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BILL ANALYSIS



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Senate Bill 641 (as enacted)
Sponsor: Senator Mike Kowall
Senate Committee: Regulatory Reform
House Committee: Regulatory Reform

PUBLIC ACT 106 of 2014

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CONTENT

The bill amends Article 25 (Real Estate Brokers and Salespersons) of the Occupational Code to do the following:

- **Require the Department of Licensing and Regulatory Affairs (LARA) to renew a real estate broker, associate real estate broker, or real estate salesperson license if it receives an application for renewal within 60 days after the license's expiration date.**
- **Allow LARA to relicense without examination a person who fails to renew a license within that 60-day period, if he or she meets certain requirements.**
- **Revise requirements for LARA to relicense a person who fails to renew a real estate broker or real estate salesperson license within three years after the last license expires.**
- **Delete provisions that allow LARA to relicense a broker or salesperson whose license has been lapsed for three or more continuous years.**
- **Delete, recodify, and revise continuing education requirements.**
- **Require a licensee to retain evidence acceptable to LARA that he or she has met continuing education requirements.**
- **Subject an applicant to a Department audit for compliance with continuing education requirements and authorize LARA to allow an applicant to renew a license by completing additional continuing education if the audit determines that the applicant did not comply with the requirements.**
- **Require LARA to allow a reasonable period of transition if the revocation of affiliated licenses results from the death or disability of a sole principal associate broker.**
- **Add a limited liability company to the list of entities to which LARA may issue a real estate broker's license.**

The bill also repeals an administrative rule (R 339.22651) that requires a real estate sponsor to submit an application for approval, as determined by LARA, for continuing education courses offered to real estate broker, associate broker, or salesperson licensees.

The bill will take effect on January 1, 2015.

License Renewal

Article 25 requires LARA to issue a license for a real estate broker, associate real estate broker, and real estate salesperson for a term of three years. The bill requires LARA to renew a license if it receives an application for renewal on a form the Department prescribes

along with payment of the appropriate fees, within the time period described in Section 411 of the Code and if the applicant meets applicable requirements of Article 25.

(Under Section 411, a person who fails to renew a license or registration on or before the expiration date may not practice the occupation, operate, or use the title after that date. A license or registration lapses on the day after the expiration date. A person who fails to renew a license or registration by the expiration date must be permitted to renew it by paying the required fee and a late renewal fee, within 60 days after the expiration date.)

The bill permits LARA to relicense without examination a person who fails to renew a license within the 60-day period specified in Section 411, if the person does all of the following:

- Applies within three years after the expiration date of the last license.
- Pays an application processing fee, late renewal fee, and per-year license fee for the upcoming licensure period.
- Completes six clock hours of continuing education, on topics required for relicensure under Article 25, for each year and partial year that has elapsed since the applicant's last license expired.

Article 25 allows LARA to relicense without examination a licensee whose license has been lapsed for less than three years, if the licensee shows proof of completion of at least six clock hours of continuing education on required topics, for each year the license was lapsed. The bill deletes that provision.

The bill instead allows LARA to relicense a person who fails to renew a real estate salesperson or broker license within three years after the last license expires, if the person pays an application processing fee, late renewal fee, and per-year license fee for the upcoming licensure period and submits proof that the salesperson or the broker, if an individual, or the individual designated as the broker's principal under Article 25, meets any of the following:

- Has completed a total of six clock hours of continuing education on required topics for each year and partial year that have elapsed since the last license expired.
- Has completed 40 clock hours of prelicensure courses required for a salesperson license or 90 clock hours of prelicensure required courses for a broker license, as applicable.
- Has passed the required examination for a real estate salesperson or broker license, as applicable.

The bill deletes provisions allowing LARA to relicense a broker or salesperson whose license has been lapsed for three or more continuous years.

Broker's License

Under Article 25, before receiving a real estate broker's license, an applicant must submit an application and have successfully completed at least 90 clock hours of approved classroom courses in real estate, of which at least nine clock hours are instruction on civil rights law and equal opportunity in housing. The 90 hours are in addition to the hours required to obtain a real estate salesperson's license.

