

BILL ANALYSIS

S.B. 1968
By: Schwertner
Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The bill sponsor has informed the committee that having trusted professional representation during the homebuying process is critical, as a home is the biggest purchase many people may ever make. However, the bill sponsor has further informed the committee that current law does not allow real estate agents to show property without creating an agency relationship with a potential buyer, and most consumers do not want to commit to a real estate agent so early in the process. S.B. 1968 seeks to address this issue by modernizing provisions in The Real Estate License Act to provide consumers with more clarity about their relationship with their agents, offer more choices on how to work with agents, and make agent-client rules more transparent.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Real Estate Commission in SECTIONS 3 and 6 of this bill.

ANALYSIS

S.B. 1968 amends the Occupations Code to set out and revise provisions relating to the licensing and regulation of real estate brokers and sales agents by the Texas Real Estate Commission (TREC) under The Real Estate License Act.

Qualifying Real Estate Courses

S.B. 1968 revises the provision setting out the qualifying real estate courses required for such licensure to remove the provisions specifying the range of topics included as components of each of the courses. The bill excludes programs and courses offered by public high schools from the qualifying educational programs or courses of study in real estate and real estate inspection conducted in Texas for which TREC may by rule establish standards of approval.

Complaint Investigation and Disposition

S.B. 1968 authorizes TREC to provide a written notice of an investigation of a license holder's actions and records to a person licensed under the Real Estate License Act, as amended by the bill, or applicable state law regulating real estate inspectors and who is associated with the applicable license holder who is the subject of the investigation. The bill requires TREC to adopt rules to specify the persons who may receive notice under that authorization. These provisions apply only with respect to a notice regarding a complaint filed on or after the bill's effective date. A notice regarding a complaint filed before the bill's effective date is governed by the law

in effect on the date the complaint was filed, and the former law is continued in effect for that purpose.

Broker License: Experience and Education Requirements

S.B. 1968 requires an applicant for a broker license to provide to TREC satisfactory evidence, in addition to the evidence required under current law, that the applicant has attended the broker responsibility course approved by TREC under the provisions, as revised by the bill, that establish additional education requirements for certain license holders. The bill establishes that such attendance may be used to satisfy the requirement that an applicant successfully complete the number of hours of qualifying real estate and related courses required by TREC rule. These provisions apply only with respect to an application for a broker license submitted on or after the bill's effective date. An application submitted before that date is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

Sales Agent License: Education Requirements

S.B. 1968 revises the requirement for an applicant for a sales agent license to provide to TREC satisfactory evidence that the applicant has completed at least 12 semester hours, or equivalent classroom hours, of education consisting of a specific minimum number of semester hours of qualifying real estate courses. The bill requires that the evidence show successful completion of those semester hours or equivalent classroom hours. Further, the bill removes the statutorily required minimum hours and the topics required for those qualifying real estate courses and provides that those courses instead are those required by TREC rule without specification as to required topics or minimum semester hours. These provisions apply only to an application for a sales agent license submitted on or after the bill's effective date. An application submitted before the bill's effective date is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

Additional Education Requirements for Certain License Holders

S.B. 1968 revises the provision relating to the additional education requirements applicable to a designated broker for a business entity licensed under The Real Estate License Act, a broker who sponsors a sales agent, or a license holder who supervises another license holder. Whereas that provision requires such persons to attend during the term of the current license at least six classroom hours of a broker responsibility education course approved by TREC, the bill redesignates such a course as a broker responsibility course, requires attendance during the term of the current license by a broker licensed under The Real Estate License Act and a sales agent licensed under The Real Estate License Act who supervises another license holder, and caps the number of course hours at six classroom hours. These provisions apply only to an application for renewal of a license submitted on or after the bill's effective date. An application for renewal of a license submitted before the bill's effective date is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

Fixed Office Required; Change of Address

S.B. 1968 sets out a provision clarifying the information a license holder must provide to TREC that does the following:

- requires the license holder's business address among the required information;
- specifies that the telephone number that must be provided is the license holder's business telephone number;
- removes the condition that the license holder's business email address is only required to be provided if available;
- with respect to a license holder who is an associated broker, includes the name of the broker with whom the license holder is associated among the required information; and

- updates the requirement that TREC be notified of a change in the license holder's applicable information to reflect these clarifications.

