

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.
Act 657 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

A Bill

HOUSE BILL 1753

4
5 By: Representative Maloch
6 By: Senator Wilkinson

For An Act To Be Entitled

10 AN ACT TO CHANGE THE CRIMINAL BACKGROUND CHECK
11 REQUIREMENTS FOR THE ARKANSAS REAL ESTATE
12 COMMISSION; AND FOR OTHER PURPOSES.

Subtitle

15 TO CHANGE CRIMINAL BACKGROUND CHECK
16 REQUIREMENTS FOR THE ARKANSAS REAL
17 ESTATE COMISSION.

19
20
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22
23 SECTION 1. Arkansas Code § 17-42-302 is amended to read as follows:

24 (a) The Arkansas Real Estate Commission shall issue a license to any
25 applicant who meets the following requirements:

- 26 (1) Attainment of the age of majority;
- 27 (2) Successful completion of educational requirements prescribed
28 by this chapter;
- 29 (3) Successful completion of experience requirements prescribed
30 by this chapter;
- 31 (4) Successful completion of an examination administered or
32 approved by the commission;
- 33 (5) Demonstrates no record of unprofessional conduct; ~~and~~
- 34 (6) Evidence of good reputation for honesty, trustworthiness,
35 and integrity sufficient to safeguard the interests of the public; and



1 (7) Completion of a criminal history background check through
2 the Department of Arkansas State Police and the Federal Bureau of
3 Investigation as set out in § 17-42-315.

4 (b) The commission shall determine what constitutes adequate proof of
5 meeting the requirements of subsection (a) of this section and shall deny a
6 license to any applicant who fails to meet such requirements or who fails to
7 pay the appropriate fees.

8
9 SECTION 2. Arkansas Code § 17-42-304 is amended to read as follows:
10 17-42-304. Fees.

11 The Arkansas Real Estate Commission shall have authority to establish,
12 charge, and collect the following fees:

13 (1) An application fee not to exceed fifty dollars (\$50.00);

14 (2) An original broker's license fee not to exceed eighty
15 dollars (\$80.00);

16 (3) A broker's license annual renewal fee not to exceed eighty
17 dollars (\$80.00);

18 (4) An original salesperson's license fee not to exceed sixty
19 dollars (\$60.00);

20 (5) A salesperson's license annual renewal fee not to exceed
21 sixty dollars (\$60.00);

22 (6) A broker's expired license fee not to exceed one hundred ten
23 dollars (\$110) per year or fraction thereof;

24 (7) A salesperson's expired license fee not to exceed eighty
25 dollars (\$80.00) per year or fraction thereof;

26 (8) A license reissuance fee not to exceed thirty dollars
27 (\$30.00);

28 (9) An initial duplicate license fee not to exceed thirty
29 dollars (\$30.00);

30 (10) A duplicate license annual renewal fee not to exceed thirty
31 dollars (\$30.00);

32 (11) A transfer fee not to exceed thirty dollars (\$30.00);

33 (12)(A) An examination fee not to exceed seventy-five dollars
34 (\$75.00).

35 (B) However, the commission at its discretion may direct
36 each applicant to pay the actual costs of the examination fee directly to a

1 testing service engaged by the commission to administer the examination;

2 (13) Pursuant to § 17-42-313, an appeal filing fee not to exceed
3 one hundred dollars (\$100); ~~and~~

4 (14) A Real Estate Recovery Fund fee not to exceed twenty-five
5 dollars (\$25.00); and

6 (15) The actual cost of a state and federal criminal history
7 background check.

8
9 SECTION 3. Arkansas Code § 17-42-311 is amended to read as follows:
10 17-42-311. Violations.

11 (a) The following acts, conduct, or practices are prohibited, and any
12 licensee found guilty shall be subject to disciplinary action as provided in
13 § 17-42-312:

14 (1) Obtaining a license by means of fraud, misrepresentation, or
15 concealment;

16 (2) Violating any of the provisions of this chapter or any rules
17 or regulations adopted pursuant thereto or any order issued thereunder;

18 (3) Being convicted of any crime ~~involving moral turpitude,~~
19 ~~fraud, dishonesty, untruthfulness, or untrustworthiness. Provided, that for~~
20 ~~the purposes of this section, being convicted shall include all instances in~~
21 ~~which a plea of guilty or nolo contendere is the basis for the conviction and~~
22 ~~all proceedings in which the sentence has been deferred or suspended, and a~~
23 ~~certified copy of the final judgment of any court of competent jurisdiction~~
24 ~~in such matters shall be conclusive evidence in any hearing under this~~
25 ~~chapter~~ specified in § 17-42-315;

