

1 **H. B. 2497**

2
3 (By Delegates Skaiff, Stowers, E. Nelson, D. Campbell,
4 White, Ferns, Craig, Morgan, Poore and Marcum)

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6 [Introduced February 15, 2013; referred to the
7 Committee on Government Organization then the Judiciary.]

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10 A BILL to amend and reenact §30-40-11 of the Code of West Virginia,
11 1931, as amended relating to requiring applicants for licenses
12 for original brokers, associate brokers or sales persons to
13 agree to finger printing and criminal history record checks;
14 granting the West Virginia Real Estate Commission with the
15 authority to perform the criminal history record checks; and
16 requiring the applicants to cover the costs of performing the
17 record checks.

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

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

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

22 **§30-40-11. Application for license.**

23 The commission shall only issue an original license to an
24 applicant if he or she:

25 (a) Submits an application, in writing, in a form prescribed

1 by the commission which must contain, but is not limited to:

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

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

4 (A) Are property owners at the time of signing the
5 application;

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

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

9 (D) Are not related to the applicant;

10 (E) Are not affiliated with the applicant as an employer,
11 partner or associate or with the broker that will employ the
12 applicant;

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

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

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

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

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

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

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

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

1 for a license is received in the commission's office. If not
2 received by that date the commission shall return the application.
3 The records obtained as a result of a criminal history check
4 undertaken pursuant to this subsection are not public records under
5 chapter twenty-nine-b of this code.

6 ~~(e)~~ (f) Has paid the appropriate fee, if any, which must
7 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.