

BHI Policy Study

February 2012

Massachusetts Real Estate Licensing Requirement Benefits Agents Not Consumers

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February 2012



The Tuerck Foundation

for the Study of Economics, Law and the Humanities

1. Introduction*

Massachusetts adopted a continuing education component to its licensing requirements for real estate agents in 1999. Massachusetts had long licensed real estate agents but until 1999 once a person passed the initial licensing requirements their license was good for life as long as nominal renewal fees were paid. Beginning in 1999 agents were required to complete 12 hours of Board-approved continuing education training in the 24 months prior to each renewal in order to maintain the active practicing status of their real estate license.¹ Those who do not complete the education but wish to renew their license are placed on “inactive status” where they cannot represent clients but can only earn referral fees by referring the business to an agent with an active license.

The Massachusetts Association of Realtors argued that the continuing education requirement was necessary to ensure competence by weeding out agents who were incompetent and had not kept up with the changing laws and norms of the profession. However, the law, by its very nature, also limits competition by limiting the number of agents. Specifically, it poses a major hurdle to part-time agents who might not make enough sales to justify going through the expense and time of continual training. Full-time agents may be able to enhance their income by driving part-time agents from the occupation.

More than a decade has passed since the adoption of this requirement so we are in a position to evaluate whether the continuing education requirement has improved the quality of service in the real estate industry or whether it has only limited competition and enhanced the income of practitioners at the expense of consumers. The next section documents the efforts of the real estate profession to get the requirement adopted. Section 3 evaluates the effects of the continuing education requirement. Section 4 concludes.

2. Realtors Lobby for Continuing Education

Realtors have long maintained that continuing education would improve customer service. In 1978, the National Association of Realtors’ (NAR) Committee on Education and License Law, developed guidelines for the state real estate commissions. The guidelines claimed that the goal of continuing education was “to provide licensees with opportunities for obtaining necessary information which will enable them to conduct real estate negotiations and transactions in a legal and professional manner in order to better protect client and public

* This article draws heavily on “Real Estate Continuing Education: Rent Seeking or Improvement in Service Quality” by Benjamin Powell and Evgeny Vorotnikov that is forthcoming in the *Eastern Economic Journal*.

¹ According to the Massachusetts Real Estate License Law and Regulation, 254CMR 5.02

interest" (National Association of Realtors, Guidelines, 1981: 3). The National Association of Realtors claimed that continuing education,

insures that licensees are exposed to recent developments in the real estate industry; provides an awareness of new provisions or rules for the regulation of the business and the licensee and, in so doing, affords a protection the public might not otherwise have; leads to a greater recognition by the public that members of the industry are to be considered professionals; and causes licensees, formerly licensed under modest educational requirements, to maintain higher standards of proficiency or face loss of their licenses.²

The NAR's advocacy led 49 states to adopt a continuing education requirement.³ The NAR is the third-largest donor to political campaigns with the biggest Political Action Committee and "lobbies members of Congress and the administration on virtually every issue facing business."⁴ So perhaps it should be unsurprising that their strong advocacy predicated on improving customer service led to widespread adoption of continuing education requirements.

In Massachusetts the main push for a continuing education requirement began in 1990 when the NAR's state level affiliate, the Massachusetts Association of Realtors (MAR) began lobbying for it. The requirement was signed into law in 1996 by Governor William Weld, who had received a contribution of \$5,000 from NAR during the 1996 election cycle.⁵ According to *The Boston Herald*, "The Massachusetts Association of Realtors spent six years pressing the Legislature to adopt a continuing education bill, and MAR President Laura Shifrin was pleased to prevail. 'This law will raise the level of professionalism within the real estate industry and help ensure quality representation for consumers relative to home buying and selling,' stated Shifrin."⁶

The behavior of the Massachusetts Association of Realtors and National Association of Realtors is consistent with the behavior of many licensed occupations. Economist Milton Friedman observed more than 50 years ago that:

² Real Estate Today®, (1980). Real Estate License Laws: Ensuring Professionalism. P. 14.

³ Tosh and Garvey (1984) report that the majority of real estate agents surveyed supported the adoption of continuing education requirements.

⁴ Center for Responsive Politics. www.opensecrets.org/orgs/summary.php?ID=D000000062.

⁵ Center for Responsive Politics. www.opensecrets.org/orgs/summary.php?ID=D000000062.

