

1-1 By: Staples S.B. No. 381  
1-2 (In the Senate - Filed February 7, 2005; February 15, 2005,  
1-3 read first time and referred to Committee on Business and Commerce;  
1-4 March 17, 2005, reported favorably by the following vote: Yeas 8,  
1-5 Nays 0; March 17, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the regulation of real estate appraisers.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 1103.003, Occupations Code, is amended  
1-11 by adding Subdivisions (2-a), (6-a), and (6-b) to read as follows:

1-12 (2-a) "Appraisal Standards Board" means the Appraisal  
1-13 Standards Board of the Appraisal Foundation, or its successor.

1-14 (6-a) "Federally related transaction" means a real  
1-15 estate-related transaction that:

1-16 (A) requires the services of an appraiser; and

1-17 (B) is engaged in, contracted for, or regulated  
1-18 by a federal financial institution regulatory agency.

1-19 (6-b) "Federal financial institution regulatory  
1-20 agency" means:

1-21 (A) the Board of Governors of the Federal Reserve  
1-22 System;

1-23 (B) the Federal Deposit Insurance Corporation;

1-24 (C) the Office of the Comptroller of the  
1-25 Currency;

1-26 (D) the Office of Thrift Supervision;

1-27 (E) the National Credit Union Administration; or

1-28 (F) the successors of any of those agencies.

1-29 SECTION 2. Section 1103.151, Occupations Code, is amended  
1-30 to read as follows:

1-31 Sec. 1103.151. RULES RELATING TO CERTIFICATES AND LICENSES.

1-32 The board may adopt:

1-33 (1) rules for certifying or licensing an appraiser or  
1-34 approving an appraiser trainee in this state that are in accordance  
1-35 with this chapter and consistent with [~~, but not more stringent~~  
1-36 ~~than,~~] applicable federal law;

1-37 (2) rules relating to the education and experience  
1-38 required for certifying or licensing an appraiser or approving an  
1-39 appraiser trainee that are consistent with [~~, but not more stringent~~  
1-40 ~~than,~~] the guidelines recognized by the Appraiser Qualifications  
1-41 Board [~~Appraisal Subcommittee~~];

1-42 (3) rules relating to the examination required by  
1-43 Subchapter F; and

1-44 (4) rules relating to procedures for the timely  
1-45 renewal of a certificate or license.

1-46 SECTION 3. Section 1103.152, Occupations Code, is amended  
1-47 to read as follows:

1-48 Sec. 1103.152. APPRAISER CERTIFICATE AND LICENSE  
1-49 CATEGORIES. [~~(a) In this section, "Appraisal Standards Board"~~  
1-50 ~~means the Appraisal Standards Board of the Appraisal Foundation, or~~  
1-51 ~~its successor.~~

1-52 [~~(b)~~] The board may:

1-53 (1) establish certificate and license categories that  
1-54 are consistent with the categories recognized by the Appraiser  
1-55 Qualifications Board [~~, the Appraisal Standards Board, and the~~  
1-56 ~~Appraisal Subcommittee~~]; and

1-57 (2) prescribe qualifications for each category that  
1-58 are consistent with [~~not more stringent than~~] the qualifications  
1-59 established for that category by the Appraiser Qualifications  
1-60 Board [~~, the Appraisal Standards Board, and the Appraisal~~  
1-61 ~~Subcommittee~~].

1-62 SECTION 4. Section 1103.153, Occupations Code, is amended  
1-63 to read as follows:

1-64 Sec. 1103.153. RULES RELATING TO CONTINUING EDUCATION. The

2-1 board may adopt rules relating to continuing education requirements  
 2-2 for a certified or licensed appraiser or an approved appraiser  
 2-3 trainee.

2-4 SECTION 5. Section 1103.154, Occupations Code, is amended  
 2-5 to read as follows:

2-6 Sec. 1103.154. RULES RELATING TO PROFESSIONAL CONDUCT. The  
 2-7 board may adopt:

2-8 (1) rules as necessary to conform to the minimum  
 2-9 written standards of the Appraisal Standards Board [~~Subcommittee~~]  
 2-10 by incorporating the Uniform Standards of Professional Appraisal  
 2-11 Practice;

2-12 (2) rules requiring a certified or licensed appraiser  
 2-13 to comply with standards of competency, professional conduct, and  
 2-14 ethics [~~generally accepted by the Appraisal Subcommittee and~~]  
 2-15 prescribed by the Uniform Standards of Professional Appraisal  
 2-16 Practice, as adopted by the Appraisal Standards Board [~~Foundation~~];  
 2-17 and

2-18 (3) rules relating to the standards for the  
 2-19 development of an appraisal and the conveyance of an appraisal  
 2-20 report by a certified or licensed appraiser that are consistent  
 2-21 with the Uniform Standards of Professional Appraisal Practice.

