

By: Staples

S.B. No. 381

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of real estate appraisers.

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

SECTION 1. Section 1103.003, Occupations Code, is amended by adding Subdivisions (2-a), (6-a), and (6-b) to read as follows:

(2-a) "Appraisal Standards Board" means the Appraisal Standards Board of the Appraisal Foundation, or its successor.

(6-a) "Federally related transaction" means a real estate related transaction that:

(A) requires the services of an appraiser; and

(B) is engaged in, contracted for, or regulated by a federal financial institution regulatory agency.

(6-b) "Federal financial institution regulatory agency" means:

(A) the Board of Governors of the Federal Reserve System;

(B) the Federal Deposit Insurance Corporation;

(C) the Office of the Comptroller of the Currency;

(D) the Office of Thrift Supervision;

(E) the National Credit Union Administration; or

(F) the successors of any of those agencies.

SECTION 2. Section 1103.151, Occupations Code, is amended to read as follows:

1 Sec. 1103.151. RULES RELATING TO CERTIFICATES AND LICENSES.

2 The board may adopt:

3 (1) rules for certifying or licensing an appraiser or
4 approving an appraiser trainee in this state that are in accordance
5 with this chapter and consistent with[~~, but not more stringent~~
6 ~~than,~~] applicable federal law;

7 (2) rules relating to the education and experience
8 required for certifying or licensing an appraiser or approving an
9 appraiser trainee that are consistent with[~~, but not more stringent~~
10 ~~than,~~] the guidelines recognized by the Appraiser Qualifications
11 Board [~~Appraisal Subcommittee~~];

12 (3) rules relating to the examination required by
13 Subchapter F; and

14 (4) rules relating to procedures for the timely
15 renewal of a certificate or license.

16 SECTION 3. Section 1103.152, Occupations Code, is amended
17 to read as follows:

18 Sec. 1103.152. APPRAISER CERTIFICATE AND LICENSE
19 CATEGORIES. [~~(a) In this section, "Appraisal Standards Board"~~
20 ~~means the Appraisal Standards Board of the Appraisal Foundation, or~~
21 ~~its successor.~~

22 [~~(b)~~] The board may:

23 (1) establish certificate and license categories that
24 are consistent with the categories recognized by the Appraiser
25 Qualifications Board[~~, the Appraisal Standards Board, and the~~
26 ~~Appraisal Subcommittee~~]; and

27 (2) prescribe qualifications for each category that

1 are consistent with [~~not more stringent than~~] the qualifications
2 established for that category by the Appraiser Qualifications
3 Board[~~, the Appraisal Standards Board, and the Appraisal~~
4 ~~Subcommittee~~].

5 SECTION 4. Section 1103.153, Occupations Code, is amended
6 to read as follows:

7 Sec. 1103.153. RULES RELATING TO CONTINUING EDUCATION. The
8 board may adopt rules relating to continuing education requirements
9 for a certified or licensed appraiser or an approved appraiser
10 trainee.

11 SECTION 5. Section 1103.154, Occupations Code, is amended
12 to read as follows:

13 Sec. 1103.154. RULES RELATING TO PROFESSIONAL CONDUCT. The
14 board may adopt:

15 (1) rules as necessary to conform to the minimum
16 written standards of the Appraisal Standards Board [~~Subcommittee~~]
17 by incorporating the Uniform Standards of Professional Appraisal
18 Practice;

19 (2) rules requiring a certified or licensed appraiser
20 to comply with standards of competency, professional conduct, and
21 ethics [~~generally accepted by the Appraisal Subcommittee and~~]
22 prescribed by the Uniform Standards of Professional Appraisal
23 Practice, as adopted by the Appraisal Standards Board [~~Foundation~~];
24 and

25 (3) rules relating to the standards for the
26 development of an appraisal and the conveyance of an appraisal
27 report by a certified or licensed appraiser that are consistent

1 with the Uniform Standards of Professional Appraisal Practice.

2 SECTION 6. Section 1103.202, Occupations Code, is amended
3 to read as follows:

4 Sec. 1103.202. ELIGIBILITY REQUIREMENTS FOR CERTIFICATE.
5 To be eligible for a certificate under this chapter, an applicant
6 must:

- 7 (1) pass the examination required by Subchapter F;
- 8 (2) successfully complete the number and type of
9 classroom hours or other educational qualifications required by the
10 Appraiser Qualifications Board [~~guidelines of the Appraisal~~
11 ~~Subcommittee~~];
- 12 (3) provide evidence satisfactory to the board that
13 the applicant has at least the minimum number of hours of experience
14 in performing appraisals over the specified number of calendar
15 years as required by the Appraiser Qualifications Board [~~guidelines~~
16 ~~of the Appraisal Subcommittee~~]; and
- 17 (4) satisfy the board as to the applicant's honesty,
18 trustworthiness, and integrity.

