

By: Kuempel

H.B. No. 1918

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the Texas Real Estate Commission and the regulation of
3 certain real estate professionals; increasing a fee; authorizing a
4 fee.

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

6 SECTION 1. The heading to Chapter 1101, Occupations Code,
7 is amended to read as follows:

8 CHAPTER 1101. REAL ESTATE BROKERS AND SALES AGENTS [~~SALESPERSONS~~]

9 SECTION 2. Sections 1101.002(1), (1-a), (4), and (7),
10 Occupations Code, are amended to read as follows:

11 (1) "Broker":

12 (A) means a person who, in exchange for a
13 commission or other valuable consideration or with the expectation
14 of receiving a commission or other valuable consideration, performs
15 for another person one of the following acts:

16 (i) sells, exchanges, purchases, or leases
17 real estate;

18 (ii) offers to sell, exchange, purchase, or
19 lease real estate;

20 (iii) negotiates or attempts to negotiate
21 the listing, sale, exchange, purchase, or lease of real estate;

22 (iv) lists or offers, attempts, or agrees
23 to list real estate for sale, lease, or exchange;

24 (v) auctions or offers, attempts, or agrees

1 to auction real estate;

2 (vi) deals in options on real estate,
3 including a lease to purchase or buying, selling, or offering to buy
4 or sell options on real estate;

5 (vii) aids or offers or attempts to aid in
6 locating or obtaining real estate for purchase or lease;

7 (viii) procures or assists in procuring a
8 prospect to effect the sale, exchange, or lease of real estate;

9 (ix) procures or assists in procuring
10 property to effect the sale, exchange, or lease of real estate;

11 (x) controls the acceptance or deposit of
12 rent from a resident of a single-family residential real property
13 unit; ~~or~~

14 (xi) provides a written analysis, opinion,
15 or conclusion relating to the estimated price of real property if
16 the analysis, opinion, or conclusion:

17 (a) is not referred to as an
18 appraisal;

19 (b) is provided in the ordinary course
20 of the person's business; and

21 (c) is related to the actual or
22 potential management, acquisition, disposition, or encumbrance of
23 an interest in real property; or

24 (xii) advises or offers advice to an owner
25 of real estate concerning the negotiation or completion of a short
26 sale; and

27 (B) includes a person who:

1 (i) is employed by or for an owner of real
2 estate to sell any portion of the real estate; or

3 (ii) engages in the business of charging an
4 advance fee or contracting to collect a fee under a contract that
5 requires the person primarily to promote the sale of real estate by:

6 (a) listing the real estate in a
7 publication primarily used for listing real estate; or

8 (b) referring information about the
9 real estate to brokers.

10 (1-a) "Business entity" means a "domestic entity" or
11 "foreign entity" as those terms are defined by Section 1.002,
12 Business Organizations Code, that is qualified to transact business
13 in this state.

14 (4) "License holder" means a broker or sales agent
15 [~~salesperson~~] licensed under this chapter.

16 (7) "Sales agent" [~~"Salesperson"~~] means a person who
17 is sponsored by [~~associated with~~] a licensed broker for the purpose
18 of performing an act described by Subdivision (1).

19 SECTION 3. The heading to Section 1101.003, Occupations
20 Code, is amended to read as follows:

21 Sec. 1101.003. QUALIFYING [~~CORE~~] REAL ESTATE COURSES.

22 SECTION 4. Section 1101.003, Occupations Code, is amended
23 by amending Subsections (a) and (c) and adding Subsections (d) and
24 (e) to read as follows:

25 (a) For purposes of this chapter, "qualifying [~~"core~~]
26 estate courses" include:

27 (1) agency law, which includes the following topics:

- 1 (A) the relationship between a principal and an
2 agent;
- 3 (B) an agent's authority;
- 4 (C) the termination of an agent's authority;
- 5 (D) an agent's duties, including fiduciary
6 duties;
- 7 (E) employment law;
- 8 (F) deceptive trade practices;
- 9 (G) listing or buying representation procedures;
- 10 and
- 11 (H) the disclosure of agency;
- 12 (2) contract law, which includes the following topics:
- 13 (A) elements of a contract;
- 14 (B) offer and acceptance;
- 15 (C) statute of frauds;
- 16 (D) remedies for breach, including specific
17 performance;
- 18 (E) unauthorized practice of law;
- 19 (F) commission rules relating to use of adopted
20 forms; and
- 21 (G) owner disclosure requirements;
- 22 (3) principles of real estate, which includes:
- 23 (A) an overview of:
- 24 (i) licensing as a broker or sales agent
25 [~~salesperson~~];
- 26 (ii) ethics of practice as a license
27 holder;

- 1 (iii) titles to and conveyance of real
2 estate;
- 3 (iv) legal descriptions;
- 4 (v) deeds, encumbrances, and liens;
- 5 (vi) distinctions between personal and real
6 property;
- 7 (vii) appraisal;
- 8 (viii) finance and regulations;
- 9 (ix) closing procedures; and
- 10 (x) real estate mathematics; and
- 11 (B) at least three class hours of [~~classroom~~]
12 instruction on federal, state, and local laws relating to housing
13 discrimination, housing credit discrimination, and community
14 reinvestment;
- 15 (4) property management, which includes the following
16 topics:
- 17 (A) the role of a property manager;
- 18 (B) landlord policies;
- 19 (C) operational guidelines;
- 20 (D) leases;
- 21 (E) lease negotiations;
- 22 (F) tenant relations;
- 23 (G) maintenance;
- 24 (H) reports;
- 25 (I) habitability laws; and
- 26 (J) the Fair Housing Act (42 U.S.C. Section 3601
27 et seq.);

1 (5) real estate appraisal, which includes the
2 following topics:

3 (A) the central purposes and functions of an
4 appraisal;

5 (B) social and economic determinants of the value
6 of real estate;

7 (C) appraisal case studies;

8 (D) cost, market data, and income approaches to
9 value estimates of real estate;

10 (E) final correlations; and

11 (F) reporting;

12 (6) real estate brokerage, which includes the
13 following topics:

14 (A) agency law;

15 (B) planning and organization;

16 (C) operational policies and procedures;

17 (D) recruitment, selection, and training of
18 personnel;

19 (E) records and control; and

20 (F) real estate firm analysis and expansion
21 criteria;

22 (7) real estate finance, which includes the following
23 topics:

24 (A) monetary systems;

25 (B) primary and secondary money markets;

26 (C) sources of mortgage loans;

27 (D) federal government programs;

1 (E) loan applications, processes, and
2 procedures;

3 (F) closing costs;

4 (G) alternative financial instruments;

5 (H) equal credit opportunity laws;

6 (I) community reinvestment laws, including the
7 Community Reinvestment Act of 1977 (12 U.S.C. Section 2901 et
8 seq.); and

9 (J) state housing agencies, including the Texas
10 Department of Housing and Community Affairs;

11 (8) real estate investment, which includes the
12 following topics:

13 (A) real estate investment characteristics;

14 (B) techniques of investment analysis;

15 (C) the time value of money;

16 (D) discounted and nondiscounted investment
17 criteria;

18 (E) leverage;

19 (F) tax shelters depreciation; and

20 (G) applications to property tax;

21 (9) real estate law, which includes the following
22 topics:

23 (A) legal concepts of real estate;

24 (B) land description;

25 (C) real property rights and estates in land;

26 (D) contracts;

27 (E) conveyances;

- 1 (F) encumbrances;
- 2 (G) foreclosures;
- 3 (H) recording procedures; and
- 4 (I) evidence of titles;

5 (10) real estate marketing, which includes the
6 following topics:

- 7 (A) real estate professionalism and ethics;
- 8 (B) characteristics of successful sales agents
- 9 [~~salespersons~~];
- 10 (C) time management;
- 11 (D) psychology of marketing;
- 12 (E) listing procedures;
- 13 (F) advertising;
- 14 (G) negotiating and closing;
- 15 (H) financing; and
- 16 (I) Subchapter E, Chapter 17, Business & Commerce
- 17 Code; and

18 (11) real estate mathematics, which includes the
19 following topics:

- 20 (A) basic arithmetic skills and review of
- 21 mathematical logic;
- 22 (B) percentages;
- 23 (C) interest;
- 24 (D) the time value of money;
- 25 (E) depreciation;
- 26 (F) amortization;
- 27 (G) proration; and

1 (H) estimation of closing statements.

2 (c) The commission by rule may prescribe:

3 (1) the content of the qualifying [~~core~~] real estate
4 courses listed in Subsection (a); and

5 (2) the title and content of additional qualifying
6 [~~core~~] real estate courses.

7 (d) A daily course segment for a qualifying course may not
8 exceed 12 hours.

9 (e) A license holder may not report to the commission the
10 completion of an alternative delivery or correspondence course
11 offered as a qualifying course until the elapsed time between the
12 time the license holder registers for and reports the completion of
13 the course exceeds twice the number of hours for which credit is
14 claimed.

15 SECTION 5. Section [1101.004](#), Occupations Code, is amended
16 to read as follows:

17 Sec. 1101.004. REAL ESTATE BROKERAGE [~~ACTING AS BROKER OR~~
18 ~~SALESPERSON~~]. A person is engaged in real estate brokerage [~~acts~~
19 ~~as a broker or salesperson under this chapter~~] if the person, with
20 the expectation of receiving valuable consideration, directly or
21 indirectly performs or offers, attempts, or agrees to perform for
22 another person any act described by Section [1101.002](#)(1), as a part
23 of a transaction or as an entire transaction.

24 SECTION 6. Subchapter A, Chapter 1101, Occupations Code, is
25 amended by adding Section 1101.0051 to read as follows:

26 Sec. 1101.0051. EXEMPTION. A person is not required to
27 obtain a license under this chapter for engaging in the following

1 conduct:

2 (1) constructing, remodeling, or repairing a home or
3 other building;

4 (2) sponsoring, promoting, or managing, or otherwise
5 participating as a principal, partner, or financial manager of, an
6 investment in real estate; or

7 (3) entering into an obligation to pay another person
8 that is secured by an interest in real property.

9 SECTION 7. Section 1101.056, Occupations Code, is amended
10 by adding Subsection (c) to read as follows:

11 (c) The presiding officer, assistant presiding officer, and
12 secretary constitute the executive committee of the commission.

13 SECTION 8. Section 1101.057(c), Occupations Code, is
14 amended to read as follows:

15 (c) If the executive director [~~administrator~~] has knowledge
16 that a potential ground for removal exists, the executive director
17 [~~administrator~~] shall notify the presiding officer of the
18 commission of the potential ground. The presiding officer shall
19 then notify the governor and the attorney general that a potential
20 ground for removal exists. If the potential ground for removal
21 involves the presiding officer, the executive director
22 [~~administrator~~] shall notify the next highest ranking officer of
23 the commission, who shall then notify the governor and the attorney
24 general that a potential ground for removal exists.

25 SECTION 9. Section 1101.058, Occupations Code, is amended
26 to read as follows:

27 Sec. 1101.058. PER DIEM; REIMBURSEMENT. (a) A commission

1 member is entitled to receive:

2 (1) \$75 for each day the member performs the member's
3 official duties; and

4 (2) reimbursement for actual and necessary expenses
5 incurred in performing the member's official duties.

6 (b) For purposes of this section, the commission by rule may
7 determine what constitutes a day or actual and necessary expenses.

8 SECTION 10. Subchapter B, Chapter 1101, Occupations Code,
9 is amended by adding Sections 1101.060 and 1101.061 to read as
10 follows:

11 Sec. 1101.060. QUASI-JUDICIAL IMMUNITY. A member of the
12 commission is entitled to quasi-judicial immunity from suit for an
13 action that:

14 (1) is taken as a member of the commission; and

15 (2) is in compliance with the law.

16 Sec. 1101.061. EDUCATIONAL PRESENTATIONS. (a) A member of
17 the commission or a commission employee may make a presentation to a
18 group of license holders for which the license holders may receive
19 credit under Section 1101.455. The commission member or employee
20 may not receive compensation for the presentation.

21 (b) Notwithstanding Subsection (a), a commission member or
22 employee may receive reimbursement for reasonable travel expenses.

23 SECTION 11. The heading to Subchapter C, Chapter 1101,
24 Occupations Code, is amended to read as follows:

25 SUBCHAPTER C. EXECUTIVE DIRECTOR ~~ADMINISTRATOR~~ AND OTHER
26 COMMISSION PERSONNEL

27 SECTION 12. The heading to Section 1101.101, Occupations

1 Code, is amended to read as follows:

2 Sec. 1101.101. EXECUTIVE DIRECTOR [~~ADMINISTRATOR~~] AND
3 OTHER PERSONNEL.

4 SECTION 13. Sections 1101.101(a), (b), and (d), Occupations
5 Code, are amended to read as follows:

6 (a) The commission shall appoint an executive director
7 [~~administrator~~].

8 (b) The commission may designate a subordinate officer as
9 deputy executive director [~~assistant administrator~~] to act for the
10 executive director [~~administrator~~] in the executive director's
11 [~~administrator's~~] absence.

12 (d) The commission shall determine the salaries of the
13 executive director [~~administrator~~], officers, and employees of the
14 commission.

15 SECTION 14. Section 1101.102, Occupations Code, is amended
16 to read as follows:

17 Sec. 1101.102. DIVISION OF RESPONSIBILITIES. The
18 commission shall develop and implement policies that clearly
19 separate the policymaking responsibilities of the commission and
20 the management responsibilities of the executive director
21 [~~administrator~~] and the staff of the commission.

22 SECTION 15. Section 1101.105, Occupations Code, is amended
23 to read as follows:

24 Sec. 1101.105. CAREER DEVELOPMENT [~~LADDER~~] PROGRAM;
25 PERFORMANCE EVALUATIONS. (a) The executive director
26 [~~administrator~~] or the executive director's [~~administrator's~~]
27 designee shall develop an intra-agency career development [~~ladder~~]

1 program. The program must require intra-agency postings of all
2 nonentry level positions concurrently with any public posting.

3 (b) The executive director [~~administrator~~] or the executive
4 director's [~~administrator's~~] designee shall develop a system of
5 annual performance evaluations. All merit pay for commission
6 employees must be based on the system established under this
7 subsection.

8 SECTION 16. Sections 1101.106(a) and (b), Occupations Code,
9 are amended to read as follows:

10 (a) The executive director [~~administrator~~] or the executive
11 director's [~~administrator's~~] designee shall prepare and maintain a
12 written policy statement to ensure implementation of an equal
13 employment opportunity program under which all personnel
14 transactions are made without regard to race, color, disability,
15 sex, religion, age, or national origin. The policy statement must
16 include:

17 (1) personnel policies, including policies relating
18 to recruitment, evaluation, selection, appointment, training, and
19 promotion of personnel;

20 (2) a comprehensive analysis of the commission
21 workforce that meets federal and state guidelines;

22 (3) procedures by which a determination can be made of
23 significant underuse in the commission workforce of all persons for
24 whom federal or state guidelines encourage a more equitable
25 balance; and

26 (4) reasonable methods to appropriately address those
27 areas of underuse.

1 (b) A policy statement prepared under Subsection (a) must:

2 (1) cover a two-year [~~an annual~~] period; and

3 (2) be updated with each strategic plan filed as
4 required by Chapter 2056, Government Code [~~at least annually; and~~
5 [~~(3) be filed with the governor~~].

6 SECTION 17. Section 1101.152(a), Occupations Code, is
7 amended to read as follows:

8 (a) The commission shall adopt rules to charge and collect
9 fees in amounts reasonable and necessary to cover the costs of
10 administering this chapter, including a fee for:

11 (1) filing an original application for a broker
12 license;

13 (2) [~~annual~~] renewal of a broker license;

14 (3) filing an original application for a sales agent
15 [~~salesperson~~] license;

16 (4) [~~annual~~] renewal of a sales agent [~~salesperson~~]
17 license;

18 (5) [~~annual~~] registration as an easement or
19 right-of-way agent;

20 (6) filing an application for a license examination;

21 (7) filing a request for a branch office license;

22 (8) filing a request for a change of place of business,
23 change of name, return to active status, or change of sponsoring
24 broker;

25 (9) filing a request to replace a lost or destroyed
26 license or certificate of registration;

27 (10) filing an application for approval of an

1 education program under Subchapter G;

2 (11) annual operation of an education program under
3 Subchapter G;

4 (12) filing an application for approval of an
5 instructor of qualifying [~~core~~] real estate courses;

6 (13) transcript evaluation;

7 (14) preparing a license or registration history;

8 (15) filing a request [~~an application~~] for a moral
9 character determination; and

10 (16) conducting a criminal history check for issuing
11 or renewing a license.

12 SECTION 18. Section 1101.153, Occupations Code, is amended
13 by adding Subsection (c) to read as follows:

14 (c) This section expires September 1, 2017.

15 SECTION 19. Section 1101.154, Occupations Code, is amended
16 to read as follows:

17 Sec. 1101.154. ADDITIONAL FEE: TEXAS REAL ESTATE RESEARCH
18 CENTER. (a) The fee for the issuance or renewal of a:

19 (1) broker license is the amount of the fee set under
20 Section [~~Sections~~] 1101.152 [~~and 1101.153~~] and an additional \$70
21 [~~\$20~~] fee per year;

22 (2) sales agent [~~salesperson~~] license is the amount of
23 the fee set under Section 1101.152 and an additional \$20 fee per
24 year; and

25 (3) certificate of registration is the amount of the
26 fee set under Section 1101.152 and an additional \$20 fee per year.

27 (b) The commission shall transmit, not less than quarterly,

1 the additional fees collected under Subsection (a) to Texas A&M
2 University for deposit in a separate banking account that may be
3 appropriated only to support, maintain, and carry out the purposes,
4 objectives, and duties of the Texas Real Estate Research Center.

5 SECTION 20. Section 1101.156(b), Occupations Code, is
6 amended to read as follows:

7 (b) The commission may not include in rules to prohibit
8 false, misleading, or deceptive practices by a person regulated by
9 the commission a rule that:

10 (1) restricts the use of any advertising medium;

11 (2) restricts the person's personal appearance or use
12 of the person's voice in an advertisement;

13 (3) relates to the size or duration of an
14 advertisement used by the person; or

15 (4) restricts the person's advertisement under a trade
16 name that is authorized by a law of this state and registered with
17 the commission.

18 SECTION 21. Section 1101.161, Occupations Code, is amended
19 to read as follows:

20 Sec. 1101.161. GIFTS, GRANTS, AND DONATIONS. The
21 commission may solicit and accept a gift, grant, donation, or other
22 item of value from any source to pay for any activity under this
23 chapter, ~~or~~ Chapter 1102, ~~or~~ 1103, 1104, or 1303, or Chapter
24 221, Property Code.

25 SECTION 22. Section 1101.202(a), Occupations Code, is
26 amended to read as follows:

27 (a) The commission by rule shall:

1 (1) prescribe a notice containing [~~establish methods~~
2 ~~by which consumers and service recipients are notified of]~~ the
3 name, mailing address, and telephone number of the commission for
4 the purpose of directing a complaint to the commission; and

5 (2) establish methods by which consumers and service
6 recipients are provided the notice by [~~The commission may provide~~
7 ~~for that notice.~~

8 [~~(1) on each application for a license or certificate~~
9 ~~of registration or written contract for services of]~~ a person
10 regulated under this chapter or Chapter 1102[~~;~~

11 [~~(2) on a sign prominently displayed in the place of~~
12 ~~business of each person regulated under this chapter or Chapter~~
13 ~~1102;~~

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

16 [~~(4) in conjunction with the notice required by~~
17 ~~Section 1101.615; or~~

18 [~~(5) to be prominently displayed on the Internet~~
19 ~~website of a person regulated under this chapter or Chapter 1102].~~

20 SECTION 23. Section 1101.205, Occupations Code, is amended
21 to read as follows:

22 Sec. 1101.205. COMPLAINT INVESTIGATION OF CERTIFICATE
23 HOLDER. The commission shall investigate a signed complaint
24 received by the commission that relates to an act of a certificate
25 holder or a person required to hold a certificate under Subchapter
26 K. Section 1101.204 applies to an investigation under this
27 section.

