

1-1 By: Creighton S.B. No. 1766
1-2 (In the Senate - Filed March 7, 2023; March 20, 2023, read
1-3 first time and referred to Committee on Business & Commerce;
1-4 April 26, 2023, reported favorably by the following vote: Yeas 11,
1-5 Nays 0; April 26, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to indemnification and duties of real property appraisers
1-22 under certain governmental contracts.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subchapter Z, Chapter 271, Local Government
1-25 Code, is amended by adding Section 271.9041 to read as follows:

1-26 Sec. 271.9041. APPRAISAL SERVICE CONTRACTS;
1-27 INDEMNIFICATION LIMITATIONS; DUTIES OF APPRAISER. (a) In this
1-28 section, "governmental agency" has the meaning assigned by Section
1-29 271.003.

1-30 (b) This section applies only to a contract for appraisal
1-31 services for real property entered into by a licensed appraiser and
1-32 a governmental agency.

1-33 (c) A provision of a contract for appraisal services, or a
1-34 promise in connection with the contract, is void and unenforceable
1-35 if the provision requires a licensed appraiser to indemnify or hold
1-36 harmless a governmental agency against liability for damage, other
1-37 than damage to the extent the damage is caused by or results from an
1-38 act of:

- 1-39 (1) negligence;
1-40 (2) intentional tort;
1-41 (3) intellectual property infringement; or
1-42 (4) failure to pay;

1-43 (A) a subcontractor or supplier committed by the
1-44 appraiser or the appraiser's agent;

1-45 (B) a consultant under contract; or

1-46 (C) another person over which the appraiser
1-47 exercises control.

1-48 (d) Except as provided by Subsection (e)(2), a provision of
1-49 a contract for appraisal services, or a promise in connection with
1-50 the contract, is void and unenforceable if the provision requires a
1-51 licensed appraiser to defend a person against a claim based wholly
1-52 or partly on the negligence or fault of, or breach of contract by:

1-53 (1) the governmental agency that is a party to the
1-54 contract;

1-55 (2) an employee or agent of the governmental agency;
1-56 or

1-57 (3) another person over which the governmental agency
1-58 exercises control, other than the appraiser or an employee, agent,
1-59 or consultant of the appraiser.

1-60 (e) A contract for appraisal services may require:

1-61 (1) the reimbursement of a governmental agency's

2-1 reasonable attorney's fees in proportion to an appraiser's
2-2 liability; and

2-3 (2) an appraiser to name a governmental agency as an
2-4 additional insured under the appraiser's general liability
2-5 insurance policy and provide any defense provided by the policy.

2-6 (f) A contract for appraisal services must require a
2-7 licensed appraiser to perform services:

2-8 (1) with the professional skill and care ordinarily
2-9 provided by competent appraisers under the same or similar
2-10 circumstances and professional license; and

2-11 (2) as expeditiously as is prudent considering the
2-12 ordinary professional skill and care of a competent appraiser.

2-13 (g) A provision of a contract for appraisal services
2-14 establishing a different standard of care than a standard described
2-15 by Subsection (f) is void and unenforceable. If a contract contains
2-16 a void and unenforceable provision described by this subsection,
2-17 the standard of care described by Subsection (f) applies.

2-18 (h) This section does not prohibit a governmental agency
2-19 from including in and enforcing a provision in a contract for
2-20 appraisal services that relates to the scope, fees, and schedule of
2-21 a project in the contract.

2-22 SECTION 2. Section 271.9041, Local Government Code, as
2-23 added by this Act, applies only to a contract for appraisal services
2-24 for which a request for proposals or a request for qualifications is
2-25 first published or distributed on or after the effective date of
2-26 this Act.

2-27 SECTION 3. This Act takes effect September 1, 2023.

2-28 * * * * *