2-22 SECTION 6. Section 1103.202, Occupations Code, is amended  
 2-23 to read as follows:

2-24 Sec. 1103.202. ELIGIBILITY REQUIREMENTS FOR CERTIFICATE.  
 2-25 To be eligible for a certificate under this chapter, an applicant  
 2-26 must:

2-27 (1) pass the examination required by Subchapter F;

2-28 (2) successfully complete the number and type of  
 2-29 classroom hours or other educational qualifications required by the  
 2-30 Appraiser Qualifications Board [~~guidelines of the Appraisal~~  
 2-31 ~~Subcommittee~~];

2-32 (3) provide evidence satisfactory to the board that  
 2-33 the applicant has at least the minimum number of hours of experience  
 2-34 in performing appraisals over the specified number of calendar  
 2-35 years as required by the Appraiser Qualifications Board [~~guidelines~~  
 2-36 ~~of the Appraisal Subcommittee~~]; and

2-37 (4) satisfy the board as to the applicant's honesty,  
 2-38 trustworthiness, and integrity.

2-39 SECTION 7. Section 1103.203, Occupations Code, is amended  
 2-40 to read as follows:

2-41 Sec. 1103.203. ELIGIBILITY REQUIREMENTS FOR LICENSE. To be  
 2-42 eligible for a license under this chapter, an applicant must:

2-43 (1) pass the examination required by Subchapter F;

2-44 (2) successfully complete the number and type of [~~at~~  
 2-45 ~~least 75~~] classroom hours or other educational qualifications  
 2-46 required by the guidelines of the Appraiser Qualifications Board  
 2-47 [~~in subjects determined by the board to be related to real estate~~  
 2-48 ~~appraisal, including at least 15 classroom hours covering the~~  
 2-49 ~~Uniform Standards of Professional Appraisal Practice~~];

2-50 (3) provide evidence satisfactory to the board that  
 2-51 the applicant has at least the minimum number of hours of experience  
 2-52 in performing appraisals over the specified number of calendar  
 2-53 years as required by the guidelines of the Appraiser Qualifications  
 2-54 Board [~~the equivalent of 2,000 hours of experience in performing~~  
 2-55 ~~appraisals~~]; and

2-56 (4) satisfy the board as to the applicant's honesty,  
 2-57 trustworthiness, and integrity.

2-58 SECTION 8. Subsection (c), Section 1103.204, Occupations  
 2-59 Code, is amended to read as follows:

2-60 (c) The board shall give an applicant for a certificate or  
 2-61 license credit toward fulfilling the requirements of Sections  
 2-62 1103.202(2) and 1103.203(2) for classroom hours taken in the course  
 2-63 of becoming licensed as a real estate broker or salesperson or for  
 2-64 professional development or continuing education courses taken,  
 2-65 whether the classroom hours or courses are taken by a person as a  
 2-66 real estate broker or salesperson or as an employee of a financial  
 2-67 institution engaged in real estate-related financial transactions,  
 2-68 if the classroom hours or courses satisfy the requirements  
 2-69 established by the guidelines recognized by the Appraiser

3-1 Qualifications Board [Appraisal Subcommittee].

3-2 SECTION 9. Subsections (b) and (c), Section 1103.205,  
3-3 Occupations Code, are amended to read as follows:

3-4 (b) An applicant for a certificate or license must provide  
3-5 an affidavit on a form prescribed by the board stating that the  
3-6 applicant has the required number of hours of experience in  
3-7 performing appraisals as ~~[established by the guidelines]~~  
3-8 recognized by the Appraiser Qualifications Board [Appraisal  
3-9 Subcommittee].

3-10 (c) For the purpose of determining the qualifications of an  
3-11 applicant for a certificate or license under this chapter,  
3-12 acceptable appraisal experience includes:

3-13 (1) any one or any combination of the categories  
3-14 recognized by the Appraiser Qualifications Board [guidelines of the  
3-15 Appraisal Subcommittee]; and

3-16 (2) experience as a real estate lending officer of a  
3-17 financial institution or as a real estate broker that includes the  
3-18 actual performance or technical review of real estate appraisals.