Under the bill, the 90-hour requirement, including nine hours of instruction on civil rights law and equal opportunity in housing, apply to the applicant if the applicant is an individual, or to an individual designated as the principal of an applicant that is not an individual.

Continuing Education

Currently, a licensee must complete at least two hours per calendar year of 18 hours of required continuing education courses. Any education successfully completed by a licensee for further professional designation and approved by LARA as continuing education may be counted toward the total continuing education credits required for the three-year license cycle. Each licensee has the option of selecting the education courses in his or her area of expertise, as long as they are approved by LARA and at least two hours per calendar year involve law, rules, and court cases regarding real estate. The Department may renew the license of a licensee who completed at least 18 hours of continuing education in the required subject matters during the three-year license cycle but has not otherwise met the continuing education requirements, if the licensee provides satisfactory evidence that he or she has good cause for not complying. The bill deletes those provisions.

The bill requires a real estate licensee, within each three-year license cycle, to successfully complete at least 18 clock hours of continuing education courses involving any topics relevant to the management, operation, and practice of real estate or any subject that contributes to the professional competence of a licensee or applicant.

As under current law, in each calendar year of each three-year license cycle, a licensee will have to complete at least two hours of the required 18 hours of continuing education courses, and a licensee may select education courses in his or her area of expertise, but at least two hours in a calendar year must involve real estate law, rules, and court cases.

The bill requires a licensee, when he or she attends a continuing education course, to present his or her pocket card or provide his or her license ID number from LARA to the course provider, and present his or her driver license or official State ID card or other government-issued photo ID to confirm his or her identity.

Any education course that a licensee successfully completes to obtain a professional designation will be counted toward the total continuing education credits required in a three-year license cycle. If a licensee successfully completes a continuing education course, he or she will not earn additional hours toward the continuing education requirements if he or she repeats the course.

The bill requires an applicant for license renewal under Article 25 to certify to LARA compliance with the continuing education requirements. A licensee must retain evidence acceptable to LARA, demonstrating that he or she has met the continuing education requirements, for at least four years after the date of that certification, and must produce the record containing that evidence at LARA's request. The Department must consider the following as acceptable evidence:

- The name and contact information of the continuing professional education program sponsor.
- The participant's name.
- The course title and course field of study.
- The date the course was offered or completed.
- The location of the course, if applicable.
- The type of instruction or delivery method used for presenting the course.
- Verification of the participant's completion of the course by a representative of the continuing professional education program sponsor.
- A time statement from the program sponsor, stating that continuing professional education credits were granted for the course on a 50-minute hour.

Under the bill, an applicant for license renewal will be subject to a LARA audit for compliance with continuing education requirements and, upon request, may be required to

submit evidence acceptable to the Department that demonstrates he or she met the continuing education requirements.

If LARA finds, as a result of an audit, that an applicant for license renewal has not completed sufficient hours of continuing education to renew his or her license, the Department may allow the applicant to renew the license by completing a sufficient number of additional hours of continuing education to fulfill the requirements for the period determined to be deficient, and, if that period is at least 60 days, the completion of additional hours. If the deficiency period is at least 60 days and less than 120 days, LARA may require four additional hours of continuing education. If the deficiency period is 120 days or more, LARA may require eight additional hours. Additional required hours of continuing education will not apply toward continuing education required in the next three-year license cycle. The Department may waive the requirement for additional hours if the applicant demonstrates that the additional hours would present an undue hardship on the applicant.

Revocation of Broker's License

Under Article 25, if a real estate broker's license is revoked, the licenses of all real estate salespersons employed by the broker and all affiliated associate real estate brokers are automatically suspended, pending a change of employer and the issuance of a new license. A new license must be issued without charge if the license is issued during the term in which the original license was issued.

The bill specifies that, in the event of the death or disability of a sole principal associate broker, LARA must allow all affiliated real estate licensees a reasonable time to wind up the broker's business or designate a new principal associate broker.

MCL 339.2502a et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.