

1 **Senate Bill No. 211**

2 (By Senators McCabe and Beach)

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4 [Introduced February 19, 2013; referred to the Committee on
5 Government Organization; and then to the Committee on the
6 Judiciary.]
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11 A BILL to amend and reenact §30-40-11 of the Code of West Virginia,
12 1931, as amended, relating to requiring applicants for
13 licenses for original brokers, associate brokers or
14 salespersons to agree to fingerprinting and criminal history
15 record checks; granting the West Virginia Real Estate
16 Commission the authority to perform the criminal history
17 record checks; and requiring the applicants to cover the costs
18 of performing the record checks.

19 *Be it enacted by the Legislature of West Virginia:*

20 That §30-40-11 of the Code of West Virginia, 1931, as amended,
21 be amended and reenacted to read as follows:

22 **ARTICLE 40. WEST VIRGINIA REAL ESTATE LICENSE ACT.**

23 **§30-40-11. Application for license.**

1 The commission shall only issue an original license to an
2 applicant if he or she:

3 (a) Submits an application, in writing, in a form prescribed
4 by the commission which must contain, but is not limited to:

5 (1) The applicant's social security number;

6 (2) The recommendation of at least two persons who:

7 (A) Are property owners at the time of signing the
8 application;

9 (B) Have been property owners for at least twelve months
10 preceding the signing of the application;

11 (C) Have known the applicant for at least two years;

12 (D) Are not related to the applicant;

13 (E) Are not affiliated with the applicant as an employer,
14 partner or associate or with the broker that will employ the
15 applicant;

16 (F) Believe the applicant bears a good reputation for honesty,
17 trustworthiness and fair dealing; and

18 (G) Believe the applicant is competent to transact the
19 business of a real estate broker, associate broker or salesperson,
20 as the case may be, in a manner that would protect the interest of
21 the public.

22 (3) A clear record indicating all jurisdictions where the
23 applicant holds or has held any professional license.

1 (4) A clear record indicating if the applicant has been
2 convicted of any criminal offense or if there is any criminal
3 charge pending against the applicant, or a member or officer of the
4 brokerage business, at the time of application.

5 (b) Is at least eighteen years of age.

6 (c) Is a high school graduate or the holder of an equivalency
7 diploma.

8 (d) Is trustworthy, of good moral character and competent to
9 transact the business of a broker, associate broker or salesperson.

10 (e) Has authorized, under the procedure provided in this
11 subsection, the commission to obtain a criminal history record
12 information check of his or her criminal record from the West
13 Virginia State Police and the Federal Bureau of Investigation. No
14 application may be considered complete until the criminal history
15 record information is received by the commission. Each applicant
16 for an original broker, associate broker or sales person's license
17 is subject to fingerprinting and a check of his or her criminal
18 history record information maintained by the West Virginia State
19 Police and a check of his or her criminal history record
20 information maintained by the Federal Bureau of Investigation. An
21 applicant shall provide his or her fingerprints to the State Police
22 in accordance with procedures established by the State Police, at
23 the time the commission requests the criminal history check. The

1 applicant shall pay the actual cost, if any, of the fingerprinting
2 and check of his or her criminal history record information. The
3 applicant must authorize release of the criminal history record
4 check to the commission. The criminal history record check shall be
5 completed within ninety days of the date the original application
6 for a license is received in the commission's office. If not
7 received by that date the commission shall return the application.
8 The records obtained as a result of a criminal history check
9 undertaken pursuant to this subsection are not public records under
10 chapter twenty-nine-b of this code.

11 ~~(e)~~ (f) Has paid the appropriate fee, if any, which must
12 accompany all applications for original license or renewal.

NOTE: The purpose of this bill is to require applicants for licenses under the West Virginia Real Estate License Act to successfully pass criminal history record checks. The bill grants the West Virginia Real Estate Commission with the authority to perform the record checks and requires the applicants to cover the costs of performing the record checks.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.