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# FAST FACTS ABOUT OCCUPATIONAL LICENSING AND THE REAL ESTATE PROFESSION

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***Why Do We Have Occupational Licensing?*** The Supreme Court said it best back in 1889: to protect citizens from the “consequences of ignorance and incapacity, as well as of deception and fraud.” Specialization, urbanization and other increases in market complexities make it difficult for consumers to access information needed to evaluate professional competence. This is sometimes called “informational asymmetry.” Licensing is a signal of ethical and competent practice.

***Do All Occupations Need to be Licensed?*** No. Not all occupations pose equivalent threats to health and safety. Work by an unskilled electrician could lead to faulty wiring and a fire hazard; an incompetent real estate professional can cost individuals and businesses thousands of dollars. It is hard to imagine a similar level of risk from an unskilled floral arranger.

***Which Occupations Should be Licensed?*** Those that meet two tests: the occupation requires specialized skills that make it difficult for members of the general public to assess the competence of practitioners; and it is an occupation in which incompetent or unethical practitioners pose a significant risk of harm to the health, safety or pocketbooks of members of the public.

***Why Should Real Estate Professionals Be Licensed?*** Real estate transactions are subject to state laws governing property transfers, recording requirements, consumer protections, civil rights laws and lending restrictions. Those laws vary substantially from state to state, and navigating them requires expertise. Furthermore, banks and mortgage lenders rely on real estate professionals to ensure that the properties securing their loans are compliant with applicable laws, that the paperwork involved has been properly completed, that all required notices have been given and their receipt documented, and that representations about the value and condition of the property are accurate. Without widespread confidence in the ability of real estate professionals to independently verify these matters, mortgage loan rates would necessarily be adjusted upward to reflect the increased risks involved, with repercussions for the housing market and the economy as a whole.

***Aren't the Requirements for a Real Estate License Unnecessarily Onerous?*** No. Applicants generally must complete between sixty and ninety hours of study--a minimal requirement when compared to the 300 hours required of manicurists in Indiana, or the 1,500 hours required to be a barber in Texas--and must pass an examination. Course work is available online. Education is supplemented by the requirement to work for an experienced broker who is tasked with supervising all activities, which require a license, of affiliated licensees. That keeps the required courses to a germane minimum.

***Doesn't Licensing Make Relocation More Difficult?*** Because state real estate laws differ, real estate professionals (including lawyers) who want to be licensed in another state must demonstrate their familiarity with those differences. However, real estate commissions have expedited the procedures for determining that familiarity, and eliminated the need to take the full range of tests and pre-license education. (Actually, weakening licensing standards on a state-by-state basis could make it harder to relocate, because states will be more concerned about extending reciprocity or minimizing testing if some states have rigorous requirements and others have weak ones.)

***Aren't the Costs of Licensing Passed on to Consumers?*** They may be, just as any cost of doing business, however, real estate services are negotiated through a contract between the consumer and the real estate professional. Except for those things required by law, terms of these contracts are negotiable, to include the fee paid for a real estate professional's services. Therefore, the consumer participates and agrees to these costs knowingly and in advance.

***Doesn't Licensing Increase Costs by Reducing Competition?*** The Federal Trade Commission has analyzed this concern as applied to real estate professionals, and has found that this criticism no longer applies to real estate, if it ever did. “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.”