

1 AN ACT

2 relating to the regulation of the sale and inspection of real estate  
3 and residential service contracts.

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

5 SECTION 1. Section 1101.005, Occupations Code, is amended  
6 to read as follows:

7 Sec. 1101.005. APPLICABILITY OF CHAPTER. This chapter  
8 does not apply to:

9 (1) an attorney licensed in any state;

10 (2) an attorney-in-fact authorized under a power of  
11 attorney to conduct a real estate transaction;

12 (3) a public official while engaged in official  
13 duties;

14 (4) an auctioneer licensed under Chapter 1802 while  
15 conducting the sale of real estate by auction if the auctioneer does  
16 not perform another act of a broker or salesperson;

17 (5) a person conducting a real estate transaction  
18 [~~acting~~] under a court order or the authority of a will or written  
19 trust instrument;

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

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

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

3           (9) a partnership or limited liability partnership  
4 acting as a broker or salesperson through a partner who is a  
5 licensed broker; or

6           (10) a transaction involving:

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

9                 (B) the sale, lease, or transfer of a cemetery  
10 lot;

11                (C) the lease or management of a hotel or motel;  
12 or

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

15           SECTION 2. Section 1101.057(a), Occupations Code, is  
16 amended to read as follows:

17           (a) It is a ground for removal from the commission that a  
18 member:

19                (1) does not have at the time of appointment the  
20 qualifications required by Section 1101.051(a) or (b) or 1101.052;

21                (2) does not maintain during service on the commission  
22 the qualifications required by Section 1101.051(a) or (b) or  
23 1101.052;

24                (3) violates a prohibition established by Section  
25 1101.053;

26                (4) cannot [~~because of illness or disability,~~]  
27 discharge the member's duties for a substantial part of the member's

1 term; or

2 (5) is absent from more than half of the regularly  
3 scheduled commission meetings that the member is eligible to attend  
4 during each calendar year, unless the absence is excused by  
5 majority vote of the commission.

6 SECTION 3. Section 1101.152(a), Occupations Code, is  
7 amended to read as follows:

8 (a) The commission shall adopt rules to charge and collect  
9 reasonable fees, including a fee for [~~the following fees~~]:

10 (1) [~~for~~] filing an original application for a broker  
11 license[~~, not more than \$100~~];

12 (2) [~~for~~] annual renewal of a broker license[~~, not~~  
13 ~~more than \$100~~];

14 (3) [~~for~~] filing an original application for a  
15 salesperson license[~~, not more than \$75~~];

16 (4) [~~for~~] annual renewal of a salesperson license[~~, not~~  
17 ~~more than \$50~~];

18 (5) [~~for~~] annual registration[~~, \$80~~];

19 (6) filing [~~for~~] an application for a license  
20 examination[~~, not more than \$100~~];

21 (7) [~~for~~] filing a request for a branch office  
22 license[~~, not more than \$20~~];

23 (8) [~~for~~] filing a request for a change of place of  
24 business, change of name, return to active status, or change of  
25 sponsoring broker[~~, not more than \$20~~];

26 (9) [~~for~~] filing a request to replace a lost or  
27 destroyed license or certificate of registration[~~, not more than~~

1 \$20];

2 (10) [~~for~~] filing an application for approval of an  
3 education program under Subchapter G [~~, not more than \$400~~];

4 (11) [~~for~~] annual operation of an education program  
5 under Subchapter G [~~, not more than \$200~~];

6 (12) [~~for~~] filing an application for approval of an  
7 instructor of core real estate courses [~~, not more than \$40~~];

8 (13) [~~for~~] transcript evaluation [~~, \$20~~];

9 (14) [~~for~~] preparing a license or registration  
10 history [~~, not more than \$20~~]; ~~and~~

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

13 (16) conducting a criminal history check for issuing  
14 or renewing a license [~~, not more than \$50~~].

15 SECTION 4. Section 1101.302(b), Occupations Code, is  
16 amended to read as follows:

17 (b) An educational institution shall maintain a corporate  
18 surety bond or other security acceptable to the commission that is:

19 (1) in the amount of \$20,000 [~~\$10,000~~];

20 (2) payable to the commission; and

21 (3) for the benefit of a party who suffers damages  
22 caused by the failure of the institution to fulfill obligations  
23 related to the commission's approval.

24 SECTION 5. Subchapter H, Chapter 1101, Occupations Code, is  
25 amended by adding Section 1101.3521 to read as follows:

26 Sec. 1101.3521. CRIMINAL HISTORY RECORD INFORMATION  
27 REQUIREMENT FOR LICENSE. (a) The commission shall require that an

1 applicant for a license or renewal of an unexpired license submit a  
2 complete and legible set of fingerprints, on a form prescribed by  
3 the commission, to the commission or to the Department of Public  
4 Safety for the purpose of obtaining criminal history record  
5 information from the Department of Public Safety and the Federal  
6 Bureau of Investigation.

7 (b) The commission shall refuse to issue a license to or  
8 renew the license of a person who does not comply with the  
9 requirement of Subsection (a).

10 (c) The commission shall conduct a criminal history check of  
11 each applicant for a license or renewal of a license using  
12 information:

13 (1) provided by the individual under this section; and

14 (2) made available to the commission by the Department  
15 of Public Safety, the Federal Bureau of Investigation, and any  
16 other criminal justice agency under Chapter 411, Government Code.

17 (d) The commission may:

18 (1) enter into an agreement with the Department of  
19 Public Safety to administer a criminal history check required under  
20 this section; and

21 (2) authorize the Department of Public Safety to  
22 collect from each applicant the costs incurred by the department in  
23 conducting the criminal history check.

24 SECTION 6. Section 1101.356(a), Occupations Code, is  
25 amended to read as follows:

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

1           (1) has had at least two years of active experience in  
2 this state as a license holder during the 36 months preceding the  
3 date the application is filed; and

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

7           (A) at least 18 semester hours or equivalent  
8 classroom hours of core real estate courses, two semester hours of  
9 which must be real estate brokerage; and

10           (B) at least 42 hours of core real estate courses  
11 or related courses accepted by the commission.

12           SECTION 7. Subchapter J, Chapter 1101, Occupations Code, is  
13 amended by adding Section 1101.4521 to read as follows:

14           Sec. 1101.4521. CRIMINAL HISTORY RECORD INFORMATION FOR  
15 RENEWAL. An applicant for the renewal of an unexpired license must  
16 comply with the criminal history record check requirements of  
17 Section 1101.3521.

18           SECTION 8. Section 1101.455, Occupations Code, is amended  
19 by adding Subsection (k) to read as follows:

20           (k) Notwithstanding the number of hours required by  
21 Subsection (e), a member of the legislature licensed under this  
22 chapter is only required to complete three hours of continuing  
23 education on the legal topics under Subsection (e).

24           SECTION 9. Section 1101.652(a), Occupations Code, is  
25 amended to read as follows:

26           (a) The commission may suspend or revoke a license issued  
27 under this chapter or take other disciplinary action authorized by

1 this chapter if the license holder:

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

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

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

14 (A) the license holder;

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

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

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

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

27 (6) fails to provide, within a reasonable time,

1 information requested by the commission that relates to a formal or  
2 informal complaint to the commission that would indicate a  
3 violation of this chapter;

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

7 (8) fails to use a contract form required by the  
8 commission under Section 1101.155;

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

14 (10) disregards or violates this chapter.

15 SECTION 10. Section 1101.655(a), Occupations Code, is  
16 amended to read as follows:

17 (a) The commission may revoke a license, approval, or  
18 [~~certificate of~~] registration issued under this chapter or Chapter  
19 1102 if the commission makes a payment from the real estate recovery  
20 trust account to satisfy all or part of a judgment against the  
21 license or registration [~~certificate~~] holder.

22 SECTION 11. Section 1102.111, Occupations Code, is amended  
23 to read as follows:

24 Sec. 1102.111. SUBSTITUTE REQUIREMENTS. (a) The  
25 commission by rule shall provide for substitution of relevant  
26 experience and [~~or~~] additional education in place of:

27 (1) the number of real estate inspections required for

1 licensing; and

2 (2) the requirement that an applicant be:

3 (A) licensed as an apprentice inspector before  
4 being licensed as a real estate inspector; or

5 (B) licensed as a real estate inspector before  
6 being licensed as a professional inspector.

7 (b) Rules adopted under Subsection (a) may not require an  
8 applicant to:

9 (1) complete more than 320 additional classroom hours  
10 of core real estate inspection courses; or

11 (2) have more than seven years of relevant experience.

12 SECTION 12. Sections 1102.402(a) and (c), Occupations Code,  
13 are amended to read as follows:

14 (a) The commission may revoke a [the] license issued under  
15 this chapter or a license, approval, or registration issued under  
16 Chapter 1101 [of an inspector] if the commission makes a payment  
17 from the real estate inspection recovery fund to satisfy all or part  
18 of a judgment against the person issued the license, approval, or  
19 registration [inspector].

20 (c) A person [~~whose license is revoked under this section~~]  
21 is not eligible for a [new] license until the person has repaid in  
22 full the amount paid from the fund on the person's account, plus  
23 interest at the legal rate.

24 SECTION 13. Section 1303.302, Occupations Code, is amended  
25 to read as follows:

26 Sec. 1303.302. CERTAIN CONDITIONAL SALES OF PROPERTY  
27 PROHIBITED. (a) A seller of a residential property or the buyer's

1 or seller's agent may not condition the sale of the property on the  
2 buyer's purchase of a residential service contract.

3 (b) A seller of a residential property or the buyer's or  
4 seller's agent shall provide to the buyer a statement that clearly  
5 and conspicuously states that:

6 (1) the purchase of a residential service contract is  
7 optional; and

8 (2) the buyer may purchase similar coverage through  
9 another residential service company or insurance company  
10 authorized to engage in business in this state.

11 SECTION 14. Sections 1102.1035 and 1102.2051, Occupations  
12 Code, are repealed.

13 SECTION 15. Not later than January 1, 2008, an educational  
14 institution that maintains a bond under Section 1101.302(b),  
15 Occupations Code, on the effective date of this Act shall obtain a  
16 bond in the amount required by Section 1101.302(b), Occupations  
17 Code, as amended by this Act.

18 SECTION 16. Not later than January 1, 2008, the Texas Real  
19 Estate Commission shall adopt rules as required by Section  
20 1101.152, Occupations Code, as amended by this Act.

21 SECTION 17. (a) The change in law made by this Act to  
22 Section 1101.356(a), Occupations Code, applies only to a license  
23 application filed on or after January 1, 2008. A license  
24 application filed before that date is covered by the law in effect  
25 at the time the application was filed, and the former law is  
26 continued in effect for that purpose.

27 (b) The requirement that a person applying for or renewing a

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1 license under Chapter 1101, Occupations Code, must submit to a  
2 criminal history check under Sections 1101.3521 and 1101.4521,  
3 Occupations Code, as added by this Act, applies only to an  
4 application filed on or after January 1, 2008.

5 SECTION 18. This Act takes effect September 1, 2007.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1530 was passed by the House on April 13, 2007, by the following vote: Yeas 143, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1530 on May 18, 2007, by the following vote: Yeas 144, Nays 0, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1530 was passed by the Senate, with amendments, on May 15, 2007, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor