

1-1 By: Shapleigh S.B. No. 914  
1-2 (In the Senate - Filed March 8, 2007; March 15, 2007, read  
1-3 first time and referred to Committee on Government Organization;  
1-4 March 27, 2007, reported favorably by the following vote: Yeas 6,  
1-5 Nays 0; March 27, 2007, sent to printer.)

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

1-8 relating to the continuation and functions of the Texas Real Estate  
1-9 Commission and the regulation of real estate brokers, salespersons,  
1-10 inspectors, appraisers, residential service companies, and  
1-11 timeshares; providing administrative penalties.

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

1-13 SECTION 1. Section 1101.006, Occupations Code, is amended  
1-14 to read as follows:

1-15 Sec. 1101.006. APPLICATION OF SUNSET ACT. The Texas Real  
1-16 Estate Commission is subject to Chapter 325, Government Code (Texas  
1-17 Sunset Act). Unless continued in existence as provided by that  
1-18 chapter, the commission is abolished and this chapter, ~~[and]~~  
1-19 Chapter 1102, and Chapter 1303 of this code and Chapter 221,  
1-20 Property Code, expire September 1, 2019 ~~[2007]~~.

1-21 SECTION 2. Section 1101.053, Occupations Code, is amended  
1-22 to read as follows:

1-23 Sec. 1101.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.  
1-24 (a) In this section, "Texas trade association" means a  
1-25 ~~[nonprofit,]~~ cooperative~~[,]~~ and voluntarily joined statewide  
1-26 association of business or professional competitors in this state  
1-27 designed to assist its members and its industry or profession in  
1-28 dealing with mutual business or professional problems and in  
1-29 promoting their common interest.

1-30 (b) A person may not be a member of the commission and may  
1-31 not be a commission employee employed in a "bona fide executive,  
1-32 administrative, or professional capacity," as that phrase is used  
1-33 for purposes of establishing an exemption to the overtime  
1-34 provisions of the federal Fair Labor Standards Act of 1938 (29  
1-35 U.S.C. Section 201 et seq.) if:

1-36 (1) the person is an officer, ~~[A state elected~~  
1-37 ~~president, president-elect, vice president, or~~  
1-38 ~~secretary-treasurer,~~ employee, or paid consultant of a Texas trade  
1-39 association in the real estate industry; or

1-40 (2) the person's spouse ~~[may not be a commission member~~  
1-41 ~~and may not be a commission employee who is exempt from the state's~~  
1-42 ~~position classification plan or is compensated at or above the~~  
1-43 ~~amount prescribed by the General Appropriations Act for step 1,~~  
1-44 ~~salary group A17, of the position classification salary schedule.~~

1-45 ~~[(c) A person who] is [the spouse of] an officer, manager,~~  
1-46 ~~or paid consultant of a Texas trade association in the real estate~~  
1-47 ~~industry [may not be a commission member and may not be a commission~~  
1-48 ~~employee who is exempt from the state's position classification~~  
1-49 ~~plan or is compensated at or above the amount prescribed by the~~  
1-50 ~~General Appropriations Act for step 1, salary group A17, of the~~  
1-51 ~~position classification salary schedule].~~

1-52 (c) ~~[(d)]~~ A person may not serve as a commission member or  
1-53 act as the general counsel to the commission if the person is  
1-54 required to register as a lobbyist under Chapter 305, Government  
1-55 Code, because of the person's activities for compensation on behalf  
1-56 of a profession related to the operation of the commission.

1-57 SECTION 3. Subsections (a) and (c), Section 1101.057,  
1-58 Occupations Code, are amended to read as follows:

1-59 (a) It is a ground for removal from the commission that a  
1-60 member:

1-61 (1) does not have at the time of appointment the  
1-62 qualifications required by Section 1101.051(a) or (b) or 1101.052;

1-63 (2) does not maintain during service on the commission  
1-64 the qualifications required by Section 1101.051(a) or (b) or

2-1 1101.052;

2-2 (3) is ineligible for membership under [~~violates a~~  
2-3 ~~prohibition established by~~] Section 1101.053;

2-4 (4) cannot, because of illness or disability,  
2-5 discharge the member's duties for a substantial part of the member's  
2-6 term; or

2-7 (5) is absent from more than half of the regularly  
2-8 scheduled commission meetings that the member is eligible to attend  
2-9 during each calendar year, unless the absence is excused by  
2-10 majority vote of the commission.

2-11 (c) If the administrator has knowledge that a potential  
2-12 ground for removal [~~of a commission member~~] exists, the  
2-13 administrator shall notify the presiding officer of the commission  
2-14 of the potential ground. The presiding officer shall then notify  
2-15 the governor and the attorney general that a potential ground for  
2-16 removal exists. If the potential ground for removal involves the  
2-17 presiding officer, the administrator shall notify the next highest  
2-18 ranking officer of the commission, who shall then notify the  
2-19 governor and the attorney general that a potential ground for  
2-20 removal exists.

2-21 SECTION 4. Subchapter B, Chapter 1101, Occupations Code, is  
2-22 amended by adding Section 1101.059 to read as follows:

2-23 Sec. 1101.059. TRAINING. (a) A person who is appointed to  
2-24 and qualifies for office as a member of the commission may not vote,  
2-25 deliberate, or be counted as a member in attendance at a meeting of  
2-26 the commission until the person completes a training program that  
2-27 complies with this section.

2-28 (b) The training program must provide the person with  
2-29 information regarding:

2-30 (1) this chapter and other laws regulated by the  
2-31 commission;

2-32 (2) the programs, functions, rules, and budget of the  
2-33 commission;

2-34 (3) the results of the most recent formal audit of the  
2-35 commission;

2-36 (4) the requirements of laws relating to open  
2-37 meetings, public information, administrative procedure, and  
2-38 conflicts of interest; and

2-39 (5) any applicable ethics policies adopted by the  
2-40 commission or the Texas Ethics Commission.

2-41 (c) A person appointed to the commission is entitled to  
2-42 reimbursement, as provided by the General Appropriations Act, for  
2-43 the travel expenses incurred in attending the training program  
2-44 regardless of whether the attendance at the program occurs before  
2-45 or after the person qualifies for office.

2-46 SECTION 5. Subsection (a), Section 1101.101, Occupations  
2-47 Code, is amended to read as follows:

2-48 (a) The commission shall ~~may~~ appoint an administrator.

2-49 SECTION 6. Section 1101.102, Occupations Code, is amended  
2-50 to read as follows:

2-51 Sec. 1101.102. DIVISION OF RESPONSIBILITIES. The  
2-52 commission shall develop and implement policies that clearly  
2-53 separate the policymaking [~~define the respective~~] responsibilities  
2-54 of the commission and the management responsibilities of the  
2-55 administrator and the [~~commission~~] staff of the commission.

