

SUBJECT: Licensing and education requirements for certain real estate professionals

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 8 ayes — Flores, Geren, Chisum, Goolsby, Hamilton, Homer, Morrison, Quintanilla

0 nays

1 absent — D. Jones

SENATE VOTE: On final passage, April 7 — 31-0, on Local and Uncontested Calendar

WITNESSES: No public hearing

BACKGROUND: Occupations Code, ch. 1101 applies to real estate brokers and salespersons. Ch. 1102 pertains to real estate inspectors.

The Texas Real Estate Commission sets moral character requirements for licensing. A potential applicant may choose to request a moral character determination from the commission before the applicant takes classes or exams. The determination would pass or fail the applicant on this requirement before the applicant invested in meeting other license requirements.

The commission may suspend or revoke a license or take other disciplinary action if a license holder engages in misrepresentation, dishonesty, or fraud when selling, buying, trading, or leasing real property in the license holder's own name.

Sec. 1101.455 deals with continuing education requirements for licensed real estate brokers and salespersons. An applicant for a salesperson license must complete 12 semester hours of postsecondary education.

DIGEST: CSSB 810 would make a number of changes to Occupations Code, ch. 1101 and ch. 1102.

Licensing and continuing education. CSSB 810 would require that an applicant for a salesperson license complete 14 semester hours, rather than 12 hours, of postsecondary education. The bill also would require that applicants take two semester hours in an additional core real estate course.

For the first renewal of a salesperson's license, the bill would require that an applicant complete at least 18 semester hours, rather than 14 hours, of postsecondary education. It also would require the completion of 14 hours, rather than 10 hours, of core real estate courses.

For the renewal of a salesperson license, the bill would repeal requirements that applicants:

- for the second renewal, complete at least 16 semester hours of postsecondary education, including 12 hours of core real estate courses; and
- for the third renewal, complete at least 18 semester hours of postsecondary education, including 14 hours of core real estate courses.

CSSB 810 would create additional requirements for certain business entities that wished to obtain or renew a professional inspector license. A corporation or limited liability company could not act as a professional inspector unless the entity's designated agent was a licensed professional inspector. A corporation that wished to become eligible for a professional inspector license, or to renew such a license, would need to designate one of its officers as its agent, and a limited liability company would need to designate one of its managers as its agent.

For the renewal of any inspector license, the bill would require the completion of at least 16 classroom hours of core real estate inspection courses for each year of the license period preceding the renewal.

Of the 15 hours required to meet continuing education requirements for brokers and salespersons, CSSB 810 would allow core real estate courses and real estate-related courses approved by the State Bar of Texas to satisfy the nine hours not allocated in statute to specific topics.

The bill would allow the commission to charge up to \$100 in fees to attend a program for the training of continuing education instructors.

Other provisions. The bill would allow the commission to suspend or revoke a license if the license holder failed to notify the commission, within 30 days of conviction or entering a plea, that he or she had had pled no contest or been convicted of a felony or criminal offense involving fraud. A license also could be revoked or suspended if the license holder engaged in misrepresentation, dishonesty, or fraud when selling buying, trading, or leasing real property in the name of the license holder's spouse or a close relative .

The bill would prohibit the commission from conducting an investigation of a real estate inspector, in addition to a real estate broker or a salesperson, in connection with a complaint submitted later than four years after the date the incident allegedly took place.

The bill would allow the commission to issue a provisional moral character determination.

The bill specifies that only a broker, rather than a salesperson, would be the agent of the party he/she represented. It also would require a broker to agree to act as an intermediary in any transaction in which a broker represented a buyer or tenant and a seller or landlord.

The bill would take effect September 1, 2005. Changes in law made by SB 810 would apply on or after January 1, 2006, to any license or renewal application or to conduct necessitating disciplinary action.

**SUPPORTERS
SAY:**

CSSB 8710 primarily is a housekeeping bill. It would update and clarify laws governing licensing and other requirements for certain real estate professionals while enhancing the standards of the profession by bolstering the continuing education requirements for a number of license holders.

Some of the changes made by CSSB 810 would grant necessary flexibility to the commission. For example, the commission currently can issue a moral character determination that provides license issuance exceptions for people who may have "black marks" on their records from decades ago. The bill would allow the commission to issue a provisional moral character determination that restricted the dealings of these license holders in regard to handling money, for example, or in other ways that might be appropriate for a particular person. In addition, the bill would allow the

commission to recover costs it incurred in training continuing education instructors.

OPPONENTS
SAY:

A number of firms hire college students temporarily as apprentice inspectors. While it is easy for a firm and a student initially to obtain an apprentice license for summer work, this bill would require a student who wished to return for future summer work to take at least 16 classroom hours of courses per year. This severely would limit the pool of temporary inspectors that many firms rely on each summer.

The bill should be clarified to align the requirements for certain business entities with regard to obtaining and renewing a professional inspector license. As the bill is written, a corporation or limited liability company would have to designate one of its officers as its agent in order to obtain an original license, but such a company would have to designate one of its officers *or employees* as its agent to renew the license. The language should be made consistent in both sections, as it was in the bill as introduced.

NOTES:

The committee substitute would require that an applicant for the renewal of an inspector license take at least 16 classroom hours of core real estate inspection courses for each year of the license period preceding the renewal. The committee substitute would allow an employee, in addition to an officer or a manager, to serve as an agent for a company seeking to renew a professional inspector license.