3-19 SECTION 10. Subsections (a), (c), and (d), Section  
3-20 1103.209, Occupations Code, are amended to read as follows:

3-21 (a) The board may issue a certificate or license under terms  
3-22 adopted by the board to an applicant who is certified or licensed  
3-23 under the laws of another state having certification or licensing  
3-24 requirements that the board determines have not been disapproved by  
3-25 the Appraiser Qualifications Board [Appraisal Subcommittee]. The  
3-26 terms must comply with the minimum criteria for obtaining a  
3-27 certificate or license recognized by the Appraiser Qualifications  
3-28 Board [Appraisal Subcommittee].

3-29 (c) The application form submitted for a reciprocal  
3-30 certificate or license under this section must be comparable to the  
3-31 form required of a resident of this state applying for a similar  
3-32 certificate or license [by the state in which the appraiser is  
3-33 certified or licensed].

3-34 (d) The fee charged to an appraiser from another state for a  
3-35 reciprocal certificate or license under this section must be  
3-36 comparable to the fee required of a resident of this state applying  
3-37 for a similar certificate or license [by the state in which the  
3-38 appraiser is certified or licensed]. A person who obtains a  
3-39 certificate or license by reciprocity under this section must pay  
3-40 the federal registry fee and any other fee the board imposes.

3-41 SECTION 11. Subsections (b) and (c), Section 1103.211,  
3-42 Occupations Code, are amended to read as follows:

3-43 (b) A person may renew a certificate or license by:

3-44 (1) paying the renewal fee; and

3-45 (2) providing evidence satisfactory to the board that  
3-46 the person has completed continuing education requirements that  
3-47 comply with the guidelines recognized by the Appraiser  
3-48 Qualifications Board [Appraisal Subcommittee] and that are imposed  
3-49 by rule under this chapter.

3-50 (c) For purposes of Subsection (b)(2), the board shall  
3-51 accept as continuing education any educational offering that  
3-52 complies with the guidelines recognized by the Appraiser  
3-53 Qualifications Board [Appraisal Subcommittee] that a certified or  
3-54 licensed appraiser was awarded by a national appraiser organization  
3-55 approved by the board as a provider of qualifying appraisal  
3-56 education.

3-57 SECTION 12. Subsection (b), Section 1103.251, Occupations  
3-58 Code, is amended to read as follows:

3-59 (b) The examination must be:

3-60 (1) written; and

3-61 (2) approved by the ~~[Appraisal Foundation, and~~

3-62 ~~[(3) consistent with, but not more stringent than, the~~  
3-63 ~~Uniform State Certification/Licensing Examination guidelines~~  
3-64 ~~endorsed by the]~~ Appraiser Qualifications Board.

3-65 SECTION 13. Section 1103.254, Occupations Code, is amended  
3-66 to read as follows:

3-67 Sec. 1103.254. EXAMINATION APPLICATION. (a) An  
3-68 application to take the examination must be on a form prescribed by  
3-69 the board.

4-1 (b) An application is active for one year beginning on the  
 4-2 date the application is initially accepted. If an applicant does  
 4-3 not pass the examination before the first anniversary of the date of  
 4-4 application, the applicant must submit a new application and pay  
 4-5 the appropriate fees.

4-6 SECTION 14. Section 1103.256, Occupations Code, is amended  
 4-7 to read as follows:

4-8 Sec. 1103.256. MINIMUM PASSING GRADE REQUIRED. To pass the  
 4-9 examination, an applicant for a certificate or license must achieve  
 4-10 the minimum score required [~~or approved~~] by the Appraiser  
 4-11 Qualifications Board[~~, whichever is lower~~].

4-12 SECTION 15. Subsection (c), Section 1103.257, Occupations  
 4-13 Code, is amended to read as follows:

4-14 (c) If requested in writing by a person who fails an  
 4-15 examination, the board shall provide to the person an analysis of  
 4-16 the person's performance on the examination. The request must be  
 4-17 accompanied by a [~~notarized~~] statement identifying the person and a  
 4-18 fee in an amount determined by the board. The board shall release  
 4-19 the analysis directly to the person requesting the analysis.

4-20 SECTION 16. Section 1103.258, Occupations Code, is amended  
 4-21 to read as follows:

4-22 Sec. 1103.258. REEXAMINATION. (a) An applicant who fails  
 4-23 an examination may apply to retake the examination on payment of an  
 4-24 additional examination fee.

4-25 (b) An applicant who has not successfully completed the  
 4-26 examination before the first anniversary of the date the  
 4-27 application was initially accepted by the board must submit a new  
 4-28 application and pay the required application fee [The applicant  
 4-29 must apply to retake the examination not later than the first  
 4-30 anniversary of the date of the examination the applicant failed].

