

By: Hancock

S.B. No. 2208

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the transfer of the regulation of property tax  
3 professionals from the Texas Department of Licensing and Regulation  
4 to the comptroller of public accounts; providing civil and  
5 administrative penalties.

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

7 SECTION 1. Section 1151.002(5), Occupations Code, is  
8 amended to read as follows:

9 (5) "Code of ethics" means a formal statement of  
10 ethical standards of conduct adopted by the comptroller  
11 [~~commission~~].

12 SECTION 2. Section 1151.004(b), Occupations Code, is  
13 amended to read as follows:

14 (b) The comptroller [~~department~~] shall thoroughly  
15 investigate a complaint of a violation of this section.

16 SECTION 3. Sections 1151.051(a) and (c), Occupations Code,  
17 are amended to read as follows:

18 (a) The Texas Tax Professional Advisory Committee consists  
19 of seven members appointed by the comptroller [~~presiding officer of~~  
20 ~~the commission with the approval of the commission~~] as follows:

21 (1) two members who are certified under this chapter  
22 as registered professional appraisers;

23 (2) two members who are certified under this chapter  
24 as registered Texas collectors or registered Texas assessors; and

1 (3) three members who represent the public.

2 (c) The comptroller [~~presiding officer of the commission~~]  
3 shall designate one member of the committee as the presiding  
4 officer.

5 SECTION 4. Section [1151.0511](#), Occupations Code, is amended  
6 to read as follows:

7 Sec. 1151.0511. PUBLIC MEMBER ELIGIBILITY. A person may  
8 not be a public member of the committee if the person or the  
9 person's spouse:

10 (1) is registered, certified, or licensed by a  
11 regulatory agency in the field of property tax appraisal,  
12 assessment, or collection;

13 (2) is employed by or participates in the management  
14 of a business entity or other organization regulated by or  
15 receiving money from the comptroller [~~department~~];

16 (3) owns or controls, directly or indirectly, more  
17 than a 10 percent interest in a business entity or other  
18 organization regulated by or receiving money from the comptroller  
19 [~~department~~];

20 (4) uses or receives a substantial amount of tangible  
21 goods, services, or money from the comptroller [~~department~~] other  
22 than compensation or reimbursement authorized by law for committee  
23 membership, attendance, or expenses; or

24 (5) at any time has served on an appraisal review  
25 board.

26 SECTION 5. Section [1151.0512\(c\)](#), Occupations Code, is  
27 amended to read as follows:

1 (c) A person may not be a member of the committee if the  
2 person or the person's spouse is required to register as a lobbyist  
3 under Chapter 305, Government Code, because of the person's  
4 activities for compensation on behalf of a profession related to  
5 the operation of the committee or the comptroller's office  
6 [~~department~~].

7 SECTION 6. The heading to Subchapter C, Chapter 1151,  
8 Occupations Code, is amended to read as follows:

9 SUBCHAPTER C. DUTIES OF COMPTROLLER [~~COMMISSION, EXECUTIVE~~  
10 ~~DIRECTOR, DEPARTMENT,~~] AND ADVISORY COMMITTEE

11 SECTION 7. Section 1151.101, Occupations Code, is amended  
12 to read as follows:

13 Sec. 1151.101. FEES. The comptroller [~~commission~~], with  
14 the advice of the committee, shall establish fees under this  
15 chapter in amounts reasonable and necessary to cover the costs of  
16 administering the programs and activities under this chapter.

17 SECTION 8. Section 1151.102, Occupations Code, is amended  
18 to read as follows:

19 Sec. 1151.102. GENERAL RULEMAKING AUTHORITY. The  
20 comptroller [~~commission~~] may adopt and enforce rules necessary for  
21 the performance of the comptroller's [~~department's~~] duties under  
22 this chapter.

23 SECTION 9. Section 1151.103, Occupations Code, is amended  
24 to read as follows:

25 Sec. 1151.103. ESTABLISHMENT OF PROFESSIONAL STANDARDS.  
26 The comptroller [~~commission~~] shall establish standards of  
27 professional practice, conduct, education, and ethics for

1 appraisers, assessors, and collectors consistent with the purposes  
2 and intent of this chapter.

