**South Carolina General Assembly**

122nd Session, 2017-2018

**A60, R93, H3041**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Huggins, Elliott, Long and Hamilton

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Introduced in the House on January 10, 2017

Introduced in the Senate on April 4, 2017

Last Amended on May 11, 2017

Passed by the General Assembly on May 11, 2017

Governor's Action: May 19, 2017, Signed

Summary: Criminal background check requirements of Real Estate Commission

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/15/2016 House Prefiled

12/15/2016 House Referred to Committee on **Labor, Commerce and Industry**

1/10/2017 House Introduced and read first time ([House Journal‑page 50](file:///h:\hj\20170110.docx))

1/10/2017 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 50](file:///h:\hj\20170110.docx))

3/22/2017 House Member(s) request name added as sponsor: Hamilton

3/23/2017 House Committee report: Favorable with amendment **Labor, Commerce and Industry** ([House Journal‑page 29](file:///h:\hj\20170323.docx))

3/30/2017 House Amended ([House Journal‑page 18](file:///h:\hj\20170330.docx))

3/30/2017 House Read second time ([House Journal‑page 18](file:///h:\hj\20170330.docx))

3/30/2017 House Roll call Yeas‑103 Nays‑0 ([House Journal‑page 25](file:///h:\hj\20170330.docx))

3/30/2017 House Unanimous consent for third reading on next legislative day ([House Journal‑page 27](file:///h:\hj\20170330.docx))

3/31/2017 House Read third time and sent to Senate ([House Journal‑page 3](file:///h:\hj\20170331.docx))

3/31/2017 Scrivener's error corrected

4/4/2017 Senate Introduced and read first time ([Senate Journal‑page 7](file:///h:\sj\20170404.docx))

4/4/2017 Senate Referred to Committee on **Labor, Commerce and Industry** ([Senate Journal‑page 7](file:///h:\sj\20170404.docx))

4/6/2017 Scrivener's error corrected

4/27/2017 Senate Committee report: Favorable **Labor, Commerce and Industry** ([Senate Journal‑page 51](file:///h:\sj\20170427.docx))

4/28/2017 Scrivener's error corrected

5/9/2017 Senate Read second time ([Senate Journal‑page 22](file:///h:\sj\20170509.docx))

5/11/2017 Senate Amended ([Senate Journal‑page 47](file:///h:\sj\20170511.docx))

5/11/2017 Senate Read third time and returned to House with amendments ([Senate Journal‑page 47](file:///h:\sj\20170511.docx))

5/11/2017 Senate Roll call Ayes‑38 Nays‑0 ([Senate Journal‑page 47](file:///h:\sj\20170511.docx))

5/11/2017 House Concurred in Senate amendment and enrolled ([House Journal‑page 116](file:///h:\hj\20170511.docx))

5/11/2017 House Roll call Yeas‑82 Nays‑0 ([House Journal‑page 116](file:///h:\hj\20170511.docx))

5/15/2017 Ratified R 93

5/19/2017 Signed By Governor

5/25/2017 Effective date 5/19/17

5/31/2017 Act No. 60

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**VERSIONS OF THIS BILL**

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[3/23/2017](file:///p:\pprever\2017-18\3041_20170323.docx)

[3/30/2017](file:///p:\pprever\2017-18\3041_20170330.docx)

[3/31/2017](file:///p:\pprever\2017-18\3041_20170331.docx)

[4/6/2017](file:///p:\pprever\2017-18\3041_20170406.docx)

[4/27/2017](file:///p:\pprever\2017-18\3041_20170427.docx)

[5/11/2017](file:///p:\pprever\2017-18\3041_20170511.docx)

(A60, R93, H3041)

**AN ACT TO AMEND SECTION 40‑57‑115, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CRIMINAL BACKGROUND CHECKS REQUIRED FOR INITIAL LICENSURES BY THE REAL ESTATE COMMISSION, SO AS TO REQUIRE THESE BACKGROUND CHECKS FOR LICENSURE RENEWALS AND TO REQUIRE BACKGROUND CHECKS TO BE FINGERPRINT‑BASED; TO AMEND SECTION 40‑57‑340, RELATING TO LICENSURE RENEWAL REQUIREMENTS FOR REAL ESTATE SALESPERSONS, BROKERS, AND BROKERS‑IN‑CHARGE, SO AS TO MAKE CONFORMING CHANGES; TO AMEND SECTION 40‑57‑710, RELATING TO GROUNDS FOR LICENSE DENIAL AND DISCIPLINE, SO AS TO INCLUDE FAILURE TO DISCLOSE CIVIL JUDGMENTS BROUGHT ON GROUNDS OF FRAUD, MISREPRESENTATION, OR DECEIT; AND TO AMEND SECTION 40‑57‑510, RELATING TO PROPERTY MANAGERS AND PROPERTY MANAGERS-IN‑CHARGE, SO AS TO REQUIRE FINGERPRINT‑BASED BACKGROUND CHECKS FOR APPLICANTS AND EVERY THIRD RENEWAL, AND TO PROVIDE LICENSEES BE PLACED ON INACTIVE STATUS FOR FAILING TO SUBMIT TO REQUIRED CRIMINAL BACKGROUND CHECKS.**