1 SECTION 24. Subchapter E, Chapter 1101, Occupations Code,
2 is amended by adding Section 1101.2051 to read as follows:

3 Sec. 1101.2051. CONFIDENTIALITY OF INVESTIGATION MATERIAL.

4 (a) Information or material, including an investigation file, is
5 confidential and not subject to disclosure under Chapter 552,
6 Government Code, or any other means of legal compulsion for
7 release, including disclosure, discovery, or subpoena, if the
8 information or material is prepared or compiled by the commission
9 in connection with a complaint, investigation, or audit of any
10 person subject to the jurisdiction of the commission.

11 (b) Notwithstanding Subsection (a), information or material
12 prepared or compiled by the commission in connection with a
13 complaint, investigation, or audit may be disclosed:

14 (1) to the respondent of the complaint;

15 (2) to a person that is the subject of an audit;

16 (3) to a person providing a service to the commission,
17 an expert or other witness, or an investigator, if the information
18 is necessary for preparation for, or a presentation in, a
19 disciplinary proceeding against an applicant or license holder, or
20 a subsequent trial or appeal taken from a disciplinary proceeding;

21 (4) to an entity in another jurisdiction that
22 licenses, registers, credentials, or disciplines any person
23 subject to the jurisdiction of the commission;

24 (5) to a law enforcement agency; or

25 (6) to the commission, or a panel of the commission,
26 for use during any proceeding conducted by the State Office of
27 Administrative Hearings or in a subsequent trial or appeal of a

1 commission action or order.

2 (c) The release of information under Subsection (b) does not
3 waive or affect the confidentiality of the information or waive the
4 right to assert exceptions to required disclosure of the
5 information in the future.

6 (d) The commission may require a confidentiality agreement
7 be signed by a person entitled to receive information under
8 Subsection (b) before releasing the information.

9 (e) Notwithstanding Subsection (a), a completed audit
10 report or a final order of the commission, including an agreed
11 order, is public information and not excepted from disclosure.

12 SECTION 25. The heading to Subchapter G, Chapter 1101,
13 Occupations Code, is amended to read as follows:

14 SUBCHAPTER G. [~~ACCREDITATION AND~~] APPROVAL OF REAL ESTATE
15 EDUCATIONAL PROGRAMS AND COURSES OF STUDY

16 SECTION 26. Section 1101.301, Occupations Code, is amended
17 to read as follows:

18 Sec. 1101.301. APPROVAL [~~ACCREDITATION~~] OF PROGRAMS AND
19 COURSES OF STUDY. (a) The commission, as necessary for the
20 administration of this chapter and Chapter 1102, may by rule [+

21 [~~(1)~~] establish standards for the approval
22 [~~accreditation~~] of qualifying educational programs or courses of
23 study in real estate and real estate inspection conducted in this
24 state, excluding programs and courses offered by accredited
25 colleges and universities [+

26 [~~(2)~~ establish by rule reasonable criteria for the
27 approval of real estate and real estate inspection courses, and

1 ~~[(3) inspect and accredit real estate and real estate~~
2 ~~inspection educational programs or courses of study].~~

3 (b) The commission shall determine whether a real estate or
4 real estate inspection course satisfies the requirements of this
5 chapter or [and] Chapter 1102 for the purposes of granting credit to
6 an applicant.

7 (c) In establishing approval ~~[accreditation]~~ standards for
8 an educational program under Subsection (a), the commission shall
9 adopt rules setting an examination passage rate benchmark for each
10 category of license issued by the commission under this chapter or
11 Chapter 1102. The benchmark must be based on the average
12 percentage of examinees that pass the licensing exam on the first
13 attempt. A program must meet or exceed the benchmark for each
14 license category before the commission may renew the program's
15 approval to offer a program or course of study ~~[accreditation]~~ for
16 the license category.

17 (d) The commission may deny approval of an application to
18 offer a program or course of study ~~[for accreditation]~~ if the
19 applicant owns or controls, or has previously owned or controlled,
20 an educational program or course of study for which approval to
21 offer a program or course of study ~~[accreditation]~~ was revoked.

22 (e) Notwithstanding Subsection (c), the commission may
23 renew a program's approval to offer a program or course of study on
24 a probationary basis if the commission determines that the program
25 is capable of meeting the benchmark under Subsection (c) within a
26 reasonable time established by the commission.

27 SECTION 27. Section [1101.304](#), Occupations Code, is amended

1 to read as follows:

2 Sec. 1101.304. EXAMINATION PASSAGE RATE DATA. (a) The
3 commission shall adopt rules regarding the collection and
4 publication of data relating to examination passage rates for
5 graduates of ~~[accredited]~~ educational programs approved under this
6 subchapter.

7 (b) Rules adopted under this section must provide for a
8 method to:

9 (1) calculate the examination passage rate;

10 (2) collect the relevant data from the examination
11 administrator or the approved ~~[accredited]~~ program; and

12 (3) post the examination passage rate data on the
13 commission's Internet website, in a manner aggregated by
14 educational program and by license group.

15 (c) The commission shall adopt rules for ~~[In]~~ determining
16 the educational program a graduate is affiliated with for purposes
17 of this section~~[, the educational program is the program the~~
18 ~~graduate last attended]~~.

19 SECTION 28. Sections 1101.305(a) and (c), Occupations Code,
20 are amended to read as follows:

21 (a) The commission may appoint a committee to review the
22 performance of an educational program performing below the
23 standards set by the commission under Section 1101.301. ~~[The~~
24 ~~committee shall consist of:~~

25 ~~[(1) at least one commission member,~~

26 ~~[(2) at least one member of the commission staff,~~

27 ~~[(3) individuals licensed under this chapter or~~

1 ~~Chapter 1102, and~~

2 ~~[(4) a representative from the Texas Real Estate~~
3 ~~Research Center.]~~

4 (c) A committee formed under this section may not revoke the
5 approval [~~accreditation~~] of an educational program. The
6 commission may temporarily suspend a program in the same manner as a
7 license under Subchapter N.

8 SECTION 29. Sections 1101.351(a), (b), and (c), Occupations
9 Code, are amended to read as follows:

10 (a) Unless a person holds a license issued under this
11 chapter, the person may not:

12 (1) act as or represent that the person is a broker or
13 sales agent [~~salesperson~~]; or

14 (2) act as a residential rental locator.

15 (b) An applicant for a broker or sales agent [~~salesperson~~]
16 license may not act as a broker or sales agent [~~salesperson~~] until
17 the person receives the license evidencing that authority.

18 (c) A licensed sales agent [~~salesperson~~] may not engage or
19 attempt to engage in real estate brokerage [~~act or attempt to act as~~
20 ~~a broker or salesperson~~] unless the sales agent [~~salesperson~~] is
21 sponsored by [~~associated with~~] a licensed broker and is acting for
22 that broker.

23 SECTION 30. Sections 1101.352(a), (b), and (d), Occupations
24 Code, are amended to read as follows:

25 (a) Each applicant for a broker or sales agent [~~salesperson~~]
26 license must submit an application on a form prescribed by the
27 commission.

1 (b) Each applicant for a broker or sales agent [~~salesperson~~]
2 license must disclose in the license application whether the
3 applicant has:

4 (1) entered a plea of guilty or nolo contendere to a
5 felony; or

6 (2) been convicted of a felony and the time for appeal
7 has elapsed or the judgment or conviction has been affirmed on
8 appeal.

9 (d) At the time an application is submitted under Subsection
10 (a), each applicant shall provide the commission with the
11 applicant's current mailing address and telephone number, and the
12 applicant's business e-mail address if available. The applicant
13 shall notify the commission of any change in the applicant's
14 mailing or e-mail address or telephone number during the time the
15 application is pending.

16 SECTION 31. Section [1101.3521](#)(b), Occupations Code, is
17 amended to read as follows:

18 (b) The commission shall refuse to issue a license to or
19 renew a [~~the~~] license on active status of a person who does not
20 comply with the requirement of Subsection (a).

21 SECTION 32. Section [1101.353](#)(a), Occupations Code, is
22 amended to read as follows:

23 (a) If before applying for a license under this chapter a
24 person requests that the commission determine whether the person's
25 moral character complies with the commission's moral character
26 requirements for licensing under this chapter and pays the required
27 fee [~~prescribed by Section [1101.152](#)~~], the commission shall make its

1 determination of the person's moral character.

2 SECTION 33. Section 1101.354, Occupations Code, is amended
3 to read as follows:

4 Sec. 1101.354. GENERAL ELIGIBILITY REQUIREMENTS. To be
5 eligible to receive a license under this chapter, a person must:

6 (1) at the time of application:

7 (A) be at least 18 years of age;

8 (B) be a citizen of the United States or a
9 lawfully admitted alien; ~~and~~

10 (C) be a resident of this state; and

11 (D) have earned a high school diploma or an
12 equivalent certificate;

13 (2) satisfy the commission as to the applicant's
14 honesty, trustworthiness, and integrity;

15 (3) demonstrate competence based on an examination
16 under Subchapter I; and

17 (4) complete the required courses of study, including
18 any required qualifying ~~core~~ real estate courses prescribed under
19 this chapter ~~, and~~

20 ~~[(5) complete at least:~~

21 ~~[(A) three classroom hours of course work on~~
22 ~~federal, state, and local laws governing housing discrimination,~~
23 ~~housing credit discrimination, and community reinvestment, or~~

24 ~~[(B) three semester hours of course work on~~
25 ~~constitutional law].~~

26 SECTION 34. Section 1101.355, Occupations Code, is amended
27 by amending Subsections (a) and (b) and adding Subsection (b-1) to

1 read as follows:

2 (a) To be eligible for a license under this chapter, a
3 business entity must:

4 (1) designate one of its managing officers as its
5 broker [~~agent~~] for purposes of this chapter; and

6 (2) provide proof that the entity maintains errors and
7 omissions insurance with a minimum annual limit of \$1 million for
8 each occurrence if the designated broker [~~agent~~] owns less than 10
9 percent of the business entity.

10 (b) A business entity may not act as a broker unless the
11 entity's designated broker [~~agent~~] is a licensed individual broker
12 in active status and good standing according to the commission's
13 records.

14 (b-1) In determining whether a designated broker is in good
15 standing under this section, the commission may consider:

16 (1) the disciplinary history of:

17 (A) the broker; or

18 (B) any business entity for which the broker
19 serves or previously served as a designated broker; and

20 (2) the payment status of any amount owed to the
21 commission by:

22 (A) the broker; or

23 (B) any business entity for which the broker
24 serves or previously served as a designated broker.

