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4

As Engrossed: S2/14/13

A Bill

SENATE BILL 293

5 By: Senators D. Johnson, *Files*
6 By: Representatives Dale, *Biviano*
7

For An Act To Be Entitled

9 AN ACT TO CLARIFY EDUCATION REQUIREMENTS FOR REAL
10 ESTATE LICENSES; AND FOR OTHER PURPOSES.
11

Subtitle

12
13
14 TO CLARIFY EDUCATION REQUIREMENTS FOR
15 REAL ESTATE LICENSES.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 17-42-303(a)(1), concerning education hours
21 for real estate brokers, is amended to read as follows:

22 (a) The Arkansas Real Estate Commission shall establish ~~educational~~
23 education requirements for licensure, including the standards and procedures
24 for approval of ~~educational~~ education programs, subject to the following
25 conditions:

26 (1)(A) ~~The maximum number of educational~~ most education hours ~~to~~
27 ~~be~~ required of an applicant for a broker's license shall not exceed one
28 hundred twenty (120) hours within the thirty-six (36) months immediately
29 preceding the date of application; ~~and.~~

30 (B) Effective on May 1, 2014, an applicant for a broker's
31 license shall complete at least forty-five (45) of the required education
32 hours in a course developed by the commission; and
33

34 SECTION 2. Arkansas Code § 17-42-307 is amended to read as follows:
35 17-42-307. Expiration and renewal.

36 (a) Every license, ~~both active and inactive,~~ shall expire on a date



1 established by the Arkansas Real Estate Commission.

2 (b)(1) A broker or salesperson shall complete annually:

3 (A) Six (6) classroom hours of continuing education;

4 (B) The distance education equivalent of continuing
5 education; or

6 (C) A course that the commission has determined to
7 demonstrate mastery of an acceptable real estate subject.

8 (2) A licensee who satisfies subdivision (b)(1) of this section
9 completes the continuing education requirements for the licensing year.

10 (3) If a licensee files for renewal of a license but fails to
11 provide proof of continuing education, the licensee's license is inactive
12 until proof is provided to the commission.

13 (c)(1) To renew or reactivate a license, a licensee shall complete:

14 (A) Six (6) classroom hours of continuing education; or

15 (B) The distance education equivalent of continuing
16 education for each inactive year. The total continuing education shall not
17 exceed thirty (30) hours under this subdivision (c)(1).

18 (2) An inactive license is not subject to the education
19 requirements of this section.

20 (3) The commission may waive all or part of the requirements of
21 subdivision (c)(1) if a licensee is unable to complete the continuing
22 education due to extenuating circumstances.

23 ~~(b)~~ (d)(1) For each active licensee, the commission shall issue a new
24 license for each ensuing renewal period in the absence of ~~any~~ a reason or
25 condition that ~~might~~ may warrant the refusal of a license, upon receipt of a
26 the:

27 (A) ~~written~~ Written request for license renewal at least
28 ~~no later than~~ ninety (90) days ~~prior to~~ before the expiration of the license
29 upon forms provided by the commission ~~together with;~~ and

30 (B) ~~with the renewal~~ Renewal fee.

31 (2)(A) ~~For any~~ A broker or salesperson who does not wish to
32 engage in the real estate business, may renew the a license ~~shall be renewed~~
33 on inactive status, in the absence of ~~any~~ a reason or condition that ~~might~~
34 may warrant the refusal of a license, upon receipt of the:

35 (1) ~~written~~ Written request of the applicant ~~no later than~~ at
36 least ninety (90) days ~~prior to~~ before the expiration of the license upon

1 forms provided by the commission ~~together; and~~

2 ~~(2) with the renewal~~ Renewal fee.

3 (B) ~~However, the~~ The commission may limit the number of
4 renewal periods in which a license may be renewed on inactive status.

5 (C) The renewal fee for inactive status ~~shall be~~ is the
6 same as for renewal of an active license.

7 (3) An application for renewal filed after the date established
8 by the commission to renew a license ~~shall be~~ is treated as an application to
9 renew an expired license.