2-56 SECTION 7. Subsections (a) and (b), Section 1101.152,  
2-57 Occupations Code, are amended to read as follows:

2-58 (a) The commission shall adopt rules to charge and collect a  
2-59 fee for [~~the following fees~~]:

2-60 (1) [~~for~~] filing an original application for a broker  
2-61 license[~~, not more than \$100~~];

2-62 (2) [~~for~~] annual renewal of a broker license[~~, not~~  
2-63 ~~more than \$100~~];

2-64 (3) [~~for~~] filing an original application for a  
2-65 salesperson license[~~, not more than \$75~~];

2-66 (4) [~~for~~] annual renewal of a salesperson license[~~, not~~  
2-67 ~~more than \$50~~];

2-68 (5) [~~for~~] annual registration[~~, \$80~~];

2-69 (6) filing [~~for~~] an application for a license

3-1 examination[, ~~not more than \$100~~];

3-2 (7) [~~for~~] filing a request for a branch office  
3-3 license[, ~~not more than \$20~~];

3-4 (8) [~~for~~] filing a request for a change of place of  
3-5 business, change of name, return to active status, or change of  
3-6 sponsoring broker[, ~~not more than \$20~~];

3-7 (9) [~~for~~] filing a request to replace a lost or  
3-8 destroyed license or certificate of registration[, ~~not more than~~  
3-9 ~~\$20~~];

3-10 (10) [~~for~~] filing an application for approval of an  
3-11 education program under Subchapter G[, ~~not more than \$400~~];

3-12 (11) [~~for~~] annual operation of an education program  
3-13 under Subchapter G[, ~~not more than \$200~~];

3-14 (12) [~~for~~] filing an application for approval of an  
3-15 instructor of core real estate courses[, ~~not more than \$40~~];

3-16 (13) [~~for~~] transcript evaluation[, ~~\$20~~];

3-17 (14) [~~for~~] preparing a license or registration  
3-18 history[, ~~not more than \$20~~]; and

3-19 (15) [~~for~~] filing an application for a moral character  
3-20 determination[, ~~not more than \$50~~].

3-21 (b) The commission shall adopt rules to [~~may~~] set and  
3-22 collect reasonable fees to implement the continuing education  
3-23 requirements for license holders, including a fee for [~~the~~  
3-24 ~~following fees~~]:

3-25 (1) [~~for~~] an application for approval of a continuing  
3-26 education provider[, ~~not more than \$400~~];

3-27 (2) [~~for~~] an application for approval of a continuing  
3-28 education course of study[, ~~not more than \$100~~];

3-29 (3) [~~for~~] an application for approval of an instructor  
3-30 of continuing education courses[, ~~not more than \$40~~]; and

3-31 (4) [~~for~~] attendance at a program to train instructors  
3-32 of a continuing education course prescribed under Section  
3-33 1101.455[, ~~not more than \$100~~].

3-34 SECTION 8. Subchapter D, Chapter 1101, Occupations Code, is  
3-35 amended by adding Sections 1101.158, 1101.159, and 1101.160 to read  
3-36 as follows:

3-37 Sec. 1101.158. ADVISORY COMMITTEES. (a) The commission  
3-38 may appoint advisory committees to perform the advisory functions  
3-39 assigned to the committees by the commission. An advisory  
3-40 committee under this section is subject to Section 2110, Government  
3-41 Code.

3-42 (b) A member of an advisory committee who is not a member of  
3-43 the commission may not receive compensation for service on the  
3-44 committee. The member may receive reimbursement for actual and  
3-45 necessary expenses incurred in performing committee functions as  
3-46 provided by Section 2110.004, Government Code.

3-47 (c) A member of an advisory committee serves at the will of  
3-48 the commission.

3-49 (d) An advisory committee may hold a meeting by telephone  
3-50 conference call or other video or broadcast technology.

3-51 (e) Advisory committee meetings are subject to Chapter 551,  
3-52 Government Code.

3-53 Sec. 1101.159. USE OF TECHNOLOGY. The commission shall  
3-54 implement a policy requiring the commission to use appropriate  
3-55 technological solutions to improve the commission's ability to  
3-56 perform its functions. The policy must ensure that the public is  
3-57 able to interact with the commission on the Internet.

3-58 Sec. 1101.160. NEGOTIATED RULEMAKING AND ALTERNATIVE  
3-59 DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop  
3-60 and implement a policy to encourage the use of:

3-61 (1) negotiated rulemaking procedures under Chapter  
3-62 2008, Government Code, for the adoption of commission rules; and

3-63 (2) appropriate alternative dispute resolution  
3-64 procedures under Chapter 2009, Government Code, to assist in the  
3-65 resolution of internal and external disputes under the commission's  
3-66 jurisdiction.

3-67 (b) The commission's procedures relating to alternative  
3-68 dispute resolution must conform, to the extent possible, to any  
3-69 model guidelines issued by the State Office of Administrative

4-1 Hearings for the use of alternative dispute resolution by state  
 4-2 agencies.

4-3 (c) The commission shall designate a trained person to:

4-4 (1) coordinate the implementation of the policy  
 4-5 adopted under Subsection (a);

4-6 (2) serve as a resource for any training needed to  
 4-7 implement the procedures for negotiated rulemaking or alternative  
 4-8 dispute resolution; and

4-9 (3) collect data concerning the effectiveness of those  
 4-10 procedures, as implemented by the commission.

4-11 SECTION 9. Subsection (a), Section 1101.201, Occupations  
 4-12 Code, is amended to read as follows:

4-13 (a) The commission shall prepare information of public  
 4-14 interest describing the functions of the commission [~~and the~~  
 4-15 ~~procedures by which complaints are filed with and resolved by the~~  
 4-16 ~~commission].~~

4-17 SECTION 10. Section 1101.203, Occupations Code, is amended  
 4-18 to read as follows:

4-19 Sec. 1101.203. COMPLAINT INFORMATION. (a) The commission  
 4-20 shall maintain a system to promptly and efficiently act on  
 4-21 complaints filed with the commission. The commission shall  
 4-22 maintain a file on each complaint. The file must include:

4-23 (1) information relating to the parties to the  
 4-24 complaint;

4-25 (2) the subject matter of the complaint;

4-26 (3) a summary of the results of the review or  
 4-27 investigation of the complaint; and

4-28 (4) the disposition of the complaint [~~an information~~  
 4-29 ~~file about each complaint filed with the commission that the~~  
 4-30 ~~commission has authority to resolve].~~

4-31 (b) The commission shall make information available  
 4-32 describing its procedures for complaint investigation and  
 4-33 resolution.

