

By: Kuempel

H.B. No. 2850

A BILL TO BE ENTITLED

AN ACT

relating to the practices and professions regulated by the Texas Appraiser Licensing and Certification Board; requiring an occupational license; imposing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1103.003, Occupations Code, is amended by amending Subdivisions (2-a), (6-b), (7), and (8) and adding Subdivisions (2-b), (4-a), and (5-a) to read as follows:

(2-a) "Appraisal review" has the meaning assigned by Section 1104.003.

(2-b) "Appraisal Standards Board" means the Appraisal Standards Board of the Appraisal Foundation, or its successor.

(4-a) "Appraiser trainee" means an appraiser trainee licensed under this chapter.

(5-a) "Certified appraiser" means a person who is certified under this chapter to practice as a certified general or certified residential appraiser.

(6-b) "Federal financial institution regulatory agency" means:

(A) the Board of Governors of the Federal Reserve System;

(B) the Federal Deposit Insurance Corporation;

(C) the Office of the Comptroller of the Currency;

(D) the Consumer Financial Protection Bureau
~~[Office of Thrift Supervision]~~;

(E) the National Credit Union Administration; or

(F) the successors of any of those agencies.

(7) "Licensed appraiser" ~~["State-certified real
estate appraiser" or "certified appraiser" means a person who is
certified under this chapter.~~

~~[(8) "State-licensed real estate appraiser" or
"licensed appraiser"]~~ means a person who is licensed under this
chapter to practice as a residential real estate appraiser.

(8) "Supervisory appraiser" means a supervisory
appraiser as defined by the Appraiser Qualifications Board.

SECTION 2. Section 1103.004, Occupations Code, is amended
to read as follows:

Sec. 1103.004. EFFECT OF CHAPTER. ~~[(b)]~~ This chapter does
not prohibit:

(1) a person authorized by law from performing an
evaluation of real property for or providing an evaluation of real
property to another person; ~~[or]~~

(2) a real estate broker licensed under Chapter 1101
or a sales agent ~~[salesperson]~~ acting under the authority of a
sponsoring broker from providing to another person a written
analysis, opinion, or conclusion relating to the estimated price of
real property if the analysis, opinion, or conclusion:

(A) is not referred to as an appraisal;

(B) is given in the ordinary course of the
broker's ~~[or salesperson's]~~ business; and

(C) is related to the actual or potential acquisition, disposition, encumbrance, or management of an interest in real property; or

(3) an appraiser who is certified by a jurisdiction other than this state from performing an appraisal review of an appraisal performed on real property in this state, if the appraiser does not offer an opinion of value as part of the appraisal review.

SECTION 3. Section 1103.006, Occupations Code, is amended to read as follows:

Sec. 1103.006. APPLICATION OF SUNSET ACT. The Texas Appraiser Licensing and Certification Board ~~[If the federal government removes the requirements for the preparation or use of an appraisal by federally regulated financial institutions, the board]~~ is subject to Chapter 325, Government Code (Texas Sunset Act) ~~[, and is subject to sunset review in the next regular session of the legislature following the date of the federal government's action]~~. Unless continued in existence ~~[by that legislature]~~ as provided by that chapter, the board is abolished and this chapter and Chapter 1104 expire September 1, 2019 ~~[expires on the 90th day after the last day of the regular session of that legislature]~~.

SECTION 4. Subchapter B, Chapter 1103, Occupations Code, is amended by adding Section 1103.0545 to read as follows:

Sec. 1103.0545. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that

1 complies with this section.

2 (b) The training program must provide the person with
3 information regarding:

4 (1) this chapter and other laws applicable to the
5 board;

6 (2) the programs, functions, rules, and budget of the
7 board;

8 (3) the results of the most recent formal audit of the
9 board;

10 (4) the requirements of laws relating to open
11 meetings, public information, administrative procedure, and
12 conflicts of interest; and

13 (5) any applicable ethics policies adopted by the
14 board or the Texas Ethics Commission.

15 (c) A person appointed to the board is entitled to
16 reimbursement for the travel expenses incurred in attending the
17 training program regardless of whether the attendance at the
18 program occurs before or after the person qualifies for office.

19 SECTION 5. Section 1103.055, Occupations Code, is amended
20 to read as follows:

21 Sec. 1103.055. TERMS; VACANCIES. (a) Appointed members of
22 the board serve staggered six-year [~~two-year~~] terms, with the terms
23 of one or two appraiser members and one or two public members
24 expiring on January 31 of each odd-numbered year.

25 (b) If a vacancy occurs during a member's term, the governor
26 shall appoint a person to fill the unexpired term [~~An appointed~~
27 ~~member may not serve more than three consecutive two-year terms~~].

SECTION 6. Section 1103.056, Occupations Code, is amended to read as follows:

Sec. 1103.056. OFFICERS; EXECUTIVE COMMITTEE. (a) The governor shall designate a board member who is an appraiser to serve as presiding officer of the board.

(b) At a regular meeting in February of each year, the board shall elect from its members an ~~[a presiding officer,~~ assistant presiding officer ~~]~~ and a secretary.

(c) ~~[(b)]~~ The presiding officer, assistant presiding officer, and secretary ~~[officers elected under Subsection (a)]~~ constitute the executive committee.

SECTION 7. Section 1103.057(c), Occupations Code, is amended to read as follows:

(c) If the commissioner ~~[presiding officer of the board]~~ has knowledge that a potential ground for removal of an appointed board member exists, the commissioner shall notify the presiding officer of the board of the potential ground. The presiding officer shall immediately notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the commissioner shall notify the next highest ranking officer of the board, who shall immediately notify the governor and the attorney general that a potential ground for removal exists.

