

By: Flores

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 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. INACTIVE CERTIFICATE OR LICENSE. (a) The  
24 board may place on inactive status the certificate or license of an

1 appraiser if the appraiser:

2 (1) is not acting as an appraiser;

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

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

6 (b) The board may place on inactive status the certificate  
7 or license of an appraiser whose certificate or license has expired  
8 if the appraiser applies for inactive status on a form prescribed by  
9 the board not later than the first anniversary of the expiration  
10 date of the appraiser's certificate or license.

11 (c) An appraiser applying for inactive status shall  
12 terminate the appraiser's association with each appraiser trainee  
13 sponsored by the appraiser by giving written notice to each  
14 appraiser trainee before the 30th day preceding the date the  
15 appraiser applies for inactive status.

16 (d) An appraiser on inactive status:

17 (1) may not perform any activity regulated under this  
18 chapter;

19 (2) must pay annual renewal fees; and

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

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

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

26 (1) submits an application to the board;

27 (2) pays the required fee; and

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

4           Sec. 1103.213. DEFERRAL OF CONTINUING EDUCATION  
5 REQUIREMENTS. (a) The board by rule may establish procedures  
6 under which an appraiser may have the appraiser's certificate or  
7 license returned to active status before the appraiser completes  
8 continuing education requirements.

9           (b) The board may require an appraiser under this section  
10 to:

11           (1) pay an additional fee, not to exceed \$200; and  
12           (2) complete the required continuing education not  
13 later than the 60th day after the date the certificate or license is  
14 returned to active status.

15           (c) Notwithstanding the other provisions of this section,  
16 an appraiser must complete the required continuing education before  
17 performing an appraisal in a federally related transaction.

18           SECTION 3. Section 1103.551(a), Occupations Code, is  
19 amended to read as follows:

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

24           SECTION 4. The heading to Section 1103.553, Occupations  
25 Code, is amended to read as follows:

26           Sec. 1103.553. CIVIL PENALTY FOR FILING FRIVOLOUS  
27 COMPLAINT.

1 SECTION 5. Subchapter L, Chapter 1103, Occupations Code, is  
2 amended by adding Section 1103.5535 to read as follows:

3 Sec. 1103.5535. CIVIL PENALTY FOR CERTAIN VIOLATIONS BY  
4 CERTIFIED OR LICENSED APPRAISER. (a) A person who receives  
5 consideration for engaging in an activity for which a certificate  
6 or license is required under this chapter and who does not hold a  
7 certificate or license is liable for a civil penalty.

8 (b) The amount of a civil penalty imposed under this section  
9 may not be less than the amount of money equal to the value of the  
10 consideration received or more than three times the amount of money  
11 equal to the value of the consideration received.

12 (c) At the request of the board, the attorney general or a  
13 district or county attorney may bring an action in district court to  
14 recover a civil penalty under this section.

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

17 SECTION 6. The heading to Section 1103.554, Occupations  
18 Code, is amended to read as follows:

19 Sec. 1103.554. CRIMINAL PENALTY FOR MISREPRESENTING  
20 QUALIFICATIONS.

21 SECTION 7. Subchapter L, Chapter 1103, Occupations Code, is  
22 amended by adding Section 1103.5545 to read as follows:

23 Sec. 1103.5545. CRIMINAL PENALTY FOR CERTAIN VIOLATIONS BY  
24 APPRAISER. (a) A person commits an offense if the person engages  
25 in an activity for which a certificate or license is required under  
26 this chapter without holding a certificate or license.

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

1 SECTION 8. This Act takes effect September 1, 2003.