

1-1 By: Eltife S.B. No. 699
 1-2 (In the Senate - Filed February 23, 2015; February 25, 2015,
 1-3 read first time and referred to Committee on Business and Commerce;
 1-4 March 30, 2015, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 8, Nays 0; March 30, 2015,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 699 By: Seliger

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the Texas Real Estate Commission and the regulation of
 1-22 certain real estate professionals.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. The heading to Chapter 1101, Occupations Code,
 1-25 is amended to read as follows:

1-26 CHAPTER 1101. REAL ESTATE BROKERS AND SALES AGENTS [~~SALESPERSONS~~]

1-27 SECTION 2. Sections 1101.002(1), (1-a), (4), and (7),
 1-28 Occupations Code, are amended to read as follows:

1-29 (1) "Broker":

1-30 (A) means a person who, in exchange for a
 1-31 commission or other valuable consideration or with the expectation
 1-32 of receiving a commission or other valuable consideration, performs
 1-33 for another person one of the following acts:

1-34 (i) sells, exchanges, purchases, or leases
 1-35 real estate;

1-36 (ii) offers to sell, exchange, purchase, or
 1-37 lease real estate;

1-38 (iii) negotiates or attempts to negotiate
 1-39 the listing, sale, exchange, purchase, or lease of real estate;

1-40 (iv) lists or offers, attempts, or agrees
 1-41 to list real estate for sale, lease, or exchange;

1-42 (v) auctions or offers, attempts, or agrees
 1-43 to auction real estate;

1-44 (vi) deals in options on real estate,
 1-45 including a lease to purchase or buying, selling, or offering to buy
 1-46 or sell options on real estate;

1-47 (vii) aids or offers or attempts to aid in
 1-48 locating or obtaining real estate for purchase or lease;

1-49 (viii) procures or assists in procuring a
 1-50 prospect to effect the sale, exchange, or lease of real estate;

1-51 (ix) procures or assists in procuring
 1-52 property to effect the sale, exchange, or lease of real estate;

1-53 (x) controls the acceptance or deposit of
 1-54 rent from a resident of a single-family residential real property
 1-55 unit; [~~or~~]

1-56 (xi) provides a written analysis, opinion,
 1-57 or conclusion relating to the estimated price of real property if
 1-58 the analysis, opinion, or conclusion:

1-59 (a) is not referred to as an
 1-60 appraisal;

2-1 (b) is provided in the ordinary course
2-2 of the person's business; and
2-3 (c) is related to the actual or
2-4 potential management, acquisition, disposition, or encumbrance of
2-5 an interest in real property; or
2-6 (xii) advises or offers advice to an owner
2-7 of real estate concerning the negotiation or completion of a short
2-8 sale; and
2-9 (B) includes a person who:
2-10 (i) is employed by or for an owner of real
2-11 estate to sell any portion of the real estate; or
2-12 (ii) engages in the business of charging an
2-13 advance fee or contracting to collect a fee under a contract that
2-14 requires the person primarily to promote the sale of real estate by:
2-15 (a) listing the real estate in a
2-16 publication primarily used for listing real estate; or
2-17 (b) referring information about the
2-18 real estate to brokers.
2-19 (1-a) "Business entity" means a "domestic entity" or
2-20 "foreign entity" as those terms are defined by Section 1.002,
2-21 Business Organizations Code, that is qualified to transact business
2-22 in this state.
2-23 (4) "License holder" means a broker or sales agent
2-24 [~~salesperson~~] licensed under this chapter.
2-25 (7) "Sales agent" [~~"Salesperson"~~] means a person who
2-26 is sponsored by [~~associated with~~] a licensed broker for the purpose
2-27 of performing an act described by Subdivision (1).
2-28 SECTION 3. The heading to Section 1101.003, Occupations
2-29 Code, is amended to read as follows:
2-30 Sec. 1101.003. QUALIFYING [~~CORE~~] REAL ESTATE COURSES.
2-31 SECTION 4. Section 1101.003, Occupations Code, is amended
2-32 by amending Subsections (a) and (c) and adding Subsections (d) and
2-33 (e) to read as follows:
2-34 (a) For purposes of this chapter, qualifying [~~core~~] real
2-35 estate courses" include:
2-36 (1) agency law, which includes the following topics:
2-37 (A) the relationship between a principal and an
2-38 agent;
2-39 (B) an agent's authority;
2-40 (C) the termination of an agent's authority;
2-41 (D) an agent's duties, including fiduciary
2-42 duties;
2-43 (E) employment law;
2-44 (F) deceptive trade practices;
2-45 (G) listing or buying representation procedures;
2-46 and
2-47 (H) the disclosure of agency;
2-48 (2) contract law, which includes the following topics:
2-49 (A) elements of a contract;
2-50 (B) offer and acceptance;
2-51 (C) statute of frauds;
2-52 (D) remedies for breach, including specific
2-53 performance;
2-54 (E) unauthorized practice of law;
2-55 (F) commission rules relating to use of adopted
2-56 forms; and
2-57 (G) owner disclosure requirements;
2-58 (3) principles of real estate, which includes:
2-59 (A) an overview of:
2-60 (i) licensing as a broker or sales agent
2-61 [~~salesperson~~];
2-62 (ii) ethics of practice as a license
2-63 holder;
2-64 (iii) titles to and conveyance of real
2-65 estate;
2-66 (iv) legal descriptions;
2-67 (v) deeds, encumbrances, and liens;
2-68 (vi) distinctions between personal and real
2-69 property;

- 3-1 (vii) appraisal;
- 3-2 (viii) finance and regulations;
- 3-3 (ix) closing procedures; and
- 3-4 (x) real estate mathematics; and
- 3-5 (B) at least three class hours of [~~classroom~~]
- 3-6 instruction on federal, state, and local laws relating to housing
- 3-7 discrimination, housing credit discrimination, and community
- 3-8 reinvestment;
- 3-9 (4) property management, which includes the following
- 3-10 topics:
- 3-11 (A) the role of a property manager;
- 3-12 (B) landlord policies;
- 3-13 (C) operational guidelines;
- 3-14 (D) leases;
- 3-15 (E) lease negotiations;
- 3-16 (F) tenant relations;
- 3-17 (G) maintenance;
- 3-18 (H) reports;
- 3-19 (I) habitability laws; and
- 3-20 (J) the Fair Housing Act (42 U.S.C. Section 3601
- 3-21 et seq.);
- 3-22 (5) real estate appraisal, which includes the
- 3-23 following topics:
- 3-24 (A) the central purposes and functions of an
- 3-25 appraisal;
- 3-26 (B) social and economic determinants of the value
- 3-27 of real estate;
- 3-28 (C) appraisal case studies;
- 3-29 (D) cost, market data, and income approaches to
- 3-30 value estimates of real estate;
- 3-31 (E) final correlations; and
- 3-32 (F) reporting;
- 3-33 (6) real estate brokerage, which includes the
- 3-34 following topics:
- 3-35 (A) agency law;
- 3-36 (B) planning and organization;
- 3-37 (C) operational policies and procedures;
- 3-38 (D) recruitment, selection, and training of
- 3-39 personnel;
- 3-40 (E) records and control; and
- 3-41 (F) real estate firm analysis and expansion
- 3-42 criteria;
- 3-43 (7) real estate finance, which includes the following
- 3-44 topics:
- 3-45 (A) monetary systems;
- 3-46 (B) primary and secondary money markets;
- 3-47 (C) sources of mortgage loans;
- 3-48 (D) federal government programs;
- 3-49 (E) loan applications, processes, and
- 3-50 procedures;
- 3-51 (F) closing costs;
- 3-52 (G) alternative financial instruments;
- 3-53 (H) equal credit opportunity laws;
- 3-54 (I) community reinvestment laws, including the
- 3-55 Community Reinvestment Act of 1977 (12 U.S.C. Section 2901 et
- 3-56 seq.); and
- 3-57 (J) state housing agencies, including the Texas
- 3-58 Department of Housing and Community Affairs;
- 3-59 (8) real estate investment, which includes the
- 3-60 following topics:
- 3-61 (A) real estate investment characteristics;
- 3-62 (B) techniques of investment analysis;
- 3-63 (C) the time value of money;
- 3-64 (D) discounted and nondiscounted investment
- 3-65 criteria;
- 3-66 (E) leverage;
- 3-67 (F) tax shelters depreciation; and
- 3-68 (G) applications to property tax;
- 3-69 (9) real estate law, which includes the following

4-1 topics:

4-2 (A) legal concepts of real estate;

4-3 (B) land description;

4-4 (C) real property rights and estates in land;

4-5 (D) contracts;

4-6 (E) conveyances;

4-7 (F) encumbrances;

4-8 (G) foreclosures;

4-9 (H) recording procedures; and

4-10 (I) evidence of titles;

4-11 (10) real estate marketing, which includes the

4-12 following topics:

4-13 (A) real estate professionalism and ethics;

4-14 (B) characteristics of successful sales agents

4-15 [salespersons];

4-16 (C) time management;

4-17 (D) psychology of marketing;

4-18 (E) listing procedures;

4-19 (F) advertising;

4-20 (G) negotiating and closing;

4-21 (H) financing; and

4-22 (I) Subchapter E, Chapter 17, Business & Commerce

4-23 Code; and

4-24 (11) real estate mathematics, which includes the

4-25 following topics:

4-26 (A) basic arithmetic skills and review of

4-27 mathematical logic;

4-28 (B) percentages;

4-29 (C) interest;

4-30 (D) the time value of money;

4-31 (E) depreciation;

4-32 (F) amortization;

4-33 (G) proration; and

4-34 (H) estimation of closing statements.

4-35 (c) The commission by rule may prescribe:

4-36 (1) the content of the qualifying [~~core~~] real estate

4-37 courses listed in Subsection (a); and

4-38 (2) the title and content of additional qualifying

4-39 [~~core~~] real estate courses.

4-40 (d) A daily course segment for a qualifying course may not

4-41 exceed 12 hours.

4-42 (e) An applicant, license holder, or education provider may

4-43 not report to the commission the completion of an alternative

4-44 delivery or correspondence course offered as a qualifying course

4-45 until the elapsed time between the time the applicant or license

4-46 holder registers for the course and the time the completion of the

4-47 course is reported exceeds twice the number of hours for which

4-48 credit is claimed.

4-49 SECTION 5. Section 1101.004, Occupations Code, is amended

4-50 to read as follows:

4-51 Sec. 1101.004. REAL ESTATE BROKERAGE [~~ACTING AS BROKER OR~~

4-52 ~~SALESPERSON~~]. (a) A person is engaged in real estate brokerage

4-53 [acts as a broker or salesperson under this chapter] if the person,

4-54 with the expectation of receiving valuable consideration, directly

4-55 or indirectly performs or offers, attempts, or agrees to perform

4-56 for another person any act described by Section 1101.002(1), as a

4-57 part of a transaction or as an entire transaction.

4-58 (b) A person is not engaged in real estate brokerage,

4-59 regardless of whether the person is licensed under this chapter,

4-60 based solely on engaging in the following activities:

4-61 (1) constructing, remodeling, or repairing a home or

4-62 other building;

4-63 (2) sponsoring, promoting, or managing, or otherwise

4-64 participating as a principal, partner, or financial manager of, an

4-65 investment in real estate; or

4-66 (3) entering into an obligation to pay another person

4-67 that is secured by an interest in real property.

4-68 SECTION 6. Section 1101.005, Occupations Code, is amended

4-69 to read as follows:

5-1 Sec. 1101.005. APPLICABILITY OF CHAPTER. This chapter does
5-2 not apply to:

5-3 (1) an attorney licensed in this state;

5-4 (2) an attorney-in-fact authorized under a power of
5-5 attorney to conduct not more than three ~~[a]~~ real estate
5-6 transactions annually ~~[transaction]~~;

5-7 (3) a public official while engaged in official
5-8 duties;

5-9 (4) an auctioneer licensed under Chapter 1802 while
5-10 conducting the sale of real estate by auction if the auctioneer does
5-11 not perform another act of a broker ~~[or salesperson]~~;

5-12 (5) a person conducting a real estate transaction
5-13 under a court order or the authority of a will or written trust
5-14 instrument;

5-15 (6) a person employed by an owner in the sale of
5-16 structures and land on which structures are located if the
5-17 structures are erected by the owner in the course of the owner's
5-18 business;

5-19 (7) an on-site manager of an apartment complex;

5-20 (8) an owner or the owner's employee who leases the
5-21 owner's improved or unimproved real estate; or

5-22 (9) a transaction involving:

5-23 (A) the sale, lease, or transfer of a mineral or
5-24 mining interest in real property;

5-25 (B) the sale, lease, or transfer of a cemetery
5-26 lot;

5-27 (C) the lease or management of a hotel or motel;
5-28 or

5-29 (D) the sale of real property under a power of
5-30 sale conferred by a deed of trust or other contract lien.

5-31 SECTION 7. Section 1101.056, Occupations Code, is amended
5-32 by adding Subsection (c) to read as follows:

5-33 (c) The presiding officer, assistant presiding officer, and
5-34 secretary constitute the executive committee of the commission.

5-35 SECTION 8. Section 1101.057(c), Occupations Code, is
5-36 amended to read as follows:

5-37 (c) If the executive director ~~[administrator]~~ has knowledge
5-38 that a potential ground for removal exists, the executive director
5-39 ~~[administrator]~~ shall notify the presiding officer of the
5-40 commission of the potential ground. The presiding officer shall
5-41 then notify the governor and the attorney general that a potential
5-42 ground for removal exists. If the potential ground for removal
5-43 involves the presiding officer, the executive director
5-44 ~~[administrator]~~ shall notify the next highest ranking officer of
5-45 the commission, who shall then notify the governor and the attorney
5-46 general that a potential ground for removal exists.

5-47 SECTION 9. Section 1101.058, Occupations Code, is amended
5-48 to read as follows:

5-49 Sec. 1101.058. PER DIEM; REIMBURSEMENT. (a) A commission
5-50 member is entitled to receive:

5-51 (1) \$75 for each day the member performs the member's
5-52 official duties; and

5-53 (2) reimbursement for actual and necessary expenses
5-54 incurred in performing the member's official duties.

5-55 (b) For purposes of this section, the commission by rule may
5-56 determine what constitutes a day or actual and necessary expenses.

5-57 SECTION 10. Subchapter B, Chapter 1101, Occupations Code,
5-58 is amended by adding Sections 1101.060 and 1101.061 to read as
5-59 follows:

5-60 Sec. 1101.060. QUASI-JUDICIAL IMMUNITY. A member of the
5-61 commission is entitled to quasi-judicial immunity from suit for an
5-62 action that:

5-63 (1) is taken as a member of the commission; and

5-64 (2) is in compliance with the law.

5-65 Sec. 1101.061. EDUCATIONAL PRESENTATIONS. (a) A member of
5-66 the commission or a commission employee may make a presentation to a
5-67 group of license holders for which the license holders may receive
5-68 credit under Section 1101.455. The commission member or employee
5-69 may not receive compensation for the presentation.

6-1 (b) Notwithstanding Subsection (a), a commission member or
6-2 employee may receive reimbursement for reasonable travel expenses.

6-3 SECTION 11. The heading to Subchapter C, Chapter 1101,
6-4 Occupations Code, is amended to read as follows:

6-5 SUBCHAPTER C. EXECUTIVE DIRECTOR [~~ADMINISTRATOR~~] AND OTHER
6-6 COMMISSION PERSONNEL

6-7 SECTION 12. The heading to Section 1101.101, Occupations
6-8 Code, is amended to read as follows:

6-9 Sec. 1101.101. EXECUTIVE DIRECTOR [~~ADMINISTRATOR~~] AND
6-10 OTHER PERSONNEL.

6-11 SECTION 13. Sections 1101.101(a), (b), and (d), Occupations
6-12 Code, are amended to read as follows:

6-13 (a) The commission shall appoint an executive director
6-14 [~~administrator~~].

6-15 (b) The commission may designate a subordinate officer as
6-16 deputy executive director [~~assistant administrator~~] to act for the
6-17 executive director [~~administrator~~] in the executive director's
6-18 [~~administrator's~~] absence.

6-19 (d) The commission shall determine the salaries of the
6-20 executive director [~~administrator~~], officers, and employees of the
6-21 commission.

6-22 SECTION 14. Section 1101.102, Occupations Code, is amended
6-23 to read as follows:

6-24 Sec. 1101.102. DIVISION OF RESPONSIBILITIES. The
6-25 commission shall develop and implement policies that clearly
6-26 separate the policymaking responsibilities of the commission and
6-27 the management responsibilities of the executive director
6-28 [~~administrator~~] and the staff of the commission.

6-29 SECTION 15. Section 1101.105, Occupations Code, is amended
6-30 to read as follows:

6-31 Sec. 1101.105. CAREER DEVELOPMENT [~~LADDER~~] PROGRAM;
6-32 PERFORMANCE EVALUATIONS. (a) The executive director
6-33 [~~administrator~~] or the executive director's [~~administrator's~~]
6-34 designee shall develop an intra-agency career development [~~ladder~~]
6-35 program. The program must require intra-agency postings of all
6-36 nonentry level positions concurrently with any public posting.

6-37 (b) The executive director [~~administrator~~] or the executive
6-38 director's [~~administrator's~~] designee shall develop a system of
6-39 annual performance evaluations. All merit pay for commission
6-40 employees must be based on the system established under this
6-41 subsection.

6-42 SECTION 16. Sections 1101.106(a) and (b), Occupations Code,
6-43 are amended to read as follows:

6-44 (a) The executive director [~~administrator~~] or the executive
6-45 director's [~~administrator's~~] designee shall prepare and maintain a
6-46 written policy statement to ensure implementation of an equal
6-47 employment opportunity program under which all personnel
6-48 transactions are made without regard to race, color, disability,
6-49 sex, religion, age, or national origin. The policy statement must
6-50 include:

6-51 (1) personnel policies, including policies relating
6-52 to recruitment, evaluation, selection, appointment, training, and
6-53 promotion of personnel;

6-54 (2) a comprehensive analysis of the commission
6-55 workforce that meets federal and state guidelines;

6-56 (3) procedures by which a determination can be made of
6-57 significant underuse in the commission workforce of all persons for
6-58 whom federal or state guidelines encourage a more equitable
6-59 balance; and

6-60 (4) reasonable methods to appropriately address those
6-61 areas of underuse.

6-62 (b) A policy statement prepared under Subsection (a) must:

6-63 (1) cover a two-year [~~an annual~~] period; and

6-64 (2) be updated with each strategic plan filed as
6-65 required by Chapter 2056, Government Code [~~at least annually, and~~

6-66 [~~(3) be filed with the governor~~].

6-67 SECTION 17. Section 1101.152(a), Occupations Code, is
6-68 amended to read as follows:

6-69 (a) The commission shall adopt rules to charge and collect

7-1 fees in amounts reasonable and necessary to cover the costs of
7-2 administering this chapter, including a fee for:
7-3 (1) filing an original application for a broker
7-4 license;
7-5 (2) ~~annual~~ renewal of a broker license;
7-6 (3) filing an original application for a sales agent
7-7 ~~salesperson~~ license;
7-8 (4) ~~annual~~ renewal of a sales agent ~~salesperson~~
7-9 license;
7-10 (5) ~~annual~~ registration as an easement or
7-11 right-of-way agent;
7-12 (6) filing an application for a license examination;
7-13 (7) filing a request for a branch office license;
7-14 (8) filing a request for a change of place of business,
7-15 change of name, return to active status, or change of sponsoring
7-16 broker;
7-17 (9) filing a request to replace a lost or destroyed
7-18 license or certificate of registration;
7-19 (10) filing an application for approval of an
7-20 education program under Subchapter G;
7-21 (11) annual operation of an education program under
7-22 Subchapter G;
7-23 (12) filing an application for approval of an
7-24 instructor of qualifying ~~core~~ real estate courses;
7-25 (13) transcript evaluation;
7-26 (14) preparing a license or registration history;
7-27 (15) filing a request ~~an application~~ for a moral
7-28 character determination; and
7-29 (16) conducting a criminal history check for issuing
7-30 or renewing a license.

7-31 SECTION 18. Section 1101.154, Occupations Code, is amended
7-32 to read as follows:
7-33 Sec. 1101.154. ADDITIONAL FEE: TEXAS REAL ESTATE RESEARCH
7-34 CENTER. (a) The fee for the issuance or renewal of a:
7-35 (1) broker license is the amount of the fee set under
7-36 Section ~~Sections~~ 1101.152 ~~and 1101.153~~ and an additional \$70
7-37 ~~[\$20]~~ fee;
7-38 (2) sales agent ~~salesperson~~ license is the amount of
7-39 the fee set under Section 1101.152 and an additional \$20 fee; and
7-40 (3) certificate of registration is the amount of the
7-41 fee set under Section 1101.152 and an additional \$20 fee.
7-42 (b) The commission shall transmit, not less than quarterly,
7-43 the additional fees collected under Subsection (a) to Texas A&M
7-44 University for deposit in a separate banking account that may be
7-45 appropriated only to support, maintain, and carry out the purposes,
7-46 objectives, and duties of the Texas Real Estate Research Center.

7-47 SECTION 19. Section 1101.156(b), Occupations Code, is
7-48 amended to read as follows:
7-49 (b) The commission may not include in rules to prohibit
7-50 false, misleading, or deceptive practices by a person regulated by
7-51 the commission a rule that:
7-52 (1) restricts the use of any advertising medium;
7-53 (2) restricts the person's personal appearance or use
7-54 of the person's voice in an advertisement;
7-55 (3) relates to the size or duration of an
7-56 advertisement used by the person; or
7-57 (4) restricts the person's advertisement under a trade
7-58 name that is authorized by a law of this state and registered with
7-59 the commission.

7-60 SECTION 20. Section 1101.161, Occupations Code, is amended
7-61 to read as follows:
7-62 Sec. 1101.161. GIFTS, GRANTS, AND DONATIONS. The
7-63 commission may solicit and accept a gift, grant, donation, or other
7-64 item of value from any source to pay for any activity under this
7-65 chapter, or Chapter 1102, ~~or~~ 1103, 1104, or 1303 of this code, or
7-66 Chapter 221, Property Code.

7-67 SECTION 21. Section 1101.202(a), Occupations Code, is
7-68 amended to read as follows:
7-69 (a) The commission by rule shall:

8-1 (1) prescribe a notice containing ~~[establish methods~~
8-2 ~~by which consumers and service recipients are notified of]~~ the
8-3 name, mailing address, and telephone number of the commission for
8-4 the purpose of directing a complaint to the commission; and

8-5 (2) establish methods by which consumers and service
8-6 recipients are provided the notice by ~~[. The commission may provide~~
8-7 ~~for that notice;~~

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

8-11 ~~[(2) on a sign prominently displayed in the place of~~
8-12 ~~business of each person regulated under this chapter or Chapter~~
8-13 ~~1102;~~

8-14 ~~[(3) in a bill for services provided by a person~~
8-15 ~~regulated under this chapter or Chapter 1102;~~

8-16 ~~[(4) in conjunction with the notice required by~~
8-17 ~~Section 1101.615; or~~

8-18 ~~[(5) to be prominently displayed on the Internet~~
8-19 ~~website of a person regulated under this chapter or Chapter 1102].~~

8-20 SECTION 22. Section 1101.205, Occupations Code, is amended
8-21 to read as follows:

8-22 Sec. 1101.205. COMPLAINT INVESTIGATION OF CERTIFICATE
8-23 HOLDER. The commission shall investigate a signed complaint
8-24 received by the commission that relates to an act of a certificate
8-25 holder or a person required to hold a certificate under Subchapter
8-26 K. Section 1101.204 applies to an investigation under this
8-27 section.