Be it enacted by the General Assembly of the State of South Carolina:

**Fingerprint‑based background checks required, application extended to renewals**

SECTION 1. Section 40‑57‑115 of the 1976 Code, as last amended by Act 170 of 2016, is further amended to read:

“Section 40‑57‑115. In addition to other requirements established by law and for the purpose of determining an applicant’s eligibility for licensure as a salesman, broker, broker‑in‑charge, property manager, and property manager‑in‑charge, the commission shall require initial applicants and applicants for licensure renewal to submit to a state fingerprint‑based criminal records check, to be conducted by the State Law Enforcement Division (SLED), and a national criminal records check, supported by fingerprints, by the FBI. Costs of conducting a criminal records check must be borne by the applicant. The commission shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as necessary to support the administrative action.”

**Criminal background checks every third renewal**

SECTION 2. Section 40‑57‑340 of the 1976 Code, as last amended by Act 170 of 2016, is further amended to read:

“Section 40‑57‑340. (A) As a condition of active license renewal:

(1) A broker or salesperson shall submit to a criminal background check upon every third renewal as required for initial applicants pursuant to Section 40‑57‑115 and shall provide proof of satisfactory completion biennially of ten hours of continuing education in courses. The ten hours must include a minimum of four hours of instruction in mandated topics.

(2) A broker‑in‑charge shall submit to a criminal background check upon every third renewal as required for initial applicants pursuant to Section 40‑57‑115 and shall provide proof of satisfactory completion biennially of ten hours of continuing education in courses approved by the commission. The ten hours must include a minimum of four hours of instruction in mandated topics for a broker or salesperson license and four hours of continuing education must be in advanced real estate topics designed for brokers‑in‑charge.

(3) A license must be renewed biennially coinciding with the licensees’ continuing education deadline. Approximately one‑half of the licensees must renew in even‑numbered years and the remainder in odd‑numbered years.

(B) Exempt from the biennial continuing education required by subsection (A) are a:

(1) salesperson who successfully completes a post‑licensing course or takes a broker course is exempt for the renewal period during which the course was taken;

(2) licensee while on inactive status;

(3) nonresident broker or salesperson who has successfully satisfied the continuing education requirements in their jurisdiction of residence may be exempt with approval of the commission; or

(4) broker or salesperson with a minimum of twenty‑five years of licensure may apply to be granted an experience‑based partial continuing education waiver, and upon granting of the waiver, is required to complete only the mandatory four hour core course biennially to maintain active licensure. A broker‑in‑charge who has been granted a partial continuing education waiver is required to take the four hour core course and the mandated four hour broker‑in‑charge course biennially. A licensee who previously has been granted a full continuing education waiver by the commission is exempt from the continuing education requirements of this chapter.

(C) A broker or salesperson who takes more than the required number of hours during a two‑year period may not carry forward any excess hours to another renewal period.

(D) A broker or salesperson who fails to submit to criminal background check requirements of this section or complete the continuing education requirements of this section by the date of license renewal may renew by submitting applicable fees but immediately must be placed on inactive status. The license may be reactivated upon proof of completion of required continuing education and payment of applicable fees or submission to a criminal background check and payment of applicable fees, whichever remedies the deficiency that caused the licensee to be placed on inactive status.

(E) In accordance with regulations, providers electronically shall transmit to the commission student continuing education and qualifying course records. The commission shall maintain an accurate and secure database of student records.

(F) A prelicensing and continuing education course is eligible for distance learning. Certification by the Association of Real Estate License Law Officials (ARELLO) or its subsidiary, the International Distance Education Certification Center (IDECC), is required.

(G) The commission shall qualify for continuing education credit designation and certification programs of nationally recognized real estate organizations and associations. The commission may qualify for continuing education credit other than courses currently approved for continuing credit including, but not limited to, courses offered by the South Carolina Bar Association, South Carolina Forestry Board, and the South Carolina Appraisers Board.

(H) Notwithstanding another provision of law, the commission shall qualify for continuing education credit courses that are related to real estate technology, professional development, and business ethics.”

**License denials and discipline**

SECTION 3. Section 40‑57‑710(A) of the 1976 Code, as last amended by Act 170 of 2016, is further amended by adding a new item to read:

“(29) fails to disclose civil judgments brought on grounds of fraud, misrepresentation, or deceit.”

**Property manager and property managers‑in‑charge**

SECTION 4. Section 40‑57‑510 of the 1976 Code, as added by Act 170 of 2016, is amended by adding appropriately numbered new subsections to read:

“( ) As a condition for and before applying to the commission for licensure renewal, a property manager or property manager‑in‑charge shall submit to a criminal background check upon every third renewal as required for initial applicants pursuant to Section 40‑57‑115.

( ) A property manager or property manager‑in‑charge who fails to submit to criminal background check requirements of this section by the date of license renewal may renew by submitting applicable fees but immediately must be placed on inactive status. The license may be reactivated upon proof of submission to a criminal background check.”

**Time effective**

SECTION 5. This act takes effect three years after approval by the Governor.

Ratified the 15th day of May, 2017.

Approved the 19th day of May, 2017.

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