

BILL ANALYSIS

Senate Research Center
84R3312 NC-F

S.B. 1007
By: Eltife
Business & Commerce
3/30/2015
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Appraiser Licensing and Certification Board (TALCB) shares staff members and resources with the Texas Real Estate Commission (TREC) to oversee real property appraisals and inspections in Texas.

The portion of the Texas Occupations Code that regulates appraisers is in need of clean-up. S.B. 1007 clarifies state policies and also makes changes to the structure of TALCB and its functions to ensure that the board has the tools needed to comply with federal oversight requirements. Additionally, the bill makes changes to continuing education requirements, board terms, and advisory committee composition and clarifies existing law regarding dedicated funds.

As proposed, S.B. 1007 amends current law relating to the practices and professions regulated by the Texas Appraiser Licensing and Certification Board; requires an occupational license; and imposes fees.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Appraiser Licensing and Certification Board in SECTION 8 (Section 1103.058, Occupations Code) and SECTION 23 (1103.2031, Occupations Code) of this bill.

Rulemaking authority previously granted to the Texas Appraiser Licensing and Certification Board is modified in SECTION 14 (Section 1103.151, Occupations Code), SECTION 15 (Section 1103.153, Occupations Code), and SECTION 16 (Section 1103.154, Occupations Code) of this bill.

Rulemaking authority previously granted to the Texas Appraiser Licensing and Certification Board is rescinded in SECTION 34 (Section 1103.253, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1103.003, Occupations Code, by amending Subdivisions (2-a), (6-b), (7), and (8) and adding Subdivisions (2-b), (4-a), and (5-a), to define "appraisal review," "appraiser trainee," "certified appraiser," and "supervisory appraiser" and to redefine "federal financial institution regulatory agency" and "licensed appraiser." Makes nonsubstantive changes.

SECTION 2. Amends Section 1103.004, Occupations Code, as follows:

Sec. 1103.004. EFFECT OF CHAPTER. Deletes designation of Subsection (b). Provides that this chapter does not prohibit:

- (1) Makes a nonsubstantive change;
- (2) Changes reference to a salesperson to a sales agent 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) Makes no change to this paragraph;

(B) is given in the ordinary course of the broker's business, rather than the broker's or salesperson's business; and

(C) Makes a nonsubstantive change; 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. Amends Section 1103.006, Occupations Code, as follows:

Sec. 1103.006. APPLICATION OF SUNSET ACT. Provides that the Texas Appraiser Licensing and Certification Board (TALCB) is subject to Chapter 325, Government Code (Texas Sunset Act). Provides that, unless continued in existence as provided by that chapter, TALCB is abolished and this chapter and Chapter 1104 (Appraisal Management Companies) expire September 1, 2019, rather than providing that unless continued in existence by the legislature as provided by that chapter, TALCB is abolished and this chapter expires on the 90th day after the last day of the regular session of that legislature. Deletes existing text providing that TALCB, if the federal government removes the requirement for the preparation of use of an appraisal by federally regulated financial institutions, is subject to sunset review in the next regular session of the legislature following the date of the federal government's actions.

SECTION 4. Amends Subchapter B, Chapter 1103, Occupations Code, by adding Section 1103.0545, as follows:

Sec. 1103.0545. TRAINING. (a) Prohibits a person who is appointed to and qualifies for office as a member of TALCB from voting, deliberating, or being counted as a member in attendance at a meeting of TALCB until the person completes a training program that complies with this section.

(b) Requires that the training program provide the person with information regarding:

(1) this chapter and other laws applicable to TALCB;

(2) the programs, functions, rules, and budget of TALCB;

(3) the results of the most recent formal audit of TALCB;

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

(5) any applicable ethics policies adopted by TALCB or the Texas Ethics Commission.

(c) Entitles a person appointed to TALCB to reimbursement for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 5. Amends Section 1103.055, Occupations Code, as follows:

Sec. 1103.055. New heading: TERMS; VACANCIES. (a) Provides that appointed members of TALCB serve staggered six-year terms, rather than staggered two-year terms, with the terms of one or two appraiser members and one or two public members expiring on January 31 of each odd-numbered year.

(b) Requires the governor of the State of Texas (governor), if a vacancy occurs during a member's term, to appoint a person to fill the unexpired term. Deletes existing text prohibiting an appointed member from serving more than three consecutive two-year terms.

SECTION 6. Amends Section 1103.056, Occupations Code, as follows:

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

(b) Redesignates existing Subsection (a) as Subsection (b). Requires TALCB, at a regular meeting in February of each year, to elect from its members an assistant presiding officer and a secretary, rather than a presiding officer, assistant presiding officer, and secretary.

(c) Redesignates existing Subsection (b) as Subsection (c). Provides that the presiding officer, assistant presiding officer, and secretary constitute the executive committee, rather than providing that officers elected under Subsection (a) constitute the executive committee.

SECTION 7. Amends Section 1103.057(c), Occupations Code, as follows:

(c) Requires the commissioner of TALCB (commissioner), if the commissioner, rather than the presiding officer of TALCB, has knowledge that a potential ground removal of an appointed TALCB member exists, to notify the presiding officer of TALCB of the potential ground. Requires the presiding officer to immediately notify the governor and the attorney general of the State of Texas (attorney general) that a potential ground for removal exists. Requires the commissioner, if the potential ground for removal involves the presiding officer, to notify the next highest ranking officer of TALCB, who is required to immediately notify the governor and the attorney general that a potential ground for removal exists.

SECTION 8. Amends Section 1103.058, Occupations Code, as follows:

Sec. 1103.058. PER DIEM; REIMBURSEMENT. (a) Creates this subsection from existing text and makes no further change.

(b) Authorizes TALCB by rule, for purposes of this section, to determine what constitutes a day or actual and necessary expenses.

SECTION 9. Amends Subchapter B, Chapter 1103, Occupations Code, by adding Section 1103.060, as follows:

Sec. 1103.060. EDUCATION PRESENTATIONS. (a) Authorizes a member of TALCB or a TALCB employee to make a presentation to a group of certificate or license holders for which the certificate or license holders may receive continuing education credit for the renewal of a certificate or license under Section 1103.211 (Certificate or License Renewal; Continuing Education). Prohibits the TALCB member or employee from receiving compensation for the presentation.

(b) Authorizes the TALCB member or employee, notwithstanding Subsection (a), to receive reimbursement for reasonable travel expenses.

SECTION 10. Amends Section 1103.101(b), Occupations Code, to authorize TALCB to delegate to the commissioner the responsibility for administering this chapter and Chapter 1104, including the approval of consent orders and agreements.

SECTION 11. Amends Section 1103.102, Occupations Code, to authorize TALCB, in addition to the commissioner, to employ other officers and employees as necessary to administer this chapter and Chapter 1104.

SECTION 12. Amends Section 1103.103, Occupations Code, to require the commissioner, rather than the administrator of the Texas Real Estate Commission, to determine the salaries of the officers and employees of TALCB.

SECTION 13. Amends Section 1103.104, Occupations Code, as follows:

Sec. 1103.104. DUTIES OF COMMISSIONER. Requires the commissioner to:

- (1) Makes no change to this subdivision;
- (2) administer rules adopted by TALCB under this chapter or Chapter 1104;
- (3) Makes no change to this subdivision;
- (4) Adds reference to the fees established by TALCB under Section 1104.052 (Fees);
- (5) and (6) Makes no change to these subdivisions; and
- (7) perform any other duty prescribed by TALCB under this chapter or Chapter 1104.

SECTION 14. Amends Section 1103.151, Occupations Code, as follows:

Sec. 1103.151. RULES RELATING TO CERTIFICATES AND LICENSES. Authorizes TALCB to adopt:

- (1) rules for certifying or licensing an appraiser or appraiser trainee, in this state that are in accordance with this chapter and consistent with applicable federal law;
- (2) rules relating to the qualifying education and experience required for certifying or licensing an appraiser or appraiser trainee that are consistent with the guidelines recognized by the Appraiser Qualifications Board;
- (3) Makes no change to this subdivision;
- (4) rules relating to procedures for the timely renewal of a certificate or license.

