

2022 Regular Session

HOUSE BILL NO. 586

BY REPRESENTATIVE THOMAS

REAL ESTATE: Provides limited authority to the Louisiana Real Estate Commission to access certain criminal history record information of licensees and applicants

1 AN ACT

2 To enact R.S. 37:1435.1, relative to the authority of the Louisiana Real Estate Commission;  
3 to authorize access to certain criminal history record information; to provide for  
4 definitions; to provide for legislative intent; to establish minimum standards and  
5 procedure; to provide for limitations to the access and use of certain criminal history  
6 record information; to provide for effectiveness; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 37:1435.1 is hereby enacted to read as follows:

9 §1435.1. Authority to obtain criminal history record information

10 A. As used in this Section, the following terms have the following meanings:

11 (1) "Applicant" means an individual who applies to the commission to  
12 request the initial issuance or reinstatement of any form of licensure the commission  
13 is authorized to issue according to this Chapter.

14 (2) "Bureau" means the Louisiana Bureau of Criminal Identification and  
15 Information of the office of state police within the Department of Public Safety and  
16 Corrections.

17 (3) "Commission" means the Louisiana Real Estate Commission.

18 (4) "Criminal history record information" means the information collected  
19 on individuals by state and federal criminal justice agencies consisting of identifiable  
20 fingerprint based records of arrests and detentions, including sentencing, criminal,

1 and release. It shall not include intelligence information gathered for investigatory  
2 purposes or any identification information which does not indicate involvement of  
3 the individual in the criminal justice system.

4 (5) "FBI" means the Federal Bureau of Investigation of the United States  
5 Department of Justice.

6 (6) "Licensure" means any form of licensure the commission is authorized  
7 to issue according to this Chapter.

8 B.(1) The legislature hereby finds and declares it is vitally important to the  
9 public health, interest, and welfare to protect Louisiana citizens, their residences, and  
10 other property by reasonably regulating the licensure of persons performing real  
11 estate activity in the state.

12 (2)(a) Accordingly, pursuant to this Section, the commission is hereby  
13 authorized to request and obtain state and national criminal history record  
14 information from the bureau and the FBI regarding each applicant.

15 (b) Notwithstanding Subparagraph (a) of this Paragraph, the commission's  
16 use of fingerprints shall be for the limited purposes of determining the initial  
17 licensure or reinstatement eligibility of each applicant and conducting directly  
18 related matters in accordance with the Administrative Procedure Act, R.S. 49:950 et  
19 seq, or other applicable law.

20 C. Notwithstanding any other provision of this Chapter, the commission may  
21 require an applicant to do any of the following to determine the initial licensure or  
22 reinstatement eligibility of an applicant:

23 (1) Submit a complete set of fingerprints in the form and manner required  
24 by the bureau.

25 (2) Authorize the commission to request and obtain state and national  
26 criminal history record information relating to the applicant.

27 (3) Pay to the bureau an amount equal to the administrative costs imposed  
28 by or on behalf of the bureau, relating to submission and processing of applicant  
29 fingerprints for review of criminal history record information.

1           D. The commission is required to do all of the following relative to its  
2           access, use, and maintenance of criminal history record information:

3           (1) Prescribe a form to be completed by each applicant prior to any  
4           fingerprint submission, which shall include all of the following at a minimum:

5           (a) An acknowledgment that fingerprints submitted to the bureau or  
6           commission shall be used to check the national criminal history records maintained  
7           by the FBI.

8           (b) An inquiry requiring the applicant to specifically identify or state the  
9           specific reason he has submitted fingerprints to the bureau or commission.

10          (c) A statement providing the procedure and contact information necessary  
11          to challenge the accuracy of information contained in the FBI identification record  
12          of the applicant.

13          (d) Any other notice or information required by the bureau to be disclosed  
14          to an applicant prior to the submission of fingerprints.

15          E.(1) Notwithstanding any other provision of this Section, this Section shall  
16          not apply to any licensee, who is licensed and in good standing with the commission,  
17          on or before December 31, 2022.

18          (2) Notwithstanding Paragraph (1) of this Subsection, any real estate  
19          salesperson licensed on or before December 31, 2022 who subsequently applies on  
20          or after January 1, 2023 either for initial licensure as a real estate broker or for the  
21          reinstatement of any suspended or revoked license issued by the commission shall  
22          be subject to this Section.

23          (3) Every real estate salesperson who seeks licensure with the Commission  
24          shall consent to, pass, and pay the costs of a background check pursuant to R.S.  
25          15:587.

26          Section 2. This Act shall become effective January 1, 2023.

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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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HB 586 Original

2022 Regular Session

Thomas

**Abstract:** Authorizes the Louisiana Real Estate Commission to access the criminal history record information of licensees and applicants in certain circumstances.

Proposed law defines "applicant", "bureau", "commission", "criminal history record information", "FBI", and "licensure".

Proposed law authorizes the La. Real Estate Commission (LREC) to obtain from the FBI an applicant's state and national criminal history record information.

Proposed law limits LREC's use of fingerprints to only as necessary for determining licensure eligibility of each applicant and matters directly related to same.

Proposed law authorizes LREC to enact the following requirements for an applicant to follow so that LREC may determine licensure eligibility:

- (1) Submit complete fingerprints that comply with FBI requirements.
- (2) Give LREC permission to obtain state and national criminal history record information.
- (3) Pay for the cost imposed by the FBI to process fingerprints for review of an applicants criminal history record information.

Proposed law requires LREC to:

- (1) Comply with all FBI requirements relative to its access of criminal history record information.
- (2) Provide a form for applicants to complete to give them notice of what information will be obtained by providing fingerprints to LREC and the FBI and how the information will be used.

Proposed law does not apply to any licensees who are in good standing with LREC on or before Dec. 31, 2022.

Proposed law provides that proposed law does apply to licensees licensed on or before Dec. 31, 2022 who go on to apply for initial licensure as a real estate broker or to reinstate any suspended or revoked license issued by LREC.

Effective Jan. 1, 2023.

(Adds R.S. 37:1435.1)