

# Legislative Analysis



## CONTINUING EDUCATION AND RELICENSURE FOR REAL ESTATE BROKERS AND SALESPERSONS

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**Senate Bill 641 (Substitute H-3)**

**Sponsor: Sen. Mike Kowall**

**House Committee: Regulatory Reform**

**Senate Committee: Regulatory Reform**

**Complete to 3-18-14**

### A SUMMARY OF SENATE BILL 641 AS REPORTED FROM HOUSE COMMITTEE

#### Brief Summary:

The bill would amend Article 25 (Real Estate Brokers and Salespersons) of the Occupational code to do the following:

- Require LARA to renew a license for a real estate broker, associate real estate broker, or real estate salesperson if it receives an application for renewal, and payment of the appropriate fees, within 60 days after the license expired.
- Allow LARA to relicense without an examination a person that has failed to renew a license within the 60-day time period if certain conditions are met, including payment of appropriate fees and proof of successful completion of continuing education.
- Allow LARA to relicense an individual who failed to renew a real estate broker license within 3 years after its expiration if certain conditions are met, including payment of the appropriate fees and completion of continuing education.
- Allow LARA to relicense an individual who failed to renew a real estate salesperson license within three years after its expiration if certain conditions are met, including payment of the appropriate fees and completion of continuing education.
- Modify and recodify the continuing education requirements for real estate licensure.
- Add a limited liability company (LLC) to, and remove a sole proprietorship from, the list of entities to which LARA can issue a real estate broker license.

#### Detailed Summary:

##### License renewal

LARA would be required to renew a license for a real estate broker, associate real estate broker, or real estate salesperson (1) if it receives an application and payment of appropriate fees within at least 60 days after the license has expired, and (2) the continuing education requirements have been satisfied.

### Relicensure of lapsed licensee

The bill would eliminate the current provisions regarding relicensure of individuals who have allowed licenses to lapse and would replace them with the following requirements.

LARA could relicense an individual that failed to renew his or her license within 60 days of its expiration without having to complete an examination if all of the following are met:

- The individual applies for re-licensure within three years after his or her last license expired.
- The person pays the application processing, late renewal, and per-year license fees for the upcoming licensure period.
- The person submits proof to LARA of his or her completion of six clock hours of continuing education for each year and partial year that have elapsed since the expiration of his or her last license.

### *Real estate broker*

If an individual fails to renew a real estate broker license within three years of its expiration, LARA could relicense that person once he or she has paid the application processing, late renewal, and per-year license fees for the upcoming licensure period and submitted proof that he or she meets one of the following:

- Has completed a total of six clock hours of continuing education for each year and partial year that have elapsed since his or her last license expired.
- Has completed 90 clock hours of pre-licensure courses.
- Has passed the examination required for a real estate license.

### *Real estate salesperson*

If an individual fails to renew a real estate salesperson license within three years of its expiration, LARA could relicense that person once he or she has paid the application processing, late renewal, and per-year license fees for the upcoming licensure period and submitted proof that he or she meets one of the following:

- Has completed 40 clock hours of pre-licensure courses.
- Has passed the examination required for real estate salespersons.

[Note: These relicensure procedures are nearly identical to those currently found at MCL 339.2504.]

### Repeal of existing continuing education requirements

The bill would repeal the existing continuing education requirements that must be satisfied in order for a real estate broker or salesperson's license to be renewed and would replace them with new continuing education requirements (described below).

The following is a brief explanation of the continuing education requirements that would be repealed by Senate Bill 641 (S-1).

Currently, in order to renew an active license, a licensee must complete at least six clock hours of continuing education within the preceding 12 months. Beginning in 2003, licensees have been required to complete at least 18 hours of continuing education every three-year license cycle. Starting in 2007 and continuing into the present, licensees are required to complete at least two hours per calendar year.

Section 2504(5), (6), and (7) provide LARA the ability to relicense individuals that have allowed their licenses to lapse for up to three years and more than three years, respectively.

Currently, LARA may relicense an individual without examination if the license has lapsed for less than three years and the licensee has shown proof of completion of at least six clock hours of continuing education for every year the license has lapsed.

LARA may relicense a broker whose license has lapsed for more than three or more years if the licensee has (1) completed six clock hours of continuing education for every year the license has lapsed, (2) completed 90 clock hours of instruction as provided for in subsections 1 and 3, (3) or has successfully passed the broker licensure examination.

LARA may relicense a salesperson whose license has lapsed for more than three or more years if the licensee has (1) completed six clock hours of continuing education for every year the license has lapsed, (2) completed 40 clock hours of instruction as provided for in subsections 2 and 3, (3) or has successfully passed the salesperson licensure examination.

These provisions would be repealed by the bill but would be re-codified in Section 2505a with minor changes.

#### New Continuing education requirements

Within each three-year license cycle, licensees would be required to successfully complete at least 18 clock hours of continuing education courses that involve any topics that are relevant to the management, operation, and practice of real estate or that are otherwise pertinent to the activities of a real estate broker or salesperson. All of the following would apply:

- Licensees would have to complete at least two hours of the required 18 hours of continuing education in each calendar year of each three-year license cycle.
- Licensees would be allowed to select courses in his or her area of expertise, but at least two hours of courses in a calendar year must involve law, rules, and court cases regarding real estate.
- Licensees would be required to do both of the following to confirm their identity at the time of attending a course: (1) present a pocket card or license identification number from LARA; (2) present an operator's license or chauffeur's license, an official state personal identification card, or other government-issued photo identification.

Licensees would not receive additional credit for repeating a course that has already been completed. Licensees would have to certify compliance with the continuing education requirements and must retain evidence demonstrating he or she meets the requirements for at least four years after the date of the certification.

Real estate brokers, associate brokers, or salespersons who receive a license in the second or third year of a three-year license cycle would have to comply with the continuing education requirements, except individuals licensed in the second year would only have to complete 12 hours and individuals licensed in the third year would only have to complete six hours.

Course credits used to meet the continuing education requirements could not be applied toward the pre-licensure education requirements for a real estate broker's license and credits earned under the broker's license pre-licensure requirements would not apply toward continuing education requirements.

### Audit of Compliance

Applicants for license renewal would be subject to audit by the department and may be required to submit documentation to support their certification of compliance. If a course included in the audit had previously been reviewed and approved by a statewide real estate trade association contracted for that purpose by the department, then no further review would be needed.

If the LARA found an applicant had not completed sufficient hours of continuing education, it could allow the applicant to renew the license by completing a sufficient number of additional hours and an additional four hours would be added for each 60-day period needed to remove the deficiency. Those additional 4 hours would not count toward continuing education required in the next cycle. The department could waive the additional hours if the applicant demonstrated that they present an undue hardship.

### Issuance to an LLC

The bill would allow LARA to issue a real estate broker's license to a limited liability company but would no longer allow a license to be issued to a sole proprietorship.

### Death of a sole principal associate broker

If a sole principal associate broker dies or otherwise becomes disabled, LARA would be able to allow all affiliated real estate licensees a reasonable time to either wind up the business of the real estate broker or designate a new principal associate broker.

## **FISCAL IMPACT:**

Senate Bill 641 would not have a significant fiscal impact on the state or local units of government.

## **POSITIONS:**

The Department of Licensing and Regulatory Affairs indicated support for the bill. (1-28-14)

The Michigan Association of Realtors indicated support for the bill. (1-14-14)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.