

By: Eltife, et al.
(Kuempel)

S.B. No. 699

A BILL TO BE ENTITLED

AN ACT

relating to the Texas Real Estate Commission and the regulation of certain real estate professionals.

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

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

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

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

(1) "Broker":

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

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

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

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

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

(v) auctions or offers, attempts, or agrees to auction real estate;

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

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

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

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

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

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

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

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

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

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

26 (B) includes a person who:

27 (i) is employed by or for an owner of real

1 estate to sell any portion of the real estate; or

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

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

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

9 (1-a) "Business entity" means a "domestic entity" or
10 "foreign entity" as those terms are defined by Section 1.002,
11 Business Organizations Code, that is qualified to transact business
12 in this state.

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

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

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

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

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

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

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

27 (A) the relationship between a principal and an

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

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

1 following topics:

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

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

6 (C) appraisal case studies;

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

9 (E) final correlations; and

10 (F) reporting;

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

13 (A) agency law;

14 (B) planning and organization;

15 (C) operational policies and procedures;

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

18 (E) records and control; and

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

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

23 (A) monetary systems;

24 (B) primary and secondary money markets;

25 (C) sources of mortgage loans;

26 (D) federal government programs;

27 (E) loan applications, processes, and

1 procedures;

2 (F) closing costs;

3 (G) alternative financial instruments;

4 (H) equal credit opportunity laws;

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

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

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

12 (A) real estate investment characteristics;

13 (B) techniques of investment analysis;

14 (C) the time value of money;

15 (D) discounted and nondiscounted investment
16 criteria;

17 (E) leverage;

18 (F) tax shelters depreciation; and

19 (G) applications to property tax;

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

22 (A) legal concepts of real estate;

23 (B) land description;

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

25 (D) contracts;

26 (E) conveyances;

27 (F) encumbrances;

- 1 (G) foreclosures;
- 2 (H) recording procedures; and
- 3 (I) evidence of titles;
- 4 (10) real estate marketing, which includes the
- 5 following topics:
- 6 (A) real estate professionalism and ethics;
- 7 (B) characteristics of successful sales agents
- 8 [~~salespersons~~];
- 9 (C) time management;
- 10 (D) psychology of marketing;
- 11 (E) listing procedures;
- 12 (F) advertising;
- 13 (G) negotiating and closing;
- 14 (H) financing; and
- 15 (I) Subchapter E, Chapter 17, Business & Commerce
- 16 Code; and
- 17 (11) real estate mathematics, which includes the
- 18 following topics:
- 19 (A) basic arithmetic skills and review of
- 20 mathematical logic;
- 21 (B) percentages;
- 22 (C) interest;
- 23 (D) the time value of money;
- 24 (E) depreciation;
- 25 (F) amortization;
- 26 (G) proration; and
- 27 (H) estimation of closing statements.

1 (c) The commission by rule may prescribe:

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

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

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

8 (e) An applicant, license holder, or education provider may
9 not report to the commission the completion of an alternative
10 delivery or correspondence course offered as a qualifying course
11 until the elapsed time between the time the applicant or license
12 holder registers for the course and the time the completion of the
13 course is reported exceeds twice the number of hours for which
14 credit is 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) A person is engaged in real estate brokerage
19 [~~acts as a broker or salesperson under this chapter~~] if the person,
20 with the expectation of receiving valuable consideration, directly
21 or indirectly performs or offers, attempts, or agrees to perform
22 for another person any act described by Section [1101.002](#)(1), as a
23 part of a transaction or as an entire transaction.

24 (b) A person is not engaged in real estate brokerage,
25 regardless of whether the person is licensed under this chapter,
26 based solely on engaging in the following activities:

27 (1) constructing, remodeling, or repairing a home or

1 other building;

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

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

7 SECTION 6. Section 1101.005, Occupations Code, is amended
8 to read as follows:

9 Sec. 1101.005. APPLICABILITY OF CHAPTER. This chapter does
10 not apply to:

11 (1) an attorney licensed in this state;

12 (2) an attorney-in-fact authorized under a power of
13 attorney to conduct not more than three ~~[a]~~ real estate
14 transactions annually ~~[transaction]~~;

15 (3) a public official while engaged in official
16 duties;

17 (4) an auctioneer licensed under Chapter 1802 while
18 conducting the sale of real estate by auction if the auctioneer does
19 not perform another act of a broker ~~[or salesperson]~~;

20 (5) a person conducting a real estate transaction
21 under a court order or the authority of a will or written trust
22 instrument;

23 (6) a person employed by an owner in the sale of
24 structures and land on which structures are located if the
25 structures are erected by the owner in the course of the owner's
26 business;

27 (7) an on-site manager of an apartment complex;

1 (8) an owner or the owner's employee who leases the
2 owner's improved or unimproved real estate; or

3 (9) a transaction involving:

4 (A) the sale, lease, or transfer of a mineral or
5 mining interest in real property;

6 (B) the sale, lease, or transfer of a cemetery
7 lot;

8 (C) the lease or management of a hotel or motel;
9 or

10 (D) the sale of real property under a power of
11 sale conferred by a deed of trust or other contract lien.

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

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

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

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

1 SECTION 9. Section [1101.058](#), Occupations Code, is amended
2 to read as follows:

3 Sec. 1101.058. PER DIEM; REIMBURSEMENT. (a) A commission
4 member is entitled to receive:

5 (1) \$75 for each day the member performs the member's
6 official duties; and

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

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

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

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

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

18 (2) is in compliance with the law.

19 Sec. 1101.061. EDUCATIONAL PRESENTATIONS. (a) A member of
20 the commission or a commission employee may make a presentation to a
21 group of license holders for which the license holders may receive
22 credit under Section [1101.455](#). The commission member or employee
23 may not receive compensation for the presentation.