10 ~~(e)~~ (e) If ~~any a~~ person to whom a valid license has been issued
11 permits the license to expire for a period not in excess of that established
12 by the commission, the commission shall issue to the person a current license
13 without requiring the person to submit to ~~any an~~ an examination if the person
14 furnishes ~~such information as the commission requires~~ the information
15 required by the commission, including proof of completion of appropriate
16 continuing education requirements, and pays ~~such the~~ the fee required by ~~as~~ the
17 commission ~~requires~~.

18 ~~(d)~~ (f)(1) New salesperson and broker licensees shall complete post-
19 licensure education ~~in accordance with~~ under § 17-42-303(c).

20 (2) If the licensee fails to complete the post-licensure
21 education requirements within twelve (12) months after the date the license
22 was issued, the commission shall place the license on inactive status until
23 the commission receives documentation that the licensee has completed the
24 post-licensure education requirements.

25
26 SECTION 3. Arkansas Code Title 17, Chapter 42, Subchapter 5, is
27 amended to read as follows:

28 17-42-501. ~~Renewal or reactivation requirements~~ Real estate education
29 program.

30 ~~(a) As a condition precedent to renewal or activation of licenses,~~
31 ~~licensees shall meet the following requirements:~~

32 ~~(1)(A) Licensees on inactive status are not required to comply~~
33 ~~with this subchapter during their inactive status.~~

34 ~~(B) Prior to activation of a license on inactive status,~~
35 ~~the licensee shall satisfactorily complete six (6) classroom hours or~~
36 ~~equivalent continuing education units or equivalent correspondence work of~~

1 continuing education for each year inactive not to exceed thirty (30)
2 classroom hours. However, that will satisfy the requirements only for that
3 particular license year and not for the following license year;

4 (2)(A)(i) ~~Persons licensed as real estate brokers or~~
5 ~~salespersons shall successfully complete annually six (6) classroom hours or~~
6 ~~equivalent continuing education units or equivalent distance education of~~
7 ~~continuing education or a course that the Arkansas Real Estate Commission has~~
8 ~~determined demonstrates a mastery of an acceptable real estate subject.~~

9 (ii) ~~No more than one (1) hour or equivalent~~
10 ~~continuing education unit shall be in a specific topic or topics as~~
11 ~~identified by the commission in § 17-42-502.~~

12 (B) ~~Those persons shall be deemed to have successfully~~
13 ~~completed the continuing education requirements for the licensing year~~
14 ~~following the year in which first licensed in Arkansas; and~~

15 (3) ~~A nonresident licensee may meet the Arkansas continuing~~
16 ~~education requirements by taking courses which meet the continuing education~~
17 ~~requirements of his or her resident state for the licensing year in question,~~
18 ~~provided that:~~

19 (A) ~~The course or courses consist of no fewer than six (6)~~
20 ~~classroom hours or equivalent continuing education units of real estate-~~
21 ~~related subjects and otherwise comply with the minimum requirements of this~~
22 ~~subchapter; and~~

23 (B) ~~Evidence of such compliance satisfactory to the~~
24 ~~commission is submitted in form, manner, and content prescribed by the~~
25 ~~commission.~~

26 (b) ~~The commission may waive all or part of the requirements of~~
27 ~~subsection (a) of this section for any licensee who submits satisfactory~~
28 ~~evidence of inability to meet the continuing education requirements due to~~
29 ~~health reasons or other hardship or extenuating circumstances beyond the~~
30 ~~licensee's control.~~

31 (c) ~~Licenses for persons who apply for renewal of their licenses and~~
32 ~~who do not provide to the commission evidence of meeting the continuing~~
33 ~~education requirements but who have otherwise met all requirements for~~
34 ~~license renewal shall be placed on inactive status until the evidence is~~
35 ~~provided to the commission.~~ The Arkansas Real Estate Commission shall
36 establish an education program for real estate licensees to ensure that

1 education is available and accessible to an applicant or a licensee. The
2 education program is intended to fulfill the education requirements for a
3 real estate license and to provide real estate courses intended to fulfill
4 the education requirements for a real estate license.

