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HOUSE BILL NO. 1297

House Amendments in [] — February 7, 2000

A BILL to amend and reenact §§ 54.1-2105 and 54.1-2105.1 of the Code of Virginia, relating to the Real Estate Board; duties.

Patrons—Hall, Almand, Cantor, Diamonstein, Drake, Stump and Williams; Senator: Mims

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2105 and 54.1-2105.1 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2105. General powers of Real Estate Board; regulations; educational and experience requirements for licensure.

A. The Board may do all things necessary and convenient for carrying into effect the provisions of this chapter and may promulgate necessary regulations.

B. The Board shall include in its regulations educational requirements as conditions for licensure to ensure the protection of the public interest. The Board is authorized to regulate any school which is established to offer real estate courses except such schools as are regulated by another state agency. Such authority shall include, but not be limited to, qualification of instructors, approval of course curricula and requirement that such schools submit evidence of financial responsibility to ensure that these schools protect the public health, safety and welfare. The Board shall have the discretion to waive any requirement under the regulations relating to education or experience when the broker or salesperson is found to have education or experience equivalent to that required. No regulation imposing educational requirements for initial licensure beyond those specified by law shall apply to any person who was licensed prior to July 1, 1975, and who has been continuously licensed since that time, except that licensure as a salesperson prior to such time shall not exempt a salesperson who seeks to be licensed as a broker from the educational requirements established for brokers. Regulations promulgated by the Board shall include the following requirements:

1. a. Every applicant to the Board for an initial license as a real estate salesperson shall have completed a course in the principles of real estate which carried an academic credit of at least three semester hours or six quarter hours (but not less than forty-five hours of classroom or correspondence or other distance learning instruction in any case). The course shall be one offered by an accredited university, college, community college, high school offering adult distributive education courses, or other school or educational institution offering an equivalent course.

b. However, on and after January 1, 1991, the academic credit required for the initial license as a real estate salesperson shall be at least four semester hours, but not less than sixty hours of classroom, correspondence or other distance learning instruction.

2. Every applicant to the Board for an initial license as a real estate broker shall have completed not less than twelve semester hours of classroom or correspondence or other distance learning instruction in real estate courses offered by an accredited university, college, community college, or other school or educational institution offering equivalent courses.

C. The Board shall establish criteria to ensure that prelicensure and broker licensure courses meet the standards of quality deemed by the Board to be necessary to protect the public interests. For correspondence and other distance learning instruction offered by an approved provider, such criteria may include appropriate testing procedures.

Noncollegiate institutions shall not be authorized to grant collegiate semester hours for academic credit.

The specific content of the real estate courses shall be in real estate brokerage, real estate finance, real estate appraisal, real estate law, and such related subjects as are approved by the Board.

D. The Board shall include in its regulations educational requirements as a condition for relicensure of brokers and salespersons to whom active licenses have been issued by the Board beyond those now specified by law as conditions for licensure. Brokers and salespersons to whom active licenses have been issued by the Board shall be required to satisfactorily complete courses of not less than eight hours of classroom or correspondence or other distance learning instruction during each licensing term, no less than four hours of which shall include training in fair housing laws, state real estate laws and regulations, and ethics and standards of conduct. If the licensee submits a notarized affidavit to the Board which certifies that he does not practice residential real estate and shall not do so during the licensing term, training in fair housing shall not be required; instead, such licensee shall receive training

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60 in other applicable federal and state discrimination laws and regulations. The remaining four hours shall
61 include real estate-related subjects as are approved by the Board. For correspondence and other distance
62 learning instruction offered by an approved provider, the Board shall establish the appropriate testing
63 procedures to verify completion of the course and require the licensee to file a notarized affidavit
64 certifying compliance with the course requirements. The Board shall not require testing for continuing
65 education courses completed through classroom instruction. For purposes of this chapter, "distance
66 learning" means instruction delivered by an approved provider through a medium other than a classroom
67 setting. Such courses shall be those offered by an accredited university, college, community college,
68 high school offering adult distributive education courses, other school or educational institution, or real
69 estate professional association or related entities.

70 E. The Board shall include in its regulations, a procedure for processing applications of educational
71 institutions, real estate professional associations, or related entities, to provide continuing education
72 courses, which procedure, at a minimum, shall (i) provide for a broad range of subject matters suitable
73 for the continuing education of licensed professionals in a multifamily residential and commercial office,
74 as well as single-family residential, sales, leasing and property management; (ii) acknowledge, in
75 writing, receipt of such applications within ten calendar days after receipt; and (iii) provide written
76 notification to the applicant, within seventy-five calendar days of receipt of the application, whether the
77 application has been approved or disapproved, and if disapproved, the reasons therefor. In addition, the
78 Board shall prepare a comprehensive listing of courses, pre-approved by the Board, related to the
79 professional competency requirements for the multifamily residential and commercial office industries.

80 The Board, through regulation, shall develop criteria for evaluating and approving continuing
81 education course credits and for awarding credit hours for such courses. The Board may approve
82 recommended course titles, content, and hours of continuing education credit developed and published
83 by national professional real estate trade associations, unless the Board determines in writing that such
84 titles, content, or credit hours should not be approved and specifies the reasons therefor.

85 F. As of July 1, 1990, every applicant for relicensure as an active salesperson or broker shall
86 complete the continuing education requirements prior to each renewal or reinstatement of his license.
87 The continuing education requirement shall also apply to inactive licensees who make application for an
88 active license. Notwithstanding this requirement, military personnel called to active duty in the Armed
89 Forces of the United States may complete the required continuing education within six months of their
90 release from active duty.

91 G. The Board shall also include in its regulations remedial educational requirements for any
92 salesperson or broker who has been inactive for more than three years. The regulations shall require the
93 applicant to meet the educational requirements for a salesperson or broker in effect at the time either
94 becomes active.

95 H. When the license has been inactive for more than three years, the Board may waive the
96 educational requirements for reactivation of a license under the following conditions: (i) during the time
97 the license has been inactive, the holder of such inactive license has been engaged in an occupation
98 whereby the knowledge of real estate would be retained or (ii) the holder of such license is a member or
99 the spouse of a member of the Armed Forces of the United States who has been permanently assigned
100 outside Virginia for a portion of the time the license has been inactive, and the holder of the inactive
101 license remained current in the field of real estate and demonstrates this fact to the satisfaction of the
102 Board.

103 I. ~~The Board shall develop a residential property disclaimer statement form and a residential property~~
104 ~~disclosure statement form for use in accordance with the provisions of § 55-519.~~

105 § 54.1-2105.1. Other powers and duties of the Real Estate Board.

106 In addition to the provisions of § 54.1-2105, the Board shall:

107 1. Administer the provisions of Chapter 29 (§ 55-528 et seq.) of Title 55; and

108 2. Develop and disseminate an association annual report form for use in accordance with
109 §§ 55-79.93:1, 55-504.1, and 55-516.1;

110 3. *Develop a residential property disclaimer statement form and a residential property disclosure*
111 *statement form for use in accordance with the provisions of § 55-519; and*

112 4. *Develop and disseminate a one-page form to accompany association disclosure packets required*
113 *pursuant to § 55-512, which form shall summarize the unique characteristics of property owners'*
114 *associations generally and shall make known to prospective purchasers the unusual and material*
115 *circumstances affecting a lot owner in a property owners' association, including, but not limited to, the*
116 *obligation of a lot owner to pay regular annual or special assessments to the association, and the*
117 *penalty for failure/refusal to pay such assessments; the purposes for which such assessments may be*
118 *used; and the importance [of] the declaration of restrictive covenants and other governing documents*
119 *play in association living.*