. The substitute removes provisions from the original that add disability and familial status to the provision making certain discriminatory conduct grounds for the commission to suspend or revoke a license issued to a real estate broker or salesperson or to take other authorized disciplinary action, and that specify that a plea of guilty or nolo contendere to or a conviction of a felony or a criminal offense involving fraud are grounds for suspension or revocation of a license.

C.S.H.B. 1406 removes provisions from the original that authorize the commission to authorize the State Office of Administrative Hearings (SOAH) to conduct a hearing and enter a final decision in a proceeding to suspend or revoke a certain license issued to a residential service company and that provide that all such hearings are governed by state administrative procedure laws. The substitute removes a provision from the original relating to the appeal of a final decision of a hearing examiner appealable to the commission.

C.S.H.B. 1406 removes a provision from the original that amends the Property Code to require the commission to authorize SOAH to conduct hearings in contested cases under the Texas Timeshare Act. The substitute removes provisions from the original that entitle a person, if the commission initiates a disciplinary proceeding under that act, to a hearing before SOAH, and that require the commission by rule to adopt procedures to permit an appeal to the commission from a determination made by SOAH. The substitute removes a provision from the original that specifies that a registration of a timeshare plan may be suspended without notice or hearing on a complaint under certain conditions.