

By: Harless, King, Thompson, Bell of Kaufman,  
Harris

H.B. No. 3913

Substitute the following for H.B. No. 3913:

By: Phelan

C.S.H.B. No. 3913

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Section 1101.003(a), Occupations Code, is  
amended to read as follows:

(a) For purposes of this chapter, "qualifying real estate  
courses" include:

- (1) agency law~~[, which includes the following topics:~~
  - ~~[(A) the relationship between a principal and an agent,~~
  - ~~[(B) an agent's authority,~~
  - ~~[(C) the termination of an agent's authority,~~
  - ~~[(D) an agent's duties, including fiduciary duties,~~
  - ~~[(E) employment law,~~
  - ~~[(F) deceptive trade practices,~~
  - ~~[(G) listing or buying representation procedures, and~~
  - ~~[(H) the disclosure of agency];~~

- (2) contract law~~[, which includes the following topics:~~

- ~~[(A) elements of a contract,~~
- ~~[(B) offer and acceptance,~~

1                   [~~(C) statute of frauds,~~  
2                   [~~(D) remedies for breach, including specific~~  
3 ~~performance,~~  
4                   [~~(E) unauthorized practice of law,~~  
5                   [~~(F) commission rules relating to use of adopted~~  
6 ~~forms, and~~  
7                   [~~(G) owner disclosure requirements~~];  
8           (3) principles of real estate[~~, which includes:~~  
9               [~~(A) an overview of:~~  
10                   [~~(i) licensing as a broker or sales agent,~~  
11                   [~~(ii) ethics of practice as a license~~  
12 ~~holder,~~  
13                   [~~(iii) titles to and conveyance of real~~  
14 ~~estate,~~  
15                   [~~(iv) legal descriptions,~~  
16                   [~~(v) deeds, encumbrances, and liens,~~  
17                   [~~(vi) distinctions between personal and~~  
18 ~~real property,~~  
19                   [~~(vii) appraisal,~~  
20                   [~~(viii) finance and regulations,~~  
21                   [~~(ix) closing procedures, and~~  
22                   [~~(x) real estate mathematics, and~~  
23               [~~(B) at least three class hours of instruction on~~  
24 ~~federal, state, and local laws relating to housing discrimination,~~  
25 ~~housing credit discrimination, and community reinvestment~~];  
26           (4) property management[~~, which includes the~~  
27 ~~following topics:~~

1                   [~~(A) the role of a property manager,~~  
2                   [~~(B) landlord policies,~~  
3                   [~~(C) operational guidelines,~~  
4                   [~~(D) leases,~~  
5                   [~~(E) lease negotiations,~~  
6                   [~~(F) tenant relations,~~  
7                   [~~(G) maintenance,~~  
8                   [~~(H) reports,~~  
9                   [~~(I) habitability laws; and~~  
10                  [~~(J) the Fair Housing Act (42 U.S.C. Section 3601~~  
11 ~~et seq.)~~];

12                  (5) real estate appraisal[~~, which includes the~~  
13 ~~following topics:~~

14                   [~~(A) the central purposes and functions of an~~  
15 ~~appraisal,~~  
16                   [~~(B) social and economic determinants of the~~  
17 ~~value of real estate,~~  
18                   [~~(C) appraisal case studies,~~  
19                   [~~(D) cost, market data, and income approaches to~~  
20 ~~value estimates of real estate,~~  
21                   [~~(E) final correlations; and~~  
22                   [~~(F) reporting~~];

23                  (6) real estate brokerage[~~, which includes the~~  
24 ~~following topics:~~

25                   [~~(A) agency law,~~  
26                   [~~(B) planning and organization,~~  
27                   [~~(C) operational policies and procedures,~~

1                   ~~[(D) recruitment, selection, and training of~~  
2 ~~personnel,~~

3                   ~~[(E) records and control, and~~

4                   ~~[(F) real estate firm analysis and expansion~~  
5 ~~criteria];~~

6           (7)   real estate finance~~[, which includes the following~~  
7 ~~topics:~~