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

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

1 SUBCHAPTER C. EXECUTIVE DIRECTOR [~~ADMINISTRATOR~~] AND OTHER
2 COMMISSION PERSONNEL

3 SECTION 12. The heading to Section 1101.101, Occupations
4 Code, is amended to read as follows:

5 Sec. 1101.101. EXECUTIVE DIRECTOR [~~ADMINISTRATOR~~] AND
6 OTHER PERSONNEL.

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

9 (a) The commission shall appoint an executive director
10 [~~administrator~~].

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

15 (d) The commission shall determine the salaries of the
16 executive director [~~administrator~~], officers, and employees of the
17 commission.

18 SECTION 14. Section 1101.102, Occupations Code, is amended
19 to read as follows:

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

25 SECTION 15. Section 1101.105, Occupations Code, is amended
26 to read as follows:

27 Sec. 1101.105. CAREER DEVELOPMENT [~~LADDER~~] PROGRAM;

1 PERFORMANCE EVALUATIONS. (a) The executive director
2 [~~administrator~~] or the executive director's [~~administrator's~~]
3 designee shall develop an intra-agency career development [~~ladder~~]
4 program. The program must require intra-agency postings of all
5 nonentry level positions concurrently with any public posting.

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

11 SECTION 16. Sections [1101.106](#)(a) and (b), Occupations Code,
12 are amended to read as follows:

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

20 (1) personnel policies, including policies relating
21 to recruitment, evaluation, selection, appointment, training, and
22 promotion of personnel;

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

25 (3) procedures by which a determination can be made of
26 significant underuse in the commission workforce of all persons for
27 whom federal or state guidelines encourage a more equitable

1 balance; and

2 (4) reasonable methods to appropriately address those
3 areas of underuse.

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

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

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

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

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

14 (1) filing an original application for a broker
15 license;

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

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

19 (4) [~~annual~~] renewal of a sales agent [~~salesperson~~]
20 license;

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

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

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

25 (8) filing a request for a change of place of business,
26 change of name, return to active status, or change of sponsoring
27 broker;

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

3 (10) filing an application for approval of an
4 education program under Subchapter G;

5 (11) annual operation of an education program under
6 Subchapter G;

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

9 (13) transcript evaluation;

10 (14) preparing a license or registration history;

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

13 (16) conducting a criminal history check for issuing
14 or renewing a license.

15 SECTION 18. 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;

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

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

26 (b) The commission shall transmit, not less than quarterly,
27 the additional fees collected under Subsection (a) to Texas A&M

1 University for deposit in a separate banking account that may be
2 appropriated only to support, maintain, and carry out the purposes,
3 objectives, and duties of the Texas Real Estate Research Center.

4 SECTION 19. Section 1101.156(b), Occupations Code, is
5 amended to read as follows:

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

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

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

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

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

17 SECTION 20. Section 1101.161, Occupations Code, is amended
18 to read as follows:

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

24 SECTION 21. Section 1101.202(a), Occupations Code, is
25 amended to read as follows:

26 (a) The commission by rule shall:

27 (1) prescribe a notice containing ~~establish methods~~

1 ~~by which consumers and service recipients are notified of]~~ the
2 name, mailing address, and telephone number of the commission for
3 the purpose of directing a complaint to the commission; and

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

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

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

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

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

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

19 SECTION 22. Section 1101.205, Occupations Code, is amended
20 to read as follows:

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

27 SECTION 23. Subchapter E, Chapter 1101, Occupations Code,

1 is amended by adding Section 1101.2051 to read as follows:

2 Sec. 1101.2051. CONFIDENTIALITY OF INVESTIGATION MATERIAL.

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

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

13 (1) to the respondent of the complaint;

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

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

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

23 (5) to a law enforcement agency;

24 (6) to the State Office of Administrative Hearings; or

25 (7) 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 constitute a release or disclosure for purposes of Section 552.007,
4 Government Code.

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

8 (e) Notwithstanding Subsection (a), on the dismissal or
9 final resolution of a complaint, investigation, or audit,
10 information or materials prepared or compiled by the commission in
11 connection with the complaint, investigation, or audit, including a
12 completed audit report or a final order of the commission, is
13 subject to disclosure under Chapter 321 or 552, Government Code.

14 SECTION 24. The heading to Subchapter G, Chapter 1101,
15 Occupations Code, is amended to read as follows:

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

18 SECTION 25. Section 1101.301, Occupations Code, is amended
19 to read as follows:

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

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

1 ~~[(2) establish by rule reasonable criteria for the~~
2 ~~approval of real estate and real estate inspection courses; and~~

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

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

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

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

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

1 reasonable time established by the commission.

2 SECTION 26. Section 1101.304, Occupations Code, is amended
3 to read as follows:

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

9 (b) Rules adopted under this section must provide for a
10 method to:

- 11 (1) calculate the examination passage rate;
- 12 (2) collect the relevant data from the examination
13 administrator or the approved ~~[accredited]~~ program; and
- 14 (3) post the examination passage rate data on the
15 commission's Internet website, in a manner aggregated by
16 educational program and by license group.

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

21 SECTION 27. Sections 1101.305(a) and (c), Occupations Code,
22 are amended to read as follows:

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

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

1 ~~[(2) at least one member of the commission staff,~~
2 ~~[(3) individuals licensed under this chapter or~~
3 ~~Chapter 1102; and~~
4 ~~[(4) a representative from the Texas Real Estate~~
5 ~~Research Center.]~~

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

10 SECTION 28. Sections [1101.351](#)(a), (b), and (c), Occupations
11 Code, are amended to read as follows:

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

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

16 (2) act as a residential rental locator.

