

1-1 By: Nichols, Birdwell S.B. No. 624
 1-2 (In the Senate - Filed March 5, 2019; March 7, 2019, read
 1-3 first time and referred to Committee on Business & Commerce;
 1-4 March 27, 2019, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 8, Nays 0; March 27, 2019,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 624 By: Nichols

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the continuation and functions of the Texas Real Estate
 1-22 Commission and the Texas Appraiser Licensing and Certification
 1-23 Board; changing fees.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 1101.006, Occupations Code, is amended
 1-26 to read as follows:

1-27 Sec. 1101.006. APPLICATION OF SUNSET ACT. The Texas Real
 1-28 Estate Commission is subject to Chapter 325, Government Code (Texas
 1-29 Sunset Act). Unless continued in existence as provided by that
 1-30 chapter, the commission is abolished and this chapter, Chapter
 1-31 1102, and Chapter 1303 of this code and Chapter 221, Property Code,
 1-32 expire September 1, 2025 [2019].

1-33 SECTION 2. Section 1101.059, Occupations Code, is amended
 1-34 by amending Subsections (b) and (c) and adding Subsection (d) to
 1-35 read as follows:

1-36 (b) The training program must provide the person with
 1-37 information regarding:

1-38 (1) the law governing commission operations [this
 1-39 chapter and other laws regulated by the commission];

1-40 (2) the programs, functions, rules, and budget of the
 1-41 commission;

1-42 (3) the scope of and limitations on the rulemaking
 1-43 authority of the commission;

1-44 (4) the types of commission rules, interpretations,
 1-45 and enforcement actions that may implicate federal antitrust law by
 1-46 limiting competition or impacting prices charged by persons engaged
 1-47 in a profession or business the commission regulates, including any
 1-48 rule, interpretation, or enforcement action that:

1-49 (A) regulates the scope of practice of persons in
 1-50 a profession or business the commission regulates;

1-51 (B) restricts advertising by persons in a
 1-52 profession or business the commission regulates;

1-53 (C) affects the price of goods or services
 1-54 provided by persons in a profession or business the commission
 1-55 regulates; or

1-56 (D) restricts participation in a profession or
 1-57 business the commission regulates;

1-58 (5) the results of the most recent formal audit of the
 1-59 commission;

1-60 (6) [(-4)] the requirements of:

2-1 (A) laws relating to open meetings, public
 2-2 information, administrative procedure, and disclosure of conflicts
 2-3 of interest; and

2-4 (B) other laws applicable to members of a state
 2-5 policymaking body in performing their duties; and

2-6 (7) ~~(5)~~ any applicable ethics policies adopted by
 2-7 the commission or the Texas Ethics Commission.

2-8 (c) A person appointed to the commission is entitled to
 2-9 reimbursement, as provided by the General Appropriations Act, for
 2-10 the travel expenses incurred in attending the training program
 2-11 regardless of whether the attendance at the program occurs before
 2-12 or after the person qualifies for office.

2-13 (d) The executive director of the commission shall create a
 2-14 training manual that includes the information required by
 2-15 Subsection (b). The executive director shall distribute a copy of
 2-16 the training manual annually to each member of the commission. Each
 2-17 member of the commission shall sign and submit to the executive
 2-18 director a statement acknowledging that the member received and has
 2-19 reviewed the training manual.

2-20 SECTION 3. Section 1101.152, Occupations Code, is amended
 2-21 to read as follows:

2-22 Sec. 1101.152. FEES. (a) The commission shall adopt rules
 2-23 to charge and collect fees in amounts reasonable and necessary to
 2-24 cover the costs of administering this chapter, including a fee for:

2-25 (1) filing an original application for a broker
 2-26 license;

2-27 (2) renewal of a broker license;

2-28 (3) filing an original application for a sales agent
 2-29 license;

2-30 (4) renewal of a sales agent license;

2-31 (5) registration as an easement or right-of-way agent;

2-32 (6) filing an application for a license examination;

2-33 (7) ~~filing a request for a branch office license;~~

2-34 ~~(8)~~ filing a request for a change of place of
 2-35 business, change of name, return to active status, or change of
 2-36 sponsoring broker;

2-37 (8) ~~(9)~~ filing a request to replace a lost or
 2-38 destroyed license or certificate of registration;

2-39 (9) ~~(10)~~ filing an application for approval of an
 2-40 education program under Subchapter G;

2-41 (10) ~~(11)~~ annual operation of an education program
 2-42 under Subchapter G;

2-43 (11) ~~(12) filing an application for approval of an~~
 2-44 ~~instructor of qualifying real estate courses;~~

2-45 ~~(13)~~ transcript evaluation;

2-46 (12) ~~(14)~~ preparing a license or registration
 2-47 history;

2-48 (13) ~~(15)~~ filing a request for a ~~moral character~~
 2-49 determination of fitness to engage in a profession the commission
 2-50 regulates; and

2-51 (14) ~~(16)~~ conducting a criminal history check for
 2-52 issuing or renewing a license.

2-53 (b) The commission shall adopt rules to set and collect fees
 2-54 in amounts reasonable and necessary to cover the costs of
 2-55 implementing the continuing education requirements for license
 2-56 holders, including a fee for:

2-57 (1) an application for approval of a continuing
 2-58 education provider; and

2-59 (2) an application for approval of a continuing
 2-60 education course of study;

2-61 ~~(3) an application for approval of an instructor of~~
 2-62 ~~continuing education courses; and~~

2-63 ~~(4) attendance at a program to train instructors of a~~
 2-64 ~~continuing education course prescribed under Section 1101.455].~~

2-65 SECTION 4. Section 1101.204, Occupations Code, is amended
 2-66 by adding Subsection (i) to read as follows:

2-67 (i) If the commission determines at any time that an
 2-68 allegation made or formal complaint submitted by a person is
 2-69 inappropriate or without merit, the commission shall dismiss the

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

3-4 SECTION 5. Section 1101.2051, Occupations Code, is amended
3-5 by adding Subsection (d-1) to read as follows:

3-6 (d-1) The commission shall protect the identity of a
3-7 complainant to the extent possible by excluding the complainant's
3-8 identifying information from a complaint notice sent to a
3-9 respondent.

3-10 SECTION 6. Section 1101.206(a), Occupations Code, is
3-11 amended to read as follows:

3-12 (a) The commission shall develop and implement policies
3-13 that provide the public with a reasonable opportunity to appear
3-14 before the commission and to speak on any agenda item at a regular
3-15 commission meeting [issue under the commission's jurisdiction].

3-16 SECTION 7. Section 1101.301, Occupations Code, is amended
3-17 by amending Subsection (a) and adding Subsections (b-1) and (f) to
3-18 read as follows:

3-19 (a) The commission, as necessary for the administration of
3-20 this chapter and Chapter 1102, may by rule:

3-21 (1) establish standards for the approval of qualifying
3-22 educational programs or courses of study in real estate and real
3-23 estate inspection conducted in this state, excluding programs and
3-24 courses offered by accredited colleges and universities; and

3-25 (2) develop minimum education and experience
3-26 requirements for an instructor of a course of study described by
3-27 Subdivision (1).

3-28 (b-1) For commission approval of an application to offer a
3-29 course of study under this section, the applicant must ensure that
3-30 the educational program's instructors meet the minimum education
3-31 and experience requirements developed by the commission under
3-32 Subsection (a)(2).

3-33 (f) The commission may deny approval of an application to
3-34 renew a program's approval to offer a program or course of study if
3-35 the applicant is in violation of a commission order. The denial of
3-36 an approval under this subsection is subject to the same provisions
3-37 as are applicable under Section 1101.364 to the denial of a license.

3-38 SECTION 8. Section 1101.303, Occupations Code, is amended
3-39 by adding Subsections (c) and (d) to read as follows:

3-40 (c) The commission may by rule develop minimum education and
3-41 experience requirements for an instructor of a continuing education
3-42 course of study. For commission approval of an application to offer
3-43 the course, the applicant must ensure that the course's instructors
3-44 meet the minimum education and experience requirements developed by
3-45 the commission under this subsection.

3-46 (d) The commission may deny an application to renew an
3-47 approval under this section if the applicant is in violation of a
3-48 commission order. The denial of an approval under this subsection
3-49 is subject to the same provisions as are applicable under Section
3-50 1101.364 to the denial of a license.

3-51 SECTION 9. The heading to Section 1101.353, Occupations
3-52 Code, is amended to read as follows:

3-53 Sec. 1101.353. [~~MORAL CHARACTER~~] DETERMINATION OF FITNESS.

3-54 SECTION 10. Sections 1101.353(a), (c), and (d), Occupations
3-55 Code, are amended to read as follows:

3-56 (a) If before applying for a license under this chapter a
3-57 person requests that the commission determine whether the person
3-58 possesses the fitness to engage in the profession for which the
3-59 license is required [person's moral character complies with the
3-60 commission's moral character requirements for licensing under this
3-61 chapter] and pays the required fee, the commission shall make its
3-62 determination of the person's fitness to engage in the profession
3-63 [moral character].

3-64 (c) If a person applies for a license after receiving notice
3-65 of a determination, the commission may conduct a supplemental
3-66 [~~moral character~~] determination of the person's fitness [person].
3-67 The supplemental determination may cover only the period after the
3-68 date the person requests a [~~moral character~~] determination of
3-69 fitness under this section.

