

2009 SENATE POLITICAL SUBDIVISIONS

SB 2200

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2200

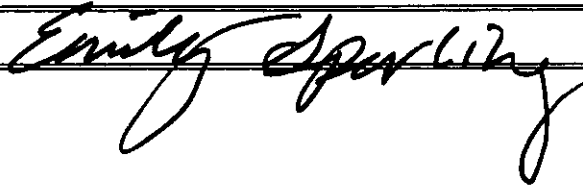
Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: 01/22/2009

Recorder Job Number: 7515, 7519

Committee Clerk Signature



Minutes:

Chairman Andrist: Opened the hearing on SB 2200

Senator Lee: Introduced SB 2200 and spoke in support. As many of you know, in my real life I am a real estate broker and have been for about 33 years. Let me clarify the difference between the Board that is the Real Estate Commission which regulates the practice of real estate brokerage and the ND Association of Realtors which is the trade organization for professionals. I want you to know how well the Association of Realtors and Real Estate Commission work together to maintain the professional and excellent standard of service for the buyers and sellers of real estate. To stay well prepared in an ever changing real estate world, we have always had continuing education. In the past we have always had to come before the legislature to adjust our standards. This bill removes the legislature from the process determining the number of hours of continuing education and allows the Real Estate Commission to set that. This is common process in many other service sectors. The Real Estate Commission has always conducted their business in a manner that best serves the public.

Vice Chairman Olafson: Just to clarify, this has no impact on licensing but is strictly related to continuing education?

Senator Lee: You are absolutely right. This is not changing anything at this point but is simply giving the latitude needed for the commission that has acted very responsibly to make decisions about the hours needed for continued education.

Senator Anderson: So the commission doesn't have to do anything, this bill would just allow them the opportunity to do that?

Senator Lee: Yes, no changes in license process.

Chairman Andrist: To make changes will they have to go through Administrative Rules?

Senator Lee: It has been in statute so we haven't had to do that. And I can't answer the question for the future. We do not intend to require this to go through Rules.

Representative Louise Potter: District 17 and I am a realtor. I am in total support of this bill. I think the realtors around the state are in favor of this bill. My understanding is that this would not go through Administrative Rules.

Clause Lembke: Government Affairs Director for the ND Association of Realtors. We have about 1,500 members out of the 2,000 licensed realtors in the state. I thank the sponsors, the people behind me are volunteers and are all here to show support for this bill. Thank you.

Scott Louser: Broker/Owner Prudential Preferred Properties in Minot. Spoke in support of SB 2200. See attachment #1

Chairman Andrist: Is continuing education available via online classes etc. to people who live in rural areas?

Louser: There are mandatory hours that can be taken online as well as an education caravan that travels around the state every cycle.

Chairman Andrist: For rural areas, are the requirements the same?

Louser: The education hours would be the same everywhere for a real estate license whether you are a member of the association or not.

Senator Lee: One thing to keep in mind is that people in rural areas deserve to have the same amount of education as larger areas. Gave example of sex offender information disclosure.

Dave Lampher: Broker Associate, Park Co., Realtors, Fargo. Spoke in support. See attachment #2.

Steve Lunde: Salesperson, RE/MAX Realty 1, Fargo. See attachment #3. One other comment, Montana has ended its reciprocity agreement with us.

Senator Bakke: Why the discrepancy between the numbers of hours required in MN and the number of hours in ND? And, why did Montana drop us?

Lunde: MN just sets the bar a little higher and we are trying to increase our standards here. I would defer the second questions to Tate Cymbaluk.

Chairman Andrist: Closed the hearing on SB 2200

Job #7517

Chairman Andrist: Reopened the hearing on SB 2200

Tate Cymbaluk: Broker/Co-Owner, Basin Brokers, Inc., Williston. Spoke in support of SB 2200. See attachment 4.

Senator Anderson: What happens if people do not follow through on continuing education?

Cymbaluk: You do not get a license.

Senator Anderson: That's new and continuing?

Cymbaluk: Yes

Chairman Andrist: Are rural realtors subject to the same hour requirements?