SECTION 8. Section 1103.058, Occupations Code, is amended to read as follows:

Sec. 1103.058. PER DIEM; REIMBURSEMENT. (a) An appointed board member is entitled to receive:

1 (1) \$75 for each day the member engages in official
2 duties as a board member; and

3 (2) reimbursement for actual and necessary expenses
4 incurred in performing official duties as a board member.

5 (b) For purposes of this section, the board by rule may
6 determine what constitutes a day or actual and necessary expenses.

7 SECTION 9. Subchapter B, Chapter 1103, Occupations Code, is
8 amended by adding Section 1103.060 to read as follows:

9 Sec. 1103.060. EDUCATIONAL PRESENTATIONS. (a) A member of
10 the board or a board employee may make a presentation to a group of
11 certificate or license holders for which the certificate or license
12 holders may receive continuing education credit for the renewal of
13 a certificate or license under Section 1103.211. The board member
14 or employee may not receive compensation for the presentation.

15 (b) Notwithstanding Subsection (a), the board member or
16 employee may receive reimbursement for reasonable travel expenses.

17 SECTION 10. Section 1103.101(b), Occupations Code, is
18 amended to read as follows:

19 (b) The board may delegate to the commissioner the
20 responsibility for administering this chapter and Chapter 1104,
21 including the approval of consent orders and agreements.

22 SECTION 11. Section 1103.102, Occupations Code, is amended
23 to read as follows:

24 Sec. 1103.102. OTHER BOARD PERSONNEL. In addition to the
25 commissioner, the board may employ other officers and employees as
26 necessary to administer this chapter and Chapter 1104.

27 SECTION 12. Section 1103.103, Occupations Code, is amended

1 to read as follows:

2 Sec. 1103.103. SALARIES. ~~[(a)]~~ The commissioner
3 ~~[administrator of the Texas Real Estate Commission]~~ shall determine
4 the salaries of the officers and employees of the board.

5 SECTION 13. Section 1103.104, Occupations Code, is amended
6 to read as follows:

7 Sec. 1103.104. DUTIES OF COMMISSIONER. The commissioner
8 shall:

9 (1) disseminate information;

10 (2) administer rules adopted by the board under this
11 chapter or Chapter 1104;

12 (3) review each application for a certificate or
13 license and make a recommendation for final action to the board;

14 (4) review and make recommendations to the board
15 regarding the adoption of rules relating to:

16 (A) the examination required by Subchapter F;

17 (B) education and experience requirements for
18 issuance of certificates and licenses;

19 (C) continuing education for a certified or
20 licensed appraiser;

21 (D) standards of professional practice and
22 ethics for a certified or licensed appraiser;

23 (E) standards for a real estate appraisal
24 performed by a certified or licensed appraiser; and

25 (F) the fees established by the board under
26 Section 1103.156 or Section 1104.052;

27 (5) collect fees established by the board;

1 (6) manage the staff and employees of the board; and
2 (7) perform any other duty prescribed by the board
3 under this chapter or Chapter 1104.

4 SECTION 14. Section 1103.151, Occupations Code, is amended
5 to read as follows:

6 Sec. 1103.151. RULES RELATING TO CERTIFICATES AND LICENSES.
7 The board may adopt:

8 (1) rules for certifying or licensing an appraiser or
9 ~~[approving an]~~ appraiser trainee in this state that are in
10 accordance with this chapter and consistent with applicable federal
11 law;

12 (2) rules relating to the qualifying education and
13 experience required for certifying or licensing an appraiser or
14 ~~[approving an]~~ appraiser trainee that are consistent with the
15 guidelines recognized by the Appraiser Qualifications Board;

16 (3) rules relating to the examination required by
17 Subchapter F; and

18 (4) rules relating to procedures for the timely
19 renewal of a certificate or ~~[7]~~ license~~[7, or trainee approval]~~.

20 SECTION 15. Section 1103.153, Occupations Code, is amended
21 to read as follows:

22 Sec. 1103.153. RULES RELATING TO CONTINUING EDUCATION. The
23 board may adopt rules relating to:

24 (1) continuing education requirements for a certified
25 or licensed appraiser or an ~~approved~~ appraiser trainee; and

26 (2) the requirements for approval of a provider,
27 course, or instructor for qualifying or continuing education.

SECTION 16. Section 1103.154, Occupations Code, is amended to read as follows:

Sec. 1103.154. RULES RELATING TO PROFESSIONAL CONDUCT. The board may adopt:

(1) rules as necessary to conform to the minimum written standards of the Appraisal Standards Board by incorporating the Uniform Standards of Professional Appraisal Practice;

(2) rules requiring a certified or licensed appraiser or an appraiser trainee to comply with standards of competency, professional conduct, and ethics prescribed by the Uniform Standards of Professional Appraisal Practice, as adopted by the Appraisal Standards Board; and

(3) rules relating to the standards for the development of an appraisal and the conveyance of an appraisal report by a certified or licensed appraiser or an appraiser trainee that are recognized as substantially equivalent to or consistent with the Uniform Standards of Professional Appraisal Practice.

SECTION 17. Section 1103.155(c), Occupations Code, is amended to read as follows:

(c) The board shall send a copy of the roster to the Appraisal Subcommittee at least weekly [~~annually~~].