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

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

25 SECTION 29. Sections [1101.352](#)(a), (b), and (d), Occupations
26 Code, are amended to read as follows:

27 (a) Each applicant for a broker or sales agent ~~[salesperson]~~

1 license must submit an application on a form prescribed by the
2 commission.

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

6 (1) entered a plea of guilty or nolo contendere to a
7 felony; or

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

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

18 SECTION 30. Section [1101.3521](#)(b), Occupations Code, is
19 amended to read as follows:

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

23 SECTION 31. Section [1101.353](#)(a), Occupations Code, is
24 amended to read as follows:

25 (a) If before applying for a license under this chapter a
26 person requests that the commission determine whether the person's
27 moral character complies with the commission's moral character

1 requirements for licensing under this chapter and pays the required
2 fee [~~prescribed by Section 1101.152~~], the commission shall make its
3 determination of the person's moral character.

4 SECTION 32. Section 1101.354, Occupations Code, is amended
5 to read as follows:

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

8 (1) at the time of application:

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

10 (B) be a citizen of the United States or a
11 lawfully admitted alien; and

12 (C) be a resident of this state;

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 33. 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 34. 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 35. 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 36. 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 37. 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 38. 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 39. 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 40. 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 41. Sections 1101.366(a), (b), (c), (d), and (f),
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 (f) The commission shall remove a broker's license from

1 inactive status if the broker:

- 2 (1) submits an application to the commission;
- 3 (2) pays the required fee; and
- 4 (3) submits proof of attending [~~at least 15 classroom~~
5 ~~hours of~~] continuing education as specified by Section [1101.455](#)
6 during the two years preceding the date the application under
7 Subdivision (1) is filed.

8 SECTION 42. Section [1101.367](#), Occupations Code, is amended
9 to read as follows:

10 Sec. 1101.367. INACTIVE LICENSE: SALES AGENT
11 [~~SALESPERSON~~]. (a) When the relationship [~~association~~] of a sales
12 agent [~~salesperson~~] with the sales agent's [~~salesperson's~~]
13 sponsoring broker terminates, the terminating party [~~broker~~] shall
14 immediately notify in writing both the other party and [~~return the~~
15 ~~salesperson license to~~] the commission. On receiving the written
16 notice, the commission shall place the sales agent license on
17 inactive status [~~A salesperson license returned under this~~
18 ~~subsection is inactive~~].

19 (b) The commission may return [~~remove~~] a sales agent
20 [~~salesperson~~] license to active [~~from inactive~~] status under
21 Subsection (a) if, before the expiration date of the sales agent
22 [~~salesperson~~] license, a licensed broker files a request with the
23 commission advising the commission that the broker assumes
24 sponsorship of the sales agent [~~salesperson~~], accompanied by the
25 appropriate fee.

26 (c) As a condition of returning to active status, an
27 inactive sales agent [~~salesperson~~] whose license is not subject to

1 the education requirements of Section 1101.454 must provide to the
2 commission proof of attending [~~at least 15 hours of~~] continuing
3 education as specified by Section 1101.455 during the two years
4 preceding the date the application to return to active status is
5 filed.

6 SECTION 43. Sections 1101.401(c) and (d), Occupations Code,
7 are amended to read as follows:

8 (c) The examination must be of sufficient scope in the
9 judgment of the commission to determine whether a person is
10 competent to act as a broker or sales agent [~~salesperson~~] in a
11 manner that will protect the public.

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

15 SECTION 44. Section 1101.402, Occupations Code, is amended
16 to read as follows:

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

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

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

22 (2) [~~(B)~~] the application is filed before the second
23 [~~first~~] anniversary of the expiration date of the equivalent [~~that~~]
24 license[~~, and~~

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

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

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

3 SECTION 45. Section 1101.404, Occupations Code, is amended
4 to read as follows:

5 Sec. 1101.404. EXAMINATION RESULTS. (a) Not later than
6 the 10th ~~[30th]~~ day after the date an examination is administered,
7 the commission or the testing service shall notify each examinee of
8 the results of the examination. ~~[If an examination is graded or~~
9 ~~reviewed by a national testing service, the commission shall notify~~
10 ~~each examinee of the results of the examination not later than the~~
11 ~~14th day after the date the commission receives the results from the~~
12 ~~testing service.]~~

13 (b) If the notice of the results of an examination ~~[graded~~
14 ~~or reviewed by a national testing service]~~ will be delayed for more
15 than 10 ~~[90]~~ days after the examination date, the commission shall
16 notify each examinee of the reason for the delay before the 10th
17 ~~[90th]~~ day.

18 (c) If requested in writing by a person who fails an
19 examination, the commission shall provide to the person an analysis
20 of the person's performance on the examination. The request must be
21 accompanied by a statement identifying the person.

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

23 SECTION 46. Section 1101.405, Occupations Code, is amended
24 to read as follows:

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

1 (b) An applicant who fails the examination three
2 consecutive times may not apply for reexamination or submit a new
3 license application unless the applicant submits evidence
4 satisfactory to the commission that the applicant has completed
5 additional education, as prescribed by the commission, since the
6 date of the applicant's last examination.

7 SECTION 47. Subchapter I, Chapter 1101, Occupations Code,
8 is amended by adding Section 1101.406 to read as follows:

9 Sec. 1101.406. GUIDELINES; STUDY GUIDES. (a) The
10 commission shall:

- 11 (1) publish guidelines and examination study guides;
12 (2) make the guidelines and study guides available to
13 applicants; and
14 (3) update the guidelines and study guides as
15 necessary.

16 (b) Except for the examination and other testing products
17 that require secure and discreet protection, the contents of study
18 guides and other material developed by the commission or with the
19 commission's authorization are within the public domain and free of
20 copyright restrictions.