4-34 (c) The [~~If a written complaint is filed with the commission~~  
 4-35 ~~that the commission has authority to resolve, the] commission[, at~~  
 4-36 ~~least quarterly and until final disposition of the complaint,]~~  
 4-37 shall periodically notify the parties to the complaint of the  
 4-38 status of the complaint until final disposition, unless the notice  
 4-39 would jeopardize an undercover investigation authorized under  
 4-40 Section 1101.204.

4-41 SECTION 11. Section 1101.204, Occupations Code, is amended  
 4-42 by amending Subsection (a) and adding Subsection (h) to read as  
 4-43 follows:

4-44 (a) The commission may file a complaint and conduct an  
 4-45 investigation as necessary to enforce this chapter, Chapter 1102,  
 4-46 or a rule adopted under those chapters[, on its own motion,  
 4-47 investigate the actions and records of a license holder].

4-48 (h) The commission shall ensure that the commission gives  
 4-49 priority to the investigation of a complaint filed by a consumer and  
 4-50 an enforcement case resulting from the consumer complaint. The  
 4-51 commission shall assign priorities and investigate complaints  
 4-52 using a risk-based approach based on the:

4-53 (1) degree of potential harm to a consumer;

4-54 (2) potential for immediate harm to a consumer;

4-55 (3) overall severity of the allegations in the  
 4-56 complaint;

4-57 (4) number of license holders potentially involved in  
 4-58 the complaint;

4-59 (5) previous complaint history of the license holder;  
 4-60 and

4-61 (6) number of potential violations in the complaint.

4-62 SECTION 12. Section 1101.301, Occupations Code, is amended  
 4-63 by adding Subsection (c) to read as follows:

4-64 (c) In establishing accreditation standards for an  
 4-65 educational program under Subsection (a), the commission shall  
 4-66 adopt rules that require a program to establish that at least 55  
 4-67 percent of the program's graduates have passed a licensing exam the  
 4-68 first time the exam has been taken by the graduates before the  
 4-69 commission may renew the program's accreditation.

5-1 SECTION 13. Section 1101.303, Occupations Code, is amended  
5-2 to read as follows:

5-3 Sec. 1101.303. APPROVAL OF CONTINUING EDUCATION PROVIDER OR  
5-4 COURSE OF STUDY. (a) If the commission determines that an  
5-5 applicant for approval as a continuing education provider satisfies  
5-6 the requirements of this subchapter or Section 1102.205 and any  
5-7 rule adopted under this subchapter or Section 1102.205, the  
5-8 commission may authorize the applicant to offer continuing  
5-9 education for a two-year period.

5-10 (b) If the commission determines that an applicant for  
5-11 approval of a continuing education course of study satisfies the  
5-12 requirements of this subchapter or Section 1102.205 and any rule  
5-13 adopted under this subchapter or Section 1102.205, the commission  
5-14 may authorize the applicant to offer the course of study for a  
5-15 two-year period.

5-16 SECTION 14. Subchapter G, Chapter 1101, Occupations Code,  
5-17 is amended by adding Sections 1101.304 and 1101.305 to read as  
5-18 follows:

5-19 Sec. 1101.304. EXAMINATION PASSAGE RATE DATA. (a) The  
5-20 commission shall adopt rules regarding the collection and  
5-21 publication of data relating to examination passage rates for  
5-22 graduates of accredited educational programs.

5-23 (b) Rules adopted under this section must provide for a  
5-24 method to:

- 5-25 (1) calculate the examination passage rate;  
5-26 (2) collect the relevant data from the examination  
5-27 administrator or the accredited program; and  
5-28 (3) post the examination passage rate data on the  
5-29 commission's Internet website, in a manner aggregated by  
5-30 educational program and by license group.

5-31 (c) In determining the educational program a graduate is  
5-32 affiliated with for purposes of this section, the educational  
5-33 program is the program the graduate last attended.

5-34 Sec. 1101.305. REVIEW COMMITTEE. (a) The commission may  
5-35 appoint a committee to review the performance of an educational  
5-36 program performing below the standards set by the commission under  
5-37 Section 1101.301. The committee shall consist of:

- 5-38 (1) at least one commission member;  
5-39 (2) at least one member of the commission staff;  
5-40 (3) individuals licensed under this chapter or Chapter  
5-41 1102; and  
5-42 (4) a representative from the Texas Real Estate  
5-43 Research Center.

5-44 (b) A committee formed under this section shall review and  
5-45 evaluate any factor causing an educational program's poor  
5-46 performance and report findings and recommendations to improve  
5-47 performance to the program and to the commission.

5-48 (c) A committee formed under this section may not revoke the  
5-49 accreditation of an educational program. The commission may  
5-50 temporarily suspend a program in the same manner as a license under  
5-51 Subchapter N.

5-52 SECTION 15. Subsection (b), Section 1101.364, Occupations  
5-53 Code, is amended to read as follows:

5-54 (b) A person whose license application is denied under this  
5-55 section is entitled to a hearing under Section 1101.657 [~~Before the~~  
5-56 ~~applicant may appeal under Section 1101.658, the applicant must~~  
5-57 ~~file, not later than the 10th day after the date the applicant~~  
5-58 ~~receives the notice, an appeal requesting a time and place for a~~  
5-59 ~~hearing before the commission. If the applicant fails to request a~~  
5-60 ~~hearing as provided by this subsection, the commission's decision~~  
5-61 ~~becomes final and is not subject to judicial review].~~

5-62 SECTION 16. The heading to Section 1101.451, Occupations  
5-63 Code, is amended to read as follows:

5-64 Sec. 1101.451. LICENSE EXPIRATION AND RENEWAL.

5-65 SECTION 17. Section 1101.451, Occupations Code, is amended  
5-66 by adding Subsections (e) and (f) to read as follows:

5-67 (e) A person whose license has been expired for 90 days or  
5-68 less may renew the license by paying to the commission a fee equal  
5-69 to 1-1/2 times the required renewal fee. If a license has been

6-1 expired for more than 90 days but less than one year, the person may  
 6-2 renew the license by paying to the commission a fee equal to two  
 6-3 times the required renewal fee.

6-4 (f) If a person's license has been expired for one year or  
 6-5 longer, the person may not renew the license. The person may obtain  
 6-6 a new license by submitting to reexamination and complying with the  
 6-7 requirements and procedures for obtaining an original license.

6-8 SECTION 18. Subsection (b), Section 1101.457, Occupations  
 6-9 Code, is amended to read as follows:

6-10 (b) The commission may require an applicant under this  
 6-11 section to:

6-12 (1) pay a [an additional] fee, not to exceed \$200, in  
 6-13 addition to any fee for late renewal of a license under this  
 6-14 chapter; and

6-15 (2) complete the required continuing education not  
 6-16 later than the 60th day after the date the license is issued,  
 6-17 renewed, or returned to active status.