5
6 17-42-502. Curriculum Definitions.

7 ~~(a)(1) The Arkansas Real Estate Commission may establish the~~
8 ~~continuing education curriculum by identifying subject matter topics.~~

9 ~~(2) The commission may identify a specific topic or topics of~~
10 ~~not more than one (1) hour to be included in the six classroom hour annual~~
11 ~~continuing education requirement.~~

12 ~~(3) The commission shall not require licensees to complete~~
13 ~~specific courses within the subject matter topics.~~

14 ~~(4) Changes in the curriculum shall be applicable beginning with~~
15 ~~the license renewal period subsequent to the curriculum change.~~

16 ~~(b) The State Board of Private Career Education shall approve~~
17 ~~continuing education courses and may approve only those continuing education~~
18 ~~courses which meet the criteria prescribed by the commission. In establishing~~
19 ~~such criteria, the commission shall give due consideration to the advice and~~
20 ~~recommendations of the board.~~

21 ~~(c) The board shall determine the classroom hour equivalency of~~
22 ~~correspondence courses.~~

23 As used in this subchapter:

24 (1) "Accredited college or university" means a state-supported
25 institution of higher education or a nonpublic, not-for-profit college or
26 university currently incorporated and recognized by the Arkansas Higher
27 Education Coordinating Board as an Arkansas independent institution of higher
28 education operating under the applicable laws of this state;

29 (2) "Administrator" means a person employed by a real estate
30 trade or professional association licensed by the Arkansas Real Estate
31 Commission;

32 (3) "Approved course" means a course of instruction approved by
33 the commission that satisfies the education requirements for prelicense
34 education, postlicense education, or continuing education for a real estate
35 license;

36 (4) "Associate instructor" means a person who is licensed by the

1 commission to teach real estate courses while under the supervision of an
2 administrator or principal instructor that satisfy the education requirements
3 for a real estate license;

4 (5) "Association license" means a license granted by the
5 commission to a real estate trade or professional association offering
6 approved education that satisfies education requirements for a real estate
7 license;

8 (6) "Branch school" means a school affiliated with a main school
9 to which the commission has issued a school license;

10 (7) "Classroom course" means a real estate course that:

11 (A) Is presented at a facility in person by an instructor
12 and attended in person by the student; or

13 (B) Connects by contemporaneous, two-way audio and visual
14 technology an instructor and a student who are separated by distance;

15 (8) "Distance education" means a real estate course that is
16 delivered through an electronic medium that allows the instructor and student
17 to be separated by both distance and time;

18 (9) "Guest speaker" means a person who is not licensed by the
19 commission who teaches a part of a course approved by the commission;

20 (10) "Instructional site" means a physical place where education
21 courses approved by the commission are conducted apart from the main school
22 or branch school;

23 (11) "Main school" means an institution or organization that is
24 the primary school location to which the commission has issued a school
25 license;

26 (12) "Nonqualified offering" means a course in real estate
27 education that has not been approved by the commission but is offered to
28 persons intending to apply for a real estate license;

29 (13) "Postlicense education" means real estate education
30 required to be successfully completed within a time frame established by the
31 commission after a real estate license is issued;

32 (14) "Prelicense education" means real estate education required
33 to be successfully completed by an applicant before sitting for the
34 examination for a broker or salesperson license;

35 (15)(A) "Principal instructor" means a person who is licensed by
36 the commission for each licensed school that is responsible for the education

1 courses at a main school and the acts necessary to comply with this
2 subchapter and rules enacted by the commission.

3 (B) A principal instructor may:

4 (i) Contract with or employ an associate instructor
5 or guest speaker;

6 (ii) Supervise an associate instructor or guest
7 speaker;

8 (iii) Submit an education course to the commission
9 for approval;

10 (iv) Advertise as being engaged in the business of
11 offering real estate education courses; and

12 (v) Charge tuition and fees for real estate
13 education courses;

14 (16) "Satisfactory completion" means, as determined by a
15 principal instructor, successful completion of a required course that is
16 approved by the commission;

17 (17) "School license" means a license granted by the commission
18 to a proprietary education institution offering education courses approved by
19 the commission that fulfill mandatory education requirements for attaining or
20 maintaining a real estate license; and

21 (18) "Student" means an applicant or licensee who attends real
22 estate education courses approved by the commission.

