

General Assembly

Raised Bill No. 7300

January Session, 2019

LCO No. 5450



Referred to Committee on GENERAL LAW

Introduced by: (GL)

## AN ACT CONCERNING THE LICENSING OF LEASING AGENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. Section 20-311 of the general statutes is repealed and the
- 2 following is substituted in lieu thereof (*Effective October 1, 2019*):
- 3 As used in this chapter, unless the context otherwise requires:
- (1) "Real estate broker" or "broker" means (A) any person, 4 5 partnership, association, limited liability company or corporation 6 which acts for another person or entity and for a fee, commission or 7 other valuable consideration, lists for sale, sells, exchanges, buys or 8 rents, or offers or attempts to negotiate a sale, exchange, purchase or rental of, an estate or interest in real estate, or a resale of a mobile 10 manufactured home, as defined in subdivision (1) of section 21-64, or 11 collects or offers or attempts to collect rent for the use of real estate, 12 and (B) any person, partnership, association, limited liability company 13 or corporation employed by or on behalf of the owner or owners of lots 14 or other parcels of real estate, at a stated salary, upon commission, 15 upon a salary and commission basis or otherwise to sell such real

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estate, or any parts thereof, in lots or other parcels, and who sells or exchanges, or offers, attempts or agrees to negotiate the sale or exchange of, any such lot or parcel of real estate;

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- (2) "Real estate salesperson" or "salesperson" means a person affiliated with any real estate broker as an independent contractor or employed by a real estate broker to list for sale, sell or offer for sale, to buy or offer to buy or to negotiate the purchase or sale or exchange of real estate, or to offer for resale, a mobile manufactured home, as defined in subdivision (1) of section 21-64, or to lease or rent or offer to lease, rent or place for rent any real estate, or to collect or offer or attempt to collect rent for the use of real estate for or on behalf of such real estate broker, or who offers, sells or attempts to sell the real estate or mobile manufactured homes of a licensed broker, or acting for another as a designated seller agent or designated buyer agent, lists for sale, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase or rental of, an estate or interest in real estate, or a resale of a mobile manufactured home, as defined in subsection (a) of section 21-64, or collects or offers or attempts to collect rent for the use of real estate, but does not include employees of any real estate broker whose principal occupation is clerical work in an office, or janitors or custodians engaged principally in that occupation;
- (3) "Engaging in the real estate business" means acting for another and for a fee, commission or other valuable consideration in the listing for sale, selling, exchanging, buying or renting, or offering or attempting to negotiate a sale, exchange, purchase or rental of, an estate or interest in real estate or a resale of a mobile manufactured home, as defined in subdivision (1) of section 21-64, or collecting upon a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate;
- (4) "Person" means any individual, partnership, association, limited liability company or corporation;
- 47 (5) "Commission" means the Connecticut Real Estate Commission

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48 appointed under the provisions of section 20-311a;

- (6) "Designated agency" means the appointment by a real estate broker of one or more brokers, leasing agents or salespersons affiliated with or employed by the real estate broker to solely represent a buyer or tenant as a designated buyer's agent and appoint another to represent a seller or landlord as a designated seller's agent in a transaction;
- (7) "Designated buyer agent" means a broker or salesperson designated by the real estate broker with whom the broker or salesperson is affiliated or employed to solely represent a named buyer or tenant client of the real estate broker during the term of a buyer representation agreement or authorization;
- 60 (8) "Designated seller agent" means a <u>leasing agent</u>, broker or 61 salesperson designated by the real estate broker with whom the 62 broker, <u>leasing agent</u> or salesperson is affiliated or employed to solely 63 represent a named seller or landlord client of the real estate broker 64 during the term of a listing agreement or authorization; [and]
  - (9) "Commercial real estate transaction" means any transaction involving the sale, exchange, lease or sublease of real property other than real property containing any building or structure occupied or intended to be occupied by no more than four families or a single building lot to be used for family or household purposes; [.] and
  - (10) "Leasing agent" means any person, partnership, association, limited liability company or corporation which acts for another person or entity and, for a fee, commission or other valuable consideration, engages in leasing or renting activity or offers or attempts to negotiate a rental of, or collects or offers or attempts to collect rent for the use of residential real estate.
  - Sec. 2. Section 20-311b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):

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(a) Within thirty days after the appointment of the members of the commission, the commission shall meet in the city of Hartford for the purpose of organizing by selecting such officers other than a chairperson as the commission may deem necessary and appropriate. A majority of the members of the commission shall constitute a quorum for the exercise of the powers or authority conferred upon it.

- (b) (1) The commission shall authorize the Department of Consumer Protection to issue licenses to <u>leasing agents</u>, real estate brokers and real estate salespersons.
- (2) The commission shall administer the provisions of this chapter as to licensure and issuance, renewal, suspension or revocation of licenses concerning the real estate business.
  - (c) The commission shall be provided with the necessary office space in Hartford by the Commissioner of Administrative Services. The place of business of the commission and all files, records and property of the commission shall at all times be and remain at such office, except that inactive files shall be stored at a location designated by the commission.
  - (d) The commission shall hold meetings and hearings in Hartford, in space provided by the Commissioner of Administrative Services, or at such places outside of Hartford as shall be determined by the chairman of the commission. The commission shall meet at least once in each three-month period and may meet more often at the call of its chairman. The chairman of the commission shall call a meeting of the commission whenever requested to do so by a majority of the members of the commission.
  - (e) The commission shall vote on all matters requiring a decision and votes shall be recorded in the commission's minutes.
- Sec. 3. Section 20-312 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):

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(a) No person shall act as a <u>leasing agent</u>, real estate broker or real estate salesperson without a license issued by the commission or the Commissioner of Consumer Protection, unless exempt under this chapter. The Commissioner of Consumer Protection may enter into any contract for the purpose of administratively processing the renewal of licenses on behalf of the commission.

