

AN ACT

relating to indemnification and duties of real property appraisers under certain governmental contracts.

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

SECTION 1. Subchapter Z, Chapter 271, Local Government Code, is amended by adding Section 271.9041 to read as follows:

Sec. 271.9041. APPRAISAL SERVICE CONTRACTS; INDEMNIFICATION LIMITATIONS; DUTIES OF APPRAISER. (a) In this section, "governmental agency" has the meaning assigned by Section 271.003.

(b) This section applies only to a contract for appraisal services for real property entered into by a licensed appraiser and a governmental agency.

(c) A provision of a contract for appraisal services, or a promise in connection with the contract, is void and unenforceable if the provision requires a licensed appraiser to indemnify or hold harmless a governmental agency against liability for damage, other than damage to the extent the damage is caused by or results from an act of:

(1) negligence;

(2) intentional tort;

(3) intellectual property infringement; or

(4) failure to pay:

(A) a subcontractor or supplier committed by the

1 appraiser or the appraiser's agent;

2 (B) a consultant under contract; or

3 (C) another person over which the appraiser
4 exercises control.

5 (d) Except as provided by Subsection (e)(2), a provision of
6 a contract for appraisal services, or a promise in connection with
7 the contract, is void and unenforceable if the provision requires a
8 licensed appraiser to defend a person against a claim based wholly
9 or partly on the negligence or fault of, or breach of contract by:

10 (1) the governmental agency that is a party to the
11 contract;

12 (2) an employee or agent of the governmental agency;
13 or

14 (3) another person over which the governmental agency
15 exercises control, other than the appraiser or an employee, agent,
16 or consultant of the appraiser.

17 (e) A contract for appraisal services may require:

18 (1) the reimbursement of a governmental agency's
19 reasonable attorney's fees in proportion to an appraiser's
20 liability; and

21 (2) an appraiser to name a governmental agency as an
22 additional insured under the appraiser's general liability
23 insurance policy and provide any defense provided by the policy.

24 (f) A contract for appraisal services must require a
25 licensed appraiser to perform services:

26 (1) with the professional skill and care ordinarily
27 provided by competent appraisers under the same or similar

1 circumstances and professional license; and

2 (2) as expeditiously as is prudent considering the
3 ordinary professional skill and care of a competent appraiser.

4 (g) A provision of a contract for appraisal services
5 establishing a different standard of care than a standard described
6 by Subsection (f) is void and unenforceable. If a contract contains
7 a void and unenforceable provision described by this subsection,
8 the standard of care described by Subsection (f) applies.

9 (h) This section does not prohibit a governmental agency
10 from including in and enforcing a provision in a contract for
11 appraisal services that relates to the scope, fees, and schedule of
12 a project in the contract.

13 SECTION 2. Section 271.9041, Local Government Code, as
14 added by this Act, applies only to a contract for appraisal services
15 for which a request for proposals or a request for qualifications is
16 first published or distributed on or after the effective date of
17 this Act.

18 SECTION 3. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1766 passed the Senate on May 3, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1766 passed the House on May 9, 2023, by the following vote: Yeas 140, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor