

By: Nichols, Birdwell

S.B. No. 1459

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the continuation and functions of the Texas Real Estate
3 Commission and the Texas Appraiser Licensing and Certification
4 Board; changing fees.

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

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

8 Sec. 1101.006. APPLICATION OF SUNSET ACT. The Texas Real
9 Estate Commission is subject to Chapter 325, Government Code (Texas
10 Sunset Act). Unless continued in existence as provided by that
11 chapter, the commission is abolished and this chapter, Chapter
12 1102, and Chapter 1303 of this code and Chapter 221, Property Code,
13 expire September 1, 2025 [~~2019~~].

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

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

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

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

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

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

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

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

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

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

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

17 (6) [~~4~~] the requirements of:

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

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

23 (7) [~~5~~] any applicable ethics policies adopted by
24 the commission or the Texas Ethics Commission.

25 (c) A person appointed to the commission is entitled to
26 reimbursement, as provided by the General Appropriations Act, for
27 the travel expenses incurred in attending the training program

1 regardless of whether the attendance at the program occurs before
2 or after the person qualifies for office.

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

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

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

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

17 (2) renewal of a broker license;

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

20 (4) renewal of a sales agent license;

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

22 (6) filing an application for a license examination;

23 (7) ~~filing a request for a branch office license,~~

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

27 (8) ~~[(9)]~~ filing a request to replace a lost or

1 destroyed license or certificate of registration;

2 (9) [~~(10)~~] filing an application for approval of an
3 education program under Subchapter G;

4 (10) [~~(11)~~] annual operation of an education program
5 under Subchapter G;

6 (11) [~~(12)~~] ~~filing an application for approval of an~~
7 ~~instructor of qualifying real estate courses;~~

8 [~~(13)~~] transcript evaluation;

9 (12) [~~(14)~~] preparing a license or registration
10 history;

11 (13) [~~(15)~~] filing a request for a ~~[moral character]~~
12 determination of fitness to engage in a profession the commission
13 regulates; and

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

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

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

22 (2) an application for approval of a continuing
23 education course of study[~~+~~

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

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

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

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

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

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

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

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

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

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

26 (1) establish standards for the approval of qualifying
27 educational programs or courses of study in real estate and real

1 estate inspection conducted in this state, excluding programs and
2 courses offered by accredited colleges and universities; and

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

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

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

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

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

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

1 1101.364 to the denial of a license.

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

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

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

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

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

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

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

27 Sec. 1101.354. GENERAL ELIGIBILITY REQUIREMENTS. To be

1 eligible to receive a license under this chapter, a person must:

2 (1) at the time of application:

3 (A) be at least 18 years of age; and

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

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

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

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

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

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

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

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

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

24 Sec. 1101.505. DENIAL OF CERTIFICATE ISSUANCE OR RENEWAL.

25 (a) The denial of an original [a] certificate of registration or
26 renewal of a certificate of registration is subject to the same
27 provisions as are applicable under Section 1101.364 to the denial

1 of a license.

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

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

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

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

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

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

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

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

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

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

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

11 (7) fails to notify the commission, not later than the
12 30th day after the date of a final conviction or the entry of a plea
13 of guilty or nolo contendere, that the person has been convicted of
14 or entered a plea of guilty or nolo contendere to a felony or a
15 criminal offense involving fraud; or

16 (8) ~~(7)~~ disregards or violates this chapter or
17 Chapter 1102.

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

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

27 SECTION 17. Section 1102.107, Occupations Code, is amended

1 to read as follows:

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

5 (1) at the time of application be:

6 (A) at least 18 years of age; and

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

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

10 (2) be sponsored by a professional inspector; and

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

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

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

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

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

23 Sec. 1103.006. APPLICATION OF SUNSET ACT. The Texas
24 Appraiser Licensing and Certification Board is subject to Chapter
25 325, Government Code (Texas Sunset Act). Unless continued in
26 existence as provided by that chapter, the board is abolished and
27 this chapter and Chapter 1104 expire September 1, 2025 ~~[2019]~~.