SECTION 18. Section 1103.157, Occupations Code, is amended to read as follows:

Sec. 1103.157. GIFTS, GRANTS, AND DONATIONS. The board may solicit, accept, and administer gifts, grants, and donations of any kind from any public or private source for the purposes of this chapter and Chapter 1104.

SECTION 19. Section 1103.159, Occupations Code, is amended by amending Subsections (b) and (d) and adding Subsections (e), (f), and (g) to read as follows:

(b) The advisory committee consists of the assistant presiding officer of the board and four ~~[two]~~ persons appointed by the governor as follows:

(1) two members who are each designated as the ~~[a]~~ controlling person of an appraisal management company registered under Chapter 1104; and

(2) two ~~[a]~~ public members ~~[member]~~ with recognized business ability.

(d) The members of the advisory committee appointed by the governor serve staggered two-year terms, with the terms of one ~~[the]~~ appraisal management company member and one ~~[the]~~ public member expiring on January 31 of each year ~~[alternating years]~~.

(e) An appointed member may not serve more than two consecutive two-year terms.

(f) If a vacancy occurs during a member's term, the governor shall appoint a person to fill the unexpired term.

(g) The advisory committee may hold a meeting by telephone conference call or other video or broadcast technology.

SECTION 20. Section 1103.201, Occupations Code, is amended to read as follows:

Sec. 1103.201. CERTIFICATE OR LICENSE REQUIRED. (a) A person may not perform an appraisal of real estate unless the person is licensed or certified as an appraiser under this chapter, registered as a temporary out-of-state appraiser under this

chapter, or acting as an appraiser trainee under the supervision
[~~sponsorship~~] of a supervisory [~~certified~~] appraiser.

(b) Unless the person holds the appropriate license or
certification, a person may not:

(1) use the title "certified real estate appraiser"
[~~"state-certified real estate appraiser"~~] or "licensed real estate
appraiser" [~~"state-licensed real estate appraiser"~~]; or

(2) refer to an appraisal performed by the person as a
"certified appraisal" or "licensed appraisal."

SECTION 21. Section 1103.202, Occupations Code, is amended
to read as follows:

Sec. 1103.202. ELIGIBILITY REQUIREMENTS FOR CERTIFICATE OR
LICENSE. To be eligible for a certificate or license under this
chapter, an applicant must:

(1) pass the applicable examination required by
Subchapter F;

(2) successfully complete the number and type of
classroom hours or other educational qualifications required by the
Appraiser Qualifications Board;

(3) provide evidence satisfactory to the board that
the applicant has at least the minimum number of hours of experience
in performing appraisals over the specified number of calendar
years as required by the Appraiser Qualifications Board; [~~and~~]

(4) satisfy the board as to the applicant's honesty,
trustworthiness, and integrity; and

(5) comply with the requirements of Sections 1103.203
and 1103.2031.

SECTION 22. Section 1103.203, Occupations Code, is amended to read as follows:

Sec. 1103.203. CERTIFICATE OR LICENSE APPLICATION
[ELIGIBILITY REQUIREMENTS FOR LICENSE]. (a) An applicant for a
certificate or license or for renewal of a certificate or license
must submit an application to the board on the form prescribed by
the board.

(b) The applicant must disclose in the application whether
the applicant has:

(1) entered a plea of guilty or nolo contendere to a
felony; or

(2) been convicted of a felony and the time for appeal
has elapsed or the judgment or conviction has been affirmed on
appeal.

(c) The disclosure under Subsection (b) must be provided
regardless of whether a court order granted community supervision
suspending the imposition of the sentence.

(d) The application must include the applicant's current
mailing address and telephone number and the applicant's business
e-mail address, if available. The applicant shall notify the board
of any change in the applicant's mailing or e-mail address or
telephone number while the application is pending.

(e) The applicant must provide any other information
required by the board to comply with the Appraiser Qualifications
Board's criminal history and background check requirements ~~[To be~~
~~eligible for a license under this chapter, an applicant must:~~

~~[(1) pass the examination required by Subchapter F,~~

1 ~~[(2) successfully complete the number and type of~~
2 ~~classroom hours or other educational qualifications required by the~~
3 ~~guidelines of the Appraiser Qualifications Board,~~

4 ~~[(3) provide evidence satisfactory to the board that~~
5 ~~the applicant has at least the minimum number of hours of experience~~
6 ~~in performing appraisals over the specified number of calendar~~
7 ~~years as required by the guidelines of the Appraiser Qualifications~~
8 ~~Board; and~~

9 ~~[(4) satisfy the board as to the applicant's honesty,~~
10 ~~trustworthiness, and integrity].~~

11 SECTION 23. Subchapter E, Chapter 1103, Occupations Code,
12 is amended by adding Section 1103.2031 to read as follows:

13 Sec. 1103.2031. CRIMINAL HISTORY RECORD INFORMATION
14 REQUIREMENT. (a) The board by rule may require that an applicant
15 for a certificate or license or renewal of an unexpired certificate
16 or license submit a complete and legible set of fingerprints, on a
17 form prescribed by the board, to the board or to the Department of
18 Public Safety for the purpose of obtaining criminal history record
19 information from the Department of Public Safety or the Federal
20 Bureau of Investigation.

21 (b) If the board implements the requirement under
22 Subsection (a), the board may not issue a certificate or license to
23 or renew the certificate or license on active status of an applicant
24 who does not comply with that requirement.