25 SECTION 35. Section [1101.356](#)(a), Occupations Code, is
26 amended to read as follows:

27 (a) An applicant for a broker license must provide to the

1 commission satisfactory evidence that the applicant:

2 (1) has had at least four years of active experience in
3 this state as a license holder during the 60 months preceding the
4 date the application is filed; and

5 (2) has successfully completed at least 60 semester
6 hours, or equivalent classroom hours, of postsecondary education,
7 including:

8 (A) at least 18 semester hours or equivalent
9 classroom hours of qualifying ~~[core]~~ real estate courses, two
10 semester hours of which must consist of a ~~[be]~~ real estate brokerage
11 course completed not more than two years before the application
12 date; and

13 (B) at least 42 semester hours of qualifying
14 ~~[core]~~ real estate courses or related courses accepted by the
15 commission.

16 SECTION 36. Section [1101.357](#), Occupations Code, is amended
17 to read as follows:

18 Sec. 1101.357. BROKER LICENSE: ALTERNATE EXPERIENCE
19 REQUIREMENTS FOR CERTAIN APPLICANTS. An applicant for a broker
20 license who does not satisfy the experience requirements of Section
21 [1101.356](#) must provide to the commission satisfactory evidence that:

22 (1) the applicant:

23 (A) holds an active ~~[is a licensed]~~ real estate
24 broker license in another state;

25 (B) has had at least four years of active
26 experience in that state as a licensed real estate broker or sales
27 agent ~~[salesperson]~~ during the 60 months preceding the date the

1 application is filed; and

2 (C) has satisfied the educational requirements
3 prescribed by Section 1101.356; or

4 (2) the applicant was licensed in this state as a
5 broker in the six months [~~year~~] preceding the date the application
6 is filed.

7 SECTION 37. Section 1101.358, Occupations Code, is amended
8 to read as follows:

9 Sec. 1101.358. SALES AGENT [~~SALESPERSON~~] LICENSE:
10 EDUCATION REQUIREMENTS. (a) An applicant for a sales agent
11 [~~salesperson~~] license must provide to the commission satisfactory
12 evidence that the applicant has completed at least 12 semester
13 hours, or equivalent classroom hours, of postsecondary education
14 consisting of:

15 (1) at least four semester hours of qualifying [~~core~~]
16 real estate courses on principles of real estate; and

17 (2) at least two semester hours of each of the
18 following qualifying [~~core~~] real estate courses:

- 19 (A) agency law;
20 (B) contract law;
21 (C) contract forms and addendums; and
22 (D) real estate finance.

23 (b) The commission shall waive the education requirements
24 of Subsection (a) if the applicant has been licensed in this state
25 as a broker or sales agent [~~salesperson~~] within the six months
26 preceding the date the application is filed.

27 (c) If an applicant for a sales agent [~~salesperson~~] license

1 was licensed as a sales agent [~~salesperson~~] within the six months
2 preceding the date the application is filed and the license was
3 issued under the conditions prescribed by Section 1101.454, the
4 commission shall require the applicant to provide the evidence of
5 successful completion of education requirements that would have
6 been required if the license had been maintained without
7 interruption during the preceding six months.

8 SECTION 38. Section 1101.359, Occupations Code, is amended
9 to read as follows:

10 Sec. 1101.359. ALTERNATE EDUCATION REQUIREMENTS FOR
11 CERTAIN LICENSE HOLDERS. An applicant for a broker license who is
12 not subject to the education requirements of Section 1101.356(a)(2)
13 and an applicant for a sales agent [~~salesperson~~] license who is not
14 subject to the education requirements of Section 1101.358 or
15 1101.454 must provide to the commission satisfactory evidence that
16 the applicant has completed the number of classroom hours of
17 continuing education that would have been required for a timely
18 renewal under Section 1101.455 during the two years preceding the
19 date the application is filed.

20 SECTION 39. Sections 1101.360(a) and (c), Occupations Code,
21 are amended to read as follows:

22 (a) A resident of another state who is not a licensed real
23 estate broker and who was formerly licensed in this state as a
24 broker or sales agent [~~salesperson~~] may apply for a license under
25 this chapter not later than six months after [~~the first anniversary~~
26 ~~of the date of the~~] expiration of the former license.

27 (c) A nonresident applicant must submit with the

1 application an irrevocable consent to a legal action against the
2 applicant in the court of any county in this state in which a cause
3 of action may arise or in which the plaintiff may reside. The
4 action may be commenced by service of process or pleading
5 authorized by the laws of this state or by delivery of process on
6 the executive director [~~administrator~~] or deputy executive
7 director [~~assistant administrator~~] of the commission. The consent
8 must:

9 (1) stipulate that the service of process or pleading
10 is valid and binding in all courts as if personal service had been
11 made on the nonresident in this state;

12 (2) be acknowledged; and

13 (3) if made by a corporation, be authenticated by its
14 seal.

15 SECTION 40. Section 1101.362, Occupations Code, is amended
16 to read as follows:

17 Sec. 1101.362. WAIVER OF LICENSE REQUIREMENTS: PREVIOUS
18 LICENSE HOLDERS. The commission by rule may waive some or all of
19 the requirements for a license under this chapter for an applicant
20 who was licensed under this chapter within the two [~~six~~] years
21 preceding the date the application is filed.

22 SECTION 41. Section 1101.363(b), Occupations Code, is
23 amended to read as follows:

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

1 unless the person is sponsored by a licensed broker who has notified
2 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 SECTION 42. Sections 1101.366(a), (b), (c), and (d),
6 Occupations Code, are amended to read as follows:

7 (a) The commission may place on inactive status the license
8 of a broker if the broker:

- 9 (1) is not acting as a broker;
- 10 (2) is not sponsoring a sales agent [~~salesperson~~]; and
- 11 (3) submits a written application to the commission
12 before the expiration date of the broker's license.

13 (b) The commission may place on inactive status the license
14 of a broker whose license has expired if the broker applies for
15 inactive status on a form prescribed by the commission not later
16 than six months after [~~the first anniversary of~~] the expiration
17 date of the broker's license.

18 (c) A broker applying for inactive status shall terminate
19 the broker's association with each sales agent [~~salesperson~~]
20 sponsored by the broker by giving written notice to each sales agent
21 [~~salesperson~~] before the 30th day preceding the date the broker
22 applies for inactive status.

23 (d) A broker on inactive status:

- 24 (1) may not perform any activity regulated under this
25 chapter; and
- 26 (2) must pay [~~annual~~] renewal fees.

27 SECTION 43. Section 1101.367, Occupations Code, is amended

1 to read as follows:

2 Sec. 1101.367. INACTIVE LICENSE: SALES AGENT
3 ~~[SALESPERSON]~~. (a) When the relationship ~~[association]~~ of a sales
4 agent ~~[salesperson]~~ with the sales agent's ~~[salesperson's]~~
5 sponsoring broker terminates, the terminating party ~~[broker]~~ shall
6 immediately notify in writing both the other party and ~~[return the~~
7 ~~salesperson license to]~~ the commission. On receiving the written
8 notice, the commission shall place the sales agent license on
9 inactive status ~~[A salesperson license returned under this~~
10 ~~subsection is inactive].~~

11 (b) The commission may return ~~[remove]~~ a sales agent
12 ~~[salesperson]~~ license to active ~~[from inactive]~~ status under
13 Subsection (a) if, before the expiration date of the sales agent
14 ~~[salesperson]~~ license, a licensed broker files a request with the
15 commission advising the commission that the broker assumes
16 sponsorship of the sales agent ~~[salesperson]~~, accompanied by the
17 appropriate fee.

18 (c) As a condition of returning to active status, an
19 inactive sales agent ~~[salesperson whose license is not subject to~~
20 ~~the education requirements of Section 1101.454]~~ must provide to the
21 commission proof of attending ~~[at least 15 hours of]~~ continuing
22 education as specified by Section 1101.455 during the two years
23 preceding the date the application to return to active status is
24 filed.

25 SECTION 44. Sections 1101.401(c) and (d), Occupations Code,
26 are amended to read as follows:

27 (c) The examination must be of sufficient scope in the

1 judgment of the commission to determine whether a person is
2 competent to act as a broker or sales agent [~~salesperson~~] in a
3 manner that will protect the public.

4 (d) The examination for a sales agent [~~salesperson~~] license
5 must be less exacting and less stringent than the broker
6 examination.

7 SECTION 45. Section 1101.402, Occupations Code, is amended
8 to read as follows:

9 Sec. 1101.402. WAIVER OF EXAMINATION. The commission shall
10 waive the examination requirement for an applicant for[+]

11 [~~(1)~~] a broker or sales agent license if:

12 (1) [~~(A)~~] the applicant was previously licensed in
13 this state as a broker or sales agent; and

14 (2) [~~(B)~~] the application is filed before the second
15 [~~first~~] anniversary of the expiration date of the equivalent [~~that~~]
16 license[+ and

17 [~~(2) a salesperson license if:~~

18 [~~(A) the applicant was previously licensed in~~
19 ~~this state as a broker or salesperson; and~~

20 [~~(B) the application is filed before the first~~
21 ~~anniversary of the expiration date of that license].~~

22 SECTION 46. Section 1101.404, Occupations Code, is amended
23 to read as follows:

24 Sec. 1101.404. EXAMINATION RESULTS. (a) Not later than the
25 10th [~~30th~~] day after the date an examination is administered, the
26 commission or the testing service shall notify each examinee of the
27 results of the examination. [~~If an examination is graded or~~

1 ~~reviewed by a national testing service, the commission shall notify~~
2 ~~each examinee of the results of the examination not later than the~~
3 ~~14th day after the date the commission receives the results from the~~
4 ~~testing service.]~~

5 (b) If the notice of the results of an examination [~~graded~~
6 ~~or reviewed by a national testing service~~] will be delayed for more
7 than 10 [~~90~~] days after the examination date, the commission shall
8 notify each examinee of the reason for the delay before the 10th
9 [~~90th~~] day.

10 (c) If requested in writing by a person who fails an
11 examination, the commission shall provide to the person an analysis
12 of the person's performance on the examination. The request must be
13 accompanied by a statement identifying the person and a fee in an
14 amount determined by the commission. The commission shall release
15 the analysis directly to the person requesting the analysis.