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(b) The practice of or the offer to practice real estate brokerage business in this state by individual licensed real estate brokers or real estate salespersons as a corporation, limited liability company, partnership or limited liability partnership, a material part of the business of which includes real estate brokerage, is permitted, provided (1) the personnel of such corporation, limited liability company, partnership or limited liability partnership who engage in the real estate brokerage business as real estate brokers or real estate salespersons, and the real estate brokers whose ownership, control, membership or partnership interest is credited toward the requirements of subdivision (3) of this subsection, are licensed or exempt from licensure under this chapter, (2) the corporation, limited liability company, partnership or limited liability partnership has been issued a real estate broker license by the commission as provided in this section and has paid the license or renewal fee required for a real estate broker's license as set forth in section 20-314, as amended by this act, and (3) except for a publicly traded corporation (A) with respect to a corporation other than a nonstock corporation, one or more real estate brokers own or control fifty-one per cent or more of the total issued shares of the corporation, (B) with respect to a nonstock corporation, one or more real estate brokers constitute at least fifty-one per cent of the members of the nonstock corporation, (C) with respect to a limited liability company, one or more real estate brokers own or control at least fifty-one per cent of the interest in the limited liability company, as defined in section 34-243a, or (D) with respect to a partnership or limited liability partnership, one or more real estate brokers' partnership interest, as defined in section 34-301, constitutes at least fifty-one per cent of the total partnership interest. No such

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corporation, limited liability company, partnership or limited liability partnership shall be relieved of responsibility for the conduct or acts of its agents, employees or officers by reason of its compliance with this section, nor shall any individual practicing real estate brokerage be relieved of responsibility for real estate services performed by reason of the individual's employment or relationship with such corporation, limited liability company, partnership or limited liability partnership. The Real Estate Commission may refuse to authorize the issuance or renewal of a license if any facts exist that would entitle the commission to suspend or revoke an existing license.

- (c) A corporation, limited liability company, partnership or limited liability partnership desiring a real estate broker license shall file with the commission or the commissioner an application on such forms and in such manner as prescribed by the Department of Consumer Protection. Each such corporation, limited liability company, partnership or limited liability partnership shall file with the commission a designation of at least one individual licensed or qualified to be licensed as a real estate broker in this state who shall be in charge of the real estate brokerage business of such corporation, limited liability company, partnership or limited liability partnership in this state. Such corporation, limited liability partnership shall notify the commission of any change in such designation not later than thirty days after such change becomes effective.
- (d) The Real Estate Commission may impose a fine of not more than one thousand dollars on any corporation, limited liability company, partnership or limited liability partnership that engages in real estate business without a license required by this section. Any such imposition of a fine by the commission shall be a proposed final decision and submitted to the commissioner in accordance with the provisions of subsection (b) of section 21a-7.
- Sec. 4. Section 20-312a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):

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In any action brought by a third party against a real estate salesperson <u>or leasing agent</u> affiliated with a real estate broker as an independent contractor, such broker shall be liable to the same extent as if such affiliate had been employed as a real estate salesperson <u>or leasing agent</u> by such broker.

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- Sec. 5. Section 20-312b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):
- 182 A licensed leasing agent, real estate broker or real estate salesperson 183 shall not be considered an employee under the provisions of section 184 31-275 if substantially all of the remuneration for the services 185 performed by such leasing agent, broker or salesperson, whether paid 186 in cash or otherwise, is directly related to sales or other output rather 187 than to the number of hours worked, and such services are performed 188 by the leasing agent, broker or salesperson pursuant to a written 189 contract that contains the following provisions:
- 190 (1) The <u>leasing agent</u>, broker or salesperson, for purposes of 191 workers' compensation, is engaged as an independent contractor 192 associated with the person for whom services are performed;
  - (2) The <u>leasing agent</u>, broker or salesperson shall be paid a commission based on his gross sales <u>or leases</u>, if any, without deduction for taxes, which commission shall be directly related to sales, leases or other output;
- 197 (3) The <u>leasing agent</u>, broker or salesperson shall not receive any 198 remuneration related to the number of hours worked and shall not be 199 treated as an employee with respect to such services for purposes of 200 workers' compensation;
- 201 (4) The <u>leasing agent</u>, broker or salesperson shall be permitted to 202 work any hours he <u>or she</u> chooses;
- 203 (5) The <u>leasing agent</u>, broker or salesperson shall be permitted to 204 work out of his <u>or her</u> own home or the office of the person for whom

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205 services are performed;

- 206 (6) The <u>leasing agent</u>, broker or salesperson shall be free to engage 207 in outside employment;
  - (7) The person for whom the services are performed may provide office facilities and supplies for the use of the <u>leasing agent</u>, broker or salesperson, but the <u>leasing agent</u>, broker or salesperson shall otherwise pay his <u>or her</u> own expenses, including, but not limited to, automobile, travel and entertainment expenses; and
- 213 (8) The contract may be terminated by [either party] the leasing 214 agent, broker or salesperson at any time upon notice given to the other.
- Sec. 6. Section 20-314 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):
  - (a) Licenses shall be granted under this chapter only to persons who bear a good reputation for honesty, truthfulness and fair dealing and who are competent to transact the business of a <u>leasing agent</u>, real estate broker or real estate salesperson in such manner as to safeguard the interests of the public.
  - (b) Each application for a license or for a renewal thereof shall be made in writing, on such forms and in such manner as is prescribed by the Department of Consumer Protection and accompanied by such evidence in support of such application as is prescribed by the commission. The commission may require such information with regard to an applicant as the commission deems desirable, with due regard to the paramount interests of the public, as to the honesty, truthfulness, integrity and competency of the applicant and, where the applicant is a corporation, association or partnership, as to the honesty, truthfulness, integrity and competency of the officers of such corporation or the members of such association or partnership.
  - (c) In order to determine the competency of any applicant for a <u>leasing agent's license</u>, real estate broker's license or a real estate

