

By: Isett

H.B. No. 3738

Substitute the following for H.B. No. 3738:

By: Geren

C.S.H.B. No. 3738

A BILL TO BE ENTITLED

AN ACT

relating to requirements for correspondence courses for licensing as a real estate broker, salesperson, or inspector.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 1101, Occupations Code, is amended by adding Subchapter G-1 to read as follows:

SUBCHAPTER G-1. REGISTRATION OF CORRESPONDENCE COURSE

Sec. 1101.331. DEFINITIONS. In this subchapter:

(1) "Educational institution" means an accredited college or university authorized under this chapter or Chapter 1102 to offer a real estate or real estate inspection educational course or program of study using a third-party marketing firm.

(2) "Correspondence course" means a distance learning course offered by an educational institution as a noncredit course that consists primarily of text material. The term does not include a program or course offered by an educational institution as part of the institution's degree granting program that is recorded as a credit on an official transcript issued by the institution.

Sec. 1101.332. REGISTRATION REQUIRED. A correspondence course is not acceptable as a core real estate course or continuing education course under this chapter or a core real estate inspection course or continuing education course under Chapter 1102 unless the educational institution offering the course holds a certificate of registration issued by the commission under this

1 subchapter.

2 Sec. 1101.333. APPLICATION; ISSUANCE OF CERTIFICATE. (a)

3 An educational institution may submit an application to hold a
4 certificate of registration under this subchapter by applying to
5 the commission on the form prescribed by the commission. The
6 application must include:

7 (1) the institution's name, address, telephone number,
8 and any other contact information required by the commission;

9 (2) the name, address, and telephone number of the
10 person in an academic department of the institution who reviews and
11 approves real estate correspondence course content and ensures the
12 educational integrity of the course before information about the
13 course is submitted to the commission for the commission's
14 approval;

15 (3) the name, address, and telephone number of any
16 additional person responsible for administering the course or
17 program of study that has as a component a correspondence course;

18 (4) the name, address, and telephone number of any
19 marketing firm or proprietary real estate course provider that is
20 associated with providing the course at the institution;

21 (5) the institution's accreditation information and
22 evidence to demonstrate that the accreditation is acceptable to the
23 commission;

24 (6) information on the ownership or copyright
25 interests in the correspondence course materials;

26 (7) the name of the person designated to issue the
27 official completion certificate on a student's successful

1 completion of the course and the procedure for timely issuance of
2 the certificate if the regular procedures cannot be followed
3 because of an institutional holiday or break or for other reasons;
4 and

5 (8) a statement by a representative of the institution
6 attesting that the institution will uphold the professional and
7 academic standards required for completion of an approved
8 correspondence course.

9 (b) An educational institution that holds a certificate of
10 registration issued under this subchapter shall notify the
11 commission of any changes to the information provided under
12 Subsection (a) not later than the 30th day after the date of the
13 change.

14 (c) The commission shall issue a certificate of
15 registration to an educational institution that meets the
16 applicable requirements of this chapter, Chapter 1102, and
17 commission rules. The commission may not unreasonably deny the
18 issuance of a certificate of registration to an educational
19 institution that otherwise meets the applicable requirements under
20 this chapter, Chapter 1102, and commission rules.

21 Sec. 1101.334. CERTIFICATE EXPIRATION AND RENEWAL; FEES.

22 (a) The commission may issue or renew a certificate of registration
23 for a period not to exceed 24 months.

24 (b) The commission may charge a fee for the issuance of a
25 certificate of registration under this subchapter in an amount that
26 is reasonable and necessary to cover the costs of administering
27 this subchapter.

1 Sec. 1101.335. APPROVAL OF CORRESPONDENCE COURSE OR PROGRAM
2 OF STUDY. (a) An educational institution that holds a certificate
3 of registration issued under this subchapter shall submit to the
4 commission, for approval of a correspondence course or program of
5 study offered by the institution, a letter describing the course or
6 program. The letter must:

7 (1) be on the institution's letterhead; and

8 (2) be signed by a representative of the institution
9 who is responsible for supervising correspondence course content
10 and approval under this subchapter.

11 (b) On receipt of the letter, the commission shall add an
12 approved correspondence course or program of study to the
13 commission's list of approved correspondence courses or programs
14 for that educational institution.

15 (c) An educational institution that holds a certificate of
16 registration issued under this subchapter may not submit a
17 correspondence course or program of study to the commission for
18 approval by the commission unless the course or program has been
19 reviewed by a member of the institution's academic department. The
20 person reviewing the course or program must examine the content,
21 educational quality, and standards of the course or program to
22 ensure that the course or program complies with the applicable
23 provisions of this chapter, Chapter 1102, and commission rules.

24 Sec. 1101.336. CORRESPONDENCE COURSE REQUIREMENTS. (a) An
25 educational institution may not offer a correspondence course under
26 this subchapter unless the course:

27 (1) is based primarily on information found in a

1 textbook;

2 (2) provides each student with the option of
3 completing the course requirements using a paper format;

4 (3) provides each student with printed copies of
5 material that constitutes a significant portion of the course;

6 (4) is divided into multiple units of instruction
7 unless the course is a continuing education course or a core real
8 estate inspection course that is four hours or less in duration;

9 (5) provides a diagnostic assessment of each student's
10 performance at regular intervals during each unit of instruction to
11 measure the student's acquired knowledge; and

12 (6) for a core real estate course or core real estate
13 inspection course, complies with the applicable provisions of this
14 chapter, Chapter 1102, or commission rules.