Deletes existing text authorizing TALCB to adopt rules for approving an appraiser trainee.

SECTION 15. Amends Section 1103.153, Occupations Code, as follows:

Sec. 1103.153. RULES RELATING TO CONTINUING EDUCATION. Authorizes TALCB to adopt rules relating to:

- (1) continuing education requirements for a certified or licensed appraiser or an appraiser trainee, rather than an approved appraiser trainee; and
- (2) the requirements for approval of a provider, course, or instructor for qualifying or continuing education.

SECTION 16. Amends Section 1103.154, Occupations Code, as follows:

Sec. 1103.154. RULES RELATING TO PROFESSIONAL CONDUCT. Authorizes TALCB to adopt:

- (1) Makes no change to this subdivision;

(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. Amends Section 1103.155(c), Occupations Code, to require TALCB to send a copy of the roster to the Appraisal Subcommittee at least weekly, rather than at least annually.

SECTION 18. Amends Section 1103.157, Occupations Code, to authorize TALCB to 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. Amends Section 1103.159, Occupations Code, by amending Subsections (b) and (d) and adding Subsections (e), (f), and (g), as follows:

(b) Provides that the advisory committee consists of the assistant presiding officer of TALCB and four persons, rather than two person, appointed by the governor as follows:

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

(2) two public members with recognized business ability, rather than a public member with recognized business ability.

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

(e) Prohibits an appointed member from serving more than two consecutive two-year terms.

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

(g) Authorizes the advisory committee to hold a meeting by telephone conference call or other video or broadcast technology.

SECTION 20. Amends Section 1103.201, Occupations Code, as follows:

Sec. 1103.201. CERTIFICATE OR LICENSE REQUIRED. (a) Prohibits a person from performing 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, rather than sponsorship, of a supervisory, rather than certified, appraiser.

(b) Prohibits a person, unless the person holds the appropriate license or certification, from:

(1) using the title "certified real estate appraiser," rather than "state-certified real estate appraiser," or "licensed real estate appraiser," rather than "state-licensed real estate appraiser;" or

(2) Makes no change to this subdivision.

SECTION 21. Amends Section 1103.202, Occupations Code, as follows:

Sec. 1103.202. New heading: ELIGIBILITY REQUIREMENTS FOR CERTIFICATE OR LICENSE. Requires an applicant, to be eligible for a certificate or license under this chapter, to:

- (1) pass the applicable examination required by Subchapter F;
- (2) Makes no change to this subdivision;
- (3) and (4) Makes nonsubstantive changes; and
- (5) comply with the requirements of Sections 1103.203 and 1103.2031.

SECTION 22. Amends Section 1103.203, Occupations Code, as follows:

Sec. 1103.203. New heading: CERTIFICATE OR LICENSE APPLICATION. (a) Requires an applicant for a certificate or license or for renewal of a certificate or license to submit an application to TALCB on the form prescribed by TALCB.

- (b) Requires the applicant to 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) Requires the disclosure under Subsection (b) to be provided regardless of whether a court order granted community supervision suspending the imposition of the sentence.
- (d) Requires that the application include the applicant's current mailing address and telephone number and the applicant's business e-mail address, if available. Requires the applicant to notify TALCB of any change in the applicant's mailing or e-mail address or telephone number while the application is pending.
- (e) Requires the applicant to provide any other information required by TALCB to comply with the Appraiser Qualifications Board's criminal history and background check requirements.

Deletes existing text requiring the applicant, to be eligible for a license under this chapter, to pass the examination required by Subchapter F; successfully complete the number and type of classroom hours or other educational qualifications required by the guidelines of the Appraiser Qualifications Board; provide evidence satisfactory to TALCB 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 guidelines of the Appraiser Qualifications Board; and satisfy TALCB as to the applicant's honesty, trustworthiness, and integrity.

SECTION 23. Amends Subchapter E, Chapter 1103, Occupations Code, by adding Section 1103.2031, as follows:

Sec. 1103.2031. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT.