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salesperson's license, the commission or Commissioner of Consumer Protection shall, on payment of an application fee of one hundred twenty dollars by an applicant for a leasing agent's license, real estate broker's license or an application fee of eighty dollars by an applicant for a leasing agent's license or real estate salesperson's license, subject such applicant to personal written examination as to the applicant's competency to act as a <u>leasing agent</u>, real estate broker or real estate salesperson, as the case may be. Such examination shall be prepared by the Department of Consumer Protection or by a national testing service designated by the Commissioner of Consumer Protection and shall be administered to applicants by the Department of Consumer Protection or by such testing service at such times and places as the commissioner may deem necessary. The commission or Commissioner of Consumer Protection may waive the uniform portion of the written examination requirement in the case of an applicant who has taken the national testing service examination in another state within two years from the date of application and has received a score deemed satisfactory by the commission or Commissioner of Consumer Protection. The Commissioner of Consumer Protection shall adopt regulations, in accordance with chapter 54, establishing passing scores for examinations. In addition to such application fee, applicants taking the examination administered by a national testing service shall be required to pay directly to such testing service an examination fee covering the cost of such examination. Each payment of such application fee shall entitle the applicant to take such examination within the one-year period from the date of payment.

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(d) (1) Each applicant applying for a real estate broker's license on or after July 1, 2016, shall, before being admitted to such examination, prove to the satisfaction of the commission or the Commissioner of Consumer Protection that the applicant (A) (i) has been actively engaged for at least two years as a licensed real estate salesperson under the supervision of a licensed real estate broker in this state, (ii) has successfully completed a course approved by the commission or commissioner in real estate principles and practices of at least sixty

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classroom hours of study, (iii) has successfully completed a course approved by the commission or commissioner in real estate legal compliance consisting of at least fifteen classroom hours of study, (iv) has successfully completed a course approved by the commission or commissioner in real estate brokerage principles and practices consisting of at least fifteen classroom hours, and (v) has successfully completed two elective courses, each consisting of fifteen classroom hours of study, as prescribed by the commission or commissioner, or (B) has equivalent experience or education as determined by the commission or commissioner.

- (2) The commission or the Commissioner of Consumer Protection shall waive the elective courses under subparagraph (A)(v) of subdivision (1) of this subsection if the applicant has successfully completed at least twenty real estate transactions within five years immediately preceding the date of application. As used in this subdivision, "real estate transaction" means any transaction in which real property is legally transferred to another party or in which a lease agreement is executed between a landlord and a tenant.
- (3) Each applicant for a real estate salesperson's license shall, before being admitted to such examination, prove to the satisfaction of the commission or the Commissioner of Consumer Protection that the applicant (A) has successfully completed a course approved by the commission or commissioner in real estate principles and practices consisting of at least sixty classroom hours of study, or (B) has equivalent experience or education as determined by the commission or commissioner.
- (4) Each applicant for a leasing agent license shall, before being admitted to such examination, prove to the satisfaction of the commission or the Commissioner of Consumer Protection that the applicant (A) has successfully completed a course approved by the commission or commissioner in real estate principles and practices consisting of at least thirty classroom hours of study, or (B) has equivalent experience or education as determined by the commission

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- (e) The provisions of subsections (c) and (d) of this section shall not apply to any renewal of a real estate broker's license, or a real estate salesperson's license issued prior to October 1, 1973.
- (f) All licenses issued under the provisions of this chapter shall expire annually. At the time of application for a real estate broker's license, there shall be paid to the commission, for each individual applicant and for each proposed active member or officer of a firm, partnership, association or corporation, the sum of five hundred sixtyfive dollars, and for the annual renewal thereof, the sum of three hundred seventy-five dollars and for a real estate salesperson's license two hundred eighty-five dollars and for the annual renewal thereof the sum of two hundred eighty-five dollars. Three dollars of each such annual renewal fee shall be payable to the Real Estate Guaranty Fund established pursuant to section 20-324a, as amended by this act. If a license is not issued, the fee shall be returned. A real estate broker's license issued to any partnership, association or corporation shall entitle the individual designated in the application, as provided in section 20-312, as amended by this act, upon compliance with the terms of this chapter, but without the payment of any further fee, to perform all of the acts of a real estate broker under this chapter on behalf of such partnership, association or corporation. Any license which expires and is not renewed pursuant to this subsection may be reinstated by the commission, if, not later than two years after the date of expiration, the former licensee pays to the commission for each real estate broker's license the sum of three hundred seventy-five dollars and for each real estate salesperson's license the sum of two hundred eighty-five dollars for each year or fraction thereof from the date of expiration of the previous license to the date of payment for reinstatement, except that any licensee whose license expired after such licensee entered military service shall be reinstated without payment of any fee if an application for reinstatement is filed with the commission within two years after the date of expiration. Any such reinstated license shall expire on the next succeeding March thirty-first

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for real estate brokers or the next succeeding May thirty-first for real estate salespersons.

