

BILL ANALYSIS

S.B. 381
By: Staples
Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

As part of its Strategic Planning process, the Texas Appraiser Licensing and Certification Board (board) made several recommendations for modification to the Texas Appraiser Licensing and Certification Act. Specifically, revisions in S.B. 381 are being proposed to improve the licensing and regulation of appraisers in Texas.

S.B. 381 allows the board to establish educational qualifications for trainees, requires an applicant to pass the licensing examination within one year of applying for the license, and aligns Texas' statutes with federal mandates for the term of a non-resident temporary license, among other provisions.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Appraiser Licensing and Certification Board in SECTION 2 (Section 1103.151, Occupations Code) and SECTION 4 (Section 1103.153, Occupations Code) of this bill.

ANALYSIS

SECTION 1. Amends Section 1103.003, Occupations Code, by adding Subdivisions (2-a), (6-a), and (6-b) to define "Appraisal Standards Board," "federally related transaction," and "federal financial institution regulatory agency."

SECTION 2. Amends Section 1103.151, Occupations Code, as follows:

Sec. 1103.151. RULES RELATING TO CERTIFICATES AND LICENSES. Authorizes the Texas Appraiser Licensing and Certification Board (board) to adopt rules for certifying or licensing an appraiser or approving an appraiser trainee in this state that are in accordance with this chapter and consistent with, rather than not more stringent than, applicable federal law. Authorizes the board to adopt rules relating to the education and experience required for certifying or licensing an appraiser or approving an appraiser trainee that are consistent with, rather than not more stringent than, the guidelines recognized by the Appraiser Qualifications Board, rather than the Appraisal Subcommittee.

SECTION 3. Amends Section 1103.152, Occupations Code, to delete text defining "Appraisal Standards Board." Authorizes the board to prescribe qualifications for each category that are consistent with, rather than not more stringent than, the qualifications established for that category by the Appraiser Qualifications Board. Deletes existing text referring to the Appraisal Standards Board and the Appraisal Subcommittee.

SECTION 4. Amends Section 1103.153, Occupations Code, to authorize the board to adopt rules relating to continuing education requirements for an approved appraiser trainee.

SECTION 5. Amends Section 1103.154, Occupations Code, to make a conforming change.

SECTION 6. Amends Section 1103.202, Occupations Code, to require that for an applicant to be eligible for a certificate that the applicant successfully complete the number of classroom hours or other educational qualifications. Makes conforming changes.

SECTION 7. Amends Section 1103.203, Occupations Code, to require that an applicant, to be eligible for a license, must successfully complete the number and type of classroom hours, instead of 75 hours, or other educational qualifications required by the guidelines of the Appraiser Qualifications Board. Requires the applicant to provide evidence satisfactory to the board that the applicant has at least the minimum number of hours of experience in performing appraisals over the specified number of calendar years as required by Appraiser Qualifications Board. Deletes existing text relating required classroom hours in certain subjects and hours of experience.

SECTION 8. Amends Section 1103.204(c), Occupations Code, to make a conforming change.

SECTION 9. Amends Sections 1103.205(b) and (c), Occupations Code, to make conforming changes.

SECTION 10. Amends Sections 1103.209(a), (c), and (d), Occupations Code, as follows:

(a) Authorizes the board to issue a certificate of license under terms adopted by the board to an applicant who is certified or licensed under the laws of another state having certification of licensing requirements that the board determines have not been disapproved by the Appraiser Qualifications Board, rather than the Appraisal Subcommittee. Requires that the terms comply with the minimum criteria for obtaining a certificate or license recognized by the Appraiser Qualifications Board.

(c) Requires the application form submitted for a reciprocal certificate or license under this section must be comparable to the form required of a resident of this state applying for a similar certificate of license, rather than by the state in which the appraiser is certified or licensed.

(d) Requires the fee charged to an appraiser from another state for a reciprocal certificate of licensed under this section to be comparable to the fee required of a resident of this state applying for a similar certificate of license, rather than by the state in which the appraiser is certified or licensed.

SECTION 11. Amends Sections 1103.211(b) and (c), Occupations Code, to make conforming changes.

SECTION 12. Amends Section 1103.251(b), Occupations Code, to require the examination to be written and approved by the Appraiser Qualifications Board, rather than by the Appraisal Foundation. Deletes existing text relating to guidelines for the examination.

SECTION 13. Amends Section 1103.254, Occupations Code, to provide that an application is active for one year beginning on the date the application is initially accepted. Requires an applicant who does not pass the examination before the first anniversary of the date of the application to submit a new application and pay the appropriate fees.

SECTION 14. Amends Section 1103.256, Occupations Code, to require an applicant for a certificate or license to achieve the minimum score required by the Appraiser Qualifications Board, rather than required or approved, whichever is lower, by the Appraiser Qualifications Board.

SECTION 15. Amends Section 1103.257(c), Occupations Code, to delete the requirement that the statement identifying the person accompanying the written request be notarized.

SECTION 16. Amends Section 1103.258, Occupations Code, to require an applicant who does not pass the examination before the first anniversary of the date of the application was initially accepted by the board to submit a new application and pay the required application fee. Deletes existing text relating to the date of reapplication of an applicant who failed the examination.

SECTION 17. Amends Section 1103.303, Occupations Code, to require an applicant licensed out-of-state to be eligible to register with the Appraiser Qualifications Board, rather than the Appraisal Subcommittee, if the person's appraisal business in this state does not exceed six months, rather than 60 days.

S.B. 381 79(R)

SECTION 18. Amends Section 1103.353, Occupations Code, to add a requirement that an applicant, in order to be eligible for approval as an appraiser trainee, meet all other qualifications established by the board.

SECTION 19. Amends Sections 1103.354(a) and (b), Occupations Code, to authorize a trainee approved by the board to perform an appraisal under the direction of an authorized supervisor. Requires a sponsor or authorized supervisor to sign each report prepared by the appraiser trainee performing an appraisal under the direction of the sponsor or authorized supervisor. Provides that an authorized supervisor is responsible to the public and to the board for the appraiser trainee's conduct. Deletes existing text relating to multiple sponsors of an appraisal trainee.

SECTION 20. Amends Subchapter I, Chapter 1103, Occupations Code, by adding Section 1103.405, as follows:

Sec. 1103.405. PROFESSIONAL STANDARDS. Requires a person who holds a license, certificate, or approval issued under this chapter to comply with certain prescribed standards.

SECTION 21. Amends Section 1103.451, Occupations Code, by amending Subsection (a) and adding Subsection (e) as follows:

(a) Authorizes a written complaint, rather than an affidavit stating the complaint, to be filed with the board.

(e) Prohibits a complaint alleging a violation by a person licensed, certified, or approved under this chapter from being terminated solely on the basis that the person fails to renew the certificate, license, or approval.

SECTION 22. Repealer: Section 1103.004(a), Occupations Code relating to definitions for this section.

SECTION 23. Requires the Texas Appraiser Licensing and Certification Board to adopt rules under this Act no later than January 1, 2006.

SECTION 24. Makes the application of this Act regarding the requirements for issuing a certificate or license under Chapter 1103, Occupations Code, prospective to March 1, 2006.

SECTION 25. Provides that the change in law made by the amendment to Section 1103.451, Occupations Code, applies to a complaint that is pending on the effective date or filed with the Texas Appraiser Licensing and Certification Board on or after the effective date of this Act.

SECTION 26. Effective date: September 1, 2005.

EFFECTIVE DATE

September 1, 2005.