(a) Authorizes TALCB by rule to require that an applicant for a certificate or license or renewal of an unexpired certificate or license submit a complete and legible set of fingerprints, on a form prescribed by TALCB, to TALCB or to the Department of Public

Safety of the State of Texas (DPS) for the purpose of obtaining criminal history record information from DPS or the Federal Bureau of Investigation (FBI).

(b) Prohibits TALCB, if TALCB implements the requirement under Subsection (a), from issuing a certificate or license to or renew the certificate or license on active status of an applicant who does not comply with that requirement.

(c) Requires TALCB, if TALCB implements the requirement under Subsection (a), to conduct a criminal history check of 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 TALCB by DPS, the FBI, or any other criminal justice agency under Chapter 411 (Department of Public Safety of the State of Texas), Government Code.

(d) Authorizes TALCB to:

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

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

SECTION 24. Amends Section 1103.204(c), Occupations Code, to require TALCB to give an applicant for a certificate or license credit toward fulfilling the requirements of Section 1103.202(2), rather than 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, rather than 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, rather than 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. Amends Sections 1103.205(a) and (c), Occupations Code, as follows:

(a) Provides that 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. Deletes existing text providing an exception as provided by Section 1103.208.

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

(1) Makes no change to this subdivision;

(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. Amends Section 1103.206(b), Occupations Code, as follows:

(b) Requires TALCB to adopt a reliable method to verify the evidence of appraisal experience submitted by an applicant for a certificate or license. Requires the method to include the review of appraisal experience of all applicants for certification, rather than requiring the method to 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 TALCB. Provides that an

applicant has at least 60 days after the date notice is sent to submit any records requested by TALCB, rather than providing that an applicant whose application is selected for verification has at least 60 days after the date of selection to prepare any reports requested by TALCB.

SECTION 27. Amends Section 1103.207(a), Occupations Code, as follows:

(a) Authorizes TALCB, in addition to the information or documentation specified by this subchapter, to obtain other information or documentation from an applicant for a certificate or license under this chapter if TALCB determines that:

(1) a formal complaint, rather than a consumer complaint or peer complaint, against the applicant alleging fraud, incompetency, or malpractice is reasonable; or

(2) Makes no change to this subdivision.

SECTION 28. Amends Section 1103.209(a), Occupations Code, as follows:

(a) Makes a nonsubstantive change and requires TALCB to issues a reciprocal license or certificate to an applicant from another state if:

(1) Makes no change to this subdivision;

(2) the applicant, rather than appraiser, holds a valid license or certificate from a state whose requirements for licensure or certification meet or exceed the licensure or certification requirements of this state;

(3) the applicant, rather than appraiser, satisfies TALCB as to the appraiser's honesty, trustworthiness, and integrity; and

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

SECTION 29. Amends Section 1103.2091, Occupations Code, as follows:

Sec. 1103.2091. New heading: PROBATIONARY CERTIFICATE OR LICENSE. (a) Authorizes TALCB to issue a probationary certificate or license to an appraiser or an appraiser trainee, as applicable, rather than authorizing TALCB to issue a probationary certificate or license or approve an appraiser trainee on a probationary basis.

(b) Requires TALCB to adopt by rule reasonable terms for issuing a probationary certificate or license, rather than requires TALCB to adopt reasonable terms for issuing a probationary certificate or license and for approval of an appraiser trainee on a probationary basis.

(c) Requires a person who holds a probationary certificate or license under this section, rather than a person who holds a probationary certificate license or who is approved as an appraiser trainee under this section, to disclose the probationary status to all clients before accepting an assignment.

SECTION 30. Amends Sections 1103.211(b) and (c), Occupations Code, as follows:

(b) Authorizes a person to renew a certificate or license by:

(1) and (2) Makes nonsubstantive changes;

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

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

(c) Requires TALCB, for the purposes of Subsection (b)(2), to accept as continuing education any educational offering that complies with the guidelines recognized by the Appraiser Qualifications Board that a certified or licensed appraiser was awarded by a provider of qualifying appraisal education approved by TALCB, rather than by a national appraiser organization approved by TALCB as a provider of qualifying appraisal education.

