86R6852 TSR-D

By:  Nichols, Birdwell S.B. No. 1459

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Real Estate Commission and the Texas Appraiser Licensing and Certification Board; changing fees.

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

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

Sec. 1101.006.  APPLICATION OF SUNSET ACT. The Texas Real Estate Commission is subject to Chapter 325, Government Code (Texas Sunset Act).  Unless continued in existence as provided by that chapter, the commission is abolished and this chapter, Chapter 1102, and Chapter 1303 of this code and Chapter 221, Property Code, expire September 1, 2025 [~~2019~~].

SECTION 2.  Section 1101.059, Occupations Code, is amended by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b)  The training program must provide the person with information regarding:

(1)  the law governing commission operations [~~this chapter and other laws regulated by the commission~~];

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

(3)  the scope of and limitations on the rulemaking authority of the commission;

(4)  the types of commission rules, interpretations, and enforcement actions that may implicate federal antitrust law by limiting competition or impacting prices charged by persons engaged in a profession or business the commission regulates, including rules, interpretations, and enforcement actions that:

(A)  regulate the scope of practice of persons in a profession or business the commission regulates;

(B)  restrict advertising by persons in a profession or business the commission regulates;

(C)  affect the price of goods or services provided by persons in a profession or business the commission regulates; and

(D)  restrict participation in a profession or business the commission regulates;

(5)  the results of the most recent formal audit of the commission;

(6) [~~(4)~~]  the requirements of:

(A)  laws relating to open meetings, public information, administrative procedure, and disclosure of conflicts of interest; and

(B)  other laws applicable to members of a state policymaking body in performing their duties; and

(7) [~~(5)~~]  any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

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

(d)  The executive director of the commission shall create a training manual that includes the information required by Subsection (b). The executive director shall distribute a copy of the training manual annually to each member of the commission. On receipt of the training manual, each member of the commission shall sign and submit to the executive director a statement acknowledging receipt of the training manual.

SECTION 3.  Section 1101.152, Occupations Code, is amended to read as follows:

Sec. 1101.152.  FEES. (a) The commission shall adopt rules to charge and collect fees in amounts reasonable and necessary to cover the costs of administering this chapter, including a fee for:

(1)  filing an original application for a broker license;

(2)  renewal of a broker license;

(3)  filing an original application for a sales agent license;

(4)  renewal of a sales agent license;

(5)  registration as an easement or right-of-way agent;

(6)  filing an application for a license examination;

(7)  [~~filing a request for a branch office license;~~

[~~(8)~~]  filing a request for a change of place of business, change of name, return to active status, or change of sponsoring broker;

(8) [~~(9)~~]  filing a request to replace a lost or destroyed license or certificate of registration;

(9) [~~(10)~~]  filing an application for approval of an education program under Subchapter G;

(10) [~~(11)~~]  annual operation of an education program under Subchapter G;

(11)  [~~(12)  filing an application for approval of an instructor of qualifying real estate courses;~~

[~~(13)~~]  transcript evaluation;

(12) [~~(14)~~]  preparing a license or registration history;

(13) [~~(15)~~]  filing a request for a [~~moral character~~] determination of fitness to engage in a profession the commission regulates; and

(14) [~~(16)~~]  conducting a criminal history check for issuing or renewing a license.

(b)  The commission shall adopt rules to set and collect fees in amounts reasonable and necessary to cover the costs of implementing the continuing education requirements for license holders, including a fee for:

(1)  an application for approval of a continuing education provider; and

(2)  an application for approval of a continuing education course of study[~~;~~

[~~(3)  an application for approval of an instructor of continuing education courses; and~~

[~~(4)  attendance at a program to train instructors of a continuing education course prescribed under Section 1101.455~~].

SECTION 4.  Section 1101.204, Occupations Code, is amended by adding Subsection (i) to read as follows:

(i)  If the commission determines at any time that an allegation made or formal complaint submitted by a person is inappropriate or without merit, the commission shall dismiss the complaint and no further action may be taken. The commission may delegate to commission staff the duty to dismiss complaints described by this subsection.

