

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

A Bill

HOUSE BILL 1527

5 By: Representative Jeffrey
6
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For An Act To Be Entitled

9 AN ACT TO AMEND THE REAL ESTATE LICENSE LAW TO
10 CONFORM TO EXISTING REAL ESTATE PRACTICES; TO
11 MAKE TECHNICAL CORRECTIONS TO THE REAL ESTATE
12 LICENSE LAW; AND FOR OTHER PURPOSES.
13

Subtitle

15 TO AMEND THE REAL ESTATE LICENSE LAW TO
16 CONFORM TO EXISTING REAL ESTATE
17 PRACTICES; TO MAKE TECHNICAL CORRECTIONS
18 TO THE REAL ESTATE LICENSE LAW.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code § 17-42-103(10), concerning the definition of
24 a licensee under the Real Estate license Law, is amended to read as follows:

25 (10)(A) "Licensee" means an individual who holds any type of
26 license issued by the commission and, unless the context clearly requires
27 otherwise, shall include a principal broker, an executive broker, an
28 associate broker, and a salesperson.

29 (B) Nothing in this chapter shall preclude a licensee
30 from:

31 (i) doing ~~doing~~ business as a professional
32 corporation ~~pursuant to~~ under § 4-29-101 et seq.; or

33 (ii) Receiving payment from a real estate firm or
34 principal broker of an earned commission to the licensee's legal business
35 entity if the licensee earned the commission on behalf of the real estate
36 firm or principal broker;



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SECTION 2. Arkansas Code § 17-42-104 is amended to read as follows:
17-42-104. Exemptions.

(a) The provisions of this chapter shall not apply to:

(1) Any person not licensed under this chapter who performs any of the acts described in § 17-42-103(12) with regard to the property owned, leased, or purchased by him or her;

(2) An attorney in fact under a duly executed and recorded power of attorney from the owner or lessor authorizing the final consummation by performance of any contract for the sale, lease, or exchange of real estate, provided that the attorney in fact receives no fee, commission, or other consideration and has no expectation thereof, directly or indirectly, for performing any such act;

(3) An attorney at law in the performance of his or her duties as an attorney at law;

(4) Any person acting as a receiver, trustee in bankruptcy, administrator, executor, or guardian, or while acting under a court order or under the authority of a will or of a trust instrument;

(5) Any person acting as a resident manager when the resident manager resides on the premises and is engaged in the leasing of real property in connection with his or her employment;

(6) Any person employed only at a salaried or hourly rate to engage in the leasing of real property for or on behalf of a licensed principal broker, the real estate firm of a licensed principal broker, or an owner of real estate, if the person performs one (1) or more of the following activities:

(A) Delivery of a lease application, lease, or an amendment to a lease application or lease to any person;

(B) Receiving a lease application, lease, or an amendment to a lease application for delivery to the principal broker, real estate firm, or owner;

(C) Receiving a security deposit, rental payment, or any related payment for delivery to and made payable to the principal broker, real estate firm, or owner;

(D) Acting under the direct written instructions of the principal broker, real estate firm, or owner;

- 1 (i) Showing a rental unit to any person; or
- 2 (ii) Assisting in the execution of a preprinted
- 3 lease or rental agreement containing terms established by the principal
- 4 broker, real estate firm, or owner; or

5 (E) Conveying information prepared by the principal
 6 broker, real estate firm, or owner about a lease application, lease, the
 7 status of a security deposit, or the payment of rent to or from any person;

8 ~~(6)~~(7) Any officer or employee of a federal agency or state
 9 government, or any political subdivision thereof, in the performance or
 10 conduct of his or her official duties;

11 ~~(7)~~(8) Any multiple listing service wholly owned by a nonprofit
 12 organization or association of real estate licensees; or

13 ~~(8)~~(9) An officer of a corporation or a general partner of a
 14 partnership with respect to real property owned or leased by the corporation
 15 or partnership, or in connection with the proposed purchase or leasing of
 16 real property by the corporation or partnership, provided that such acts are
 17 not performed by the officer or partner for or in expectation of special
 18 compensation and provided further that such acts are not performed as a
 19 vocation of the officer or partner.