16 (d) The results of an examination are confidential.

17 SECTION 47. Section 1101.405, Occupations Code, is amended
18 to read as follows:

19 Sec. 1101.405. REEXAMINATION. (a) An applicant who fails
20 an examination may apply for reexamination by filing a request
21 accompanied by the proper fee.

22 (b) An applicant who fails the examination three
23 consecutive times may not apply for reexamination or submit a new
24 license application unless the applicant submits evidence
25 satisfactory to the commission that the applicant has completed
26 additional education, as prescribed by the commission, since the
27 date of the applicant's last examination.

1 SECTION 48. Subchapter I, Chapter 1101, Occupations Code,
2 is amended by adding Section 1101.406 to read as follows:

3 Sec. 1101.406. GUIDELINES; STUDY GUIDES. (a) The commission
4 shall:

5 (1) publish guidelines and examination study guides;

6 (2) make the guidelines and study guides available to
7 applicants; and

8 (3) update the guidelines and study guides as
9 necessary.

10 (b) Except for the examination and other testing products
11 that require secure and discreet protection, the contents of study
12 guides and other material developed by the commission or with the
13 commission's authorization are within the public domain and free of
14 copyright restrictions.

15 (c) A person other than the commission may not profit from
16 the reproduction and distribution of material described by
17 Subsection (b) and may sell the material only at a price that equals
18 the cost of reproducing and distributing the material.

19 SECTION 49. Section 1101.451(f), Occupations Code, is
20 amended to read as follows:

21 (f) If a person's license has been expired for six months or
22 longer, the person may not renew the license. The person may
23 obtain a new license by [~~submitting to reexamination and~~] complying
24 with the requirements and procedures for obtaining an original
25 license.

26 SECTION 50. Section 1101.452(a), Occupations Code, is
27 amended to read as follows:

1 (a) To renew an active license [~~that is not subject to the~~
2 ~~education requirements of Section 1101.454~~], the license holder
3 must provide to the commission proof of compliance with the
4 continuing education requirements of Section 1101.455.

5 SECTION 51. Section 1101.453, Occupations Code, is amended
6 to read as follows:

7 Sec. 1101.453. ADDITIONAL RENEWAL REQUIREMENTS FOR
8 BUSINESS ENTITIES. (a) To renew a license under this chapter, a
9 business entity must:

10 (1) designate one of its managing officers as its
11 broker [~~agent~~] for purposes of this chapter; and

12 (2) provide proof that the entity maintains errors and
13 omissions insurance with a minimum annual limit of \$1 million for
14 each occurrence if the designated broker [~~agent~~] owns less than 10
15 percent of the business entity.

16 (b) A business entity may not act as a broker unless the
17 entity's designated broker [~~agent~~] is a licensed individual broker
18 in active status and good standing according to the commission's
19 records.

20 SECTION 52. The heading to Section 1101.454, Occupations
21 Code, is amended to read as follows:

22 Sec. 1101.454. SALES AGENT [~~SALESPERSON~~] LICENSE RENEWAL.

23 SECTION 53. Section 1101.454(a), Occupations Code, is
24 amended to read as follows:

25 (a) An applicant applying for the first renewal of a sales
26 agent [~~salesperson~~] license must provide to the commission
27 satisfactory evidence of completion of at least 18 semester hours,

1 or equivalent classroom hours, of qualifying [~~core~~] real estate
2 courses, including the hours required by Section 1101.455(e).

3 SECTION 54. Sections 1101.455(c), (e), (f), (h), (i), (j),
4 and (l), Occupations Code, are amended to read as follows:

5 (c) The commission by rule may:

6 (1) prescribe the title, content, and duration of
7 continuing education courses that a license holder must attend to
8 renew a license; and

9 (2) approve as a substitute for the classroom
10 attendance required by Subsection (b):

11 (A) relevant educational experience; and

12 (B) alternative delivery or correspondence
13 courses.

14 (e) At least eight [~~six~~] of the continuing education hours
15 required by Subsection (b) must provide current information on
16 [~~cover~~] the following legal topics:

17 (1) commission rules;

18 (2) fair housing laws;

19 (3) Property Code issues, including landlord-tenant
20 law;

21 (4) agency law;

22 (5) antitrust laws;

23 (6) Subchapter E, Chapter 17, Business & Commerce
24 Code;

25 (7) disclosures to buyers, landlords, tenants, and
26 sellers;

27 (8) promulgated [~~current~~] contract and addendum

1 forms;

2 (9) unauthorized practice of law;

3 (10) case studies involving violations of laws and
4 regulations;

5 (11) ~~current~~ Federal Housing Administration and
6 Department of Veterans Affairs regulations;

7 (12) tax laws;

8 (13) property tax consulting laws and legal issues;

9 ~~or~~

10 (14) other legal topics approved by the commission; or

11 (15) the ethical requirements of engaging in real
12 estate brokerage.

13 (f) The remaining ~~nine~~ hours may be devoted to other real
14 estate-related topics and courses approved by the commission.

15 (h) The commission shall automatically approve the
16 following courses as courses that satisfy the mandatory continuing
17 education requirements of Subsection (f):

18 (1) qualifying ~~core~~ real estate courses; and

19 (2) real estate-related courses approved by the State
20 Bar of Texas for minimum continuing legal education participatory
21 credit.

22 (i) The commission may not require an examination for a
23 course under this section unless the course is:

24 (1) an alternative delivery or ~~a~~ correspondence
25 course; or

26 (2) a course described by Subsection (e) or Section

27 1101.458 ~~[offered by an alternative delivery system, including~~

1 ~~delivery by computer~~].

2 (j) Daily classroom course segments offered under this
3 section must be at least one hour and not more than 10 hours.

4 (l) A license holder may not report to the commission the
5 completion of an alternative delivery or correspondence [~~An online~~]
6 course offered under this section until the elapsed time between
7 the time the license holder registers for and reports the
8 completion of the course is equal to or greater than the number of
9 hours for which credit is claimed [~~may not be completed in less than~~
10 ~~24 hours~~].

11 SECTION 55. Section [1101.458](#)(a), Occupations Code, is
12 amended to read as follows:

13 (a) A designated broker for a business entity licensed under
14 this chapter, a [A] broker who sponsors a sales agent
15 [~~salesperson~~], or a license holder who supervises another license
16 holder[~~r~~] must attend during the term of the current license at
17 least six classroom hours of broker responsibility education
18 courses approved by the commission.

19 SECTION 56. Section [1101.552](#)(e), Occupations Code, is
20 amended to read as follows:

21 (e) A license holder shall provide the commission with the
22 license holder's current mailing address and telephone number, and
23 the license holder's business e-mail address if available. A
24 license holder shall notify the commission of a change in the
25 license holder's mailing or e-mail address or telephone number.

26 SECTION 57. Section [1101.553](#), Occupations Code, is amended
27 to read as follows:

1 Sec. 1101.553. DISPLAY OF LICENSE. [~~(c)~~] A residential
2 rental locator shall prominently display in a place accessible to
3 clients and prospective clients:

4 (1) the locator's license;

5 (2) a statement that the locator is licensed by the
6 commission; and

7 (3) the notice required [~~name, mailing address, and~~
8 ~~telephone number of the commission as provided~~] by Section
9 [1101.202](#)(a).

10 SECTION 58. Section [1101.554](#), Occupations Code, is amended
11 to read as follows:

12 Sec. 1101.554. COPY OF SALES AGENT [~~SALESPERSON~~] LICENSE.
13 The commission shall deliver [~~or mail~~] a copy of each sales agent
14 [~~salesperson~~] license to the broker that is sponsoring [~~with whom~~]
15 the sales agent [~~salesperson is associated~~].

16 SECTION 59. Section [1101.558](#), Occupations Code, is amended
17 by adding Subsections (b-1) and (b-2) and amending Subsection (c)
18 to read as follows:

19 (b-1) At the time of a license holder's first substantive
20 communication with a party relating to a proposed transaction
21 regarding specific real property, the license holder shall provide
22 to the party written notice in at least a 10-point font that:

23 (1) describes the ways in which a broker can represent
24 a party to a real estate transaction, including as an intermediary;

25 (2) describes the basic duties and obligations a
26 broker has to a party to a real estate transaction that the broker
27 represents; and

1 (3) provides the name, license number, and contact
2 information for the license holder and the license holder's
3 supervisor and broker, if applicable.

4 (b-2) The commission by rule shall prescribe the text of the
5 notice required under Subsections (b-1)(1) and (2) and establish
6 the methods by which a license holder shall provide the notice.

7 (c) A license holder is not required to ~~[shall]~~ provide ~~[to~~
8 ~~a party to a real estate transaction at the time of the first~~
9 ~~substantive dialogue with the party]~~ the notice required ~~[written~~
10 ~~statement prescribed]~~ by Subsection (b-1) if ~~[(d) unless]:~~

11 (1) the proposed transaction is for a residential
12 lease for less ~~[not more]~~ than one year and a sale is not being
13 considered; ~~[or]~~

14 (2) the license holder meets with a party who the
15 license holder knows is represented by another license holder; or

16 (3) the communication occurs at a property that is
17 held open for any prospective buyer or tenant and the communication
18 concerns that property.

19 SECTION 60. Subchapter M, Chapter 1101, Occupations Code,
20 is amended by adding Section 1101.6011 to read as follows:

21 Sec. 1101.6011. APPLICABILITY TO BUSINESS ENTITY. For
22 purposes of this subchapter, a claim against a business entity
23 license holder is also a claim against the broker who is the
24 business entity's designated broker.

25 SECTION 61. Section 1101.602, Occupations Code, is amended
26 to read as follows:

27 Sec. 1101.602. ENTITLEMENT TO REIMBURSEMENT. An aggrieved

1 person is entitled to reimbursement from the trust account if a
2 person described by Section 1101.601 engages in conduct that
3 requires a license or certificate of registration under this
4 chapter and is described by Section 1101.652(a-1)(1)
5 [~~1101.652(a)(3)~~] or (b) or Section 1101.653(1), (2), (3), or (4),
6 as applicable.

7 SECTION 62. Sections 1101.603(a), (c), and (e), Occupations
8 Code, are amended to read as follows:

9 (a) In addition to other fees required by this chapter, the
10 commission shall collect [~~an applicant for an original license must~~
11 ~~pay~~] a fee of \$10 to deposit to the credit of the trust account from
12 an applicant for an original license or certificate of
13 registration.