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

25 SECTION 48. Sections 1101.451(a) and (f), Occupations Code,
26 are amended to read as follows:

27 (a) The commission may issue or renew a license for a period

1 of [~~not to exceed~~] 24 months.

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

7 SECTION 49. Section 1101.453, Occupations Code, is amended
8 to read as follows:

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

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

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

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

22 SECTION 50. The heading to Section 1101.454, Occupations
23 Code, is amended to read as follows:

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

25 SECTION 51. Section 1101.454(a), Occupations Code, is
26 amended to read as follows:

27 (a) An applicant applying for the first renewal of a sales

1 agent [~~salesperson~~] license must provide to the commission
2 satisfactory evidence of completion of at least 18 semester hours,
3 or equivalent classroom hours, of qualifying [~~core~~] real estate
4 courses, including the hours required by Section 1101.455(e).

5 SECTION 52. Sections 1101.455(b), (c), (e), (f), (h), (i),
6 (j), and (l), Occupations Code, are amended to read as follows:

7 (b) A license holder who is not subject to the education
8 requirements of Section 1101.454 must attend during the term of the
9 current license [~~at least 15 classroom hours of~~] continuing
10 education courses approved by the commission. The commission by
11 rule shall prescribe the number of classroom hours of continuing
12 education courses the license holder must attend, which must be at
13 least 15 classroom hours. The commission may not increase the
14 number of required classroom hours by more than three over the term
15 of a license.

16 (c) The commission by rule may:

17 (1) prescribe the title, content, and duration of
18 continuing education courses that a license holder must attend to
19 renew a license; and

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

22 (A) relevant educational experience; and

23 (B) alternative delivery or correspondence
24 courses.

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

- 1 (1) commission rules;
- 2 (2) fair housing laws;
- 3 (3) Property Code issues, including landlord-tenant
- 4 law;
- 5 (4) agency law;
- 6 (5) antitrust laws;
- 7 (6) Subchapter E, Chapter 17, Business & Commerce
- 8 Code;
- 9 (7) disclosures to buyers, landlords, tenants, and
- 10 sellers;
- 11 (8) promulgated [~~current~~] contract and addendum
- 12 forms;
- 13 (9) unauthorized practice of law;
- 14 (10) case studies involving violations of laws and
- 15 regulations;
- 16 (11) [~~current~~] Federal Housing Administration and
- 17 Department of Veterans Affairs regulations;
- 18 (12) tax laws;
- 19 (13) property tax consulting laws and legal issues;
- 20 [~~or~~]
- 21 (14) other legal topics approved by the commission; or
- 22 (15) the ethical requirements of engaging in real
- 23 estate brokerage.

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

26 (h) The commission shall automatically approve the
27 following courses as courses that satisfy the mandatory continuing

1 education requirements of Subsection (f):

2 (1) qualifying [~~core~~] real estate courses; and

3 (2) real estate-related courses approved by the State
4 Bar of Texas for minimum continuing legal education participatory
5 credit.

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

8 (1) an alternative delivery or [~~a~~] correspondence
9 course; or

10 (2) a course described by Subsection (e) or Section
11 1101.458 [~~offered by an alternative delivery system, including~~
12 ~~delivery by computer~~].

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

15 (1) An applicant, license holder, or education provider may
16 not report to the commission the completion of an alternative
17 delivery or correspondence [~~An online~~] course offered under this
18 section until the elapsed time between the time the applicant or
19 license holder registers for the course and the time the completion
20 of the course is reported is equal to or greater than the number of
21 hours for which credit is claimed [~~may not be completed in less than~~
22 ~~24 hours~~].

23 SECTION 53. Section 1101.458(a), Occupations Code, is
24 amended to read as follows:

25 (a) A designated broker for a business entity licensed under
26 this chapter, a [A] broker who sponsors a sales agent
27 [~~salesperson~~], or a license holder who supervises another license

1 holder[7] must attend during the term of the current license at
2 least six classroom hours of broker responsibility education
3 courses approved by the commission.

4 SECTION 54. Section 1101.552(e), Occupations Code, is
5 amended to read as follows:

6 (e) A license holder shall provide the commission with the
7 license holder's current mailing address and telephone number, and
8 the license holder's business e-mail address if available. A
9 license holder shall notify the commission of a change in the
10 license holder's mailing or e-mail address or telephone number.

11 SECTION 55. Section 1101.553, Occupations Code, is amended
12 to read as follows:

13 Sec. 1101.553. DISPLAY OF LICENSE. [~~e~~] A residential
14 rental locator shall prominently display in a place accessible to
15 clients and prospective clients:

16 (1) the locator's license;

17 (2) a statement that the locator is licensed by the
18 commission; and

19 (3) the notice required [~~name, mailing address, and~~
20 ~~telephone number of the commission as provided~~] by Section
21 1101.202(a).

22 SECTION 56. Section 1101.554, Occupations Code, is amended
23 to read as follows:

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

1 SECTION 57. Section 1101.558, Occupations Code, is amended
2 by adding Subsections (b-1) and (b-2) and amending Subsection (c)
3 to read as follows:

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

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

10 (2) describes the basic duties and obligations a
11 broker has to a party to a real estate transaction that the broker
12 represents; and

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

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

19 (c) A license holder is not required to ~~shall~~ provide ~~to~~
20 ~~a party to a real estate transaction at the time of the first~~
21 ~~substantive dialogue with the party~~ the notice required ~~written~~
22 ~~statement prescribed~~ by Subsection (b-1) if ~~(d) unless~~:

23 (1) the proposed transaction is for a residential
24 lease for less ~~not more~~ than one year and a sale is not being
25 considered; ~~or~~

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

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

4 SECTION 58. Subchapter M, Chapter 1101, Occupations Code,
5 is amended by adding Section 1101.6011 to read as follows:

6 Sec. 1101.6011. APPLICABILITY TO BUSINESS ENTITY. For
7 purposes of this subchapter, a claim against a business entity
8 license holder is also a claim against the broker who is the
9 business entity's designated broker.