4-31 SECTION 17. Section 1103.303, Occupations Code, is amended  
 4-32 to read as follows:

4-33 Sec. 1103.303. ELIGIBILITY REQUIREMENTS FOR REGISTRATION.  
 4-34 A person is eligible to register with the board if:

4-35 (1) the certification and licensing program under  
 4-36 which the person is certified or licensed by another state has not  
 4-37 been disapproved by the Appraiser Qualifications Board [~~Appraisal~~  
 4-38 ~~Subcommittee~~]; and

4-39 (2) the person's appraisal business in this state does  
 4-40 not exceed six months [~~60 days~~].

4-41 SECTION 18. Section 1103.353, Occupations Code, is amended  
 4-42 to read as follows:

4-43 Sec. 1103.353. ELIGIBILITY REQUIREMENTS FOR APPRAISER  
 4-44 TRAINEE. To be eligible for approval as an appraiser trainee, an  
 4-45 applicant must:

4-46 (1) be at least 18 years of age;  
 4-47 (2) be a citizen of the United States or a lawfully  
 4-48 admitted alien;

4-49 (3) have been a resident of this state for the 60 days  
 4-50 preceding the date the application is filed; [~~and~~]

4-51 (4) satisfy the board as to the applicant's honesty,  
 4-52 trustworthiness, and integrity; and

4-53 (5) meet all other qualifications established by the  
 4-54 board.

4-55 SECTION 19. Subsections (a) and (b), Section 1103.354,  
 4-56 Occupations Code, are amended to read as follows:

4-57 (a) An appraiser trainee approved by the board may perform  
 4-58 an appraisal under the direction of a sponsor or authorized  
 4-59 supervisor of the trainee.

4-60 (b) The sponsor or authorized supervisor shall sign each  
 4-61 report prepared by the appraiser trainee performing an appraisal  
 4-62 under the direction of the sponsor or authorized supervisor. The  
 4-63 [~~If an appraiser trainee has more than one sponsor, one sponsor~~  
 4-64 ~~shall sign the reports prepared by the appraiser trainee. A]~~  
 4-65 sponsor or authorized supervisor [~~who signs a report~~] is  
 4-66 responsible to the public and to the board for the appraiser  
 4-67 trainee's conduct.

4-68 SECTION 20. Subchapter I, Chapter 1103, Occupations Code,  
 4-69 is amended by adding Section 1103.405 to read as follows:

5-1 Sec. 1103.405. PROFESSIONAL STANDARDS. A person who holds  
5-2 a license, certificate, or approval issued under this chapter shall  
5-3 comply with:

5-4 (1) the most current edition of the Uniform Standards  
5-5 of Professional Appraisal Practice adopted by the Appraisal  
5-6 Standards Board of the Appraisal Foundation; or

5-7 (2) other standards provided by board rule that are at  
5-8 least as stringent as the Uniform Standards of Professional  
5-9 Appraisal Practice.

5-10 SECTION 21. Section 1103.451, Occupations Code, is amended  
5-11 by amending Subsection (a) and adding Subsection (e) to read as  
5-12 follows:

5-13 (a) Any person, including a member of the board, may  
5-14 initiate the complaint process under this subchapter by filing with  
5-15 the board a written [~~an affidavit stating the~~] complaint on a form  
5-16 prescribed by the board.

5-17 (e) A complaint alleging a violation by a person licensed,  
5-18 certified, or approved under this chapter may not be terminated  
5-19 solely on the basis that the person fails to renew the certificate,  
5-20 license, or approval.

5-21 SECTION 22. Subsection (a), Section 1103.004, Occupations  
5-22 Code, is repealed.

5-23 SECTION 23. The Texas Appraiser Licensing and Certification  
5-24 Board shall adopt rules under this Act not later than January 1,  
5-25 2006.

5-26 SECTION 24. The changes in law made by this Act with regard  
5-27 to the requirements for issuing a license or certificate under  
5-28 Chapter 1103, Occupations Code, apply only to an application filed  
5-29 with the Texas Appraiser Licensing and Certification Board on or  
5-30 after March 1, 2006. An application for a license or certificate  
5-31 filed before that date is governed by the law in effect on the date  
5-32 the application was filed, and the former law is continued in effect  
5-33 for that purpose.

5-34 SECTION 25. The change in law made by the amendment to  
5-35 Section 1103.451, Occupations Code, applies to a complaint filed  
5-36 under that section that is pending on the effective date or filed  
5-37 with the Texas Appraiser Licensing and Certification Board on or  
5-38 after the effective date of this Act.

5-39 SECTION 26. This Act takes effect September 1, 2005.

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