3 SECTION 10. Section 1151.104, Occupations Code, is amended  
4 to read as follows:

5 Sec. 1151.104. ENFORCEMENT OF CHAPTER. The comptroller  
6 [~~department~~] may ensure strict compliance with and enforce this  
7 chapter.

8 SECTION 11. Section 1151.106(a), Occupations Code, is  
9 amended to read as follows:

10 (a) The comptroller [~~commission~~] by rule shall:

- 11 (1) adopt a classification system for registrants; and  
12 (2) establish minimum requirements for each  
13 classification.

14 SECTION 12. Section 1151.107(a), Occupations Code, is  
15 amended to read as follows:

16 (a) The comptroller [~~department~~] shall maintain a roster of  
17 registrants that includes each registrant's name, place of  
18 employment, and classification.

19 SECTION 13. Section 1151.108, Occupations Code, is amended  
20 to read as follows:

21 Sec. 1151.108. COMMITTEE DUTIES. The committee shall:

22 (1) recommend to the comptroller [~~commission~~] rules  
23 and standards regarding technical issues relating to tax  
24 professionals;

25 (2) provide advice to the comptroller [~~commission~~]  
26 regarding continuing education courses and curricula for  
27 registrants;

1           (3) provide advice to the comptroller [~~commission~~]  
2 regarding the contents of any examination required by the  
3 comptroller [~~commission~~] under this chapter; and

4           (4) educate, and respond to questions from, the  
5 comptroller [~~commission and the department~~] regarding issues  
6 affecting tax professionals.

7           SECTION 14. Section 1151.151, Occupations Code, is amended  
8 to read as follows:

9           Sec. 1151.151. REGISTRATION REQUIRED; EXEMPTION. The  
10 following persons must register with the comptroller [~~department~~]:

11           (1) the chief appraiser of an appraisal district, an  
12 appraisal supervisor or assistant, a property tax appraiser, an  
13 appraisal engineer, and any other person authorized to render  
14 judgment on, recommend, or certify an appraised value to the  
15 appraisal review board of an appraisal district;

16           (2) a person who engages in appraisal of property for  
17 ad valorem tax purposes for an appraisal district or a taxing unit;

18           (3) an assessor-collector other than a county  
19 assessor-collector;

20           (4) a collector or another person designated by a  
21 governing body as the chief administrator of the taxing unit's  
22 assessment functions, collection functions, or both; and

23           (5) a person who performs assessment or collection  
24 functions for a taxing unit and is required to register by the chief  
25 administrator of the unit's tax office.

26           SECTION 15. Section 1151.153, Occupations Code, is amended  
27 to read as follows:

1           Sec. 1151.153. REGISTRATION APPLICATION.       (a)       An  
2 application for registration must be made on the printed form  
3 provided by the comptroller [~~department~~]. In prescribing the  
4 contents of an application form, the comptroller [~~commission~~] shall  
5 ensure that the form requires information sufficient to properly  
6 classify the applicant.

7           (b) Each application form the comptroller [~~department~~]  
8 provides must be accompanied by the code of ethics.

9           SECTION 16. Section 1151.155, Occupations Code, is amended  
10 to read as follows:

11           Sec. 1151.155. ACTION ON APPLICATION. (a) The comptroller  
12 [~~department~~] shall act on an application for registration not later  
13 than the 30th day after the date the application is received.

14           (b) The comptroller [~~department~~] shall:

15                   (1) classify and register each applicant the  
16 comptroller [~~department~~] approves; and

17                   (2) notify the registrant of the requirements for:

18                           (A) maintenance of the registrant's current  
19 registration; and

20                           (B) professional certification by the  
21 comptroller [~~department~~].

22           SECTION 17. Section 1151.156, Occupations Code, is amended  
23 to read as follows:

24           Sec. 1151.156. DISCRIMINATION PROHIBITED. The comptroller  
25 [~~department~~] may not refuse to register an applicant because of the  
26 race, color, disability, sex, religion, age, or national origin of  
27 the applicant.