10 SECTION 59. Section 1101.602, Occupations Code, is amended
11 to read as follows:

12 Sec. 1101.602. ENTITLEMENT TO REIMBURSEMENT. An aggrieved
13 person is entitled to reimbursement from the trust account if a
14 person described by Section 1101.601 engages in conduct that
15 requires a license or certificate of registration under this
16 chapter and is described by Section 1101.652(a-1)(1)
17 [1101.652(a)(3)] or (b), if the person is a license holder, or
18 Section 1101.653(1), (2), (3), or (4), if the person is a
19 certificate holder.

20 SECTION 60. Sections 1101.603(a), (c), (d), and (e),
21 Occupations Code, are amended to read as follows:

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

27 (c) Notwithstanding any other law, the [The] commission

1 shall deposit to the credit of the trust account or the real estate
2 inspection recovery fund, as determined by the commission, [+

3 ~~[(1) fees collected under Subsections (a) and (b), and~~
4 ~~[(2)]~~ an administrative penalty collected under
5 Subchapter O for a violation by a person licensed under this chapter
6 or Chapter 1102 [as a broker or salesperson].

7 (d) Notwithstanding any other law, an ~~[An]~~ administrative
8 penalty collected under Subchapter O for a violation by a person who
9 is not licensed under this chapter or Chapter 1102 shall be
10 deposited to the credit of the trust account or the real estate
11 inspection recovery fund, as determined by the commission.

12 (e) On a determination by the commission at any time that
13 the balance in the trust account is less than \$1 million, each
14 license or certificate holder at the next ~~[license]~~ renewal must
15 pay, in addition to the renewal fee, an additional ~~[a]~~ fee ~~[that is~~
16 ~~equal to the lesser]~~ of \$10 ~~[or a pro rata share of the amount~~
17 ~~necessary to obtain a balance in the trust account of \$1.7 million]~~.
18 The commission shall deposit the additional fee to the credit of the
19 trust account.

20 SECTION 61. Section [1101.605](#)(b), Occupations Code, is
21 amended to read as follows:

22 (b) When an aggrieved person brings an action for a judgment
23 that may result in an agreed judgment and order for payment from the
24 trust account, the aggrieved person and the license or certificate
25 holder against whom the action is brought shall notify the
26 commission in writing before entry of the agreed judgment and
27 deliver a copy of all petitions and pleadings and the proposed

1 agreed judgment to the commission. The commission will notify the
2 parties not later than the 30th day after the date of receiving the
3 documents if the commission intends to relitigate material and
4 relevant issues as to the applicability of the trust account to the
5 agreed judgment as provided by Section 1101.608 [~~action~~].

6 SECTION 62. Section 1101.606, Occupations Code, is amended
7 by amending Subsections (a) and (b) and adding Subsection (c-1) to
8 read as follows:

9 (a) Except as provided by Subsections [~~Subsection~~] (c) and
10 (c-1), an aggrieved person who obtains a court judgment against a
11 license or certificate holder for an act described by Section
12 1101.602 may, after final judgment is entered, execution returned
13 nulla bona, and a judgment lien perfected, file a verified claim in
14 the court that entered the judgment.

15 (b) After the 20th day after the date the aggrieved person
16 gives written notice of the claim to the commission and judgment
17 debtor, the person may apply to the court that entered the judgment
18 for an order for payment from the trust account of the amount unpaid
19 on the judgment. The aggrieved person and the commission may
20 attempt to reach a settlement of the claim before setting a hearing
21 before the court. If the aggrieved person does not schedule a
22 hearing before the first anniversary of the date the application
23 was filed, recovery is waived [~~court shall proceed promptly on the~~
24 ~~application~~].

25 (c-1) If the judgment obtained against the license holder
26 includes multiple defendants who are jointly and severally liable
27 or the judgment against the license holder was severed from a suit

1 with multiple defendants, the aggrieved person may not file a
2 verified claim in the court that entered the judgment until the
3 aggrieved person has obtained a judgment against all defendants and
4 received payment from or obtained a writ of execution returned
5 nulla bona for all defendants.

6 SECTION 63. Section 1101.607, Occupations Code, is amended
7 to read as follows:

8 Sec. 1101.607. ISSUES AT HEARING. At the hearing on the
9 application for payment from the trust account, the aggrieved
10 person must show:

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

13 (2) that the person is not:

14 (A) the spouse of the judgment debtor or the
15 personal representative of the spouse; ~~or~~

16 (B) a license or certificate holder who is
17 seeking to recover compensation, including a commission, in the
18 real estate transaction that is the subject of the application for
19 payment; or

20 (C) related to the judgment debtor within the
21 first degree by consanguinity;

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

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

27 (5) the balance remaining due on the judgment after

1 application of the amount under Subdivision (4).

2 SECTION 64. Sections 1101.608(a) and (c), Occupations Code,
3 are amended to read as follows:

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

13 (c) The commission may relitigate in the hearing any
14 material and relevant issue that was determined in the action that
15 resulted in the judgment, including an agreed judgment, in favor of
16 the aggrieved person.

17 SECTION 65. Section 1101.610, Occupations Code, is amended
18 by adding Subsection (e) to read as follows:

19 (e) For purposes of this section, a business entity and the
20 broker who is the business entity's designated broker are
21 considered a single license holder.