The bill defines "associated broker" as a broker who associates with and is paid through another broker under a relationship that is intended to be a continuous relationship, including as an employee or an ongoing independent contractor.

Representation Disclosure

S.B. 1968 requires a license holder, at the time of the license holder's first substantive communication with a party relating to a proposed transaction regarding specific real property, to provide to the party written notice in at least a 10-point font that describes the basic obligations a broker has to a party to a real estate transaction that the broker does not represent.

Real Property Showing Without Representation

S.B. 1968 authorizes a broker to show real property available for sale or lease to a party without representing the party if the broker:

- has not agreed with the party, either orally or in writing, to represent the party;
- is not otherwise acting as the party's agent at the time of showing the real property;
- does not provide to the party opinions or advice regarding the real property or real estate transactions in general; and
- does not perform any other act of real estate brokerage for the party.

S.B. 1968 requires a broker, before showing real property, to do the following as applicable:

- disclose to the party as required under provisions relating to representation disclosure if the broker represents the owner of the real property; or
- provide to the party the written notice described under such provisions if the broker does not represent the owner of the real property.

The bill authorizes a broker showing real property under these provisions to confirm information to a party regarding the size, price, and terms of the real property available for sale or lease.

Written Agreement Required

S.B. 1968 requires a license holder who performs any act of real estate brokerage for a prospective buyer of residential real property to enter into a written agreement with the prospective buyer before showing any residential real property to the prospective buyer or, if no residential real property will be shown, before presenting an offer to purchase residential real property on behalf of the prospective buyer. The bill requires the written agreement to disclose in conspicuous language that broker compensation is not set by law and is fully negotiable, and to state the following:

- the services to be provided by the license holder;
- the termination date of the agreement;
- whether the agreement is exclusive;
- as applicable, that the license holder:
 - represents the prospective buyer as the buyer's agent; or
 - does not represent the prospective buyer as the buyer's agent if the only act of real estate brokerage being performed is showing real property under the bill's provisions; and
- the amount or rate of compensation the broker will receive and how this amount will be determined.

The bill requires a license holder who enters into a written agreement with a prospective buyer for the sole purpose of showing real property to enter into a separate agreement with the prospective buyer if additional real estate brokerage acts are to be provided after showing the real property. The bill makes the failure to enter such a written agreement with a prospective buyer a ground for suspension or revocation of a license issued under The Real Estate License

Act, as amended by the bill, or under applicable state law regarding real estate inspectors and specifies that this provision applies only to such conduct occurring on or after the bill's effective date. Such conduct occurring before the bill's effective date is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

S.B. 1968 defines "residential real property" for purposes of this provision as the following:

- a single-family house;
- a duplex, triplex, or quadraplex; or
- a unit in a multiunit residential structure in which title to an individual unit is transferred to the owner of the unit under a condominium or cooperative system.

Grounds for Suspension or Revocation of License or of Certificate of Registration

S.B. 1968, with respect to the authorization for TREC to suspend or revoke a license issued under The Real Estate License Act, as amended by the bill, or under applicable state law regarding real estate inspectors and with respect to the authorization for TREC to suspend or revoke a certificate of registration issued under The Real Estate License Act if the respective license holder or certificate holder fails to honor a check issued to TREC within a reasonable time after TREC has mailed a request for payment to the license holder's or certificate holder's last known address according to TREC's records, makes those authorizations applicable to the failure to honor a payment instead. The bill removes the specification in the grounds for suspension or revocation of a license that the last known address of the respective license holder to which such request is mailed is the last known business address according to TREC records and instead specifies that the address with regard to a license holder is the last known address according to TREC records.

Repealed Provisions

S.B. 1968 repeals the following provisions of the Occupations Code:

- Section 1101.002(8), which defines "subagent" for purposes of The Real Estate License Act; and
- Section 1101.805(f), which sets out liability conditions relating to misrepresentation or a concealment of a material fact made by a subagent.

EFFECTIVE DATE

January 1, 2026.