SECTION 31. Amends Section 1103.2111, Occupations Code, as follows:

Sec. 1103.2111. New heading: LATE RENEWAL OF CERTIFICATE OR LICENSE. (a) Authorizes a person whose certificate or license, rather than a person whose certificate, license, or approval, has been expired for 90 days or less to renew the certificate or license, rather than certificate, license, or approval, by paying to TALCB a fee equal to 1-1/2 times the required renewal fee. Makes conforming changes.

(b) Makes conforming changes.

(c) Prohibits a person from performing an appraisal in a federally related transaction while the person is not actively licensed or certified as an appraiser or an appraiser trainee.

(d) Makes conforming changes.

SECTION 32. Amends Sections 1103.213(a), (b), (c), (d), and (f), Occupations Code, as follows:

(a) Authorizes TALCB to place on inactive status the certificate or license of a person who, rather than of an appraiser if the appraiser:

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

(2) is not acting as a supervisory appraiser of an appraiser trainee, rather than is not sponsoring an appraiser trainee; and

(3) submits a written application to TALCB before the expiration date of the certificate or license, rather than the appraiser's certificate or license.

(b) Authorizes TALCB to place on inactive status the certificate or license of an appraiser or an appraiser trainee whose certificate or license has expired if the person, rather than appraiser:

(1) applies for inactive status on a form prescribed by TALCB not later than the 180th day after the expiration date of the certificate or license, rather than not later than the first anniversary of the expiration date of the appraiser's certificate or license; and

(2) meets the requirements of Section 1103.2111 (Late Renewal of Certificate, License, or Trainee Approval).

(c) Requires a supervisory appraiser applying for inactive status to terminate the appraiser's association with each appraiser trainee supervised, rather than 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) Changes a reference to an appraiser to an appraiser or an appraiser trainee.

(f) Requires TALCB to return an appraiser's certificate or license to active status, rather than requiring TALCB to remove an appraiser's certificate or license from inactive status, if the appraiser:

- (1) Makes no change to this subdivision;
- (2) Makes a nonsubstantive change;
- (3) submits proof of complying with the cumulative continuing education requirements of Section 1103.211 during the period the license has been on inactive status, rather than two years preceding the date the application under Subdivision (1) is filed;
- (4) satisfies TALCB as to the person's honesty, trustworthiness, and integrity; and
- (5) complies with the requirements of Sections 1103.203 and 1103.2031.

SECTION 33. Amends Section 1103.252(b), Occupations Code, as follows:

(b) Authorizes TALCB or the testing service to collect an examination fee from an applicant for a certificate or license.

SECTION 34. Amends Section 1103.253, Occupations Code, as follows:

Sec. 1103.253. TIME AND PLACE OF EXAMINATION; NOTICE. Requires TALCB or the testing service to offer the examination at least once each month in Austin and at other locations and times as TALCB may determine or require. Requires TALCB to provide public notice of all examinations on the TALCB Internet website.

Deletes existing Subsection (a) requiring that the examination be offered at least twice each year. Deletes existing Subsection (b) requiring TALCB to determine the time and place of the examination. Deletes existing Subsection (c) requiring TALCB to give reasonable public notice of the examination in the manner provided TALCB rule. Deletes existing Subsection (d) authorizing TALCB to assign an examination date and site to an applicant and requiring that the assigned site be the nearest examination site available to the applicant.

SECTION 35. Amends Section 1103.255, Occupations Code, as follows:

Sec. 1103.255. New heading: EXPERIENCE REQUIRED BEFORE TAKING EXAMINATION. Requires an applicant for the examination to fulfill the applicable experience requirement for a certificate or license before taking the examination, rather than providing that an applicant for the examination is not required to fulfill the experience required for a certificate before taking the examination.

SECTION 36. Amends Sections 1103.257(a) and (b), Occupations Code, as follows:

(a) Requires TALCB or the testing service, not later than the 10th day, rather than 31st day, after the date a person takes an examination to notify the person of the examination results. Deletes existing text requiring TALCB, if an examination is graded or review by a national testing service, to notify the person of the examination results not later than the 31st day after the date TALCB receives the results from the testing service.