23
24 17-42-503. ~~Nonqualifying courses or events~~ Exemptions.

25 (a) ~~The following do not qualify as continuing education~~ The licensing
26 requirements of this subchapter do not apply to:

27 (1) ~~Courses of instruction designed to prepare a student for~~
28 ~~passing the real estate broker or salesperson examinations, except as~~
29 ~~provided in § 17-42-501(a)~~ The National Association of Realtors, the National
30 Association of Real Estate Brokers, or other associated entities if each
31 association identifies an administrator;

32 (2) ~~Sales promotions or other meetings held in conjunction with~~
33 ~~the general business of the licensee~~ An accredited college or university; and
34 or

35 (3) ~~Time devoted to breakfasts, luncheons, and dinners~~ An
36 instructor associated with an entity listed in subdivision (a)(1) or (2) of

1 this section if the course is developed by or for those specific entities.

2 (b) ~~The same course may not be used to meet the continuing education~~
3 ~~requirement two (2) times during the same license year. The requirement for~~
4 ~~course approval by the Arkansas Real Estate Commission under this subchapter~~
5 ~~does not apply to:~~

6 (1) A classroom course in a real estate-related subject
7 identified by the commission as an approved topic if it is offered by the
8 National Association of Realtors, the National Association of Real Estate
9 Brokers, or other associated entities;

10 (2) A course of at least three (3) semester hours or equivalent
11 in a real estate subject that is approved by the commission and offered by an
12 accredited college or university;

13 (3) A course in a real estate-related subject offered by the
14 commission;

15 (4) A course or a conference in a real estate-related subject
16 approved by the commission and offered annually on a limited basis in
17 Arkansas; or

18 (5) A course that is not used to fulfill the education
19 requirements of this subchapter for attaining a real estate license.

20
21 17-42-504. ~~Qualifying courses~~ Requirements – Mandatory real estate
22 education.

23 ~~The following courses and their instructors are not required to obtain~~
24 ~~the approval of the State Board of Private Career Education in order to~~
25 ~~qualify as continuing education courses in this subchapter:~~

26 ~~(1) Courses in real estate-related subjects offered by the~~
27 ~~National Association of Realtors, the National Association of Real Estate~~
28 ~~Brokers, or their societies, institutes, or councils;~~

29 ~~(2) Courses in real estate-related subjects offered or approved~~
30 ~~by the Arkansas Real Estate Commission; and~~

31 ~~(3) Courses of at least three (3) semester hours or equivalent~~
32 ~~in real estate subjects acceptable to the commission offered by colleges or~~
33 ~~universities.~~

34 (a) A person shall not practice as a provider of real estate education
35 for real estate licensure unless the person holds a real estate license under
36 this subchapter.

1 (b) A person or school shall not represent that an offered real estate
2 course satisfies the education requirements for real estate licensure unless
3 the course is approved by the Arkansas Real Estate Commission.

4 (c)(1) It is a violation of this subchapter to fail to obtain:

5 (A) A license to practice as a provider of real estate
6 education for real estate licensure; or

7 (B) Approval for a real estate education course by the
8 commission.

9 (2) A real estate education course offered in violation of this
10 subchapter is a nonqualified offering.

11
12 17-42-505. ~~Instructor credentials~~ Civil penalties – Jurisdiction.