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

3 Sec. 1103.0521. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)

4 In this section, "Texas trade association" means a cooperative and
5 voluntarily joined statewide association of business or
6 professional competitors in this state designed to assist its
7 members and its industry or profession in dealing with mutual
8 business or professional problems and in promoting their common
9 interest.

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

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

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

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

27 SECTION 21. Section 1103.054, Occupations Code, is amended

1 to read as follows:

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

5 (1) is a certified or licensed appraiser;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (6) [~~4~~] the requirements of:

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

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

25 (7) [~~5~~] any applicable ethics policies adopted by
26 the board or the Texas Ethics Commission.

27 (c) A person appointed to the board is entitled to

1 reimbursement, as provided by the General Appropriations Act, for
2 the travel expenses incurred in attending the training program
3 regardless of whether the attendance at the program occurs before
4 or after the person qualifies for office.

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

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

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

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

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

21 (3) is ineligible for membership under Section
22 1103.0521 or 1103.054;

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

26 (5) [~~4~~] is absent from more than half of the
27 regularly scheduled board meetings that the member is eligible to

1 attend during a calendar year, unless the absence is excused by a
2 majority vote of the board.

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

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

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

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

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

15 (2) the requirements for approval of a provider or [7]
16 course[~~, or instructor~~] for qualifying or continuing education.

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

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

25 Sec. 1103.159. ADVISORY COMMITTEE ON APPRAISAL MANAGEMENT
26 COMPANIES.

27 SECTION 27. Subchapter D, Chapter 1103, Occupations Code,

1 is amended by adding Sections 1103.160, 1103.161, 1103.162, and
2 1103.163 to read as follows:

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

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

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

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

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

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

20 (2) size and quorum requirements;

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

23 (4) appointment procedures;

24 (5) membership terms;

25 (6) training requirements for advisory committee
26 members; and

27 (7) the advisory committee's compliance with Chapter

1 551, Government Code.

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

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

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

12 (1) negotiated rulemaking procedures under Chapter
13 2008, Government Code, for the adoption of board rules; and

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

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

22 (c) The board shall:

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

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

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

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

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

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

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

15 Sec. 1103.214. DENIAL OF CERTIFICATE OR LICENSE RENEWAL.

16 (a) The board may deny the renewal of a certificate or license
17 issued under this chapter if the applicant is in violation of a
18 board order.

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

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

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

27 (1) be at least 18 years of age;

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

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

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

7 (4) ~~[(5)]~~ comply with the requirements of Sections
8 1103.203 and 1103.2031; and

9 (5) ~~[(6)]~~ meet all other qualifications established
10 by the board.

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

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

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

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

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

26 Sec. 1103.5526. REFUND. (a) Subject to Subsection (b), the
27 board may order a person regulated by the board under this chapter

1 or Chapter 1104 to pay a refund to a consumer as provided in an
2 agreement resulting from an informal settlement conference or an
3 enforcement order instead of or in addition to imposing an
4 administrative penalty or other sanctions.

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

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

12 (c) A person owning more than 10 percent of an appraisal
13 management company in this state must[+]

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

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

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

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

21 (1) must:

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

24 (B) have completed:

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

27 (ii) the seven-hour national Uniform

1 Standards of Professional Appraisal Practice update course not more
2 than two years before the renewal of the appraisal management
3 company's registration;

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

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

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

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

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

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

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

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

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

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

27 (b) ~~[Not later than August 31 of each fiscal year, the~~

1 ~~agency shall remit a nonrefundable retainer to the state auditor in~~
2 ~~an amount not less than \$10,000.]~~ The agency shall reimburse the
3 state auditor for all costs incurred~~[, in excess of the aggregate~~
4 ~~nonrefundable retainer amounts paid each fiscal year,]~~ in
5 performing the audits and shall provide to the governor a copy of
6 any audit performed.