8-28 SECTION 23. Subchapter E, Chapter 1101, Occupations Code,
8-29 is amended by adding Section 1101.2051 to read as follows:

8-30 Sec. 1101.2051. CONFIDENTIALITY OF INVESTIGATION MATERIAL.

8-31 (a) Information or material, including an investigation file, is
8-32 confidential and not subject to disclosure under Chapter 552,
8-33 Government Code, or any other means of legal compulsion for
8-34 release, including disclosure, discovery, or subpoena, if the
8-35 information or material is prepared or compiled by the commission
8-36 in connection with a complaint, investigation, or audit of any
8-37 person subject to the jurisdiction of the commission.

8-38 (b) Notwithstanding Subsection (a), information or material
8-39 prepared or compiled by the commission in connection with a
8-40 complaint, investigation, or audit may be disclosed:

8-41 (1) to the respondent of the complaint;

8-42 (2) to a person that is the subject of an audit;

8-43 (3) to a person providing a service to the commission,
8-44 an expert or other witness, or an investigator, if the information
8-45 is necessary for preparation for, or a presentation in, a
8-46 disciplinary proceeding against an applicant or license holder, or
8-47 a subsequent trial or appeal taken from a disciplinary proceeding;

8-48 (4) to an entity in another jurisdiction that
8-49 licenses, registers, credentials, or disciplines any person
8-50 subject to the jurisdiction of the commission;

8-51 (5) to a law enforcement agency;

8-52 (6) to the State Office of Administrative Hearings; or

8-53 (7) to the commission, or a panel of the commission,
8-54 for use during any proceeding conducted by the State Office of
8-55 Administrative Hearings or in a subsequent trial or appeal of a
8-56 commission action or order.

8-57 (c) The release of information under Subsection (b) does not
8-58 constitute a release or disclosure for purposes of Section 552.007,
8-59 Government Code.

8-60 (d) The commission may require a confidentiality agreement
8-61 be signed by a person entitled to receive information under
8-62 Subsection (b) before releasing the information.

8-63 (e) Notwithstanding Subsection (a), on the dismissal or
8-64 final resolution of a complaint, investigation, or audit,
8-65 information or materials prepared or compiled by the commission in
8-66 connection with the complaint, investigation, or audit, including a
8-67 completed audit report or a final order of the commission, is
8-68 subject to disclosure under Chapter 321 or 552, Government Code.

8-69 SECTION 24. The heading to Subchapter G, Chapter 1101,

9-1 Occupations Code, is amended to read as follows:

9-2 SUBCHAPTER G. ~~[ACCREDITATION AND]~~ APPROVAL OF REAL ESTATE
 9-3 EDUCATIONAL PROGRAMS AND COURSES OF STUDY

9-4 SECTION 25. Section 1101.301, Occupations Code, is amended
 9-5 to read as follows:

9-6 Sec. 1101.301. APPROVAL ~~[ACCREDITATION]~~ OF PROGRAMS AND
 9-7 COURSES OF STUDY. (a) The commission, as necessary for the
 9-8 administration of this chapter and Chapter 1102, may by rule ~~[+~~

9-9 ~~[(1)]~~ establish standards for the approval
 9-10 ~~[accreditation]~~ of qualifying educational programs or courses of
 9-11 study in real estate and real estate inspection conducted in this
 9-12 state, excluding programs and courses offered by accredited
 9-13 colleges and universities ~~[+~~

9-14 ~~[(2) establish by rule reasonable criteria for the~~
 9-15 ~~approval of real estate and real estate inspection courses; and~~

9-16 ~~[(3) inspect and accredit real estate and real estate~~
 9-17 ~~inspection educational programs or courses of study].~~

9-18 (b) The commission shall determine whether a real estate or
 9-19 real estate inspection course satisfies the requirements of this
 9-20 chapter ~~or [and]~~ Chapter 1102 for the purposes of granting credit to
 9-21 an applicant.

9-22 (c) In establishing approval ~~[accreditation]~~ standards for
 9-23 an educational program under Subsection (a), the commission shall
 9-24 adopt rules setting an examination passage rate benchmark for each
 9-25 category of license issued by the commission under this chapter or
 9-26 Chapter 1102. The benchmark must be based on the average
 9-27 percentage of examinees that pass the licensing exam on the first
 9-28 attempt. A program must meet or exceed the benchmark for each
 9-29 license category before the commission may renew the program's
 9-30 approval to offer a program or course of study ~~[accreditation]~~ for
 9-31 the license category.

9-32 (d) The commission may deny approval of an application to
 9-33 offer a program or course of study ~~[for accreditation]~~ if the
 9-34 applicant owns or controls, or has previously owned or controlled,
 9-35 an educational program or course of study for which approval to
 9-36 offer a program or course of study ~~[accreditation]~~ was revoked.

9-37 (e) Notwithstanding Subsection (c), the commission may
 9-38 renew a program's approval to offer a program or course of study on
 9-39 a probationary basis if the commission determines that the program
 9-40 is capable of meeting the benchmark under Subsection (c) within a
 9-41 reasonable time established by the commission.

9-42 SECTION 26. Section 1101.304, Occupations Code, is amended
 9-43 to read as follows:

9-44 Sec. 1101.304. EXAMINATION PASSAGE RATE DATA. (a) The
 9-45 commission shall adopt rules regarding the collection and
 9-46 publication of data relating to examination passage rates for
 9-47 graduates of ~~[accredited]~~ educational programs approved under this
 9-48 subchapter.

9-49 (b) Rules adopted under this section must provide for a
 9-50 method to:

- 9-51 (1) calculate the examination passage rate;
- 9-52 (2) collect the relevant data from the examination
 9-53 administrator or the approved ~~[accredited]~~ program; and
- 9-54 (3) post the examination passage rate data on the
 9-55 commission's Internet website, in a manner aggregated by
 9-56 educational program and by license group.

9-57 (c) The commission shall adopt rules for ~~[It]~~ determining
 9-58 the educational program a graduate is affiliated with for purposes
 9-59 of this section ~~[, the educational program is the program the~~
 9-60 ~~graduate last attended].~~

9-61 SECTION 27. Sections 1101.305(a) and (c), Occupations Code,
 9-62 are amended to read as follows:

9-63 (a) The commission may appoint a committee to review the
 9-64 performance of an educational program performing below the
 9-65 standards set by the commission under Section 1101.301. ~~[The~~
 9-66 ~~committee shall consist of:~~

- 9-67 ~~[(1) at least one commission member,~~
- 9-68 ~~[(2) at least one member of the commission staff,~~
- 9-69 ~~[(3) individuals licensed under this chapter or~~

10-1 ~~Chapter 1102, and~~

10-2 ~~[(4) a representative from the Texas Real Estate~~

10-3 ~~Research Center.]~~

10-4 (c) A committee formed under this section may not revoke the

10-5 approval [~~accreditation~~] of an educational program. The

10-6 commission may temporarily suspend a program in the same manner as a

10-7 license under Subchapter N.

10-8 SECTION 28. Sections 1101.351(a), (b), and (c), Occupations

10-9 Code, are amended to read as follows:

10-10 (a) Unless a person holds a license issued under this

10-11 chapter, the person may not:

10-12 (1) act as or represent that the person is a broker or

10-13 sales agent [~~salesperson~~]; or

10-14 (2) act as a residential rental locator.

10-15 (b) An applicant for a broker or sales agent [~~salesperson~~]

10-16 license may not act as a broker or sales agent [~~salesperson~~] until

10-17 the person receives the license evidencing that authority.

10-18 (c) A licensed sales agent [~~salesperson~~] may not engage or

10-19 attempt to engage in real estate brokerage [~~act or attempt to act as~~

10-20 ~~a broker or salesperson~~] unless the sales agent [~~salesperson~~] is

10-21 sponsored by [~~associated with~~] a licensed broker and is acting for

10-22 that broker.

10-23 SECTION 29. Sections 1101.352(a), (b), and (d), Occupations

10-24 Code, are amended to read as follows:

10-25 (a) Each applicant for a broker or sales agent [~~salesperson~~]

10-26 license must submit an application on a form prescribed by the

10-27 commission.

10-28 (b) Each applicant for a broker or sales agent [~~salesperson~~]

10-29 license must disclose in the license application whether the

10-30 applicant has:

10-31 (1) entered a plea of guilty or nolo contendere to a

10-32 felony; or

10-33 (2) been convicted of a felony and the time for appeal

10-34 has elapsed or the judgment or conviction has been affirmed on

10-35 appeal.

10-36 (d) At the time an application is submitted under Subsection

10-37 (a), each applicant shall provide the commission with the

10-38 applicant's current mailing address and telephone number, and the

10-39 applicant's business e-mail address if available. The applicant

10-40 shall notify the commission of any change in the applicant's

10-41 mailing or e-mail address or telephone number during the time the

10-42 application is pending.

10-43 SECTION 30. Section 1101.3521(b), Occupations Code, is

10-44 amended to read as follows:

10-45 (b) The commission shall refuse to issue a license to or

10-46 renew a [~~the~~] license on active status of a person who does not

10-47 comply with the requirement of Subsection (a).

10-48 SECTION 31. Section 1101.353(a), Occupations Code, is

10-49 amended to read as follows:

10-50 (a) If before applying for a license under this chapter a

10-51 person requests that the commission determine whether the person's

10-52 moral character complies with the commission's moral character

10-53 requirements for licensing under this chapter and pays the required

10-54 fee [~~prescribed by Section 1101.152~~], the commission shall make its

10-55 determination of the person's moral character.

10-56 SECTION 32. Section 1101.354, Occupations Code, is amended

10-57 to read as follows:

10-58 Sec. 1101.354. GENERAL ELIGIBILITY REQUIREMENTS. To be

10-59 eligible to receive a license under this chapter, a person must:

10-60 (1) at the time of application:

10-61 (A) be at least 18 years of age;

10-62 (B) be a citizen of the United States or a

10-63 lawfully admitted alien; and

10-64 (C) be a resident of this state;

10-65 (2) satisfy the commission as to the applicant's

10-66 honesty, trustworthiness, and integrity;

10-67 (3) demonstrate competence based on an examination

10-68 under Subchapter I; and

10-69 (4) complete the required courses of study, including

11-1 any required qualifying [~~core~~] real estate courses prescribed under
 11-2 this chapter [~~, and~~
 11-3 [~~(5) complete at least:~~
 11-4 [~~(A) three classroom hours of course work on~~
 11-5 ~~federal, state, and local laws governing housing discrimination,~~
 11-6 ~~housing credit discrimination, and community reinvestment, or~~
 11-7 [~~(B) three semester hours of course work on~~
 11-8 ~~constitutional law~~].

11-9 SECTION 33. Section 1101.355, Occupations Code, is amended
 11-10 by amending Subsections (a) and (b) and adding Subsection (b-1) to
 11-11 read as follows:

11-12 (a) To be eligible for a license under this chapter, a
 11-13 business entity must:

11-14 (1) designate one of its managing officers as its
 11-15 broker [~~agent~~] for purposes of this chapter; and

11-16 (2) provide proof that the entity maintains errors and
 11-17 omissions insurance with a minimum annual limit of \$1 million for
 11-18 each occurrence if the designated broker [~~agent~~] owns less than 10
 11-19 percent of the business entity.

