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HOUSE BILL NO. 2064

Offered January 10, 2007

Prefiled January 8, 2007

A BILL to amend and reenact § 54.1-2105 of the Code of Virginia, relating to the Department of Professional and Occupational Regulation; Real Estate Board; educational requirements for salespersons and brokers.

 Patron—Cox

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; 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. The Board shall include in its regulations educational requirements as conditions for licensure to ensure the protection of the public interest, including a requirement that an applicant have, at a minimum, a high school diploma or its equivalent. 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 relating to initial licensure 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 that 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. 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 ~~two years~~ *six months* of issuance of a license by the Board. Failure of a new licensee to complete the 30-hour curriculum within ~~two years~~ *six months* of obtaining a real estate salesperson's license shall result in nonrenewal by the Board of such license until the curriculum has been completed.

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

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

73 E. The Board shall include in its regulations educational requirements as a condition for relicensure
74 of brokers and salespersons to whom active licenses have been issued by the Board beyond those now
75 specified by law as conditions for licensure.

76 1. Brokers and salespersons to whom active licenses have been issued by the Board shall be required
77 to satisfactorily complete courses of not less than ~~46~~ 24 hours of classroom or correspondence or other
78 distance learning instruction during each licensing term. Of the total ~~46~~ 24 hours, the curriculum shall
79 include:

80 a. A minimum of ~~eight~~ 10 required hours to include *at least three hours of ethics and standards of*
81 *conduct, two hours of fair housing, and the remaining five hours of legal updates and emerging trends,*
82 *real estate agency, and real estate contracts.*

83 b. *A minimum of eight hours of courses relating to supervision and management of real estate agents*
84 *and the management of real estate brokerage firms as are approved by the Board; and*

85 c. *Six hours of general elective courses as are approved by the Board.*

86 ~~Fair~~The fair housing requirements shall consist of a minimum of two hours including requirement
87 shall include an update on current cases and administrative decisions under fair housing laws. If the
88 licensee submits a notarized affidavit to the Board that certifies that he does not practice residential real
89 estate and shall not do so during the licensing term, training in fair housing shall not be required;
90 instead, such licensee shall receive training in other applicable federal and state discrimination laws and
91 regulations.

92 The Board shall approve a continuing education curriculum of not less than two hours, and as of
93 July 1, 2007, every applicant for relicensure as an active salesperson or broker shall complete at a
94 minimum one two-hour continuing education course on limited service agency prior to renewal or
95 reinstatement of his license. If the licensee submits a notarized affidavit to the Board which certifies that
96 he has taken a two-hour continuing education course on limited service agency between July 1, 2006,
97 and June 30, 2007, offered by a school approved by the Board, which, in the determination of the
98 Board, covered substantially the information in a continuing education course approved by the Board
99 subsequent to July 1, 2007, the licensee may receive credit for the two hours of continuing education. If
100 the licensee submits a notarized affidavit to the Board which certifies that he does not practice
101 residential real estate and shall not do so during the licensing term, training in limited service agency
102 shall not be required. A licensee who takes one two-hour continuing education class on limited service
103 agency shall satisfy the requirements for continuing education and may but shall not be required to take
104 any further continuing education on limited service agency.

105 The remaining ~~eight~~ 16 hours shall be elective and shall include real estate-related subjects as are
106 approved by the Board.

107 2. Salespersons to whom active licenses have been issued by the Board shall be required to
108 satisfactorily complete courses of not less than 16 hours of classroom or correspondence or other
109 distance learning instruction during the license term. Of the total 16 hours, the curriculum shall
110 include:

111 a. A minimum of 10 required hours to include *at least three hours of ethics and standards of*
112 *conduct, two hours of fair housing, and the remaining five hours of legal updates and emerging trends,*
113 *real estate agency, real estate contracts, and*

114 b. *Six hours of general elective courses as are approved by the Board.*

115 The fair housing requirement shall include an update on current cases and administrative decisions
116 under fair housing laws. If the licensee submits a notarized affidavit to the Board that he does not
117 practice residential real estate and shall not do so during the licensing term, training in fair housing
118 shall not be required; instead, such licensee shall receive training in other applicable federal and state
119 discrimination laws and regulations.

120 The Board shall approve a continuing education curriculum of not less than two hours, and as of

July 1, 2007, every applicant for relicensure as an active salesperson shall complete at a minimum one two-hour continuing education course on limited service agency prior to renewal or reinstatement of his license. If the licensee submits a notarized affidavit to the Board that certifies that he has taken a two-hour continuing education course on limited service agency between July 1, 2006, and June 30, 2007, offered by a school approved by the Board, which, in the determination of the Board, covered substantially the information in a continuing education course approved by the Board subsequent to July 1, 2007, the licensee may receive credit for the two hours of continuing education. If the licensee submits a notarized affidavit to the Board that certifies that he does not practice residential real estate and shall not do so during the licensing term, training in limited service agency shall not be required. A licensee who takes one two-hour continuing education class on limited service agency shall satisfy the requirements for continuing education and may but shall not be required to take any further continuing education on limited service agency.

3. For correspondence and other distance learning instruction offered by an approved provider, the Board shall establish the appropriate testing procedures to verify completion of the course and require the licensee to file a notarized affidavit certifying compliance with the course requirements. The Board may establish procedures to ensure the quality of the courses. The Board shall not require testing for continuing education courses completed through classroom instruction.

For purposes of this chapter, "distance learning" means instruction delivered by an approved provider through a medium other than a classroom setting. Such courses shall be those offered by an accredited university, college, community college, high school offering adult distributive education courses, other school or educational institution, or real estate professional association or related entities.

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

The Board, through regulation, shall develop criteria for evaluating and approving continuing education course credits and for awarding credit hours for such courses, as well as procedures for ensuring the quality of real estate education offered through accredited schools. The Board shall approve recommended course titles, content, and hours of continuing education credit developed and published by national professional real estate trade associations, unless the Board determines in writing that such titles, content, or credit hours should not be approved and specifies the reasons therefor.

G. Every applicant for relicensure as an active salesperson or broker shall complete the continuing education requirements prior to each renewal or reinstatement of his license. 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. 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.

I. 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.

J. The Board shall include in its regulations requirements for proof of identity prior to an applicant taking an examination on the principles of real estate.