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

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

- 13 (1) an audit as required by Section 1105.004;
- 14 (2) a financial report of the previous fiscal year,
15 including reports on the financial condition and results of
16 operations;
- 17 (3) a description of all changes in fees imposed on
18 regulated persons;
- 19 (4) a report on changes in the regulatory jurisdiction
20 of the agency;
- 21 (5) a report on the number of examination candidates,
22 license, certificate, and registration holders, and enforcement
23 activities and any changes in those figures; and
- 24 (6) [+5] a list of all new rules adopted or repealed.

25 (c) In addition to the reporting requirements of Subsection
26 (b), not later than November 1 of each year, the agency shall submit
27 to the governor, the committee of each house of the legislature that

1 has jurisdiction over appropriations, and the Legislative Budget
2 Board a report that contains:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (H) the average time to resolve a complaint;

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

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

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

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

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

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

27 Sec. 1105.007. PROPERTY. The commission or board may[+]

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

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

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

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

22 SECTION 40. Section [1105.008\(b\)](#), Occupations Code, is
23 amended to read as follows:

24 (b) The [~~Not later than August 31 of each fiscal year, the~~
25 ~~agency shall remit a nonrefundable retainer to the office of the~~
26 ~~attorney general in an amount of not less than \$75,000. The~~
27 ~~nonrefundable retainer shall be applied to any services provided to~~

1 ~~the agency. If additional litigation services are required, the]~~
2 attorney general may assess and collect from the agency reasonable
3 attorney's fees [~~, in excess of the aggregate nonrefundable retainer~~
4 ~~amount paid each fiscal year,~~] associated with any litigation under
5 this section.

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

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

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

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

25 Sec. 1303.054. COMPLAINT INVESTIGATION. If the commission
26 determines at any time that an allegation made or formal complaint
27 submitted by a person is inappropriate or without merit, the

1 commission shall dismiss the complaint and no further action may be
2 taken. The commission may delegate to staff the duty to dismiss
3 complaints described by this section.

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

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

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

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

17 (b) The denial of a registration renewal under this section
18 is subject to the same provisions as are applicable under Section
19 1101.364, Occupations Code, to the denial of a license.

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

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

27 SECTION 47. The changes in law made by this Act relating to

1 an applicant's entitlement to a hearing following the denial of an
2 application to renew a license, certificate of registration, or
3 approval by the Texas Real Estate Commission or the Texas Appraiser
4 Licensing and Certification Board, as applicable, apply only to an
5 application for renewal that is submitted on or after the effective
6 date of this Act. An application for renewal that is submitted
7 before that date is governed by the law in effect on the date the
8 application was submitted, and the former law is continued in
9 effect for that purpose.

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

14 (b) A member of the commission or board who, before the
15 effective date of this Act, completed the training program required
16 by Section [1101.059](#) or [1103.0545](#), Occupations Code, as the
17 applicable law existed before the effective date of this Act, is
18 required to complete additional training only on the subjects added
19 by this Act to the training program required by Section [1101.059](#) or
20 [1103.0545](#), Occupations Code, as applicable. A member described by
21 this subsection may not vote, deliberate, or be counted as a member
22 in attendance at a meeting of the applicable commission or board
23 held on or after December 1, 2019, until the member completes the
24 additional training.

25 SECTION 49. Sections [1101.354](#), [1102.107](#), and [1103.353](#),
26 Occupations Code, as amended by this Act, apply only to an
27 application submitted to the Texas Real Estate Commission or the

1 Texas Appraiser Licensing and Certification Board, as applicable,
2 on or after the effective date of this Act. An application
3 submitted before that date is governed by the law in effect on the
4 date the application was submitted, and the former law is continued
5 in effect for that purpose.

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

13 SECTION 51. Section 1103.0521, Occupations Code, as added
14 by this Act, and Section [1103.054](#), Occupations Code, as amended by
15 this Act, do not affect the entitlement of a member serving on the
16 Texas Appraiser Licensing and Certification Board immediately
17 before the effective date of this Act to continue to serve for the
18 remainder of the member's term. As the terms of board members
19 expire, the governor shall appoint or reappoint members who have
20 the qualifications required for members under Subchapter B, Chapter
21 [1103](#), Occupations Code, as amended by this Act.

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

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