~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 27, 2017

**H. 3041**

Introduced by Reps. Huggins, Elliott, Long and Hamilton

S. Printed 4/27/17--S.

Read the first time April 4, 2017.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (H. 3041) to amend Section 40‑57‑115, as amended, Code of Laws of South Carolina, 1976, relating to criminal background checks required for initial licensures by the Real, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

THOMAS C. ALEXANDER for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Amended by the House of Representatives on March 30, 2017**

**State Expenditure**

This bill as amended requires both initial license applicants and renewal applicants to submit to a fingerprint-based criminal records check performed by the State Law Enforcement Division (SLED) and the Federal Bureau of Investigation (FBI) as a condition of licensure by the Real Estate Commission. This provision applies to all applicants seeking licensure as a salesman, broker, broker-in-charge, property manager, and property manager-in-charge. Costs associated with these record checks are to be borne by the applicant. Applicants for the broker, salesperson, and broker-in-charge licenses are required to submit to state and national criminal background checks every third renewal (every sixth year). A broker or salesperson who fails to submit to the required records checks must be placed on inactive status, but may be reactivated after submitting to the records checks and by paying applicable fees.

**Department of Labor, Licensing and Regulation**. This bill significantly increases the number of fingerprint-based criminal records checks the Real Estate Commission would be required to process, review, and match to license renewal requests. The department estimates that this bill would require two additional staff (program coordinator, administrative assistant) to accommodate the additional workload. In the first year of operation, other funds expenditures are estimated at $99,346 including $91,706 for salaries and employer contributions, $240 for operating expenses, and $7,400 as a one-time expenditure for computers and office equipment. Each year thereafter, other funds expenditures are estimated at $91,946.

**State Revenue**

The Department of Labor, Licensing and Regulation is required, pursuant to Section 40-1-50(D) to adjust fees biennially to ensure that fee revenue is sufficient, but not excessive, to cover expenses of each respective board. Therefore, the other funds expenditure estimates of $99,346 in the first year of operation, and $91,946 each year thereafter will be offset by subsequent other funds fee adjustments made to cover any shortfalls in revenue collections from real estate license, investigation, and examination fees.

Pursuant to Proviso 81.3 of the FY 2016-17 Appropriations Act, the Department of Labor, Licensing and Regulation is required to remit annually to the general fund an amount equal to ten percent of expenditures. Consequently, remittances to the general fund by the Real Estate Commission are expected to increase by $9,935 in FY 2017-18 and by $9,195 each year thereafter.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 40‑57‑115, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CRIMINAL BACKGROUND CHECKS REQUIRED FOR INITIAL LICENSURES BY THE REAL ESTATE COMMISSION, SO AS TO REQUIRE THESE BACKGROUND CHECKS FOR LICENSURE RENEWALS; AND TO AMEND SECTION 40‑57‑340, RELATING TO LICENSURE RENEWAL REQUIREMENTS FOR REAL ESTATE SALESPERSONS, BROKERS, AND BROKERS‑IN‑CHARGE, SO AS TO MAKE A CONFORMING CHANGE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 40‑57‑115 of the 1976 Code, as last amended by Act 170 of 2016, is further amended to read:

“Section 40‑57‑115. In addition to other requirements established by law and for the purpose of determining an applicant’s eligibility for licensure as a salesman, broker, broker‑in‑charge, property manager, and property manager‑in‑charge, the commission shall require initial applicants and applicants for licensure renewal to submit to a state fingerprint‑based criminal records check, ~~by a source approved by the commission~~ to be conducted by the State Law Enforcement Division (SLED), and a national criminal records check, supported by fingerprints, by the FBI. Costs of conducting a criminal records check must be borne by the applicant. The commission shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as necessary to support the administrative action.”

SECTION 2. Section 40‑57‑340 of the 1976 Code, as added by Act 170 of 2016, is amended to read:

“Section 40‑57‑340. (A) As a condition of active license renewal:

(1) A broker or salesperson shall submit to a criminal background check upon every third renewal as required for initial applicants pursuant to Section 40‑57‑115 and shall provide proof of satisfactory completion biennially of ten hours of continuing education in courses. The ten hours must include a minimum of four hours of instruction in mandated topics.

(2) A broker‑in‑charge shall submit to a criminal background check upon every third renewal as required for initial applicants pursuant to Section 40‑57‑115 and shall provide proof of satisfactory completion biennially of ten hours of continuing education in courses approved by the commission. The ten hours must include a minimum of four hours of instruction in mandated topics for a broker or salesperson license and four hours of continuing education must be in advanced real estate topics designed for brokers‑in‑charge.

(3) A license must be renewed biennially coinciding with the licensees’ continuing education deadline. Approximately one‑half of the licensees must renew in even‑numbered years and the remainder in odd‑numbered years.

(B) Exempt from the biennial continuing education required by subsection (A) are a:

(1) salesperson who successfully completes a post‑licensing course or takes a broker course is exempt for the renewal period during which the course was taken;

(2) licensee while on inactive status;

(3) nonresident broker or salesperson who has successfully satisfied the continuing education requirements in their jurisdiction of residence may be exempt with approval of the commission; or

(4) broker or salesperson with a minimum of twenty‑five years of licensure may apply to be granted an experience‑based partial continuing education waiver, and upon granting of the waiver, is required to complete only the mandatory four hour core course biennially to maintain active licensure. A broker‑in‑charge who has been granted a partial continuing education waiver is required to take the four hour core course and the mandated four hour broker‑in‑charge course biennially. A licensee who previously has been granted a full continuing education waiver by the commission is exempt from the continuing education requirements of this chapter.

(C) A broker or salesperson who takes more than the required number of hours during a two‑year period may not carry forward any excess hours to another renewal period.

(D) A broker or salesperson who fails to submit to a criminal background check requirements of this section or complete the continuing education requirements of this section by the date of license renewal may renew by submitting applicable fees but immediately must be placed on inactive status. The license may be reactivated upon proof of completion of required continuing education and payment of applicable fees or submission to a criminal background check and payment of applicable fees, whichever remedies the deficiency that caused the licensee to be placed on inactive status.

(E) In accordance with regulations, providers electronically shall transmit to the commission student continuing education and qualifying course records. The commission shall maintain an accurate and secure database of student records.

(F) A prelicensing and continuing education course is eligible for distance learning. Certification by the Association of Real Estate License Law Officials (ARELLO) or its subsidiary, the International Distance Education Certification Center (IDECC), is required.

(G) The commission shall qualify for continuing education credit designation and certification programs of nationally recognized real estate organizations and associations. The commission may qualify for continuing education credit other than courses currently approved for continuing credit including, but not limited to, courses offered by the South Carolina Bar Association, South Carolina Forestry Board, and the South Carolina Appraisers Board.

(H) Notwithstanding another provision of law, the commission shall qualify for continuing education credit courses that are related to real estate technology, professional development, and business ethics.”

SECTION 3. This act takes effect three years after approval by the Governor.

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