6-18 SECTION 19. Subsection (a), Section 1101.657, Occupations  
 6-19 Code, is amended to read as follows:

6-20 (a) If the commission proposes to deny, suspend, or revoke a  
 6-21 person's license or certificate of registration, the person is  
 6-22 entitled to a hearing conducted by the State Office of  
 6-23 Administrative Hearings [before the commission or a hearings  
 6-24 officer appointed by the commission].

6-25 SECTION 20. Subsection (a), Section 1101.658, Occupations  
 6-26 Code, is amended to read as follows:

6-27 (a) A person aggrieved by a ruling, order, or decision under  
 6-28 this subchapter [of the commission] is entitled to appeal to a  
 6-29 district court in the county in which the administrative hearing  
 6-30 was held.

6-31 SECTION 21. Subchapter N, Chapter 1101, Occupations Code,  
 6-32 is amended by adding Sections 1101.659 through 1101.662 to read as  
 6-33 follows:

6-34 Sec. 1101.659. REFUND. (a) Subject to Subsection (b), the  
 6-35 commission may order a person regulated by the commission to pay a  
 6-36 refund to a consumer as provided in an agreement resulting from an  
 6-37 informal settlement conference or an enforcement order instead of  
 6-38 or in addition to imposing an administrative penalty or other  
 6-39 sanctions.

6-40 (b) The amount of a refund ordered as provided in an  
 6-41 agreement resulting from an informal settlement conference or an  
 6-42 enforcement order may not exceed the amount the consumer paid to the  
 6-43 person for a service or accommodation regulated by this commission.  
 6-44 The commission may not require payment of other damages or estimate  
 6-45 harm in a refund order.

6-46 Sec. 1101.660. INFORMAL PROCEEDINGS. (a) The commission  
 6-47 by rule shall adopt procedures governing informal disposition of a  
 6-48 contested case.

6-49 (b) Rules adopted under this section must:

6-50 (1) provide the complainant and the license holder,  
 6-51 certificate holder, or regulated entity an opportunity to be heard;  
 6-52 and

6-53 (2) require the presence of:

6-54 (A) a public member of the commission for a case  
 6-55 involving a consumer complaint; and

6-56 (B) at least two staff members of the commission  
 6-57 with experience in the regulatory area that is the subject of the  
 6-58 proceeding.

6-59 Sec. 1101.661. FINAL ORDER. The commission may issue a  
 6-60 final order in a proceeding under this subchapter or Subchapter O  
 6-61 regarding a person whose license has expired during the course of an  
 6-62 investigation or administrative proceeding.

6-63 Sec. 1101.662. TEMPORARY SUSPENSION. (a) The presiding  
 6-64 officer of the commission shall appoint a disciplinary panel  
 6-65 consisting of three commission members to determine whether a  
 6-66 person's license to practice under this chapter should be  
 6-67 temporarily suspended.

6-68 (b) If the disciplinary panel determines from the  
 6-69 information presented to the panel that a person licensed to

7-1 practice under this chapter would, by the person's continued  
 7-2 practice, constitute a continuing threat to the public welfare, the  
 7-3 panel shall temporarily suspend the license of that person.

7-4 (c) A license may be suspended under this section without  
 7-5 notice or hearing on the complaint if:

7-6 (1) institution of proceedings for a hearing before  
 7-7 the commission is initiated simultaneously with the temporary  
 7-8 suspension; and

7-9 (2) a hearing is held under Chapter 2001, Government  
 7-10 Code, and this chapter as soon as possible.

7-11 (d) Notwithstanding Chapter 551, Government Code, the  
 7-12 disciplinary panel may hold a meeting by telephone conference call  
 7-13 if immediate action is required and convening the panel at one  
 7-14 location is inconvenient for any member of the panel.

7-15 SECTION 22. Section 1101.701, Occupations Code, is amended  
 7-16 to read as follows:

7-17 Sec. 1101.701. IMPOSITION OF ADMINISTRATIVE PENALTY.

7-18 (a) The commission may impose an administrative penalty on a  
 7-19 person who violates this chapter or a rule adopted or order issued  
 7-20 by the commission under this chapter.

7-21 (b) The commission shall periodically review the  
 7-22 commission's enforcement procedures and ensure that administrative  
 7-23 penalty and disciplinary proceedings are combined into a single  
 7-24 enforcement procedure.

7-25 (c) The commission may combine a proceeding to impose an  
 7-26 administrative penalty with another disciplinary proceeding,  
 7-27 including a proceeding to suspend or revoke a license.

7-28 SECTION 23. Section 1101.702, Occupations Code, is amended  
 7-29 by amending Subsection (a) and adding Subsection (c) to read as  
 7-30 follows:

7-31 (a) The amount of an administrative penalty may not exceed  
 7-32 \$5,000 [~~\$1,000~~] for each violation. Each day a violation continues  
 7-33 or occurs may be considered a separate violation for purposes of  
 7-34 imposing a penalty if the commission determines that the person  
 7-35 charged:

7-36 (1) engaged in an activity for which a broker or  
 7-37 salesperson license is required without holding a license; and

7-38 (2) was not licensed by the commission as a broker or  
 7-39 salesperson at any time in the four years preceding the date of the  
 7-40 violation.

7-41 (c) The commission by rule shall adopt a schedule of  
 7-42 administrative penalties based on the criteria listed in Subsection  
 7-43 (b) for violations subject to an administrative penalty under this  
 7-44 section to ensure that the amount of a penalty imposed is  
 7-45 appropriate to the violation. The rules adopted under this  
 7-46 subsection must provide authority for the commission to suspend or  
 7-47 revoke a license in addition to or instead of imposing an  
 7-48 administrative penalty.

7-49 SECTION 24. The heading to Section 1101.703, Occupations  
 7-50 Code, is amended to read as follows:

7-51 Sec. 1101.703. [~~REPORT AND~~] NOTICE OF VIOLATION AND  
 7-52 PENALTY.

7-53 SECTION 25. Subsection (a), Section 1101.703, Occupations  
 7-54 Code, is amended to read as follows:

7-55 (a) If, after investigation of a possible violation and the  
 7-56 facts relating to that violation, the administrator determines that  
 7-57 a violation has occurred, the administrator may issue a notice of  
 7-58 violation [~~report~~] stating:

7-59 (1) a brief summary of the alleged violation [~~the~~  
 7-60 ~~facts on which the determination is based~~]; [~~and~~]

7-61 (2) the administrator's recommendation on the  
 7-62 imposition of the administrative penalty or another disciplinary  
 7-63 sanction, including a recommendation on the amount of the penalty;  
 7-64 and

7-65 (3) that the respondent has the right to a hearing to  
 7-66 contest the alleged violation, the recommended penalty, or both.