20 (b) Any real estate broker licensed by the Arkansas Real Estate
 21 Commission on or before January 1, 1985, who is engaged in the sale of real
 22 estate by auction only is authorized to employ real estate salespersons to
 23 work under the license of the broker even though the broker is employed in a
 24 non-real estate-related field and is only a part-time broker.

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26 SECTION 3. Arkansas Code § 17-42-203(e), concerning the powers and
 27 duties of the Arkansas Real Estate Commission, is amended to read as follows:

28 (e) The commission:

29 (1) shall annually publish Shall maintain in writing or in
 30 electronic format a list of the names and addresses of all active licensees
 31 licensed by it under the provisions of this chapter; and

32 (2) May publish in writing or in electronic format the names of
 33 all persons ~~whose licenses have been suspended or revoked during that period~~
 34 who have been sanctioned under § 17-42-312 or by consent order, together with
 35 other information relative to the enforcement of the provisions of this
 36 chapter as it may deem of interest to the public.

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SECTION 4. Arkansas Code § 17-42-204 is amended to read as follows:
17-42-204. Disposition of funds - Fund created.

(a) Except as otherwise provided herein, all fees, charges, fines, and penalties collected by the Arkansas Real Estate Commission shall be deposited in a fund to be known as the "Arkansas Real Estate Commission Fund".

(b) The commission is empowered to expend funds appropriated from the Arkansas Real Estate Commission Fund for the requirements, purposes, and expenses of the commission under the provisions of this chapter, ~~upon vouchers signed by the executive director or deputy executive director of the commission and countersigned by the chair or vice chair thereof.~~

SECTION 5. Arkansas Code § 17-42-303 is amended to read as follows:
17-42-303. Educational Education and experience requirements.

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

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

(2) The maximum number of hours required of an applicant for a salesperson's license shall not exceed ninety (90) hours, at least thirty (30) hours of which shall be in the basic principles of real estate.

(b)(1) The commission shall establish the experience requirement for licensure for an applicant for a broker's license subject to the condition of serving an active, bona fide apprenticeship by holding a valid real estate salesperson's license issued by the commission or by holding a valid real estate salesperson's license or broker's license issued by the appropriate licensing agency of another state for a period of not less than twenty-four (24) months within the previous forty-eight-month period immediately preceding the date of application.

(2) However, the commission may waive the experience requirement for a real estate broker applicant who has held an active real estate broker's license for a period of not less than eighteen (18) months or who has experience acceptable to the commission in a field considered real estate

1 related for a period of not less than twenty-four (24) months within the
 2 previous forty-eight-month period immediately preceding the date of
 3 application.

4 (c)(1) The commission shall establish a post-licensure education
 5 requirement for individuals in their first year of licensure as salespersons
 6 or brokers.

7 (2) The commission shall not require more than thirty (30)
 8 classroom hours of post-licensure education hours.

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 10 SECTION 6. Arkansas Code § 17-42-307 is amended to read as follows:

11 17-42-307. Expiration and renewal.

12 (a) Every license, both active and inactive, shall expire on ~~December~~
 13 ~~31 of each year~~ a date established by the Arkansas Real Estate Commission.

14 (b)(1) For each active licensee, the ~~Arkansas Real Estate Commission~~
 15 commission shall issue a new license for each ensuing ~~year,~~ renewal period in
 16 the absence of any reason or condition which might warrant the refusal of a
 17 license, upon receipt of a written request no later than ~~September 30 of each~~
 18 ~~year~~ ninety (90) days prior to the expiration of the license upon forms
 19 provided by the commission together with the ~~annual~~ renewal fee ~~therefor.~~

20 (2)(A) For any broker or salesperson who does not wish to engage
 21 in the real estate business, the license shall be renewed on inactive status,
 22 in the absence of any reason or condition which might warrant the refusal of
 23 a license, upon receipt of the written request of the applicant no later than
 24 ~~September 30 of each year~~ ninety (90) days prior to the expiration of the
 25 license upon forms provided by the commission together with the ~~annual~~
 26 renewal fee ~~therefor.~~

27 (B) However, the commission may limit the number of
 28 renewal periods in which a license may be renewed on inactive status.

29 (C) The renewal fee for inactive status shall be the same
 30 as for renewal of an active license.

31 (3) An application for renewal filed after ~~September 30 of any~~
 32 ~~year~~ the date established by the commission to renew a license shall be
 33 treated as an application to renew an expired license.

