~~Indicates Matter Stricken~~

Indicates New Matter

HOUSE AMENDMENTS AMENDED RETURNED TO HOUSE

May 28, 2014

**S. 75**

Introduced by Senator Cromer

S. Printed 5/28/14--S.

Read the first time January 8, 2013.

**A** **BILL**

TO AMEND SECTION 40‑57‑130, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LICENSE RENEWALS FOR REAL ESTATE BROKERS AND SALESMEN, SO AS TO REQUIRE A CRIMINAL BACKGROUND CHECK FROM A SOURCE APPROVED BY THE DEPARTMENT OF LABOR, LICENSING AND REGULATION; AND BY ADDING SECTION 40‑57‑245 SO AS TO REQUIRE THAT THE DEPARTMENT ASSIGN ONE INVESTIGATOR FOR EVERY TWO THOUSAND FIVE HUNDRED LICENSEES TO ENSURE COMPLAINTS ARE PROCESSED AND CONSIDERED IN AN EXPEDITIOUS MANNER.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 57, Title 40 of the 1976 Code is amended by adding:

“Section 40‑57‑115. In addition to other requirements established by law and for the purpose of determining an applicant’s eligibility for licensure as a salesman, broker, broker‑in‑charge, property manager, and property manager‑in‑charge, the commission shall require initial applicants to submit to a state criminal records check, by a source approved by the commission, and a national criminal records check. Costs of conducting a criminal records check must be borne by the applicant. The commission shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as necessary to support the administrative action.”

SECTION 2. Section 40‑57‑150 of the 1976 Code is amended to read:

“Section 40‑57‑150. (A) Investigations must be conducted in accordance with Section 40‑1‑80 and must be performed by investigators who have completed one hundred hours of training in programs that are approved by the commission and provide instruction on real estate principles, state statutory and regulatory law, and investigative techniques.

(B) A restraining order must be obtained in accordance with Section 40‑1‑100.

(C)(1) Whenever the department has reason to believe that a violation of this chapter has occurred, an investigation must be initiated within thirty days.

(2) The department shall conclude its investigation within one hundred fifty days from receipt of the complaint or seek a waiver of this period from the commission upon a showing of due diligence and extenuating circumstances.

(~~2~~3) A hearing on the charges must be at the time and place designated by the commission and must be conducted in accordance with the Administrative Procedures Act.

(~~3~~4) The commission shall render a decision and shall serve, within ninety days, notice, in writing, of the commission’s decision to the licensee charged. The commission also shall state in the notice the date upon which the ruling or decision becomes effective.

(~~4~~5) The department shall maintain a public docket or other permanent record in which must be recorded all orders, consent orders, or stipulated settlements.

(D) A licensee may voluntarily surrender his license in accordance with Section 40‑1‑150.

(E)(1) The commission may impose disciplinary action in accordance with Section 40‑1‑120.

(2) Upon determination by the commission that one or more of the grounds for discipline exists, as provided for in Section 40‑1‑110 or Section 40‑57‑140, the commission may impose a fine of not less than one hundred or more than one thousand dollars for each violation. The commission may recover the costs of the investigation and the prosecution as provided for in Section 40‑1‑170.

(3) Nothing in this section prevents a licensee from voluntarily entering into a consent order with the commission wherein violations are not contested and sanctions are accepted.

(F) The department shall annually post a report that provides the data for the number of complaints received, the number of investigations initiated, the average length of investigations, and the number of investigations that exceeded one hundred fifty days.”

SECTION 3. Section 40‑57‑145(A)(8) of the 1976 Code is amended to read:

“(8) is convicted of violating the federal and state fair housing laws, forgery, embezzlement, breach of trust, larceny, obtaining money or property under false pretense, extortion, fraud, conspiracy to defraud, or ~~any other offense classified as a felony or involving moral turpitude, or pleading guilty or nolo contendere to any such offense in a court of competent jurisdiction of this State, any other state, or any federal court~~ has been convicted of a violent crime as defined in Section 16‑1‑60, has been convicted during the previous five years of a felony directly related to the practice of the profession, or has been convicted during the previous seven years of a felony, an essential element of which is dishonesty, reasonably related to the practice of the profession, or pleading guilty or nolo contendere to any such offense in a court of competent jurisdiction of this State, any other state, or any federal court;”

SECTION 4. This act takes effect upon approval by the Governor.

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