

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

# A Bill

SENATE BILL 208

5 By: Senator Files  
6 By: Representative Biviano  
7

## For An Act To Be Entitled

9 AN ACT TO CLARIFY THE AUTHORITY OF THE ARKANSAS REAL  
10 ESTATE COMMISSION; TO PROVIDE ALTERNATE DISCIPLINARY  
11 PROCEDURES FOR A REAL ESTATE LICENSEE; AND FOR OTHER  
12 PURPOSES.  
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## Subtitle

15 TO CLARIFY THE AUTHORITY OF THE ARKANSAS  
16 REAL ESTATE COMMISSION AND TO PROVIDE  
17 ALTERNATE DISCIPLINARY PROCEDURES FOR A  
18 REAL ESTATE LICENSEE.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. Arkansas Code § 17-42-312 is amended to read as follows:

25 17-42-312. Investigation of complaint – Citations – Penalties.

26 (a)(1) The Arkansas Real Estate Commission may, on its own motion, and  
27 shall, upon the verified complaint in writing of any person, provided that  
28 the complaint and any evidence, documentary or otherwise, presented in  
29 connection therewith shall make out a prima facie case, investigate the  
30 actions of any person engaged in the business or acting in the capacity of a  
31 real estate broker or real estate sales person regardless of whether the  
32 transaction was for his or her own account or in his or her capacity as a  
33 broker or salesperson.

34 (2) If the complaint fails to state a prima facie case or if,  
35 after investigation, the Executive Director of the Arkansas Real Estate  
36 Commission determines that there is insufficient proof of a violation of this



1 chapter, the executive director shall dismiss the complaint.

2 (3) If, however, the executive director determines that there is  
3 sufficient proof of a violation of this chapter, the ~~licensee~~ person shall be  
4 notified of the charges against him or her and ordered to appear for a  
5 hearing.

6 (4) ~~If the licensee is found to have violated~~ a person violates  
7 this chapter, the commission may impose any one (1) or more of the following  
8 sanctions or requirements:

9 (A) Suspension, revocation, or denial of his or her  
10 license or the renewal thereof;

11 (B) A penalty ~~not to exceed~~ of not more than one thousand  
12 dollars (\$1,000) for each violation;

13 (C) ~~Require completion~~ Completion of appropriate  
14 educational programs or courses;

15 (D) ~~Require successful~~ Successful completion of an  
16 appropriate licensing examination;

17 (E) ~~Place conditions~~ Conditions or restrictions upon the  
18 ~~licensee's~~ person's license or practice; or

19 (F) ~~Such~~ Payment of restitution, damages, or other  
20 ~~requirements or penalties as may be~~ appropriate to the circumstances of the  
21 case ~~and which~~ that would:

22 (i) ~~achieve~~ Achieve the desired disciplinary  
23 ~~purposes, but which would not impair the public welfare and morals,~~ purpose;

24 (ii) Compensate or reimburse an injured party or the  
25 commission; or

26 (iii) Promote the regulation of the real estate  
27 profession.

28 (b) The commission is authorized to file suit in ~~either the~~ Pulaski  
29 County Circuit Court or the circuit court of ~~any the~~ the county ~~in which~~ where  
30 the defendant resides or does business to collect ~~any a~~ a penalty assessed  
31 ~~pursuant to~~ under this chapter if the penalty is not paid ~~within the time~~  
32 ~~prescribed~~ as ordered by the commission or the executive director.

33 (c) ~~When deemed appropriate, the~~ The commission may suspend the  
34 imposition of any sanctions imposed upon appropriate terms and conditions.

35 (d)(1) In lieu of the procedure contained in subdivisions (a)(1)-(3)  
36 of this section, the executive director may issue a citation imposing:

1                   (A) A penalty of not more than one hundred dollars (\$100)  
2 to a broker or salesperson who:

3                   (i) Fails to complete annual education requirements;  
4 or

5                   (ii) Fails to complete post-licensure education  
6 requirements by the established deadline; or

7                   (B) A penalty of not more than two hundred fifty dollars  
8 (\$250) to a broker, salesperson, or the supervising broker of a broker or  
9 salesperson if a broker or salesperson performs activities that require an  
10 active real estate license while his or her license is expired.

11                   (2) The citation shall include:

12                   (A) The name, title, mailing address on file with the  
13 commission, and real estate license number of the licensee;

14                   (B) The specific violation and related statute,  
15 regulation, or rule;

16                   (C) The time and date the citation is issued;

17                   (D) The amount of the penalty;

18                   (E) The deadline of thirty (30) days from issuance of the  
19 citation and procedure to either:

20                   (i) Pay the citation without further penalty; or

21                   (ii) Dispute the citation;

22                   (F) A statement that the amount of the penalty and the  
23 findings of the executive director as to the facts are considered accurate,  
24 conclusive, finally adjudicated, and nonappealable if a verified written  
25 complaint contesting the citation is not filed within thirty (30) days of the  
26 citation's issuance; and

27                   (G) A signature line for the licensee to accept the  
28 penalty without filing a written dispute.

29                   (3) A licensee who is issued a citation under this subsection  
30 shall within thirty (30) days of the issuance of the citation:

31                   (A) Accept the conditions of the citation by signing and  
32 returning the citation to the commission accompanied by the penalty payment;  
33 or

34                   (B) File a verified written complaint under this section  
35 contesting the citation.

36                   (4) The commission may treat the failure to respond within

1 thirty (30) days of the issuance of the citation as a violation of this  
2 chapter punishable by the penalties provided in subsection (a) of this  
3 section.

4 (5)(A) If a licensee does not dispute the citation or request a  
5 hearing under § 17-42-314, the findings contained in the citation are deemed  
6 accurate, conclusive, finally adjudicated, and nonappealable.

7 (B) If a licensee disputes the citation by timely filing a  
8 verified written complaint with the commission, the licensee shall be  
9 provided a hearing before the commission under § 17-42-314.

10 (6) The commission may modify or vacate a citation issued under  
11 this subsection with or without a hearing.

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14 **APPROVED: 02/19/2013**  
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