

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 744
Commerce, Small Business and Entrepreneurship Committee Substitute Adopted
5/9/07
House Committee Substitute Favorable 7/19/07

Short Title: Remove Reserve Ceiling/Real Est. Comm/Notice. (Public)

Sponsors:

Referred to:

March 14, 2007

A BILL TO BE ENTITLED

1 AN ACT TO REMOVE THE TEN PERCENT CEILING ON THE EXPENSE
2 RESERVE FUND OF THE NORTH CAROLINA REAL ESTATE COMMISSION
3 UNDER THE REAL ESTATE LICENSING LAWS AND TO ALLOW THE REAL
4 ESTATE COMMISSION TO SERVE NOTICE OF HEARING BY FIRST-CLASS
5 MAIL ON APPLICANTS REQUESTING HEARINGS REGARDING THE
6 APPLICANTS' CHARACTER OR FITNESS FOR LICENSURE.
7

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 93A-3(b) reads as rewritten:

10 "(b) The provisions of G.S. 93B-5 notwithstanding, members of the Commission
11 shall receive as compensation for each day spent on work for the Commission a per
12 diem in an amount established by the Commission by rule, and mileage reimbursement
13 for transportation by privately owned automobile at the business standard mileage rate
14 set by the Internal Revenue Service per mile of travel along with actual cost of tolls
15 paid. The total expense of the administration of this Chapter shall not exceed the total
16 income therefrom; and none of the expenses of said Commission or the compensation or
17 expenses of any office thereof or any employee shall ever be paid or payable out of the
18 treasury of the State of North Carolina; and neither the Commission nor any officer or
19 employee thereof shall have any power or authority to make or incur any expense, debt
20 or other financial obligation binding upon the State of North Carolina. After all
21 expenses of operation, the Commission may set aside an expense reserve each year.
22 ~~year not to exceed ten percent (10%) of the previous year's gross income; then any~~
23 ~~surplus shall go to the general fund of the State of North Carolina.~~ The Commission
24 may deposit moneys in accounts, certificates of deposit, or time deposits as the
25 Commission may approve, in any bank, savings and loan association, or trust company.
26 Moneys also may be invested in the same classes of securities referenced in
27 G.S. 159-30(c)."

1 **SECTION 2.** G.S. 93A-4(b) reads as rewritten:

2 "(b) Except as otherwise provided in this Chapter, any person who submits an
3 application to the Commission in proper manner for a license as real estate broker shall
4 be required to take an examination. The examination may be administered orally, by
5 computer, or by any other method the Commission deems appropriate. The Commission
6 may require the applicant to pay the Commission or a provider contracted by the
7 Commission the actual cost of the examination and its administration. The cost of the
8 examination and its administration shall be in addition to any other fees the applicant is
9 required to pay under subsection (a) of this section. The examination shall determine the
10 applicant's qualifications with due regard to the paramount interests of the public as to
11 the applicant's competency. A person who fails the license examination shall be entitled
12 to know the result and score. A person who passes the exam shall be notified only that
13 the person passed the examination. Whether a person passed or failed the examination
14 shall be a matter of public record; however, the scores for license examinations shall not
15 be considered public records. Nothing in this subsection shall limit the rights granted to
16 any person under G.S. 93B-8.

17 An applicant for licensure under this Chapter shall satisfy the Commission that he or
18 she possesses the competency, honesty, truthfulness, integrity, and general moral
19 character necessary to protect the public interest and promote public confidence in the
20 real estate brokerage business. The Commission may investigate the moral character of
21 each applicant for licensure and require an applicant to provide the Commission with a
22 criminal record report. All applicants shall obtain criminal record reports from one or
23 more reporting services designated by the Commission to provide criminal record
24 reports. Applicants are required to pay the designated reporting service for the cost of
25 these reports. If the results of any required competency examination and investigation of
26 the applicant's moral character shall be satisfactory to the Commission, then the
27 Commission shall issue to the applicant a license, authorizing the applicant to act as a
28 real estate broker in the State of North Carolina, upon the payment of privilege taxes
29 now required by law or that may hereafter be required by law.

30 Notwithstanding G.S. 150B-38(c), in a contested case commenced upon the request
31 of a party applying for licensure regarding the question of the moral character or fitness
32 of the applicant, if notice has been reasonably attempted, but cannot be given to the
33 applicant personally or by certified mail in accordance with G.S. 150B-38(c), the notice
34 of hearing shall be deemed given to the applicant when a copy of the notice is deposited
35 in an official depository of the United States Postal Service addressed to the applicant at
36 the latest mailing address provided by the applicant to the Commission or by any other
37 means reasonably designed to achieve actual notice to the applicant."

38 **SECTION 3.** This act is effective when it becomes law.