11-20 (b) A business entity may not act as a broker unless the
 11-21 entity's designated broker [~~agent~~] is a licensed individual broker
 11-22 in active status and good standing according to the commission's
 11-23 records.

11-24 (b-1) In determining whether a designated broker is in good
 11-25 standing under this section, the commission may consider:

11-26 (1) the disciplinary history of:

11-27 (A) the broker; or

11-28 (B) any business entity for which the broker
 11-29 serves or previously served as a designated broker; and

11-30 (2) the payment status of any amount owed to the
 11-31 commission by:

11-32 (A) the broker; or

11-33 (B) any business entity for which the broker
 11-34 serves or previously served as a designated broker.

11-35 SECTION 34. Section 1101.356(a), Occupations Code, is
 11-36 amended to read as follows:

11-37 (a) An applicant for a broker license must provide to the
 11-38 commission satisfactory evidence that the applicant:

11-39 (1) has had at least four years of active experience in
 11-40 this state as a license holder during the 60 months preceding the
 11-41 date the application is filed; and

11-42 (2) has successfully completed at least 60 semester
 11-43 hours, or equivalent classroom hours, of postsecondary education,
 11-44 including:

11-45 (A) at least 18 semester hours or equivalent
 11-46 classroom hours of qualifying [~~core~~] real estate courses, two
 11-47 semester hours of which must consist of a [~~be~~] real estate brokerage
 11-48 course completed not more than two years before the application
 11-49 date; and

11-50 (B) at least 42 semester hours of qualifying
 11-51 [~~core~~] real estate courses or related courses accepted by the
 11-52 commission.

11-53 SECTION 35. Section 1101.357, Occupations Code, is amended
 11-54 to read as follows:

11-55 Sec. 1101.357. BROKER LICENSE: ALTERNATE EXPERIENCE
 11-56 REQUIREMENTS FOR CERTAIN APPLICANTS. An applicant for a broker
 11-57 license who does not satisfy the experience requirements of Section
 11-58 1101.356 must provide to the commission satisfactory evidence that:

11-59 (1) the applicant:

11-60 (A) holds an active [~~is a licensed~~] real estate
 11-61 broker license in another state;

11-62 (B) has had at least four years of active
 11-63 experience in that state as a licensed real estate broker or sales
 11-64 agent [~~salesperson~~] during the 60 months preceding the date the
 11-65 application is filed; and

11-66 (C) has satisfied the educational requirements
 11-67 prescribed by Section 1101.356; or

11-68 (2) the applicant was licensed in this state as a
 11-69 broker in the six months [~~year~~] preceding the date the application

12-1 is filed.

12-2 SECTION 36. Section [1101.358](#), Occupations Code, is amended
12-3 to read as follows:

12-4 Sec. 1101.358. SALES AGENT [~~SALESPERSON~~] LICENSE:
12-5 EDUCATION REQUIREMENTS. (a) An applicant for a sales agent
12-6 [~~salesperson~~] license must provide to the commission satisfactory
12-7 evidence that the applicant has completed at least 12 semester
12-8 hours, or equivalent classroom hours, of postsecondary education
12-9 consisting of:

12-10 (1) at least four semester hours of qualifying [~~core~~]
12-11 real estate courses on principles of real estate; and

12-12 (2) at least two semester hours of each of the
12-13 following qualifying [~~core~~] real estate courses:

12-14 (A) agency law;

12-15 (B) contract law;

12-16 (C) contract forms and addendums; and

12-17 (D) real estate finance.

12-18 (b) The commission shall waive the education requirements
12-19 of Subsection (a) if the applicant has been licensed in this state
12-20 as a broker or sales agent [~~salesperson~~] within the six months
12-21 preceding the date the application is filed.

12-22 (c) If an applicant for a sales agent [~~salesperson~~] license
12-23 was licensed as a sales agent [~~salesperson~~] within the six months
12-24 preceding the date the application is filed and the license was
12-25 issued under the conditions prescribed by Section [1101.454](#), the
12-26 commission shall require the applicant to provide the evidence of
12-27 successful completion of education requirements that would have
12-28 been required if the license had been maintained without
12-29 interruption during the preceding six months.

12-30 SECTION 37. Section [1101.359](#), Occupations Code, is amended
12-31 to read as follows:

12-32 Sec. 1101.359. ALTERNATE EDUCATION REQUIREMENTS FOR
12-33 CERTAIN LICENSE HOLDERS. An applicant for a broker license who is
12-34 not subject to the education requirements of Section [1101.356](#)(a)(2)
12-35 and an applicant for a sales agent [~~salesperson~~] license who is not
12-36 subject to the education requirements of Section [1101.358](#) or
12-37 [1101.454](#) must provide to the commission satisfactory evidence that
12-38 the applicant has completed the number of classroom hours of
12-39 continuing education that would have been required for a timely
12-40 renewal under Section [1101.455](#) during the two years preceding the
12-41 date the application is filed.

12-42 SECTION 38. Sections [1101.360](#)(a) and (c), Occupations Code,
12-43 are amended to read as follows:

12-44 (a) A resident of another state who is not a licensed real
12-45 estate broker and who was formerly licensed in this state as a
12-46 broker or sales agent [~~salesperson~~] may apply for a license under
12-47 this chapter not later than six months after [~~the first anniversary~~
12-48 ~~of the date of the~~] expiration of the former license.

12-49 (c) A nonresident applicant must submit with the
12-50 application an irrevocable consent to a legal action against the
12-51 applicant in the court of any county in this state in which a cause
12-52 of action may arise or in which the plaintiff may reside. The
12-53 action may be commenced by service of process or pleading
12-54 authorized by the laws of this state or by delivery of process on
12-55 the executive director [~~administrator~~] or deputy executive
12-56 director [~~assistant administrator~~] of the commission. The consent
12-57 must:

12-58 (1) stipulate that the service of process or pleading
12-59 is valid and binding in all courts as if personal service had been
12-60 made on the nonresident in this state;

12-61 (2) be acknowledged; and

12-62 (3) if made by a corporation, be authenticated by its
12-63 seal.

12-64 SECTION 39. Section [1101.362](#), Occupations Code, is amended
12-65 to read as follows:

12-66 Sec. 1101.362. WAIVER OF LICENSE REQUIREMENTS: PREVIOUS
12-67 LICENSE HOLDERS. The commission by rule may waive some or all of
12-68 the requirements for a license under this chapter for an applicant
12-69 who was licensed under this chapter within the two [~~six~~] years

13-1 preceding the date the application is filed.

13-2 SECTION 40. Section 1101.363(b), Occupations Code, is
13-3 amended to read as follows:

13-4 (b) The commission may issue an inactive sales agent
13-5 [~~salesperson~~] license to a person who applies for a sales agent
13-6 [~~salesperson~~] license and satisfies all requirements for the
13-7 license. The person may not act as a sales agent [~~salesperson~~]
13-8 unless the person is sponsored by a licensed broker who has notified
13-9 the commission as required by Section 1101.367(b).
13-10 [~~Notwithstanding Section 1101.367(b), the licensed broker is not~~
13-11 ~~required to pay the fee required by that subsection.~~]

13-12 SECTION 41. Sections 1101.366(a), (b), (c), (d), and (f),
13-13 Occupations Code, are amended to read as follows:

13-14 (a) The commission may place on inactive status the license
13-15 of a broker if the broker:

- 13-16 (1) is not acting as a broker;
13-17 (2) is not sponsoring a sales agent [~~salesperson~~]; and
13-18 (3) submits a written application to the commission
13-19 before the expiration date of the broker's license.

13-20 (b) The commission may place on inactive status the license
13-21 of a broker whose license has expired if the broker applies for
13-22 inactive status on a form prescribed by the commission not later
13-23 than six months after [~~the first anniversary of~~] the expiration
13-24 date of the broker's license.

13-25 (c) A broker applying for inactive status shall terminate
13-26 the broker's association with each sales agent [~~salesperson~~]
13-27 sponsored by the broker by giving written notice to each sales agent
13-28 [~~salesperson~~] before the 30th day preceding the date the broker
13-29 applies for inactive status.

13-30 (d) A broker on inactive status:

- 13-31 (1) may not perform any activity regulated under this
13-32 chapter; and
13-33 (2) must pay [~~annual~~] renewal fees.

13-34 (f) The commission shall remove a broker's license from
13-35 inactive status if the broker:

- 13-36 (1) submits an application to the commission;
13-37 (2) pays the required fee; and
13-38 (3) submits proof of attending [~~at least 15 classroom~~
13-39 ~~hours of~~] continuing education as specified by Section 1101.455
13-40 during the two years preceding the date the application under
13-41 Subdivision (1) is filed.

13-42 SECTION 42. Section 1101.367, Occupations Code, is amended
13-43 to read as follows:

13-44 Sec. 1101.367. INACTIVE LICENSE: SALES AGENT
13-45 [~~SALESPERSON~~]. (a) When the relationship [~~association~~] of a sales
13-46 agent [~~salesperson~~] with the sales agent's [~~salesperson's~~]
13-47 sponsoring broker terminates, the terminating party [~~broker~~] shall
13-48 immediately notify in writing both the other party and [~~return the~~
13-49 ~~salesperson license to~~] the commission. On receiving the written
13-50 notice, the commission shall place the sales agent license on
13-51 inactive status [~~A salesperson license returned under this~~
13-52 ~~subsection is inactive~~].

13-53 (b) The commission may return [~~remove~~] a sales agent
13-54 [~~salesperson~~] license to active [~~from inactive~~] status under
13-55 Subsection (a) if, before the expiration date of the sales agent
13-56 [~~salesperson~~] license, a licensed broker files a request with the
13-57 commission advising the commission that the broker assumes
13-58 sponsorship of the sales agent [~~salesperson~~], accompanied by the
13-59 appropriate fee.

13-60 (c) As a condition of returning to active status, an
13-61 inactive sales agent [~~salesperson~~] whose license is not subject to
13-62 the education requirements of Section 1101.454 must provide to the
13-63 commission proof of attending [~~at least 15 hours of~~] continuing
13-64 education as specified by Section 1101.455 during the two years
13-65 preceding the date the application to return to active status is
13-66 filed.

13-67 SECTION 43. Sections 1101.401(c) and (d), Occupations Code,
13-68 are amended to read as follows:

13-69 (c) The examination must be of sufficient scope in the

14-1 judgment of the commission to determine whether a person is
 14-2 competent to act as a broker or sales agent [~~salesperson~~] in a
 14-3 manner that will protect the public.

14-4 (d) The examination for a sales agent [~~salesperson~~] license
 14-5 must be less exacting and less stringent than the broker
 14-6 examination.

14-7 SECTION 44. Section 1101.402, Occupations Code, is amended
 14-8 to read as follows:

14-9 Sec. 1101.402. WAIVER OF EXAMINATION. The commission shall
 14-10 waive the examination requirement for an applicant for[+]

14-11 [~~(1)~~] a broker or sales agent license if:

14-12 (1) [~~(A)~~] the applicant was previously licensed in
 14-13 this state as a broker or sales agent; and

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

14-17 [~~(2) a salesperson license if:~~

14-18 [~~(A) the applicant was previously licensed in~~
 14-19 ~~this state as a broker or salesperson; and~~

14-20 [~~(B) the application is filed before the first~~
 14-21 ~~anniversary of the expiration date of that license].~~

14-22 SECTION 45. Section 1101.404, Occupations Code, is amended
 14-23 to read as follows:

14-24 Sec. 1101.404. EXAMINATION RESULTS. (a) Not later than
 14-25 the 10th [~~30th~~] day after the date an examination is administered,
 14-26 the commission or the testing service shall notify each examinee of
 14-27 the results of the examination. [~~If an examination is graded or~~
 14-28 ~~reviewed by a national testing service, the commission shall notify~~
 14-29 ~~each examinee of the results of the examination not later than the~~
 14-30 ~~14th day after the date the commission receives the results from the~~
 14-31 ~~testing service.]~~

14-32 (b) If the notice of the results of an examination [~~graded~~
 14-33 ~~or reviewed by a national testing service]~~ will be delayed for more
 14-34 than 10 [~~90~~] days after the examination date, the commission shall
 14-35 notify each examinee of the reason for the delay before the 10th
 14-36 [~~90th~~] day.