Cymbaluk: Yes

Senator Bakke: What happened with Montana?

Cymbaluk: It kind of blindsided us, we are not entirely sure but part of it is the education hour issue. This is not an uncommon event.

Senator Bakke: What are their hours?

Cymbaluk: 12 hours per year, renewed every 2 years.

Senator Bakke: Are you thinking of increasing the required amount of hours?

Cymbaluk: Potentially. The problem is that every time we have wanted to change our hours we have had to come before the legislature.

Senator Dotzenrod: Senator Lee pointed out the difference between the Commission and Association, is it important for us to understand the difference?

Cymbaluk: There are two separate groups. Not every realtor is a member of the Association but the Commission is the boss of every realtor. We have a very unique relationship with our Commission because not everyone has such a positive relationship with their Commission.

Senator Dotzenrod: Are you trying to increase the level of professionalism in your organization?

Cymbaluk: What boils down to is simplification and standardization of process so that everyone knows what is expected of them outside of the legislature.

Chairman Andrist: It is my observation that the real estate business does not tend towards fence building. The real estate business does not require its members to belong to a professional association.

Pat Jergenson: Executive Director for the ND Real Estate Commission. I have no testimony but we are in support of this change and I can answer any questions. This is basically a procedural change.

Chairman Andrist: Is there any flexibility for realtors in cases of hardship?

Pat Jergenson: Yes, it is built into our laws.

Jerry Schlosser: Real Estate Commissioner. The Real Estate Commission's primary focus is the protection of the public and one of the ways that we can do that is by regulating the continuing education hours of realtors. This bill is for safety.

Senator Lee: Can you comment on the relationship between the Commission and the Association and the strict credentialing process?

Schlosser: The relationship has been positive between the two separate entities. It is one of respect. I wanted to be here, we are in support of each other's activities. The majority of the people who will be affected by this bill will be the Association but this is a win-win for everybody, the public, the Commission and the Association.

Senator Dotzenrod: Are we going to have to adopt MN standards?

Schlosser: Well, Montana dropping us is not uncommon. We are very conscious of education. 20 years ago we couldn't have had this conversation because of the inability of people to access education but now with the internet and caravans we do not have the problem.

Chairman Andrist: Any further questions? Anyone else in support? Anyone opposed? Anyone want to offer additional information? Closed the hearing on SB 2200.

There was no opposition.

Job # 7519

Senator Lee: Moved for a **Do Pass** recommendation.

Senator Anderson: Second

Clerk called the role on the motion to **Do Pass. Yes: 6, No: 0, Absent: 0.**

Senator Lee will carry the bill.

REPORT OF STANDING COMMITTEE (410)
January 22, 2009 12:51 p.m.

Module No: SR-13-0722
Carrier: J. Lee
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2200: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2200 was placed on the Eleventh order on the calendar.

2009 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2200

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2200

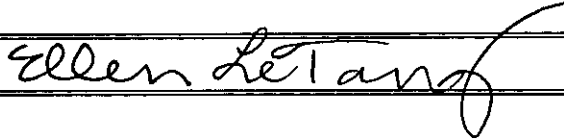
House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: March 9, 2009

Recorder Job Number: 10417

Committee Clerk Signature



Chairman Keiser: Opened the hearing on SB 2200 relating to continuing education requirements for real estate brokers & salespersons.

Senator Judy Lee~District 13 from West Fargo. Introduces SB 220. I have been in the real estate for about 33 years & I've been a broker for a long time. What this bill does is permits the board that regulates real estate agents to determine the continuing education requirements because they are changes in the market place. There are some required classes and there is other optional classes required as well, that we are asked to take on a regular basis. We have some issues with reciprocity with adjoining states. What this bill will do is allow the examination licensing board for real estate agents to determine what the continuing education requirements would be and I would encourage your favorable consideration.

Representative Nottestad: Turning this over to the board, is there any danger of boards of putting up boundaries state wide that would harm out of state realtors working in North Dakota?

Senator J Lee: I really don't think so. We have such a good working relationship with people from other states. This isn't about fence building, what we are trying to do is work together and we don't want to make it difficult for them to come in because that would make it difficult for us to go out also.

Representative Nottestad: The large cities in North Dakota on the borders and the smaller municipality are the ones across the streets, that is what prompted my concern.

Senator J Lee: We want to sell across the border too. We work the whole metro area so that collaboration is acutely important to us because we all have dual licenses.

Vice Chairman Kasper: Are there any other states that you are aware of; is this a national movement?

Senator J Lee: It's never occurred to me that it would be someplace else. Just seemed like North Dakota common sense. We need to give it some thought overall about whether or not it is in statute. You don't want to come into session all the time to determine continuing education for realtors; we need to enable the board to make the professional decisions.

Representative Louise Potter~District 17 in Grand Forks. Senator J Lee did a nice job talking about the bill and I want to let to know that I'm certainly aware and supportive of the bill. The realtors are aware of the bill also and supportive. There is a good email network going to realtors around the state and if there was concern, there would have been easy contact with me to say something. I'm not concerned with any backlash. I would like to say something about Representative Nottestad's question about keeping realtors out of state making it accessible for them to be practicing. The commission has been on top of things to make sure that's not happening. I think we have a harder time keeping up with Minnesota's requirements on education. They have been increasing theirs and we have been trying to keep up, particularly the new realtors, with the demands to make sure realtors are up to speed and to be able to have reciprocity.

Representative Thorpe: On page two, section three, the last paragraph on the bill, is that still good language in the bill? Exempting realtors that are getting old, do they need updating also?

Rep Potter: I can tell you that the classes that I go to, I see that older people are attending classes already. They know that if they are not up to speed, they can be sued is right there.

Claus Lembke~North Dakota Realtors. I just want to answer a couple of questions that were asked here. Other states, Michigan, Oregon, Iowa, Montana, Wyoming and District of Columbia have by rule also. The majority of states have it by statute but these are some states that have it by rule that you are attempting here. The reason we have a cut off of 1969, we have to put some kind of grandfather clause in there, we went before the legislature three times and didn't get it passed. We have about 60 realtors that are exempted from this and they are slowly fading away. We also have a policy in our association we invite those particular individuals to attend our seminars for free.

Representative Amerman: The new language "all other terms and conditions", to me that is all encompassing, I was just wondering if the rest of this bill should be struck out. It seems confusing; do you have any thoughts on that?

Lembke: Yes I do, when you take a look at what you have today, the commission requires certain subjects that have to be taught, the certain specifics and conditions. When you look at it, you have pre licensing education and post licensing education and it gets complicated. That's why we want it simplified.

Dave Lanpher~President of the State Association of Realtors. See testimony attachment.

Chairman Keiser: One of the concerns we have is that you are in effect policing yourself, you are setting the standards for continuing education, what do you have in your process that will ensure that the real things should be addressed get addressed? You could have a bunch of members who say "don't make too hard, don't cover this", our realtors don't get the continuing education they should have. How does the board deal with that?

Lanpher: First issue is that we are policing ourselves. It's not state association of realtors that are setting the agenda for continuing education; it is the state real estate commission which is part of the state government appointed by the governor that is setting the rules and policies.

Chairman Keiser: Who's on the commission?

Lanpher: There four active brokers and one lawyer.

Chairman Keiser: They have a majority of realtors on the commission, that's why I say you are policing yourself. I know that the governor appoints them.

Lanpher: I just want to say to you, I know all the real estate commissioners, when they sit in that seat; they are not representing the realtors. They are representing the interests of the consumers and industry, in terms of being high grade professional staff. There are always complaints from members and licensees, about what the commission does by setting six hours of continuing education and contract law in agency. Those are not popular topics with licensees, but they are necessary topics for the realtors to accomplish and do our jobs. With the current makeup with the real estate commission, it is not necessarily beholding to the state association of realtors. They make that quite plain to us that when they are sitting in that chair, I'm representing the consumer in the best interest of them and not the realtors association.

Steve Lunde~Chairman of our Political Affairs Committee for the State Association of Realtors.

See testimony attachment.

Representative Schneider: Do you know if Senator J Lee & Representative Potter are receiving education credits for their service in the legislature?

