

By: Representative Calhoun

To: Judiciary A

HOUSE BILL NO. 365

1 AN ACT TO PROVIDE FOR THE LICENSING OF REAL ESTATE EDUCATION
2 PROVIDERS, EDUCATION PROVIDER BRANCHES AND INSTRUCTORS; TO PROVIDE
3 THE COURSES THAT REAL ESTATE EDUCATION PROVIDERS ARE TO INSTRUCT
4 ON; TO PROVIDE THE FEES TO BE ASSESSED FOR AN EDUCATION PROVIDER
5 LICENSE; TO PROVIDE FOR THE LICENSING OF EDUCATION PROVIDER
6 INSTRUCTORS; TO REPEAL SECTIONS 73-35-14 THROUGH 73-35-14.5,
7 MISSISSIPPI CODE OF 1972, WHICH CREATE REAL ESTATE SCHOOLS; AND
8 FOR RELATED PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 **SECTION 1. Licensing of real estate education providers,**
11 **education provider branches, and instructors.** (1) No person
12 shall operate an education provider entity without possessing a
13 valid and active license issued by the Mississippi Real Estate
14 Commission ("commission"). Only education providers in possession
15 of a valid education provider license may provide real estate
16 pre-license, post-license, or continuing education courses that
17 satisfy the requirements of this act. Every person that desires
18 to obtain an education provider license shall make application to
19 the commission in writing on forms prescribed by the commission
20 and pay the fee prescribed by rule. In addition to any other
21 information required to be contained in the application as



prescribed by rule, every application for an original or renewed license shall include the applicant's social security number or tax identification number.

(2) To qualify for an education provider license, an applicant must demonstrate the following:

(a) A sound financial base for establishing, promoting, and delivering the necessary courses; budget planning for the school's courses should be clearly projected;

(b) A sufficient number of qualified, licensed instructors as provided by rule;

(c) Adequate support personnel to assist with administrative matters and technical assistance;

(d) Maintenance and availability of records of participation for licensees;

(e) The ability to provide each participant who successfully completes an approved program with a certificate of completion signed by the administrator of a licensed education provider on forms provided by the commission;

(f) A written policy dealing with procedures for the management of grievances and fee refunds;

(g) Lesson plans and examinations, if applicable, for each course;

(h) A seventy-five percent (75%) passing grade for successful completion of any continuing education course or pre-license or post-license examination, if required;



(i) The ability to identify and use instructors who will teach in a planned program; instructor selections must demonstrate:

- (i) Appropriate credentials;
- (ii) Competence as a teacher;
- (iii) Knowledge of content area; and
- (iv) Qualification by experience.

(3) Unless otherwise provided for in this section, the education provider shall provide a proctor or an electronic means of proctoring for each examination. The education provider shall be responsible for the conduct of the proctor, and the duties and responsibilities of a proctor shall be established by rule.

(4) Unless otherwise provided for in this section, the education provider must provide for closed book examinations for each course unless the commission excuses this requirement based on the complexity of the course material.

(5) Advertising and promotion of education activities must be carried out in a responsible fashion clearly showing the educational objectives of the activity, the nature of the audience that may benefit from the activity, the cost of the activity to the participant and the items covered by the cost, the amount of credit that can be earned, and the credentials of the faculty.

(6) The commission may, after notice, cause an education provider to attend an informal conference before the commission for failure to comply with any requirement for licensure or for



failure to comply with any provision of this act or the rules for the administration of this act.

(7) All education providers shall maintain these minimum criteria and pay the required fee in order to retain their education provider license.

(8) The commission may adopt any administrative rule consistent with the language and intent of this act that may be necessary for the implementation and enforcement of this section.

SECTION 2. Licensing of education providers; approval of

courses. (1) All education providers shall submit, at the time of initial application and with each license renewal, a list of courses with course materials that comply with the course requirements in this act to be offered by the education provider. The commission may establish an online mechanism by which education providers may submit for approval by the commission pre-license, post-license, or continuing education courses that are submitted after the time of the education provider's initial license application or renewal. The commission shall provide to each education provider a certificate for each approved pre-license, post-license, or continuing education course. All pre-license, post-license, or continuing education courses shall be valid for the period coinciding with the term of license of the education provider. However, in no case shall a course continue to be valid if it does not, at all times, meet all of the requirements of the core curriculum established by this act and



97 the commission, as modified from time to time in accordance with
98 this act. All education providers shall provide a copy of the
99 certificate of the pre-license, post-license, or continuing
100 education course within the course materials given to each student
101 or shall display a copy of the certificate of the pre-license,
102 post-license, or continuing education course in a conspicuous
103 place at the location of the class.

104 (2) Each education provider shall provide to the commission
105 a report in a frequency and format determined by the commission,
106 with information concerning students who successfully completed
107 all approved pre-license, post-license, or continuing education
108 courses offered by the education provider.

109 (3) The commission may temporarily suspend a licensed
110 education provider's approved courses without hearing and refuse
111 to accept successful completion of or participation in any of
112 these pre-license, post-license, or continuing education courses
113 for education credit from that education provider upon the failure
114 of that education provider to comply with the provisions of this
115 act or the rules for the administration of this act, until such
116 time as the commission receives satisfactory assurance of
117 compliance. The commission shall notify the education provider of
118 the noncompliance and may initiate disciplinary proceedings
119 pursuant to this act. The commission may refuse to issue,
120 suspend, revoke, or otherwise discipline the license of an
121 education provider or may withdraw approval of a pre-license,



post-license, or continuing education course for good cause. Failure to comply with the requirements of this section or any other requirements established by rule shall be deemed to be good cause. Disciplinary proceedings shall be conducted by the commission in the same manner as other disciplinary proceedings under this act.

(4) Pre-license, post-license, and continuing education courses, whether submitted for approval at the time of an education provider's initial application for licensure or otherwise, must meet the following minimum course requirements:

(a) No continuing education course shall be required to be taught in increments longer than two (2) hours in duration; however, for each two (2) hours of course time in each course, there shall be a minimum of one hundred (100) minutes of instruction.

(b) All core curriculum courses shall be provided only in the classroom or through a live, interactive webinar or online distance education format.

(c) Courses provided through a live, interactive webinar shall require all participants to demonstrate their attendance in and attention to the course by answering or responding to at least one (1) polling question per thirty (30) minutes of course instruction. In no event shall the interval between polling questions exceed thirty (30) minutes.



(d) All participants in courses provided in an online distance education format shall demonstrate proficiency with the subject matter of the course through verifiable responses to questions included in the course content.

(e) Credit for courses completed in a classroom or through a live, interactive webinar or online distance education format shall not require an examination.

(f) Credit for courses provided through correspondence, or by home study, shall require the passage of an in-person, proctored examination.

(5) The commission may adopt any administrative rule consistent with the language and intent of this act that may be necessary for the implementation and enforcement of this section.

SECTION 3. Fees for education provider license; renewal; term. All applications for an education provider license shall be accompanied by a nonrefundable application fee in an amount established by rule. All education providers shall be required to submit a renewal application, the required fee as established by rule, and a listing of the courses to be offered during the year in order to renew their education provider licenses. The term for an education provider license shall be two (2) years.

SECTION 4. Licensing of education provider instructors. (1) No person shall act as either a pre-license or continuing education instructor without possessing a valid pre-license or



continuing education instructor license and satisfying any other qualification criteria established by the commission by rule.

(2) Each person that is an instructor for pre-license, continuing education core curriculum, or broker management education courses shall meet specific criteria established by the commission by rule. Those persons who have not met the criteria shall only teach continuing education elective curriculum courses.

(3) Every person who desires to obtain an education provider instructor's license shall attend and successfully complete a one-day instructor development workshop, as approved by the commission. However, pre-license instructors who have complied with subsection (2) of this section shall not be required to complete the instructor workshop in order to teach continuing education elective curriculum courses.

(4) (a) The term of licensure for a pre-license or continuing education instructor shall be two (2) years and as established by rule. Every person who desires to obtain a pre-license or continuing education instructor license shall make application to the commission in writing on forms prescribed by the commission, accompanied by the fee prescribed by rule. In addition to any other information required to be contained in the application, every application for an original license shall include the applicant's social security number, which shall be retained in the agency's records pertaining to the license. As



194 soon as practical, the commission shall assign a customer's
195 identification number to each applicant for a license.

196 (b) Every application for a renewal or restored license
197 shall require the applicant's customer identification number.

198 (c) The commission shall issue a pre-license or
199 continuing education instructor license to applicants who meet
200 qualification criteria established by this act or rule.

201 (5) The commission may refuse to issue, suspend, revoke, or
202 otherwise discipline a pre-license or continuing education
203 instructor for good cause. Disciplinary proceedings shall be
204 conducted by the commission in the same manner as other
205 disciplinary proceedings under this act. All pre-license
206 instructors must teach at least one (1) pre-license or continuing
207 education core curriculum course within the period of licensure as
208 a requirement for renewal of the instructor's license. All
209 continuing education instructors must teach at least one (1)
210 course within the period of licensure or take an instructor
211 training program approved by the commission in lieu thereof as a
212 requirement for renewal of the instructor's license.

213 (6) Each course transcript submitted by an education
214 provider to the commission shall include the name and license
215 number of the pre-license or continuing education instructor for
216 the course.

217 (7) Licensed education provider instructors may teach for
218 more than one (1) licensed education provider.



219 (8) The commission may adopt any administrative rule
220 consistent with the language and intent of this act that may be
221 necessary for the implementation and enforcement of this section.

222 **SECTION 5.** Sections 73-35-14, 73-35-14.1, 73-35-14.2,
223 73-35-14.3, 73-35-14.4 and 73-35-14.5, Mississippi Code of 1972,
224 which create Real Estate Schools, are repealed.

225 **SECTION 6.** This act shall take effect and be in force from
226 and after July 1, 2019.