22 SECTION 66. Section 1101.615(a), Occupations Code, is
23 amended to read as follows:

24 (a) The commission by rule shall prescribe a notice
25 regarding the availability of payment from the trust account for
26 aggrieved persons and establish methods by which each [~~Each~~]
27 license and certificate holder shall provide the notice to

1 consumers and service recipients [~~of the availability of payment~~
2 ~~from the trust account for aggrieved persons:~~

3 [~~(1) in conjunction with the notice required by~~
4 ~~Section 1101.202,~~

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

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

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

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

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

15 SECTION 67. Sections 1101.651(b), (c), and (d), Occupations
16 Code, are amended to read as follows:

17 (b) A sales agent [~~salesperson~~] may not accept compensation
18 for a real estate transaction from a person other than the broker
19 that is sponsoring [~~with whom~~] the sales agent [~~salesperson is~~
20 ~~associated~~] or was sponsoring the sales agent [~~associated~~] when the
21 sales agent [~~salesperson~~] earned the compensation.

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

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

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

5 (2) disclose to the seller or landlord that the buyer
6 or tenant will pay a price greater than the price submitted in a
7 written offer to the seller or landlord, unless otherwise
8 instructed in a separate writing by the buyer or tenant;

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

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

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

17 (C) the information materially relates to the
18 condition of the property;

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

20 (5) violate this chapter.

21 SECTION 68. Section [1101.652](#), Occupations Code, is amended
22 to read as follows:

23 Sec. 1101.652. GROUNDS FOR SUSPENSION OR REVOCATION OF
24 LICENSE. (a) The commission may suspend or revoke a license
25 issued under this chapter or Chapter 1102 or take other
26 disciplinary action authorized by this chapter or Chapter 1102 if
27 the license holder:

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

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

10 (3) [~~engages in misrepresentation, dishonesty, or~~
11 ~~fraud when selling, buying, trading, or leasing real property in~~
12 ~~the name of:~~

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

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

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

17 [~~(4)~~] fails to honor, within a reasonable time, a
18 check issued to the commission after the commission has sent by
19 certified mail a request for payment to the license holder's last
20 known business address according to commission records;

21 (4) [~~(5) fails or refuses to produce on request, for~~
22 ~~inspection by the commission or a commission representative, a~~
23 ~~document, book, or record that is in the license holder's~~
24 ~~possession and relates to a real estate transaction conducted by~~
25 ~~the license holder,~~

26 [~~(6)~~] fails to provide, within a reasonable time,
27 information requested by the commission that relates to a formal or

1 informal complaint to the commission that would indicate a
2 violation of this chapter or Chapter 1102;

3 (5) [~~(7)~~] fails to surrender to the owner, without
4 just cause, a document or instrument that is requested by the owner
5 and that is in the license holder's possession;

6 (6) [~~(8)~~] ~~fails to use a contract form required by the~~
7 ~~commission under Section 1101.155,~~

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

13 (7) [~~(10)~~] disregards or violates this chapter or
14 Chapter 1102.

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

18 (1) 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 within
24 the first degree by consanguinity;

25 (2) fails or refuses to produce on request, within a
26 reasonable time, for inspection by the commission or a commission
27 representative, a document, book, or record that is in the license

1 holder's possession and relates to a real estate transaction
2 conducted by the license holder; or

3 (3) fails to use a contract form required by the
4 commission under Section 1101.155.

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

9 (1) acts negligently or incompetently;

10 (2) engages in conduct that is dishonest or in bad
11 faith or that demonstrates untrustworthiness;

12 (3) makes a material misrepresentation to a potential
13 buyer concerning a significant defect, including a latent
14 structural defect, known to the license holder that would be a
15 significant factor to a reasonable and prudent buyer in making a
16 decision to purchase real property;

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

19 (5) makes a false promise that is likely to influence a
20 person to enter into an agreement when the license holder is unable
21 or does not intend to keep the promise;

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

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

27 (8) receives compensation from more than one party to

1 a real estate transaction without the full knowledge and consent of
2 all parties to the transaction;

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

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

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

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

17 (13) accepts, receives, or charges an undisclosed
18 commission, rebate, or direct profit on an expenditure made for a
19 principal;

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

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

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

26 (17) guarantees or authorizes or permits a person to
27 guarantee that future profits will result from a resale of real

1 property;

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

5 (19) offers to sell or lease real property without the
6 knowledge and consent of the owner of the real property or the
7 owner's authorized agent;

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

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

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

19 (23) publishes or causes to be published an
20 advertisement, including an advertisement by newspaper, radio,
21 television, the Internet, or display, that misleads or is likely to
22 deceive the public, tends to create a misleading impression, or
23 fails to identify the person causing the advertisement to be
24 published as a licensed broker or agent;

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

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

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

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

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

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

13 (A) have the abstract covering the real estate
14 that is the subject of the contract examined by an attorney chosen
15 by the buyer; or

16 (B) be provided with or obtain a title insurance
17 policy;

18 (30) fails to deposit, within a reasonable time, money
19 the license holder receives as escrow or trust funds [~~agent~~] in a
20 real estate transaction:

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

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

26 (31) disburses money deposited in a custodial, trust,
27 or escrow account, as provided in Subdivision (30), before the

1 completion or termination of the real estate transaction;

2 (32) discriminates against an owner, potential buyer,
3 landlord, or potential tenant on the basis of race, color,
4 religion, sex, disability, familial status, national origin, or
5 ancestry, including directing a prospective buyer or tenant
6 interested in equivalent properties to a different area based on
7 the race, color, religion, sex, disability, familial status,
8 national origin, or ancestry of the potential owner or tenant; or

9 (33) disregards or violates this chapter.