(b) Requires TALCB, if notice of the examination results will be delayed for more than 10 days, rather than 90 days after the examination date, to notify each examinee of the reason for the delay not later than the 10th day, rather than the 90th day.

SECTION 37. Amends Section 1103.302, Occupations Code, to add paying the required fee to the list of actions a person takes to register with TALCB and makes no further change.

SECTION 38. Amends Section 1103.303, Occupations Code, to change a reference to the Appraiser Qualifications Board to the Appraisal Subcommittee. Makes no further change.

SECTION 39. Amends Section 1103.351, Occupations Code, as follows:

Sec. 1103.351. New heading: SUPERVISORY APPRAISER. (a) Authorizes TALCB to authorize a certified appraiser under this chapter to supervise, rather than sponsor, an appraiser trainee if the certified appraiser meets the requirements of TALCB consistent with applicable federal law.

(b) Authorizes an appraiser trainee to have more than one supervisory appraiser, rather than sponsor.

SECTION 40. Amends Section 1103.352, Occupations Code, as follows:

Sec. 1103.352. APPLICATION FOR APPRAISER TRAINEE. Requires an applicant for a license as an appraiser trainee and each supervisory appraiser of the applicant to apply to TALCB using the online application on the TALCB Internet website or on a form prescribed by TALCB, rather than requiring an applicant for approval as an appraiser trainee and each sponsor of the applicant to apply to TALCB on a form prescribed by TALCB.

SECTION 41. Amends Section 1103.353, Occupations Code, as follows:

Sec. 1003.353. ELIGIBILITY REQUIREMENTS FOR APPRAISER TRAINEE. Requires an applicant, to be eligible for a license, rather than to be eligible for approval, as an appraiser trainee, to:

- (1)-(3) Makes no change to these subdivisions;
- (4) Makes a nonsubstantive change.
- (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) Creates this subdivision from existing text and makes no further change.

SECTION 42. Amends Sections 1103.354(a) and (b), Occupations Code, as follows:

(a) Authorizes an appraiser trainee licensed, rather than approved, by TALCB to perform an appraisal under the direction of a supervisory appraiser, rather than sponsor or authorized supervisor of the trainee.

(b) Requires the supervisory appraiser, rather than the sponsor or authorized supervisor, to sign each report prepared by the appraiser trainee performing an appraisal under the direction of the supervisory appraiser, rather than sponsor or authorized supervisor. Provides that the supervisory appraiser, rather than sponsor or authorized supervisor, is responsible to the public and to TALCB for the appraiser trainee's reports and conduct.

SECTION 43. Amends Section 1103.355(a), Occupations Code, to authorize TALCB to reprimand an appraiser trainee or suspend or revoke an appraiser trainee's license, rather than an appraiser trainee's authority, to act as an appraiser trainee for a violation of this chapter or a rule adopted under this subchapter.

SECTION 44. Amends Section 1103.356, Occupations Code, as follows:

Sec. 1103.356. New heading: RENEWAL OF APPRAISER TRAINEE LICENSE. Authorizes a person to renew a license, rather than an approval, as an appraiser trainee by:

- (1)-(3) Makes no change to these subdivisions.

SECTION 45. Amends Section 1103.405, Occupations Code, as follows:

Sec. 1103.405. PROFESSIONAL STANDARDS. Requires a person who holds a certificate, license, or registration, rather than a person who holds a license, certificate, or approval, issued under this chapter to comply with:

(1)-(2) Makes no change to these subdivisions.

SECTION 46. Amends Section 1103.451, Occupations Code, as follows:

Sec. 1103.451. New heading: INITIATION OF COMPLAINT PROCESS. (a) Authorizes any person, including a member of TALCB, to initiate the complaint process under this subchapter by submitting to, rather than filing with, TALCB a written allegation of a violation of this chapter, rather than complaint, on a form prescribed by TALCB.

