Session 115 - (2003-2004)

H 4893 General Bill, By Edge, Sandifer, Huggins, E.H. Pitts, Bales, Clark, Bailey, Ceips, Coates, Hayes, Herbkersman, Jennings, Littlejohn, Loftis, Simrill, G.R. Smith, Tripp and Duncan

Similar (S 0949)

Summary: Real estate transactions

A BILL TO AMEND SECTION 40-57-135, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DUTIES OF REAL ESTATE BROKERS-IN-CHARGE AND MANAGERS-IN-CHARGE, POLICIES, AND RECORDKEEPING, SO AS, AMONG OTHER THINGS, TO FURTHER SPECIFY PROCEDURES FOR HANDLING CHECKS RECEIVED AS ESCROW OR SECURITY DEPOSITS FOR SALES OR LEASE AGREEMENTS AND PROCEDURES FOR MARKETING LISTINGS BY COMPANIES THAT ARE MEMBERS OF A MULTIPLE LISTING SERVICE; TO AUTHORIZE REAL ESTATE LICENSEES TO USE PUBLIC INFORMATION TO CONTACT INDIVIDUALS BY TELEPHONE, MAIL, OR ELECTRONIC MAIL FOR THE PURPOSE OF SELLING OR MARKETING REAL PROPERTY; TO FURTHER SPECIFY POLICIES RELATING TO DUAL AGENCY, CONTENTS OF LISTING OR BUYER'S AGREEMENTS, AND PROPERTY MANAGEMENT AGREEMENTS; AND TO SPECIFY REAL ESTATE TRANSACTION ACTIVITIES THAT MUST NOT BE CONDUCTED BY AN UNLICENSED INDIVIDUAL EMPLOYED OR SUPERVISED BY AN OWNER OF A REAL ESTATE COMPANY; TO AMEND SECTION 40-57-137, RELATING TO REAL ESTATE BROKERAGE COMPANY DUTIES TO CLIENTS, SO AS, AMONG OTHER THINGS, TO PROVIDE THAT NO CAUSE OF ACTION EXISTS AGAINST AN AGENT WHO HAS TRUTHFULLY DISCLOSED KNOWN DEFECTS TO A BUYER OR AGAINST A REAL ESTATE LICENSEE FOR INFORMATION CONTAINED IN VARIOUS REPORTS, SUCH AS TERMITE AND HOME INSPECTIONS; TO SPECIFY PROCEDURES FOR OBTAINING INFORMED CONSENT TO ACT AS A DUAL AGENT; TO SPECIFY AN EXCEPTION TO REQUIRING A DUAL AGENCY RELATIONSHIP WHEN A LICENSEE IN A COMPANY'S MAIN OFFICE CONDUCTS BUSINESS IN A BRANCH OFFICE; TO SPECIFY SERVICES A LICENSEE MAY PROVIDE TO REAL ESTATE CUSTOMERS AND POLICIES AND PROCEDURES FOR PROVIDING THESE SERVICES; TO ESTABLISH REQUIREMENTS THAT A BROKER-IN-CHARGE MUST SATISFY TO ASSIGN DESIGNATED AGENTS TO EXCLUSIVELY REPRESENT DIFFERENT CLIENTS IN THE SAME TRANSACTION; TO FURTHER PROVIDE FOR THE TRANSACTION OF REAL ESTATE BUSINESS BY DESIGNATED AGENTS AND TO PROVIDE THAT COMPENSATION OR THE PROMISE OF COMPENSATION DOES NOT DETERMINE WHETHER AN AGENCY RELATIONSHIP HAS BEEN CREATED; TO AMEND SECTION 40-57-139, RELATING TO AGENCY DISCLOSURE REQUIREMENTS, SO AS TO PROVIDE THAT FORMS REGARDING THE RELATIONSHIP CREATED BETWEEN THE LICENSEE AND THE CUSTOMER MUST BE ACKNOWLEDGED IN THE LISTING AND BUYER AGENCY AGREEMENT; TO REQUIRE AN AGENCY RELATIONSHIP TO BE CREATED BEFORE RATIFICATION OF THE REAL ESTATE SALES AGREEMENT, TO SPECIFY CONDITIONS UNDER WHICH AN AGENCY RELATIONSHIP DOES NOT EXIST, AND TO PROVIDE EXCEPTIONS TO THESE AGENCY DISCLOSURE REQUIREMENTS; TO AMEND SECTION 40-57-140, RELATING TO THE EFFECT OF TERMINATION, EXPIRATION, OR COMPLETION OF AGENCY AGREEMENTS, SO AS TO REQUIRE CONTINUED CONFIDENTIALITY OF CONFIDENTIAL INFORMATION AND TO PROVIDE THAT THE DUTY TO BE TRUTHFUL PREVAILS OVER MAINTAINING CONFIDENTIALITY; TO AMEND SECTION 40-57-145, RELATING TO GROUNDS FOR DENIAL OF LICENSURE AND FOR DISCIPLINARY ACTIONS, SO AS TO FURTHER SPECIFY ELEMENTS OF THESE GROUNDS AND TO ADD ADDITIONAL GROUNDS; TO AMEND SECTION 40-57-150, RELATING TO INVESTIGATIONS OF VIOLATIONS, SO AS TO EXTEND THE TIME WITHIN WHICH THE REAL ESTATE COMMISSION MUST RENDER A DECISION AND TO AUTHORIZE THE COMMISSION TO RECOVER THE COSTS OF THE INVESTIGATION AND PROSECUTION; AND TO AMEND SECTION 40-57-180, RELATING TO THE POWERS AND DUTIES OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION AND THE REAL ESTATE COMMISSION, SO AS TO PROVIDE THAT NO CAUSE OF ACTION EXISTS FOR FAILURE OF A LICENSEE TO DISCLOSE THE LOCATION OF SEX OFFENDERS AND CERTAIN OFF-SITE HAZARDS OR PSYCHOLOGICAL IMPACTS; AND TO REQUIRE APPROVED INSTRUCTORS TO ATTEND DEVELOPMENT WORKSHOPS OR TO PROVIDE EVIDENCE OF CONTINUING EDUCATION.

03/03/04	**House**	**Introduced and read first time HJ-37**
03/03/04	**House**	**Referred to Committee on Labor, Commerce and Industry HJ-38**
03/09/04	**House**	**Member(s) request name added as sponsor: Duncan**