13 ~~(a) Except as provided in this subchapter, instructors in continuing~~
14 ~~education courses shall file credentials with the State Board of Private~~
15 ~~Career Education showing the necessary specialized preparation, training, and~~
16 ~~experience to ensure competent and qualified instruction. If after notice~~
17 ~~and a hearing under this subchapter and the Arkansas Administrative Procedure~~
18 ~~Act, § 25-15-201 et seq., the Arkansas Real Estate Commission finds that a~~
19 ~~person has offered a nonqualified offering, the commission may impose a civil~~
20 ~~penalty of no more than five thousand dollars (\$5,000) and assess costs~~
21 ~~against the person.~~

22 ~~(b) The board will prescribe instructor qualification credentials and~~
23 ~~education requirements based upon advice and recommendation of the Arkansas~~
24 ~~Real Estate Commission. The fact that a person offers to provide or provides~~
25 ~~a course offering without the appropriate license or course approval from the~~
26 ~~commission is prima facie evidence that the person is offering a nonqualified~~
27 ~~offering.~~

28 (c) In addition to civil penalties imposed under this section, the
29 commission may require a person who offered a nonqualified offering to
30 reimburse compensation, fees, or other remuneration collected for the
31 nonqualified offering.

32
33 17-42-506. ~~Credit—Certificate of attendance~~ Powers and duties.

34 ~~(a) Credit shall be earned on the basis of attendance The Arkansas~~
35 ~~Real Estate Commission may adopt rules as necessary to implement this~~
36 ~~subchapter.~~

1 ~~(b)(1) A certificate of attendance which states the name of the~~
2 ~~student, the name of the school or sponsor of the course, the date the course~~
3 ~~was completed, the number of classroom hours of instruction covered by the~~
4 ~~individual course, and such other information as the Arkansas Real Estate~~
5 ~~Commission may require shall be presented to each attendee upon completion of~~
6 ~~the course.~~

7 ~~(2) No certificate of attendance shall be issued to a licensee~~
8 ~~who is absent for more than ten percent (10%) of the classroom hours.~~

9 ~~(3) Either a copy of the certificate or other proof of~~
10 ~~satisfactory completion of the course acceptable to the commission shall be~~
11 ~~furnished to the commission by the licensee.~~

12 ~~(4) It is the licensee's responsibility to establish his or her~~
13 ~~successful completion of a continuing education course. The commission shall~~
14 ~~license, approve, and regulate schools, associations, principal instructors,~~
15 ~~and associate instructors offering commission-approved prelicense,~~
16 ~~postlicense, and continuing education courses offered to satisfy education~~
17 ~~requirements for real estate licensure.~~

18 (c) The commission shall establish the licensing or education
19 requirements for:

20 (1) A school or association that applies for a license to offer
21 real estate courses that satisfy the education requirements for real estate
22 licensure;

23 (2) Principal and associate instructors of courses approved by
24 the commission;

25 (3) Courses that satisfy the education requirements for
26 applicants for real estate licensure and licensees; and

27 (4) Guest speakers of courses approved by the commission.

28 (d) The commission shall:

29 (1) Establish procedural guidelines for licensed schools and
30 their locations and those providing real estate education designed for
31 students to meet the education requirements for a real estate license;

32 (2) Charge fees and pay the necessary expenses to develop,
33 approve, sponsor, contract for, or conduct real estate courses and seminars
34 for real estate licensees or instructors of real estate education;

35 (3) Maintain in electronic format a list of the names of real
36 estate schools, associations, administrators, instructors, and courses

1 approved under this subchapter;

2 (4) Publish in electronic format the names of the persons,
3 associations, or schools that have been sanctioned by formal hearing or
4 consent order under this subchapter;

5 (5) Periodically monitor courses offered or taught by the
6 licensed schools and instructors; and

7 (6) Establish course requirements with respect to:

8 (A) Accessibility;

9 (B) Attendance;

10 (C) Satisfactory completion; and

11 (4) Curricula.

12
13 17-42-507. ~~Monitoring courses~~ Disposition of funds.

14 The Arkansas Real Estate Commission or its designee is authorized to
15 attend and monitor any courses of instruction offered or to be offered as
16 meeting the requirements of this chapter Except as otherwise provided in this
17 subchapter, the fees, charges, fines, and penalties collected by the Arkansas
18 Real Estate Commission under this subchapter are deposited into the Arkansas
19 Real Estate Commission Fund and spent under § 17-42-204.

20
21 17-42-508. Subpoenas and subpoenas duces tecum.

22 The Arkansas Real Estate Commission may issue subpoenas and subpoenas
23 duces tecum with both its investigations and hearings of persons, entities,
24 and courses under § 17-42-205.

25
26 17-42-509. Issuance or denial of license.

27 (a) The Arkansas Real Estate Commission shall issue a license to an
28 applicant instructor of real estate education who:

29 (1) Is twenty-one (21) years of age or older;

30 (2) Has successfully completed the real estate education
31 requirements under this subchapter;

32 (3) Has sufficient experience as determined by the commission;

33 (4) Has no record of unprofessional conduct; and

34 (5) Shows evidence of a reputation of honesty, trustworthiness,
35 and integrity sufficient to safeguard the interest of the public.

36 (b) The commission shall determine what constitutes proof of meeting

1 the requirements of subsection (a) of this section.

2 (c) A person or entity shall not be issued a license under this
3 subchapter if:

4 (1) The person or entity has had a real estate or other
5 professional or occupational license suspended or revoked for disciplinary
6 reasons;

7 (2) The person has been refused a renewal of a license issued by
8 this state or any other jurisdiction;

9 (3) The person or entity has pleaded guilty or nolo contendere
10 to or been found guilty of a felony or misdemeanor involving fraud,
11 misrepresentation, or dishonest or dishonorable dealing in a court of
12 competent jurisdiction; or

13 (4) The person or entity fails to pay the appropriate fees.

14 (d)(1) Subsection (c) of this section may be waived by the commission
15 on request of an affected applicant for licensure.

16 (2) Circumstances for which a waiver may be granted include:

17 (A) The applicant's age at the time the action occurred;

18 (B) The circumstances surrounding the action;

19 (C) The length of time since the action;

20 (D) Work history;

21 (E) Employment references;

22 (F) Character references; and

23 (G) Other evidence demonstrating that the applicant does
24 not pose a threat to the public.

25
26 17-42-510. Education fees.

27 (a) The Arkansas Real Estate Commission may charge and collect the
28 following fees annually:

29 (1) An original license fee for each main school not to exceed
30 five hundred dollars (\$500);

31 (2) An original license fee for each branch of a main school not
32 to exceed three hundred dollars (\$300);

33 (3) A renewal fee for each main school not to exceed four
34 hundred dollars (\$400);

35 (4) A renewal fee for each branch of a main school not to exceed
36 two hundred dollars (\$200);

1 (5) An administrator license application fee not to exceed two
2 hundred dollars (\$200);

3 (6) An administrator renewal fee not to exceed one hundred
4 dollars (\$100);

5 (7) A principal instructor license application fee not to exceed
6 two hundred fifty dollars (\$250);

7 (8) A principal instructor license renewal fee not to exceed one
8 hundred fifty dollars (\$150);

9 (9) An associate instructor license application fee not to
10 exceed two hundred dollars (\$200);

11 (10) An associate instructor license renewal fee not to exceed
12 one hundred dollars (\$100);

13 (11) A license amendment fee not to exceed one hundred dollars
14 (\$100);

15 (12) A license reissuance fee not to exceed fifty dollars
16 (\$50.00);

17 (13) A course approval fee not to exceed one hundred dollars
18 (\$100) for each approved course;

19 (14) A course approval renewal fee not to exceed fifty dollars
20 (\$50.00) for each approved course;

21 (15) A late renewal fee for a license or course approval not to
22 exceed two hundred fifty dollars (\$250); and

23 (16) An appeal of the dismissal of a complaint by the Executive
24 Director of the Arkansas Real Estate Commission, a filing fee not to exceed
25 one hundred dollars (\$100).

26 (b) Except for the fees for course approval and course approval
27 renewal, state agencies and full-time accredited college or university
28 instructors are exempt from the fees in this subchapter.

29
30 17-42-511. License application procedure.

31 (a) Applications for licensure are submitted on forms provided by the
32 Arkansas Real Estate Commission.

33 (b) An applicant for licensure shall pay the fees required under this
34 subchapter.

35 (c) An applicant for licensure or course approval shall furnish
36 contact information on forms provided by the commission.

1 (d)(1) An applicant, administrator, or licensee is required to
2 maintain current contact information with the commission.

3 (2) Contact information includes physical and mailing addresses,
4 home and business telephone numbers, and home and business email.

5
6
7 17-42-512. Term of license.

8 (a) A license is issued for a term of one (1) year.

9 (b)(1) The Arkansas Real Estate Commission shall issue approval for
10 renewal of a license in the absence of a reason or condition that may warrant
11 the refusal of the renewal on receipt of a renewal request thirty (30) days
12 before the expiration of the license.

13 (2) A late fee applies to applications received after the
14 renewal deadline.

15 (c)(1) A licensee who has not applied for renewal or whose renewal
16 application did not meet the requirements for renewal shall be notified by
17 the commission.

18 (2) An application for renewal of a license that has been
19 submitted but not renewed by the date of expiration is considered a new
20 applicant.

21
22 17-42-513. Approval of courses and course content.

23 (a) Except for courses exempted in § 17-42-503(b), a real estate
24 course that is intended to satisfy the education requirements for a real
25 estate license shall first be approved by the Arkansas Real Estate
26 Commission.

27 (b) An application for course approval shall be submitted on the form
28 required by the commission with the required fees.

29 (c) Requirements for course approval are determined by the commission.

30
31 17-42-514. Curricula.

32 (a) The Arkansas Real Estate Commission may:

33 (1) Identify subject matter topics for continuing education
34 courses;

35 (2) Identify a specific topic of not more than three (3) hours
36 to be included in the education requirement of six (6) hours of continuing

1 education annually;

2 (3) Develop and require a specific curriculum for continuing
3 education courses for licensed brokers or their designees; and

4 (4) Identify subject matter topics for which licensed schools
5 and instructors may develop courses that fulfill the annual continuing
6 education requirements.

7 (b) The commission may develop the curricula for prelicense and
8 postlicense education.

9
10 17-42-515. Violations.

11 An applicant for a real estate educator license or a licensee is
12 subject to disciplinary action under this subchapter if the applicant for a
13 real estate educator license or a licensee pleads guilty or nolo contendere
14 to or is found guilty of any of the following:

15 (1) Obtaining a real estate educator license or real estate
16 education course approval by fraud, misrepresentation, or concealment;

17 (2) Violating this subchapter, the rules adopted by the Arkansas
18 Real Estate Commission, or an order issued by the commission;

19 (3) Committing an act, felony, or crime involving moral
20 turpitude, fraud, dishonesty, untruthfulness, or untrustworthiness regardless
21 of whether the imposition of the sentence has been deferred or suspended;

22 (4) Engaging or allowing unlawful discriminatory practices;

23 (5) Violating the requirements of the Americans with
24 Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., regarding access to and
25 delivery of real estate education courses;

26 (6) Issuing or reporting a false certificate of completion for a
27 real estate education course;

28 (7) Teaching a course in a way that instructs licensees to
29 engage in unlawful or noncompliant activities;

30 (8) Failing to monitor attendance of students to ensure
31 satisfactory completion of real estate education courses approved by the
32 commission;

33 (9) Utilizing an instructor or guest speaker who does not meet
34 the requirements of this subchapter;

35 (10) Making a substantial misrepresentation of a material fact
36 to the commission;

1 (11) Advertising in a false, misleading, or deceptive way;

2 (12) Being unworthy or incompetent to act or operate as a real
3 estate education school or association or a real estate educator; or

4 (13) Other conduct that constitutes improper, fraudulent, or
5 dishonest dealing.

6
7 17-42-516. Investigation of complaint – Penalties.

8 (a)(1) The Arkansas Real Estate Commission may on its own motion and
9 shall on the complaint in writing of a person, if the complaint and evidence
10 presented make a prima facie case, investigate the action of a person or
11 entity engaged in the business or acting in the capacity of a real estate
12 school, association, or instructor licensed by the commission.

13 (2) A student's inability to pass the real estate exam does not
14 in and of itself make a prima facie case.

