

BILL ANALYSIS

S.B. 624
By: Nichols
Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Texas Real Estate Commission, a self-directed semi-independent agency, and its independent subdivision, the Texas Appraiser Licensing and Certification Board, protect consumers by licensing real estate professionals, regulating licensee education, and resolving complaints against licensees and are subject to the Texas Sunset Act. S.B. 624 provides for the continuation of the commission and board and associated statutes and for the implementation of certain recommendations of the Sunset Advisory Commission.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Real Estate Commission in SECTIONS 7, 8, and 46 of this bill and to the Texas Appraiser Licensing and Certification Board in SECTIONS 25, 27, and 46 of this bill.

ANALYSIS

S.B. 624 amends the Occupations Code to postpone from September 1, 2019, to September 1, 2025, the date on which the Texas Real Estate Commission (TREC) and the Texas Appraiser Licensing and Certification Board (TALCB) are abolished and The Real Estate License Act, the Residential Service Company Act, the Texas Timeshare Act, the Texas Appraiser Licensing and Certification Act, the Texas Appraisal Management Company Registration and Regulation Act, and provisions governing real estate inspectors expire unless continued in existence as provided by the Texas Sunset Act.

S.B. 624 revises the training required for a person appointed to and who qualifies as a member of the TREC and for TALCB members; provides for the creation of associated training manuals which TREC and TALCB members must acknowledge having received; and provides for the transition to the new training requirements for a sitting TREC or TALCB member who has completed the applicable training requirements as they existed before the bill's effective date.

S.B. 624 provides for the dismissal of a complaint regarding a real estate broker, sales agent, or inspector or a complaint regarding a residential service company or an easement or right-of-way agent or business at any time the TREC determines the complaint is inappropriate or without merit and prohibits any further action from being taken. The bill authorizes the TREC to delegate to TREC staff the duty to dismiss such complaints. The bill requires the TREC to protect the identity of a complainant to the extent possible by excluding the complainant's identifying information from a complaint notice sent to a respondent. The bill revises provisions relating to public participation at TREC meetings.

S.B. 624, with respect to the standards established by TREC rule for the approval of educational programs and courses of study, authorizes the TREC to develop minimum education and experience requirements for an instructor of a course of study in real estate and real estate inspection. The bill authorizes the TREC to develop by rule minimum education and experience requirements for an instructor of a continuing education course of study. The bill sets out provisions relating to the approval of an application to offer either such instructional course. The bill authorizes the TREC to deny the renewal of such an approval if the applicant is in violation of a TREC order and subjects the denial of an approval renewal to the same provisions as are applicable to the denial of an original real estate license.

S.B. 624 removes Texas residency as an application requirement for a license under The Real Estate License Act or an apprentice real estate inspector license. The bill authorizes the TREC to deny the renewal of a license or certificate of registration issued under that act or a real estate inspector license if the applicant is in violation of a TREC order and subjects the denial of a license or certificate renewal to the same provisions as are applicable to the denial of an original real estate license. The bill authorizes the TREC to suspend or revoke a license issued under that act or a real estate inspector license or to take other authorized disciplinary action if the license holder fails to consider market conditions for the specific geographic area in which the license holder is providing a service.

S.B. 624 updates restrictions on TALCB membership and employment to prevent conflicts of interest among TALCB members and employees and revises provisions relating to eligibility to serve as a public member on the TALCB. Those changes do not affect the entitlement of a sitting TALCB member to complete the member's term.

S.B. 624 includes as a ground for removal of an appointed TALCB member from office that the member is ineligible for membership due to certain conflict of interest provisions. The bill requires the TALCB to develop and implement policies that clearly separate the policymaking responsibilities of the TALCB and the management responsibilities of the TALCB commissioner and staff. The bill authorizes the TALCB to develop by rule minimum education and experience requirements for an instructor of a course for qualifying or continuing education for a certified or licensed appraiser or an appraiser trainee and sets out provisions relating to the approval of a course provider application.

S.B. 624 authorizes the TALCB to appoint advisory committees to perform the advisory functions assigned to the committees by the TALCB and subjects such a committee to Government Code provisions relating to government state agency advisory committees. The bill sets out related provisions, including requirements for the TALCB to adopt certain rules relating to the committee's membership and functions and to adopt by rule a process to regularly evaluate the need for any such advisory committee.

S.B. 624 provides for the following:

- the development and implementation of policies to provide for public participation at TALCB meetings;
- the development and implementation of a policy to encourage the use of negotiated rulemaking and appropriate alternative dispute resolution procedures; and
- the maintenance of a system related to TALCB complaints.

S.B. 624 authorizes the TALCB to deny the renewal of a certificate or license issued under the Texas Appraiser Licensing and Certification Act or the renewal of an appraisal management company registration if the applicant is in violation of a TALCB order and subjects the denial of a certificate or license renewal to the same provisions as are applicable to the denial of an original certificate or license. The bill removes Texas residency as an eligibility requirement for a license as an appraiser trainee.

S.B. 624 requires the TALCB to protect the identity of a complainant under the Texas Appraiser Licensing and Certification Act or the Texas Appraisal Management Company Registration and Regulation Act to the extent possible by excluding the complainant's identifying information from a complaint notice sent to a respondent. The bill authorizes the TALCB to order a person regulated by the TALCB under those acts to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference or an enforcement order instead of or in addition to imposing an administrative penalty or other sanctions and sets out related provisions. The bill requires an administrative penalty collected by the TALCB to be deposited in the general revenue fund. The bill removes a provision requiring such penalties to be deposited in a TALCB fund used to develop education programs for appraisers or to conduct certain consumer protection studies.

S.B. 624 removes the requirements for the TREC and the TALCB to annually remit nonrefundable retainers to the state auditor, the attorney general's office, and the State Office of Administrative Hearings (SOAH) but provides for payment by the TREC and the TALCB for applicable work performed by the state auditor and the attorney general's office. The bill requires SOAH to enter into a contract with the TREC and the TALCB to conduct hearings and requires the TREC and the TALCB to reimburse SOAH for costs incurred. The bill revises the required contents of the biennial TREC and TALCB report to the legislature and the governor describing its activities in the previous biennium and of the annual TREC and TALCB report to the governor, the committee of each house of the legislature that has jurisdiction over appropriations, and the Legislative Budget Board. The bill removes the authority of the TREC or the TALCB to purchase, construct, or sell property.

S.B. 624 removes and replaces certain references to the moral character of an applicant for certain licenses issued by the TREC or the TALCB or for a person owning more than 10 percent of or controlling an appraisal management company in Texas.

S.B. 624 amends the Property Code to provide for the dismissal of a complaint filed under the Texas Timeshare Act that the TREC determines to be inappropriate or without merit and authorizes the TREC to delegate the duty to dismiss complaints to TREC staff. The bill authorizes the TREC to deny the renewal of a registration under that act if the developer is in violation of a TREC order and subjects the denial of a registration renewal to the same provisions as are applicable to the denial of a license under The Real Estate License Act.

S.B. 624 repeals Section 1101.552(c), Occupations Code, which requires a real estate broker who maintains more than one place of business in Texas to obtain a branch office license for each additional office maintained by the broker.

EFFECTIVE DATE

September 1, 2019.