34 (c) If any person to whom a valid license may have been issued permits
 35 the license to expire for a period not in excess of that established by the
 36 commission, the commission shall issue to the person a current license

1 without requiring the person to submit to any examination if the person
 2 furnishes such information as the commission requires, including proof of
 3 completion of appropriate continuing education requirements, and pays such
 4 fee as the commission requires.

5 (d)(1) ~~Beginning January 1, 2002, new~~ New salesperson and broker
 6 licensees shall complete post-licensure education in accordance with § 17-42-
 7 303(c).

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

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 14 SECTION 7. Arkansas Code § 17-42-311(a)(3), concerning prohibited
 15 actions justifying disciplining a real estate licensee, is amended to read as
 16 follows:

17 (3) Being convicted of ~~any crime specified in § 17-42-315 or pleading~~
 18 guilty or nolo contendere to a felony or crime involving moral turpitude,
 19 fraud, dishonesty, untruthfulness, or untrustworthiness regardless of whether
 20 the imposition of sentence has been deferred or suspended;

21
 22 SECTION 8. Arkansas Code § 17-42-315(f), concerning crimes that
 23 disqualify a person from holding or receiving a real estate license, is
 24 amended to read as follows:

25 (f) Except as provided in subsection (g) of this section, a person
 26 shall not receive or hold a license issued by the commission if the person
 27 has been convicted of or pleaded guilty or nolo contendere to a felony or a
 28 crime involving moral turpitude, fraud, dishonesty, untruthfulness, or
 29 untrustworthiness.

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 31 SECTION 9. Arkansas Code § 17-42-406(a)(4)(A), concerning payments
 32 from the Real Estate Recovery Fund, is amended to read as follows:

33 (A) Pay in excess of ~~fifteen thousand dollars (\$15,000)~~
 34 twenty-five thousand dollars (\$25,000) for any one (1) violation or
 35 continuing series of violations, regardless of the number of licensees who
 36 participated in such a violation or continuing series of violations; or

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 2 SECTION 10. Arkansas Code § 17-42-406(c), concerning payments from the
 3 Real Estate Recovery Fund, is amended to read as follows:

4 (c) Nothing within this subchapter shall obligate the fund for any
 5 amount in excess of a total of ~~fifty thousand dollars (\$50,000)~~ seventy-five
 6 thousand dollars (\$75,000) with respect to:

- 7 (1) The acts of any one (1) licensee; or
- 8 (2) Any group of related claims.

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 10 SECTION 11. Arkansas Code § 17-42-501(a)(2)(A), concerning continuing
 11 education requirements, is amended to read as follows:

12 (2)(A)(i) Persons licensed as real estate brokers or
 13 salespersons shall successfully complete annually six (6) classroom hours or
 14 equivalent continuing education units or equivalent ~~correspondence work~~
 15 distance education of continuing education or a course that the Arkansas Real
 16 Estate Commission has determined demonstrates a mastery of an acceptable real
 17 estate subject annually.

18 (ii) ~~At least~~ No more than one (1) hour or
 19 equivalent continuing education unit shall be in a specific topic or topics
 20 as identified by the ~~Arkansas Real Estate Commission~~ commission in § 17-42-
 21 502.

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 23 SECTION 12. Arkansas Code § 17-42-503 is amended to read as follows:
 24 17-42-503. Nonqualifying courses or events.

25 (a) The following do not qualify as continuing education:

26 (1) Courses of instruction designed to prepare a student for
 27 passing the real estate broker or salesperson examinations, except as
 28 provided in § 17-42-501(a);

29 ~~(2) Offerings in mechanical skills and office and business~~
 30 ~~skills, including, but not limited to, typing, speed reading, memory~~
 31 ~~improvements, language, report writing, personal motivation, salesmanship,~~
 32 ~~and sales psychology;~~

33 ~~(3)(2)~~ Sales promotions or other meetings held in conjunction
 34 with the general business of the licensee; and

35 ~~(4)(3)~~ Time devoted to breakfasts, luncheons, and dinners.

36 (b) The same course may not be used to meet the continuing education

1 requirement twice during the same license year.

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SECTION 13. Arkansas Code § 17-42-504 is amended to read as follows:
17-42-504. Qualifying courses.

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

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

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

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