4-1 (d) The commission may issue a provisional [~~moral~~
4-2 ~~character~~] determination of fitness. The commission by rule shall
4-3 adopt reasonable terms for issuing a provisional [~~moral character~~]
4-4 determination of fitness.

4-5 SECTION 11. Section 1101.354, Occupations Code, is amended
4-6 to read as follows:

4-7 Sec. 1101.354. GENERAL ELIGIBILITY REQUIREMENTS. To be
4-8 eligible to receive a license under this chapter, a person must:

- 4-9 (1) at the time of application:
 - 4-10 (A) be at least 18 years of age; and
 - 4-11 (B) be a citizen of the United States or a
 - 4-12 lawfully admitted alien; [~~and~~
 - 4-13 [~~(C) be a resident of this state;~~]

4-14 (2) satisfy the commission as to the applicant's
4-15 honesty, trustworthiness, and integrity;

4-16 (3) demonstrate competence based on an examination
4-17 under Subchapter I; and

4-18 (4) complete the required courses of study, including
4-19 any required qualifying real estate courses prescribed under this
4-20 chapter.

4-21 SECTION 12. Subchapter J, Chapter 1101, Occupations Code,
4-22 is amended by adding Section 1101.459 to read as follows:

4-23 Sec. 1101.459. DENIAL OF LICENSE RENEWAL. (a) The
4-24 commission may deny the renewal of a license under this chapter if
4-25 the applicant is in violation of a commission order.

4-26 (b) The denial of a license renewal is subject to the same
4-27 provisions as are applicable under Section 1101.364 to the denial
4-28 of a license.

4-29 SECTION 13. Section 1101.505, Occupations Code, is amended
4-30 to read as follows:

4-31 Sec. 1101.505. DENIAL OF CERTIFICATE ISSUANCE OR RENEWAL.

4-32 (a) The denial of an original [a] certificate of registration or
4-33 renewal of a certificate of registration is subject to the same
4-34 provisions as are applicable under Section 1101.364 to the denial
4-35 of a license.

4-36 (b) The commission may deny the renewal of a certificate of
4-37 registration if the applicant is in violation of a commission
4-38 order.

4-39 SECTION 14. The heading to Section 1101.552, Occupations
4-40 Code, is amended to read as follows:

4-41 Sec. 1101.552. FIXED OFFICE REQUIRED; CHANGE OF ADDRESS[~~+~~
4-42 ~~BRANCH OFFICES~~].

4-43 SECTION 15. Section 1101.652(a), Occupations Code, is
4-44 amended to read as follows:

4-45 (a) The commission may suspend or revoke a license issued
4-46 under this chapter or Chapter 1102 or take other disciplinary
4-47 action authorized by this chapter or Chapter 1102 if the license
4-48 holder:

4-49 (1) enters a plea of guilty or nolo contendere to or is
4-50 convicted of a felony or a criminal offense involving fraud, and the
4-51 time for appeal has elapsed or the judgment or conviction has been
4-52 affirmed on appeal, without regard to an order granting community
4-53 supervision that suspends the imposition of the sentence;

4-54 (2) procures or attempts to procure a license under
4-55 this chapter or Chapter 1102 for the license holder by fraud,
4-56 misrepresentation, or deceit or by making a material misstatement
4-57 of fact in an application for a license;

4-58 (3) fails to honor, within a reasonable time, a check
4-59 issued to the commission after the commission has sent by certified
4-60 mail a request for payment to the license holder's last known
4-61 business address according to commission records;

4-62 (4) fails to provide, within a reasonable time,
4-63 information requested by the commission that relates to a formal or
4-64 informal complaint to the commission that would indicate a
4-65 violation of this chapter or Chapter 1102;

4-66 (5) fails to surrender to the owner, without just
4-67 cause, a document or instrument that is requested by the owner and
4-68 that is in the license holder's possession;

4-69 (6) fails to consider market conditions for the

5-1 specific geographic area in which the license holder is providing a
 5-2 service;

5-3 (7) fails to notify the commission, not later than the
 5-4 30th day after the date of a final conviction or the entry of a plea
 5-5 of guilty or nolo contendere, that the person has been convicted of
 5-6 or entered a plea of guilty or nolo contendere to a felony or a
 5-7 criminal offense involving fraud; or

5-8 (8) ~~(7)~~ disregards or violates this chapter or
 5-9 Chapter 1102.

5-10 SECTION 16. Section 1102.106, Occupations Code, is amended
 5-11 to read as follows:

5-12 Sec. 1102.106. ~~[MORAL CHARACTER]~~ DETERMINATION OF FITNESS.
 5-13 As prescribed by Section 1101.353, the commission shall determine,
 5-14 on request, whether a person possesses the fitness to engage in a
 5-15 profession licensed [person's moral character complies with the
 5-16 commission's moral character requirements for licensing] under
 5-17 this chapter and may conduct a supplemental ~~[moral character]~~
 5-18 determination of the person's fitness ~~[person]~~.