14-37 (c) If requested in writing by a person who fails an
 14-38 examination, the commission shall provide to the person an analysis
 14-39 of the person's performance on the examination. The request must be
 14-40 accompanied by a statement identifying the person.

14-41 (d) The results of an examination are confidential.

14-42 SECTION 46. Section 1101.405, Occupations Code, is amended
 14-43 to read as follows:

14-44 Sec. 1101.405. REEXAMINATION. (a) An applicant who fails
 14-45 an examination may apply for reexamination by filing a request
 14-46 accompanied by the proper fee.

14-47 (b) An applicant who fails the examination three
 14-48 consecutive times may not apply for reexamination or submit a new
 14-49 license application unless the applicant submits evidence
 14-50 satisfactory to the commission that the applicant has completed
 14-51 additional education, as prescribed by the commission, since the
 14-52 date of the applicant's last examination.

14-53 SECTION 47. Subchapter I, Chapter 1101, Occupations Code,
 14-54 is amended by adding Section 1101.406 to read as follows:

14-55 Sec. 1101.406. GUIDELINES; STUDY GUIDES. (a) The
 14-56 commission shall:

14-57 (1) publish guidelines and examination study guides;

14-58 (2) make the guidelines and study guides available to
 14-59 applicants; and

14-60 (3) update the guidelines and study guides as
 14-61 necessary.

14-62 (b) Except for the examination and other testing products
 14-63 that require secure and discreet protection, the contents of study
 14-64 guides and other material developed by the commission or with the
 14-65 commission's authorization are within the public domain and free of
 14-66 copyright restrictions.

14-67 (c) A person other than the commission may not profit from
 14-68 the reproduction and distribution of material described by
 14-69 Subsection (b) and may sell the material only at a price that equals

15-1 the cost of reproducing and distributing the material.

15-2 SECTION 48. Sections 1101.451(a) and (f), Occupations Code,
15-3 are amended to read as follows:

15-4 (a) The commission may issue or renew a license for a period
15-5 of [not to exceed] 24 months.

15-6 (f) If a person's license has been expired for six months or
15-7 longer, the person may not renew the license. The person may
15-8 obtain a new license by [submitting to reexamination and] complying
15-9 with the requirements and procedures for obtaining an original
15-10 license.

15-11 SECTION 49. Section 1101.453, Occupations Code, is amended
15-12 to read as follows:

15-13 Sec. 1101.453. ADDITIONAL RENEWAL REQUIREMENTS FOR
15-14 BUSINESS ENTITIES. (a) To renew a license under this chapter, a
15-15 business entity must:

15-16 (1) designate one of its managing officers as its
15-17 broker [agent] for purposes of this chapter; and

15-18 (2) provide proof that the entity maintains errors and
15-19 omissions insurance with a minimum annual limit of \$1 million for
15-20 each occurrence if the designated broker [agent] owns less than 10
15-21 percent of the business entity.

15-22 (b) A business entity may not act as a broker unless the
15-23 entity's designated broker [agent] is a licensed individual broker
15-24 in active status and good standing according to the commission's
15-25 records.

15-26 SECTION 50. The heading to Section 1101.454, Occupations
15-27 Code, is amended to read as follows:

15-28 Sec. 1101.454. SALES AGENT [SALESPERSON] LICENSE RENEWAL.

15-29 SECTION 51. Section 1101.454(a), Occupations Code, is
15-30 amended to read as follows:

15-31 (a) An applicant applying for the first renewal of a sales
15-32 agent [salesperson] license must provide to the commission
15-33 satisfactory evidence of completion of at least 18 semester hours,
15-34 or equivalent classroom hours, of qualifying [core] real estate
15-35 courses, including the hours required by Section 1101.455(e).

15-36 SECTION 52. Sections 1101.455(b), (c), (e), (f), (h), (i),
15-37 (j), and (l), Occupations Code, are amended to read as follows:

15-38 (b) A license holder who is not subject to the education
15-39 requirements of Section 1101.454 must attend during the term of the
15-40 current license [at least 15 classroom hours of] continuing
15-41 education courses approved by the commission. The commission by
15-42 rule shall prescribe the number of classroom hours of continuing
15-43 education courses the license holder must attend, which must be at
15-44 least 15 classroom hours. The commission may not increase the
15-45 number of required classroom hours by more than three over the term
15-46 of a license.

15-47 (c) The commission by rule may:

15-48 (1) prescribe the title, content, and duration of
15-49 continuing education courses that a license holder must attend to
15-50 renew a license; and

15-51 (2) approve as a substitute for the classroom
15-52 attendance required by Subsection (b):

15-53 (A) relevant educational experience; and

15-54 (B) alternative delivery or correspondence
15-55 courses.

15-56 (e) At least eight [six] of the continuing education hours
15-57 required by Subsection (b) must provide current information on
15-58 [cover] the following legal topics:

15-59 (1) commission rules;

15-60 (2) fair housing laws;

15-61 (3) Property Code issues, including landlord-tenant
15-62 law;

15-63 (4) agency law;

15-64 (5) antitrust laws;

15-65 (6) Subchapter E, Chapter 17, Business & Commerce
15-66 Code;

15-67 (7) disclosures to buyers, landlords, tenants, and
15-68 sellers;

15-69 (8) promulgated [current] contract and addendum

16-1 forms;

16-2 (9) unauthorized practice of law;

16-3 (10) case studies involving violations of laws and

16-4 regulations;

16-5 (11) ~~current~~ Federal Housing Administration and

16-6 Department of Veterans Affairs regulations;

16-7 (12) tax laws;

16-8 (13) property tax consulting laws and legal issues;

16-9 ~~or~~

16-10 (14) other legal topics approved by the commission; or

16-11 (15) the ethical requirements of engaging in real

16-12 estate brokerage.

16-13 (f) The remaining ~~nine~~ hours may be devoted to other real

16-14 estate-related topics and courses approved by the commission.

16-15 (h) The commission shall automatically approve the

16-16 following courses as courses that satisfy the mandatory continuing

16-17 education requirements of Subsection (f):

16-18 (1) qualifying ~~core~~ real estate courses; and

16-19 (2) real estate-related courses approved by the State

16-20 Bar of Texas for minimum continuing legal education participatory

16-21 credit.

16-22 (i) The commission may not require an examination for a

16-23 course under this section unless the course is:

16-24 (1) an alternative delivery or ~~a~~ correspondence

16-25 course; or

16-26 (2) a course described by Subsection (e) or Section

16-27 1101.458 ~~[offered by an alternative delivery system, including~~

16-28 ~~delivery by computer].~~

16-29 (j) Daily classroom course segments offered under this

16-30 section must be at least one hour and not more than 10 hours.

16-31 (1) An applicant, license holder, or education provider may

16-32 not report to the commission the completion of an alternative

16-33 delivery or correspondence [An online] course offered under this

16-34 section until the elapsed time between the time the applicant or

16-35 license holder registers for the course and the time the completion

16-36 of the course is reported is equal to or greater than the number of

16-37 hours for which credit is claimed [may not be completed in less than

16-38 24 hours].

16-39 SECTION 53. Section 1101.458(a), Occupations Code, is

16-40 amended to read as follows:

16-41 (a) A designated broker for a business entity licensed under

16-42 this chapter, a [A] broker who sponsors a sales agent

16-43 [salesperson], or a license holder who supervises another license

16-44 holder [r] must attend during the term of the current license at

16-45 least six classroom hours of broker responsibility education

16-46 courses approved by the commission.

16-47 SECTION 54. Section 1101.552(e), Occupations Code, is

16-48 amended to read as follows:

16-49 (e) A license holder shall provide the commission with the

16-50 license holder's current mailing address and telephone number, and

16-51 the license holder's business e-mail address if available. A

16-52 license holder shall notify the commission of a change in the

16-53 license holder's mailing or e-mail address or telephone number.

16-54 SECTION 55. Section 1101.553, Occupations Code, is amended

16-55 to read as follows:

16-56 Sec. 1101.553. DISPLAY OF LICENSE. ~~(c)~~ A residential

16-57 rental locator shall prominently display in a place accessible to

16-58 clients and prospective clients:

16-59 (1) the locator's license;

16-60 (2) a statement that the locator is licensed by the

16-61 commission; and

16-62 (3) the notice required [name, mailing address, and

16-63 telephone number of the commission as provided] by Section

16-64 1101.202(a).

16-65 SECTION 56. Section 1101.554, Occupations Code, is amended

16-66 to read as follows:

16-67 Sec. 1101.554. COPY OF SALES AGENT ~~[SALESPERSON]~~ LICENSE.

16-68 The commission shall deliver ~~or mail~~ a copy of each sales agent

16-69 [salesperson] license to the broker that is sponsoring [with whom]

17-1 the sales agent [~~salesperson is associated~~].

17-2 SECTION 57. Section 1101.558, Occupations Code, is amended
17-3 by adding Subsections (b-1) and (b-2) and amending Subsection (c)
17-4 to read as follows:

17-5 (b-1) At the time of a license holder's first substantive
17-6 communication with a party relating to a proposed transaction
17-7 regarding specific real property, the license holder shall provide
17-8 to the party written notice in at least a 10-point font that:

17-9 (1) describes the ways in which a broker can represent
17-10 a party to a real estate transaction, including as an intermediary;

17-11 (2) describes the basic duties and obligations a
17-12 broker has to a party to a real estate transaction that the broker
17-13 represents; and

17-14 (3) provides the name, license number, and contact
17-15 information for the license holder and the license holder's
17-16 supervisor and broker, if applicable.

17-17 (b-2) The commission by rule shall prescribe the text of the
17-18 notice required under Subsections (b-1)(1) and (2) and establish
17-19 the methods by which a license holder shall provide the notice.

17-20 (c) A license holder is not required to [~~shall~~] provide [~~to~~
17-21 a party to a real estate transaction at the time of the first
17-22 substantive dialogue with the party] the notice required [~~written~~
17-23 statement prescribed] by Subsection (b-1) if [~~(d) unless~~]:

17-24 (1) the proposed transaction is for a residential
17-25 lease for less [~~not more~~] than one year and a sale is not being
17-26 considered; [~~or~~]

17-27 (2) the license holder meets with a party who the
17-28 license holder knows is represented by another license holder; or

17-29 (3) the communication occurs at a property that is
17-30 held open for any prospective buyer or tenant and the communication
17-31 concerns that property.

17-32 SECTION 58. Subchapter M, Chapter 1101, Occupations Code,
17-33 is amended by adding Section 1101.6011 to read as follows:

17-34 Sec. 1101.6011. APPLICABILITY TO BUSINESS ENTITY. For
17-35 purposes of this subchapter, a claim against a business entity
17-36 license holder is also a claim against the broker who is the
17-37 business entity's designated broker.

17-38 SECTION 59. Section 1101.602, Occupations Code, is amended
17-39 to read as follows:

17-40 Sec. 1101.602. ENTITLEMENT TO REIMBURSEMENT. An aggrieved
17-41 person is entitled to reimbursement from the trust account if a
17-42 person described by Section 1101.601 engages in conduct that
17-43 requires a license or certificate of registration under this
17-44 chapter and is described by Section 1101.652(a-1)(1)
17-45 [1101.652(a)(3)] or (b), if the person is a license holder, or
17-46 Section 1101.653(1), (2), (3), or (4), if the person is a
17-47 certificate holder.

