

By: Hegar

S.B. No. 1870

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of property tax consultants.

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

SECTION 1. Section 1152.152, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) A registered senior property tax consultant or an attorney described by Subsection (a)(2) may not employ, claim an association with, or sponsor more than 10 registered property tax consultants.

SECTION 2. Section 1152.156(a), Occupations Code, is amended to read as follows:

(a) In addition to satisfying the requirements of Section 1152.155, an applicant for registration as a property tax consultant must:

(1) complete at least 30 [~~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; or

(2) if the person is eligible for registration under Section 1152.155(b), submit to the commission evidence that the applicant has completed at least four classroom hours of educational programs or courses on the laws and legal issues in this state related to property tax consulting services.

1 SECTION 3. Subchapter D, Chapter 1152, Occupations Code, is
2 amended by adding Section 1152.161 to read as follows:

3 Sec. 1152.161. PROPERTY TAX CONSULTANT REGISTRATION
4 EXAMINATION. (a) The executive director shall:

5 (1) adopt a competency examination for registration
6 as a property tax consultant; and

7 (2) establish the standards for grading and passing
8 the examination.

9 (b) To be eligible to take the examination, an applicant
10 must pay to the department an examination fee.

11 (c) The examination must:

12 (1) test the applicant's knowledge of:

13 (A) property taxation;

14 (B) the property tax system;

15 (C) property tax administration;

16 (D) ethical standards; and

17 (E) general principles of appraisal, accounting,
18 and law as they relate to property tax consulting services; and

19 (2) be graded according to rules adopted by the
20 commission.

21 (d) The department shall offer the examination at times and
22 places designated by the executive director.

23 SECTION 4. Chapter 1152, Occupations Code, is amended by
24 adding Subchapter E-1 to read as follows:

25 SUBCHAPTER E-1. PROHIBITED ACTS

26 Sec. 1152.231. GENERAL PROHIBITED ACTS. (a) A person
27 required to register under this chapter may not appear at an

1 appraisal review board hearing acting under a registered senior
2 property tax consultant unless the property tax consultant has, for
3 at least the two years preceding the date of the hearing:

4 (1) been engaged and employed on a full-time basis as a
5 property tax consultant;

6 (2) performed property tax consultant related
7 services as an employee of a property owner; or

8 (3) performed appraisal services under a registration
9 under Chapter 1151.

10 (b) A person required to register under this chapter may not
11 mail or provide on an Internet website, as part of a public
12 solicitation of business, a retainer agreement or fee agreement.

13 (c) A person required to register under this chapter may not
14 serve as a registered senior property tax consultant for more than
15 10 registered property tax consultants.

16 (d) A person required to register under this chapter may not
17 sign a request for arbitration, or make an arbitration deposit on
18 behalf of a property owner, under Section 41A.03, Tax Code.

19 (e) A person required to register under this chapter may not
20 file a protest under Chapter 41, Tax Code, without the written
21 approval of the property owner.

22 (f) A person required to register under this chapter may not
23 be a party to, or benefit from, the forgery, alteration, or changing
24 of an agent appointment, exemption application, protest, or other
25 legal document that is filed with or presented to an appraisal
26 district, an appraisal review board, or a taxing unit.

27 (g) A person required to register under this chapter may not

1 file a motion or protest concerning residential property on behalf
2 of a person who the registrant does not represent unless:

3 (1) the registrant has written authorization by
4 e-mail, facsimile, letter, or any other written medium from:

5 (A) that person; or

6 (B) another person, other than the agent or the
7 firm that employs the agent, who is authorized by the person to
8 designate agents under Section 1.111, Tax Code, at the time the
9 motion or protest is filed; and

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

14 Sec. 1152.232. PROHIBITED ACTS: SOLICITATION OF BUSINESS
15 AND ADVERTISING. (a) Unless the recipient of the communication is
16 another registrant, or has a family, close personal, or prior
17 professional relationship with the registrant, a person required to
18 register under this chapter may not solicit professional employment
19 from a prospective client in a written, recorded, or electronic
20 communication without including the words "advertising material"
21 on the outside envelope, if any, and at the beginning and ending of
22 any recorded or electronic communication.

23 (b) A person required to register under this chapter may
24 not, in a public solicitation for business:

25 (1) offer economic incentives based on the success or
26 lack of success of the representation; or

27 (2) represent that the fee for services rendered

1 includes the hiring of legal services.

2 (c) A person required to register under this chapter may
3 not, as part of a solicitation for professional employment from a
4 prospective client who has not affirmatively indicated an interest
5 in receiving solicitations from the registrant, provide any
6 analysis or characterization of the appraisal or level of taxation
7 of the person's property unless the registrant:

8 (1) has conducted an appraisal of the property in
9 compliance with the Uniform Standards of Professional Appraisal
10 Practice, as applicable to the year to which the appraisal applies;

11 (2) certifies in the communication that the appraisal
12 was conducted as provided by Subdivision (1); and

13 (3) maintains a copy of the communication, the
14 appraisal, and the certification for inspection by the department
15 for at least two years.

16 (d) A person required to register under this chapter may not
17 solicit a property tax consulting assignment by assuring a specific
18 outcome.

19 Sec. 1152.233. PROHIBITED ACTS: USE OF INTERNET WEBSITE.

20 (a) A person required to register under this chapter may not
21 maintain an Internet website for any purpose associated with the
22 provision of tax consulting services by the registrant that has a
23 domain name or other Internet address that implies that the website
24 is a government website.

25 (b) A person required to register under this chapter may not
26 use or maintain an Internet website for the purpose of soliciting
27 clients if the website does not identify the registrant prominently

1 on the home page of the website.

2 Sec. 1152.234. PROHIBITED ACTS: CERTAIN LEGAL ACTIONS. (a)

3 A person required to register under this chapter may not:

4 (1) engage the services of an attorney for purposes of
5 filing an appeal under Chapter 42, Tax Code, without the prior
6 written consent of the client; or

7 (2) pay, offer to pay, contract to pay, or advance the
8 payment of a filing fee for purposes of filing an appeal under
9 Chapter 42, Tax Code.

10 (b) A person required to register under this chapter may not
11 appear as a designated expert witness in an appeal under Chapter 42,
12 Tax Code, in which a remedy under Section 42.26, Tax Code, is sought
13 if the person or the person's employer represented the owner of the
14 property that is the subject of the appeal at the protest before the
15 appraisal review board, unless the property tax consultant:

16 (1) is registered under Chapter 1151 as an appraiser;
17 and

18 (2) holds an industry-recognized national appraisal
19 designation.

20 (c) A person required to register under this chapter may
21 not:

22 (1) solicit a client for an attorney for the purpose of
23 filing an appeal under Chapter 42, Tax Code, in a manner that
24 results in compensation to the property tax consultant; or

25 (2) recommend an attorney for the purpose of filing an
26 appeal under Chapter 42, Tax Code, if the property tax consultant
27 receives compensation in connection with the appeal.

1 SECTION 5. Not later than December 31, 2009, the executive
2 director of the Texas Commission of Licensing and Regulation shall
3 adopt the examination required by Section 1152.161, Occupations
4 Code, as added by this Act.

5 SECTION 6. The change in law made by this Act to Section
6 1152.156(a), Occupations Code, applies only to an application for
7 registration as a property tax consultant that is submitted to the
8 Texas Department of Licensing and Regulation on or after March 1,
9 2010. An application for registration submitted before that date
10 is governed by the law in effect at the time the application was
11 submitted, and the former law is continued in effect for that
12 purpose.

13 SECTION 7. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2009.