

BILL ANALYSIS

Senate Research Center
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S.B. 1013
By: Staples
Business & Commerce
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DIGEST AND PURPOSE

Currently, the Texas Appraiser Licensing and Certification Board (TALCB) lacks authority over individuals performing unlicensed appraisal services. Individual licenses and certificates automatically expire, requiring licensees to repeat the application process. As proposed, S.B. 1013 authorizes TALCB to sanction those performing unlicensed appraisal services and provides for criminal and civil penalties.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Appraiser Licensing and Certification Board in SECTION 2 (Section 1103.213, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1103.156(a), Occupations Code, to include an additional fee that the Texas Appraiser Licensing and Certification Board (TALCB) is authorized to establish to administer this chapter.

SECTION 2. Amends Chapter 1103E, Occupations Code, by adding Sections 1103.212 and 1103.213, as follows:

Sec. 1103.212. INACTIVE CERTIFICATE OR LICENSE. (a) Authorizes TALCB to place on inactive status the certificate or license of an appraiser if the appraiser is not acting as an appraiser, is not sponsoring an appraiser trainee, and submits a written application to TALCB before the expiration date of the appraiser's certificate or license.

(b) Authorizes TALCB to place on inactive status the certificate or license of an appraiser whose certificate or license has expired if the appraiser applies for inactive status on a form prescribed by TALCB not later than the first anniversary of the expiration date of the appraiser's certificate or license.

(c) Requires an appraiser applying for inactive status to terminate the appraiser's association with each appraiser trainee sponsored by the appraiser by giving written notice to each appraiser trainee before the 30th day preceding the date the appraiser applies for inactive status.

(d) Provides that an appraiser on inactive status is prohibited from performing any activity regulated under this chapter, is required to pay annual renewal fees, and is not required to pay the annual registry fee described by Section 1103.156(b).

(e) Requires TALCB to maintain a list of each appraiser whose certificate or license is on inactive status.

(f) Requires TALCB to remove an appraiser's certificate or license from inactive status if the appraiser submits an application to TALCB, pays the required fee and submits proof of complying with the continuing education requirements of Section 1103.211 during the two years preceding the date the application under

Subdivision (1) is filed.

Sec. 1103.213. DEFERRAL OF CONTINUING EDUCATION REQUIREMENTS. (a) Authorizes TALCB by rule to establish procedures under which an appraiser is authorized to have the appraiser's certificate or license returned to active status before the appraiser completes continuing education requirements.

(b) Authorizes TALCB to require an appraiser under this section to pay an additional fee, not to exceed \$200 and complete the required continuing education not later than the 60th day after the date the certificate or license is returned to active status.

(c) Requires an appraiser to complete the required continuing education before performing an appraisal in a federally related transaction, notwithstanding the other provisions of this section.

SECTION 3. Amends Section 1103.551(a), Occupations Code, to authorize TALCB to institute an action in its own name against any person, including a person who is not certified or licensed under this chapter, to enjoin a violation of this chapter or a rule adopted by TALCB under this chapter.

SECTION 4. Amends the heading to Section 1103.553, Occupations Code, to read as follows:

Sec. 1103.553. CIVIL PENALTY FOR FILING FRIVOLOUS COMPLAINT.

SECTION 5. Amends Chapter 1103L, Occupations Code, by adding Section 1103.5535, as follows:

Sec. 1103.5535. CIVIL PENALTY FOR CERTAIN VIOLATIONS BY CERTIFIED OR LICENSED APPRAISER. (a) Provides that a person who receives consideration for engaging in an activity for which a certificate or license is required under this chapter and who does not hold a certificate or license is liable for a civil penalty.

(b) Prohibits the amount of a civil penalty imposed under this section from being less than the amount of money equal to the value of the consideration received or more than three times the amount of money equal to the value of the consideration received.

(c) Authorizes the attorney general or a district or county attorney to bring an action in district court to recover a civil penalty under this section, at the request of TALCB.

(d) Requires a civil penalty recovered in an action under this section to be deposited in the state treasury.

SECTION 6. Amends the heading to Section 1103.554, Occupations Code, to read as follows:

Sec. 1103.554. CRIMINAL PENALTY FOR MISREPRESENTING QUALIFICATIONS.

SECTION 7. Amends Chapter 1103L, Occupations Code, by adding Section 1103.5545, as follows:

Sec. 1103.5545. CRIMINAL PENALTY FOR CERTAIN VIOLATIONS BY APPRAISER. (a) Provides that a person commits an offense if the person engages in an activity for which a certificate or license is required under this chapter without holding a certificate or license.

(b) Provides that an offense under this section is a Class A misdemeanor.

SECTION 8. Effective date: September 1, 2003.