7-67 SECTION 26. Section 1101.704, Occupations Code, is amended  
 7-68 to read as follows:

7-69 Sec. 1101.704. PENALTY TO BE PAID OR HEARING REQUESTED.

8-1 (a) Not later than the 20th day after the date the person receives  
8-2 the notice under Section 1101.703, the person may:

8-3 (1) accept the administrator's determination,  
8-4 including the recommended administrative penalty; or

8-5 (2) request in writing a hearing on the occurrence of  
8-6 the violation, the amount of the penalty, or both [~~determination~~].

8-7 (b) If the person accepts the administrator's  
8-8 determination, or fails to respond in a timely manner to the notice,  
8-9 the commission by order shall approve the determination and order  
8-10 payment of the recommended penalty.

8-11 SECTION 27. The heading to Section 1101.705, Occupations  
8-12 Code, is amended to read as follows:

8-13 Sec. 1101.705. HEARING; DECISION [~~BY COMMISSION~~].

8-14 SECTION 28. Subsections (a), (b), (c), and (e), Section  
8-15 1101.705, Occupations Code, are amended to read as follows:

8-16 (a) If the person requests a hearing [~~or fails to timely~~  
8-17 ~~respond to the notice~~], the administrator shall set a hearing and  
8-18 give notice of the hearing to the person.

8-19 (b) An administrative law judge of the State Office of  
8-20 Administrative Hearings [~~A hearings examiner designated by the~~  
8-21 ~~administrator~~] shall conduct the hearing. The administrative law  
8-22 judge [~~hearings examiner~~] shall:

8-23 (1) make findings of fact and conclusions of law; and

8-24 (2) promptly issue to the commission a proposal for  
8-25 decision regarding the occurrence of the violation and the amount  
8-26 of any proposed administrative penalty.

8-27 (c) Based on the findings of fact, conclusions of law, and  
8-28 proposal for decision of the administrative law judge [~~hearings~~  
8-29 ~~examiner~~], the commission by order may determine that:

8-30 (1) a violation occurred and impose an administrative  
8-31 penalty; or

8-32 (2) a violation did not occur.

8-33 (e) The notice of the commission's order given to the person  
8-34 under Chapter 2001, Government Code, must include a statement of  
8-35 the person's right to judicial review of the order [~~The commission~~  
8-36 ~~may authorize the hearings examiner to conduct the hearing and~~  
8-37 ~~enter a final decision~~].

8-38 SECTION 29. Section 1101.707, Occupations Code, is amended  
8-39 to read as follows:

8-40 Sec. 1101.707. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

8-41 (a) Not later than the 30th day after the date the commission's  
8-42 order becomes final, the person shall:

8-43 (1) pay the administrative penalty; or

8-44 (2) file a petition for judicial review [~~with a~~  
8-45 ~~district court in Travis County~~] contesting the occurrence [~~fact~~]  
8-46 of the violation, the amount of the penalty, or both.

8-47 (b) Within the 30-day period prescribed by Subsection (a), a  
8-48 person who files a petition for judicial review [~~acts under~~  
8-49 ~~Subsection (a)(2)~~] may:

8-50 (1) stay enforcement of the penalty by:

8-51 (A) [~~(1)~~] paying the penalty to the court  
8-52 [~~administrator~~] for placement in an escrow account; or

8-53 (B) [~~(2)~~] giving the court [~~administrator~~] a  
8-54 supersedeas bond in a form approved by the court [~~administrator~~]  
8-55 that:

8-56 (i) [~~(A)~~] is for the amount of the penalty;  
8-57 and

8-58 (ii) [~~(B)~~] is effective until judicial  
8-59 review of the order is final; or

8-60 (2) request the court to stay enforcement by:

8-61 (A) [~~(3)~~] filing with the court [~~administrator~~]  
8-62 an affidavit of the person stating that the person is financially  
8-63 unable to pay the penalty and is financially unable to give the  
8-64 supersedeas bond; and

8-65 (B) giving a copy of the affidavit to the  
8-66 administrator by certified mail.

8-67 (c) If the administrator receives a copy of an affidavit  
8-68 under Subsection (b)(2), the administrator may file with the court,  
8-69 within five days after the date the copy is received, a contest to



9-1 the affidavit [A person who fails to take action as provided by this  
 9-2 section waives the right to judicial review of the commission's  
 9-3 order].

9-4 (d) The court shall hold a hearing on the facts alleged in  
 9-5 the affidavit as soon as practicable and shall stay the enforcement  
 9-6 of the penalty on finding that the alleged facts are true. The  
 9-7 person who files an affidavit has the burden of proving that the  
 9-8 person is financially unable to pay the penalty and to give a  
 9-9 supersedeas bond.

9-10 SECTION 30. Subchapter O, Chapter 1101, Occupations Code,  
 9-11 is amended by adding Section 1101.7085 to read as follows:

9-12 Sec. 1101.7085. DETERMINATION BY COURT. (a) If the court  
 9-13 sustains the determination that a violation occurred, the court may  
 9-14 uphold or reduce the amount of the administrative penalty and order  
 9-15 the person to pay the full or reduced amount of the penalty.

9-16 (b) If the court does not sustain the finding that a  
 9-17 violation occurred, the court shall order that a penalty is not  
 9-18 owed.

9-19 SECTION 31. Section 1101.709, Occupations Code, is amended  
 9-20 to read as follows:

9-21 Sec. 1101.709. REMITTANCE OF PENALTY AND INTEREST. (a) If  
 9-22 after judicial review the administrative penalty is reduced or is  
 9-23 not upheld by the court, the court [administrator] shall [+

9-24 [(-1)] remit the appropriate amount, plus accrued  
 9-25 interest, to the person if the person paid the penalty [,- or

9-26 [(-2) execute a release of the bond if the person gave a  
 9-27 supersedeas bond].

9-28 (b) The interest [Interest] accrues [under Subsection  
 9-29 (a)(1)] at the rate charged on loans to depository institutions by  
 9-30 the New York Federal Reserve Bank.

9-31 (c) The interest shall be paid for the period beginning on  
 9-32 the date the penalty is paid and ending on the date the penalty is  
 9-33 remitted.

9-34 (d) If the person gave a supersedeas bond and the penalty is  
 9-35 not upheld by the court, the court shall order, when the court's  
 9-36 judgment becomes final, the release of the bond.

9-37 (e) If the person gave a supersedeas bond and the amount of  
 9-38 the penalty is reduced, the court shall order the release of the  
 9-39 bond after the person pays the reduced amount.

9-40 SECTION 32. Subchapter O, Chapter 1101, Occupations Code,  
 9-41 is amended by adding Section 1101.710 to read as follows:

9-42 Sec. 1101.710. ADMINISTRATIVE PROCEDURE. A proceeding  
 9-43 under this subchapter is subject to Chapter 2001, Government Code.

