

By: King of Hemphill, Thompson of Harris,
Hernandez, Patterson, Smith

H.B. No. 3878

Substitute the following for H.B. No. 3878:

By: Goldman

C.S.H.B. No. 3878

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the Texas Real Estate Research Center, the Real Estate
3 Research Advisory Committee, the Texas Real Estate Commission, and
4 the Texas Appraiser Licensing and Certification Board; increasing a
5 fee; authorizing a fee.

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

7 SECTION 1. The heading to Subchapter C, Chapter 86,
8 Education Code, is amended to read as follows:

9 SUBCHAPTER C. TEXAS REAL ESTATE RESEARCH CENTER

10 SECTION 2. Section 86.51, Education Code, is amended to
11 read as follows:

12 Sec. 86.51. TEXAS REAL ESTATE RESEARCH CENTER. The Texas
13 Real Estate Research Center [~~There~~] is established at Texas A&M
14 University [~~a Real Estate Research Center, hereinafter referred to~~
15 ~~as the center~~]. The operating budget, staffing, and activities of
16 the center shall be approved by the board of regents of The Texas
17 A&M University System.

18 SECTION 3. Section 86.52, Education Code, is amended by
19 amending Subsections (c), (d), (e), (f), (h), (i), (j), (k), and (l)
20 and adding Subsection (m) to read as follows:

21 (c) Members [~~Except for the initial appointees, members~~] of
22 the advisory committee hold office for staggered terms of six
23 years, with the terms of three members expiring on January 31 of
24 each odd-numbered year. [~~In making the initial appointments, the~~

1 ~~governor shall designate three members, including two~~
2 ~~representatives of the real estate industry and one representative~~
3 ~~of the general public, for terms expiring in 1973, three for terms~~
4 ~~expiring in 1975, and three for terms expiring in 1977.]~~ Any
5 vacancy shall be filled by appointment for the unexpired portion of
6 the term. Each member shall serve until the member's [~~his~~]
7 successor is qualified.

8 (d) The presiding officer [~~chairman~~] of the Texas Real
9 Estate Commission, or a member of the commission designated by the
10 presiding officer [~~him~~], shall serve as an ex officio, nonvoting
11 member of the advisory committee.

12 (e) The advisory committee shall elect a presiding officer
13 and an assistant presiding officer from the committee's [~~its~~]
14 membership, and each officer shall serve for a term of one year.

15 (f) [~~The first meeting of the advisory committee shall be~~
16 ~~called by the president of Texas A & M University or his designated~~
17 ~~representative.]~~ The advisory committee shall meet not less than
18 semiannually, and in addition on call of the committee's presiding
19 officer [~~its chairman~~], [~~or~~] on petition of any six of the
20 committee's [~~its~~] members, or on call of the executive director of
21 the center [~~president of Texas A & M University~~] or the executive
22 director's [~~his~~] designated representative.

23 (h) The executive director of the center [~~president of Texas~~
24 ~~A & M University~~] or the executive director's [~~his~~] designated
25 representative shall submit to the advisory committee in advance of
26 each fiscal year a budget for expenditures of all funds provided for
27 the center in a form that is related to the proposed schedule of

1 activities for the review and approval of the advisory committee.
2 The proposed budget approved by the advisory committee shall be
3 forwarded with the comments of the committee to the board of
4 directors of The Texas A&M [~~A & M~~] University System prior to its
5 action on the proposed budget, and the board of directors of The
6 Texas A&M [~~A & M~~] University System shall not authorize any
7 expenditure that has not had the prior approval of the advisory
8 committee.

9 (i) The president of Texas A&M [~~A & M~~] University or the
10 president's [~~his~~] designated representative shall submit to the
11 advisory committee for its review and approval a research agenda at
12 the beginning of each fiscal year and shall continuously inform the
13 advisory committee of changes in its substance and scheduling.