SECTION 5.  Section 1101.2051, Occupations Code, is amended by adding Subsection (d-1) to read as follows:

(d-1)  The commission shall protect the identity of a complainant to the extent possible by excluding the complainant's identifying information from a complaint notice sent to a respondent.

SECTION 6.  Section 1101.206(a), Occupations Code, is amended to read as follows:

(a)  The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any agenda item at a regular commission meeting [~~issue under the commission's jurisdiction~~].

SECTION 7.  Section 1101.301, Occupations Code, is amended by amending Subsection (a) and adding Subsections (b-1) and (f) to read as follows:

(a)  The commission, as necessary for the administration of this chapter and Chapter 1102, may by rule:

(1)  establish standards for the approval of qualifying educational programs or courses of study in real estate and real estate inspection conducted in this state, excluding programs and courses offered by accredited colleges and universities; and

(2)  develop minimum education and experience requirements for an instructor of a course of study described by Subdivision (1).

(b-1)  For commission approval of an application to offer a course of study under this section, the applicant must ensure that the educational program's instructors meet the minimum education and experience requirements developed by the commission under Subsection (a)(2).

(f)  The commission may deny approval of an application to renew a program's approval to offer a program or course of study if the applicant is in violation of a commission order. The denial of an approval under this subsection is subject to the same provisions as are applicable under Section 1101.364 to the denial of a license.

SECTION 8.  Section 1101.303, Occupations Code, is amended by adding Subsections (c) and (d) to read as follows:

(c)  The commission may by rule develop minimum education and experience requirements for an instructor of a continuing education course of study. For commission approval of an application to offer the course, the applicant must ensure that the course's instructors meet the minimum education and experience requirements developed by the commission under this subsection.

(d)  The commission may deny an application to renew an approval under this section if the applicant is in violation of a commission order. The denial of an approval under this subsection is subject to the same provisions as are applicable under Section 1101.364 to the denial of a license.

SECTION 9.  The heading to Section 1101.353, Occupations Code, is amended to read as follows:

Sec. 1101.353.  [~~MORAL CHARACTER~~] DETERMINATION OF FITNESS.

SECTION 10.  Sections 1101.353(a), (c), and (d), Occupations Code, are amended to read as follows:

(a)  If before applying for a license under this chapter a person requests that the commission determine whether the person possesses the fitness to engage in the profession for which the license is required [~~person's moral character complies with the commission's moral character requirements for licensing under this chapter~~] and pays the required fee, the commission shall make its determination of the person's fitness to engage in the profession [~~moral character~~].

(c)  If a person applies for a license after receiving notice of a determination, the commission may conduct a supplemental [~~moral character~~] determination of the person's fitness [~~person~~]. The supplemental determination may cover only the period after the date the person requests a [~~moral character~~] determination of fitness under this section.

(d)  The commission may issue a provisional [~~moral character~~] determination of fitness.  The commission by rule shall adopt reasonable terms for issuing a provisional [~~moral character~~] determination of fitness.

SECTION 11.  Section 1101.354, Occupations Code, is amended to read as follows:

Sec. 1101.354.  GENERAL ELIGIBILITY REQUIREMENTS. To be eligible to receive a license under this chapter, a person must:

(1)  at the time of application:

(A)  be at least 18 years of age; and

(B)  be a citizen of the United States or a lawfully admitted alien; [~~and~~

[~~(C)  be a resident of this state;~~]

(2)  satisfy the commission as to the applicant's honesty, trustworthiness, and integrity;

(3)  demonstrate competence based on an examination under Subchapter I; and

(4)  complete the required courses of study, including any required qualifying real estate courses prescribed under this chapter.

SECTION 12.  Subchapter J, Chapter 1101, Occupations Code, is amended by adding Section 1101.459 to read as follows:

Sec. 1101.459.  DENIAL OF LICENSE RENEWAL. (a) The commission may deny the renewal of a license under this chapter if the applicant is in violation of a commission order.