25 (c) If the board implements the requirement under
26 Subsection (a), the board shall conduct a criminal history check of
27 an applicant for a certificate or license or renewal of a

certificate or license using information:

(1) provided by the applicant under this section and
Section 1103.203; and

(2) made available to the board by the Department of
Public Safety, the Federal Bureau of Investigation, or any other
criminal justice agency under Chapter 411, Government Code.

(d) The board may:

(1) enter into an agreement with the Department of
Public Safety or other federally authorized entity to administer a
criminal history check required under this section; and

(2) authorize the Department of Public Safety or other
federally authorized entity to collect from each applicant the
costs incurred by the department in conducting the criminal history
check.

SECTION 24. Section 1103.204(c), Occupations Code, is
amended to read as follows:

(c) The board shall give an applicant for a certificate or
license credit toward fulfilling the requirements of Section
~~[Sections]~~ 1103.202(2) ~~[and 1103.203(2)]~~ for classroom hours taken
in the course of becoming licensed as a real estate broker or sales
agent ~~[salesperson]~~ or for professional development or continuing
education courses taken, whether the classroom hours or courses are
taken by a person as a real estate broker or sales agent
~~[salesperson]~~ or as an employee of a financial institution engaged
in real estate-related financial transactions, if the classroom
hours or courses satisfy the requirements established by the
guidelines recognized by the Appraiser Qualifications Board.

SECTION 25. Sections 1103.205(a) and (c), Occupations Code, are amended to read as follows:

(a) This ~~[Except as provided by Section 1103.208, this]~~ chapter does not limit the amount of time in which an applicant for a certificate or license is required to satisfy the experience requirements under this subchapter.

(c) For the purpose of determining the qualifications of an applicant for a certificate or license under this chapter, acceptable appraisal experience includes:

(1) any one or any combination of the categories recognized by the Appraiser Qualifications Board; and

(2) experience as a real estate mortgage lending officer of a financial institution or as a real estate broker that includes the actual performance or technical review of real estate appraisals.

SECTION 26. Section 1103.206(b), Occupations Code, is amended to read as follows:

(b) The board shall adopt a reliable method to verify the evidence of appraisal experience submitted by an applicant for a certificate or license. The method must include the review of appraisal experience of all applicants for certification ~~[and must rely on appropriate sampling techniques that are applied to not more than five percent of the license applications received by the board]~~. An applicant ~~[whose application is selected for verification]~~ has at least 60 days after the date notice is sent ~~[of selection]~~ to submit ~~[prepare]~~ any records requested by the board. The board may not require the applicant to provide more information

1 than the information the board may obtain under Section 1103.207.

2 SECTION 27. Section 1103.207(a), Occupations Code, is
3 amended to read as follows:

4 (a) In addition to the information or documentation
5 specified by this subchapter, the board may obtain other
6 information or documentation from an applicant for a certificate or
7 license under this chapter if the board determines that:

8 (1) a formal [~~consumer complaint or peer~~] complaint
9 against the applicant alleging fraud, incompetency, or malpractice
10 is reasonable; or

11 (2) other just cause exists for requiring further
12 information.

13 SECTION 28. Section 1103.209(a), Occupations Code, is
14 amended to read as follows:

15 (a) The board shall issue a reciprocal license or
16 certificate [~~or license~~] to an applicant from another state if:

17 (1) the appraiser licensing and certification program
18 of the other state is in compliance with 12 U.S.C. Section 3331 et
19 seq.;

20 (2) the applicant [~~appraiser~~] holds a valid license or
21 certificate from a state whose requirements for licensure or
22 certification meet or exceed the licensure or certification
23 requirements of this state; [~~and~~]

24 (3) the applicant [~~appraiser~~] satisfies the board as
25 to the appraiser's honesty, trustworthiness, and integrity; and

26 (4) the applicant complies with the requirements of
27 Sections 1103.203 and 1103.2031.

SECTION 29. Section [1103.2091](#), Occupations Code, is amended to read as follows:

Sec. 1103.2091. PROBATIONARY CERTIFICATE [~~7~~] OR LICENSE [~~7~~ ~~OR TRAINEE APPROVAL~~]. (a) The board may issue a probationary certificate or license to [~~or approve~~] an appraiser or an appraiser trainee, as applicable [~~on a probationary basis~~].

(b) The board by rule shall adopt reasonable terms for issuing a probationary certificate or license [~~and for approval of an appraiser trainee on a probationary basis~~].

(c) A person who holds a probationary certificate or license [~~or who is approved as an appraiser trainee~~] under this section must disclose the probationary status to all clients before accepting an assignment.

SECTION 30. Sections [1103.211](#)(b) and (c), Occupations Code, are amended to read as follows:

(b) A person may renew a certificate or license by:

(1) paying the renewal fee; [~~and~~]

(2) providing evidence satisfactory to the board that the person has completed continuing education requirements that comply with the guidelines recognized by the Appraiser Qualifications Board and that are imposed by rule under this chapter;

(3) satisfying the board as to the person's honesty, trustworthiness, and integrity; and

(4) complying with the requirements of Sections [1103.203](#) and [1103.2031](#).

(c) For purposes of Subsection (b)(2), the board shall

1 accept as continuing education any educational offering that
2 complies with the guidelines recognized by the Appraiser
3 Qualifications Board that a certified or licensed appraiser was
4 awarded by [~~a national appraiser organization approved by the board~~
5 ~~as~~] a provider of qualifying appraisal education approved by the
6 board.