⁶ Matte, J. (1996). Real Estate Continuing Education Bill is Signed into Law by Gov. Weld. Boston Herald, 23 August, sec. Real Estate, p. 044.

the pressure on the legislature to license an occupation rarely comes from the members of the public who have been mulcted or in other ways abused by members of the occupation. On the contrary, the pressure invariably comes from members of the occupation itself.⁷

When the pressure for additional regulation comes from the occupation to be regulated there is good reason to question whether they have the public's welfare in mind or whether they are more concerned with how the regulation will affect their own incomes.

3. Impact of Continuing Education Requirement

There are good reasons to question whether continuing education requirements will do anything to enhance "professionalism" or "ensure quality representation." Courses do not require exams at their completion. As a result real estate agents can just sit through a lecture passing time while typing on their Blackberrys or doing some other activity.⁸ However, this is not to say that continuing education requirements have no effect.

Many people who obtain a real estate license eventually no longer pursue a real estate career full-time. Some work on a regular, part-time basis. Others maintain their license by sending in nominal renewal fees every couple of years but rarely use their license. These people might occasionally list a home for a friend or simply act as their own real estate agent when purchasing or selling their own home. These agents might go a year or more without making a single commission but then do one deal and earn a few thousand dollars.

The cost, in terms of both time and money, of twelve hours of continuing education is unlikely to cause many full-time realtors to exit the industry or to deter others from entering. However, for those agents who only occasionally make a sale, the barrier may encourage them to go into inactive status. If this is the case, by pushing part time and infrequent agents into inactive status, full-time real estate agents, who are the vast majority of members of the National and Massachusetts Associations of Realtors, could enhance their own income.⁹

To investigate what effect the continuing educational requirement had we estimate three separate models. One estimates its effect on the number of practicing real estate agents, the second on the quality of service, and the third on agent income. We analyze data on the

⁷ Milton Friedman (1962) *Capitalism and Freedom*. Chicago: University of Chicago Press. P. 140.

⁸ As one current realtor told us in an email interview on May 12th "Although most Realtors are not thrilled with continuing ed classes, I have not witnessed surfing the web etc. Falling asleep may be another story."

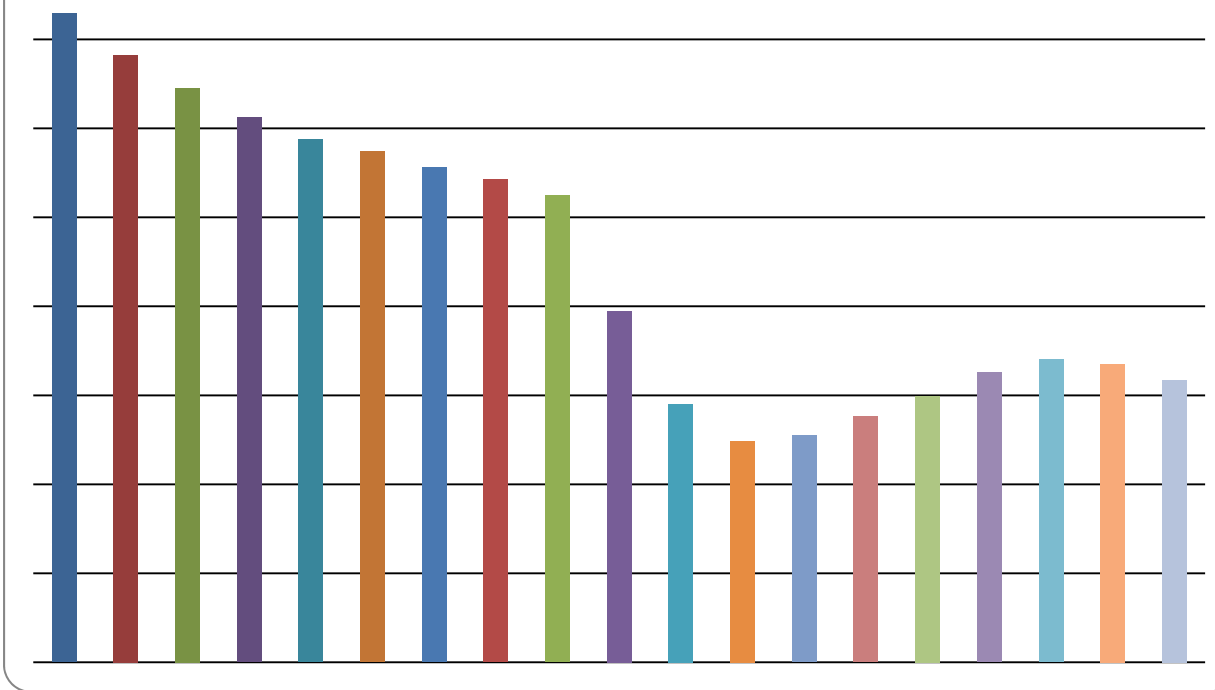
⁹ The fact that full time agents might benefit while part time agents would lose from continuing education requirements is likely reflected in the fact that 75 percent of agents surveyed supported adopting continuing education (Tosh and Garvey 1984).

number agents and income from 1990 to 2008 and on quality of service from 1993 to 2007. The Massachusetts Division of Professional Licensure provided data on the number of active real estate agents. They also supplied data on the number of complaints about real estate agents to the board and what the board's ruling was in each case. That serves as our measure of service quality. The Bureau of Economic Analysis provided the data on agents' income.

Our econometric analysis also controlled for other variables that are likely to affect the number of realtors, number of complaints, and realtor income. The MAR provided a statewide data set with the annual number of real estate sales, average house price, and housing appreciation. Data on the number of internet users in the United States was compiled by World Bank.

The number of active real estate agents in Massachusetts fluctuated from a high of more than 140,000 agents in 1990 to a low of approximately 50,000 agents in 2001. The raw data indicates a decline in the number of agents correlated with the depressed housing market of the early 1990s which moderates as the market recovered and an increase in the number of agents occurs with the housing boom of the recent decade. However, by far the most dramatic change is the large drop in the number of active agents that occurred at the time of the implementation of continuing education (see Figure 1). This dramatic drop is not correlated with any general increase in unemployment. According to the Bureau of Labor Statistics, the unemployment rate in Massachusetts fell from more than 5% in the mid to late 1990s to 3.2% in 1999 and 2.6% in 2000.

Figure I. Number of Active Real Estate Agents



Although the raw correlation is interesting it is necessary to control for other factors before judging the impact of the requirement. Real estate agents earn their income as a percent of the commission charged on home sales. Therefore, we anticipate that when there are more homes sold, more people will desire to become real estate agents. Because commissions are typically charged as a percent of the final sale price, we also anticipate that higher home prices will entice more people to become realtors. The use of online home listings rose dramatically over this time and enables many consumers to view properties that before they would have needed a real estate agent to inform them about so the rise in the number of internet users also may have impacted the number of realtors.

After controlling for all the above factors we find that implementing a continuing education requirement had a statistically and economically significant impact on the number of active agents. We phased the effect of continuing education in over two years because only half of all licensees are affected in any one year. Once the other factors were controlled for we found that continuing education reduced the number of active agents by 58 percent.

The decrease in the number of active real estate agents is not alone enough evidence to indicate that the Massachusetts Association of Realtors was being disingenuous. After all, if the

continuing education requirement had its intended effect of decreasing the number of incompetent agents in the profession we should observe a decrease in the number of licensed agents, though such a significant drop certainly raises some doubts about whether it was only incompetents who were weeded out. Nevertheless it is necessary to investigate whether the requirement had any impact on the quality of service.

We use two measures for quality of service: the number of complaints to the Massachusetts Licensing Board and the number of complaints that resulted in some form of board punishment or verdict of guilt. Although complaints resulting in a guilty verdict may seem like a better measure of quality since it sorts out spurious complaints, it is also likely the case that simply having a complaint is a sign of poor service quality. Even if no actionable offense occurred, the mere fact that a customer felt it necessary to file a complaint is a signal of poor service.

We again control for other factors, total number of sales, the real housing appreciation rate, and the number of internet users, that might impact the number of complaints. We also verified that there was not enough variation in staffing or funding of enforcement agencies to affect the number of guilty verdicts rendered. We again phase the effect in over two years, this time to account for the fact that customers can make a complaint up to one year after they traded a property. Whether we looked at aggregate complaints or those resulting in a guilty verdict we did not find any statistically significant relationship between the introduction of continuing education and the quality of service.

The agents who were pushed out of the market by the continuing education requirement were apparently not of any lower quality even if they were only part-time agents. Also, there is no indication that the classes themselves increased the quality of the remaining agents. These results are directly contrary to the claims made by the realtors' associations that these continuing education requirements were in the public interest.

