

By: Flores

H.B. No. 3489

Substitute the following for H.B. No. 3489:

By: Jones of Lubbock

C.S.H.B. No. 3489

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the regulation of the practice of appraising real
3 property; providing administrative, civil, and criminal penalties.

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

5 SECTION 1. Section 1103.156(a), Occupations Code, is
6 amended to read as follows:

7 (a) The board may establish reasonable fees to administer
8 this chapter, including:

9 (1) an application fee for a certificate or license;

10 (2) an examination fee;

11 (3) a renewal fee for a certificate or license;

12 (4) a registration fee for a nonresident real estate
13 appraiser;

14 (5) an application fee for an appraiser trainee;

15 (6) an annual renewal fee for an appraiser trainee;

16 [~~and~~]

17 (7) a fee for filing a request for a return to active
18 status; and

19 (8) other appropriate fees.

20 SECTION 2. Subchapter E, Chapter 1103, Occupations Code, is
21 amended by adding Sections 1103.212 and 1103.213 to read as
22 follows:

23 Sec. 1103.212. EXTENSION OF TIME TO COMPLETE REQUIRED
24 CONTINUING EDUCATION. (a) The board by rule may establish

1 procedures under which a person may obtain an extension of time to
2 complete continuing education required to renew the person's
3 certificate or license.

4 (b) The board may require a person under this section to:

5 (1) pay an additional fee, not to exceed \$200, on or
6 before the date the certificate or license is scheduled to expire;
7 and

8 (2) complete the required continuing education not
9 later than the 60th day after the date the certificate or license is
10 scheduled to expire.

11 (c) Notwithstanding the other provisions of this section, a
12 person must complete the required continuing education before
13 performing an appraisal in a federally related transaction.

14 Sec. 1103.213. INACTIVE CERTIFICATE OR LICENSE. (a) The
15 board may place on inactive status the certificate or license of an
16 appraiser if the appraiser:

17 (1) is not acting as an appraiser;

18 (2) is not sponsoring an appraiser trainee; and

19 (3) submits a written application to the board before
20 the expiration date of the appraiser's certificate or license.

21 (b) The board may place on inactive status the certificate
22 or license of an appraiser whose certificate or license has expired
23 if the appraiser applies for inactive status on a form prescribed by
24 the board not later than the first anniversary of the expiration
25 date of the appraiser's certificate or license.

26 (c) An appraiser applying for inactive status shall
27 terminate the appraiser's association with each appraiser trainee

1 sponsored by the appraiser by giving written notice to each
2 appraiser trainee before the 30th day preceding the date the
3 appraiser applies for inactive status.

4 (d) An appraiser on inactive status:

5 (1) may not perform any activity regulated under this
6 chapter;

7 (2) must pay annual renewal fees; and

8 (3) is not required to pay the annual registry fee
9 described by Section 1103.156(b).

10 (e) The board shall maintain a list of each appraiser whose
11 certificate or license is on inactive status.

12 (f) The board shall remove an appraiser's certificate or
13 license from inactive status if the appraiser:

14 (1) submits an application to the board;

15 (2) pays the required fee; and

16 (3) submits proof of complying with the continuing
17 education requirements of Section 1103.211 during the two years
18 preceding the date the application under Subdivision (1) is filed.

19 SECTION 3. Section 1103.451, Occupations Code, is amended
20 by adding Subsection (d) to read as follows:

21 (d) The board, on its own motion, may file a formal
22 complaint against a person who engages in an activity for which a
23 certificate or license is required under this chapter without
24 holding a certificate or license. This subchapter and Subchapter K
25 apply to a complaint filed under this subsection in the same manner
26 as they apply to a complaint filed under Subsection (b).

27 SECTION 4. Section 1103.551(a), Occupations Code, is

1 amended to read as follows:

2 (a) The board may institute an action in its own name
3 against any person, including a person who is not certified or
4 licensed under this chapter, to enjoin a violation of this chapter
5 or a rule adopted by the board under this chapter.

6 SECTION 5. Section 1103.552(b), Occupations Code, is
7 amended to read as follows:

8 (b) The person [~~appraiser~~] on whom the penalty is imposed
9 shall pay the penalty not later than the 20th day after the date of
10 the final disposition of the contested case.

11 SECTION 6. The heading to Section 1103.553, Occupations
12 Code, is amended to read as follows:

13 Sec. 1103.553. CIVIL PENALTY FOR FILING FRIVOLOUS
14 COMPLAINT.

15 SECTION 7. Subchapter L, Chapter 1103, Occupations Code, is
16 amended by adding Section 1103.5535 to read as follows:

17 Sec. 1103.5535. CIVIL PENALTY FOR ENGAGING IN ACTIVITY
18 WITHOUT REQUIRED CERTIFICATE OR LICENSE. (a) A person who receives
19 consideration for engaging in an activity for which a certificate
20 or license is required under this chapter and who does not hold a
21 certificate or license is liable for a civil penalty.

22 (b) The amount of a civil penalty imposed under this section
23 may not be less than the amount of money equal to the value of the
24 consideration received or more than three times the amount of money
25 equal to the value of the consideration received.

26 (c) At the request of the board, the attorney general or a
27 district or county attorney may bring an action in district court to

1 recover a civil penalty under this section.

2 (d) A civil penalty recovered in an action under this
3 section shall be deposited in the state treasury.

4 SECTION 8. The heading to Section 1103.554, Occupations
5 Code, is amended to read as follows:

6 Sec. 1103.554. CRIMINAL PENALTY FOR MISREPRESENTING
7 QUALIFICATIONS.

8 SECTION 9. Subchapter L, Chapter 1103, Occupations Code, is
9 amended by adding Section 1103.5545 to read as follows:

10 Sec. 1103.5545. CRIMINAL PENALTY FOR ENGAGING IN ACTIVITY
11 WITHOUT REQUIRED CERTIFICATE OR LICENSE. (a) A person commits an
12 offense if the person engages in an activity for which a certificate
13 or license is required under this chapter without holding a
14 certificate or license.

15 (b) An offense under this section is a Class A misdemeanor.

16 SECTION 10. This Act takes effect September 1, 2003.