1 SECTION 18. Section 1151.157(a), Occupations Code, is  
2 amended to read as follows:

3 (a) The comptroller [~~department~~] shall issue an  
4 identification card to each person registered under this chapter.  
5 While on official duty, the registrant shall have the  
6 identification card in the registrant's possession.

7 SECTION 19. Section 1151.158, Occupations Code, is amended  
8 to read as follows:

9 Sec. 1151.158. ANNUAL FEE; EXPIRATION AND RENEWAL OF  
10 REGISTRATION. (a) Except as otherwise provided by the comptroller  
11 [~~commission~~], a registration under this chapter is valid for one  
12 year and must be renewed annually. A registrant must pay an annual  
13 fee. The comptroller [~~commission~~] by rule may adopt a system under  
14 which registrations expire on various dates during the year.

15 (b) Not later than the 30th day before the date a person's  
16 registration under this chapter is scheduled to expire, the  
17 comptroller [~~The department~~] shall send written notice [~~notify a~~  
18 ~~registrant under this chapter~~] of the impending expiration to the  
19 person at the person's last known address according to the records  
20 of the comptroller [~~of the registrant's registration as provided by~~  
21 ~~Section 51.401(f)~~].

22 SECTION 20. Sections 1151.1581(a), (c), (e), and (f),  
23 Occupations Code, are amended to read as follows:

24 (a) The comptroller [~~commission~~] shall recognize, prepare,  
25 or administer continuing education programs for registrants under  
26 this chapter.

27 (c) A registrant must participate in the programs to the

1 extent required by the comptroller [~~department~~] to keep the  
2 person's certificate of registration.

3 (e) The comptroller may set fees for continuing education  
4 courses and providers of continuing education courses in amounts  
5 reasonable and necessary to cover the comptroller's costs in  
6 administering [~~the comptroller's duties under~~] this section.

7 (f) As part of the continuing education requirements for a  
8 registered professional appraiser who is the chief appraiser of an  
9 appraisal district, the comptroller [~~commission~~] by rule shall  
10 require the registrant to complete:

11 (1) at least half of the required hours in a program  
12 devoted to one or more of the topics listed in Section 1151.164(b);  
13 and

14 (2) at least two of the required hours in a program of  
15 professional ethics specific to the chief appraiser of an appraisal  
16 district, including a program on the importance of maintaining the  
17 independence of an appraisal office from political pressure.

18 SECTION 21. Section 1151.160, Occupations Code, is amended  
19 by amending Subsections (a), (b), (c), (f), (g), (h), and (i) to  
20 read as follows:

21 (a) The comptroller [~~commission~~] by rule shall adopt  
22 minimum requirements for the certification of registrants. The  
23 requirements for certification of a registrant must emphasize the  
24 areas of responsibility of the registrant in performing the  
25 registrant's duties for the taxing unit.

26 (b) "Registered professional appraiser" is the highest  
27 level of certification established by the comptroller [~~commission~~]



1 for a person engaged in appraisal. "Registered Texas assessor" is  
2 the highest level of certification established by the comptroller  
3 [~~commission~~] for a person engaged in assessment. "Registered Texas  
4 collector" is the highest level of certification established by the  
5 comptroller [~~commission~~] for a person engaged in collection.

6 (c) A person registered as an appraiser shall become  
7 certified as a registered professional appraiser not later than the  
8 fifth anniversary of the date of the person's original  
9 registration. The person shall obtain certification by:

10 (1) successfully completing the certification  
11 requirements established by comptroller [~~commission~~] rule; or

12 (2) if the person is certified or licensed under  
13 Chapter 1103 as an appraiser by the Texas Appraiser Licensing and  
14 Certification Board, passing the appropriate examination required  
15 under Section 1151.161.

16 (f) In this subsection, "break in service" means time during  
17 which a person is not employed in the type of employment for which  
18 the person is registered, other than a period resulting from  
19 termination for cause. A registrant who has a break in service is  
20 entitled to an adjustment of the applicable anniversary date  
21 described by Subsection (c), (d), or (e) equal to the length of the  
22 break in service, as determined by comptroller [~~commission~~] rule.  
23 A person who has a break in service that exceeds five years must  
24 submit a new application and proof of completion of current course  
25 requirements, unless otherwise excepted under comptroller  
26 [~~commission~~] rule.

27 (g) A registrant who has not obtained the certification

1 required by Subsection (c), (d), or (e) within the time required by  
2 the applicable subsection is entitled to a one-year extension to  
3 meet the certification requirements if:

4 (1) the applicant submits proof of active military  
5 status performed after the date of the applicant's original  
6 registration;

7 (2) the applicant submits proof of leave under the  
8 federal Family and Medical Leave Act of 1993 (29 U.S.C. Section 2601  
9 et seq.) taken after the date of the applicant's original  
10 registration;

11 (3) the applicant submits proof of a death or illness  
12 in the family or an unforeseen emergency occurring after the date of  
13 the applicant's original registration that prevented the  
14 registrant from meeting certification requirements;

15 (4) a chief appraiser, chief administrative officer of  
16 a political subdivision, or other person authorized by the  
17 comptroller [~~commission~~] by rule requests the extension on behalf  
18 of an employee;

19 (5) the applicant requesting the extension is a chief  
20 appraiser; or

21 (6) the applicant meets another reasonable  
22 qualification for an extension established by the comptroller  
23 [~~commission~~] by rule.

24 (h) The comptroller [~~commission~~] shall establish reasonable  
25 qualifications for reapplication for a registration by an applicant  
26 who does not meet any of the requirements of Subsection (g) [~~or~~  
27 ~~Section 1151.1605~~].

1 (i) The comptroller [~~commission~~] shall adopt rules as  
2 necessary to implement this section.

3 SECTION 22. Section 1151.161, Occupations Code, is amended  
4 to read as follows:

5 Sec. 1151.161. EXAMINATION FOR CERTIFICATION; APPLICATION;  
6 FEE. (a) The comptroller [~~commission~~] by rule shall require a  
7 registrant to pass one or more examinations to be certified. The  
8 comptroller [~~commission~~] by rule shall ensure that any examination  
9 required for certification is administered in compliance with the  
10 Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et  
11 seq.).

12 (b) An applicant for examination under this section must  
13 apply to take the examination in the manner prescribed by the  
14 comptroller [~~department~~].

15 (c) The comptroller [~~department~~] may accept, develop, or  
16 contract for the examinations required by this section, including  
17 the administration of the examinations. The comptroller must  
18 approve the content of an examination [~~accepted, developed, or~~  
19 ~~contracted for by the department~~]. The comptroller [~~department~~]  
20 may require a third-party vendor to collect a fee associated with  
21 the examination directly from examinees.

22 SECTION 23. Section 1151.162, Occupations Code, is amended  
23 to read as follows:

24 Sec. 1151.162. RULES RELATING TO RECERTIFICATION AND  
25 SPECIALIZATION. The comptroller [~~commission~~] may adopt rules:

26 (1) regarding recertification to ensure that each  
27 person certified under this chapter who is engaged in appraisal,

1 assessment, or collection is registered and professionally  
2 competent; and

3 (2) establishing specialized classifications,  
4 designations, and requirements as necessary to accomplish the  
5 purposes of this chapter, including maintaining high standards of  
6 professional practice in all phases of property taxation.

7 SECTION 24. Section 1151.163, Occupations Code, is amended  
8 to read as follows:

9 Sec. 1151.163. REGISTRATION BY ENDORSEMENT. The  
10 comptroller [~~department~~] may waive any prerequisite to obtaining a  
11 certificate of registration for an applicant after reviewing the  
12 applicant's credentials and determining that the applicant holds a  
13 license or certificate of registration issued by another  
14 jurisdiction that has requirements substantially equivalent to  
15 those of this state.

16 SECTION 25. Section 1151.164, Occupations Code, is amended  
17 to read as follows:

18 Sec. 1151.164. CHIEF APPRAISER TRAINING PROGRAM. (a) The  
19 comptroller [~~department~~] shall implement a training program for  
20 newly appointed chief appraisers and shall prescribe the curriculum  
21 for the training program as provided by this section.

22 (b) The training program must provide the appointee with  
23 information regarding:

24 (1) this chapter;

25 (2) the programs operated by the comptroller under  
26 this chapter [~~department~~];

27 (3) the role and functions of the comptroller under

1 this chapter [~~department~~];

2 (4) the rules of the comptroller under this chapter  
3 [~~commission~~], with an emphasis on the rules that relate to ethical  
4 behavior;

5 (5) the role and functions of the chief appraiser, the  
6 appraisal district board of directors, and the appraisal review  
7 board;

8 (6) the importance of maintaining the independence of  
9 an appraisal office from political pressure;

10 (7) the importance of prompt and courteous treatment  
11 of the public;

12 (8) the finance and budgeting requirements for an  
13 appraisal district, including appropriate controls to ensure that  
14 expenditures are proper; and

15 (9) the requirements of:

16 (A) the open meetings law, Chapter [551](#),  
17 Government Code;

18 (B) the public information law, Chapter [552](#),  
19 Government Code;

20 (C) the administrative procedure law, Chapter  
21 [2001](#), Government Code;

22 (D) other laws relating to public officials,  
23 including conflict-of-interest laws; and

24 (E) the standards of ethics imposed by the  
25 Uniform Standards of Professional Appraisal Practice.

26 SECTION 26. Section [1151.165](#), Occupations Code, is amended  
27 to read as follows:

1           Sec. 1151.165. INACTIVE STATUS.           The comptroller  
2 [~~commission~~] may adopt rules to allow a registrant to place a  
3 registration issued by the comptroller [~~department~~] on inactive  
4 status [~~in the same manner as a license is placed on inactive status~~  
5 ~~under Section 51.4011~~].

6           SECTION 27. Subchapter E, Chapter 1151, Occupations Code,  
7 is amended by adding Section 1151.201 to read as follows:

8           Sec. 1151.201. INSPECTIONS AND INVESTIGATIONS.           The  
9 comptroller may conduct inspections or investigations as necessary  
10 to enforce this chapter.

11           SECTION 28. Sections 1151.202(a), (b), and (c), Occupations  
12 Code, are amended to read as follows:

13           (a) The comptroller [~~department~~] may deny an application  
14 for registration, revoke, suspend, or refuse to renew a  
15 registration, reprimand a registrant, [of] or take other  
16 disciplinary action [~~as described by Chapter 51~~] against a person  
17 who violates this chapter or a comptroller [~~commission~~] rule  
18 adopted under this chapter.

19           (b) The comptroller [~~commission~~] by rule shall adopt  
20 written guidelines to ensure that denials of registration under  
21 this section and other disciplinary actions [~~under Chapter 51~~] are  
22 administered consistently.

23           (c) The comptroller may place on probation a person whose  
24 registration is suspended. If a registration suspension is  
25 probated, the comptroller may require the person to:

26                   (1) report regularly to the comptroller on matters  
27 that are the basis of the probation;

1           (2) limit practice to the areas prescribed by the  
2 comptroller; or

3           (3) continue or renew professional education until the  
4 person attains a degree of skill satisfactory to the comptroller in  
5 those areas that are the basis for the probation [~~Before imposing an~~  
6 ~~administrative penalty under Subchapter F, Chapter 51, against a~~  
7 ~~registrant, the department must consider evidence that the~~  
8 ~~registrant:~~

9           ~~[(1) attempted in good faith to implement or execute a~~  
10 ~~law, policy, rule, order, budgetary restriction, or other~~  
11 ~~regulation provided by the laws of this state, the comptroller, or~~  
12 ~~the governing body or the chief administrator of the appraisal~~  
13 ~~district or taxing jurisdiction that employs the registrant,~~

14           ~~[(2) acted on the advice of counsel or the~~  
15 ~~comptroller; or~~

16           ~~[(3) had discretion over the matter on which the~~  
17 ~~complaint is based, if the complaint is based solely on grounds that~~  
18 ~~the registrant decided incorrectly or failed to exercise discretion~~  
19 ~~in favor of the complainant].~~

20           SECTION 29. Subchapter E, Chapter 1151, Occupations Code,  
21 is amended by adding Section 1151.203 to read as follows:

22           Sec. 1151.203. HEARINGS; ADMINISTRATIVE PROCEDURE. (a) If  
23 the comptroller proposes to deny an application for registration or  
24 take disciplinary action against a person, the person is entitled  
25 to a hearing.

26           (b) The proceedings relating to a denial of an application  
27 for registration and disciplinary action by the comptroller under

1 this chapter are governed by Chapter 2001, Government Code. A  
2 hearing under this chapter shall be conducted by the State Office of  
3 Administrative Hearings.

4 SECTION 30. Section 1151.204, Occupations Code, is amended  
5 to read as follows:

6 Sec. 1151.204. DISMISSAL OF COMPLAINTS. (a) After  
7 investigation, the comptroller [~~department~~] may dismiss a  
8 complaint filed under Section 1151.206, in part or entirely,  
9 without conducting a hearing if the complaint does not credibly  
10 allege a violation of this chapter or the standards established by  
11 the comptroller [~~commission~~] for registrants under this chapter.

12 (b) After investigation, the comptroller [~~department~~] shall  
13 dismiss a complaint, in part or entirely, without conducting a  
14 hearing if:

15 (1) the complaint challenges:

16 (A) the imposition of or failure to waive  
17 penalties or interest under Sections 33.01 and 33.011, Tax Code;

18 (B) the appraised value of a property;

19 (C) the appraisal methodology;

20 (D) the grant or denial of an exemption from  
21 taxation; or

22 (E) any matter for which Title 1, Tax Code,  
23 specifies a remedy, including an action that a property owner is  
24 entitled to protest before an appraisal review board under Section  
25 41.41(a), Tax Code; and

26 (2) the subject matter of the complaint has not been  
27 finally resolved in the complainant's favor by an appraisal review



1 board, a governing body, an arbitrator, a court, or the State Office  
2 of Administrative Hearings under Section 2003.901, Government  
3 Code.

4 (c) This section does not apply to:

5 (1) the comptroller's findings in a review performed  
6 ~~[a matter referred to the department by the comptroller]~~ under  
7 Section 5.102, Tax Code, or a successor statute;

8 (2) a complaint concerning a registrant's failure to  
9 comply with the registration and certification requirements of this  
10 chapter; or

11 (3) a complaint concerning a newly appointed chief  
12 appraiser's failure to complete the training program described by  
13 Section 1151.164.

14 SECTION 31. Sections 1151.205(a) and (b), Occupations Code,  
15 are amended to read as follows:

16 (a) The comptroller ~~[department]~~ may request and, if  
17 necessary, compel by subpoena:

18 (1) the attendance of witnesses for examination under  
19 oath; and

20 (2) the production of records, documents, and other  
21 evidence relevant to the investigation of an alleged violation of  
22 this chapter or a comptroller ~~[commission]~~ rule for inspection and  
23 copying.

24 (b) If a person does not comply with the subpoena, the  
25 comptroller ~~[department]~~, acting through the attorney general, may  
26 file suit to enforce the subpoena in a district court in Travis  
27 County or in the county in which a hearing under this chapter

1 ~~[conducted by the department]~~ may be held.

2 SECTION 32. Section 1151.206, Occupations Code, is amended  
3 to read as follows:

4 Sec. 1151.206. COMPLAINT OF VIOLATION. (a) A person may  
5 file a complaint with the comptroller ~~[department]~~ concerning a  
6 violation of this chapter or a rule adopted by the comptroller  
7 ~~[commission]~~ under this chapter.

8 (b) The comptroller may notify the local governmental  
9 entity that employs a registrant of a complaint against the  
10 registrant by sending a copy of the complaint letter to the local  
11 governmental entity.

12 SECTION 33. Subchapter E, Chapter 1151, Occupations Code,  
13 is amended by adding Sections 1151.207, 1151.208, and 1151.209 to  
14 read as follows:

15 Sec. 1151.207. CEASE AND DESIST ORDER. The comptroller may  
16 issue a cease and desist order if the comptroller determines that  
17 the action is necessary to prevent a violation of:

18 (1) this chapter; or

19 (2) a rule adopted or order issued under this chapter.

20 Sec. 1151.208. ADMINISTRATIVE PENALTY. (a) The  
21 comptroller may impose an administrative penalty against a person  
22 who violates this chapter or a rule adopted under this chapter.

23 (b) Before imposing an administrative penalty against a  
24 registrant, the comptroller must consider evidence that the  
25 registrant:

26 (1) attempted in good faith to implement or execute a  
27 law, policy, rule, order, budgetary restriction, or other

1 regulation provided by the laws of this state, the comptroller, or  
2 the governing body or the chief administrator of the appraisal  
3 district or taxing jurisdiction that employs the registrant;

4 (2) acted on the advice of counsel or the comptroller;  
5 or

6 (3) had discretion over the matter on which the  
7 complaint is based, if the complaint is based solely on grounds that  
8 the registrant decided incorrectly or failed to exercise discretion  
9 in favor of the complainant.

10 (c) The amount of the administrative penalty may not exceed  
11 \$5,000. Each day a violation continues or occurs is a separate  
12 violation for the purpose of imposing a penalty. The amount shall be  
13 based on:

14 (1) the seriousness of the violation, including the  
15 nature, circumstances, extent, and gravity of the violation;

16 (2) the economic harm caused by the violation;

17 (3) the history of previous violations;

18 (4) the amount necessary to deter a future violation;

19 (5) efforts to correct the violation; and

20 (6) any other matter that justice may require.

21 (d) The enforcement of the administrative penalty may be  
22 stayed during the time the order is under judicial review if the  
23 person pays the penalty to the clerk of the court or files a  
24 supersedeas bond with the court in the amount of the penalty. A  
25 person who cannot afford to pay the penalty or file the bond may  
26 stay the enforcement by filing an affidavit in the manner required  
27 by the Texas Rules of Civil Procedure for a party who cannot afford

1 to file security for costs, subject to the right of the comptroller  
2 to contest the affidavit as provided by those rules.

3 (e) The attorney general may sue to collect the penalty.

4 (f) A proceeding to impose the penalty is considered to be a  
5 contested case under Chapter 2001, Government Code.

6 Sec. 1151.209. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The  
7 attorney general or the comptroller may institute an action for  
8 injunctive relief to restrain a violation by a person who appears to  
9 be in violation of or threatening to violate this chapter or a rule  
10 adopted under this chapter.

11 (b) The attorney general or the comptroller may institute an  
12 action to collect a civil penalty from a person who appears to be in  
13 violation of this chapter or a rule adopted under this chapter. The  
14 amount of a civil penalty may not exceed \$5,000 for each violation.

15 (c) Each day a violation occurs or continues to occur is a  
16 separate violation.

17 (d) The attorney general and the comptroller may recover  
18 reasonable expenses incurred in obtaining injunctive relief or a  
19 civil penalty under this section, including court costs, reasonable  
20 attorney's fees, investigative costs, witness fees, and deposition  
21 expenses.

22 SECTION 34. Section 1152.103, Occupations Code, is amended  
23 to read as follows:

24 Sec. 1152.103. MEMBERSHIP RESTRICTIONS. A person is not  
25 eligible for appointment as a member of the council if the person  
26 is:

27 (1) required to register with the secretary of state

1 under Chapter 305, Government Code;

2 (2) required to register with the comptroller  
3 ~~[department]~~ under Chapter 1151; or

4 (3) exempt from the registration requirements imposed  
5 by this chapter, except as provided by Section 1152.102.

6 SECTION 35. Section 5.04, Tax Code, is amended to read as  
7 follows:

8 Sec. 5.04. TRAINING AND EDUCATION OF APPRAISERS. (a) The  
9 comptroller shall be ~~[enter into a memorandum of understanding with~~  
10 ~~the Texas Department of Licensing and Regulation or any successor~~  
11 ~~agency]~~ responsible for certifying tax professionals in this state  
12 and for ~~[in]~~ setting standards for and approving curricula and  
13 materials for use in training and educating appraisers and  
14 assessor-collectors. The ~~[, and the]~~ comptroller may contract or  
15 enter into a memorandum of understanding with other public  
16 agencies, educational institutions, or private organizations in  
17 sponsoring courses of instruction and training programs.

18 (b) An appraisal district shall reimburse an employee of the  
19 appraisal office for all actual and necessary expenses, tuition and  
20 other fees, and costs of materials incurred in attending, with  
21 approval of the chief appraiser, a course or training program  
22 sponsored or approved by the comptroller ~~[Texas Department of~~  
23 ~~Licensing and Regulation]~~.

24 SECTION 36. Sections 5.102(d) and (e), Tax Code, are  
25 amended to read as follows:

26 (d) If the appraisal district fails to comply with the  
27 recommendations in the report and the comptroller finds that the

1 board of directors of the appraisal district failed to take  
2 remedial action reasonably designed to ensure substantial  
3 compliance with each recommendation in the report before the first  
4 anniversary of the date the report was issued, the comptroller  
5 [~~shall notify the Board of Tax Professional Examiners, or a~~  
6 ~~successor to the board, which~~] shall take action necessary to  
7 ensure that the recommendations in the report are implemented as  
8 soon as practicable.

9 (e) Before February 1 of the year following the year in  
10 which the comptroller [~~Board of Tax Professional Examiners, or its~~  
11 ~~successor,~~] takes action under Subsection (d), [~~and with the~~  
12 ~~assistance of the comptroller,~~] the comptroller [~~board~~] shall  
13 determine whether the recommendations in the most recent report  
14 have been substantially implemented. The comptroller [~~presiding~~  
15 ~~officer of the board~~] shall notify the chief appraiser and the board  
16 of directors of the appraisal district in writing of the  
17 comptroller's [~~board's~~] determination.

18 SECTION 37. The following provisions of the Occupations  
19 Code are repealed:

- 20 (1) Sections [1151.002](#)(7-a) and (7-c);  
21 (2) Section [1151.1015](#);  
22 (3) Sections [1151.1581](#)(b) and (d); and  
23 (4) Section [1151.202](#)(d).

24 SECTION 38. Not later than March 1, 2018, the comptroller of  
25 public accounts shall adopt rules necessary to implement the  
26 changes in law made by this Act to Chapter [1151](#), Occupations Code.

27 SECTION 39. The changes in law made by this Act to Sections

1 1151.0511 and 1151.0512, Occupations Code, regarding the  
2 eligibility requirements of members of the Texas Tax Professional  
3 Advisory Committee do not affect the entitlement of a member  
4 serving on the committee immediately before the effective date of  
5 this Act to continue to serve as a member of the committee for the  
6 remainder of the member's term. As the terms of committee members  
7 expire or as vacancies occur on the committee, the comptroller of  
8 public accounts shall appoint members to the committee as necessary  
9 to comply with Sections 1151.0511 and 1151.0512, Occupations Code,  
10 as amended by this Act.

11 SECTION 40. (a) A rule or fee of the Texas Department of  
12 Licensing and Regulation under Chapter 1151, Occupations Code, in  
13 effect on the effective date of this Act is continued in effect as a  
14 rule or fee of the comptroller of public accounts until superseded  
15 by a rule of the comptroller. A registration or certification  
16 issued by the department under Chapter 1151, Occupations Code, in  
17 effect on the effective date of this Act is continued in effect as  
18 provided by the law in effect immediately before the effective date  
19 of this Act. A complaint, investigation, contested case, or other  
20 proceeding pending under Chapter 1151, Occupations Code, on the  
21 effective date of this Act is continued without change in status  
22 after the effective date of this Act. An action taken by the  
23 department is considered to be an action of the comptroller.

24 (b) A reference to the Texas Department of Licensing and  
25 Regulation in another law or an administrative rule applicable to  
26 Chapter 1151, Occupations Code, means the comptroller of public  
27 accounts.

1           SECTION 41. As soon as practicable after the effective date  
2 of this Act, the comptroller of public accounts and the Texas  
3 Department of Licensing and Regulation shall adopt a transition  
4 plan to provide for the transfer not later than January 1, 2018, of  
5 the following to the comptroller to the extent necessary for the  
6 exercise of the comptroller's powers and duties related to Chapter  
7 [1151](#), Occupations Code, as amended by this Act:

- 8                   (1) personnel;
- 9                   (2) equipment, files, and records; and
- 10                  (3) money appropriated for the fiscal biennium ending  
11 August 31, 2019.

12           SECTION 42. This Act takes effect September 1, 2017.