15 (3) If the complaint fails to state a prima facie case or if the
16 Executive Director of the Arkansas Real Estate Commission determines there is
17 insufficient proof of a violation of this subchapter, the executive director
18 shall dismiss the complaint.

19 (4) If the executive director determines that there is
20 sufficient proof of a violation of this subchapter, the person or entity
21 responsible shall be notified of the charges and ordered to appear for a
22 hearing.

23 (5) If the person or entity is found to have violated this
24 subchapter, the commission may impose one (1) or more of the following
25 sanctions:

26 (A) Suspend, revoke, or deny the license or course approval
27 or its renewal;

28 (B) Impose a penalty not to exceed one thousand dollars
29 (\$1,000) for each violation;

30 (C) Require completion of appropriate education programs or
31 courses;

32 (D) Place conditions or restrictions on the license or
33 course approval held by the person or entity in violation or order the
34 licensed entity or person to reimburse moneys collected from the complainant;
35 or

36 (E) Impose other requirements or penalties as may be

1 appropriate to the circumstances of the case that achieve the desired
2 disciplinary purposes without impairing the public welfare and morals.

3 (b) The commission shall file suit in the circuit court of the county
4 in which the defendant resides or does business to collect a penalty assessed
5 under this subchapter if the penalty is not paid within the time prescribed
6 by the commission.

7 (c) Under certain circumstances, the commission may suspend the
8 imposition of any sanction.

9 (d) The license of an instructor, school, or association with
10 outstanding disciplinary fines or student reimbursements is suspended until
11 the moneys owed the commission or amounts ordered to be paid by the
12 commission are paid.

13
14 17-42-517. Dismissal of complaint - Appeal.

15 (a) A person whose complaint against a licensed school, administrator,
16 or instructor is dismissed by the Executive Director of the Arkansas Real
17 Estate Commission without a hearing may appeal the dismissal to the Arkansas
18 Real Estate Commission subject to the following:

19 (1) The request for appeal is in writing and received by the
20 commission within sixty (60) days following the date of dismissal by the
21 executive director;

22 (2) The request for appeal is accompanied by a filing fee as the
23 commission may require under this subchapter; and

24 (3)(A)(i) The appellant shall pay the cost of preparing the
25 record for the commission's review.

26 (ii) The appellant shall pay the costs within thirty
27 (30) days after notification of the amount, or the appeal is dismissed.

28 (B) If the commission's review results in a hearing being
29 ordered, the filing fee and the cost of preparing the record are refunded to
30 the appellant.

31 (C) A person who is indigent and cannot pay the filing fee
32 or the cost of the record, or both, may file a pauper's oath in a form
33 provided by the commission. If the commission determines that the appellant
34 is indeed indigent, the filing fee or cost of the record may be waived.

35 (b)(1) An appeal perfected under subsection (a) of this section is
36 presented to and decided by the commission on the written record.

1 (2) The decision by the commission may be to affirm the
2 executive director's dismissal, to order additional investigation, or to
3 order a hearing.

4
5 17-42-518. Hearings.

6 (a) Proceedings under this subchapter are conducted under the Arkansas
7 Administrative Procedure Act, § 25-15-201 et seq.

8 (b) Except in the case of a person or entity obtaining a license or
9 course approval by false or fraudulent representation, the Arkansas Real
10 Estate Commission shall not investigate the actions of or conduct a
11 disciplinary hearing regarding a licensed school, administrator, or
12 instructor unless the complaint is filed or the investigation begins within
13 three (3) years from the date of the actions.

14
15 SECTION 4. TEMPORARY LANGUAGE. DO NOT CODIFY. Effective January 1,
16 2014, the Arkansas Real Estate Commission has the authority to issue and
17 renew real estate education licenses under this subchapter. It is the intent
18 of this section to cure any gap in applicable law resulting from the
19 transition from licensing under prior law with the State Board of Private
20 Career Education to this subchapter.

21
22 */s/D. Johnson*

23
24
25 ***APPROVED: 03/06/2013***