8                   ~~[(A) monetary systems,~~

9                   ~~[(B) primary and secondary money markets,~~

10                  ~~[(C) sources of mortgage loans,~~

11                  ~~[(D) federal government programs,~~

12                  ~~[(E) loan applications, processes, and~~  
13 ~~procedures,~~

14                  ~~[(F) closing costs,~~

15                  ~~[(G) alternative financial instruments,~~

16                  ~~[(H) equal credit opportunity laws,~~

17                  ~~[(I) community reinvestment laws, including the~~  
18 ~~Community Reinvestment Act of 1977 (12 U.S.C. Section 2901 et~~  
19 ~~seq.), and~~

20                  ~~[(J) state housing agencies, including the Texas~~  
21 ~~Department of Housing and Community Affairs];~~

22           (8)   real estate investment~~[, which includes the~~  
23 ~~following topics:~~

24                  ~~[(A) real estate investment characteristics,~~

25                  ~~[(B) techniques of investment analysis,~~

26                  ~~[(C) the time value of money,~~

27                  ~~[(D) discounted and nondiscounted investment~~

1 ~~criteria;~~

2 ~~[(E) leverage;~~

3 ~~[(F) tax shelters depreciation; and~~

4 ~~[(C) applications to property tax];~~

5 (9) real estate law~~[, which includes the following~~  
6 ~~topics:~~

7 ~~[(A) legal concepts of real estate;~~

8 ~~[(B) land description;~~

9 ~~[(C) real property rights and estates in land;~~

10 ~~[(D) contracts;~~

11 ~~[(E) conveyances;~~

12 ~~[(F) encumbrances;~~

13 ~~[(G) foreclosures;~~

14 ~~[(H) recording procedures; and~~

15 ~~[(I) evidence of titles];~~

16 (10) real estate marketing~~[, which includes the~~  
17 ~~following topics:~~

18 ~~[(A) real estate professionalism and ethics;~~

19 ~~[(B) characteristics of successful sales agents;~~

20 ~~[(C) time management;~~

21 ~~[(D) psychology of marketing;~~

22 ~~[(E) listing procedures;~~

23 ~~[(F) advertising;~~

24 ~~[(G) negotiating and closing;~~

25 ~~[(H) financing; and~~

26 ~~[(I) Subchapter E, Chapter 17, Business &~~  
27 ~~Commerce Code]; and~~

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

~~[(A) basic arithmetic skills and review of mathematical logic,~~

~~[(B) percentages,~~

~~[(C) interest,~~

~~[(D) the time value of money,~~

~~[(E) depreciation,~~

~~[(F) amortization,~~

~~[(G) proration, and~~

~~[(H) estimation of closing statements].~~

SECTION 2. Section 1101.161, Occupations Code, is amended to read as follows:

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

SECTION 3. Section 1101.204, Occupations Code, is amended by adding Subsection (d-1) to read as follows:

(d-1) Notwithstanding Section 1101.2051, the commission may provide the notice required by Subsection (d) to a person licensed under this chapter or Chapter 1102 and who is associated with the license holder who is the subject of the investigation. The commission shall adopt rules to specify the persons who may receive notice under this subsection.

SECTION 4. Section 1101.301(a), Occupations Code, is

amended to read as follows:

(a) The commission, as necessary for the administration of this chapter and Chapter 1102, may by rule:

(1) establish standards for the approval of qualifying educational programs or courses of study in real estate and real estate inspection conducted in this state, excluding programs and courses offered by public high schools and accredited colleges and universities; and

(2) develop minimum education and experience requirements for an instructor of a course of study described by Subdivision (1).

SECTION 5. Section 1101.356(a), Occupations Code, is amended to read as follows:

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

(1) has had at least four years of active experience as a license holder during the 60 months preceding the date the application is filed; ~~and~~

(2) has successfully completed the number of hours of qualifying real estate and related courses required by commission rule, not to exceed 60 semester hours or equivalent classroom hours; and

(3) has attended the broker responsibility course approved by the commission under Section 1101.458, which may be used to satisfy the related course hours described by Subdivision (2).