(b) Authorizes TALCB, on its own motion, to file a formal complaint against:

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

(2) a person who engages in an activity for which a certificate or license is required under this chapter without holding a certificate or license, rather than an appraiser trainee who is approved by TALCB under Subchapter H.

(c) Creates this subsection from existing Subsection (e). Prohibits the investigation of an alleged violation by a person licensed or certified under this chapter from being terminated solely on the basis that the person fails to renew the certificate or license, rather than prohibiting a complaint alleging a violation by a person licensed, certified, or approved under this chapter from being terminated solely on the basis that the person fails to renew the certificate, license, or approval.

(d) Prohibits TALCB from conducting an investigation of a person certified, licensed, or registered under this chapter or Chapter 1104 for an allegation of a violation submitted to TALCB later than the fourth anniversary of the date the alleged violation occurred.

Deletes existing Subsection (c) requiring that a complaint alleging that a certified or licensed appraiser or an approved appraiser trainee has violated a rule of professional conduct adopted by TALCB be filed with TALCB. Deletes existing Subsection (d) authorizing TALCB, on its own motion, to 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 and providing that 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).

SECTION 47. Amends Section 1103.452, Occupations Code, as follows:

Sec. 1103.452. REVIEW AND INVESTIGATION. (a) Requires TALCB to 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, rather than requiring TALCB, on receipt of a complaint or on its own motion, to review and investigate an alleged act or omission that TALCB believes is a ground for disciplinary action.

(b) Requires an investigator designated by the commissioner to investigate each allegation or formal complaint. Deletes existing text requiring an investigator designated by the presiding officer of TALCB to investigate each allegation in a complaint to determine whether probable cause exists for a hearing on the complaint.

(c) Requires TALCB or the commissioner, if TALCB determines at any time that an allegation or formal complaint is inappropriate or without merit, to dismiss the complaint and prohibits TALCB from taking further action. Deletes existing text requiring TALCB or the commissioner, if TALCB determines that a complaint does not present facts that are grounds for disciplinary action, to dismiss the complaint and prohibits TALCB from taking further action.

(d) Provides that, for purposes of Subsection (c), a determination that the allegation or complaint is inappropriate or without merit includes a determination that the allegation or complaint:

(1) is not within TALCB's jurisdiction;

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

(3) lacks sufficient basis in fact or evidence.

SECTION 48. Amends Section 1103.453(b), Occupations Code, to provide that a peer investigation committee consists of two or more certified or licensed appraisers, rather than three certified or licensed appraisers.

SECTION 49. Amends Section 1103.455(a), Occupations Code, to require the investigator, at the conclusion of the investigation of a complaint, to prepare a written report, rather than submit to TALCB a written report, to enable TALCB to determine what further action is necessary.

SECTION 50. Amends Section 1103.456, Occupations Code, as follows:

Sec. 1103.456. ACTION BASED ON REPORT. Authorizes TALCB, based on the report prepared, rather than submitted, under Section 1103.455 (Report of Investigation Required), to:

(1) Makes no change to this subdivision;

(2) permit the appraiser or appraiser trainee who is the subject of the complaint to participate in a voluntary discussion of the facts and circumstances of the alleged violation, rather than permit the appraiser or appraiser trainee who is the subject of the complaint to attend an informed discussion as provided by Section 1103.457;

(3) and (4) Makes no change to these subdivisions.

SECTION 51. Amends Section 1103.458, Occupations Code, by amending Subsection (d) and adding Subsection (g), as follows:

(d) Provides that a TALCB member who participates in negotiating a consent order under this section is disqualified from participating in the adjudication of a contested case that results from the negotiation, rather than providing that a TALCB member who participates in negotiating a consent order under this section is not disqualified from participating in the adjudication of a contested case that results from the negotiation.

(g) Authorizes an appraiser or appraiser trainee to be disciplined for failure to comply with a consent order.

SECTION 52. Amends Section 1103.459(d), Occupations Code, to authorize an appraiser or appraiser trainee to be disciplined, rather than prosecuted, for failure to comply with a consent agreement.

SECTION 53. Amends Section 1103.460, Occupations Code, as follows:

Sec. 1103.460. New heading: CONFIDENTIALITY OF INVESTIGATION MATERIAL. (a) Provides that information or material, including any investigation file, is confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code, or any other means of legal compulsion for release, including disclosure, discovery, or subpoena, if the information or material is prepared or compiled by TALCB in connection with a complaint, investigation, or audit of any person subject to the jurisdiction of TALCB.

(b) Authorizes that information or material prepared or compiled by TALCB in connection with a complaint, investigation, or audit, notwithstanding Subsection (a), be disclosed to certain groups or individuals that meet certain requirements and sets forth the requirements.

(c) Provides that the release of information under Subsection (b) does not waive or affect the confidentiality of the information or waive the right to assert exceptions to required disclosure of the information in the future.

(d) Authorizes TALCB to require a confidentiality agreement be signed by a person entitled to receive information under Subsection (b) before releasing the information.

(e) Provides that, notwithstanding Subsection (a), on the dismissal or final resolution of a complaint, investigation, or audit, information or material prepared or compiled by TALCB in connection with the complaint, investigation, or audit, including a completed audit report or a final order of TALCB, are public information and not excepted from disclosure.

Deletes existing text authorizing that a final decision of TALCB relating to a disciplinary action, including a consent order or consent agreement, be provided to another state or made available to the public.

SECTION 54. Amends Section 1103.519, Occupations Code, as follows:

Sec. 1103.519. New heading: MOTION FOR REHEARING. (a) Authorizes a party to file a motion for rehearing with TALCB, rather than authorizing a party, not later than the 20th day after the date a final decision is issued in a contested case, to file an application with TALCB for a rehearing. Requires that the motion, rather than application, state:

(1) and (2) Makes no change to these subdivisions.

(b) Provides that a motion for rehearing filed under this section is governed by Chapter 2001 (Administrative Procedure), Government Code. Deletes existing text providing that the application is denied if TALCB does not grant it before the 20th day after the date the commissioner is served with the application.

SECTION 55. Amends Section 1103.522, Occupations Code, as follows:

Sec. 1103.522. New heading: WAITING PERIOD. Prohibits a person whose certificate or license has been revoked, a person who has surrendered a certificate or license issued by TALCB, or a person whose application for a certificate or license has been denied after a hearing under Section 1103.508 (Hearing) from applying to TALCB for a certificate or license, rather than a reinstatement, until the second anniversary of the date of revocation, surrender, or denial.

SECTION 56. Amends Subchapter K, Chapter 1103, Occupations Code, by adding Section 1103.523, as follows:

Sec. 1103.523. COST RECOVERY. Authorizes the administrative law judge to award reasonable costs to TALCB on a request for and proof of the costs if the respondent fails

to appear for the hearing under Section 1103.510 (Failure to Appear), including any costs:

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

(2) related to the preparation for the hearing, including costs of discovery, depositions, subpoenas, service of process, witness expenses, travel expenses, and investigation expenses.

SECTION 57. Amends Section 1103.552, Occupations Code, by adding Subsection (c) to require that an administrative penalty collected under this section be deposited in a restricted fund maintained and operated by TALCB to develop educational programs for appraisers or conduct studies that enhance consumer protection.

SECTION 58. Repealer: Section 1103.005 (Real Estate Broker or Salesperson License Not Required), Occupations Code.

Repealer: Section 1103.2015 (General Application Requirements), Occupations Code.

Repealer: Section 1103.457 (Informal Discussion of Complaint), Occupations Code.

SECTION 59. (a) Provides that Section 1103.055, Occupations Code, as amended by this Act, does not affect the terms of the members of TALCB who are serving on the effective date of this Act. Requires members appointed to fill vacancies occurring on or after the effective date of this Act to be appointed to serve staggered terms in accordance with that section.

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

(c) Provides that the changes in law made by this Act apply only to an application for a license or certificate submitted to TALCB on or after the effective date of this Act. Makes application of this Act prospective.

(d) Provides that the changes in law made by this Act apply only to a disciplinary proceeding or a contested case hearing under Chapter 1103, Occupations Code, for conduct that occurs on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 60. Effective date: January 1, 2016.