

- SUBJECT:** Changing certain regulations on appraisal management companies
- COMMITTEE:** Licensing and Administrative Procedures — committee substitute recommended
- VOTE:** 9 ayes — Kuempel, Guillen, Frullo, Geren, Goldman, Hernandez, Herrero, Paddie, S. Thompson
- 0 nays
- WITNESSES:** For — Andre Suissa, Foundation Appraisers Coalition of Texas;
(*Registered, but did not testify:* Greg Stephens, Foundation Appraisers Coalition of Texas)
- Against — (*Registered, but did not testify:* Adam Cahn, Cahnman's Musings)
- On — Douglas Oldmixon, Texas Appraiser Licensing and Certification Board
- BACKGROUND:** The federal Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 requires that states regulate appraisal management companies (AMCs) within 36 months of adoption of final rules promulgated by certain federal agencies. In response, the Texas Legislature enacted HB 1146 by Kuempel in 2011, creating Occupations Code, ch. 1104 to establish and enforce standards related to appraisal management services for certain residential properties.
- Observers note that recent changes in federal rules regulating AMCs necessitate changes in state law to conform with the new federal requirements.
- DIGEST:** CSHB 3261 would exempt certain appraisal management companies (AMCs) from Occupations Code, ch. 1104, modify the requirements for registration with Texas Appraiser Licensing and Certification Board (TALCB), change requirements on board practices relating to penalties

and investigations of violations of ch. 1104, and change certain procedures relating to hearings on violations of ch. 1104.

Application. The bill would exempt from Occupations Code, ch. 1104 certain AMCs operating in multiple states with between 15 and 24 appraisers. Federally regulated AMCs also would be exempt from ch. 1104, except that the TALCB would be required to collect certain fees destined for the federal Appraisal Subcommittee.

Registration. CSHB 3261 would allow someone who had an appraisal license revoked to own more than a 1 percent interest in or be a controlling person for an AMC registered under ch. 1104, if the cancellation was for a nonsubstantive reason.

The bill would allow TALCB to deny application for registration of an AMC if it determined that a person with a license revoked for a substantive reason at any point in time owned any interest in an AMC. Current law allows denial only if the person owns more than a 10 percent interest and had a license revoked within the past two years.

Allowed conduct. Current law allows an AMC to remove an appraiser without notice from its panel within the first 30 days of the new appraiser's tenure. CSHB 3261 would require notice of removal at any point during the appraiser's tenure.

Penalties and investigations. While current law only allows TALCB authority to enforce the provisions of ch. 1104 on AMCs registered with the board, CSHB 3261 would give TALCB authority to enforce the provisions of ch. 1104 on any AMC required to register with the board and their controlling persons, including those not currently registered. TALCB would be prohibited from stopping an investigation because the subject of the investigation did not renew a registration.

Any administrative penalty imposed for violations of ch. 1104 or associated rules would have to be deposited in a restricted fund maintained and operated by TALCB to develop education programs for

appraisers or to conduct studies that enhance consumer protection.

The bill would provide that information used in an active audit, complaint, or investigation was confidential and not subject to disclosure under any form of legal compulsion. However, such information may be released to certain entities governing or relating to AMCs. Additionally, TALCB could report any disciplinary action to the Appraisal Subcommittee.

Hearings. The attorney general would be prohibited from representing TALCB before a contested case hearing with an administrative law judge (ALJ) at the State Office of Administrative Hearings. A hearing would be required to be recorded by a certified reporter or by mechanical or electronic means and maintained for five years. In the case of a failure to appear by the respondent, the ALJ could conduct the hearing or enter an order and could award reasonable costs associated with the hearing to TALCB.

TALCB would be allowed to grant immunity to a witness from disciplinary action under ch. 1104. The board also could negotiate a settlement or enter into an agreed order with an AMC or anyone subject to a complaint.

Effective date. CSHB 3261 would take effect September 1, 2017, and would apply only to registration applications and hearings submitted or occurring after that date. TALCB would be required to adopt rules and fees as necessary as soon as practicable after that date.

NOTES:

A companion bill, SB 1516 by Hancock, was approved by the Senate on April 26 and referred to the House Licensing and Administrative Procedures Committee on May 3.