17-48 SECTION 60. Sections 1101.603(a), (c), (d), and (e),
17-49 Occupations Code, are amended to read as follows:

17-50 (a) In addition to other fees required by this chapter, the
17-51 commission shall collect [~~an applicant for an original license must~~
17-52 pay] a fee of \$10 to deposit to the credit of the trust account from
17-53 an applicant for an original license or certificate of
17-54 registration.

17-55 (c) Notwithstanding any other law, the [~~The~~] commission
17-56 shall deposit to the credit of the trust account or the real estate
17-57 inspection recovery fund, as determined by the commission, [~~+~~

17-58 [~~(1) fees collected under Subsections (a) and (b), and~~

17-59 [~~(2)~~] an administrative penalty collected under
17-60 Subchapter O for a violation by a person licensed under this chapter
17-61 or Chapter 1102 [~~as a broker or salesperson~~].

17-62 (d) Notwithstanding any other law, an [~~An~~] administrative
17-63 penalty collected under Subchapter O for a violation by a person who
17-64 is not licensed under this chapter or Chapter 1102 shall be
17-65 deposited to the credit of the trust account or the real estate
17-66 inspection recovery fund, as determined by the commission.

17-67 (e) On a determination by the commission at any time that
17-68 the balance in the trust account is less than \$1 million, each
17-69 license or certificate holder at the next [~~license~~] renewal must

18-1 pay, in addition to the renewal fee, an additional [a] fee ~~[that is~~
 18-2 ~~equal to the lesser]~~ of \$10 ~~[or a pro rata share of the amount~~
 18-3 ~~necessary to obtain a balance in the trust account of \$1.7 million]~~.
 18-4 The commission shall deposit the additional fee to the credit of the
 18-5 trust account.

18-6 SECTION 61. Section 1101.605(b), Occupations Code, is
 18-7 amended to read as follows:

18-8 (b) When an aggrieved person brings an action for a judgment
 18-9 that may result in an agreed judgment and order for payment from the
 18-10 trust account, the aggrieved person and the license or certificate
 18-11 holder against whom the action is brought shall notify the
 18-12 commission in writing before entry of the agreed judgment and
 18-13 deliver a copy of all petitions and pleadings and the proposed
 18-14 agreed judgment to the commission. The commission will notify the
 18-15 parties not later than the 30th day after the date of receiving the
 18-16 documents if the commission intends to relitigate material and
 18-17 relevant issues as to the applicability of the trust account to the
 18-18 agreed judgment as provided by Section 1101.608 [action].

18-19 SECTION 62. Section 1101.606, Occupations Code, is amended
 18-20 by amending Subsections (a) and (b) and adding Subsection (c-1) to
 18-21 read as follows:

18-22 (a) Except as provided by Subsections [Subsection] (c) and
 18-23 (c-1), an aggrieved person who obtains a court judgment against a
 18-24 license or certificate holder for an act described by Section
 18-25 1101.602 may, after final judgment is entered, execution returned
 18-26 nulla bona, and a judgment lien perfected, file a verified claim in
 18-27 the court that entered the judgment.

18-28 (b) After the 20th day after the date the aggrieved person
 18-29 gives written notice of the claim to the commission and judgment
 18-30 debtor, the person may apply to the court that entered the judgment
 18-31 for an order for payment from the trust account of the amount unpaid
 18-32 on the judgment. The aggrieved person and the commission may
 18-33 attempt to reach a settlement of the claim before setting a hearing
 18-34 before the court. If the aggrieved person does not schedule a
 18-35 hearing before the first anniversary of the date the application
 18-36 was filed, recovery is waived [court shall proceed promptly on the
 18-37 application].

18-38 (c-1) If the judgment obtained against the license holder
 18-39 includes multiple defendants who are jointly and severally liable
 18-40 or the judgment against the license holder was severed from a suit
 18-41 with multiple defendants, the aggrieved person may not file a
 18-42 verified claim in the court that entered the judgment until the
 18-43 aggrieved person has obtained a judgment against all defendants and
 18-44 received payment from or obtained a writ of execution returned
 18-45 nulla bona for all defendants.

18-46 SECTION 63. Section 1101.607, Occupations Code, is amended
 18-47 to read as follows:

18-48 Sec. 1101.607. ISSUES AT HEARING. At the hearing on the
 18-49 application for payment from the trust account, the aggrieved
 18-50 person must show:

18-51 (1) that the judgment is based on facts allowing
 18-52 recovery under this subchapter;

18-53 (2) that the person is not:

18-54 (A) the spouse of the judgment debtor or the
 18-55 personal representative of the spouse; ~~[or]~~

18-56 (B) a license or certificate holder who is
 18-57 seeking to recover compensation, including a commission, in the
 18-58 real estate transaction that is the subject of the application for
 18-59 payment; or

18-60 (C) related to the judgment debtor within the
 18-61 first degree by consanguinity;

18-62 (3) that, according to the best information available,
 18-63 the judgment debtor does not have sufficient attachable assets in
 18-64 this or another state to satisfy the judgment;

18-65 (4) the amount that may be realized from the sale of
 18-66 assets liable to be sold or applied to satisfy the judgment; and

18-67 (5) the balance remaining due on the judgment after
 18-68 application of the amount under Subdivision (4).

18-69 SECTION 64. Sections 1101.608(a) and (c), Occupations Code,

19-1 are amended to read as follows:

19-2 (a) On receipt of notice under Section 1101.606, the
 19-3 commission may agree to pay all or part of the claim without a
 19-4 hearing. If the commission and the aggrieved person do not reach a
 19-5 settlement or the commission does not agree that the claim meets one
 19-6 or more of the requirements of this subchapter [and the scheduling
 19-7 of a hearing], the commission may notify the attorney general of the
 19-8 commission's desire to schedule a hearing, enter an appearance,
 19-9 file a response, appear at the hearing, defend the action, or take
 19-10 any other action the commission considers appropriate.

19-11 (c) The commission may relitigate in the hearing any
 19-12 material and relevant issue that was determined in the action that
 19-13 resulted in the judgment, including an agreed judgment, in favor of
 19-14 the aggrieved person.

19-15 SECTION 65. Section 1101.610, Occupations Code, is amended
 19-16 by adding Subsection (e) to read as follows:

19-17 (e) For purposes of this section, a business entity and the
 19-18 broker who is the business entity's designated broker are
 19-19 considered a single license holder.

19-20 SECTION 66. Section 1101.615(a), Occupations Code, is
 19-21 amended to read as follows:

19-22 (a) The commission by rule shall prescribe a notice
 19-23 regarding the availability of payment from the trust account for
 19-24 aggrieved persons and establish methods by which each [Each]
 19-25 license and certificate holder shall provide the notice to
 19-26 consumers and service recipients [of the availability of payment
 19-27 from the trust account for aggrieved persons:

19-28 ~~[(1) in conjunction with the notice required by~~
 19-29 ~~Section 1101.202,~~

19-30 ~~[(2) on a written contract for the license or~~
 19-31 ~~certificate holder's services,~~

19-32 ~~[(3) on a brochure that the license or certificate~~
 19-33 ~~holder distributes,~~

19-34 ~~[(4) on a sign prominently displayed in the license or~~
 19-35 ~~certificate holder's place of business,~~

19-36 ~~[(5) in a bill or receipt for the license or~~
 19-37 ~~certificate holder's services; or~~

19-38 ~~[(6) in a prominent display on the Internet website of~~
 19-39 ~~a person regulated under this chapter].~~

19-40 SECTION 67. Sections 1101.651(b), (c), and (d), Occupations
 19-41 Code, are amended to read as follows:

19-42 (b) A sales agent [salesperson] may not accept compensation
 19-43 for a real estate transaction from a person other than the broker
 19-44 that is sponsoring [with whom] the sales agent [salesperson is
 19-45 associated] or was sponsoring the sales agent [associated] when the
 19-46 sales agent [salesperson] earned the compensation.

19-47 (c) A sales agent [salesperson] may not pay a commission to
 19-48 a person except through the broker that is sponsoring [with whom]
 19-49 the sales agent [salesperson is associated] at that time.

19-50 (d) A broker and any broker or sales agent [salesperson]
 19-51 appointed under Section 1101.560 who acts as an intermediary under
 19-52 Subchapter L may not:

19-53 (1) disclose to the buyer or tenant that the seller or
 19-54 landlord will accept a price less than the asking price, unless
 19-55 otherwise instructed in a separate writing by the seller or
 19-56 landlord;

19-57 (2) disclose to the seller or landlord that the buyer
 19-58 or tenant will pay a price greater than the price submitted in a
 19-59 written offer to the seller or landlord, unless otherwise
 19-60 instructed in a separate writing by the buyer or tenant;

19-61 (3) disclose any confidential information or any
 19-62 information a party specifically instructs the broker or sales
 19-63 agent [salesperson] in writing not to disclose, unless:

19-64 (A) the broker or sales agent [salesperson] is
 19-65 otherwise instructed in a separate writing by the respective party;

19-66 (B) the broker or sales agent [salesperson] is
 19-67 required to disclose the information by this chapter or a court
 19-68 order; or

19-69 (C) the information materially relates to the

20-1 condition of the property;

20-2 (4) treat a party to a transaction dishonestly; or

20-3 (5) violate this chapter.

20-4 SECTION 68. Section 1101.652, Occupations Code, is amended
20-5 to read as follows:

20-6 Sec. 1101.652. GROUNDS FOR SUSPENSION OR REVOCATION OF
20-7 LICENSE. (a) The commission may suspend or revoke a license
20-8 issued under this chapter or Chapter 1102 or take other
20-9 disciplinary action authorized by this chapter or Chapter 1102 if
20-10 the license holder:

20-11 (1) enters a plea of guilty or nolo contendere to or is
20-12 convicted of a felony or a criminal offense involving fraud, and the
20-13 time for appeal has elapsed or the judgment or conviction has been
20-14 affirmed on appeal, without regard to an order granting community
20-15 supervision that suspends the imposition of the sentence;

20-16 (2) procures or attempts to procure a license under
20-17 this chapter or Chapter 1102 for the license holder ~~[or a~~
20-18 ~~salesperson]~~ by fraud, misrepresentation, or deceit or by making a
20-19 material misstatement of fact in an application for a license;

20-20 (3) ~~[engages in misrepresentation, dishonesty, or~~
20-21 ~~fraud when selling, buying, trading, or leasing real property in~~
20-22 ~~the name of:~~

20-23 ~~[(A) the license holder;~~

20-24 ~~[(B) the license holder's spouse; or~~

20-25 ~~[(C) a person related to the license holder~~
20-26 ~~within the first degree by consanguinity;~~

20-27 ~~[(4)]~~ fails to honor, within a reasonable time, a
20-28 check issued to the commission after the commission has sent by
20-29 certified mail a request for payment to the license holder's last
20-30 known business address according to commission records;

20-31 (4) ~~[(5) fails or refuses to produce on request, for~~
20-32 ~~inspection by the commission or a commission representative, a~~
20-33 ~~document, book, or record that is in the license holder's~~
20-34 ~~possession and relates to a real estate transaction conducted by~~
20-35 ~~the license holder;~~

20-36 ~~[(6)]~~ fails to provide, within a reasonable time,
20-37 information requested by the commission that relates to a formal or
20-38 informal complaint to the commission that would indicate a
20-39 violation of this chapter or Chapter 1102;

20-40 (5) ~~[(7)]~~ fails to surrender to the owner, without
20-41 just cause, a document or instrument that is requested by the owner
20-42 and that is in the license holder's possession;

20-43 (6) ~~[(8) fails to use a contract form required by the~~
20-44 ~~commission under Section 1101.155;~~

20-45 ~~[(9)]~~ fails to notify the commission, not later than
20-46 the 30th day after the date of a final conviction or the entry of a
20-47 plea of guilty or nolo contendere, that the person has been
20-48 convicted of or entered a plea of guilty or nolo contendere to a
20-49 felony or a criminal offense involving fraud; or

20-50 (7) ~~[(10)]~~ disregards or violates this chapter or
20-51 Chapter 1102.

