

## **BILL ANALYSIS**

Senate Research Center  
81R12528 JAM-F

S.B. 1870  
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Finance  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Texas' system of property tax appraisal appeals has created a growing industry of property tax consulting services. By and large, property tax consultants do an excellent job of representing their clients' interests. However, certain property tax consulting firms have begun massive advertising campaigns and are representing thousands of clients. The current statutory and administrative regulatory system, administered by the Texas Department of Licensing and Regulation (TDLR), does not adequately ensure that clients of such firms get the quality of service they need, nor does it protect taxpayers from misleading and deceptive marketing by some of these firms, including filing fictitious protests on the taxpayers' behalf. Some consulting firms use contracts that allow them to hire attorneys and file appeals of appraisal review board decisions without the client's permission.

As proposed, S.B. 1870 prohibits a registered senior property tax consultant or an attorney from employing, claiming an association with, or sponsoring more than 10 registered property tax consultants. This bill also requires an applicant for registration as a property tax consultant, in addition to satisfying certain requirements, to complete at least 30 classroom hours of educational courses approved by the executive director of TDLR, including at least four hours of instruction on laws and legal issues in this state related to property tax consulting services, and pass a competency examination. This bill establishes the standards for grading and passing the examination.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 3 (Section 1152.161, Occupations Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 1152.152, Occupations Code, by adding Subsection (c), to prohibit a registered senior property tax consultant or an attorney described by Subsection (a)(2) (relating to performing property tax consulting services for compensation) from employing, claiming an association with, or sponsoring more than 10 registered property tax consultants.

SECTION 2. Amends Section 1152.156(a), Occupations Code, to require an applicant for registration as a property tax consultant, in addition to satisfying the requirements of Section 1152.155 (General Eligibility for Registration), to complete at least 30 classroom hours, rather than 15 classroom hours, of educational courses approved by the executive director, including at least four hours of instruction on laws and legal issues in this state related to property tax consulting services, and pass a competency examination under Section 1152.161.

SECTION 3. Amends Subchapter D, Chapter 1152, Occupations Code, by adding Section 1152.161, as follows:

Sec. 1152.161. PROPERTY TAX CONSULTANT REGISTRATION EXAMINATION.

(a) Requires the executive director of the Texas Department of Licensing and Regulation (executive director) to adopt a competency examination for registration as a property tax consultant and establish the standards for grading and passing the examination.

(b) Requires an applicant to pay to the Texas Department of Licensing and Regulation (TDLR) an examination fee to be eligible to take the examination.

(c) Requires that the examination test the applicant's knowledge of certain information and be graded according to rules adopted by the Texas Commission of Licensing and Regulation.

(d) Requires TDLR to offer the examination at times and places designated by the executive director.

SECTION 4. Amends Chapter 1152, Occupations Code, by adding Subchapter E-1, as follows:

#### SUBCHAPTER E-1. PROHIBITED ACTS

Sec. 1152.231. GENERAL PROHIBITED ACTS. (a) Prohibits a person required to register under this chapter from appearing at an appraisal review board hearing acting under a registered senior property tax consultant unless the property tax consultant has, for at least the two years preceding the date of the hearing, been engaged and employed on a full-time basis as a property tax consultant; performed property tax consultant related services as an employee of a property owner; or performed appraisal services under a registration under Chapter 1151 (Property Tax Professionals).

(b) Prohibits a person required to register under this chapter from mailing or providing on an Internet website, as part of a public solicitation of business, a retainer agreement or fee agreement.

(c) Prohibits a person required to register under this chapter from serving as a registered senior property tax consultant for more than 10 registered property tax consultants.

(d) Prohibits a person required to register under this chapter from signing a request for arbitration, or making an arbitration deposit on behalf of a property owner, under Section 41A.03 (Request for Arbitration), Tax Code.

(e) Prohibits a person required to register under this chapter from filing a protest under Chapter 41 (Local Review), Tax Code, without the written approval of the property owner.

(f) Prohibits a person required to register under this chapter from being a party to, or benefiting from, the forgery, alteration, or changing of an agent appointment, exemption application, protest, or other legal document that is filed with or presented to an appraisal district, an appraisal review board, or a taxing unit.

(g) Prohibits a person required to register under this chapter from filing a motion or protest concerning residential property on behalf of a person who the registrant does not represent unless:

(1) the registrant has written authorization by e-mail, facsimile, letter, or any other written medium from that person or another person, other than the agent or the firm that employs the agent, who is authorized by the person to designate agents under Section 1.111 (Representation of Property Owner), Tax Code, at the time the motion or protest is filed; and

(2) the registrant retains a copy of the person's written authorization, for inspection by TDLR on request, until at least the second anniversary of the date of the representation.

Sec. 1152.232. PROHIBITED ACTS: SOLICITATION OF BUSINESS AND ADVERTISING. (a) Prohibits a person required to register under this chapter, unless the recipient of the communication is another registrant, or has a family, close personal, or prior professional relationship with the registrant, from soliciting professional employment from a prospective client in a written, recorded, or electronic communication without including the words "advertising material" on the outside

envelope, if any, and at the beginning and ending of any recorded or electronic communication.

(b) Prohibits a person required to register under this chapter, in a public solicitation for business, from offering economic incentives based on the success or lack of success of the representation, or representing that the fee for services rendered includes the hiring of legal services.

(c) Prohibits a person required to register under this chapter, as part of a solicitation for professional employment from a prospective client who has not affirmatively indicated an interest in receiving solicitations from the registrant, from providing any analysis or characterization of the appraisal or level of taxation of the person's property unless the registrant performs certain actions.

(d) Prohibits a person required to register under this chapter from soliciting a property tax consulting assignment by assuring a specific outcome.

Sec. 1152.233. PROHIBITED ACTS; USE OF INTERNET WEBSITE. (a) Prohibits a person required to register under this chapter from maintaining an Internet website for any purpose associated with the provision of tax consulting services by the registrant that has a domain name or other Internet address that implies that the website is a government website.

(b) Prohibits a person required to register under this chapter from using or maintaining an Internet website for the purpose of soliciting clients if the website does not identify the registrant prominently on the home page of the website.

Sec. 1152.234. PROHIBITED ACTS: CERTAIN LEGAL ACTIONS. (a) Prohibits a person required to register under this chapter from engaging the services of an attorney for purposes of filing an appeal under Chapter 42 (Judicial Review), Tax Code, without the prior written consent of the client, or paying, offering to pay, contracting to pay, or advancing the payment of a filing fee for purposes of filing an appeal under Chapter 42, Tax Code.

(b) Prohibits a person required to register under this chapter from appearing as a designated expert witness in an appeal under Chapter 42, Tax Code, in which a remedy under Section 42.26 (Remedy for Unequal Appraisal), Tax Code, is sought if the person or the person's employer represented the owner of the property that is the subject of the appeal at the protest before the appraisal review board, unless the property tax consultant is registered under Chapter 1151 as an appraiser and holds an industry-recognized national appraisal designation.

(c) Prohibits a person required to register under this chapter from soliciting a client for an attorney for the purpose of filing an appeal under Chapter 42, Tax Code, in a manner that results in compensation to the property tax consultant, or recommending an attorney for the purpose of filing an appeal under Chapter 42, Tax Code, if the property tax consultant receives compensation in connection with the appeal.

SECTION 5. Requires the executive commissioner, not later than December 31, 2009, to adopt the examination required by Section 1152.161, Occupations Code, as added by this Act.

SECTION 6. Makes application of Section 1152.156(a), Occupations Code, as amended by this Act, prospective to March 1, 2010.

SECTION 7. Effective date: upon passage or September 1, 2009.