

2022 Regular Session

HOUSE BILL NO. 586

BY REPRESENTATIVES THOMAS AND BOYD

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 all state records of arrest,
19 prosecution, conviction, including those which have been expunged or dismissed
20 pursuant to Code of Criminal Procedure Article 893, and national records which
21 shall include fingerprints of the applicant, biometrics, and other identifying
22 information, if so requested by the department.

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

3 (6) "Licensure" means any form of licensure the commission is authorized
4 to issue in accordance with this Chapter.

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

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

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

17 (3) The commission shall be entitled to the criminal history record and
18 identification files of the Louisiana Bureau of Criminal Identification and
19 Information, located within the Department of Public Safety and Corrections, of any
20 person who is licensed or is applying to be licensed as a real estate salesperson or
21 broker. Fingerprints, biometrics, and other identifying information of the applicant
22 shall be submitted to the Louisiana Bureau of Criminal Identification and
23 Information for qualification and registry, and the Louisiana Bureau of Criminal
24 Identification and Information shall, upon request of the bureau and after receipt of
25 such fingerprint card and other identifying information from the applicant, make
26 available to the bureau all arrest and conviction information contained in the
27 Louisiana Bureau of Criminal Identification and Information's criminal history
28 record and identification files which pertain to the applicant for licensure. In
29 addition, the fingerprints shall be forwarded by the Louisiana Bureau of Criminal

1 Identification and Information to the Federal Bureau of Investigation for a national
2 criminal history record check.

3 (4) In accordance with the authority provided for in this Chapter, the costs
4 of providing the information required in accordance with this Section shall be
5 charged by the Louisiana Bureau of Criminal Identification and Information, as
6 specified in R.S. 15:587(B) to the bureau for furnishing information contained in the
7 Louisiana Bureau of Criminal Identification and Information's criminal history
8 records and identification files, including any additional cost of providing the
9 national criminal history records check, which pertains to the applicant. The bureau
10 may impose any or all such fees or costs on the applicant.

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

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

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

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

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

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

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

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

1 (c) A statement providing the procedure and contact information necessary
2 to challenge the accuracy of information contained in the FBI identification record
3 of the applicant.

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

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

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

14 (3) Every real estate salesperson or broker who seeks licensure with the
15 Commission shall consent to and pay the costs of a background check pursuant to
16 R.S. 15:587.

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____