SECTION 6. Section 1101.358(a), Occupations Code, is

amended to read as follows:

(a) An applicant for a sales agent license must provide to the commission satisfactory evidence that the applicant has successfully completed at least 12 semester hours, or equivalent classroom hours, of qualifying real estate courses required by commission rule ~~[education consisting of:~~

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

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

~~[(A) agency law;~~

~~[(B) contract law;~~

~~[(C) contract forms and addendums; and~~

~~[(D) real estate finance].~~

SECTION 7. Sections [1101.458](#)(a), (b), and (c), Occupations Code, are amended to read as follows:

(a) During ~~[A designated broker for a business entity licensed under this chapter, a broker who sponsors a sales agent, or a license holder who supervises another license holder must attend during]~~ the term of the current license a ~~[at least six classroom hours of]~~ broker responsibility course ~~[education courses]~~ approved by the commission must be attended by:

(1) a broker licensed under this chapter; and

(2) a sales agent licensed under this chapter who supervises another license holder.

(b) The commission by rule shall prescribe the title, content, and duration of the broker responsibility course



1 ~~[education courses]~~ required under this section. The course may  
2 not exceed six classroom hours.

3 (c) Broker responsibility ~~[education]~~ course hours may be  
4 used to satisfy the hours described by Section 1101.455(f).

5 SECTION 8. Section 1101.552, Occupations Code, is amended  
6 by amending Subsection (e) and adding Subsections (f) and (g) to  
7 read as follows:

8 (e) A license holder shall provide the commission with:

9 (1) the license holder's current:

10 (A) mailing address;

11 (B) business address;

12 (C) business ~~[and]~~ telephone number; ~~[7]~~ and

13 (D) ~~[the license holder's]~~ business e-mail  
14 address; and ~~[if available]~~

15 (2) if the license holder is an associated broker, the  
16 name of the broker with whom the license holder is associated.

17 (f) A license holder shall notify the commission of a change  
18 in the information described by Subsection (e) ~~[license holder's~~  
19 ~~mailing or e-mail address or telephone number]~~.

20 (g) In this section, "associated broker" means a broker who  
21 associates with and is paid through another broker under a  
22 relationship that is intended to be a continuous relationship,  
23 including as an employee or an ongoing independent contractor.

24 SECTION 9. Section 1101.558(b-1), Occupations Code, is  
25 amended to read as follows:

26 (b-1) At the time of a license holder's first substantive  
27 communication with a party relating to a proposed transaction

1 regarding specific real property, the license holder shall provide  
2 to the party written notice in at least a 10-point font that:

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

5 (2) describes the basic duties and obligations a  
6 broker has to a party to a real estate transaction that the broker  
7 represents; ~~and~~

8 (3) describes the basic obligations a broker has to a  
9 party to a real estate transaction that the broker does not  
10 represent; and

11 (4) provides the name, license number, and contact  
12 information for the license holder and the license holder's  
13 supervisor and broker, if applicable.

14 SECTION 10. Subchapter L, Chapter 1101, Occupations Code,  
15 is amended by adding Sections 1101.562 and 1101.563 to read as  
16 follows:

17 Sec. 1101.562. REAL PROPERTY SHOWINGS WITHOUT  
18 REPRESENTATION. (a) A broker may show real property available for  
19 sale or lease to a party without representing the party if the  
20 broker:

21 (1) has not agreed with the party, either orally or in  
22 writing, to represent the party;

23 (2) is not otherwise acting as the party's agent at the  
24 time of showing the real property;

25 (3) does not provide to the party opinions or advice  
26 regarding the real property or real estate transactions in general;  
27 and

1           (4) does not perform any other act of real estate  
2 brokerage for the party.

3           (b) Before a broker may show real property under Subsection  
4 (a), the broker must, as applicable:

5               (1) disclose to the party as required by Section  
6 1101.558(b) if the broker represents the owner of the real  
7 property; or

8               (2) provide to the party the written notice described  
9 by Section 1101.558(b-1) if the broker does not represent the owner  
10 of the real property.