7 SECTION 31. Section 1103.2111, Occupations Code, is amended
8 to read as follows:

9 Sec. 1103.2111. LATE RENEWAL OF CERTIFICATE OR [~~7~~] LICENSE
10 [~~7~~, ~~OR~~ ~~TRAINEE~~ ~~APPROVAL~~]. (a) A person whose certificate or [~~7~~]
11 license [~~7~~, ~~or~~ ~~approval~~] has been expired for 90 days or less may
12 renew the certificate or [~~7~~] license [~~7~~, ~~or~~ ~~approval~~] by paying to
13 the board a fee equal to 1-1/2 times the required renewal fee. If a
14 certificate or [~~7~~] license [~~7~~, ~~or~~ ~~approval~~] has been expired for more
15 than 90 days but less than six months, the person may renew the
16 certificate or [~~7~~] license [~~7~~, ~~or~~ ~~approval~~] by paying to the board a
17 fee equal to two times the required renewal fee.

18 (b) A certificate or [~~7~~] license [~~7~~, ~~or~~ ~~approval~~] that is
19 renewed under this section shall expire on the date that would apply
20 had the certificate or [~~7~~] license [~~7~~, ~~or~~ ~~approval~~] been timely
21 renewed.

22 (c) A person may not perform an appraisal in a federally
23 related transaction while the person is not actively licensed or
24 certified as an appraiser or an appraiser trainee.

25 (d) If a person's certificate or [~~7~~] license [~~7~~, ~~or~~ ~~approval~~]
26 has been expired six months or longer, the person may not renew the
27 certificate or [~~7~~] license [~~7~~, ~~or~~ ~~approval~~]. The person may obtain a

1 new certificate or [7] license [~~7~~ ~~or approval~~] by complying with the
2 requirements and procedures for an original application.

3 SECTION 32. Sections 1103.213(a), (b), (c), (d), and (f),
4 Occupations Code, are amended to read as follows:

5 (a) The board may place on inactive status the certificate
6 or license of a person who [~~an appraiser if the appraiser~~]:

7 (1) is not acting as an appraiser or an appraiser
8 trainee;

9 (2) is not acting as a supervisory appraiser of
10 [~~sponsoring~~] an appraiser trainee; and

11 (3) submits a written application to the board before
12 the expiration date of the [~~appraiser's~~] certificate or license.

13 (b) The board may place on inactive status the certificate
14 or license of an appraiser or an appraiser trainee whose
15 certificate or license has expired if the person:

16 (1) [~~appraiser~~] applies for inactive status on a form
17 prescribed by the board not later than the 180th day after [~~the~~
18 ~~first anniversary of~~] the expiration date of the [~~appraiser's~~]
19 certificate or license; and

20 (2) meets the requirements of Section 1103.2111.

21 (c) A supervisory [~~An~~] appraiser applying for inactive
22 status shall terminate the appraiser's association with each
23 appraiser trainee supervised [~~sponsored~~] by the appraiser by giving
24 written notice to each appraiser trainee before the 30th day
25 preceding the date the appraiser applies for inactive status.

26 (d) An appraiser or an appraiser trainee on inactive status:

27 (1) may not perform any activity regulated under this

1 chapter;

2 (2) must pay annual renewal fees; and

3 (3) is not required to pay the annual registry fee
4 described by Section 1103.156(b).

5 (f) The board shall return ~~[remove]~~ an appraiser's
6 certificate or license to active ~~[from inactive]~~ status if the
7 appraiser:

8 (1) submits an application to the board;

9 (2) pays the required fee; ~~and~~

10 (3) submits proof of complying with the cumulative
11 continuing education requirements of Section 1103.211 during the
12 period the license has been on inactive status;

13 (4) satisfies the board as to the person's honesty,
14 trustworthiness, and integrity; and

15 (5) complies with the requirements of Sections
16 1103.203 and 1103.2031 ~~[two years preceding the date the~~
17 ~~application under Subdivision (1) is filed]~~.

18 SECTION 33. Section 1103.252(b), Occupations Code, is
19 amended to read as follows:

20 (b) The board or the testing service may collect an
21 examination fee from an applicant for a certificate or license.

22 SECTION 34. Section 1103.253, Occupations Code, is amended
23 to read as follows:

24 Sec. 1103.253. TIME AND PLACE OF EXAMINATION; NOTICE. The
25 board or the testing service shall offer the examination at least
26 once each month in Austin and at other locations and times as the
27 board may determine or require. The board shall provide public

1 notice of all examinations on the board's Internet website ~~[(a)~~

2 ~~The examination must be offered at least twice each year.~~

3 ~~[(b) The board shall determine the time and place of the~~
4 ~~examination.~~

5 ~~[(c) The board shall give reasonable public notice of the~~
6 ~~examination in the manner provided by board rule.~~

7 ~~[(d) The board may assign an examination date and site to an~~
8 ~~applicant. The assigned site must be the nearest examination site~~
9 ~~available to the applicant].~~

10 SECTION 35. Section 1103.255, Occupations Code, is amended
11 to read as follows:

12 Sec. 1103.255. EXPERIENCE ~~[NOT]~~ REQUIRED BEFORE TAKING
13 EXAMINATION. An applicant for the examination must ~~[is not~~
14 ~~required to]~~ fulfill the applicable experience requirement for a
15 certificate or license before taking the examination.