14 (j) Each member of the advisory committee [~~board~~] is
15 entitled to a per diem as provided in the center's budget [~~set by~~
16 ~~legislative appropriation~~] for each day that the member engages in
17 the business of the committee [~~board~~]. A member is entitled to [~~may~~
18 ~~not receive any~~] compensation for transportation and travel
19 expenses, including expenses for meals and lodging[~~, other than~~
20 ~~transportation expenses. A member is entitled to compensation for~~
21 ~~transportation expenses~~] as provided in [~~prescribed by~~] the
22 center's budget [~~General Appropriations Act~~].

23 (k) Except as provided by Subsection (l), the [~~The~~] advisory
24 committee is subject to Chapter 551, Government Code, Chapter 2001,
25 Government Code, and the provisions of Chapter 572, Government
26 Code.

27 (l) The advisory committee may conduct a meeting by

1 conference call or virtually through a third-party Internet
2 application as long as members of the general public are able to
3 participate in the meeting, and any discussions during the meeting,
4 if the meeting is not permitted to be conducted as a closed meeting
5 under Chapter 551, Government Code.

6 (m) The financial transactions of the center are subject to
7 audit by the state auditor in accordance with Chapter 321,
8 Government Code.

9 SECTION 4. Section 1101.0045, Occupations Code, is amended
10 to read as follows:

11 Sec. 1101.0045. EQUITABLE INTERESTS IN REAL PROPERTY. (a)
12 A person may acquire an option or an interest in a contract to
13 purchase real property and then sell or offer to sell the option or
14 assign or offer to assign the contract without holding a license
15 issued under this chapter if the person:

16 (1) does not use the option or contract to purchase to
17 engage in real estate brokerage; and

18 (2) discloses in writing the nature of the equitable
19 interest to any seller or potential buyer.

20 (b) A person selling or offering to sell an option or
21 assigning or offering to assign an interest in a contract to
22 purchase real property without disclosing the nature of that
23 interest as provided by Subsection (a)(2) [~~to a potential buyer~~] is
24 engaging in real estate brokerage.

25 SECTION 5. Section 1101.054, Occupations Code, is amended
26 to read as follows:

27 Sec. 1101.054. OFFICIAL OATH. Not later than the 15th

1 calendar day after the date of appointment, each appointee must
2 take the constitutional oath of office.

3 SECTION 6. Section 1101.152(a), Occupations Code, is
4 amended to read as follows:

5 (a) The commission shall adopt rules to charge and collect
6 fees in amounts reasonable and necessary to cover the costs of
7 administering this chapter and the real estate recovery trust
8 account as required by this chapter, including a fee for:

- 9 (1) filing an original application for a broker
10 license;
- 11 (2) renewal of a broker license;
- 12 (3) filing an original application for a sales agent
13 license;
- 14 (4) renewal of a sales agent license;
- 15 (5) registration as an easement or right-of-way agent;
- 16 (6) filing an application for a license examination;
- 17 (7) filing a request for a change of place of business,
18 change of name, return to active status, or change of sponsoring
19 broker;
- 20 (8) filing a request to replace a lost or destroyed
21 license or certificate of registration;
- 22 (9) filing an application for approval of an education
23 program under Subchapter G;
- 24 (10) annual operation of an education program under
25 Subchapter G;
- 26 (11) transcript evaluation;
- 27 (12) preparing a license or registration history;

1 (13) filing a request for a determination of fitness
2 to engage in a profession the commission regulates; ~~and~~

3 (14) conducting a criminal history check for issuing
4 or renewing a license; and

5 (15) registering as a business entity under Section
6 1101.355(d).

7 SECTION 7. Section 1101.154(a), Occupations Code, is
8 amended to read as follows:

9 (a) The fee for the issuance or renewal of a:

10 (1) broker license is the amount of the fee set under
11 Section 1101.152 and an additional \$70 fee for each year of the term
12 for which the license is issued or renewed;

13 (2) sales agent license is the amount of the fee set
14 under Section 1101.152 and an additional \$20 fee for each year of
15 the term for which the license is issued or renewed; and

16 (3) certificate of registration is the amount of the
17 fee set under Section 1101.152 and an additional \$20 fee for each
18 year of the term for which the certificate is issued or renewed.

19 SECTION 8. The heading to Section 1101.355, Occupations
20 Code, is amended to read as follows:

21 Sec. 1101.355. ADDITIONAL GENERAL ELIGIBILITY REQUIREMENTS
22 FOR BUSINESS ENTITIES; REGISTRATION OF CERTAIN BUSINESS ENTITIES.

23 SECTION 9. Section 1101.355, Occupations Code, is amended
24 by adding Subsections (d) and (e) to read as follows:

25 (d) Notwithstanding Subsection (c) or any other law, a
26 business entity is not required to be licensed under this chapter if
27 the business entity:

1 (1) receives compensation on behalf of a broker or
2 sales agent licensed under this chapter that is earned by the
3 license holder while engaged in real estate brokerage;

4 (2) performs no other acts of a broker;

5 (3) is:

6 (A) a limited liability company as defined by
7 Section 101.001, Business Organizations Code; or

8 (B) an S corporation as defined by 26 U.S.C.
9 Section 1361;

10 (4) is registered with the commission; and

11 (5) is at least 51 percent owned by the license holder
12 on whose behalf the entity receives compensation.

13 (e) The commission shall adopt rules providing for the
14 registration of a business entity described by Subsection (d).

15 SECTION 10. Sections 1101.356(a) and (b-1), Occupations
16 Code, are amended to read as follows:

17 (a) An applicant for a broker license must provide to the
18 commission satisfactory evidence that the applicant:

19 (1) has had at least four years of active experience
20 [~~in this state~~] as a license holder during the 60 months preceding
21 the date the application is filed; and

22 (2) has successfully completed the number of hours of
23 qualifying real estate and related courses required by commission
24 rule, not to exceed [~~at least~~] 60 semester hours[~~7~~] or equivalent
25 classroom hours[~~7 of postsecondary education, including:~~

26 [~~(A) at least 18 semester hours or equivalent~~
27 ~~classroom hours of qualifying real estate courses, two semester~~

1 ~~hours of which must consist of a real estate brokerage course~~
2 ~~completed not more than two years before the application date; and~~
3 ~~[(B) at least 42 semester hours of qualifying~~
4 ~~real estate courses or related courses accepted by the commission].~~

5 (b-1) The commission by rule shall establish what
6 constitutes active experience for purposes of this section [~~and~~
7 ~~Section 1101.357~~].

8 SECTION 11. Section 1101.358(a), Occupations Code, is
9 amended to read as follows:

10 (a) An applicant for a sales agent license must provide to
11 the commission satisfactory evidence that the applicant has
12 completed at least 12 semester hours, or equivalent classroom
13 hours, of [~~postsecondary~~] education consisting of:

14 (1) at least four semester hours of qualifying real
15 estate courses on principles of real estate; and

16 (2) at least two semester hours of each of the
17 following qualifying real estate courses:

18 (A) agency law;

19 (B) contract law;

20 (C) contract forms and addendums; and

21 (D) real estate finance.

22 SECTION 12. Section 1101.451(d), Occupations Code, is
23 amended to read as follows:

24 (d) Except as provided by Subsection (e), a renewal fee for
25 a license under this chapter may not exceed, calculated on an annual
26 basis, the amount of the sum of the fees established under Sections
27 1101.152 and [~~7~~] 1101.154 [~~7~~ and ~~1101.603~~].

1 SECTION 13. Section 1101.603(f), Occupations Code, is
2 amended to read as follows:

3 (f) To ensure the availability of a sufficient amount to pay
4 anticipated claims on the trust account, the commission by rule may
5 provide for the collection of fees or assessments from an applicant
6 for an original license or certificate of registration or from a
7 license or certificate holder at the next renewal to credit to the
8 trust account [~~at different times and under conditions other than~~
9 ~~those specified by this chapter~~].

10 SECTION 14. Sections 1101.610(a) and (b), Occupations Code,
11 are amended to read as follows:

12 (a) Payments from the trust account for claims, including
13 attorney's fees, interest, and court costs, arising out of a single
14 transaction may not exceed a total of \$125,000 [~~\$50,000~~],
15 regardless of the number of claimants.