14 (c) The commission shall deposit to the credit of the trust
15 account[+

16 [~~(1) fees collected under Subsections (a) and (b); and~~
17 [~~(2)~~] an administrative penalty collected under
18 Subchapter O for a violation by a person licensed as a broker or
19 sales agent [~~salesperson~~].

20 (e) On a determination by the commission at any time that
21 the balance in the trust account is less than \$1 million, each
22 license or certificate holder at the next [~~license~~] renewal must
23 pay, in addition to the renewal fee, an additional [a] fee [~~that is~~
24 ~~equal to the lesser~~] of \$10 [~~or a pro rata share of the amount~~
25 ~~necessary to obtain a balance in the trust account of \$1.7 million~~].
26 The commission shall deposit the additional fee to the credit of the
27 trust account.

1 SECTION 63. Section 1101.605(b), Occupations Code, is
2 amended to read as follows:

3 (b) When an aggrieved person brings an action for a judgment
4 that may result in an agreed judgment and order for payment from the
5 trust account, the aggrieved person and the license or certificate
6 holder against whom the action is brought shall notify the
7 commission in writing before entry of the agreed judgment and
8 deliver a copy of all petitions and pleadings and the proposed
9 agreed judgment to the commission. The commission will notify the
10 parties not later than the 30th day after the date of receiving the
11 documents if the commission intends to relitigate material and
12 relevant issues as to the applicability of the trust account to the
13 agreed judgment as provided by Section 1101.608 [~~action~~].

14 SECTION 64. Section 1101.606, Occupations Code, is amended
15 by amending Subsections (a) and (b) and adding Subsection (c-1) to
16 read as follows:

17 (a) Except as provided by Subsections [~~Subsection~~] (c) and
18 (c-1), an aggrieved person who obtains a court judgment against a
19 license or certificate holder for an act described by Section
20 1101.602 may, after final judgment is entered, execution returned
21 nulla bona, and a judgment lien perfected, file a verified claim in
22 the court that entered the judgment.

23 (b) After the 20th day after the date the aggrieved person
24 gives written notice of the claim to the commission and judgment
25 debtor, the person may apply to the court that entered the judgment
26 for an order for payment from the trust account of the amount unpaid
27 on the judgment. The aggrieved person and the commission may

1 attempt to reach a settlement of the claim before setting a hearing
2 before the court. If the aggrieved person does not schedule a
3 hearing before the first anniversary of the date the application
4 was filed, recovery is waived [~~court shall proceed promptly on the~~
5 ~~application~~].

6 (c-1) If the judgment obtained against the license holder
7 includes multiple defendants who are jointly and severally liable
8 or the judgment against the license holder was severed from a suit
9 with multiple defendants, the aggrieved person may not file a
10 verified claim in the court that entered the judgment until the
11 aggrieved person has obtained a judgment against all defendants and
12 received payment from or obtained a writ of execution returned
13 nulla bona for all defendants.

14 SECTION 65. Section 1101.607, Occupations Code, is amended
15 to read as follows:

16 Sec. 1101.607. ISSUES AT HEARING. At the hearing on the
17 application for payment from the trust account, the aggrieved
18 person must show:

19 (1) that the judgment is based on facts allowing
20 recovery under this subchapter;

21 (2) that the person is not:

22 (A) the spouse of the judgment debtor or the
23 personal representative of the spouse; [~~or~~]

24 (B) a license or certificate holder who is
25 seeking to recover compensation, including a commission, in the
26 real estate transaction that is the subject of the application for
27 payment; or

1 (C) related to the judgment debtor within the
2 first degree by consanguinity;

3 (3) that, according to the best information available,
4 the judgment debtor does not have sufficient attachable assets in
5 this or another state to satisfy the judgment;

6 (4) the amount that may be realized from the sale of
7 assets liable to be sold or applied to satisfy the judgment; and

8 (5) the balance remaining due on the judgment after
9 application of the amount under Subdivision (4).

10 SECTION 66. Sections 1101.608(a) and (c), Occupations Code,
11 are amended to read as follows:

12 (a) On receipt of notice under Section 1101.606, the
13 commission may agree to pay all or part of the claim without a
14 hearing. If the commission and the aggrieved person do not reach a
15 settlement or the commission does not agree that the claim meets one
16 or more of the requirements of this subchapter [~~and the scheduling~~
17 of a hearing], the commission may notify the attorney general of the
18 commission's desire to schedule a hearing, enter an appearance,
19 file a response, appear at the hearing, defend the action, or take
20 any other action the commission considers appropriate.

21 (c) The commission may relitigate in the hearing any
22 material and relevant issue that was determined in the action that
23 resulted in the judgment, including an agreed judgment, in favor of
24 the aggrieved person.

25 SECTION 67. Section 1101.610, Occupations Code, is amended
26 by adding Subsection (e) to read as follows:

27 (e) For purposes of this section, a business entity and the

1 broker who is the business entity's designated broker are
2 considered a single license holder.

3 SECTION 68. Section 1101.615(a), Occupations Code, is
4 amended to read as follows:

5 (a) The commission by rule shall prescribe a notice
6 regarding the availability of payment from the trust account for
7 aggrieved persons and establish methods by which each [Each]
8 license and certificate holder shall provide the notice to
9 consumers and service recipients [~~of the availability of payment~~
10 ~~from the trust account for aggrieved persons:~~

11 [~~(1) in conjunction with the notice required by~~
12 ~~Section 1101.202,~~

13 [~~(2) on a written contract for the license or~~
14 ~~certificate holder's services,~~

15 [~~(3) on a brochure that the license or certificate~~
16 ~~holder distributes,~~

17 [~~(4) on a sign prominently displayed in the license or~~
18 ~~certificate holder's place of business,~~

19 [~~(5) in a bill or receipt for the license or~~
20 ~~certificate holder's services, or~~

21 [~~(6) in a prominent display on the Internet website of~~
22 ~~a person regulated under this chapter].~~

23 SECTION 69. Sections 1101.651(b), (c), and (d), Occupations
24 Code, are amended to read as follows:

25 (b) A sales agent [~~salesperson~~] may not accept compensation
26 for a real estate transaction from a person other than the broker
27 that is sponsoring [~~with whom~~] the sales agent [~~salesperson is~~

1 ~~associated~~] or was sponsoring the sales agent [~~associated~~] when the
2 sales agent [~~salesperson~~] earned the compensation.

3 (c) A sales agent [~~salesperson~~] may not pay a commission to
4 a person except through the broker that is sponsoring [~~with whom~~]
5 the sales agent [~~salesperson is associated~~] at that time.

6 (d) A broker and any broker or sales agent [~~salesperson~~]
7 appointed under Section 1101.560 who acts as an intermediary under
8 Subchapter L may not:

9 (1) disclose to the buyer or tenant that the seller or
10 landlord will accept a price less than the asking price, unless
11 otherwise instructed in a separate writing by the seller or
12 landlord;

13 (2) disclose to the seller or landlord that the buyer
14 or tenant will pay a price greater than the price submitted in a
15 written offer to the seller or landlord, unless otherwise
16 instructed in a separate writing by the buyer or tenant;

17 (3) disclose any confidential information or any
18 information a party specifically instructs the broker or sales
19 agent [~~salesperson~~] in writing not to disclose, unless:

20 (A) the broker or sales agent [~~salesperson~~] is
21 otherwise instructed in a separate writing by the respective party;

22 (B) the broker or sales agent [~~salesperson~~] is
23 required to disclose the information by this chapter or a court
24 order; or

25 (C) the information materially relates to the
26 condition of the property;

27 (4) treat a party to a transaction dishonestly; or

1 (5) violate this chapter.

2 SECTION 70. Section 1101.652, Occupations Code, is amended
3 to read as follows:

4 Sec. 1101.652. GROUNDS FOR SUSPENSION OR REVOCATION OF
5 LICENSE. (a) The commission may suspend or revoke a license issued
6 under this chapter or Chapter 1102 or take other disciplinary
7 action authorized by this chapter or Chapter 1102 if the license
8 holder:

9 (1) enters a plea of guilty or nolo contendere to or is
10 convicted of a felony or a criminal offense involving fraud, and the
11 time for appeal has elapsed or the judgment or conviction has been
12 affirmed on appeal, without regard to an order granting community
13 supervision that suspends the imposition of the sentence;

14 (2) procures or attempts to procure a license under
15 this chapter or Chapter 1102 for the license holder [~~or a~~
16 ~~salesperson~~] by fraud, misrepresentation, or deceit or by making a
17 material misstatement of fact in an application for a license;

18 (3) [~~engages in misrepresentation, dishonesty, or~~
19 ~~fraud when selling, buying, trading, or leasing real property in~~
20 ~~the name of:~~

21 [~~(A) the license holder,~~

22 [~~(B) the license holder's spouse, or~~

23 [~~(C) a person related to the license holder~~
24 ~~within the first degree by consanguinity,~~

25 [(4)] fails to honor, within a reasonable time, a
26 check issued to the commission after the commission has sent by
27 certified mail a request for payment to the license holder's last

1 known business address according to commission records;

2 (4) [~~(5)~~] ~~fails or refuses to produce on request, for~~
3 ~~inspection by the commission or a commission representative, a~~
4 ~~document, book, or record that is in the license holder's~~
5 ~~possession and relates to a real estate transaction conducted by~~
6 ~~the license holder;~~

7 [~~(6)~~] fails to provide, within a reasonable time,
8 information requested by the commission that relates to a formal or
9 informal complaint to the commission that would indicate a
10 violation of this chapter or Chapter 1102;

11 (5) [~~(7)~~] fails to surrender to the owner, without
12 just cause, a document or instrument that is requested by the owner
13 and that is in the license holder's possession;

14 (6) [~~(8)~~] ~~fails to use a contract form required by the~~
15 ~~commission under Section [1101.155](#);~~

16 [~~(9)~~] fails to notify the commission, not later than
17 the 30th day after the date of a final conviction or the entry of a
18 plea of guilty or nolo contendere, that the person has been
19 convicted of or entered a plea of guilty or nolo contendere to a
20 felony or a criminal offense involving fraud; or

21 (7) [~~(10)~~] disregards or violates this chapter or
22 Chapter 1102.

23 (a-1) The commission may suspend or revoke a license issued
24 under this chapter or take other disciplinary action authorized by
25 this chapter if the license holder:

26 (1) engages in misrepresentation, dishonesty, or
27 fraud when selling, buying, trading, or leasing real property in

1 the name of:

2 (A) the license holder;

3 (B) the license holder's spouse; or

4 (C) a person related to the license holder within
5 the first degree by consanguinity;

6 (2) fails or refuses to produce on request, within a
7 reasonable time, for inspection by the commission or a commission
8 representative, a document, book, or record that is in the license
9 holder's possession and relates to a real estate transaction
10 conducted by the license holder; or

11 (3) fails to use a contract form required by the
12 commission under Section [1101.155](#).

13 (b) The commission may suspend or revoke a license issued
14 under this chapter or take other disciplinary action authorized by
15 this chapter if the license holder, while engaged in real estate
16 brokerage [~~acting as a broker or salesperson~~]:

17 (1) acts negligently or incompetently;

18 (2) engages in conduct that is dishonest or in bad
19 faith or that demonstrates untrustworthiness;

20 (3) makes a material misrepresentation to a potential
21 buyer concerning a significant defect, including a latent
22 structural defect, known to the license holder that would be a
23 significant factor to a reasonable and prudent buyer in making a
24 decision to purchase real property;

25 (4) fails to disclose to a potential buyer a defect
26 described by Subdivision (3) that is known to the license holder;

27 (5) makes a false promise that is likely to influence a

1 person to enter into an agreement when the license holder is unable
2 or does not intend to keep the promise;

3 (6) pursues a continued and flagrant course of
4 misrepresentation or makes false promises through an agent or sales
5 agent [~~salesperson~~], through advertising, or otherwise;

6 (7) fails to make clear to all parties to a real estate
7 transaction the party for whom the license holder is acting;

8 (8) receives compensation from more than one party to
9 a real estate transaction without the full knowledge and consent of
10 all parties to the transaction;

11 (9) fails within a reasonable time to properly account
12 for or remit money that is received by the license holder and that
13 belongs to another person;

14 (10) commingles money that belongs to another person
15 with the license holder's own money;

16 (11) pays a commission or a fee to or divides a
17 commission or a fee with a person other than a license holder or a
18 real estate broker or sales agent [~~salesperson~~] licensed in another
19 state for compensation for services as a real estate agent;

20 (12) fails to specify a definite termination date that
21 is not subject to prior notice in a contract, other than a contract
22 to perform property management services, in which the license
23 holder agrees to perform services for which a license is required
24 under this chapter;

25 (13) accepts, receives, or charges an undisclosed
26 commission, rebate, or direct profit on an expenditure made for a
27 principal;

1 (14) solicits, sells, or offers for sale real property
2 by means of a lottery;

3 (15) solicits, sells, or offers for sale real property
4 by means of a deceptive practice;

5 (16) acts in a dual capacity as broker and undisclosed
6 principal in a real estate transaction;

7 (17) guarantees or authorizes or permits a person to
8 guarantee that future profits will result from a resale of real
9 property;

10 (18) places a sign on real property offering the real
11 property for sale or lease without obtaining the written consent of
12 the owner of the real property or the owner's authorized agent;

13 (19) offers to sell or lease real property without the
14 knowledge and consent of the owner of the real property or the
15 owner's authorized agent;

16 (20) offers to sell or lease real property on terms
17 other than those authorized by the owner of the real property or the
18 owner's authorized agent;

19 (21) induces or attempts to induce a party to a
20 contract of sale or lease to break the contract for the purpose of
21 substituting a new contract;

22 (22) negotiates or attempts to negotiate the sale,
23 exchange, or lease of real property with an owner, landlord, buyer,
24 or tenant with knowledge that that person is a party to an
25 outstanding written contract that grants exclusive agency to
26 another broker in connection with the transaction;

27 (23) publishes or causes to be published an

1 advertisement, including an advertisement by newspaper, radio,
2 television, the Internet, or display, that misleads or is likely to
3 deceive the public, tends to create a misleading impression, or
4 fails to identify the person causing the advertisement to be
5 published as a licensed broker or agent;

6 (24) withholds from or inserts into a statement of
7 account or invoice a statement that the license holder knows makes
8 the statement of account or invoice inaccurate in a material way;

9 (25) publishes or circulates an unjustified or
10 unwarranted threat of a legal proceeding or other action;

11 (26) establishes an association by employment or
12 otherwise with a person other than a license holder if the person is
13 expected or required to act as a license holder;

14 (27) aids, abets, or conspires with another person to
15 circumvent this chapter;

16 (28) fails or refuses to provide, on request, a copy of
17 a document relating to a real estate transaction to a person who
18 signed the document;

19 (29) fails to advise a buyer in writing before the
20 closing of a real estate transaction that the buyer should:

21 (A) have the abstract covering the real estate
22 that is the subject of the contract examined by an attorney chosen
23 by the buyer; or

24 (B) be provided with or obtain a title insurance
25 policy;

26 (30) fails to deposit, within a reasonable time,
27 escrow or trust funds ~~money~~ the license holder receives ~~as~~

1 ~~escrow agent~~] in a real estate transaction:

2 (A) in trust with a title company authorized to
3 do business in this state; or

4 (B) in a custodial, trust, or escrow account
5 maintained for that purpose in a banking institution authorized to
6 do business in this state;

7 (31) disburses money deposited in a custodial, trust,
8 or escrow account, as provided in Subdivision (30), before the
9 completion or termination of the real estate transaction;

10 (32) discriminates against an owner, potential buyer,
11 landlord, or potential tenant on the basis of race, color,
12 religion, sex, disability, familial status, national origin, or
13 ancestry, including directing a prospective buyer or tenant
14 interested in equivalent properties to a different area based on
15 the race, color, religion, sex, disability, familial status,
16 national origin, or ancestry of the potential owner or tenant; or

17 (33) disregards or violates this chapter.

18 SECTION 71. Section 1101.655, Occupations Code, is amended
19 by amending Subsections (a) and (b) and adding Subsection (d) to
20 read as follows:

21 (a) The commission shall ~~may~~ revoke a license, approval,
22 or registration issued under this chapter or Chapter 1102 if:

23 (1) the commission makes a payment from the real
24 estate recovery trust account under Subchapter M on behalf of a ~~to~~
25 ~~satisfy all or part of a judgment against the~~ license or
26 registration holder; and

27 (2) the license or registration holder does not repay

1 the real estate recovery trust account the full amount of a payment
2 made on the license or registration holder's behalf before the 31st
3 day after the date the commission provides notice to the license or
4 registration holder.

5 (b) The commission may probate an order revoking a license,
6 approval, or registration under this section.

7 (d) For the purposes of this section, if payment is made
8 from the real estate recovery trust account on behalf of a business
9 entity license holder or a designated broker of a business entity
10 license holder, the commission shall proceed under Subsection (a)
11 against both the business entity and designated broker.

12 SECTION 72. Section 1101.6561, Occupations Code, is amended
13 to read as follows:

14 Sec. 1101.6561. SUSPENSION OR REVOCATION OF EDUCATIONAL
15 PROGRAM [~~ACCREDITATION~~]. The commission may suspend or revoke the
16 approval to offer a program or course of study [~~an accreditation~~]
17 issued under Subchapter G or take any other disciplinary action
18 authorized by this chapter if the provider of an educational
19 program or course of study violates this chapter or a rule adopted
20 under this chapter.

21 SECTION 73. Section 1101.661, Occupations Code, is amended
22 to read as follows:

23 Sec. 1101.661. FINAL ORDER. The commission may issue a
24 final order in a proceeding under this subchapter or Subchapter O
25 regarding a person whose license has expired [~~during the course of~~
26 ~~an investigation or administrative proceeding~~].

27 SECTION 74. Section 1101.662(c), Occupations Code, is

1 amended to read as follows:

2 (c) A license may be suspended under this section without
3 notice or hearing on the complaint if:

4 (1) institution of proceedings for a contested case
5 hearing [~~before the commission~~] is initiated simultaneously with
6 the temporary suspension; and

7 (2) a hearing is held under Chapter 2001, Government
8 Code, and this chapter as soon as possible.

9 SECTION 75. Subchapter N, Chapter 1101, Occupations Code,
10 is amended by adding Section 1101.663 to read as follows:

11 Sec. 1101.663. REAPPLYING AFTER REVOCATION, SURRENDER, OR
12 DENIAL. A person whose license or registration has been revoked, a
13 person who has surrendered a license or registration issued by the
14 commission, or a person whose application for a license or
15 registration has been denied after a hearing under Section 1101.657
16 may not apply to the commission for a license or registration before
17 the second anniversary of the date of the revocation, surrender, or
18 denial.

19 SECTION 76. Subchapter N, Chapter 1101, Occupations Code,
20 is amended by adding Section 1101.664 to read as follows:

21 Sec. 1101.664. FAILURE TO APPEAR; COSTS. (a) If a
22 respondent receives proper notice of a contested case hearing but
23 does not appear in person at the hearing, the administrative law
24 judge may conduct the hearing or enter an order, as the
25 administrative law judge determines appropriate.

26 (b) The respondent is bound by the results of the hearing to
27 the same extent as if the respondent had appeared.

1 (c) The administrative law judge may award reasonable costs
2 to the commission on a request for and proof of costs incurred if
3 the respondent fails to appear at the hearing. In this subsection,
4 the term "costs" means all costs associated with the hearing,
5 including the costs charged by the State Office of Administrative
6 Hearings and any costs related to hearing preparation, discovery,
7 depositions, subpoenas, service of process, witness expenses,
8 travel expenses, and investigation expenses.

9 SECTION 77. Section 1101.7015, Occupations Code, is amended
10 to read as follows:

11 Sec. 1101.7015. DELEGATION OF EXECUTIVE DIRECTOR'S
12 [ADMINISTRATOR'S] AUTHORITY. The commission may authorize the
13 executive director [administrator] to delegate to another
14 commission employee the executive director's [administrator's]
15 authority to act under this subchapter.

