

Regular Session, 2010

HOUSE BILL NO. 593

BY REPRESENTATIVE PUGH

REAL ESTATE/COMMISSION: Authorizes the La. Real Estate Commission to conduct criminal background checks

1 AN ACT

2 To amend and reenact R.S. 37:1437(B), (C), (D), and (E) and to enact R.S. 37:1437(F), (G),  
3 (H), and (I) and R.S. 44:4(44), relative to licensing requirements for real estate  
4 brokers and salespersons; to authorize the Louisiana Real Estate Commission to  
5 conduct a criminal history background check on applicants for licensure; to provide  
6 an exception to the laws relative to public records for certain information obtained  
7 by the commission in connection with such a background check; and to provide for  
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 37:1437(B), (C), (D), and (E) are hereby amended and reenacted and  
11 R.S. 37:1437(F), (G), (H), and (I) are hereby enacted to read as follows:

12 §1437. Application for license

13 \* \* \*

14 B. In addition to any other requirements established by regulation, as a  
15 condition for license eligibility, the commission may require an applicant to:

16 (1) Submit a full set of fingerprints in a form and manner prescribed by the  
17 commission.

18 (2) Permit the commission to request and obtain state and national criminal  
19 history record information on the applicant.

1           (3) Submit such amount as may be incurred by the commission in requesting  
2           and obtaining state and national criminal history record information on the applicant,  
3           in addition to all other applicable fees and costs.

4           C. The commission may request and obtain state and national criminal  
5           history record information from the Louisiana State Police Bureau of Identification  
6           and Information and the Federal Bureau of Investigation relative to any applicant for  
7           licensing whose fingerprints the commission has obtained, pursuant to this Section,  
8           for the purpose of determining the applicant's suitability and eligibility for licensing.

9           D. Upon request by the commission and upon the commission's electronic  
10           submission of an applicant's fingerprints, and such other identifying information as  
11           may be required, the Louisiana State Police Bureau of Identification and Information  
12           shall conduct a search of its criminal history record information relative to the  
13           applicant and report the results of its search to the commission. The bureau may  
14           charge the commission a processing fee pursuant to R.S. 15:587 for conducting and  
15           reporting on any such search.

16           E. Any state or national criminal history record information obtained by the  
17           commission from the Louisiana State Police Bureau of Identification and  
18           Information or the Federal Bureau of Investigation, which is not already a matter of  
19           public record, shall be deemed nonpublic and confidential information restricted to  
20           the exclusive use of the commission, its members, officers, investigators, agents, and  
21           attorneys in evaluating the applicant's eligibility or disqualification for licensing. No  
22           such information or records related thereto shall be released or otherwise disclosed  
23           by the commission or any other person or agency, except with the written consent  
24           of the applicant or by order of a court of competent jurisdiction.

25           F.(1) Licenses shall be granted only to persons or entities who bear a good  
26           reputation for honesty, trustworthiness, integrity, and competence to transact real  
27           estate activities requiring licensing in this state in such a manner as to safeguard the  
28           interest of the public, and only after satisfactory proof of such qualifications has been  
29           presented to the commission.

1           (2) When an applicant has been convicted of forgery, embezzlement,  
2           obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or  
3           theft, or has been convicted of a felony or a crime involving moral turpitude in any  
4           court of competent jurisdiction, such untrustworthiness of the applicant, and the  
5           conviction, may in itself be sufficient grounds for refusal of a license.

6           (3) When an applicant has made a false statement of material fact on his  
7           application, such false statement may in itself be sufficient grounds for refusal of a  
8           license.

9           (4) Grounds for suspension or revocation of a real estate license in Louisiana  
10          or any other jurisdiction, or the previous suspension or revocation, of a real estate  
11          license in Louisiana or any other jurisdiction shall also be grounds for refusal to  
12          grant a license.

13          ~~E. G.~~(1) No individual real estate broker or salesperson's license shall be  
14          issued to any person who has not attained the age of eighteen years. No individual  
15          real estate broker or salesperson's license shall be issued to any person who is not a  
16          high school graduate or the holder of a certificate of high school equivalency.

17          (2)(a) All applicants for an initial individual real estate broker's license shall  
18          have first served actively for four years as a real estate salesperson and shall show  
19          evidence satisfactory to the commission that they have satisfactorily completed at  
20          least one hundred fifty hours or its equivalent of instruction in real estate courses  
21          approved by the commission prior to licensure. Satisfactory completion includes  
22          passage of an examination on course contents.

23          (b) At least thirty hours of the broker educational requirement shall be  
24          obtained in coursework emphasizing broker responsibilities.

25          (c) Each person obtaining an initial real estate broker's license shall complete  
26          forty-five post-license education hours within one hundred eighty days after the  
27          initial license date. Such hours shall be in subjects required by the commission,  
28          including but not limited to laws, rules and regulations changes, finance, and the  
29          handling of funds. Post-license education hours may be used to satisfy eight hours

1 of the twelve-hour annual continuing education requirement; however, post-license  
2 education hours shall not satisfy the four-hour mandatory continuing education topic  
3 specified by the commission.

4 (3) The commission, through its education division, may accept real estate  
5 related credit hours from an accredited college or university as partial substitution  
6 of the broker licensing educational requirement.

7 (4) The commission shall have the authority to accept experience in the real  
8 estate business or related fields as credit toward fulfillment of the education  
9 requirements set forth herein.

10 (5)(a) All applicants for a salesperson's license shall show evidence  
11 satisfactory to the commission that they have completed ninety hours or its  
12 equivalent of instruction in real estate coursework approved by the commission prior  
13 to licensure. Satisfactory completion includes passage of an examination on course  
14 contents.

15 (b) Each person obtaining an initial salesperson's license shall complete  
16 forty-five post-license education hours within one hundred eighty days after the  
17 initial license date. Such hours shall be in subjects required by the commission,  
18 including but not limited to laws, rules and regulations changes, finance, and the  
19 handling of funds. Post-license education hours may be used to satisfy eight hours  
20 of the twelve-hour annual continuing education requirement; however, post-license  
21 education hours shall not satisfy the four-hour mandatory continuing education topic  
22 specified by the commission.

23 (6)(a)(i) In addition to all other education requirements set forth in this  
24 Chapter, the license of an individual real estate broker or salesperson shall not be  
25 renewed unless the broker or salesperson shall furnish proof of completion of twelve  
26 hours per year of continuing education pertaining to matters, including but not  
27 limited to laws, rules, and regulations relative to licensing, appraisal, finance, taxes,  
28 zoning, environmental quality, and the United States Department of Housing and  
29 Urban Development. Four of the required annual continuing education hours shall

1 be in subjects specified by the commission. Post-license education hours may be  
2 used to satisfy eight hours of the twelve-hour annual continuing education  
3 requirement; however, post-license education hours shall not satisfy the four-hour  
4 mandatory continuing education topic specified by the commission.

5 (ii) The commission shall promulgate rules and regulations necessary to  
6 implement the continuing education requirement and may mandate the completion  
7 of courses in specific real estate-related subjects. Such rules and regulations may  
8 require passage of an examination in order to satisfy the continuing education  
9 requirement.

10 ~~D. H.~~ Every applicant for a license shall submit a sworn statement attesting  
11 that he has knowledge of and understands the provisions of the Fair Housing Act of  
12 1968 and the Louisiana Equal Housing Opportunity Act, and any amendments  
13 thereto or any successor legislation subsequently following, and that he shall not  
14 induce or attempt to induce any person to sell or rent any dwelling by representations  
15 regarding the entry or prospective entry into an area, subdivision, or neighborhood  
16 of a person or persons of a particular race, color, religion, or national origin.

17 ~~E. I.~~ A nonresident may obtain a broker's or salesperson's license and engage  
18 in the real estate business in this state under conditions prescribed by the  
19 commission.

20 Section 2. R.S. 44:4(44) is hereby enacted to read as follows:

21 §4. Applicability

22 This Chapter shall not apply:

23 \* \* \*

24 (44) To fingerprints and other identifying information of a person and  
25 information from the Louisiana State Police Bureau of Identification and Information  
26 or the Federal Bureau of Investigation concerning the person that is not otherwise a  
27 matter of public record and was obtained by the Louisiana State Real Estate  
28 Commission in connection with a background check conducted pursuant to R.S.  
29 37:1437.

1 Section 3. This Act shall become effective upon signature by the governor or, if not  
 2 signed by the governor, upon expiration of the time for bills to become law without signature  
 3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 4 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 5 effective on the day following such approval.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Pugh

HB No. 593

**Abstract:** Authorizes a criminal background check on applicants for real estate broker or salesperson's licensure.

Present law provides licensing requirements for an applicant for a real estate broker or salesperson's license to be issued by the La. Real Estate Commission.

Proposed law retains present law.

Proposed law provides that the commission may also require an applicant to:

- (1) Submit a full set of fingerprints in a form and manner prescribed by the commission.
- (2) Permit the commission to request and obtain state and national criminal history record information on the applicant.
- (3) Submit such amount as may be incurred by the commission in requesting and obtaining state and national criminal history record information on the applicant, in addition to all other applicable fees and costs.

Proposed law authorizes the commission to request and obtain state and national criminal history record information from the La. State Police Bureau of Identification and Information (LSPBII) and the F.B.I. relative to any applicant for licensing whose fingerprints the commission has obtained for the purpose of determining the applicant's suitability and eligibility for licensing.

Proposed law provides that upon request by the commission and upon the commission's electronic submission of an applicant's fingerprints, and such other identifying information as may be required, the LSPBII shall conduct a search of its criminal history record information relative to the applicant and report the results of its search to the commission. Provides that the bureau may charge the commission a processing fee for conducting and reporting on any such search.

Proposed law provides that any criminal history record information obtained by the commission from the LSPBII or F.B.I., which is not already a matter of public record, shall be deemed nonpublic and confidential information restricted to the exclusive use of the commission, its members, officers, investigators, agents, and attorneys in evaluating the applicant's eligibility or disqualification for licensing. Provides that no such information or records related thereto shall be released or otherwise disclosed by the commission or any

other person or agency, except with the written consent of the applicant or by order of a court of competent jurisdiction.

Present law (R.S. 44:1 et seq., relative to public records) provides that any person of the age of majority may inspect, copy or reproduce, or obtain a reproduction of any public record. Provides procedures for requesting a record and presentation of the requested record. Provides for enforcement and penalties for violations. Provides exceptions.

Proposed law retains present law and provides an additional exception to the applicability of present law for fingerprints and other identifying information of a person and information from the LSPBII or the F.B.I. concerning the person that is not otherwise a matter of public record and was obtained by the La. State Real Estate Commission in connection with a background check conducted pursuant to proposed law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 37:1437(B), (C), (D), and (E); Adds R.S. 37:1437(F), (G), (H), and (I) and R.S. 44:4(44))

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on House and Governmental Affairs to the engrossed bill.

1. Added an exception to present law provisions relative to public records for fingerprints and other identifying information that is not otherwise a matter of public record and was obtained by the La. State Real Estate Commission in connection with a background check conducted pursuant to proposed law.