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- (g) Any person whose application has been filed as provided in this section and who is refused a license shall be given notice and afforded an opportunity for hearing as provided in the regulations adopted by the Commissioner of Consumer Protection.
- (h) Leasing agents may engage only in residential leasing activities for which a license is required under this chapter. Nothing in this section shall be construed to require a licensed broker or salesperson to obtain a leasing agent license in order to perform leasing activities. Licensed leasing agents may not engage in any activity that would otherwise require a broker or salesperson's license, including, but not limited to, selling, offering for sale, negotiating for sale, listing or showing for sale, entering into lease-to-own agreements, or referring for sale or lease of commercial real estate. Licensed leasing agents shall be (1) employed by or affiliated with a sponsoring broker, or (2) employed by the real property owner of record of the property being offered for lease. If employed by or contracting with a real property owner to provide leasing services for such owner, the leasing agent shall obtain a written contract with such property owner to demonstrate the employment or contract relationship prior to engaging in leasing activity at the property.
  - Sec. 7. Section 20-316 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):
  - (a) The commission or Commissioner of Consumer Protection shall not deny a license under this chapter to any applicant who has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud or other like offense or offenses, or to any association or partnership of which such person is a member, or to any corporation of which such person is an officer or in which as a stockholder such person has or exercises a controlling interest either directly or indirectly, except in accordance

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with the provisions of section 46a-80.

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- (b) No license under this chapter shall be issued by the Department of Consumer Protection to any applicant (1) whose application for a license as a real estate broker, leasing agent or real estate salesperson has, within one year prior to the date of his or her application under this chapter, been rejected in this state, in any other state or in the District of Columbia or (2) whose license as a real estate broker, leasing agent or real estate salesperson has, within one year prior to the date of his <u>or her</u> application under this chapter, been revoked in this state, in any other state or in the District of Columbia.
- (c) No license as a real estate broker, leasing agent or real estate salesperson shall be issued under this chapter to any person who has not attained the age of eighteen years.
- (d) The provisions of this section shall apply to any applicant for a license under this chapter, whether or not such applicant was engaged in the real estate business in this state on July 1, 1953, and whenever the applicant's application is filed.
- 385 Sec. 8. Section 20-317 of the general statutes is repealed and the 386 following is substituted in lieu thereof (*Effective October 1, 2019*):
  - (a) A person licensed in another state as a real estate broker or salesperson may become a leasing agent, real estate broker or real estate salesperson in this state by conforming to all of the provisions of this chapter. The commission or Commissioner of Consumer Protection shall recognize a current, valid license issued to a currently practicing, competent real estate broker or real estate salesperson by another state as satisfactorily qualifying the broker or salesperson for a license as a leasing agent, real estate broker or real estate salesperson under this chapter, provided (1) the laws of the state in which the broker or salesperson is licensed require that applicants for licenses as real estate brokers and real estate salespersons establish their competency by written examinations and allow licenses to be issued to residents of the state of Connecticut, licensed under this chapter,

LCO No. 5450 13 of 29 without examination, (2) the licensure requirements of such state are substantially similar to or higher than those of this state, and (3) the broker or salesperson has no disciplinary proceeding or unresolved complaint pending against the broker or salesperson. If the applicant is licensed in a state that does not have such requirements, such applicant shall be required to pass the Connecticut portion of the real estate examination.

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- (b) Every applicant licensed in another state shall file an irrevocable consent that suits and actions may be commenced against such applicant in the proper court in any judicial district of the state in which a cause of action may arise or in which the plaintiff may reside, by the service of any process or pleading, authorized by the laws of this state, on the chairperson of the commission, such consent stipulating and agreeing that such service of such process or pleading shall be taken and held in all courts to be as valid and binding as if service had been made upon such applicant in the state of Connecticut. If any process or pleadings under this chapter are served upon the chairperson, it shall be by duplicate copies, one of which shall be filed in the office of the commission, and the other immediately forwarded by registered or certified mail, to the applicant against whom such process or pleadings are directed, at the last-known address of such applicant as shown by the records of the commission. No default in any such proceedings or action shall be taken unless it appears by affidavit of the chairperson of the commission that a copy of the process or pleading was mailed to the defendant as required by this subsection, and no judgment by default shall be taken in any such action or proceeding within twenty days after the date of mailing of such process or pleading to the out-of-state defendant.
- Sec. 9. Section 20-319 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):
  - (a) The commission shall authorize the Department of Consumer Protection to issue an annual renewal license to any applicant who possesses the qualifications specified in and otherwise has complied

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with the provisions of this chapter and any regulation adopted under this chapter. The commission shall authorize said department to issue an annual renewal of a real estate broker's license to any entity licensed pursuant to subsection (b) of section 20-312, as amended by this act, provided such entity: (1) Was so licensed as of September 30, 2005, notwithstanding the fact such entity does not meet the requirements for publicly traded corporations required by subdivision (3) of subsection (b) of section 20-312, as amended by this act, or (2) changes its designated real estate broker pursuant to subsection (c) of section 20-312, as amended by this act.

