

066662392

HOUSE BILL NO. 285

Offered January 11, 2006

Prefiled January 4, 2006

A BILL to amend and reenact § 54.1-2105 of the Code of Virginia, relating to Real Estate Board; criminal history background checks for licensees.

 Patron—Marshall, D.W.

 Referred to Committee on General Laws

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; background checks; educational and experience requirements for licensure; continuing education.

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. Every applicant to the Board for an initial license as a real estate broker or salesperson or for renewal or reinstatement of a license shall submit to fingerprinting and provide personal descriptive information to be forwarded by the Board through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. The applicant shall pay for the cost of such fingerprinting and criminal records check. The Department of State Police shall forward to the Director of the Department the results of the records search from the Central Criminal Records Exchange and the Federal Bureau of Investigation. The Director of the Department shall review the record and, if the record indicates a prior felony conviction, shall so notify the Board. No license shall be issued by the Board unless the applicant submits proof that his civil rights have been restored by the Governor or other appropriate authority.

C. 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 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 semester hours or six quarter hours (but not less than 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 semester hours, but not less than 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 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.D.~~ D. 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

INTRODUCED

HB285

59 credit.

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

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

67 To establish the guidelines required by this subsection, the Board shall establish an industry advisory
68 group to focus on the following three practice tracks: (i) residential real estate, (ii) commercial real
69 estate, and (iii) property management. The industry advisory group shall consist of licensed real estate
70 salespersons and real estate brokers, and meet at the direction of the Board, at least annually, to update
71 the guidelines in each of the three educational practice tracks. The Board shall review and may approve
72 educational curriculum developed by an approved school or other provider of real estate education
73 authorized by this chapter. The industry advisory groups shall serve at no cost to the Board.

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

81 E.F. The Board shall include in its regulations educational requirements as a condition for relicensure
82 of brokers and salespersons to whom active licenses have been issued by the Board beyond those now
83 specified by law as conditions for licensure. Brokers and salespersons to whom active licenses have
84 been issued by the Board shall be required to satisfactorily complete courses of not less than 16 hours
85 of classroom or correspondence or other distance learning instruction during each licensing term. Of the
86 total 16 hours, the curriculum shall include a minimum of eight required hours to include ethics and
87 standards of conduct, fair housing, legal updates and emerging trends, real estate agency, and real estate
88 contracts. Fair housing requirements shall consist of a minimum of two hours including an update on
89 current cases and administrative decisions under fair housing laws. If the licensee submits a notarized
90 affidavit to the Board which certifies that he does not practice residential real estate and shall not do so
91 during the licensing term, training in fair housing shall not be required; instead, such licensee shall
92 receive training in other applicable federal and state discrimination laws and regulations. The remaining
93 eight hours shall be elective and shall include real estate-related subjects as are approved by the Board.
94 For correspondence and other distance learning instruction offered by an approved provider, the Board
95 shall establish the appropriate testing procedures to verify completion of the course and require the
96 licensee to file a notarized affidavit certifying compliance with the course requirements. The Board may
97 establish procedures to ensure the quality of the courses. The Board shall not require testing for
98 continuing education courses completed through classroom instruction. For purposes of this chapter,
99 "distance learning" means instruction delivered by an approved provider through a medium other than a
100 classroom setting. Such courses shall be those offered by an accredited university, college, community
101 college, high school offering adult distributive education courses, other school or educational institution,
102 or real estate professional association or related entities.

103 E.G. The Board shall include in its regulations, a procedure for processing applications of educational
104 institutions, real estate professional associations, or related entities, to provide continuing education
105 courses, which procedure, at a minimum, shall (i) provide for a broad range of subject matters suitable
106 for the continuing education of licensed professionals in a multifamily residential and commercial office,
107 as well as single-family residential, sales, leasing and property management; (ii) acknowledge, in
108 writing, receipt of such applications within 10 calendar days after receipt; and (iii) provide written
109 notification to the applicant, within 75 calendar days of receipt of the application, whether the
110 application has been approved or disapproved, and if disapproved, the reasons therefor. In addition, the
111 Board shall prepare a comprehensive listing of courses, pre-approved by the Board, related to the
112 professional competency requirements for the multifamily residential and commercial office industries.

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

118 G.H. As of July 1, 1990, every applicant for relicensure as an active salesperson or broker shall
119 complete the continuing education requirements prior to each renewal or reinstatement of his license.
120 The continuing education requirement shall also apply to inactive licensees who make application for an

active license. Notwithstanding this requirement, military personnel called to active duty in the Armed Forces of the United States may complete the required continuing education within six months of their release from active duty.

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

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