

2003 SESSION

HOUSE SUBSTITUTE

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HOUSE BILL NO. 2723

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws on January 30, 2003)

(Patron Prior to Substitute—Delegate Reid)

A BILL to amend and reenact § 54.1-2105 of the Code of Virginia, relating to the Real Estate Board; continuing education for licensees.

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2105 of the Code of Virginia is 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 that 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 3 semester hours or six 6 quarter hours (but not less than forty-five 45 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 4 semester hours, but not less than sixty 60 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 12 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. The Board may establish procedures to ensure the quality of the courses.

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 establish guidelines for an educational curriculum of at least 30 hours of classroom, or correspondence or other distance learning, instruction, in specified areas, which shall be required of all licensees within the first 2 years of issuance of a license by the Board. Failure of a new licensee to complete the 30-hour curriculum within 2 years of obtaining a real estate salesperson's license shall result in nonrenewal by the Board of such license until the curriculum has been completed.

To establish the guidelines required by this subsection, the Board shall establish an industry advisory group to focus on the following 3 practice tracks: (i) residential real estate, (ii) commercial real estate, and (iii) property management. The industry advisory group shall consist of licensed real estate salespersons and real estate brokers, and meet at the direction of the Board, at least annually, to update the guidelines in each of the 3 educational practice tracks. The Board shall review and approve educational curriculum developed by an approved school or other provider of real estate education

HOUSE SUBSTITUTE

HB2723H1

3/22/10 10:24

60 authorized by this chapter. The industry advisory groups shall serve at no cost to the Board.

61 The guidelines in each of the 3 practice tracks for new licensees shall include topics that new
62 licensees need to know in their respective practices, including, but not limited to, contract writing,
63 handling customer deposits, listing property, leasing property, agency, current industry issues and
64 trends, property owners' and condominium association law, landlord-tenant law, Board regulations, and
65 such other topics as designated by the Board. The continuing education requirements of this subsection
66 for new licensees shall be in lieu of the continuing education requirements otherwise specified in this
67 chapter and Board regulations.

68 E. The Board shall include in its regulations educational requirements as a condition for relicensure
69 of brokers and salespersons to whom active licenses have been issued by the Board beyond those now
70 specified by law as conditions for licensure. Brokers and salespersons to whom active licenses have
71 been issued by the Board shall be required to satisfactorily complete courses of not less than eight 16
72 hours of classroom or correspondence or other distance learning instruction during each licensing term;
73 no less than four hours of which shall include training in fair housing laws, state real estate laws and
74 regulations, and ethics and standards of conduct. Of the total 16 hours, the curriculum shall include a
75 minimum of 8 required hours to include ethics and standards of conduct, fair housing, legal updates
76 and emerging trends, real estate agency, and real estate contracts. Fair housing requirements shall
77 consist of a minimum of 2 hours including an update on current cases and administrative decisions
78 under fair housing laws. If the licensee submits a notarized affidavit to the Board which certifies that he
79 does not practice residential real estate and shall not do so during the licensing term, training in fair
80 housing shall not be required; instead, such licensee shall receive training in other applicable federal and
81 state discrimination laws and regulations. The remaining ~~four~~ 8 hours shall be elective and shall include
82 real estate-related subjects as are approved by the Board. For correspondence and other distance learning
83 instruction offered by an approved provider, the Board shall establish the appropriate testing procedures
84 to verify completion of the course and require the licensee to file a notarized affidavit certifying
85 compliance with the course requirements. The Board may establish procedures to ensure the quality of
86 the courses. The Board shall not require testing for continuing education courses completed through
87 classroom instruction. For purposes of this chapter, "distance learning" means instruction delivered by an
88 approved provider through a medium other than a classroom setting. Such courses shall be those offered
89 by an accredited university, college, community college, high school offering adult distributive education
90 courses, other school or educational institution, or real estate professional association or related entities.

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

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

107 E. G. As of July 1, 1990, every applicant for relicensure as an active salesperson or broker shall
108 complete the continuing education requirements prior to each renewal or reinstatement of his license.
109 The continuing education requirement shall also apply to inactive licensees who make application for an
110 active license. Notwithstanding this requirement, military personnel called to active duty in the Armed
111 Forces of the United States may complete the required continuing education within ~~six~~ 6 months of their
112 release from active duty.

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

117 H. I. When the license has been inactive for more than ~~three~~ 3 years, the Board may waive the
118 educational requirements for reactivation of a license under the following conditions: (i) during the time
119 the license has been inactive, the holder of such inactive license has been engaged in an occupation
120 whereby the knowledge of real estate would be retained or (ii) the holder of such license is a member or
121 the spouse of a member of the Armed Forces of the United States who has been permanently assigned

122 outside Virginia for a portion of the time the license has been inactive, and the holder of the inactive
123 license remained current in the field of real estate and demonstrates this fact to the satisfaction of the
124 Board.
125 **2. That the Real Estate Board shall establish procedures for phasing in the provisions of this act**
126 **such that real estate licensees who are first licensed after January 1, 2004, shall meet the**
127 **requirements of the 30 hours of instruction for new real estate licensees and real estate licensees**
128 **whose licenses are up for renewal after January 1, 2004, shall meet the continuing education**
129 **requirements in the next license term.**