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(b) There is hereby established an annual renewal license to be issued by the Department of Consumer Protection. Persons licensed in accordance with the provisions of this chapter shall fulfill a continuing education requirement. Applicants for an annual renewal license for real estate brokers, leasing agents or real estate salespersons shall, in addition to the other requirements imposed by the provisions of this chapter, in any even-numbered year, submit proof of compliance with the continuing education requirements of this subsection to the commission, accompanied by an eight-dollar processing fee. The continuing education requirement may be satisfied by successful completion of any of the following during the two-year period preceding such renewal: (1) A course or courses, approved by the commission, of continuing education in current real estate practices and licensing laws [, including, but not limited to, practices and laws concerning common interest communities, consisting of not less than twelve hours of classroom study, which course curriculum shall be prescribed in regulations adopted pursuant to subsection (d) of this section; or (2) a written examination prepared and administered by either the Department of Consumer Protection, or by a national testing service approved by the department, which demonstrates a knowledge of current real estate practices and licensing laws; or (3) equivalent continuing educational experience or study as determined by regulations adopted pursuant to subsection (d) of this section. An applicant for examination under subdivision (2) of this subsection shall

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pay the required examination fee to the national testing service, if administered by such testing service, or to the Department of Consumer Protection, if administered by the department.

- (c) If the commission refuses to grant an annual renewal license, the licensee or applicant, upon written notice received as provided for in this chapter, may have recourse to any of the remedies provided by sections 20-314, as amended by this act, and 20-322.
- (d) The Commissioner of Consumer Protection, in consultation with the commission, shall adopt regulations, in accordance with chapter 54, concerning the approval of schools, institutions or organizations offering courses in current real estate practices and licensing laws, including, but not limited to, practices and laws concerning common interest communities, and the content of such courses. Such regulations shall include, but not be limited to: (1) Specifications for meeting equivalent continuing educational experience or study; (2) exceptions from continuous education requirements for reasons of health or instances of individual hardship. No school, institution or organization that offers a course in current real estate practices and licensing laws may be disapproved solely because its courses are offered or taught by electronic means, and no course may be disapproved solely because it is offered or taught by electronic means.
- Sec. 10. Section 20-319a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):
  - (a) Any licensed real estate salesperson <u>or leasing agent</u> who transfers his <u>or her</u> employment from one broker <u>or property owner</u> to another or his <u>or her</u> affiliation with a broker <u>or property owner</u> as an independent contractor shall register such transfer with, and pay a registration fee of twenty-five dollars to, the commission.
- (b) A fee of twenty-five dollars shall be paid to the commission for the issuance of a license certification.
- Sec. 11. Section 20-320 of the general statutes is repealed and the

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following is substituted in lieu thereof (Effective October 1, 2019):

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The Department of Consumer Protection may, upon the request of the commission or upon the verified complaint in writing of any person, if such complaint, or such complaint together with evidence, documentary or otherwise, presented in connection with such complaint, shall make out a prima facie case, investigate the actions of any leasing agent, real estate broker or real estate salesperson or any person who assumes to act in any of such capacities within this state. The commission may temporarily suspend or permanently revoke any license issued under the provisions of this chapter and, in addition to or in lieu of such suspension or revocation, may, in its discretion, impose a fine of not more than two thousand dollars per violation at any time when, after proceedings as provided in section 20-321, the commission finds that the licensee has by false or fraudulent misrepresentation obtained a license or that the licensee is guilty of any of the following: (1) Making any material misrepresentation; (2) making any false promise of a character likely to influence, persuade or induce; (3) acting as an agent for more than one party in a transaction without the knowledge of all parties for whom the licensee acts; (4) representing or attempting to represent a real estate broker other than the licensee's employer or the broker with whom the licensee is affiliated, without the express knowledge and consent of the licensee's employer or affiliated broker; (5) failing, within a reasonable time, to account for or remit any moneys coming into the licensee's possession which belong to others; (6) entering into an exclusive listing contract or buyer agency contract which contains a fixed termination date if such contract also provides for an automatic continuation of the period of such contract beyond such date; (7) failing to deliver immediately a copy of any instrument to any party or parties executing the instrument, where such instrument has been prepared by the licensee or under the licensee's supervision and where such instrument relates to the employment of the licensee or to any matters pertaining to the consummation of a lease, or the purchase, sale or exchange of real property or any other type of real estate transaction in

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which the licensee may participate as a broker, leasing agent or a salesperson; (8) conviction in a court of competent jurisdiction of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or other like offense or offenses, provided suspension or revocation under this subdivision shall be subject to the provisions of section 46a-80; (9) collecting compensation in advance of services to be performed and failing, upon demand of the person paying the compensation or the commission, to render an accounting of the use of such money; (10) commingling funds of others with the licensee's own, or failing to keep funds of others in an escrow or trustee account; (11) any act or conduct which constitutes dishonest, fraudulent or improper dealings; (12) failing to provide the disclosures required by section 20-325c; (13) a violation of any provision of this chapter or any regulation adopted under this chapter. Any such suspension or revocation of a license or imposition of a fine by the commission shall be a proposed final decision and submitted to the commissioner in accordance with the provisions of subsection (b) of section 21a-7. Any fine collected pursuant to this section shall be deposited in the Real Estate Guaranty Fund established pursuant to section 20-324a, as amended by this act.

