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Senate Bill 641 (as introduced 10-23-13)
Sponsor: Senator Mike Kowall
Committee: Regulatory Reform

Date Completed: 11-7-13

CONTENT

The bill would amend 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 received an application for renewal within 60 days after the license's expiration date.**
- **Allow LARA to relicense without examination a person who failed to renew a license within that 60-day period, if he or she met certain requirements.**
- **Revise requirements for LARA to relicense a person who failed to renew a real estate broker or real estate salesperson license within three years after the last license expired.**
- **Delete provisions that allow LARA to relicense a broker or salesperson whose license had been lapsed for three or more continuous years.**
- **Delete, recodify, and revise continuing education requirements for real estate licensure.**
- **Revise provisions under which affiliated licenses are suspended when a real estate broker's license is revoked, to allow a reasonable period of transition if the revocation resulted from death or disability of a sole principal associate broker.**
- **Add a limited liability company to, and remove a sole proprietorship from, the list of entities to which LARA may issue a real estate broker's license.**

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 would require LARA to renew a license if it received an application for renewal on a form the Department prescribed along with payment of the appropriate fees, within the time period described in Section 411 of the Code and if the applicant met applicable requirements of Chapter 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 payment of the required fee and a late renewal fee, within 60 days after the expiration date.)

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

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

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 would delete that provision.

The bill instead would allow LARA to relicense a person who failed to renew a real estate broker license within three years after the last license expired, if the person paid an application processing fee, late renewal fee, and per-year license fee for the upcoming licensure period and submitted proof that the person, if an individual, or the individual designated as the licensee's principal under Article 25, met any of the following:

- Had completed a total of six clock hours of continuing education on required topics for each year and partial year that had elapsed since the last license expired.
- Had completed 90 clock hours of required precicensure courses.
- Had passed the required examination for a real estate broker license.

The bill also would permit LARA to relicense an individual who failed to renew a real estate salesperson license within three years after the last license expired, if he or she paid an application processing fee, late renewal fee, and per-year license fee for the upcoming licensure period and submitted proof that he or she met any of the following:

- Had completed a total of six clock hours of continuing education on required topics for each year and partial year that had elapsed since the last license expired.
- Had completed 40 clock hours of required precicensure courses.
- Had passed the required examination for a real estate salesperson license.

The bill would delete 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, would apply to the applicant if the applicant were an individual, or to an individual designated as the principal of an applicant that was not an individual.

Continuing Education

Under Article 25, 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 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 would delete those provisions.

The bill would require a real estate licensee, within each three-year license cycle, to successfully complete at least 18 clock hours of continuing education courses conducted by an instructor approved by LARA, involving any topics relevant to the management, operation, and practice of real estate or otherwise pertinent to the activities of a real estate broker or real estate salesperson.

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

The bill would require a licensee, when he or she attended a continuing education course, to present to the course provider his or her pocket card and 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 completed to obtain a professional designation would be counted toward the total continuing education credits required in a three-year license cycle, if the courses were conducted by an approved instructor.

An applicant for license renewal under Article 25 would have to certify to LARA compliance with the continuing education requirements. A licensee would have to retain evidence demonstrating that he or she had met the continuing education requirements, for at least four years after the date of that certification and produce the record containing that evidence at LARA's request.

Currently, a real estate broker, associate broker, or salesperson who receives a license issued in the second or third year of a three-year license cycle must comply with the continuing education requirements described above, except as follows:

- The licensee must complete 12 hours of continuing education, if he or she receives a license in the second year of a three-year cycle.
- The licensee must complete six hours of continuing education, if he or she receives a license in the third year of a three-year cycle.

Course credits used to meet continuing education requirement do not apply toward the real estate broker's license prelicensure education requirements, and course credits successfully completed under a broker's license prelicensure education requirements do not apply toward the continuing education requirements.

The bill would retain these provisions.

Revocation of Broker's License

Under Article 25, upon revocation of a real estate broker's license, 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, if the real estate broker's license were revoked as a result of the death or disability of the sole principal associate broker, the Department could 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 would have no fiscal impact on State or local government.

Fiscal Analyst: Bill Bowerman

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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.