Lunde: I do not think that is a possibility, but that might be a possibility. I'm not sure.

Chairman Keiser: What would be proposed is there will be no carry over?

Lunde: That's right. Nine hours annually which is easier to track, we are getting in line with other states.

Scott Louser~Past President of the Minot Board of Realtors & North Dakota Association of Realtors and currently serving as Regional Vice President for NAR, a five state region. See testimony attachment.

Chairman Keiser: Is there anyone here to testify in opposition of SB 2200, neutral? Closes the hearing, what are the wishes of the committee?

Representative Nottestad: Moves a Do Pass on SB 2200.

Representative Ruby: Second.

Chairman Keiser: Further Discussion?

Voting roll call was on SB 2200 for a Do Pass with 13 ayes, 0 nays, 0 absent and Vice

Chairman Kasper is the carrier.

Date: Mar 9 - 2009

Roll Call Vote # 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2200

House House, Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass As Amended

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Representative Amerman	✓	
Vice Chairman Kasper	✓		Representative Boe	✓	
Representative Clark	✓		Representative Gruchalla	✓	
Representative N Johnson	✓		Representative Schneider	✓	
Representative Nottestad	✓		Representative Thorpe	✓	
Representative Ruby	✓				
Representative Sukut	✓				
Representative Vigesaa	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Kasper

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 9, 2009 9:52 a.m.

Module No: HR-42-4287
Carrier: Kasper
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2200: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2200 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2200



Prudential

#1
Prudential Preferred Properties
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Fax 701 838-4195 prudential@srt.com
www.minotlistings.com

January 22, 2009

Testimony on SB 2200

To: Senate Political Subdivisions Committee

From: Scott Louser, Broker/Owner, Prudential Preferred Properties, Minot

Chairman Andrist and members of the Senate Political Subdivisions Committee, my name is Scott Louser, Broker/Owner of Prudential Preferred Properties. I am a Past President of the Minot Board of REALTORS® and the North Dakota Association of REALTORS®. I have served as a Director for the National Association of REALTORS® and am currently serving as Regional Vice President for NAR, covering North Dakota and four other states in the region. Today however, I am here to discuss education requirements in our state...for the third legislative session of the last five.

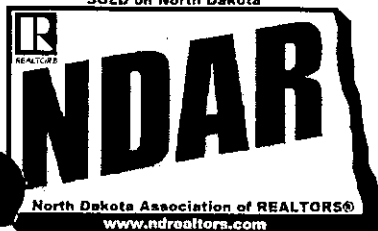
Our history and involvement with continuing education (CE) started in the late 1970s. After several failed attempts, the Legislature in 1981 finally approved a bill that imposed a CE requirement for every salesperson and every broker for 24 hours in every three-year cycle. This was passed with a grandfather clause that exempted all licensees who were licensed prior to January 1969. Two years later we were successful in defeating an amendment that would have extended the grandfather clause.

Since real estate is an evolving business, we often experience changes in the way we do business. This requires changes and adjustments in the way we get educated on these changes. The following is a brief history of changes in the education requirements:

- 1981 – beginning of CE requirements, 24 hours every three years
- 1991 – maximum hours by correspondence limited to 12
- 1992 – pre-licensing education set at 30 hours for salesperson
- 1993 – maximum hours by correspondence limited to 8
- 1999 – maximum hours by correspondence limited to 6
- 2000 – requirement changed to 16 hours every two years with minimum of six hours in the first year
- 2006 – pre-licensing education set at 30 hours plus 15 hours within 12 months of licensing for new salesperson
- 2006 – approved up to 16 hours can be taken online

By allowing the Real Estate Commission to set the continuing education requirement, you would allow more flexibility for needed changes. For example, when the agency law was changed in 1996, we felt that we needed more education and 24 hours every three years was too long a period to wait. Because the Legislature meets only every two years, we were not able to change the cycle to 16 hours every two years until 2000.

Please support this legislation enabling the Real Estate Commission to set the number of hours, frequency, and conditions of continuing education.



North Dakota Association of REALTORS®

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2009

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January 22, 2009

Testimony on SB 2200

To: Senate Political Subdivisions Committee

From: Dave Lanpher, Broker Associate, Park Co., REALTORS®, Fargo

Chairman Andrist and members of the Senate Political Subdivisions Committee, my name is Dave Lanpher, a Broker Associate with Park Company in Fargo where I have the pleasure of working alongside REALTOR® and Senator Judy Lee. I am a Past President of the Fargo-Moorhead Area Association of REALTORS® and the current President of the State Association of REALTORS®.

I would like to report to you that the past and current relationship between the Real Estate Commission and the Association of REALTORS® is one built on mutual trust and clear communication between our two organizations. We have been able to work with the Real Estate Commission to promote positive changes in real estate. Senate Bill 2200 allows the Real Estate Commission to set the number of hours, the frequency and conditions for continuing education. This will work well as our Governing Board, the Real Estate Commission, consists of professional and dedicated members and staff.

We have the utmost confidence with today's members and in future members and staff of the Real Estate Commission.

On behalf of our State Association of REALTORS®, I urge your favorable passage of this legislation.

*Same given
to House.*



The Steve Lunde Team

Making Your Dreams a Reality



January 22, 2009

Testimony on SB 2200

To: Senate Political Subdivisions Committee

From: Steve Lunde, Salesperson, RE/MAX Realty 1, Fargo

Chairman Andrist and Members of the Senate Political Subdivisions Committee. My name is Steve Lunde. I am a Salesperson with RE/MAX Realty 1 in Fargo and currently the Chairman of our Political Affairs Committee for the State Association of REALTORS®.

There are several reasons why we are supporting Senate Bill 2200 which allows the Real Estate Commission to set the number of continuing education hours. One reason is that if you enable the Real Estate Commission to set the hours we would not have to come back before you any time that we are seeking changes. It would give us more flexibility and a much shorter timetable if we find a need for a change.

Another reason could be coming to us from our neighboring state of Minnesota with which we have a reciprocity agreement. North Dakota licensees are exempted from the Minnesota continuing education requirements as long as we meet our home state requirements. Minnesota has a 30 hour requirement every 2 years. We have a 16 hour requirement every 2 years and we are fearful that some day Minnesota may cancel our reciprocity agreement. Such would negatively impact more than 500 licensees in the Eastern part of our state. If we had to make some changes in such a situation it possibly could take years to get that accomplished.

Please give Senate Bill 2200 your favorable support.

RE/MAX Realty 1
The Steve Lunde Team
Steve Lunde 446-0245
Jackie Beedy 446-0246

BASIN BROKERS

INC.

Williston, North Dakota

Roger M. Cymbaluk**
Nancy R. Hoffelt**
Tate A. Cymbaluk*
Burnetta Fagerland
Lee Halvorson*
Joe Gerszewski
Tressy Heinle
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Watford City, North Dakota

Debbie Hanson
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Crosby, North Dakota

Butch Haugland
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Crosby, ND 58730
Phone: 701-965-5560

January 22, 2009

Testimony on SB 2200

To: Senate Political Subdivisions Committee

From: Tate Cymbaluk, Broker/Co-Owner, Basin Brokers, Inc., Williston

Chairman Andrist and members of the Senate Political Subdivisions Committee, my name is Tate Cymbaluk, a Broker/Co-Owner with Basin Brokers in Williston. I am the immediate Past President of the North Dakota Association of REALTORS®.

A major reason that we are seeking your support for Senate Bill 2200, which allows the Real Estate Commission to set the number of Continuing education for us, is that the current rules are somewhat complicated.

In 1999, the Legislature changed the statute 43-23-08.2 to read: Commencing January 1, 2000 and every 2 years thereafter, each applicant for renewal of a broker's or salesperson's license shall submit proof of participation of not less than sixteen hours of approved continuing education, six of which must be completed in the first year.

In practice, we are allowed to take all 16 hours or more in the first year and carry those extra hours forward to the second year. On the other hand, if you have more than 16 hours at the end of the second year you can not carry such hours forward at all. This law has been in effect for over 9 years yet most licensees still do not understand the correct procedures or at best find it confusing.