16 (b) Payments from the trust account for claims based on
17 judgments against a single license or certificate holder may not
18 exceed a total of \$250,000 [~~\$100,000~~] until the license or
19 certificate holder has reimbursed the trust account for all amounts
20 paid.

21 SECTION 15. Section 1103.003(6), Occupations Code, is
22 amended to read as follows:

23 (6) "Executive director" [~~"Commissioner"~~] means the
24 executive director [~~commissioner~~] of the board [~~Texas Appraiser~~
25 ~~Licensing and Certification Board~~].

26 SECTION 16. Section 1103.0545(d), Occupations Code, is
27 amended to read as follows:

1 (b) The board may delegate to the executive director
2 [~~commissioner~~] the responsibility for administering this chapter
3 and Chapter 1104, including the approval of consent orders and
4 agreements.

5 Sec. 1103.102. OTHER BOARD PERSONNEL. In addition to the
6 executive director [~~commissioner~~], the board may employ other
7 officers and employees as necessary to administer this chapter and
8 Chapter 1104.

9 Sec. 1103.103. SALARIES. The executive director
10 [~~commissioner~~] shall determine the salaries of the officers and
11 employees of the board.

12 Sec. 1103.104. DUTIES OF EXECUTIVE DIRECTOR
13 [~~COMMISSIONER~~]. The executive director [~~commissioner~~] shall:

14 (1) disseminate information;
15 (2) administer rules adopted by the board under this
16 chapter or Chapter 1104;

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

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

21 (A) the examination required by Subchapter F;

22 (B) education and experience requirements for
23 issuance of certificates and licenses;

24 (C) continuing education for a certified or
25 licensed appraiser;

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

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

3 (F) the fees established by the board under
4 Section 1103.156 or Section 1104.052;

5 (5) collect fees established by the board;

6 (6) manage the staff and employees of the board; and

7 (7) perform any other duty prescribed by the board
8 under this chapter or Chapter 1104.

9 Sec. 1103.105. DIVISION OF RESPONSIBILITIES. The board
10 shall develop and implement policies that clearly separate the
11 policymaking responsibilities of the board and the management
12 responsibilities of the executive director [~~commissioner~~] and the
13 staff of the board.

14 SECTION 19. Section 1103.209(e), Occupations Code, is
15 amended to read as follows:

16 (e) An applicant for a certificate or license under this
17 chapter who is not a resident of this state must submit with the
18 application an irrevocable consent that states that service of
19 process in an action against the applicant arising out of the
20 applicant's activities as a certified or licensed appraiser in this
21 state may be made by delivery of the process to the executive
22 director [~~commissioner~~] if the plaintiff in the action, using due
23 diligence, cannot obtain personal service on the applicant. If
24 process is served as provided by this subsection, the executive
25 director [~~commissioner~~] shall immediately send a copy of the
26 material served on the executive director [~~commissioner~~] to the
27 certified or licensed appraiser at the appraiser's address of

1 record.

2 SECTION 20. Sections 1103.452(b) and (c), Occupations Code,
3 are amended to read as follows:

4 (b) An investigator designated by the executive director
5 [~~commissioner~~] shall investigate each allegation or formal
6 complaint.

7 (c) If the board determines at any time that an allegation
8 or formal complaint is inappropriate or without merit, the board or
9 the executive director [~~commissioner~~] shall dismiss the complaint
10 and may not take further action.

11 SECTION 21. Section 1103.458(c), Occupations Code, is
12 amended to read as follows:

13 (c) A consent order must be:

14 (1) approved by the board; and

15 (2) signed by the executive director [~~commissioner~~]

16 and the appraiser or appraiser trainee who is the subject of the
17 complaint.

18 SECTION 22. Section 1103.459(c), Occupations Code, is
19 amended to read as follows:

20 (c) A consent agreement must be:

21 (1) approved by the board; and

22 (2) signed by the executive director [~~commissioner~~]

23 and the appraiser or appraiser trainee who is the subject of the
24 complaint.