9-44 SECTION 33. Subchapter P, Chapter 1101, Occupations Code,  
 9-45 is amended by adding Section 1101.759 to read as follows:

9-46 Sec. 1101.759. CEASE AND DESIST ORDER. (a) If it appears  
 9-47 to the commission that a person is violating this chapter or Chapter  
 9-48 1102 or a rule adopted under this chapter or Chapter 1102, the  
 9-49 commission, after notice and opportunity for a hearing, may issue a  
 9-50 cease and desist order prohibiting the person from engaging in the  
 9-51 activity.

9-52 (b) A violation of an order under this section constitutes  
 9-53 grounds for imposing an administrative penalty under Subchapter O.

9-54 SECTION 34. Subsection (a), Section 1102.051, Occupations  
 9-55 Code, is amended to read as follows:

9-56 (a) The Texas Real Estate Inspector Committee is an advisory  
 9-57 committee [consists of nine members] appointed by the commission.

9-58 SECTION 35. Section 1102.205, Occupations Code, is amended  
 9-59 to read as follows:

9-60 Sec. 1102.205. CONTINUING EDUCATION REQUIREMENTS.

9-61 (a) The commission shall approve, recognize, prepare, or  
 9-62 administer a continuing education program for inspectors.

9-63 (b) As a prerequisite for renewal of a real estate inspector  
 9-64 license, professional inspector license, or apprentice inspector  
 9-65 license, the inspector must participate in the continuing education  
 9-66 program and submit evidence satisfactory to the commission of  
 9-67 successful completion of at least 16 classroom hours of core real  
 9-68 estate inspection courses or continuing education courses for each  
 9-69 year of the license period preceding the renewal.

10-1 SECTION 36. The heading to Subchapter I, Chapter 1102,  
10-2 Occupations Code, is amended to read as follows:

10-3 SUBCHAPTER I. DISCIPLINARY PROCEEDINGS, PENALTIES, AND  
10-4 ENFORCEMENT PROVISIONS

10-5 SECTION 37. Subchapter I, Chapter 1102, Occupations Code,  
10-6 is amended by adding Section 1102.408 to read as follows:

10-7 Sec. 1102.408. TEMPORARY SUSPENSION. (a) The presiding  
10-8 officer of the commission shall appoint a disciplinary panel  
10-9 consisting of three commission members to determine whether a  
10-10 person's license to practice under this chapter should be  
10-11 temporarily suspended.

10-12 (b) If the disciplinary panel determines from the  
10-13 information presented to the panel that a person licensed to  
10-14 practice under this chapter would, by the person's continued  
10-15 practice, constitute a continuing threat to the public welfare, the  
10-16 panel shall temporarily suspend the license of that person.

10-17 (c) A license may be suspended under this section without  
10-18 notice or hearing on the complaint if:

10-19 (1) institution of proceedings for a hearing before  
10-20 the commission is initiated simultaneously with the temporary  
10-21 suspension; and

10-22 (2) a hearing is held under Chapter 2001, Government  
10-23 Code, and this chapter as soon as possible.

10-24 (d) Notwithstanding Chapter 551, Government Code, the  
10-25 disciplinary panel may hold a meeting by telephone conference call  
10-26 if immediate action is required and convening the panel at one  
10-27 location is inconvenient for any member of the panel.

10-28 SECTION 38. Subsection (a), Section 1103.101, Occupations  
10-29 Code, is amended to read as follows:

10-30 (a) The administrator of the Texas Real Estate Commission  
10-31 shall serve as [board shall employ a] commissioner.

10-32 SECTION 39. Subsection (a), Section 1103.103, Occupations  
10-33 Code, is amended to read as follows:

10-34 (a) The board shall determine the salaries of the  
10-35 [commissioner,] officers[ ] and employees of the board.

10-36 SECTION 40. Section 1103.104, Occupations Code, is amended  
10-37 to read as follows:

10-38 Sec. 1103.104. DUTIES OF COMMISSIONER. The commissioner  
10-39 shall:

10-40 (1) disseminate information;  
10-41 (2) administer rules adopted by the board under this  
10-42 chapter;

10-43 (3) review each application for a certificate or  
10-44 license and make a recommendation for final action to the board;

10-45 (4) review and make recommendations to the board  
10-46 regarding the adoption of rules relating to:

10-47 (A) the examination required by Subchapter F;

10-48 (B) education and experience requirements for  
10-49 issuance of certificates and licenses;

10-50 (C) continuing education for a certified or  
10-51 licensed appraiser;

10-52 (D) standards of professional practice and  
10-53 ethics for a certified or licensed appraiser;

10-54 (E) standards for a real estate appraisal  
10-55 performed by a certified or licensed appraiser; and

10-56 (F) the fees established by the board under  
10-57 Section 1103.156;

10-58 (5) collect fees established by the board; ~~and~~

10-59 (6) manage the staff and employees of the board; and

10-60 (7) perform any other duty prescribed by the board  
10-61 under this chapter.

10-62 SECTION 41. Section 1103.504, Occupations Code, is amended  
10-63 to read as follows:

10-64 Sec. 1103.504. ATTORNEY GENERAL REPRESENTATION. The  
10-65 attorney general shall provide legal representation for the public  
10-66 interest in all proceedings before the administrative law judge of  
10-67 the State Office of Administrative Hearings [board] and may not  
10-68 represent the board in a contested case before the State Office of  
10-69 Administrative Hearings [board].

11-1 SECTION 42. Subsections (a) and (d), Section 1103.508,  
 11-2 Occupations Code, are amended to read as follows:

11-3 (a) A contested case hearing shall ~~[may]~~ be conducted before  
 11-4 an administrative law judge of the State Office of Administrative  
 11-5 Hearings ~~[a majority of the board members]~~.

11-6 (d) The administrative law judge ~~[designated presiding~~  
 11-7 ~~officer]~~ shall control the proceedings and may:

- 11-8 (1) administer oaths;
- 11-9 (2) admit or exclude testimony or other evidence; and
- 11-10 (3) rule on all motions and objections.

11-11 SECTION 43. Subsection (a), Section 1103.510, Occupations  
 11-12 Code, is amended to read as follows:

11-13 (a) If an appraiser or appraiser trainee receives proper  
 11-14 notice of a contested case hearing but does not appear in person at  
 11-15 the hearing, the administrative law judge ~~[board and presiding~~  
 11-16 ~~officer]~~ may conduct the hearing or enter an order, as the judge  
 11-17 ~~[board]~~ determines appropriate.