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- Sec. 12. Section 20-320a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):
- (a) No real estate broker, leasing agent or real estate salesperson, no person affiliated with such broker or salesperson, and no person engaging in the real estate business may receive a fee, commission or other form of referral fee for the referral of any buyer of real property to (1) an attorney-at-law admitted to practice in this state or any person affiliated with such attorney or (2) any mortgage broker, any lender, as defined in subdivision (5) of section 49-31d, or any person affiliated with such mortgage broker or lender.
- (b) The Department of Consumer Protection may, upon the request of the commission or upon the verified complaint in writing of any person, if such complaint, or such complaint together with evidence,

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documentary or otherwise, presented in connection with such complaint, shall make out a prima facie case, investigate the actions of any real estate broker or real estate salesperson or any person who assumes to act in any of such capacities within this state. The commission may temporarily suspend or permanently revoke any license issued under the provisions of this chapter, and, in addition to or in lieu of such suspension or revocation, may, in its discretion, impose a fine of not more than one thousand dollars for the first offense at any time when, after proceedings as provided in section 20-321, the commission finds that the licensee is guilty of violating any of the provisions of subsection (a) of this section. Any such suspension or revocation of a license or imposition of a fine by the commission shall be a proposed final decision and submitted to the commissioner in accordance with the provisions of subsection (b) of section 21a-7.

- Sec. 13. Section 20-320b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):
- (a) A real estate broker, leasing agent or real estate salesperson licensed under this chapter shall not influence residential real estate appraisals. For the purposes of this section, "influence residential real estate appraisals" includes, but is not limited to, refusal or intentional failure to refer a homebuyer, or encouraging other real estate brokers, leasing agents or real estate salespersons not to refer a homebuyer, to a mortgage broker, as defined in section 36a-760, or a lender, as defined in section 36a-760, based solely on the fact that the mortgage broker or lender uses an appraiser who has provided an appraisal reflecting a fair market value estimate that was less than the sale contract price.
- (b) Violations of subsection (a) of this section shall be subject to the actions and penalties set forth in section 20-320, as amended by this act.
- Sec. 14. Section 20-323 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):
- Any licensee under this chapter who is convicted of a violation of

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any of the offenses enumerated in subdivision (8) of section 20-320, [shall] as amended by this act, may incur a forfeiture of his license and all moneys that may have been paid for such license. The clerk of any court in which such conviction has been rendered shall forward to the commission without charge a certified copy of such conviction. The [commission, upon the receipt of a copy of the judgment of conviction, shall, not later than ten days after such receipt, notify the licensee, in writing, of the revocation of his license. Such notice shall be conclusive of the revocation of such license] commissioner may revoke such licensee's license after proceedings as provided in section 20-321. Application for reinstatement of such license shall be subject to the provisions of section 46a-80.

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Sec. 15. Section 20-324a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):

The commission shall establish and maintain a Real Estate Guaranty Fund from which, subject to the provisions of sections 20-324a to 20-324j, inclusive, any person aggrieved by any action of a leasing agent, real estate broker or real estate salesperson, duly licensed in this state under section 20-312, as amended by this act, by reason of the embezzlement of money or property, or money or property unlawfully obtained from any person by false pretenses, artifice or forgery or by reason of any fraud, misrepresentation or deceit by or on the part of any such leasing agent, real estate broker or real estate salesperson or the unlicensed employee of any such real estate broker, may recover, upon approval by the commission of an application brought pursuant to the provisions of section 20-324e, as amended by this act, compensation in an amount not exceeding in the aggregate the sum of twenty-five thousand dollars in connection with any one real estate transaction or claim, regardless of the number of persons aggrieved or parcels of real estate involved in such real estate transaction or claim.

Sec. 16. Section 20-324b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):

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Any person who receives a <u>leasing agent</u>, real estate broker's or real estate salesperson's license under this chapter for the first time shall pay an additional one-time fee of twenty dollars in addition to all other fees payable, which additional fee shall be credited to the Real Estate Guaranty Fund. The Real Estate Guaranty Fund shall also be credited as provided in sections 20-314, as amended by this act, and 20-320, as amended by this act.

- Sec. 17. Section 20-324e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):
- (a) When any aggrieved person commences any action for a judgment which may result in collection from the Real Estate Guaranty Fund, the aggrieved person shall notify the commission in writing to this effect at the time of the commencement of such action. Such written notice shall toll the time for making application to the commission pursuant to section 20-324d. The commission shall have the right to enter an appearance, intervene in or defend any such action and may waive the required written notice for good cause shown.
- (b) When any aggrieved person recovers a valid judgment in the Superior Court against any real estate broker, leasing agent or real estate salesperson or the unlicensed employee of any such real estate broker for loss or damages sustained by reason of the embezzlement of money or property, or money or property unlawfully obtained from any person by false pretenses, artifice or forgery or by reason of any fraud, misrepresentation or deceit by or on the part of such real estate broker, leasing agent or salesperson or the unlicensed employee of any such real estate broker, such aggrieved person may upon the final determination of, or expiration of time for appeal in connection with, any judgment, apply to the commission for an order directing payment out of the Real Estate Guaranty Fund of the amount unpaid upon the judgment, subject to the limitations stated in section 20-324, as amended by this act, and the limitations specified in this section.

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(c) The commission shall proceed upon such application in a summary manner, and, upon the hearing thereof, the aggrieved person shall be required to show: (1) He or she is not a spouse of the debtor or the personal representative of such spouse; (2) he or she has complied with all the requirements of this section; (3) he or she has obtained a judgment as provided in subsection (b) of this section, stating the amount thereof and the amount owing thereon at the date of the application; (4) he or she has caused to be issued a writ of execution upon the judgment and the officer executing the same has made a return showing that no personal or real property of the judgment debtor liable to be levied upon in satisfaction of the judgment could be found, or that the amount realized on the sale of them or of such of them as were found, under the execution, was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application thereon of the amount realized; (5) he or she has made all reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment; (6) that by such search he or she has discovered no personal or real property or other assets liable to be sold or applied, or that he has discovered certain of them, describing them, owned by the judgment debtor and liable to be so applied, and that he or she has taken all necessary action and proceedings for the realization thereof, and that the amount thereby realized was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application of the amount realized.