11           (c) Notwithstanding Subsections (a)(3) and (4), a broker  
12 showing real property under this section may confirm information to  
13 a party regarding the size, price, and terms of the real property  
14 available for sale or lease.

15           Sec. 1101.563. WRITTEN AGREEMENT REQUIRED. (a) In this  
16 section, "residential real property" means:

17               (1) a single-family house;  
18               (2) a duplex, triplex, or quadraplex; or  
19               (3) a unit in a multiunit residential structure in  
20 which title to an individual unit is transferred to the owner of the  
21 unit under a condominium or cooperative system.

22           (b) A license holder who performs any act of real estate  
23 brokerage for a prospective buyer of residential real property must  
24 enter into a written agreement with the prospective buyer before:

25               (1) showing any residential real property to the  
26 prospective buyer; or

27               (2) if no residential real property will be shown,

presenting an offer to purchase residential real property on behalf of the prospective buyer.

(c) The written agreement required by Subsection (b) must:

(1) state:

(A) the services to be provided by the license holder;

(B) the termination date of the agreement;

(C) whether the agreement is exclusive;

(D) as applicable, that the license holder:

(i) represents the prospective buyer as the buyer's agent; or

(ii) 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 Section 1101.562; and

(E) the amount or rate of compensation the broker will receive and how this amount will be determined; and

(2) disclose in conspicuous language that broker compensation is not set by law and is fully negotiable.

(d) A license holder who enters into a written agreement with a prospective buyer for the sole purpose of showing real property under Section 1101.562 shall enter into a separate agreement with the prospective buyer if additional real estate brokerage acts are to be provided after showing the real property.

SECTION 11. Sections [1101.652](#)(a) and (b), Occupations Code, are amended to read as follows:

(a) The commission may suspend or revoke a license issued

1 under this chapter or Chapter 1102 or take other disciplinary  
2 action authorized by this chapter or Chapter 1102 if the license  
3 holder:

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

9 (2) procures or attempts to procure a license under  
10 this chapter or Chapter 1102 for the license holder by fraud,  
11 misrepresentation, or deceit or by making a material misstatement  
12 of fact in an application for a license;

13 (3) fails to honor, within a reasonable time, a  
14 payment [~~check~~] issued to the commission after the commission has  
15 sent by certified mail a request for payment to the license holder's  
16 last known [~~business~~] address according to commission records;

17 (4) fails to provide, within a reasonable time,  
18 information requested by the commission that relates to a formal or  
19 informal complaint to the commission that would indicate a  
20 violation of this chapter or Chapter 1102;

21 (5) fails to surrender to the owner, without just  
22 cause, a document or instrument that is requested by the owner and  
23 that is in the license holder's possession;

24 (6) fails to consider market conditions for the  
25 specific geographic area in which the license holder is providing a  
26 service;

27 (7) fails to notify the commission, not later than the

30th day after the date of a final conviction or the entry of a plea of guilty or nolo contendere, that the person has been convicted of or entered a plea of guilty or nolo contendere to a felony or a criminal offense involving fraud; or

(8) disregards or violates this chapter or Chapter 1102.

(b) The commission may suspend or revoke a license issued under this chapter or take other disciplinary action authorized by this chapter if the license holder, while engaged in real estate brokerage:

(1) acts negligently or incompetently;

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

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

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

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

(6) pursues a continued and flagrant course of misrepresentation or makes false promises through an agent or sales agent, through advertising, or otherwise;

(7) fails to make clear to all parties to a real estate

1 transaction the party for whom the license holder is acting;

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

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

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

10 (11) pays a commission or a fee to or divides a  
11 commission or a fee with a person other than a license holder or a  
12 real estate broker or sales agent licensed in another state for  
13 compensation for services as a real estate agent;

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

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

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

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

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

1           (17) guarantees or authorizes or permits a person to  
2 guarantee that future profits will result from a resale of real  
3 property;

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

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

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

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

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

21          (23) publishes or causes to be published an  
22 advertisement that:

23               (A) misleads or is likely to deceive the public;

24               (B) tends to create a misleading impression;

25               (C) implies that a sales agent is responsible for  
26 the operation of the broker's real estate brokerage business; or

27               (D) fails to include the name of the broker for



1 whom the license holder acts, which name may be the licensed name,  
2 assumed name, or trade name of the broker as authorized by a law of  
3 this state and registered with the commission;

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

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

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

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

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

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

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

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

24 (30) fails to deposit, within a reasonable time, money  
25 the license holder receives as escrow or trust funds in a real  
26 estate transaction:

27 (A) in trust with a title company authorized to

do business in this state; or

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

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

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

(33) disregards or violates this chapter; or

(34) fails to enter into a written agreement with a prospective buyer as required by Section 1101.563.

SECTION 12. Section 1101.653, Occupations Code, is amended to read as follows:

Sec. 1101.653. GROUNDS FOR SUSPENSION OR REVOCATION OF CERTIFICATE. The commission may suspend or revoke a certificate of registration issued under this chapter if the certificate holder:

(1) engages in dishonest dealing, fraud, unlawful discrimination, or a deceptive act;

(2) makes a misrepresentation;

(3) acts in bad faith;

(4) demonstrates untrustworthiness;

1           (5) fails to honor, within a reasonable time, a  
2 payment [~~check~~] issued to the commission after the commission has  
3 mailed a request for payment to the certificate holder's last known  
4 address according to the commission's records;

5           (6) fails to provide to a party to a transaction a  
6 written notice prescribed by the commission that:

7                   (A) must be given before the party is obligated  
8 to sell, buy, lease, or transfer a right-of-way or easement; and

9                   (B) contains:

10                           (i) the name of the certificate holder;

11                           (ii) the certificate number;

12                           (iii) the name of the person the  
13 certificate holder represents;

14                           (iv) a statement advising the party that  
15 the party may seek representation from a lawyer or broker in the  
16 transaction; and

17                           (v) a statement generally advising the  
18 party that the right-of-way or easement may affect the value of the  
19 property;

20           (7) directly or indirectly accepts a financial  
21 incentive to make an initial offer that the certificate holder  
22 knows or should know is lower than the adequate compensation  
23 required under the Texas Constitution; or

24           (8) disregards or violates this chapter or a  
25 commission rule relating to certificate holders.

26           SECTION 13. The following provisions of the Occupations  
27 Code are repealed:

1           (1) Section 1101.002(8); and

2           (2) Section 1101.805(f).

3           SECTION 14. Section 1101.204, Occupations Code, as amended  
4 by this Act, applies only with respect to a notice regarding a  
5 complaint filed on or after the effective date of this Act. A  
6 notice regarding a complaint filed before the effective date of  
7 this Act is governed by the law in effect on the date the complaint  
8 was filed, and the former law is continued in effect for that  
9 purpose.

10          SECTION 15. Section 1101.356(a), Occupations Code, as  
11 amended by this Act, applies only to an application for a broker  
12 license under Chapter 1101, Occupations Code, submitted on or after  
13 the effective date of this Act. An application submitted before the  
14 effective date of this Act is governed by the law in effect on the  
15 date the application was submitted, and the former law is continued  
16 in effect for that purpose.

17          SECTION 16. Section 1101.358(a), Occupations Code, as  
18 amended by this Act, applies only to an application for a sales  
19 agent license under Chapter 1101, Occupations Code, submitted on or  
20 after the effective date of this Act. An application submitted  
21 before the effective date of this Act is governed by the law in  
22 effect on the date the application was submitted, and the former law  
23 is continued in effect for that purpose.

24          SECTION 17. Section 1101.458, Occupations Code, as amended  
25 by this Act, applies only to an application for renewal of a license  
26 submitted on or after the effective date of this Act. An  
27 application for renewal of a license submitted before the effective

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

4       SECTION 18. Section [1101.652\(b\)](#), Occupations Code, as  
5 amended by this Act, applies only to conduct occurring on or after  
6 the effective date of this Act. Conduct occurring before the  
7 effective date of this Act is governed by the law in effect on the  
8 date the conduct occurred, and the former law is continued in effect  
9 for that purpose.

10       SECTION 19. This Act takes effect January 1, 2026.