

# HOUSE RESEARCH

## Bill Summary

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### Overview

This bill contains various provisions related to the occupations and businesses regulated by the department of commerce. Among other changes, it amends provisions relating to real estate disclosures, changes certain continuing education requirements, and increases the possible per-licensee payout of the real estate research and recovery fund.

#### Section

- 1 **Fees.** Simplifies language.
- 2 **Investigation.** Removes the requirement that the commissioner investigate currency exchanges every year.
- 3 **Minimum education requirement.** Current law provides that teaching a continuing education course provides one and one-half times the continuing education credit that is earned by attending the class. The bill increases this ratio so that teaching would qualify an individual for three times the credit of attendance.
- 4 **Exceptions.** Allows the commissioner to approve additional programs, in addition to one named in current law, that would qualify a person for an insurance adjuster's license without sitting for the examination.
- 5 **License term.** Extends from one year to two years the term of an insurance adjuster's license.
- 6 **Summary suspensions.** Current law allows the commissioner to summarily suspend a takeover offer within three calendar days of its filing. This changes calendar days to business days.
- 7 **Contents.** Amends language that must be included in real estate listing agreements, including the use of the term "compensation" instead of "commission rate" in referring to what the broker receives. Removes requirement that listing agreements disclose controlled business arrangements between the closing agent and the real estate broker.
- 8 **Contents.** Amends language that must be included in real estate broker agreements, once again

using the term "compensation" instead of "commission rate." Also amends a requirement that the broker's agreement provide terms for cancellation of the agreement, stating instead that the agreement must state whether it can or cannot be canceled, and if so, the terms for cancellation.

9 **Agency disclosure.** Clarifies language.

10 **Agency disclosure form.** Current law requires that real estate brokers and salespeople provide a disclosure form to consumers that explains the nature of the relationship and representation. This section makes changes to that form. Among other things, the form lists several different kinds of consumer-broker relationships, and this section adds two new descriptions: that of a subagent, and that of a facilitator. A subagent is a person who works with a buyer but represents a seller, and a facilitator is a person who provides services to the seller and/or the buyer, but does not actually represent either party. This section also states that brokers and sellers are required to disclose to buyers material facts about the property.

11 **Material facts.** This new subdivision addresses the obligation of real estate brokers and salespeople to disclose material facts known to them. It specifically states that certain facts are *not* material and are *not* required to be disclosed to potential buyers, including the fact that the property has been occupied by someone who is HIV-positive; the fact that the property was the site of an accidental death, natural death, or perceived paranormal activity. The section also provides that the fact that a registered sex offender lives in the vicinity does not have to be disclosed, so long as the buyer is provided information about how to find out about registered offenders from law enforcement.

The section states that physical defects do not have to be disclosed if they have been included in a written report prepared by a qualified inspector and given to the buyer. Any material facts the broker or salesperson is aware of that contradict the report would have to be disclosed.

12 **Continuing education.** Allows the commissioner of commerce to approve accredited real estate continuing education courses that are delivered over the Internet. Prohibits the accreditation of certain kinds of courses for continuing education credit, including those in psychology, salesmanship, or time management. Reduces from two hours to one hour the amount of continuing education per license period that a real estate licensee must complete in laws and regulations on agency representation and disclosure, and in state and federal fair housing laws. Allows continuing education to be conducted on the site of a broker or a real estate company's place of business, but requires that such courses be generally available (not limited to that company's employees, for instance) and that only a limited portion of the continuing education a real estate licensee is required to obtain be delivered on-site in this way.

13 **Accrued interest.** Requires a financial institution to notify the commissioner if a draft on a real estate broker trust account is dishonored.

14 **Order to show cause.** Requires that in an order to show cause issued to a real estate licensee, the commissioner of commerce must state what specific statute or rule has been violated.

15 **Fund balance.** Provides for suspension of the fee that supports the real estate research and recovery fund if the fund balance is above \$6,000,000.

16 **Experience requirement.** Removes reference to registered real property appraisers.

17 **Subdivided lands.** Removes a requirement for a separate license to sell subdivided lands.

18 **Number.** Removes a provision relating to the number of members on a board of directors.

19 **Cause.** Expands the current language stating that a building contractor may be suspended for being "convicted of a violation" of the state building code to include refusal to correct a violation of the state building code certified by a structural engineer if the violation occurred in an area where the building code is not enforced.

- 20 **Generally.** Increases the possible payout per licensee of the real estate research and recovery fund from \$50,000 to \$75,000.
- 21 **Examination and investigation costs.** Requires a collection agency to pay the costs of an investigation or examination done by or on behalf of the commissioner of commerce. This is similar to what many other businesses regulated by the department are required to do.
- 22 **Appeals.** Removes specific language regarding appeals of license denials, suspensions, or revocations, instead stating generally that these appeals must be made according to existing state law.
- 23 **Term.** Changes the time limit for a notary to apply for reappointment from seven months to 60 days before the expiration of the current commission.
- 24 **Effective date.** Provides immediate effective dates for sections 1 to 6, 15, 16, 19, and 22. Provides that section 20 is effective January 1, 2001, and applies to claims arising from incidents or conduct occurring on or after that date.