15 (b) An educational institution that holds a certificate of
16 registration issued under this subchapter and that offers as a
17 correspondence course a core real estate course described by
18 Section 1101.003(a)(1), (2), or (3) shall select a textbook for the
19 mandatory prelicensing courses on principles of real estate, law of
20 contracts, and law of agency from the commission's list of
21 acceptable published textbooks.

22 (c) An educational institution that holds a certificate of
23 registration under this subchapter shall establish reasonable
24 procedures to ensure that a student who completes the work for a
25 correspondence course is the student who is enrolled in the course.

26 (d) On completion of a correspondence course authorized
27 under this subchapter and before credit is granted for the course, a

1 student enrolled in the course shall attest in a written statement
2 submitted to the educational institution that the person enrolled
3 in and receiving credit for the course is the same person who
4 completed the required course work.

5 (e) An educational institution may not issue a
6 correspondence course completion certificate through the use of a
7 computer printout generated by a computer course program on
8 completion of the course.

9 Sec. 1101.337. CORRESPONDENCE COURSE FINAL EXAMINATION. (a)
10 An educational institution may not offer a correspondence course
11 under this subchapter unless the final examination questions for
12 the course:

13 (1) differ significantly from the questions used in
14 the diagnostic assessments for the course; and

15 (2) are kept confidential.

16 (b) Subsection (a)(2) does not prohibit a student from
17 reviewing under controlled conditions a final examination taken by
18 the student after the examination has been graded.

19 (c) A final examination for a correspondence course
20 approved under this subchapter may be conducted as an open or closed
21 book examination. Course credit may not be granted for the
22 correspondence course unless a student completes all diagnostic
23 assessments and successfully completes:

24 (1) a proctored final examination that is:

25 (A) administered under controlled conditions to
26 a student whose identity has been verified at a location and by an
27 official approved by the commission; and

1 (B) graded by the instructor, an approved
2 representative of the educational institution, or, for an
3 examination graded mechanically or electronically, by the use of
4 answer keys approved by the instructor or institution; or

5 (2) a final examination administered through the use
6 of a computer program with timed questions that verifies that the
7 person taking the examination is the student who enrolled in the
8 course or through another method approved by the commission to
9 verify the student's identity.

10 Sec. 1101.338. CORRESPONDENCE COURSE ETHICS. (a) An
11 educational institution that holds a certificate of registration
12 under this subchapter shall cooperate with the commission to
13 maintain the highest educational standards for real estate
14 education. The commission may suspend or revoke an educational
15 institution's certificate of registration issued under this
16 subchapter if:

17 (1) the institution does not supervise a
18 correspondence course or program; or

19 (2) a correspondence course does not comply with the
20 minimum correspondence course standards established by this
21 chapter, Chapter 1102, or commission rules.

22 (b) A representative of an educational institution that
23 holds a certificate of registration issued under this subchapter
24 shall sign an agreement to maintain the ethical and academic
25 standards required by the commission for correspondence courses and
26 programs of study under this chapter or Chapter 1102.

27 (c) An educational institution may not enter a business

1 relationship with an outside provider for the provider to offer a
2 correspondence course that:

3 (1) uses the name of the institution for a fee without
4 any additional institutional involvement in the creation or
5 administration of the course; or

6 (2) uses a textbook for a mandatory prelicensing core
7 real estate course that is not on the list of textbooks approved by
8 the commission.

9 (d) An educational institution that outsources the
10 creation, administration, or marketing of a correspondence course
11 or program of study to an outside provider or subcontractor is
12 responsible for the actions of the provider or subcontractor.

13 Sec. 1101.339. ADVERTISING. (a) In any print or electronic
14 advertisement of a correspondence course approved under this
15 subchapter, an educational institution that holds a certificate of
16 registration issued under this chapter shall ensure that the
17 institution's name or logo is prominently displayed in a manner
18 that adequately informs the consumer which institution is offering
19 the course.

20 (b) A broker, salesperson, or inspector licensed under this
21 subtitle may not participate in a student recruiting program that
22 advertises a real estate correspondence course or program of study
23 in a manner that compromises the integrity of the course or program
24 by:

25 (1) suggesting the course or program may be completed
26 in less time than the number of credit hours granted for successful
27 completion of the course or program; or

1 (2) providing answer keys to diagnostic assessments or
2 final examinations.

3 Sec. 1101.340. LICENSING EXAMINATION PASSING PERCENTAGE
4 DATA. The commission shall adopt rules requiring an educational
5 institution that holds a certificate of registration under this
6 subchapter to establish the program's graduate licensing
7 examination passage rate.

8 SECTION 2. (a) Not later than January 1, 2010, the Texas
9 Real Estate Commission shall adopt the rules required to implement
10 Subchapter G-1, Chapter 1101, Occupations Code, as added by this
11 Act.

12 (b) Notwithstanding Subchapter G-1, Chapter 1101,
13 Occupations Code, as added by this Act, an educational institution
14 providing a real estate correspondence course or program of study
15 is not required to comply with that subchapter before September 1,
16 2010.

17 SECTION 3. This Act takes effect September 1, 2009.