
Is Real Estate Licensing Necessary?

What the Research Tells Us

EXECUTIVE SUMMARY EXCERPTED

Over the past several years, the number of occupations requiring licensure has grown exponentially. A research project was undertaken to identify the origins of professional licensing, the concerns occasioned by the growth of licensing, the standards that should govern a decision to license or deregulate a given occupation, and more specifically, the need for licensure of real estate professionals. This research culminated in a significant report entitled “Is Real Estate Licensing Necessary? What the Research Tells Us.”



- As market complexities made it more difficult to access information needed in order to avoid being cheated or misled, licensing was adopted to signal professional competence. Properly designed and implemented licensing benefits consumers through higher-quality services and improved professional standards.
 - While true that not all occupations pose equivalent threats to the health, safety and pocket-books of the public, as early as 1912 states began to see the need to license real estate salespeople and brokers. By 1950 two-thirds of the states had real estate license laws and by the early 1970's all states had adopted license laws and implemented licensing for salespeople and brokers.
 - Foreseeable harms attendant to real estate transactions are primarily financial, although when a property sale involves a residence, personal risks can also arise. Foreseeable financial harms include, but are not limited to, purchase of properties that are noncompliant with local laws, have latent defects or that will otherwise necessitate considerable unanticipated expenses due to failure to understand the requirements or operation of state and local law, or failure of a contract to properly specify terms and conditions.
 - Real estate licensure imposes important fiduciary duties meant to minimize the danger of financial harm: The duty to fully disclose all material facts to the client; a duty to fully disclose all purchase offers to sellers; a duty to handle client information and affairs with loyalty and confidentiality; and the duty to act honestly and in good faith, and without self-dealing and conflicts of interest.
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- The education and examination requirements for real estate licensing are both minimal and germane. The number of hours required, on average, is much less than the number currently required of many similarly complex professions, and the curricula are rigorously monitored and calibrated to the entry-level professional.
 - Real estate requires considerable specialized knowledge. Applicants for real estate licenses must demonstrate proficiency in the principles and practices of the profession; state real estate and license law; professional standards; state agency law; real estate financing; real estate settlement procedures; escrow responsibilities; state record-keeping requirements; government regulations applicable to real estate; the basics of real estate appraisal and a familiarity with state contract law.
 - The Federal Trade Commission has determined that licensing real estate professionals does not increase costs to the consumer. From the FTC website: “Because buying a home is the single most important purchase many consumers will make, the Federal Trade Commission has enforced antitrust rules in the real estate business to make sure that increased competition continues to lead to more choices, better prices and stepped-up services for buyers and sellers.”
 - Policymakers considering substantial revisions of their state’s occupational licensing laws cannot avoid the often-tedious process of applying separate cost/benefit analyses to each occupation currently subject to licensure. Rest assured that these analyses, along with license recognition between states, will support real estate licensure for the protection of the public interest.

This material is excerpted from the full report entitled, “Is Real Estate Licensing Necessary? What the Research Tells Us.” prepared by The Association of Real Estate License Law Officials.

The full report may be found at: www.ARELLO.org