20-52 (a-1) The commission may suspend or revoke a license issued
20-53 under this chapter or take other disciplinary action authorized by
20-54 this chapter if the license holder:

20-55 (1) engages in misrepresentation, dishonesty, or
20-56 fraud when selling, buying, trading, or leasing real property in
20-57 the name of:

20-58 (A) the license holder;

20-59 (B) the license holder's spouse; or

20-60 (C) a person related to the license holder within
20-61 the first degree by consanguinity;

20-62 (2) fails or refuses to produce on request, within a
20-63 reasonable time, for inspection by the commission or a commission
20-64 representative, a document, book, or record that is in the license
20-65 holder's possession and relates to a real estate transaction
20-66 conducted by the license holder; or

20-67 (3) fails to use a contract form required by the
20-68 commission under Section 1101.155.

20-69 (b) The commission may suspend or revoke a license issued

21-1 under this chapter or take other disciplinary action authorized by
 21-2 this chapter if the license holder, while engaged in real estate
 21-3 brokerage [acting as a broker or salesperson]:

21-4 (1) acts negligently or incompetently;
 21-5 (2) engages in conduct that is dishonest or in bad
 21-6 faith or that demonstrates untrustworthiness;
 21-7 (3) makes a material misrepresentation to a potential
 21-8 buyer concerning a significant defect, including a latent
 21-9 structural defect, known to the license holder that would be a
 21-10 significant factor to a reasonable and prudent buyer in making a
 21-11 decision to purchase real property;
 21-12 (4) fails to disclose to a potential buyer a defect
 21-13 described by Subdivision (3) that is known to the license holder;
 21-14 (5) makes a false promise that is likely to influence a
 21-15 person to enter into an agreement when the license holder is unable
 21-16 or does not intend to keep the promise;
 21-17 (6) pursues a continued and flagrant course of
 21-18 misrepresentation or makes false promises through an agent or sales
 21-19 agent [salesperson], through advertising, or otherwise;
 21-20 (7) fails to make clear to all parties to a real estate
 21-21 transaction the party for whom the license holder is acting;
 21-22 (8) receives compensation from more than one party to
 21-23 a real estate transaction without the full knowledge and consent of
 21-24 all parties to the transaction;
 21-25 (9) fails within a reasonable time to properly account
 21-26 for or remit money that is received by the license holder and that
 21-27 belongs to another person;
 21-28 (10) commingles money that belongs to another person
 21-29 with the license holder's own money;
 21-30 (11) pays a commission or a fee to or divides a
 21-31 commission or a fee with a person other than a license holder or a
 21-32 real estate broker or sales agent [salesperson] licensed in another
 21-33 state for compensation for services as a real estate agent;
 21-34 (12) fails to specify a definite termination date that
 21-35 is not subject to prior notice in a contract, other than a contract
 21-36 to perform property management services, in which the license
 21-37 holder agrees to perform services for which a license is required
 21-38 under this chapter;
 21-39 (13) accepts, receives, or charges an undisclosed
 21-40 commission, rebate, or direct profit on an expenditure made for a
 21-41 principal;
 21-42 (14) solicits, sells, or offers for sale real property
 21-43 by means of a lottery;
 21-44 (15) solicits, sells, or offers for sale real property
 21-45 by means of a deceptive practice;
 21-46 (16) acts in a dual capacity as broker and undisclosed
 21-47 principal in a real estate transaction;
 21-48 (17) guarantees or authorizes or permits a person to
 21-49 guarantee that future profits will result from a resale of real
 21-50 property;
 21-51 (18) places a sign on real property offering the real
 21-52 property for sale or lease without obtaining the written consent of
 21-53 the owner of the real property or the owner's authorized agent;
 21-54 (19) offers to sell or lease real property without the
 21-55 knowledge and consent of the owner of the real property or the
 21-56 owner's authorized agent;
 21-57 (20) offers to sell or lease real property on terms
 21-58 other than those authorized by the owner of the real property or the
 21-59 owner's authorized agent;
 21-60 (21) induces or attempts to induce a party to a
 21-61 contract of sale or lease to break the contract for the purpose of
 21-62 substituting a new contract;
 21-63 (22) negotiates or attempts to negotiate the sale,
 21-64 exchange, or lease of real property with an owner, landlord, buyer,
 21-65 or tenant with knowledge that that person is a party to an
 21-66 outstanding written contract that grants exclusive agency to
 21-67 another broker in connection with the transaction;
 21-68 (23) publishes or causes to be published an
 21-69 advertisement, including an advertisement by newspaper, radio,

22-1 television, the Internet, or display, that misleads or is likely to
 22-2 deceive the public, tends to create a misleading impression, or
 22-3 fails to identify the person causing the advertisement to be
 22-4 published as a licensed broker or agent;

22-5 (24) withholds from or inserts into a statement of
 22-6 account or invoice a statement that the license holder knows makes
 22-7 the statement of account or invoice inaccurate in a material way;

22-8 (25) publishes or circulates an unjustified or
 22-9 unwarranted threat of a legal proceeding or other action;

22-10 (26) establishes an association by employment or
 22-11 otherwise with a person other than a license holder if the person is
 22-12 expected or required to act as a license holder;

22-13 (27) aids, abets, or conspires with another person to
 22-14 circumvent this chapter;

22-15 (28) fails or refuses to provide, on request, a copy of
 22-16 a document relating to a real estate transaction to a person who
 22-17 signed the document;

22-18 (29) fails to advise a buyer in writing before the
 22-19 closing of a real estate transaction that the buyer should:

22-20 (A) have the abstract covering the real estate
 22-21 that is the subject of the contract examined by an attorney chosen
 22-22 by the buyer; or

22-23 (B) be provided with or obtain a title insurance
 22-24 policy;

22-25 (30) fails to deposit, within a reasonable time, money
 22-26 the license holder receives as escrow or trust funds [~~agent~~]
 22-27 in a real estate transaction:

22-28 (A) in trust with a title company authorized to
 22-29 do business in this state; or

22-30 (B) in a custodial, trust, or escrow account
 22-31 maintained for that purpose in a banking institution authorized to
 22-32 do business in this state;

22-33 (31) disburses money deposited in a custodial, trust,
 22-34 or escrow account, as provided in Subdivision (30), before the
 22-35 completion or termination of the real estate transaction;

22-36 (32) discriminates against an owner, potential buyer,
 22-37 landlord, or potential tenant on the basis of race, color,
 22-38 religion, sex, disability, familial status, national origin, or
 22-39 ancestry, including directing a prospective buyer or tenant
 22-40 interested in equivalent properties to a different area based on
 22-41 the race, color, religion, sex, disability, familial status,
 22-42 national origin, or ancestry of the potential owner or tenant; or

22-43 (33) disregards or violates this chapter.

22-44 SECTION 69. Section 1101.655, Occupations Code, is amended
 22-45 by amending Subsections (a) and (b) and adding Subsection (d) to
 22-46 read as follows:

22-47 (a) The commission shall [~~may~~] revoke a license, approval,
 22-48 or registration issued under this chapter or Chapter 1102 if:

22-49 (1) the commission makes a payment from the real
 22-50 estate recovery trust account under Subchapter M on behalf of a [~~to~~
 22-51 ~~satisfy all or part of a judgment against the~~] license or
 22-52 registration holder; and

22-53 (2) the license or registration holder does not repay
 22-54 the real estate recovery trust account the full amount of a payment
 22-55 made on the license or registration holder's behalf before the 31st
 22-56 day after the date the commission provides notice to the license or
 22-57 registration holder.

22-58 (b) The commission may probate an order revoking a license,
 22-59 approval, or registration under this section.

22-60 (d) For the purposes of this section, if payment is made
 22-61 from the real estate recovery trust account on behalf of a business
 22-62 entity license holder or a designated broker of a business entity
 22-63 license holder, the commission shall proceed under Subsection (a)
 22-64 against both the business entity and designated broker.

22-65 SECTION 70. Section 1101.6561, Occupations Code, is amended
 22-66 to read as follows:

22-67 Sec. 1101.6561. SUSPENSION OR REVOCATION OF EDUCATIONAL
 22-68 PROGRAM [~~ACCREDITATION~~]. The commission may suspend or revoke the
 22-69 approval to offer a program or course of study [~~an accreditation~~]

23-1 issued under Subchapter G or take any other disciplinary action
 23-2 authorized by this chapter if the provider of an educational
 23-3 program or course of study violates this chapter or a rule adopted
 23-4 under this chapter.

23-5 SECTION 71. Section 1101.661, Occupations Code, is amended
 23-6 to read as follows:

23-7 Sec. 1101.661. FINAL ORDER. The commission may issue a
 23-8 final order in a proceeding under this subchapter or Subchapter O
 23-9 regarding a person whose license has expired [~~during the course of~~
 23-10 ~~an investigation or administrative proceeding~~].

23-11 SECTION 72. Section 1101.662(c), Occupations Code, is
 23-12 amended to read as follows:

23-13 (c) A license may be suspended under this section without
 23-14 notice or hearing on the complaint if:

23-15 (1) institution of proceedings for a contested case
 23-16 hearing [before the commission] is initiated simultaneously with
 23-17 the temporary suspension; and

23-18 (2) a hearing is held under Chapter 2001, Government
 23-19 Code, and this chapter as soon as possible.

23-20 SECTION 73. Subchapter N, Chapter 1101, Occupations Code,
 23-21 is amended by adding Section 1101.663 to read as follows:

23-22 Sec. 1101.663. REAPPLYING AFTER REVOCATION, SURRENDER, OR
 23-23 DENIAL. A person whose license or registration has been revoked, a
 23-24 person who has surrendered a license or registration issued by the
 23-25 commission, or a person whose application for a license or
 23-26 registration has been denied after a hearing under Section 1101.657
 23-27 may not apply to the commission for a license or registration before
 23-28 the second anniversary of the date of the revocation, surrender, or
 23-29 denial.

23-30 SECTION 74. Subchapter N, Chapter 1101, Occupations Code,
 23-31 is amended by adding Section 1101.664 to read as follows:

23-32 Sec. 1101.664. FAILURE TO APPEAR; COSTS. (a) If a
 23-33 respondent receives proper notice of a contested case hearing but
 23-34 does not appear in person at the hearing, the administrative law
 23-35 judge may conduct the hearing or enter an order, as the
 23-36 administrative law judge determines appropriate.

23-37 (b) The respondent is bound by the results of the hearing to
 23-38 the same extent as if the respondent had appeared.

23-39 (c) The administrative law judge may award reasonable costs
 23-40 to the commission on a request for and proof of costs incurred if
 23-41 the respondent fails to appear at the hearing. In this subsection,
 23-42 the term "costs" means all costs associated with the hearing,
 23-43 including the costs charged by the State Office of Administrative
 23-44 Hearings and any costs related to hearing preparation, discovery,
 23-45 depositions, subpoenas, service of process, witness expenses,
 23-46 travel expenses, and investigation expenses.

23-47 SECTION 75. Section 1101.7015, Occupations Code, is amended
 23-48 to read as follows:

23-49 Sec. 1101.7015. DELEGATION OF EXECUTIVE DIRECTOR'S
 23-50 [ADMINISTRATOR'S] AUTHORITY. The commission may authorize the
 23-51 executive director [administrator] to delegate to another
 23-52 commission employee the executive director's [administrator's]
 23-53 authority to act under this subchapter.