10 SECTION 69. Section 1101.655, Occupations Code, is amended
11 by amending Subsections (a) and (b) and adding Subsection (d) to
12 read as follows:

13 (a) The commission shall [~~may~~] revoke a license, approval,
14 or registration issued under this chapter or Chapter 1102 if:

15 (1) the commission makes a payment from the real
16 estate recovery trust account under Subchapter M on behalf of a [~~to~~
17 ~~satisfy all or part of a judgment against the~~] license or
18 registration holder; and

19 (2) the license or registration holder does not repay
20 the real estate recovery trust account the full amount of a payment
21 made on the license or registration holder's behalf before the 31st
22 day after the date the commission provides notice to the license or
23 registration holder.

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

26 (d) For the purposes of this section, if payment is made
27 from the real estate recovery trust account on behalf of a business

1 entity license holder or a designated broker of a business entity
2 license holder, the commission shall proceed under Subsection (a)
3 against both the business entity and designated broker.

4 SECTION 70. Section 1101.6561, Occupations Code, is amended
5 to read as follows:

6 Sec. 1101.6561. SUSPENSION OR REVOCATION OF EDUCATIONAL
7 PROGRAM [~~ACCREDITATION~~]. The commission may suspend or revoke the
8 approval to offer a program or course of study [~~an accreditation~~]
9 issued under Subchapter G or take any other disciplinary action
10 authorized by this chapter if the provider of an educational
11 program or course of study violates this chapter or a rule adopted
12 under this chapter.

13 SECTION 71. Section 1101.661, Occupations Code, is amended
14 to read as follows:

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

19 SECTION 72. Section 1101.662(c), Occupations Code, is
20 amended to read as follows:

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

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

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

1 SECTION 73. Subchapter N, Chapter 1101, Occupations Code,
2 is amended by adding Section 1101.663 to read as follows:

3 Sec. 1101.663. REAPPLYING AFTER REVOCATION, SURRENDER, OR
4 DENIAL. A person whose license or registration has been revoked, a
5 person who has surrendered a license or registration issued by the
6 commission, or a person whose application for a license or
7 registration has been denied after a hearing under Section 1101.657
8 may not apply to the commission for a license or registration before
9 the second anniversary of the date of the revocation, surrender, or
10 denial.

11 SECTION 74. Subchapter N, Chapter 1101, Occupations Code,
12 is amended by adding Section 1101.664 to read as follows:

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

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

20 (c) The administrative law judge may award reasonable costs
21 to the commission on a request for and proof of costs incurred if
22 the respondent fails to appear at the hearing. In this subsection,
23 the term "costs" means all costs associated with the hearing,
24 including the costs charged by the State Office of Administrative
25 Hearings and any costs related to hearing preparation, discovery,
26 depositions, subpoenas, service of process, witness expenses,
27 travel expenses, and investigation expenses.

1 SECTION 75. Section 1101.7015, Occupations Code, is amended
2 to read as follows:

3 Sec. 1101.7015. DELEGATION OF EXECUTIVE DIRECTOR'S
4 ~~[ADMINISTRATOR'S]~~ AUTHORITY. The commission may authorize the
5 executive director ~~[administrator]~~ to delegate to another
6 commission employee the executive director's ~~[administrator's]~~
7 authority to act under this subchapter.

8 SECTION 76. Section 1101.702(b), Occupations Code, is
9 amended to read as follows:

10 (b) In determining the amount of the penalty, the executive
11 director ~~[administrator]~~ shall consider:

- 12 (1) the seriousness of the violation, including the
13 nature, circumstances, extent, and gravity of the prohibited acts;
- 14 (2) the history of previous violations;
- 15 (3) the amount necessary to deter a future violation;
- 16 (4) efforts to correct the violation; and
- 17 (5) any other matter that justice may require.

18 SECTION 77. Section 1101.703, Occupations Code, is amended
19 to read as follows:

20 Sec. 1101.703. NOTICE OF VIOLATION AND PENALTY. ~~[(a)]~~ If,
21 after investigation of a possible violation and the facts relating
22 to that violation, the executive director ~~[administrator]~~
23 determines that a violation has occurred, the executive director
24 ~~[administrator]~~ may issue a notice of violation stating:

- 25 (1) a brief summary of the alleged violation;
- 26 (2) the executive director's ~~[administrator's]~~
27 recommendation on the imposition of the administrative penalty or

1 another disciplinary sanction, including a recommendation on the
2 amount of the penalty; and

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

5 SECTION 78. Section 1101.704, Occupations Code, is amended
6 to read as follows:

7 Sec. 1101.704. PENALTY TO BE PAID OR HEARING REQUESTED.

8 (a) Not later than the 20th day after the date the person receives
9 the notice under Section 1101.703, the person may:

10 (1) accept the executive director's [~~administrator's~~]
11 determination, including the recommended administrative penalty;
12 or

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

15 (b) If the person accepts the executive director's
16 [~~administrator's~~] determination, or fails to respond in a timely
17 manner to the notice, the commission by order shall approve the
18 determination and order payment of the recommended penalty or
19 impose the recommended sanction.

20 SECTION 79. Section 1101.706, Occupations Code, is amended
21 to read as follows:

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

25 (1) include the findings of fact and conclusions of
26 law, separately stated;

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

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

3 (4) include other information required by law.

4 SECTION 80. Sections 1101.707(b) and (c), Occupations Code,
5 are amended to read as follows:

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

8 (1) stay enforcement of the penalty by:

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

11 (B) giving the court a supersedeas bond in a form
12 approved by the court that:

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

14 (ii) is effective until judicial review of
15 the order is final; or

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

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

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

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

26 SECTION 81. Section 1101.708, Occupations Code, is amended
27 to read as follows:

1 Sec. 1101.708. COLLECTION OF PENALTY. (a) If the person
2 does not pay the administrative penalty and the enforcement of the
3 penalty is not stayed, the executive director [~~administrator~~] may
4 refer the matter to the attorney general for collection of the
5 penalty.