16 SECTION 36. Sections 1103.257(a) and (b), Occupations Code,
17 are amended to read as follows:

18 (a) Not later than the 10th ~~[31st]~~ day after the date a
19 person takes an examination, the board or the testing service shall
20 notify the person of the examination results. ~~[If an examination is~~
21 ~~graded or reviewed by a national testing service, the board shall~~
22 ~~notify the person of the examination results not later than the 31st~~
23 ~~day after the date the board receives the results from the testing~~
24 ~~service.]~~

25 (b) If notice of the examination results will be delayed for
26 more than 10 ~~[90]~~ days after the examination date, the board shall
27 notify each examinee of the reason for the delay not later than the

1 10th [~~90th~~] day.

2 SECTION 37. Section 1103.302, Occupations Code, is amended
3 to read as follows:

4 Sec. 1103.302. REGISTRATION APPLICATION. A person may
5 register with the board by:

6 (1) completing a registration form prescribed by the
7 board; [~~and~~]

8 (2) meeting the requirements established under this
9 chapter; and

10 (3) paying the required fee.

11 SECTION 38. Section 1103.303, Occupations Code, is amended
12 to read as follows:

13 Sec. 1103.303. ELIGIBILITY REQUIREMENTS FOR REGISTRATION.

14 A person is eligible to register with the board if:

15 (1) the certification and licensing program under
16 which the person is certified or licensed by another state has not
17 been disapproved by the Appraisal Subcommittee [~~Appraiser~~
18 ~~Qualifications Board~~]; and

19 (2) the person's appraisal business in this state does
20 not exceed six months.

21 SECTION 39. Section 1103.351, Occupations Code, is amended
22 to read as follows:

23 Sec. 1103.351. SUPERVISORY APPRAISER [~~SPONSOR~~]. (a) The
24 board may authorize a certified appraiser under this chapter to
25 supervise [~~sponsor~~] an appraiser trainee if the certified appraiser
26 meets the requirements of the board consistent with applicable
27 federal law.

(b) An appraiser trainee may have more than one supervisory appraiser ~~[sponsor]~~.

SECTION 40. Section [1103.352](#), Occupations Code, is amended to read as follows:

Sec. 1103.352. APPLICATION FOR APPRAISER TRAINEE. An applicant for a license ~~[approval]~~ as an appraiser trainee and each supervisory appraiser ~~[sponsor]~~ of the applicant must apply to the board using the online application on the board's Internet website or on a form prescribed by the board.

SECTION 41. Section [1103.353](#), Occupations Code, is amended to read as follows:

Sec. 1103.353. ELIGIBILITY REQUIREMENTS FOR APPRAISER TRAINEE. To be eligible for a license ~~[approval]~~ as an appraiser trainee, an applicant must:

- (1) be at least 18 years of age;
- (2) be a citizen of the United States or a lawfully admitted alien;
- (3) have been a resident of this state for the 60 days preceding the date the application is filed;
- (4) satisfy the board as to the applicant's honesty, trustworthiness, and integrity; ~~[and]~~
- (5) comply with the requirements of Sections [1103.203](#) and [1103.2031](#);
- (6) have obtained a high school diploma or an equivalent certificate; and
- (7) meet all other qualifications established by the board.

SECTION 42. Sections 1103.354(a) and (b), Occupations Code, are amended to read as follows:

(a) An appraiser trainee licensed ~~[approved]~~ by the board may perform an appraisal under the direction of a supervisory appraiser ~~[sponsor or authorized supervisor of the trainee]~~.

(b) The supervisory appraiser ~~[sponsor or authorized supervisor]~~ shall sign each report prepared by the appraiser trainee performing an appraisal under the direction of the supervisory appraiser ~~[sponsor or authorized supervisor]~~. The supervisory appraiser ~~[sponsor or authorized supervisor]~~ is responsible to the public and to the board for the appraiser trainee's reports and conduct.

SECTION 43. Section 1103.355(a), Occupations Code, is amended to read as follows:

(a) The board may reprimand an appraiser trainee or suspend or revoke an appraiser trainee's license ~~[authority]~~ to act as an appraiser trainee for a violation of this chapter or a rule adopted under this subchapter.

SECTION 44. Section 1103.356, Occupations Code, is amended to read as follows:

Sec. 1103.356. RENEWAL OF APPRAISER TRAINEE LICENSE ~~[APPROVAL]~~. A person may renew a license ~~[an approval]~~ as an appraiser trainee by:

- (1) paying the renewal fee established by the board;
- (2) providing evidence satisfactory to the board of completion of any required continuing education; and
- (3) meeting any other renewal requirement established

1 by the board.

2 SECTION 45. Section 1103.405, Occupations Code, is amended
3 to read as follows:

4 Sec. 1103.405. PROFESSIONAL STANDARDS. A person who holds
5 a ~~[license,]~~ certificate, license, or registration ~~[approval]~~
6 issued under this chapter shall comply with:

7 (1) the most current edition of the Uniform Standards
8 of Professional Appraisal Practice adopted by the Appraisal
9 Standards Board of the Appraisal Foundation; or

10 (2) other standards provided by board rule that are at
11 least as stringent as the Uniform Standards of Professional
12 Appraisal Practice.

13 SECTION 46. Section 1103.451, Occupations Code, is amended
14 to read as follows:

15 Sec. 1103.451. INITIATION OF COMPLAINT PROCESS. (a) Any
16 person, including a member of the board, may initiate the complaint
17 process under this subchapter by submitting to ~~[filing with]~~ the
18 board a written allegation of a violation of this chapter
19 ~~[complaint]~~ on a form prescribed by the board.