26 (4) Making any substantial misrepresentation;

27 (5) Making, printing, publishing, distributing, or causing,
28 authorizing, or knowingly permitting the making, printing, publication, or
29 distribution of false statements, descriptions, or promises of such character
30 as to reasonably induce, persuade, or influence any person to act thereon;

31 (6) Failing within a reasonable time to account for or to remit
32 any moneys coming into his or her possession which belong to others;

33 (7) Committing any act involving moral turpitude, fraud,
34 dishonesty, untruthfulness, or untrustworthiness;

35 (8) Acting for more than one (1) party in a transaction without
36 the knowledge of all parties for whom he or she acts or accepting a

1 commission or valuable consideration for the performance of any of the acts
2 specified in this chapter from any person except the licensed principal
3 broker under whom he or she is licensed;

4 (9) Acting as a broker or salesperson while not licensed with a
5 principal broker, representing or attempting to represent a broker other than
6 the principal broker with whom he or she is affiliated without the express
7 knowledge and consent of the principal broker, or representing himself or
8 herself as a salesperson or having a contractual relationship similar to that
9 of a salesperson with anyone other than a licensed principal broker;

10 (10) Advertising in a false, misleading, or deceptive manner;

11 (11) Being unworthy or incompetent to act as a real estate
12 broker or salesperson in such manner as to safeguard the interests of the
13 public;

14 (12) Paying a commission or valuable consideration to any person
15 for acts or services performed in violation of this chapter, including paying
16 a commission or other valuable consideration to an unlicensed person for
17 participation in a real estate auction; and

18 (13) Any other conduct, whether of the same or a different
19 character from that hereinbefore specified, which constitutes improper,
20 fraudulent, or dishonest dealing.

21 (b) Any license obtained through mistake or inadvertence shall be
22 subject to revocation.

23 (c) A licensee whose license is revoked pursuant to this section shall
24 be eligible to apply for a new license after the expiration of two (2) years
25 from the date of revocation.

26
27 SECTION 4. Arkansas Code Title 17, Chapter 42, Subchapter 3, is
28 amended by adding a new section to read as follows:

29 17-42-315. Criminal background check.

30 (a) Beginning January 1, 2006, the Arkansas Real Estate Commission may
31 require each original applicant for a license issued by the commission to
32 apply to the Identification Bureau of the Department of Arkansas State Police
33 for a state and federal criminal background check to be conducted by the
34 Identification Bureau of the Department of Arkansas State Police and the
35 Federal Bureau of Investigation.

36 (b) The check shall conform to applicable federal standards and shall

1 include the taking of fingerprints.

2 (c) The applicant shall sign a release of information to the
 3 commission and shall be responsible for the payment of any fee associated
 4 with the criminal background check.

5 (d) Upon completion of the criminal background check, the
 6 Identification Bureau of the Department of Arkansas State Police shall
 7 forward to the commission all releasable information obtained concerning the
 8 applicant.

9 (e) At the conclusion of any background check required by this
 10 section, the Identification Bureau of the Department of Arkansas State Police
 11 shall be allowed to retain the fingerprint card of the applicant until
 12 notified by the commission that the person is no longer licensed.

13 (f) Except as provided in subsection (g) of this section, a person
 14 shall not receive or hold a license issued by the commission if the person
 15 has been convicted of a felony or crime involving moral turpitude, fraud,
 16 dishonesty, untruthfulness, or untrustworthiness.

17 (g)(1) The provisions of subsection (f) of this section may be waived
 18 by the commission upon the request of:

- 19 (A) An affected applicant for licensure; or
- 20 (B) The person holding a license subject to sanctions.

21 (2) Circumstances for which a waiver may be granted shall
 22 include, but not be limited to, the following:

- 23 (A) The age at which the crime was committed;
- 24 (B) The circumstances surrounding the crime;
- 25 (C) The length of time since the crime;
- 26 (D) Subsequent work history;
- 27 (E) Employment references;
- 28 (F) Character references; and
- 29 (G) Other evidence demonstrating that the applicant does

30 not pose a threat to the public.

31 (h)(1) Any information received by the commission from the
 32 Identification Bureau of the Department of Arkansas State Police or the
 33 Federal Bureau of Investigation pursuant to this section shall not be
 34 available for examination except by the affected applicant for licensure, or
 35 his or her authorized representative, or the person whose license is subject
 36 to sanctions, or his or her authorized representative.

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