(b)  The denial of a license renewal is subject to the same provisions as are applicable under Section 1101.364 to the denial of a license.

SECTION 13.  Section 1101.505, Occupations Code, is amended to read as follows:

Sec. 1101.505.  DENIAL OF CERTIFICATE ISSUANCE OR RENEWAL. (a) The denial of an original [~~a~~] certificate of registration or renewal of a certificate of registration is subject to the same provisions as are applicable under Section 1101.364 to the denial of a license.

(b)  The commission may deny the renewal of a certificate of registration if the applicant is in violation of a commission order.

SECTION 14.  The heading to Section 1101.552, Occupations Code, is amended to read as follows:

Sec. 1101.552.  FIXED OFFICE REQUIRED; CHANGE OF ADDRESS[~~; BRANCH OFFICES~~].

SECTION 15.  Section 1101.652(a), Occupations Code, is amended to read as follows:

(a)  The commission may suspend or revoke a license issued under this chapter or Chapter 1102 or take other disciplinary action authorized by this chapter or Chapter 1102 if the license holder:

(1)  enters a plea of guilty or nolo contendere to or is convicted of a felony or a criminal offense involving fraud, and the time for appeal has elapsed or the judgment or conviction has been affirmed on appeal, without regard to an order granting community supervision that suspends the imposition of the sentence;

(2)  procures or attempts to procure a license under this chapter or Chapter 1102 for the license holder by fraud, misrepresentation, or deceit or by making a material misstatement of fact in an application for a license;

(3)  fails to honor, within a reasonable time, a check issued to the commission after the commission has sent by certified mail a request for payment to the license holder's last known business address according to commission records;

(4)  fails to provide, within a reasonable time, information requested by the commission that relates to a formal or informal complaint to the commission that would indicate a violation of this chapter or Chapter 1102;

(5)  fails to surrender to the owner, without just cause, a document or instrument that is requested by the owner and that is in the license holder's possession;

(6)  fails to consider market conditions for the specific geographic area in which the license holder is providing a service;

(7)  fails to notify the commission, not later than the 30th day after the date of a final conviction or the entry of a plea of guilty or nolo contendere, that the person has been convicted of or entered a plea of guilty or nolo contendere to a felony or a criminal offense involving fraud; or

(8) [~~(7)~~]  disregards or violates this chapter or Chapter 1102.

SECTION 16.  Section 1102.106, Occupations Code, is amended to read as follows:

Sec. 1102.106.  [~~MORAL CHARACTER~~] DETERMINATION OF FITNESS. As prescribed by Section 1101.353, the commission shall determine, on request, whether a person possesses the fitness to engage in a profession licensed [~~person's moral character complies with the commission's moral character requirements for licensing~~] under this chapter and may conduct a supplemental [~~moral character~~] determination of the person's fitness [~~person~~].

SECTION 17.  Section 1102.107, Occupations Code, is amended to read as follows:

Sec. 1102.107.  ELIGIBILITY FOR APPRENTICE INSPECTOR LICENSE. To be eligible for an apprentice inspector license, an applicant must:

(1)  at the time of application be:

(A)  at least 18 years of age; and

(B)  a citizen of the United States or a lawfully admitted alien; [~~and~~

[~~(C)  a resident of this state;~~]

(2)  be sponsored by a professional inspector; and

(3)  satisfy the commission as to the applicant's honesty, trustworthiness, and integrity.

SECTION 18.  Subchapter E, Chapter 1102, Occupations Code, is amended by adding Section 1102.206 to read as follows:

Sec. 1102.206.  DENIAL OF LICENSE RENEWAL. (a) The commission may deny the renewal of a license if the applicant is in violation of a commission order.

(b)  The provisions of Section 1101.459 governing the commission's denial of a license renewal under that chapter apply to the commission's denial of a license renewal under this chapter.

SECTION 19.  Section 1103.006, Occupations Code, is amended to read as follows:

Sec. 1103.006.  APPLICATION OF SUNSET ACT. The Texas Appraiser Licensing and Certification Board is subject to Chapter 325, Government Code (Texas Sunset Act).  Unless continued in existence as provided by that chapter, the board is abolished and this chapter and Chapter 1104 expire September 1, 2025 [~~2019~~].

SECTION 20.  Subchapter B, Chapter 1103, Occupations Code, is amended by adding Section 1103.0521 to read as follows:

Sec. 1103.0521.  MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

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

(1)  the person is an officer, employee, or paid consultant of a Texas trade association in the field of real estate brokerage or appraisal; or

(2)  the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of real estate brokerage or appraisal.

(c)  A person may not serve as a board member or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

SECTION 21.  Section 1103.054, Occupations Code, is amended to read as follows:

Sec. 1103.054.  ELIGIBILITY OF PUBLIC MEMBERS. A person is not eligible for appointment as a public member of the board if the person or the person's spouse:

(1)  is a certified or licensed appraiser;

(2)  is certified or licensed by an occupational regulatory agency in the field of real estate brokerage or appraisal;

(3)  owns or controls, directly or indirectly, a business entity or other organization whose primary purpose is to engage in real estate sales, brokerage, or appraisal; [~~or~~]

(4)  is employed by or participates in the management of a business entity or other organization whose primary purpose is to engage in real estate sales, brokerage, or appraisal; or

(5)  uses or receives a substantial amount of tangible goods, services, or money from the board other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

SECTION 22.  Section 1103.0545, Occupations Code, is amended by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b)  The training program must provide the person with information regarding:

(1)  the law governing board operations [~~this chapter and other laws applicable to the board~~];

(2)  the programs, functions, rules, and budget of the board;

(3)  the scope of and limitations on the rulemaking authority of the board;

(4)  the types of board rules, interpretations, and enforcement actions that may implicate federal antitrust law by limiting competition or impacting prices charged by persons engaged in a profession or business the board regulates, including rules, interpretations, and enforcement actions that:

(A)  regulate the scope of practice of persons in a profession or business the board regulates;

(B)  restrict advertising by persons in a profession or business the board regulates;

(C)  affect the price of goods or services provided by persons in a profession or business the board regulates; and

(D)  restrict participation in a profession or business the board regulates;

(5)  the results of the most recent formal audit of the board;

(6) [~~(4)~~]  the requirements of:

(A)  laws relating to open meetings, public information, administrative procedure, and disclosure of conflicts of interest; and

(B)  other laws applicable to members of a state policymaking body in performing their duties; and

(7) [~~(5)~~]  any applicable ethics policies adopted by the board or the Texas Ethics Commission.

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

(d)  The commissioner shall create a training manual that includes the information required by Subsection (b). The commissioner shall distribute a copy of the training manual annually to each member of the board. On receipt of the training manual, each member of the board shall sign and submit to the board a statement acknowledging receipt of the training manual.

SECTION 23.  Section 1103.057(a), Occupations Code, is amended to read as follows:

(a)  It is a ground for removal from the board that an appointed member:

(1)  does not have at the time of appointment the qualifications required by this subchapter for appointment to the board;

(2)  does not maintain during service on the board the qualifications required by this subchapter for appointment to the board;

(3)  is ineligible for membership under Section 1103.0521 or 1103.054;

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

(5) [~~(4)~~]  is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year, unless the absence is excused by a majority vote of the board.

SECTION 24.  Subchapter C, Chapter 1103, Occupations Code, is amended by adding Section 1103.105 to read as follows:

Sec. 1103.105.  DIVISION OF RESPONSIBILITIES. The board shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the commissioner and the staff of the board.

SECTION 25.  Section 1103.153, Occupations Code, is amended to read as follows:

Sec. 1103.153.  RULES RELATING TO QUALIFYING OR CONTINUING EDUCATION. (a) The board may adopt rules relating to:

(1)  continuing education requirements for a certified or licensed appraiser or an appraiser trainee; and

(2)  the requirements for approval of a provider or [~~,~~] course[~~, or instructor~~] for qualifying or continuing education.

(b)  In addition to the rules adopted under Subsection (a), the board may by rule develop minimum education and experience requirements for an instructor of a course for qualifying or continuing education. For board approval of a course provider application, the applicant must ensure that the instructors meet the minimum education and experience requirements.

SECTION 26.  The heading to Section 1103.159, Occupations Code, is amended to read as follows:

Sec. 1103.159.  ADVISORY COMMITTEE ON APPRAISAL MANAGEMENT COMPANIES.

SECTION 27.  Subchapter D, Chapter 1103, Occupations Code, is amended by adding Sections 1103.160, 1103.161, 1103.162, and 1103.163 to read as follows:

Sec. 1103.160.  ADVISORY COMMITTEES. (a) The board may appoint advisory committees to perform the advisory functions assigned to the committees by the board. An advisory committee under this section is subject to Chapter 2110, Government Code.

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

(c)  A member of an advisory committee serves at the will of the board.

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

(e)  If the board appoints an advisory committee under this section, the board shall adopt rules regarding:

(1)  the advisory committee's purpose, role, responsibility, and goals;

(2)  size and quorum requirements;

(3)  qualifications for membership, including experience requirements and geographic representation;

(4)  appointment procedures;

(5)  membership terms;

(6)  training requirements for advisory committee members; and

(7)  the advisory committee's compliance with Chapter 551, Government Code.

(f)  In addition to the rules adopted under Subsection (e), the board by rule shall adopt a process to regularly evaluate the need for an advisory committee appointed under this section.

Sec. 1103.161.  PUBLIC PARTICIPATION. The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any agenda item at a regular board meeting.

Sec. 1103.162.  NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) The board shall develop and implement a policy to encourage the use of:

(1)  negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of board rules; and

(2)  appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the board's jurisdiction.

(b)  The board's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c)  The board shall:

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

(2)  provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3)  collect data concerning the effectiveness of those procedures.

Sec. 1103.163.  COMPLAINT INFORMATION. (a) The board shall maintain a system to promptly and efficiently act on complaints filed with the board. The board shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b)  The board shall make information available describing its procedures for complaint investigation and resolution.

(c)  The board shall periodically notify the complaint parties of the status of the complaint until final disposition.

SECTION 28.  Subchapter E, Chapter 1103, Occupations Code, is amended by adding Section 1103.214 to read as follows:

Sec. 1103.214.  DENIAL OF CERTIFICATE OR LICENSE RENEWAL. (a) The board may deny the renewal of a certificate or license issued under this chapter if the applicant is in violation of a board order.

(b)  The denial of a certificate or license renewal under this section is subject to the same provisions as are applicable under Section 1103.210 to the denial of a certificate or license.

SECTION 29.  Section 1103.353, Occupations Code, is amended to read as follows:

Sec. 1103.353.  ELIGIBILITY REQUIREMENTS FOR APPRAISER TRAINEE. To be eligible for a license as an appraiser trainee, an applicant must:

(1)  be at least 18 years of age;

(2)  be a citizen of the United States or a lawfully admitted alien;

(3)  [~~have been a resident of this state for the 60 days preceding the date the application is filed;~~

[~~(4)~~]  satisfy the board as to the applicant's honesty, trustworthiness, and integrity;

(4) [~~(5)~~]  comply with the requirements of Sections 1103.203 and 1103.2031; and

(5) [~~(6)~~]  meet all other qualifications established by the board.

SECTION 30.  Section 1103.460, Occupations Code, is amended by adding Subsection (d-1) to read as follows:

(d-1)  The board shall protect the identity of a complainant to the extent possible by excluding the complainant's identifying information from a complaint notice sent to a respondent.

SECTION 31.  Section 1103.552(c), Occupations Code, is amended to read as follows:

(c)  Notwithstanding any other law, the board shall remit an administrative penalty collected under this section to the comptroller for deposit in the general revenue fund [~~shall be deposited in a restricted fund maintained and operated by the board to develop educational programs for appraisers or conduct studies that enhance consumer protection~~].

SECTION 32.  Subchapter L, Chapter 1103, Occupations Code, is amended by adding Section 1103.5526 to read as follows:

Sec. 1103.5526.  REFUND. (a) Subject to Subsection (b), the board may order a person regulated by the board under this chapter or Chapter 1104 to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference or an enforcement order instead of or in addition to imposing an administrative penalty or other sanctions.

(b)  The amount of a refund ordered as provided in an agreement resulting from an informal settlement conference or an enforcement order may not exceed the amount the consumer paid to the person for a service regulated by the board. The board may not require payment of other damages or estimate harm in a refund order.

SECTION 33.  Section 1104.102(c), Occupations Code, is amended to read as follows:

(c)  A person owning more than 10 percent of an appraisal management company in this state must[~~:~~

[~~(1)  be of good moral character, as determined by the board; and~~

[~~(2)~~]  submit to a background investigation, as determined by the board.

SECTION 34.  Section 1104.104(b), Occupations Code, is amended to read as follows:

(b)  The controlling person designated under Subsection (a):

(1)  must:

(A)  be certified as an appraiser in at least one state at all times during the designation; or

(B)  have completed:

(i)  the 15-hour national Uniform Standards of Professional Appraisal Practice course; and

(ii)  the seven-hour national Uniform Standards of Professional Appraisal Practice update course not more than two years before the renewal of the appraisal management company's registration;

(2)  may not have had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation in any state unless:

(A)  the person has subsequently had the license or certificate to act as an appraiser granted or reinstated; and

(B)  the license or certificate to act as an appraiser was denied, revoked, or surrendered for a nonsubstantive reason as determined by the board; and

(3)  [~~must be of good moral character, as determined by the board; and~~

[~~(4)~~]  shall submit to a background investigation, as determined by the board.

SECTION 35.  Section 1104.105, Occupations Code, is amended by adding Subsection (a-1) to read as follows:

(a-1)  The board may deny an application for registration renewal if the applicant is in violation of a board order.

SECTION 36.  Section 1104.2082, Occupations Code, is amended by adding Subsection (e-1) to read as follows:

(e-1)  The board shall protect the identity of a complainant to the extent possible by excluding the complainant's identifying information from a complaint notice sent to a respondent.

SECTION 37.  Section 1105.004(b), Occupations Code, is amended to read as follows:

(b)  [~~Not later than August 31 of each fiscal year, the agency shall remit a nonrefundable retainer to the state auditor in an amount not less than $10,000.~~] The agency shall reimburse the state auditor for all costs incurred[~~, in excess of the aggregate nonrefundable retainer amounts paid each fiscal year,~~] in performing the audits and shall provide to the governor a copy of any audit performed.

SECTION 38.  Sections 1105.005(b) and (c), Occupations Code, are amended to read as follows:

(b)  Before the beginning of each regular session of the legislature, the agency shall submit to the legislature and the governor a report describing all of the agency's activities in the previous biennium. The report must include:

(1)  an audit as required by Section 1105.004;

(2)  a financial report of the previous fiscal year, including reports on the financial condition and results of operations;

(3)  a description of all changes in fees imposed on regulated persons;

(4)  a report on changes in the regulatory jurisdiction of the agency;

(5)  a report on the number of examination candidates, license, certificate, and registration holders, and enforcement activities and any changes in those figures; and

(6) [~~(5)~~]  a list of all new rules adopted or repealed.

(c)  In addition to the reporting requirements of Subsection (b), not later than November 1 of each year, the agency shall submit to the governor, the committee of each house of the legislature that has jurisdiction over appropriations, and the Legislative Budget Board a report that contains:

(1)  the salary for all agency personnel and the total amount of per diem expenses and travel expenses paid for all agency employees, including trend performance data for the preceding five fiscal years;

(2)  the total amount of per diem expenses and travel expenses paid for each member of the agency, including trend performance data for the preceding five fiscal years;

(3)  the agency's operating plan covering a period of two fiscal years [~~and the annual budgets of the commission and the board~~]; [~~and~~]

(4)  the agency's operating budget, including revenues and a breakdown of expenditures by program and administrative expense, showing:

(A)  projected budget data for a period of two fiscal years; and

(B)  trend performance data for the preceding five fiscal years; and

(5)  trend performance data for the preceding five fiscal years regarding:

(A)  the number of full-time equivalent positions at the agency;

(B)  the number of complaints received from the public and the number of complaints initiated by agency staff;

(C)  the number of complaints dismissed and the number of complaints resolved by enforcement action;

(D)  the number of enforcement actions by sanction type;

(E)  the number of enforcement cases closed through voluntary compliance;

(F)  the amount of administrative penalties assessed and the rate of collection of assessed administrative penalties;

(G)  the number of enforcement cases that allege a threat to public health, safety, or welfare or a violation of professional standards of care and the disposition of those cases;

(H)  the average time to resolve a complaint;

(I)  the number of license holders or regulated persons broken down by type of license and license status, including inactive status or retired status;

(J)  the fee charged to issue and renew each type of license, certificate, or registration issued by the agency;

(K)  the average time to issue a license, certificate, or registration;

(L)  litigation costs, broken down by administrative hearings, judicial proceedings, and outside counsel costs; and

(M)  reserve fund balances [~~a detailed report of all revenue received and all expenses incurred by the agency in the previous 12 months~~].

SECTION 39.  Section 1105.007, Occupations Code, is amended to read as follows:

Sec. 1105.007.  PROPERTY.  The commission or board may[~~:~~

[~~(1)~~]  acquire by [~~purchase,~~] lease[~~, gift, or any other manner provided by law~~] and maintain, use, and operate any real, personal, or mixed property[~~, or any interest in property,~~] necessary [~~or convenient~~] to the exercise of the respective powers, rights, privileges, or functions of the commission or board[~~;~~

[~~(2)  sell or otherwise dispose of any real, personal, or mixed property, or any interest in property, that the commission or board, as appropriate, determines is not necessary or convenient to the exercise of the commission's or board's respective powers, rights, privileges, or functions;~~

[~~(3)  construct, extend, improve, maintain, and reconstruct, or cause to construct, extend, improve, maintain, and reconstruct, and use and operate all facilities necessary or convenient to the exercise of the respective powers, rights, privileges, or functions of the commission or board; and~~

[~~(4)  borrow money, as may be authorized from time to time by an affirmative vote of a two-thirds majority of the commission or board, as appropriate, for a period not to exceed five years if necessary or convenient to the exercise of the commission's or board's respective powers, rights, privileges, or functions~~].

SECTION 40.  Section 1105.008(b), Occupations Code, is amended to read as follows:

(b)  The [~~Not later than August 31 of each fiscal year, the agency shall remit a nonrefundable retainer to the office of the attorney general in an amount of not less than $75,000.  The nonrefundable retainer shall be applied to any services provided to the agency.  If additional litigation services are required, the~~] attorney general may assess and collect from the agency reasonable attorney's fees[~~, in excess of the aggregate nonrefundable retainer amount paid each fiscal year,~~] associated with any litigation under this section.

SECTION 41.  Section 1105.009, Occupations Code, is amended to read as follows:

Sec. 1105.009.  ADMINISTRATIVE HEARINGS. The [~~(a) Not later than August 31 of each fiscal year, the agency shall remit a nonrefundable retainer to the~~] State Office of Administrative Hearings shall enter into a contract with the agency [~~in an amount of not less than $75,000~~] for hearings conducted by the State Office of Administrative Hearings under a law administered by the commission or the board. The agency shall reimburse the State Office of Administrative Hearings for costs incurred in conducting the hearings.

[~~(b)  The nonrefundable retainer shall be applied to the costs associated with conducting the hearings.  If additional costs are incurred, the State Office of Administrative Hearings may assess and collect from the agency reasonable fees, in excess of the nonrefundable retainer amount paid each fiscal year, associated with conducting the hearings.~~]

SECTION 42.  Subchapter B, Chapter 1303, Occupations Code, is amended by adding Section 1303.054 to read as follows:

Sec. 1303.054.  COMPLAINT INVESTIGATION. If the commission determines at any time that an allegation made or formal complaint submitted by a person is inappropriate or without merit, the commission shall dismiss the complaint and no further action may be taken. The commission may delegate to staff the duty to dismiss complaints described by this section.

SECTION 43.  Subchapter C, Chapter 221, Property Code, is amended by adding Section 221.0245 to read as follows:

Sec. 221.0245.  COMPLAINT INVESTIGATION. If the commission determines at any time that an allegation made or formal complaint submitted by a person is inappropriate or without merit, the commission shall dismiss the complaint and no further action may be taken. The commission may delegate to commission staff the duty to dismiss complaints under this section.

SECTION 44.  Subchapter C, Chapter 221, Property Code, is amended by adding Section 221.028 to read as follows:

Sec. 221.028.  DENIAL OF REGISTRATION RENEWAL. (a) The commission may deny the renewal of a registration under this chapter if the developer is in violation of a commission order.

(b)  The denial of a registration renewal under this section is subject to the same provisions as are applicable under Section 1101.364, Occupations Code, to the denial of a license.

SECTION 45.  Section 1101.552(c), Occupations Code, is repealed.

SECTION 46.  As soon as practicable after the effective date of this Act, the Texas Real Estate Commission and the Texas Appraiser Licensing and Certification Board shall adopt rules and policies and enter into contracts necessary to implement the changes in law made by this Act.

SECTION 47.  The changes in law made by this Act relating to an applicant's entitlement to a hearing following the denial of an application to renew a license, certificate of registration, or approval by the Texas Real Estate Commission or the Texas Appraiser Licensing and Certification Board, as applicable, apply only to an application for renewal that is submitted on or after the effective date of this Act. An application for renewal that is submitted before that date is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

SECTION 48.  (a) Except as provided by Subsection (b) of this section, Sections 1101.059 and 1103.0545, Occupations Code, as amended by this Act, apply to a member of the commission or board appointed before, on, or after the effective date of this Act.

(b)  A member of the commission or board who, before the effective date of this Act, completed the training program required by Section 1101.059 or 1103.0545, Occupations Code, as the applicable law existed before the effective date of this Act, is required to complete additional training only on the subjects added by this Act to the training program required by Section 1101.059 or 1103.0545, Occupations Code, as applicable. A member described by this subsection may not vote, deliberate, or be counted as a member in attendance at a meeting of the applicable commission or board held on or after December 1, 2019, until the member completes the additional training.

SECTION 49.  Sections 1101.354, 1102.107, and 1103.353, Occupations Code, as amended by this Act, apply only to an application submitted to the Texas Real Estate Commission or the Texas Appraiser Licensing and Certification Board, as applicable, on or after the effective date of this Act. An application submitted before that date is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

SECTION 50.  Section 1101.652(a), Occupations Code, as amended by this Act, and Section 1103.5526, Occupations Code, as added by this Act, apply only to disciplinary action regarding conduct that occurs on or after the effective date of this Act. Conduct that occurs before that date is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 51.  Section 1103.0521, Occupations Code, as added by this Act, and Section 1103.054, Occupations Code, as amended by this Act, do not affect the entitlement of a member serving on the Texas Appraiser Licensing and Certification Board immediately before the effective date of this Act to continue to serve for the remainder of the member's term. As the terms of board members expire, the governor shall appoint or reappoint members who have the qualifications required for members under Subchapter B, Chapter 1103, Occupations Code, as amended by this Act.

SECTION 52.  Section 1103.552(c), Occupations Code, as amended by this Act, applies only to an administrative penalty that is collected on or after the effective date of this Act. An administrative penalty collected before that date is governed by the law in effect on the date the penalty was collected, and the former law is continued in effect for that purpose.

SECTION 53.  This Act takes effect September 1, 2019.