

By: Eltife, et al.  
(Solomons, Thompson, Phillips, Hartnett,  
Gonzales of Williamson, et al.)

S.B. No. 1353

A BILL TO BE ENTITLED

AN ACT

relating to certain claims against persons licensed as real estate  
brokers and salespersons.

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

SECTION 1. Section 17.49, Business & Commerce Code, is  
amended by adding Subsection (i) to read as follows:

(i) Nothing in this subchapter shall apply to a claim  
against a person licensed as a broker or salesperson under Chapter  
1101, Occupations Code, arising from an act or omission by the  
person while acting as a broker or salesperson. This exemption does  
not apply to:

(1) an express misrepresentation of a material fact  
that cannot be characterized as advice, judgment, or opinion;

(2) a failure to disclose information in violation of  
Section 17.46(b)(24); or

(3) an unconscionable action or course of action that  
cannot be characterized as advice, judgment, or opinion.

SECTION 2. Subsection (i), Section 17.49, Business &  
Commerce Code, as added by this Act, applies only to a claim arising  
from an act or omission that occurs on or after the effective date  
of this Act. A claim arising from an act or omission that occurred  
before the effective date of this Act is governed by the law in  
effect on the date the act or omission occurred, and the former law  
is continued in effect for that purpose.

1           SECTION 3. This Act takes effect immediately if it receives  
2 a vote of two-thirds of all the members elected to each house, as  
3 provided by Section 39, Article III, Texas Constitution. If this  
4 Act does not receive the vote necessary for immediate effect, this  
5 Act takes effect September 1, 2011.