

SUBJECT: Changing certain TREC regulations; authorizing a Capitol Complex office

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 6 ayes — Kuempel, Guillen, Frullo, Geren, Hernandez, Herrero

0 nays

3 absent — Goldman, Paddie, S. Thompson

SENATE VOTE: On final passage, April 25 — 30-0-1 (Creighton present, not voting)

WITNESSES: *On House companion bill, HB 2534:*

For — Abby Lee, Texas Association of Realtors; (*Registered, but did not testify*: Vicki Fullerton, Daniel Gonzalez, and Julia Parenteau, Texas Association of Realtors)

Against — None

On — Bill Jones, Douglas Oldmixon, and Avis Wukasch, Texas Real Estate Commission

BACKGROUND: **Advertisements.** Occupations Code, sec. 1101.652 governs the conditions under which the Texas Real Estate Commission (TREC) may suspend or revoke a real estate license. Sec. 1101.652(b)(23) authorizes suspension or revocation if a license holder publishes an advertisement that:

- misleads or is likely to deceive the public;
- tends to create a misleading impression; or
- fails to identify the person publishing the advertisement as a licensed broker or agent.

Remittance. Sec. 1105.003(f) requires TREC to remit \$750,000 annually to the general revenue fund to maintain its status as a self-directed, semi-independent agency.

Observers have noted a need for TREC to address various issues related to administration of real estate brokerage in Texas, including advertising, wholesale brokers, and commission funds. Interested parties have called for clarifying certain disclosures and penalties and allowing TREC to maintain a building in the Capitol Complex.

DIGEST: CSSB 2212 would make various changes to the administrative procedures and regulations enforced by the Texas Real Estate Commission (TREC).

Conveyance of option or interest in real property. The bill would allow a person to sell an option or assign interest in a contract to purchase real property only if the person did not use the option or contract to engage in real estate brokerage and disclosed to potential buyers:

- the nature of the equitable interest; and
- that the person was selling only an option or assignment of interest in a contract, and did not have legal title to the real property.

Selling or assigning an option or interest in a contract to purchase real property without disclosing the nature of that interest would constitute real estate brokerage.

Advertisements. The bill would authorize the TREC to suspend or revoke a real estate license if the license holder published an advertisement that implied that a sales agent was responsible for the operation of the broker's real estate business or failed to identify the name of the broker for whom the license holder acted. The bill would remove the authority of TREC to suspend or revoke the license of a person who published an advertisement that failed to identify the publisher as a licensed broker or agent.

The bill would prohibit TREC from making a rule that required advertisements to include the term "broker," "agent," or a similar designation, a reference to the commission, or a person's license number.

Remittance. The bill would change the amount TREC is required to remit

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to the general revenue fund annually to equal \$750,000 minus the cost to construct or maintain a building in the Capitol Complex. This change would apply beginning September 1, 2019, and ending September 1, 2029.

The bill would allow TREC to enter into a ground lease with the Texas Facilities Commission for the location of a building at 203 West Martin Luther King, Jr. Boulevard ("Parking Lot 19").

The bill would take effect September 1, 2017.

NOTES: CSSB 2212 differs from the Senate-passed version by including authorization for a ground lease in the Capitol Complex and changing TREC's required annual remittance to be offset by the cost of construction and maintenance of a Capitol Complex building.

A companion bill, HB 2534 by Kuempel, was reported favorably from the House Licensing and Administrative Procedures Committee on April 27.