23-54 SECTION 76. Section 1101.702(b), Occupations Code, is
 23-55 amended to read as follows:

23-56 (b) In determining the amount of the penalty, the executive
 23-57 director [administrator] shall consider:

23-58 (1) the seriousness of the violation, including the
 23-59 nature, circumstances, extent, and gravity of the prohibited acts;

23-60 (2) the history of previous violations;

23-61 (3) the amount necessary to deter a future violation;

23-62 (4) efforts to correct the violation; and

23-63 (5) any other matter that justice may require.

23-64 SECTION 77. Section 1101.703, Occupations Code, is amended
 23-65 to read as follows:

23-66 Sec. 1101.703. NOTICE OF VIOLATION AND PENALTY. [~~(a)~~] If,
 23-67 after investigation of a possible violation and the facts relating
 23-68 to that violation, the executive director [administrator]
 23-69 determines that a violation has occurred, the executive director

24-1 [~~administrator~~] may issue a notice of violation stating:

- 24-2 (1) a brief summary of the alleged violation;
- 24-3 (2) the executive director's [~~administrator's~~]
- 24-4 recommendation on the imposition of the administrative penalty or
- 24-5 another disciplinary sanction, including a recommendation on the
- 24-6 amount of the penalty; and
- 24-7 (3) that the respondent has the right to a hearing to
- 24-8 contest the alleged violation, the recommended penalty, or both.

24-9 SECTION 78. Section 1101.704, Occupations Code, is amended

24-10 to read as follows:
24-11 Sec. 1101.704. PENALTY TO BE PAID OR HEARING REQUESTED.

24-12 (a) Not later than the 20th day after the date the person receives

24-13 the notice under Section 1101.703, the person may:

- 24-14 (1) accept the executive director's [~~administrator's~~]
- 24-15 determination, including the recommended administrative penalty;
- 24-16 or
- 24-17 (2) request in writing a hearing on the occurrence of
- 24-18 the violation, the amount of the penalty, or both.

24-19 (b) If the person accepts the executive director's

24-20 [~~administrator's~~] determination, or fails to respond in a timely

24-21 manner to the notice, the commission by order shall approve the

24-22 determination and order payment of the recommended penalty or

24-23 impose the recommended sanction.

24-24 SECTION 79. Section 1101.706, Occupations Code, is amended

24-25 to read as follows:
24-26 Sec. 1101.706. NOTICE OF ORDER. The executive director

24-27 [~~administrator~~] shall give notice of the commission's order to the

24-28 person. The notice must:

- 24-29 (1) include the findings of fact and conclusions of
- 24-30 law, separately stated;
- 24-31 (2) state the amount of any penalty imposed;
- 24-32 (3) inform the person of the person's right to judicial
- 24-33 review of the order; and
- 24-34 (4) include other information required by law.

24-35 SECTION 80. Sections 1101.707(b) and (c), Occupations Code,

24-36 are amended to read as follows:

24-37 (b) Within the 30-day period prescribed by Subsection (a), a

24-38 person who files a petition for judicial review may:

- 24-39 (1) stay enforcement of the penalty by:
- 24-40 (A) paying the penalty to the court for placement
- 24-41 in an escrow account; or
- 24-42 (B) giving the court a supersedeas bond in a form
- 24-43 approved by the court that:
- 24-44 (i) is for the amount of the penalty; and
- 24-45 (ii) is effective until judicial review of
- 24-46 the order is final; or
- 24-47 (2) request the court to stay enforcement by:
- 24-48 (A) filing with the court an affidavit of the
- 24-49 person stating that the person is financially unable to pay the
- 24-50 penalty and is financially unable to give the supersedeas bond; and
- 24-51 (B) giving a copy of the affidavit to the
- 24-52 executive director [~~administrator~~] by certified mail.
- 24-53 (c) If the executive director [~~administrator~~] receives a
- 24-54 copy of an affidavit under Subsection (b)(2), the executive
- 24-55 director [~~administrator~~] may file with the court, within five days
- 24-56 after the date the copy is received, a contest to the affidavit.

24-57 SECTION 81. Section 1101.708, Occupations Code, is amended

24-58 to read as follows:
24-59 Sec. 1101.708. COLLECTION OF PENALTY. (a) If the person

24-60 does not pay the administrative penalty and the enforcement of the

24-61 penalty is not stayed, the executive director [~~administrator~~] may

24-62 refer the matter to the attorney general for collection of the

24-63 penalty.

24-64 (b) If the attorney general notifies the commission that the

24-65 attorney general will not pursue collection of the penalty, the

24-66 commission may pursue collection of the penalty by any lawful

24-67 means.

24-68 SECTION 82. The heading to Section 1101.753, Occupations

24-69 Code, is amended to read as follows:

25-1 Sec. 1101.753. CIVIL PENALTY FOR CERTAIN VIOLATIONS BY
25-2 BROKER, SALES AGENT [~~SALESPERSON~~], OR CERTIFICATE HOLDER.

25-3 SECTION 83. Section 1101.753(a), Occupations Code, is
25-4 amended to read as follows:

25-5 (a) In addition to injunctive relief under Sections
25-6 1101.751 and 1101.752, a person who receives a commission or other
25-7 consideration as a result of acting as a broker or sales agent
25-8 [~~salesperson~~] without holding a license or certificate of
25-9 registration under this chapter is liable to the state for a civil
25-10 penalty of not less than the amount of money received or more than
25-11 three times the amount of money received.

25-12 SECTION 84. The heading to Section 1101.754, Occupations
25-13 Code, is amended to read as follows:

25-14 Sec. 1101.754. PRIVATE CAUSE OF ACTION FOR CERTAIN
25-15 VIOLATIONS BY BROKER, SALES AGENT [~~SALESPERSON~~], OR CERTIFICATE
25-16 HOLDER.

25-17 SECTION 85. Section 1101.754(a), Occupations Code, is
25-18 amended to read as follows:

25-19 (a) A person who receives a commission or other
25-20 consideration as a result of acting as a broker or sales agent
25-21 [~~salesperson~~] without holding a license or certificate of
25-22 registration under this chapter is liable to an aggrieved person
25-23 for a penalty of not less than the amount of money received or more
25-24 than three times the amount of money received.

25-25 SECTION 86. The heading to Section 1101.758, Occupations
25-26 Code, is amended to read as follows:

25-27 Sec. 1101.758. CRIMINAL PENALTY FOR CERTAIN VIOLATIONS BY
25-28 BROKER, SALES AGENT [~~SALESPERSON~~], OR CERTIFICATE HOLDER.

25-29 SECTION 87. Section 1101.758(a), Occupations Code, is
25-30 amended to read as follows:

25-31 (a) A person commits an offense if the person acts as a
25-32 broker or sales agent [~~salesperson~~] without holding a license under
25-33 this chapter or engages in an activity for which a certificate of
25-34 registration is required under this chapter without holding a
25-35 certificate.

25-36 SECTION 88. Section 1101.803, Occupations Code, is amended
25-37 to read as follows:

25-38 Sec. 1101.803. GENERAL LIABILITY OF BROKER. A licensed
25-39 broker is liable to the commission, the public, and the broker's
25-40 clients for any conduct engaged in under this chapter by the broker
25-41 or by a sales agent [~~salesperson~~] associated with or acting for the
25-42 broker.

25-43 SECTION 89. Section 1101.805(c), Occupations Code, is
25-44 amended to read as follows:

25-45 (c) This section does not diminish a broker's
25-46 responsibility for the acts or omissions of a sales agent
25-47 [~~salesperson~~] associated with or acting for the broker.

25-48 SECTION 90. Section 1101.806(b), Occupations Code, is
25-49 amended to read as follows:

25-50 (b) A person may not maintain an action to collect
25-51 compensation for an act as a broker or sales agent [~~salesperson~~]
25-52 that is performed in this state unless the person alleges and proves
25-53 that the person was:

25-54 (1) a license holder at the time the act was commenced;
25-55 or

25-56 (2) an attorney licensed in any state.

25-57 SECTION 91. Sections 1101.106(c), 1101.152(c), 1101.455(d)
25-58 and (g), 1101.558(a), (d), and (e), 1101.603(b), and 1101.615(b),
25-59 Occupations Code, are repealed.

25-60 SECTION 92. Section 1101.060, Occupations Code, as added by
25-61 this Act, applies only to an action that is taken by a member of the
25-62 Texas Real Estate Commission on or after the effective date of this
25-63 Act. An action taken before that date is governed by the law in
25-64 effect on the date the action was taken, and the former law is
25-65 continued in effect for that purpose.

25-66 SECTION 93. The changes in law made by this Act relating to
25-67 the eligibility for a license or certificate of registration under
25-68 Chapter 1101, Occupations Code, or to requirements for an
25-69 application under that chapter apply only to an application

26-1 submitted to the Texas Real Estate Commission on or after the
26-2 effective date of this Act. An application submitted before that
26-3 date is governed by the law in effect on the date the application
26-4 was submitted, and the former law is continued in effect for that
26-5 purpose.

26-6 SECTION 94. The changes in law made by this Act relating to
26-7 an application for inactive status under Chapter 1101, Occupations
26-8 Code, apply only to an application for inactive status submitted to
26-9 the Texas Real Estate Commission on or after the effective date of
26-10 this Act. An application submitted before that date is governed by
26-11 the law in effect on the date the application was submitted, and the
26-12 former law is continued in effect for that purpose.

26-13 SECTION 95. Section 1101.405, Occupations Code, as amended
26-14 by this Act, does not apply to an examination taken before the
26-15 effective date of this Act.

26-16 SECTION 96. The changes in law made by this Act relating to
26-17 the requirements for renewal of a license or certificate of
26-18 registration under Chapter 1101, Occupations Code, or to the
26-19 continuing education requirements under that chapter apply only to
26-20 an application for renewal of a license or certificate that expires
26-21 on or after the effective date of this Act. A license or
26-22 certificate of registration that expires before that date is
26-23 governed by the law in effect immediately before the effective date
26-24 of this Act, and the former law is continued in effect for that
26-25 purpose.

26-26 SECTION 97. The Texas Real Estate Commission shall adopt
26-27 rules prescribing the notice required by Section 1101.558,
26-28 Occupations Code, as amended by this Act, not later than February 1,
26-29 2016. A real estate broker or sales agent is not required to comply
26-30 with the requirements of that section, as amended by this Act,
26-31 before that date.

26-32 SECTION 98. The changes in law made by this Act to
26-33 Subchapter M, Chapter 1101, Occupations Code, apply only to a claim
26-34 commenced under that subchapter on or after the effective date of
26-35 this Act. A claim commenced before that date is governed by the law
26-36 in effect on the date the claim was commenced, and the former law is
26-37 continued in effect for that purpose.

26-38 SECTION 99. The changes in law made by this Act relating to
26-39 the grounds for disciplinary action under Chapter 1101 or 1102,
26-40 Occupations Code, apply only to conduct that occurs on or after the
26-41 effective date of this Act. Conduct that occurs before that date is
26-42 governed by the law in effect on the date the conduct occurred, and
26-43 the former law is continued in effect for that purpose.

26-44 SECTION 100. (a) Except as provided by Subsection (b) of
26-45 this section, this Act takes effect January 1, 2016.

26-46 (b) The change in law made by this Act to Section 1101.154,
26-47 Occupations Code, takes effect September 1, 2015, but only if S.B.
26-48 765 or similar legislation of the 84th Legislature, Regular
26-49 Session, 2015, that repeals Section 1101.153, Occupations Code, is
26-50 enacted and becomes law. If legislation described by this
26-51 subsection does not become law, the change in law made by this Act
26-52 to Section 1101.154, Occupations Code, has no effect.

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