Our final area of analysis examines the effect on real estate agents' incomes to see if the regulations were instead in the interest of active practicing agents rather than the general public. Prior to the introduction of continuing education inflation adjusted incomes had averaged \$26,504 but after the introduction of continuing education they averaged \$34,970. Of course more than just continuing education changed over this time period so we again control for the other most important factors: the total number of sales and the real average value of home sales.

We again phase the effect of continuing education in over two years to account for the fact that only half of licensed agents were affected in the first year. We find, that after

controlling for other factors, the introduction of continuing education was statistically significant and increased the incomes of remaining agents by 17 percent.

4. Conclusion

The Massachusetts Association of Realtors lobbied long and hard for the introduction of a continuing education requirement in the real estate license. They claimed they were doing this in order to ensure a high quality of service for Massachusetts consumers. We find no evidence that the introduction of continuing education did anything to improve the quality of service.

Instead we find that it played a significant role in pushing many agents, who apparently were of no lower quality, out of the profession. The number of active real estate agents decreased by 58 percent because of the requirement. We think that much of this decrease came about by pushing part-time agents who only made infrequent sales out of the market. As a result more business was left for the remaining full-time agents. We found that, for those agents that remained in the market, their incomes were increased by more than 17 percent as a result of the continuing education requirement.

The Massachusetts Association of Realtors claimed to have the public interest at heart but instead they appear to have acted as a typical industry lobbying group. They succeeded in getting the Massachusetts legislature to pass a requirement that successfully limited competition from part-time agents and enhanced the income of full-time agents, who make up the majority of the association, while doing nothing to actually enhance the quality of service the industry provides. After more than a decade of experience behind us it is obvious that the consumers are being fleeced for the benefit of the members of the Massachusetts Association of Realtors. Massachusetts should repeal this licensing requirement.

Appendix

Table 1 and Table 3 report the unadjusted coefficients of Continuing Education binary variable. Because the dependent variables were in logs in these models we make the appropriate adjustments in the text when we discuss the magnitude of the economic impact of the binary variables: $100 * (\exp(\hat{\beta}_0) - 1)$.

Each of our models had serial correlation so the Newey-West error correction method was used to correct for it.

Table 1. Estimates of the number of real estate agents

Variables	Model	P-value
Constant	6.142* (3.093)	0.030
Continuing Education	-0.869*** (0.124)	0.000
Sales	-0.201 (0.187)	0.228
Real Average Price	0.650*** (0.215)	0.010
Internet Users	-0.023 (0.041)	0.523
F-statistic	109.67	
Prob(F-statistic)	0.000	
Number of Observations	19	
Adjusted R ²	0.96	

a. *** p-value < 0.01, ** p-value < 0.05, * p-value < 0.10;

b. Standard errors are in parentheses

Table 2. Estimates of the number of complaints regressions

Variables	All Complaints		Complaints Resulted in Punishment	
	Model 1993-2007	P-value	Model 1993-2007	P-value
Constant	307.94** (120.660)	0.029	19.67 (28.890)	0.512
Continuing Education	-44.47 (43.840)	0.334	-13.12 (26.780)	0.635
Sales	0.0026 (0.0026)	0.353	0.0004 (0.0007)	0.632
Real Housing Appreciation	104.36 (157.930)	0.524	-22.82 (91.100)	0.807
Number of Internet Users	-2.39* (1.230)	0.080	0.15 (0.600)	0.815
F-statistic	15.19		0.21	
Prob(F-statistic)	0.000		0.93	
Number of Observations	15		15	
Adjusted R ²	0.80		-0.29	

a. *** p-value < 0.01, ** p-value < 0.05, * p-value < 0.10;

b. Standard errors are in parentheses

Table 3. Estimates of income regression

Variables	Model	P-value
	1990-2008	
Constant	6.45*** (1.555)	0.001
Continuing Education	0.155** (0.054)	0.012
Sales	0.125** (0.052)	0.030
Real Average Housing Price	0.202* (0.100)	0.062
F-statistic	89.71	
Prob(F-statistic)	0.000	
Number of Observations	19	
Adjusted R ²	0.93	

a. *** p-value < 0.01, ** p-value < 0.05, * p-value < 0.10;

b. Standard errors are in parentheses

About the Authors

Benjamin Powell, Ph.D. is an Associate Professor of Economics at Suffolk University and a Senior Economist with the Beacon Hill Institute. He holds his Ph.D. from George Mason University and has written more than 50 scholarly articles and policy studies. He also holds a Massachusetts Real Estate Sales Person's License on inactive status.

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