25 SECTION 23. Section 1103.5011, Occupations Code, is amended
26 to read as follows:

27 Sec. 1103.5011. NOTICE OF VIOLATION AND PENALTY. (a) The

1 executive director [~~commissioner~~] may send an appraiser against
2 whom a complaint has been filed a notice of violation including:

- 3 (1) a summary of the alleged violation;
4 (2) the recommended sanction, including the amount of
5 any administrative penalty sought; and
6 (3) a conspicuous notice that the respondent has the
7 right to a hearing to contest the alleged violation, the
8 recommended sanction, or both.

9 (b) Not later than the 20th day after the date the person
10 receives the notice under Subsection (a), the person may:

- 11 (1) accept the executive director's [~~commissioner's~~]
12 determination, including the recommended sanction; or
13 (2) request in writing a hearing, to be held under
14 Chapter 2001, Government Code, on the occurrence of the violation,
15 the sanction, or both.

16 SECTION 24. Section 1103.5012, Occupations Code, is amended
17 to read as follows:

18 Sec. 1103.5012. PENALTY TO BE PAID OR HEARING REQUESTED. If
19 the person accepts the executive director's [~~commissioner's~~]
20 determination, or fails to respond in a timely manner to the notice,
21 the board by order shall approve the determination and order
22 payment of the recommended penalty, impose the recommended
23 sanction, or both.

24 SECTION 25. Section 1103.507(a), Occupations Code, is
25 amended to read as follows:

26 (a) The executive director [~~commissioner~~] shall issue a
27 subpoena to compel the attendance of a witness or the production of

1 records or other evidence if:

2 (1) a party to the proceeding requests the subpoena
3 orally or in writing;

4 (2) the request specifies each item of evidence sought
5 and the full name and address of each witness sought; and

6 (3) the party shows reasonable cause.

7 SECTION 26. Section 1103.521(a), Occupations Code, is
8 amended to read as follows:

9 (a) The administrative law judge shall file the judge's
10 final decision in a contested case hearing with the executive
11 director [~~commissioner~~].

12 SECTION 27. Section 5.086, Property Code, is transferred to
13 Subchapter A, Chapter 5, Property Code, redesignated as Section
14 5.0205, Property Code, and amended to read as follows:

15 Sec. 5.0205 [5.086]. EQUITABLE INTEREST DISCLOSURE.
16 Before entering into a contract to sell an option or assign an
17 interest in a contract to purchase real property, a person [~~selling~~
18 ~~an option or assigning an interest in a contract to purchase real~~
19 ~~property~~] must disclose in writing to:

20 (1) any potential buyer that the person is selling
21 only an option or assigning an interest in a contract and that the
22 person does not have legal title to the real property; and

23 (2) the owner of the real property that the person
24 intends to sell an option or assign an interest in a contract.

25 SECTION 28. The following provisions of the Occupations
26 Code are repealed:

27 (1) Section 1101.357;

- 1 (2) Section 1101.360(a);
- 2 (3) Section 1101.361;
- 3 (4) Section 1101.406;
- 4 (5) Sections 1101.603(a) and (e);
- 5 (6) Section 1101.604(d); and
- 6 (7) Section 1103.259.

7 SECTION 29. Section 1101.154(a), Occupations Code, as
8 amended by this Act, applies only to the issuance or renewal of a
9 license or certificate of registration under Chapter 1101,
10 Occupations Code, on or after the effective date of this Act.

11 SECTION 30. Sections 1101.356(a) and 1101.358(a),
12 Occupations Code, as amended by this Act, apply only to an
13 application for a license under Chapter 1101, Occupations Code,
14 submitted on or after the effective date of this Act. An
15 application submitted before the effective date of this Act is
16 governed by the law in effect on the date the application was
17 submitted, and the former law is continued in effect for that
18 purpose.

19 SECTION 31. Section 1101.451(d), Occupations Code, as
20 amended by this Act, applies only to the renewal of a license under
21 Chapter 1101, Occupations Code, on or after the effective date of
22 this Act. A license renewed before the effective date of this Act
23 is governed by the law in effect on the date the license was
24 renewed, and the former law is continued in effect for that purpose.

25 SECTION 32. This Act takes effect January 1, 2024.