If you pass this legislation, I can tell you that we will seek a change in the hours to be simply 9 hours every year. We have communicated our request to the Real Estate Commission. We received a letter back stating that if they are given that authority to set the Continuing education hours, they are contemplating a change to 9 hours annually.

I am urging you to give SB 2200 your do pass vote.

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North Dakota Real Estate Commission

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January 6, 2009

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Jerry Schlosser
Bismarck

Diane R. Louser
Minot

Claus Lembke
Government Affairs Director
NDAR

318 W. Apollo Ave
Bismarck ND 58503

Re: changes to real estate continuing education requirements

Dear Claus;

At their December 18, 2008 meeting, the members of the North Dakota Real Estate Commission discussed possible legislation to be filed by the North Dakota Association of REALTORS® regarding placing the authority to establish continuing education requirements for real estate licensees in the hands of the real estate commission. If the Commission was to be given this authority Commissioners anticipate that the continuing education requirements would be changed to requiring 9 hours of continuing education annually.

Sincerely,

Patricia M. Jergenson
Executive Director

A handwritten signature in cursive script that reads "Patricia M. Jergenson".

Patricia M. Jergenson
Executive Director

The Steve Lunde Team

Making Your Dreams a Reality



January 22, 2009

Testimony on SB 2200

To: House Industry, Business & Labor Committee

From: Steve Lunde, Salesperson, RE/MAX Realty 1, Fargo

Chairman Keiser and Members of the House Industry, Business & Labor Committee. My name is Steve Lunde. I am a Salesperson with RE/MAX Realty 1 in Fargo and currently the Chairman of our Political Affairs Committee for the State Association of REALTORS®.

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RE/MAX Realty 1
The Steve Lunde Team
Steve Lunde 446-0245
Jackie Beedy 446-0246

email: SteveL@remaxrealty1.com

visit: www.SteveLunde.com

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Please give Senate Bill 2200 your favorable support.



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March 9, 2009

Testimony on SB 2200

To: House Industry, Business & Labor Committee

From: Scott Louser, Broker/Owner, Prudential Preferred Properties, Minot

Chairman Keiser and members of the House Industry, Business & Labor Committee, my name is Scott Louser, Broker/Owner of Prudential Preferred Properties. I am a Past President of the Minot Board of REALTORS® and the North Dakota Association of REALTORS®. I have served as a Director for the National Association of REALTORS® and am currently serving as Regional Vice President for NAR, covering North Dakota and four other states in the region. Today however, I am here to discuss education requirements in our state...for the third legislative session of the last five.

Our history and involvement with continuing education (CE) started in the late 1970s. After several failed attempts, the Legislature in 1981 finally approved a bill that imposed a CE requirement for every salesperson and every broker for 24 hours in every three-year cycle. This was passed with a grandfather clause that exempted all licensees who were licensed prior to January 1969. Two years later we were successful in defeating an amendment that would have extended the grandfather clause.

Since real estate is an evolving business, we often experience changes in the way we do business. This requires changes and adjustments in the way we get educated on these changes. The following is a brief history of changes in the education requirements:

- 1981 – beginning of CE requirements, 24 hours every three years
- 1991 – maximum hours by correspondence limited to 12
- 1992 – pre-licensing education set at 30 hours for salesperson
- 1993 – maximum hours by correspondence limited to 8
- 1999 – maximum hours by correspondence limited to 6
- 2000 – requirement changed to 16 hours every two years with minimum of six hours in the first year
- 2006 – pre-licensing education set at 45 hours plus 15 hours within 12 months of licensing for new salesperson
- 2006 – approved up to 16 hours can be taken online

By allowing the Real Estate Commission to set the continuing education requirement, you would allow more flexibility for needed changes. For example, when the agency law was changed in 1996, we felt that we needed more education and 24 hours every three years was too long a period to wait. Because the Legislature meets only every two years, we were not able to change the cycle to 16 hours every two years until 2000.

Please support this legislation enabling the Real Estate Commission to set the number of hours, frequency, and conditions of continuing education.