19 SECTION 7. Section 1103.203, Occupations Code, is amended
20 to read as follows:

21 Sec. 1103.203. ELIGIBILITY REQUIREMENTS FOR LICENSE. To be
22 eligible for a license under this chapter, an applicant must:

- 23 (1) pass the examination required by Subchapter F;
- 24 (2) successfully complete the number and type of [~~at~~
25 ~~least 75~~] classroom hours or other educational qualifications
26 required by the guidelines of the Appraiser Qualifications Board
27 [~~in subjects determined by the board to be related to real estate~~

1 ~~appraisal, including at least 15 classroom hours covering the~~
2 ~~Uniform Standards of Professional Appraisal Practice];~~

3 (3) provide evidence satisfactory to the board that
4 the applicant has at least the minimum number of hours of experience
5 in performing appraisals over the specified number of calendar
6 years as required by the guidelines of the Appraiser Qualifications
7 Board [~~the equivalent of 2,000 hours of experience in performing~~
8 ~~appraisals]; and~~

9 (4) satisfy the board as to the applicant's honesty,
10 trustworthiness, and integrity.

11 SECTION 8. Section 1103.204(c), Occupations Code, is
12 amended to read as follows:

13 (c) The board shall give an applicant for a certificate or
14 license credit toward fulfilling the requirements of Sections
15 1103.202(2) and 1103.203(2) for classroom hours taken in the course
16 of becoming licensed as a real estate broker or salesperson or for
17 professional development or continuing education courses taken,
18 whether the classroom hours or courses are taken by a person as a
19 real estate broker or salesperson or as an employee of a financial
20 institution engaged in real estate-related financial transactions,
21 if the classroom hours or courses satisfy the requirements
22 established by the guidelines recognized by the Appraiser
23 Qualifications Board [~~Appraisal Subcommittee~~].

24 SECTION 9. Sections 1103.205(b) and (c), Occupations Code,
25 are amended to read as follows:

26 (b) An applicant for a certificate or license must provide
27 an affidavit on a form prescribed by the board stating that the

1 applicant has the required number of hours of experience in
2 performing appraisals as ~~[established by the guidelines]~~
3 recognized by the Appraiser Qualifications Board ~~[Appraisal~~
4 ~~Subcommittee]~~.

5 (c) For the purpose of determining the qualifications of an
6 applicant for a certificate or license under this chapter,
7 acceptable appraisal experience includes:

8 (1) any one or any combination of the categories
9 recognized by the Appraiser Qualifications Board ~~[guidelines of the~~
10 ~~Appraisal Subcommittee]~~; and

11 (2) experience as a real estate lending officer of a
12 financial institution or as a real estate broker that includes the
13 actual performance or technical review of real estate appraisals.

14 SECTION 10. Sections 1103.209(a), (c), and (d), Occupations
15 Code, are amended to read as follows:

16 (a) The board may issue a certificate or license under terms
17 adopted by the board to an applicant who is certified or licensed
18 under the laws of another state having certification or licensing
19 requirements that the board determines have not been disapproved by
20 the Appraisal Subcommittee. The terms must comply with the minimum
21 criteria for obtaining a certificate or license recognized by the
22 Appraiser Qualifications Board ~~[Appraisal Subcommittee]~~.

23 (c) The application form submitted for a reciprocal
24 certificate or license under this section must be comparable to the
25 form required of a resident of this state applying for a similar
26 certificate or license ~~[by the state in which the appraiser is~~
27 ~~certified or licensed]~~.

1 (d) The fee charged to an appraiser from another state for a
2 reciprocal certificate or license under this section must be
3 comparable to the fee required of a resident of this state applying
4 for a similar certificate or license [~~by the state in which the~~
5 ~~appraiser is certified or licensed~~]. A person who obtains a
6 certificate or license by reciprocity under this section must pay
7 the federal registry fee and any other fee the board imposes.

8 SECTION 11. Sections 1103.211(b) and (c), Occupations Code,
9 are amended to read as follows:

10 (b) A person may renew a certificate or license by:

11 (1) paying the renewal fee; and

12 (2) providing evidence satisfactory to the board that
13 the person has completed continuing education requirements that
14 comply with the guidelines recognized by the Appraiser
15 Qualifications Board [~~Appraisal Subcommittee~~] and that are imposed
16 by rule under this chapter.

17 (c) For purposes of Subsection (b)(2), the board shall
18 accept as continuing education any educational offering that
19 complies with the guidelines recognized by the Appraiser
20 Qualifications Board [~~Appraisal Subcommittee~~] that a certified or
21 licensed appraiser was awarded by a national appraiser organization
22 approved by the board as a provider of qualifying appraisal
23 education.

24 SECTION 12. Section 1103.251(b), Occupations Code, is
25 amended to read as follows:

26 (b) The examination must be:

27 (1) written; and

1 (2) approved by the [~~Appraisal Foundation, and~~
2 ~~[(3) consistent with, but not more stringent than, the~~
3 ~~Uniform State Certification/Licensing Examination guidelines~~
4 ~~endorsed by the]~~ Appraiser Qualifications Board.

5 SECTION 13. Section 1103.254, Occupations Code, is amended
6 to read as follows:

7 Sec. 1103.254. EXAMINATION APPLICATION. (a) An application
8 to take the examination must be on a form prescribed by the board.