16 SECTION 78. Section 1101.702(b), Occupations Code, is
17 amended to read as follows:

18 (b) In determining the amount of the penalty, the executive
19 director [administrator] shall consider:

- 20 (1) the seriousness of the violation, including the
21 nature, circumstances, extent, and gravity of the prohibited acts;
22 (2) the history of previous violations;
23 (3) the amount necessary to deter a future violation;
24 (4) efforts to correct the violation; and
25 (5) any other matter that justice may require.

26 SECTION 79. Section 1101.703, Occupations Code, is amended
27 to read as follows:

1 Sec. 1101.703. NOTICE OF VIOLATION AND PENALTY. [~~(a)~~] If,
2 after investigation of a possible violation and the facts relating
3 to that violation, the executive director [~~administrator~~]
4 determines that a violation has occurred, the executive director
5 [~~administrator~~] may issue a notice of violation stating:

6 (1) a brief summary of the alleged violation;

7 (2) the executive director's [~~administrator's~~]
8 recommendation on the imposition of the administrative penalty or
9 another disciplinary sanction, including a recommendation on the
10 amount of the penalty; and

11 (3) that the respondent has the right to a hearing to
12 contest the alleged violation, the recommended penalty, or both.

13 SECTION 80. Section [1101.704](#), Occupations Code, is amended
14 to read as follows:

15 Sec. 1101.704. PENALTY TO BE PAID OR HEARING REQUESTED. (a)
16 Not later than the 20th day after the date the person receives the
17 notice under Section [1101.703](#), the person may:

18 (1) accept the executive director's [~~administrator's~~]
19 determination, including the recommended administrative penalty;
20 or

21 (2) request in writing a hearing on the occurrence of
22 the violation, the amount of the penalty, or both.

23 (b) If the person accepts the executive director's
24 [~~administrator's~~] determination, or fails to respond in a timely
25 manner to the notice, the commission by order shall approve the
26 determination and order payment of the recommended penalty or
27 impose the recommended sanction.

1 SECTION 81. Section 1101.706, Occupations Code, is amended
2 to read as follows:

3 Sec. 1101.706. NOTICE OF ORDER. The executive director
4 [~~administrator~~] shall give notice of the commission's order to the
5 person. The notice must:

6 (1) include the findings of fact and conclusions of
7 law, separately stated;

8 (2) state the amount of any penalty imposed;

9 (3) inform the person of the person's right to judicial
10 review of the order; and

11 (4) include other information required by law.

12 SECTION 82. Sections 1101.707(b) and (c), Occupations Code,
13 are amended to read as follows:

14 (b) Within the 30-day period prescribed by Subsection (a), a
15 person who files a petition for judicial review may:

16 (1) stay enforcement of the penalty by:

17 (A) paying the penalty to the court for placement
18 in an escrow account; or

19 (B) giving the court a supersedeas bond in a form
20 approved by the court that:

21 (i) is for the amount of the penalty; and

22 (ii) is effective until judicial review of
23 the order is final; or

24 (2) request the court to stay enforcement by:

25 (A) filing with the court an affidavit of the
26 person stating that the person is financially unable to pay the
27 penalty and is financially unable to give the supersedeas bond; and

1 (B) giving a copy of the affidavit to the
2 executive director [~~administrator~~] by certified mail.

3 (c) If the executive director [~~administrator~~] receives a
4 copy of an affidavit under Subsection (b)(2), the executive
5 director [~~administrator~~] may file with the court, within five days
6 after the date the copy is received, a contest to the affidavit.

7 SECTION 83. Section 1101.708, Occupations Code, is amended
8 to read as follows:

9 Sec. 1101.708. COLLECTION OF PENALTY. (a) If the person
10 does not pay the administrative penalty and the enforcement of the
11 penalty is not stayed, the executive director [~~administrator~~] may
12 refer the matter to the attorney general for collection of the
13 penalty.

14 (b) If the attorney general notifies the commission that the
15 attorney general will not pursue collection of the penalty, the
16 commission may pursue collection of the penalty by any lawful
17 means.

18 SECTION 84. The heading to Section 1101.753, Occupations
19 Code, is amended to read as follows:

20 Sec. 1101.753. CIVIL PENALTY FOR CERTAIN VIOLATIONS BY
21 BROKER, SALES AGENT [~~SALESPERSON~~], OR CERTIFICATE HOLDER.

22 SECTION 85. Section 1101.753(a), Occupations Code, is
23 amended to read as follows:

24 (a) In addition to injunctive relief under Sections
25 1101.751 and 1101.752, a person who receives a commission or other
26 consideration as a result of acting as a broker or sales agent
27 [~~salesperson~~] without holding a license or certificate of

1 registration under this chapter is liable to the state for a civil
2 penalty of not less than the amount of money received or more than
3 three times the amount of money received.

4 SECTION 86. The heading to Section 1101.754, Occupations
5 Code, is amended to read as follows:

6 Sec. 1101.754. PRIVATE CAUSE OF ACTION FOR CERTAIN
7 VIOLATIONS BY BROKER, SALES AGENT [~~SALESPERSON~~], OR CERTIFICATE
8 HOLDER.

9 SECTION 87. Section 1101.754(a), Occupations Code, is
10 amended to read as follows:

11 (a) A person who receives a commission or other
12 consideration as a result of acting as a broker or sales agent
13 [~~salesperson~~] without holding a license or certificate of
14 registration under this chapter is liable to an aggrieved person
15 for a penalty of not less than the amount of money received or more
16 than three times the amount of money received.

17 SECTION 88. The heading to Section 1101.758, Occupations
18 Code, is amended to read as follows:

19 Sec. 1101.758. CRIMINAL PENALTY FOR CERTAIN VIOLATIONS BY
20 BROKER, SALES AGENT [~~SALESPERSON~~], OR CERTIFICATE HOLDER.

21 SECTION 89. Section 1101.758(a), Occupations Code, is
22 amended to read as follows:

23 (a) A person commits an offense if the person acts as a
24 broker or sales agent [~~salesperson~~] without holding a license under
25 this chapter or engages in an activity for which a certificate of
26 registration is required under this chapter without holding a
27 certificate.

1 SECTION 90. Section 1101.803, Occupations Code, is amended
2 to read as follows:

3 Sec. 1101.803. GENERAL LIABILITY OF BROKER. A licensed
4 broker is liable to the commission, the public, and the broker's
5 clients for any conduct engaged in under this chapter by the broker
6 or by a sales agent [~~salesperson~~] associated with or acting for the
7 broker.

8 SECTION 91. Section 1101.805(c), Occupations Code, is
9 amended to read as follows:

10 (c) This section does not diminish a broker's
11 responsibility for the acts or omissions of a sales agent
12 [~~salesperson~~] associated with or acting for the broker.

13 SECTION 92. Section 1101.806(b), Occupations Code, is
14 amended to read as follows:

15 (b) A person may not maintain an action to collect
16 compensation for an act as a broker or sales agent [~~salesperson~~]
17 that is performed in this state unless the person alleges and proves
18 that the person was:

19 (1) a license holder at the time the act was commenced;

20 or

21 (2) an attorney licensed in any state.

22 SECTION 93. Section 1105.003, Occupations Code, is amended
23 by adding Subsection (e-1) to read as follows:

24 (e-1) This subsection and Subsection (e) expire September
25 1, 2017.

26 SECTION 94. Sections 1101.106(c), 1101.152(c), 1101.455(d)
27 and (g), 1101.558(a), (d), and (e), 1101.603(b), and 1101.615(b),

1 Occupations Code, are repealed.

2 SECTION 95. Section 1101.060, Occupations Code, as added by
3 this Act, applies only to an action that is taken by a member of the
4 Texas Real Estate Commission on or after the effective date of this
5 Act. An action taken before that date is governed by the law in
6 effect on the date the action was taken, and the former law is
7 continued in effect for that purpose.

8 SECTION 96. The changes in law made by this Act relating to
9 the eligibility for a license or certificate of registration under
10 Chapter 1101, Occupations Code, or to requirements for an
11 application under that chapter apply only to an application
12 submitted to the Texas Real Estate Commission on or after the
13 effective date of this Act. An application submitted before that
14 date is governed by the law in effect on the date the application
15 was submitted, and the former law is continued in effect for that
16 purpose.

17 SECTION 97. The changes in law made by this Act relating to
18 an application for inactive status under Chapter 1101, Occupations
19 Code, apply only to an application for inactive status submitted to
20 the Texas Real Estate Commission on or after the effective date of
21 this Act. An application submitted before that date is governed by
22 the law in effect on the date the application was submitted, and the
23 former law is continued in effect for that purpose.

24 SECTION 98. Section 1101.405, Occupations Code, as amended
25 by this Act, does not apply to an examination taken before the
26 effective date of this Act.

27 SECTION 99. The Texas Real Estate Commission shall publish

1 and make available the guidelines and study guides required by
2 Section 1101.406, Occupations Code, as added by this Act, not later
3 than January 1, 2016.

4 SECTION 100. The changes in law made by this Act relating to
5 the requirements for renewal of a license or certificate of
6 registration under Chapter 1101, Occupations Code, or to the
7 continuing education requirements under that chapter apply only to
8 an application for renewal of a license or certificate that expires
9 on or after the effective date of this Act. A license or certificate
10 of registration that expires before that date is governed by the law
11 in effect immediately before the effective date of this Act, and the
12 former law is continued in effect for that purpose.

13 SECTION 101. The Texas Real Estate Commission shall adopt
14 rules prescribing the notice required by Section [1101.558](#),
15 Occupations Code, as amended by this Act, not later than January 1,
16 2016. A real estate broker or sales agent is not required to comply
17 with the requirements of that section, as amended by this Act,
18 before that date.

19 SECTION 102. The changes in law made by this Act to
20 Subchapter M, Chapter 1101, Occupations Code, apply only to a claim
21 commenced under that subchapter on or after the effective date of
22 this Act. A claim commenced before that date is governed by the law
23 in effect on the date the claim was commenced, and the former law is
24 continued in effect for that purpose.

25 SECTION 103. The changes in law made by this Act relating to
26 the grounds for disciplinary action under Chapter 1101 or 1102,
27 Occupations Code, apply only to conduct that occurs on or after the

1 effective date of this Act. Conduct that occurs before that date is
2 governed by the law in effect on the date the conduct occurred, and
3 the former law is continued in effect for that purpose.

4 SECTION 104. This Act takes effect September 1, 2015.