20 (b) The board, on its own motion, may file a formal
21 complaint against:

22 (1) a certified or licensed appraiser, an appraiser
23 trainee, or a registrant under Subchapter G; or

24 (2) ~~[an appraiser trainee who is approved by the board~~
25 ~~under Subchapter H.~~

26 ~~[(c) A complaint alleging that a certified or licensed~~
27 ~~appraiser or an approved appraiser trainee has violated a rule of~~

~~professional conduct adopted by the board must be filed with the board.~~

~~[(d) The board, on its own motion, may file a formal complaint against] a person who engages in an activity for which a certificate or license is required under this chapter without holding a certificate or license[. This subchapter and Subchapter K apply to a complaint filed under this subsection in the same manner as they apply to a complaint filed under Subsection (b)].~~

(c) An investigation of an alleged ~~[(e) A complaint alleging a]~~ violation by a person licensed or ~~[7]~~ certified ~~[7, or approved]~~ under this chapter may not be terminated solely on the basis that the person fails to renew the certificate or ~~[7]~~ license ~~[7, or approval]~~.

(d) The board may not conduct an investigation of a person certified, licensed, or registered under this chapter or Chapter 1104 for an allegation of a violation submitted to the board later than the fourth anniversary of the date the alleged violation occurred.

SECTION 47. Section 1103.452, Occupations Code, is amended to read as follows:

Sec. 1103.452. REVIEW AND INVESTIGATION. (a) The ~~[On receipt of a complaint or on its own motion, the]~~ board shall review and investigate an alleged act or omission that is the subject of an allegation submitted or a formal complaint filed under Section 1103.451 ~~[the board believes is a ground for disciplinary action]~~.

(b) An investigator designated by the commissioner ~~[presiding officer of the board]~~ shall investigate each allegation

1 or formal [~~in a~~] complaint [~~to determine whether probable cause~~
2 ~~exists for a hearing on the complaint~~].

3 (c) If the board determines at any time that an allegation
4 or formal [~~a~~] complaint is inappropriate or without merit [~~does not~~
5 ~~present facts that are grounds for disciplinary action~~], the board
6 or the commissioner shall dismiss the complaint and may not take
7 further action.

8 (d) For purposes of Subsection (c), a determination that the
9 allegation or complaint is inappropriate or without merit includes
10 a determination that the allegation or complaint:

11 (1) is not within the board's jurisdiction;

12 (2) was made in bad faith or filed for the purpose of
13 harassment or to gain a competitive or economic advantage; or

14 (3) lacks sufficient basis in fact or evidence.

15 SECTION 48. Section 1103.453(b), Occupations Code, is
16 amended to read as follows:

17 (b) A peer investigative committee consists of two or more
18 [~~three~~] certified or licensed appraisers. The presiding officer of
19 the committee must be an appraiser member of the board. Each
20 remaining committee member shall certify to the board that the
21 member is familiar with the appraisal process in the appraisal that
22 is the subject of the complaint.

23 SECTION 49. Section 1103.455(a), Occupations Code, is
24 amended to read as follows:

25 (a) At the conclusion of the investigation of a complaint,
26 the investigator shall prepare [~~submit to the board~~] a written
27 report to enable the board to determine what further action is

1 necessary.

2 SECTION 50. Section 1103.456, Occupations Code, is amended
3 to read as follows:

4 Sec. 1103.456. ACTION BASED ON REPORT. Based on the report
5 prepared [~~submitted~~] under Section 1103.455, the board may:

6 (1) order further investigation of the complaint;

7 (2) permit the appraiser or appraiser trainee who is
8 the subject of the complaint to participate in a voluntary [~~attend~~
9 ~~an informal~~] discussion of the facts and circumstances of the
10 alleged violation [~~as provided by Section 1103.457~~];

11 (3) determine that there is not probable cause to
12 believe that a violation occurred and dismiss the case; or

13 (4) determine that there is probable cause to believe
14 that a violation occurred and proceed as the complainant with a
15 contested case hearing under Subchapter K.

16 SECTION 51. Section 1103.458, Occupations Code, is amended
17 by amending Subsection (d) and adding Subsection (g) to read as
18 follows:

19 (d) A board member who participates in negotiating a consent
20 order under this section is [~~not~~] disqualified from participating
21 in the adjudication of a contested case that results from the
22 negotiation.

23 (g) An appraiser or appraiser trainee may be disciplined for
24 failure to comply with a consent order.

25 SECTION 52. Section 1103.459(d), Occupations Code, is
26 amended to read as follows:

27 (d) An appraiser or appraiser trainee may be disciplined

1 ~~[prosecuted]~~ for failure to comply with a consent agreement.

2 SECTION 53. Section 1103.460, Occupations Code, is amended
3 to read as follows:

4 Sec. 1103.460. CONFIDENTIALITY OF INVESTIGATION MATERIAL
5 [PUBLIC AVAILABILITY OF FINAL DECISION]. (a) Information or
6 material, including any investigation file, is confidential and not
7 subject to disclosure under Chapter 552, Government Code, or any
8 other means of legal compulsion for release, including disclosure,
9 discovery, or subpoena, if the information or material is prepared
10 or compiled by the board in connection with a complaint,
11 investigation, or audit of any person subject to the jurisdiction
12 of the board.