9 (b) An application is active for one year beginning on the
10 date the application is initially accepted. If an applicant does
11 not pass the examination before the first anniversary of the date of
12 application, the applicant must submit a new application and pay
13 the appropriate fees.

14 SECTION 14. Section 1103.256, Occupations Code, is amended
15 to read as follows:

16 Sec. 1103.256. MINIMUM PASSING GRADE REQUIRED. To pass the
17 examination, an applicant for a certificate or license must achieve
18 the minimum score required [~~or approved]~~ by the Appraiser
19 Qualifications Board[~~, whichever is lower~~].

20 SECTION 15. Section 1103.257(c), Occupations Code, is
21 amended to read as follows:

22 (c) If requested in writing by a person who fails an
23 examination, the board shall provide to the person an analysis of
24 the person's performance on the examination. The request must be
25 accompanied by a [~~notarized~~] statement identifying the person and a
26 fee in an amount determined by the board. The board shall release
27 the analysis directly to the person requesting the analysis.

1 SECTION 16. Section 1103.258, Occupations Code, is amended
2 to read as follows:

3 Sec. 1103.258. REEXAMINATION. (a) An applicant who fails
4 an examination may apply to retake the examination on payment of an
5 additional examination fee.

6 (b) An applicant who has not successfully completed the
7 examination before the first anniversary of the date the
8 application was initially accepted by the board must submit a new
9 application and pay the required application fee. [~~The applicant~~
10 ~~must apply to retake the examination not later than the first~~
11 ~~anniversary of the date of the examination the applicant failed.~~]

12 SECTION 17. Section 1103.303, Occupations Code, is amended
13 to read as follows:

14 Sec. 1103.303. ELIGIBILITY REQUIREMENTS FOR REGISTRATION.
15 A person is eligible to register with the board if:

16 (1) the certification and licensing program under
17 which the person is certified or licensed by another state has not
18 been disapproved by the Appraisal Subcommittee; and

19 (2) the person's appraisal business in this state does
20 not exceed six months [~~60 days~~].

21 SECTION 18. Section 1103.353, Occupations Code, is amended
22 to read as follows:

23 Sec. 1103.353. ELIGIBILITY REQUIREMENTS FOR APPRAISER
24 TRAINEE. To be eligible for approval as an appraiser trainee, an
25 applicant must:

26 (1) be at least 18 years of age;

27 (2) be a citizen of the United States or a lawfully

1 admitted alien;

2 (3) have been a resident of this state for the 60 days
3 preceding the date the application is filed; ~~and~~

4 (4) satisfy the board as to the applicant's honesty,
5 trustworthiness, and integrity; and

6 (5) meet all other qualifications established by the
7 board.

8 SECTION 19. Sections 1103.354(a) and (b), Occupations Code,
9 are amended to read as follows:

10 (a) An appraiser trainee approved by the board may perform
11 an appraisal under the direction of a sponsor or authorized
12 supervisor of the trainee.

13 (b) The sponsor or authorized supervisor shall sign each
14 report prepared by the appraiser trainee performing an appraisal
15 under the direction of the sponsor or authorized supervisor. ~~[If an~~
16 ~~appraiser trainee has more than one sponsor, one sponsor shall sign~~
17 ~~the reports prepared by the appraiser trainee.]~~ The [A] sponsor or
18 authorized supervisor ~~[who signs a report]~~ is responsible to the
19 public and to the board for the appraiser trainee's conduct.

20 SECTION 20. Subchapter I, Chapter 1103, Occupations Code,
21 is amended by adding Section 1103.405 to read as follows:

22 Sec. 1103.405. PROFESSIONAL STANDARDS. A person who holds
23 a license, certificate, or approval issued under this chapter shall
24 comply with:

25 (1) the most current edition of the Uniform Standards
26 of Professional Appraisal Practice adopted by the Appraisal
27 Standards Board of the Appraisal Foundation; or

1 (2) other standards provided by board rule that are at
2 least as stringent as the Uniform Standards of Professional
3 Appraisal Practice.

4 SECTION 21. Section 1103.451, Occupations Code, is amended
5 by amending Subsection (a) and adding Subsection (e) to read as
6 follows:

7 (a) Any person, including a member of the board, may
8 initiate the complaint process under this subchapter by filing with
9 the board a written [~~an affidavit stating the~~] complaint on a form
10 prescribed by the board.

11 (e) A complaint alleging a violation by a person licensed,
12 certified, or approved under this chapter may not be terminated
13 solely on the basis that the person fails to renew the certificate,
14 license, or approval.

15 SECTION 22. Section 1103.004(a), Occupations Code, is
16 repealed.

17 SECTION 23. The Texas Appraiser Licensing and Certification
18 Board shall adopt rules under this Act not later than January 1,
19 2006.

20 SECTION 24. The changes in law made by this Act with regard
21 to the requirements for issuing a license or certificate under
22 Chapter 1103, Occupations Code, apply only to an application filed
23 with the Texas Appraiser Licensing and Certification Board on or
24 after March 1, 2006. An application for a license or certificate
25 filed before that date is governed by the law in effect on the date
26 the application was filed, and the former law is continued in effect
27 for that purpose.

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

6 SECTION 26. This Act takes effect September 1, 2005.