11-18 SECTION 44. Subsection (c), Section 1103.512, Occupations  
 11-19 Code, is amended to read as follows:

11-20 (c) Before testimony may be presented, the record must:

- 11-21 (1) show the identities of:
  - 11-22 (A) any ~~[the]~~ board members present;
  - 11-23 (B) the administrative law judge ~~[presiding~~  
 11-24 ~~officer]~~; and
  - 11-25 (C) the parties and their representatives; and
- 11-26 (2) state that all testimony is being recorded.

11-27 SECTION 45. Section 1103.513, Occupations Code, is amended  
 11-28 to read as follows:

11-29 Sec. 1103.513. ORDER OF PROCEEDINGS. A contested case  
 11-30 hearing shall be conducted in the following order, subject to  
 11-31 modification at the discretion of the administrative law judge  
 11-32 ~~[board]~~:

11-33 (1) the administrative law judge ~~[presiding officer]~~  
 11-34 shall read a summary of the charges and answers to the charges and  
 11-35 other responsive pleadings filed by the appraiser or appraiser  
 11-36 trainee before the hearing;

11-37 (2) the attorney representing the board shall make a  
 11-38 brief opening statement, including a summary of the charges and a  
 11-39 list of the witnesses and documents to support the charges;

11-40 (3) the appraiser or appraiser trainee may make an  
 11-41 opening statement, including the names of any witnesses the  
 11-42 appraiser or appraiser trainee may call;

11-43 (4) the attorney representing the board shall present  
 11-44 evidence, concluding with a summary of the evidence for the state;

11-45 (5) the appraiser or appraiser trainee shall present  
 11-46 evidence;

11-47 (6) the attorney representing the board may present  
 11-48 rebuttal evidence;

11-49 (7) the appraiser or appraiser trainee may present  
 11-50 rebuttal evidence; and

11-51 (8) the closing arguments shall be made in the  
 11-52 following order:

- 11-53 (A) the attorney representing the board;
- 11-54 (B) the appraiser or appraiser trainee; and
- 11-55 (C) the attorney representing the board on  
 11-56 rebuttal.

11-57 SECTION 46. Section 1103.516, Occupations Code, is amended  
 11-58 to read as follows:

11-59 Sec. 1103.516. DIRECT EXAMINATION. In a contested case  
 11-60 hearing, the administrative law judge ~~[presiding officer]~~ may  
 11-61 conduct a direct examination of a witness at any stage of the  
 11-62 witness's testimony.

11-63 SECTION 47. Section 1103.518, Occupations Code, is amended  
 11-64 to read as follows:

11-65 Sec. 1103.518. ~~[BOARD]~~ ACTION AFTER HEARING. On conclusion  
 11-66 of a contested case hearing and on submission of all written  
 11-67 responses allowed under Section 1103.515, the administrative law  
 11-68 judge shall ~~[board]~~:

- 11-69 (1) ~~[shall]~~ make findings of fact and conclusions of

12-1 law; and

12-2 (2) issue to the board a proposal for decision that the  
 12-3 board [may] take one or more of the following actions:

12-4 (A) dismiss the charges, including issuing an  
 12-5 order declaring that the case file is confidential;

12-6 (B) suspend or revoke the appraiser's  
 12-7 certificate or license or the appraiser trainee's approval;

12-8 (C) impose a period of probation with or without  
 12-9 conditions;

12-10 (D) require the appraiser to submit to  
 12-11 reexamination for a certificate or license;

12-12 (E) require the appraiser or appraiser trainee to  
 12-13 participate in additional professional education or continuing  
 12-14 education;

12-15 (F) issue a public or private reprimand or a  
 12-16 warning;

12-17 (G) issue a consent order; or

12-18 (H) impose an administrative penalty as  
 12-19 prescribed by Section 1103.552.

12-20 SECTION 48. Subsection (c), Section 1103.520, Occupations  
 12-21 Code, is amended to read as follows:

12-22 (c) On rehearing, the administrative law judge [board]  
 12-23 shall consider facts not presented in the original hearing if:

12-24 (1) the facts arose after the original hearing was  
 12-25 concluded;

12-26 (2) the party offering the evidence could not  
 12-27 reasonably have provided the evidence at the original hearing; or

12-28 (3) the party offering the evidence was misled by a  
 12-29 party regarding the necessity for offering the evidence at the  
 12-30 original hearing.

12-31 SECTION 49. Subsection (a), Section 1103.521, Occupations  
 12-32 Code, is amended to read as follows:

12-33 (a) The administrative law judge [board] shall file the  
 12-34 judge's [its] final decision in a contested case hearing with the  
 12-35 commissioner.

12-36 SECTION 50. Subchapter H, Chapter 1303, Occupations Code,  
 12-37 is amended by adding Sections 1303.355 and 1303.356 to read as  
 12-38 follows:

12-39 Sec. 1303.355. ADMINISTRATIVE PENALTY. (a) The  
 12-40 commission may impose an administrative penalty as provided by  
 12-41 Subchapter O, Chapter 1101, on a person who violates this chapter or  
 12-42 a rule adopted or order issued by the commission under this chapter.

12-43 (b) The amount of an administrative penalty may not exceed  
 12-44 \$5,000 for each violation. Each day a violation continues or occurs  
 12-45 may be considered a separate violation for purposes of imposing a  
 12-46 penalty.

12-47 (c) In determining the amount of the penalty, the  
 12-48 administrator shall consider:

12-49 (1) the seriousness of the violation, including the  
 12-50 nature, circumstances, extent, and gravity of the violation;

12-51 (2) the economic harm caused by the violation;

12-52 (3) the history of previous violations;

12-53 (4) the amount necessary to deter a future violation;

12-54 (5) efforts to correct the violation; and

12-55 (6) any other matter that justice may require.

12-56 (d) The commission by rule shall adopt a schedule of  
 12-57 administrative penalties based on the criteria listed in Subsection  
 12-58 (c) for violations subject to an administrative penalty under this  
 12-59 section to ensure that the amount of a penalty imposed is  
 12-60 appropriate to the violation.

12-61 Sec. 1303.356. TEMPORARY SUSPENSION. (a) The presiding  
 12-62 officer of the commission shall appoint a disciplinary panel  
 12-63 consisting of three commission members to determine whether a  
 12-64 person's license to practice under this chapter should be  
 12-65 temporarily suspended.

12-66 (b) If the disciplinary panel determines from the  
 12-67 information presented to the panel that a person licensed to  
 12-68 practice under this chapter would, by the person's continued  
 12-69 practice, constitute a continuing threat to the public welfare, the

13-1 panel shall temporarily suspend the license of that person.

13-2 (c) A license may be suspended under this section without  
13-3 notice or hearing on the complaint if:

13-4 (1) institution of proceedings for a hearing before  
13-5 the commission is initiated simultaneously with the temporary  
13-6 suspension; and

13-7 (2) a hearing is held under Chapter 2001, Government  
13-8 Code, and this chapter as soon as possible.