6 (b) If the attorney general notifies the commission that the
7 attorney general will not pursue collection of the penalty, the
8 commission may pursue collection of the penalty by any lawful
9 means.

10 SECTION 82. The heading to Section [1101.753](#), Occupations
11 Code, is amended to read as follows:

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

14 SECTION 83. Section [1101.753](#)(a), Occupations Code, is
15 amended to read as follows:

16 (a) In addition to injunctive relief under Sections
17 [1101.751](#) and [1101.752](#), a person who receives a commission or other
18 consideration as a result of acting as a broker or sales agent
19 [~~salesperson~~] without holding a license or certificate of
20 registration under this chapter is liable to the state for a civil
21 penalty of not less than the amount of money received or more than
22 three times the amount of money received.

23 SECTION 84. The heading to Section [1101.754](#), Occupations
24 Code, is amended to read as follows:

25 Sec. 1101.754. PRIVATE CAUSE OF ACTION FOR CERTAIN
26 VIOLATIONS BY BROKER, SALES AGENT [~~SALESPERSON~~], OR CERTIFICATE
27 HOLDER.

1 SECTION 85. Section 1101.754(a), Occupations Code, is
2 amended to read as follows:

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

9 SECTION 86. The heading to Section 1101.758, Occupations
10 Code, is amended to read as follows:

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

13 SECTION 87. Section 1101.758(a), Occupations Code, is
14 amended to read as follows:

15 (a) A person commits an offense if the person acts as a
16 broker or sales agent [~~salesperson~~] without holding a license under
17 this chapter or engages in an activity for which a certificate of
18 registration is required under this chapter without holding a
19 certificate.

20 SECTION 88. Section 1101.803, Occupations Code, is amended
21 to read as follows:

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

27 SECTION 89. Section 1101.805(c), Occupations Code, is

1 amended to read as follows:

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

5 SECTION 90. Section 1101.806(b), Occupations Code, is
6 amended to read as follows:

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

11 (1) a license holder at the time the act was commenced;
12 or

13 (2) an attorney licensed in any state.

14 SECTION 91. Sections 1101.106(c), 1101.152(c), 1101.455(d)
15 and (g), 1101.558(a), (d), and (e), 1101.603(b), and 1101.615(b),
16 Occupations Code, are repealed.

17 SECTION 92. Section 1101.060, Occupations Code, as added by
18 this Act, applies only to an action that is taken by a member of the
19 Texas Real Estate Commission on or after the effective date of this
20 Act. An action taken before that date is governed by the law in
21 effect on the date the action was taken, and the former law is
22 continued in effect for that purpose.

23 SECTION 93. The changes in law made by this Act relating to
24 the eligibility for a license or certificate of registration under
25 Chapter 1101, Occupations Code, or to requirements for an
26 application under that chapter apply only to an application
27 submitted to the Texas Real Estate Commission on or after the

1 effective date of this Act. An application submitted before that
2 date is governed by the law in effect on the date the application
3 was submitted, and the former law is continued in effect for that
4 purpose.

5 SECTION 94. The changes in law made by this Act relating to
6 an application for inactive status under Chapter 1101, Occupations
7 Code, apply only to an application for inactive status submitted to
8 the Texas Real Estate Commission on or after the effective date of
9 this Act. An application submitted before that date is governed by
10 the law in effect on the date the application was submitted, and the
11 former law is continued in effect for that purpose.

12 SECTION 95. Section 1101.405, Occupations Code, as amended
13 by this Act, does not apply to an examination taken before the
14 effective date of this Act.

15 SECTION 96. The changes in law made by this Act relating to
16 the requirements for renewal of a license or certificate of
17 registration under Chapter 1101, Occupations Code, or to the
18 continuing education requirements under that chapter apply only to
19 an application for renewal of a license or certificate that expires
20 on or after the effective date of this Act. A license or
21 certificate of registration that expires before that date is
22 governed by the law in effect immediately before the effective date
23 of this Act, and the former law is continued in effect for that
24 purpose.

25 SECTION 97. The Texas Real Estate Commission shall adopt
26 rules prescribing the notice required by Section 1101.558,
27 Occupations Code, as amended by this Act, not later than February 1,

1 2016. A real estate broker or sales agent is not required to comply
2 with the requirements of that section, as amended by this Act,
3 before that date.

4 SECTION 98. The changes in law made by this Act to
5 Subchapter M, Chapter 1101, Occupations Code, apply only to a claim
6 commenced under that subchapter on or after the effective date of
7 this Act. A claim commenced before that date is governed by the law
8 in effect on the date the claim was commenced, and the former law is
9 continued in effect for that purpose.

10 SECTION 99. The changes in law made by this Act relating to
11 the grounds for disciplinary action under Chapter 1101 or 1102,
12 Occupations Code, apply only to conduct that occurs on or after the
13 effective date of this Act. Conduct that occurs before that date is
14 governed by the law in effect on the date the conduct occurred, and
15 the former law is continued in effect for that purpose.

16 SECTION 100. (a) Except as provided by Subsection (b) of
17 this section, this Act takes effect January 1, 2016.

18 (b) The change in law made by this Act to Section [1101.154](#),
19 Occupations Code, takes effect September 1, 2015, but only if S.B.
20 765 or similar legislation of the 84th Legislature, Regular
21 Session, 2015, that repeals Section [1101.153](#), Occupations Code, is
22 enacted and becomes law. If legislation described by this
23 subsection does not become law, the change in law made by this Act
24 to Section [1101.154](#), Occupations Code, has no effect.