

1-1 By: Staples S.B. No. 1013
1-2 (In the Senate - Filed March 7, 2003; March 13, 2003, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 April 10, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 10, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1013 By: Fraser

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the regulation of the practice of appraising real
1-11 property; providing administrative, civil, and criminal penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (a), Section 1103.156, Occupations
1-14 Code, is amended to read as follows:

1-15 (a) The board may establish reasonable fees to administer
1-16 this chapter, including:

1-17 (1) an application fee for a certificate or license;
1-18 (2) an examination fee;
1-19 (3) a renewal fee for a certificate or license;
1-20 (4) a registration fee for a nonresident real estate
1-21 appraiser;

1-22 (5) an application fee for an appraiser trainee;
1-23 (6) an annual renewal fee for an appraiser trainee;

1-24 [~~and~~]

1-25 (7) a fee for filing a request for a return to active
1-26 status; and

1-27 (8) other appropriate fees.

1-28 SECTION 2. Subchapter E, Chapter 1103, Occupations Code, is
1-29 amended by adding Sections 1103.212 and 1103.213 to read as
1-30 follows:

1-31 Sec. 1103.212. EXTENSION OF TIME TO COMPLETE REQUIRED
1-32 CONTINUING EDUCATION. (a) The board by rule may establish
1-33 procedures under which a person may obtain an extension of time to
1-34 complete continuing education required to renew the person's
1-35 certificate or license.

1-36 (b) The board may require a person under this section to:

1-37 (1) pay an additional fee, not to exceed \$200, on or
1-38 before the date the certificate or license is scheduled to expire;
1-39 and

1-40 (2) complete the required continuing education not
1-41 later than the 60th day after the date the certificate or license is
1-42 scheduled to expire.

1-43 (c) Notwithstanding the other provisions of this section, a
1-44 person must complete the required continuing education before
1-45 performing an appraisal in a federally related transaction.

1-46 Sec. 1103.213. INACTIVE CERTIFICATE OR LICENSE. (a) The
1-47 board may place on inactive status the certificate or license of an
1-48 appraiser if the appraiser:

1-49 (1) is not acting as an appraiser;

1-50 (2) is not sponsoring an appraiser trainee; and

1-51 (3) submits a written application to the board before
1-52 the expiration date of the appraiser's certificate or license.

1-53 (b) The board may place on inactive status the certificate
1-54 or license of an appraiser whose certificate or license has expired
1-55 if the appraiser applies for inactive status on a form prescribed by
1-56 the board not later than the first anniversary of the expiration
1-57 date of the appraiser's certificate or license.

1-58 (c) An appraiser applying for inactive status shall
1-59 terminate the appraiser's association with each appraiser trainee
1-60 sponsored by the appraiser by giving written notice to each
1-61 appraiser trainee before the 30th day preceding the date the
1-62 appraiser applies for inactive status.

1-63 (d) An appraiser on inactive status:

2-1 (1) may not perform any activity regulated under this
2-2 chapter;

2-3 (2) must pay annual renewal fees; and

2-4 (3) is not required to pay the annual registry fee
2-5 described by Section 1103.156(b).

2-6 (e) The board shall maintain a list of each appraiser whose
2-7 certificate or license is on inactive status.

2-8 (f) The board shall remove an appraiser's certificate or
2-9 license from inactive status if the appraiser:

2-10 (1) submits an application to the board;

2-11 (2) pays the required fee; and

2-12 (3) submits proof of complying with the continuing
2-13 education requirements of Section 1103.211 during the two years
2-14 preceding the date the application under Subdivision (1) is filed.

2-15 SECTION 3. Section 1103.451, Occupations Code, is amended
2-16 by adding Subsection (d) to read as follows:

2-17 (d) The board, on its own motion, may file a formal
2-18 complaint against a person who engages in an activity for which a
2-19 certificate or license is required under this chapter without
2-20 holding a certificate or license. This subchapter and Subchapter K
2-21 apply to a complaint filed under this subsection in the same manner
2-22 as they apply to a complaint filed under Subsection (b).

2-23 SECTION 4. Subsection (a), Section 1103.551, Occupations
2-24 Code, is amended to read as follows:

2-25 (a) The board may institute an action in its own name
2-26 against any person, including a person who is not certified or
2-27 licensed under this chapter, to enjoin a violation of this chapter
2-28 or a rule adopted by the board under this chapter.

2-29 SECTION 5. Subsection (b), Section 1103.552, Occupations
2-30 Code, is amended to read as follows:

2-31 (b) The person [appraiser] on whom the penalty is imposed
2-32 shall pay the penalty not later than the 20th day after the date of
2-33 the final disposition of the contested case.

2-34 SECTION 6. The heading to Section 1103.553, Occupations
2-35 Code, is amended to read as follows:

2-36 Sec. 1103.553. CIVIL PENALTY FOR FILING FRIVOLOUS
2-37 COMPLAINT.

2-38 SECTION 7. Subchapter L, Chapter 1103, Occupations Code, is
2-39 amended by adding Section 1103.5535 to read as follows:

2-40 Sec. 1103.5535. CIVIL PENALTY FOR ENGAGING IN ACTIVITY
2-41 WITHOUT REQUIRED CERTIFICATE OR LICENSE. (a) A person who
2-42 receives consideration for engaging in an activity for which a
2-43 certificate or license is required under this chapter and who does
2-44 not hold a certificate or license is liable for a civil penalty.

2-45 (b) The amount of a civil penalty imposed under this section
2-46 may not be less than the amount of money equal to the value of the
2-47 consideration received or more than three times the amount of money
2-48 equal to the value of the consideration received.

2-49 (c) At the request of the board, the attorney general or a
2-50 district or county attorney may bring an action in district court to
2-51 recover a civil penalty under this section.

2-52 (d) A civil penalty recovered in an action under this
2-53 section shall be deposited in the state treasury.

2-54 SECTION 8. The heading to Section 1103.554, Occupations
2-55 Code, is amended to read as follows:

2-56 Sec. 1103.554. CRIMINAL PENALTY FOR MISREPRESENTING
2-57 QUALIFICATIONS.

2-58 SECTION 9. Subchapter L, Chapter 1103, Occupations Code, is
2-59 amended by adding Section 1103.5545 to read as follows:

2-60 Sec. 1103.5545. CRIMINAL PENALTY FOR ENGAGING IN ACTIVITY
2-61 WITHOUT REQUIRED CERTIFICATE OR LICENSE. (a) A person commits an
2-62 offense if the person engages in an activity for which a certificate
2-63 or license is required under this chapter without holding a
2-64 certificate or license.

2-65 (b) An offense under this section is a Class A misdemeanor.

2-66 SECTION 10. This Act takes effect September 1, 2003.

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