13-9 (d) Notwithstanding Chapter 551, Government Code, the  
13-10 disciplinary panel may hold a meeting by telephone conference call  
13-11 if immediate action is required and convening the panel at one  
13-12 location is inconvenient for any member of the panel.

13-13 SECTION 51. Subchapter C, Chapter 221, Property Code, is  
13-14 amended by adding Section 221.027 to read as follows:

13-15 Sec. 221.027. TEMPORARY SUSPENSION. (a) The presiding  
13-16 officer of the commission shall appoint a disciplinary panel  
13-17 consisting of three commission members to determine whether the  
13-18 registration for a timeshare plan under this chapter should be  
13-19 temporarily suspended.

13-20 (b) If the disciplinary panel determines from the  
13-21 information presented to the panel that a timeshare plan registered  
13-22 under this chapter would, by the continued disposition of the  
13-23 timeshare property, constitute a continuing threat to the public  
13-24 welfare, the panel shall temporarily suspend the registration of  
13-25 the timeshare plan.

13-26 (c) A registration may be suspended under this section  
13-27 without notice or hearing on the complaint if:

13-28 (1) institution of proceedings for a hearing before  
13-29 the commission is initiated simultaneously with the temporary  
13-30 suspension; and

13-31 (2) a hearing is held under Chapter 2001, Government  
13-32 Code, and this chapter as soon as possible.

13-33 (d) Notwithstanding Chapter 551, Government Code, the  
13-34 disciplinary panel may hold a meeting by telephone conference call  
13-35 if immediate action is required and convening the panel at one  
13-36 location is inconvenient for any member of the panel.

13-37 SECTION 52. The following provisions of the Occupations  
13-38 Code are repealed:

- 13-39 (1) Subsection (g), Section 1101.204;
- 13-40 (2) Subsections (c), (d), and (e), Section 1101.364;
- 13-41 (3) Subsections (b), (c), and (d), Section 1101.657;
- 13-42 (4) Subsection (b), Section 1101.703;
- 13-43 (5) Subsections (b), (c), and (d), Section 1102.051;
- 13-44 (6) Section 1102.052;
- 13-45 (7) Section 1102.053;
- 13-46 (8) Section 1102.054;
- 13-47 (9) Section 1102.055;
- 13-48 (10) Section 1102.056;
- 13-49 (11) Section 1102.057;
- 13-50 (12) Subsection (a), Section 1102.058;
- 13-51 (13) Section 1102.059;
- 13-52 (14) Section 1102.061;
- 13-53 (15) Section 1102.062; and
- 13-54 (16) Subsection (c), Section 1103.508.

13-55 SECTION 53. (a) Not later than January 1, 2008, the Texas  
13-56 Real Estate Commission shall:

13-57 (1) adopt the policies required by Sections 1101.159  
13-58 and 1101.160, Occupations Code, as added by this Act; and

13-59 (2) adopt the rules required by Chapter 1101,  
13-60 Occupations Code, as amended by this Act.

13-61 (b) As soon as practicable after the effective date of this  
13-62 Act, the commissioner of the Texas Real Estate Commission shall  
13-63 assume the administrative and management duties over the Texas  
13-64 Appraiser Licensing and Certification Board, as required by Section  
13-65 1103.104, Occupations Code, as amended by this Act.

13-66 SECTION 54. (a) The changes in law made by this Act to  
13-67 Section 1101.053, Occupations Code, regarding the prohibitions on  
13-68 or qualifications of members of the Texas Real Estate Commission do  
13-69 not affect the entitlement of a member serving on the commission

14-1 immediately before September 1, 2007, to continue to serve and  
14-2 function as a member of the commission for the remainder of the  
14-3 member's term. The changes in law made by that section apply only  
14-4 to a member appointed on or after September 1, 2007.

14-5 (b) The changes in law made by this Act regarding the  
14-6 filing, investigation, or resolution of a complaint under Chapter  
14-7 1101, Occupations Code, as amended by this Act, apply only to a  
14-8 complaint filed with the Texas Real Estate Commission on or after  
14-9 the effective date of this Act. A complaint filed before the  
14-10 effective date of this Act is governed by the law as it existed  
14-11 immediately before that date, and the former law is continued in  
14-12 effect for that purpose.

14-13 (c) The change in law made by this Act regarding conduct  
14-14 that is grounds for imposition of a disciplinary sanction,  
14-15 including a refund, temporary license suspension, or cease and  
14-16 desist order, applies only to conduct that occurs on or after the  
14-17 effective date of this Act. Conduct that occurs before the  
14-18 effective date of this Act is governed by the law in effect on the  
14-19 date the conduct occurred, and the former law is continued in effect  
14-20 for that purpose.

14-21 (d) The changes in law made by this Act regarding the  
14-22 procedure for an administrative penalty apply only to a proceeding  
14-23 commenced on or after the effective date of this Act. A proceeding  
14-24 commenced before the effective date of this Act is governed by the  
14-25 law in effect on the date the proceeding commenced, and the former  
14-26 law is continued in effect for that purpose.

14-27 (e) The change in law made by this Act regarding the renewal  
14-28 of an expired license applies only to a license that expires on or  
14-29 after the effective date of this Act. A license that expires before  
14-30 the effective date of this Act is governed by the law in effect on  
14-31 the date the license expired, and the former law is continued in  
14-32 effect for that purpose.

14-33 (f) The change in law made by this Act regarding  
14-34 accreditation standards for educational programs under Chapter  
14-35 1101, Occupations Code, as amended by this Act, applies only to an  
14-36 accreditation granted or renewed on or after September 1, 2009. An  
14-37 educational program renewing an accreditation on or after the  
14-38 effective date of this Act but before September 1, 2009, should  
14-39 strive to meet the new accreditation standards under Chapter 1101,  
14-40 Occupations Code, as amended by this Act, but an accreditation  
14-41 granted or renewed before September 1, 2009, is governed by the law  
14-42 in effect on the date the accreditation expired, and the former law  
14-43 is continued in effect for that purpose.

14-44 (g) The change in law made by this Act to the authority of  
14-45 the Texas Real Estate Inspector Committee to develop and recommend  
14-46 rules under Chapter 1102, Occupations Code, as amended by this Act,  
14-47 applies only to a rule proposed for adoption on or after the  
14-48 effective date of this Act. A rule proposed for adoption before the  
14-49 effective date of this Act is governed by the law in effect on the  
14-50 date the rule was proposed for adoption, and the former law is  
14-51 continued in effect for that purpose.

14-52 SECTION 55. This Act takes effect September 1, 2007.

14-53 \* \* \* \* \*