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(d) Whenever the aggrieved person satisfies the commission that it is not practicable to comply with one or more of the requirements enumerated in subdivisions (4), (5) and (6) of subsection (c) of this section and that the aggrieved person has taken all reasonable steps to collect the amount of the judgment or the unsatisfied part thereof and has been unable to collect the same, the commission may in its discretion waive such requirements.

(e) The commission shall order payment from the Real Estate

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Guaranty Fund of any sum it shall find to be payable upon the claim, pursuant to the provisions of and in accordance with the limitations contained in this section and section 20-324a, as amended by this act, if the commission is satisfied, upon the hearing, of the truth of all matters required to be shown by the aggrieved person by subsection (c) of this section and that the aggrieved person has fully pursued and exhausted all remedies available to him or her for recovering the amount awarded by the judgment of the court.

- (f) If the commission pays from the Real Estate Guaranty Fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensed real estate broker, leasing agent or real estate salesperson pursuant to an order under subsection (e) of this section, such broker, leasing agent or salesperson shall not be eligible to receive a new license until he or she has repaid in full, plus interest at a rate to be determined by the commission and which shall reflect current market rates, the amount paid from the fund on his or her account. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this subsection.
- (g) If, at any time, the money deposited in the Real Estate Guaranty Fund is insufficient to satisfy any duly authorized claim or portion thereof, the commission shall, when sufficient money has been deposited in the fund, satisfy such unpaid claims or portions thereof, in the order that such claims or portions thereof were originally filed, plus accumulated interest at the rate of four per cent a year.
- Sec. 18. Section 20-325 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):

Any person who engages in the business of a <u>leasing agent</u>, real estate broker or real estate salesperson without obtaining a license as provided in this chapter shall be fined not more than one thousand dollars or imprisoned not more than six months or both, and shall be ineligible to obtain a license for one year from the date of conviction of such offense, except that the commission or Commissioner of

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- 727 Consumer Protection may grant a license to such person within such
- 728 one-year period upon application and after a hearing on such
- 729 application.
- 730 Sec. 19. Section 20-325b of the general statutes is repealed and the
- 731 following is substituted in lieu thereof (*Effective October 1, 2019*):
- 732 (a) Each written agreement which fixes the compensation to be paid
- 733 to a real estate broker for the sale, lease or purchase of real property
- 734 shall contain the following statement in not less than ten point
- boldface type or in a manner which otherwise stands out significantly
- from the text immediately preceding any provision of such agreement
- 737 relating to compensation of the broker:
- 738 "NOTICE: THE AMOUNT OR RATE OF REAL ESTATE BROKER
- 739 COMPENSATION IS NOT FIXED BY LAW. IT IS SET BY EACH
- 740 BROKER INDIVIDUALLY AND MAY BE NEGOTIABLE BETWEEN
- 741 YOU AND THE BROKER."
- (b) Each written agreement which fixes the compensation to be paid
- 743 to a leasing agent for the lease of real property shall contain the
- 744 following statement in not less than ten point boldface type or in a
- 745 manner which otherwise stands out significantly from the text
- 746 immediately preceding any provision of such agreement relating to
- 747 compensation of the leasing agent:
- 748 "NOTICE: THE AMOUNT OR RATE OF LEASING AGENT
- 749 COMPENSATION IS NOT FIXED BY LAW. IT IS SET BY EACH
- 750 LEASING AGENT INDIVIDUALLY AND MAY BE NEGOTIABLE
- 751 BETWEEN YOU AND THE LEASING AGENT."
- Sec. 20. Section 20-325d of the general statutes is repealed and the
- 753 following is substituted in lieu thereof (*Effective October 1, 2019*):
- On and after January 1, 2018, a real estate broker, leasing agent or
- 755 real estate salesperson licensed under this chapter who represents a
- seller, lessor, prospective purchaser or lessee in a real estate transaction

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shall disclose, in writing, the identity of his or her client to any party to the transaction who is not represented by another real estate broker, leasing agent or real estate salesperson licensed under this chapter. The real estate broker, leasing agent or real estate salesperson shall make the disclosure required under this section: (1) If the transaction concerns residential real property, as defined in section 20-325c, (A) at the beginning of the first personal meeting concerning the prospective purchaser's or lessee's specific needs in the transaction, or (B) at the beginning of the first personal meeting with the seller or lessor concerning the seller's or lessor's real property; or (2) if the transaction is a commercial real estate transaction, as defined in section 20-311, as amended by this act, before the prospective purchaser or lessee signs the purchase contract or lease. Such disclosure shall be signed by a prospective purchaser or lessee and attached to any offer or agreement to purchase or lease signed by a prospective purchaser or lessee. The Commissioner of Consumer Protection shall adopt such regulations, in accordance with chapter 54, as the commissioner deems necessary to carry out the provisions of this section.

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- Sec. 21. Section 20-325h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):
- (a) No real estate licensee shall: (1) Reveal confidential information concerning a person whom the real estate licensee represented either as an agent, designated buyer agent or a designated seller agent; (2) use confidential information concerning that person to the person's disadvantage; or (3) use confidential information concerning that person for the real estate broker's, leasing agent's or real estate salesperson's advantage or the advantage of a third party, except as required by legal process, as necessary to defend the real estate broker, leasing agent or real estate salesperson from allegations of wrongful or negligent conduct, or as necessary to prevent the commission of a crime.
- (b) As used in this section, "confidential information" means facts concerning a person's assets, liabilities, income, expenses, motivations

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to purchase, rent or sell real property and previous offers received or made to purchase or lease real property which are not authorized by the client, a matter of general knowledge, part of a public record or file to which access is authorized pursuant to section 1-210 or otherwise subject to disclosure under any other provision of the general statutes or any regulation of Connecticut state agencies.

Sec. 22. Section 20-325m of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):

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Any real estate broker licensed under the provisions of this chapter who engages in the real estate business, as defined in section 20-311, as amended by this act, shall retain the following records for a period of not less than seven years after any real estate transaction closes, all funds held in escrow for such transaction are disbursed or the listing agreement or buyer or tenant representation agreement expires, whichever occurs later: (1) All purchase contracts, leases, options, written offers or counteroffers drafted by such broker or on behalf of such broker; (2) the listing agreement or buyer or tenant representation agreement, any extensions of or amendments to such agreements and any disclosures or agreements required pursuant to sections 20-325a to 20-325l, inclusive; and (3) all canceled checks, unused checks, checkbooks and bank statements for any escrow or trust account maintained pursuant to section 20-324k. Such records may be retained in any format, electronic or otherwise, capable of producing an accurate copy in paper format of the original document. Leasing agents shall retain copies of any property owner representation or employment agreements and all tenant representation agreements for a period of seven years.

Sec. 23. Section 20-328 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):

The Commissioner of Consumer Protection, with advice and assistance from the commission, may adopt regulations, in accordance with chapter 54, relating to the form and manner of filing applications

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for licenses under this chapter and the manner in which licensed real estate brokers and licensed <u>leasing agents</u>, real estate salespersons shall conduct the real estate business.

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Sec. 24. Section 20-329 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):

The provisions of this chapter concerning the licensure of real estate brokers, leasing agents and real estate salespersons shall not apply to: (1) Any person who as owner or lessor performs any of the acts enumerated in section 20-311, as amended by this act, with reference to property owned, leased or sought to be acquired or leased by the person, or to the person's regular employees who are employed as onsite residential superintendents or custodians, with respect to the property so owned or leased or sought to be acquired or leased when such acts are performed in the regular course of, or incident to, the management of such property and the investment therein; (2) any person acting as attorney-in-fact under a duly executed power of attorney from the owner authorizing the final consummation by performance of any contract for the sale, leasing or exchange of real estate, or to service rendered by any attorney-at-law in the performance of the attorney-at-law's duties as such attorney-at-law; (3) a receiver, trustee in bankruptcy, administrator, executor or other fiduciary, while acting as such, or any person selling real estate under order of any court, or to a trustee acting under a trust agreement, deed of trust or will, or the regular salaried employees thereof; (4) witnesses in court as to the values of real estate; (5) persons in the employ of the federal or state government or any political subdivision thereof while acting in the course of such employment; (6) any employee of any nonprofit housing corporation that (A) has been certified as a taxexempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, and manages a housing project, or (B) manages a housing project assisted in whole or in part by the federal government pursuant to Section 8 of The United States Housing Act of 1937, as amended from time to time, while such

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employee is performing duties in the regular course of, or incidental to, the management of such housing project; (7) any person licensed to maintain or operate a mobile manufactured home park under chapter 412 who performs any of the acts enumerated in section 20-311, as amended by this act, with reference to lots or mobile manufactured homes within the park or to the person's employees with respect to lots or mobile manufactured homes within such park when such acts are performed in the regular course of, or incidental to, the management of such property and the investment therein; (8) persons licensed as sellers of mobile manufactured homes under section 21-67; or (9) any person or such person's regular employee who, as owner, lessor, licensor, manager, representative or agent manages, leases, or licenses space on or in a tower, building or other structure for (A) "personal wireless services facilities" or facilities for "private mobile service" as those terms are defined in 47 USC 332, which facilities shall be unattended, and the installation and maintenance of related devices authorized by the Federal Communications Commission, and ancillary equipment used to operate such devices and equipment shelters therefor, in an area not to exceed three hundred sixty square feet for any one service established by the Federal Communications Commission in 47 CFR, as amended from time to time, by a provider of any such service, and (B) any right appropriate to access such facilities and connect or use utilities in connection with such facilities.

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This act shall take effect as follows and shall amend the following			
sections:			
Section 1	October 1, 2019	20-311	
Sec. 2	October 1, 2019	20-311b	
Sec. 3	October 1, 2019	20-312	
Sec. 4	October 1, 2019	20-312a	
Sec. 5	October 1, 2019	20-312b	
Sec. 6	October 1, 2019	20-314	
Sec. 7	October 1, 2019	20-316	
Sec. 8	October 1, 2019	20-317	
Sec. 9	October 1, 2019	20-319	
Sec. 10	October 1, 2019	20-319a	

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Sec. 11	October 1, 2019	20-320
Sec. 12	October 1, 2019	20-320a
Sec. 13	October 1, 2019	20-320b
Sec. 14	October 1, 2019	20-323
Sec. 15	October 1, 2019	20-324a
Sec. 16	October 1, 2019	20-324b
Sec. 17	October 1, 2019	20-324e
Sec. 18	October 1, 2019	20-325
Sec. 19	October 1, 2019	20-325b
Sec. 20	October 1, 2019	20-325d
Sec. 21	October 1, 2019	20-325h
Sec. 22	October 1, 2019	20-325m
Sec. 23	October 1, 2019	20-328
Sec. 24	October 1, 2019	20-329

## Statement of Purpose:

To create a new license for leasing agents.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

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