13 (b) Notwithstanding Subsection (a), information or material
14 prepared or compiled by the board in connection with a complaint,
15 investigation, or audit may be disclosed:

16 (1) to the respondent of the complaint;

17 (2) to a person providing a service to the board,
18 including a peer investigative committee appointed under Section
19 1103.453, an expert or other witness, or an investigator, if the
20 information is necessary for preparation for, or a presentation in,
21 a disciplinary proceeding against an applicant or license holder,
22 or a subsequent trial or appeal taken from a disciplinary
23 proceeding;

24 (3) to an entity in another jurisdiction that
25 licenses, registers, credentials, or disciplines any person
26 subject to the jurisdiction of the board;

27 (4) to a law enforcement agency;

1 (5) to the State Office of Administrative Hearings; or
2 (6) to the board, or a panel of the board, for use
3 during any proceeding conducted by the State Office of
4 Administrative Hearings or in a subsequent trial or appeal of a
5 board action or order.

6 (c) The release of information under Subsection (b) does not
7 waive or affect the confidentiality of the information or waive the
8 right to assert exceptions to required disclosure of the
9 information in the future.

10 (d) The board may require a confidentiality agreement be
11 signed by a person entitled to receive information under Subsection
12 (b) before releasing the information.

13 (e) Notwithstanding Subsection (a), on the dismissal or
14 final resolution of a complaint, investigation, or audit,
15 information or material prepared or compiled by the board in
16 connection with the complaint, investigation, or audit, including a
17 completed audit report or a final order of the board, are public
18 information and not excepted from disclosure ~~[A final decision of~~
19 ~~the board relating to a disciplinary action, including a consent~~
20 ~~order or consent agreement, may be provided to another state or made~~
21 ~~available to the public].~~

22 SECTION 54. Section 1103.519, Occupations Code, is amended
23 to read as follows:

24 Sec. 1103.519. MOTION ~~[APPLICATION]~~ FOR REHEARING. (a) A
25 ~~[Not later than the 20th day after the date a final decision is~~
26 ~~issued in a contested case, a]~~ party may file a motion for rehearing
27 ~~[an application]~~ with the board ~~[for a rehearing]~~. The motion

1 ~~[application]~~ must state:

2 (1) the specific grounds for rehearing; and

3 (2) the relief sought.

4 (b) A motion for rehearing filed under this section is
5 governed by Chapter 2001, Government Code ~~[The application is~~
6 ~~denied if the board does not grant it before the 20th day after the~~
7 ~~date the commissioner is served with the application]~~.

8 SECTION 55. Section 1103.522, Occupations Code, is amended
9 to read as follows:

10 Sec. 1103.522. WAITING PERIOD ~~[REINSTATEMENT OF~~
11 ~~CERTIFICATE OR LICENSE]~~. A person whose certificate or license has
12 been revoked, ~~[or]~~ a person who has surrendered a certificate or
13 license issued by the board, or a person whose application for a
14 certificate or license has been denied after a hearing under
15 Section 1103.508 may not apply to the board for a certificate or
16 license ~~[reinstatement]~~ until the second anniversary of the date of
17 revocation, ~~[or]~~ surrender, or denial.

18 SECTION 56. Subchapter K, Chapter 1103, Occupations Code,
19 is amended by adding Section 1103.523 to read as follows:

20 Sec. 1103.523. COST RECOVERY. The administrative law judge
21 may award reasonable costs to the board on a request for and proof
22 of the costs if the respondent fails to appear for the hearing under
23 Section 1103.510, including any costs:

24 (1) charged by the State Office of Administrative
25 Hearings; and

26 (2) related to the preparation for the hearing,
27 including costs of discovery, depositions, subpoenas, service of

1 process, witness expenses, travel expenses, and investigation
2 expenses.

3 SECTION 57. Section 1103.552, Occupations Code, is amended
4 by adding Subsection (c) to read as follows:

5 (c) An administrative penalty collected under this section
6 shall be deposited in a restricted fund maintained and operated by
7 the board to develop educational programs for appraisers or conduct
8 studies that enhance consumer protection.

9 SECTION 58. The following provisions of the Occupations
10 Code are repealed:

- 11 (1) Section 1103.005;
12 (2) Section 1103.2015; and
13 (3) Section 1103.457.

14 SECTION 59. (a) Section 1103.055, Occupations Code, as
15 amended by this Act, does not affect the terms of the members of the
16 Texas Appraiser Licensing and Certification Board who are serving
17 on the effective date of this Act. Members appointed to fill
18 vacancies occurring on or after the effective date of this Act shall
19 be appointed to serve staggered terms in accordance with that
20 section.

21 (b) Section 1103.159, Occupations Code, as amended by this
22 Act, does not affect the terms of the members of the advisory
23 committee who are serving on the effective date of this Act. Not
24 later than the 60th day after the effective date of this Act, the
25 governor shall appoint the two new members of the advisory
26 committee to serve staggered terms in accordance with that section.

27 (c) The changes in law made by this Act apply only to an

1 application for a license or certificate submitted to the Texas
2 Appraiser Licensing and Certification Board on or after the
3 effective date of this Act. An application for a license or
4 certificate submitted before that date is governed by the law in
5 effect on the date the application was submitted, and the former law
6 is continued in effect for that purpose.

7 (d) The changes in law made by this Act apply only to a
8 disciplinary proceeding or a contested case hearing under Chapter
9 1103, Occupations Code, for conduct that occurs on or after the
10 effective date of this Act. Conduct that occurs before the
11 effective date of this Act is governed by the law in effect on the
12 date the conduct occurred, and the former law is continued in effect
13 for that purpose.

14 SECTION 60. This Act takes effect January 1, 2016.