5-19 SECTION 17. Section 1102.107, Occupations Code, is amended
 5-20 to read as follows:

5-21 Sec. 1102.107. ELIGIBILITY FOR APPRENTICE INSPECTOR
 5-22 LICENSE. To be eligible for an apprentice inspector license, an
 5-23 applicant must:

5-24 (1) at the time of application be:
 5-25 (A) at least 18 years of age; and
 5-26 (B) a citizen of the United States or a lawfully
 5-27 admitted alien; ~~[and~~
 5-28 ~~[(C) a resident of this state,]~~

5-29 (2) be sponsored by a professional inspector; and
 5-30 (3) satisfy the commission as to the applicant's
 5-31 honesty, trustworthiness, and integrity.

5-32 SECTION 18. Subchapter E, Chapter 1102, Occupations Code,
 5-33 is amended by adding Section 1102.206 to read as follows:

5-34 Sec. 1102.206. DENIAL OF LICENSE RENEWAL. (a) The
 5-35 commission may deny the renewal of a license if the applicant is in
 5-36 violation of a commission order.

5-37 (b) The provisions of Section 1101.459 governing the
 5-38 commission's denial of a license renewal under that chapter apply
 5-39 to the commission's denial of a license renewal under this chapter.

5-40 SECTION 19. Section 1103.006, Occupations Code, is amended
 5-41 to read as follows:

5-42 Sec. 1103.006. APPLICATION OF SUNSET ACT. The Texas
 5-43 Appraiser Licensing and Certification Board is subject to Chapter
 5-44 325, Government Code (Texas Sunset Act). Unless continued in
 5-45 existence as provided by that chapter, the board is abolished and
 5-46 this chapter and Chapter 1104 expire September 1, 2025 ~~[2019]~~.

5-47 SECTION 20. Subchapter B, Chapter 1103, Occupations Code,
 5-48 is amended by adding Section 1103.0521 to read as follows:

5-49 Sec. 1103.0521. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.
 5-50 (a) In this section, "Texas trade association" means a cooperative
 5-51 and voluntarily joined statewide association of business or
 5-52 professional competitors in this state designed to assist its
 5-53 members and its industry or profession in dealing with mutual
 5-54 business or professional problems and in promoting their common
 5-55 interest.

5-56 (b) A person may not be a member of the board and may not be a
 5-57 board employee employed in a "bona fide executive, administrative,
 5-58 or professional capacity," as that phrase is used for purposes of
 5-59 establishing an exemption to the overtime provisions of the federal
 5-60 Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.),
 5-61 if:

5-62 (1) the person is an officer, employee, or paid
 5-63 consultant of a Texas trade association in the field of real estate
 5-64 brokerage or appraisal; or

5-65 (2) the person's spouse is an officer, manager, or paid
 5-66 consultant of a Texas trade association in the field of real estate
 5-67 brokerage or appraisal.

5-68 (c) A person may not serve as a board member or act as the
 5-69 general counsel to the board if the person is required to register

6-1 as a lobbyist under Chapter 305, Government Code, because of the
6-2 person's activities for compensation on behalf of a profession
6-3 related to the operation of the board.

6-4 SECTION 21. Section 1103.054, Occupations Code, is amended
6-5 to read as follows:

6-6 Sec. 1103.054. ELIGIBILITY OF PUBLIC MEMBERS. A person is
6-7 not eligible for appointment as a public member of the board if the
6-8 person or the person's spouse:

6-9 (1) is a certified or licensed appraiser;

6-10 (2) is certified or licensed by an occupational
6-11 regulatory agency in the field of real estate brokerage or
6-12 appraisal;

6-13 (3) owns or controls, directly or indirectly, a
6-14 business entity or other organization whose primary purpose is to
6-15 engage in real estate sales, brokerage, or appraisal; ~~or~~

6-16 (4) is employed by or participates in the management
6-17 of a business entity or other organization whose primary purpose is
6-18 to engage in real estate sales, brokerage, or appraisal; or

6-19 (5) uses or receives a substantial amount of tangible
6-20 goods, services, or money from the board other than compensation or
6-21 reimbursement authorized by law for board membership, attendance,
6-22 or expenses.

6-23 SECTION 22. Section 1103.0545, Occupations Code, is amended
6-24 by amending Subsections (b) and (c) and adding Subsection (d) to
6-25 read as follows:

6-26 (b) The training program must provide the person with
6-27 information regarding:

6-28 (1) the law governing board operations [~~this chapter~~
6-29 ~~and other laws applicable to the board~~];

6-30 (2) the programs, functions, rules, and budget of the
6-31 board;

6-32 (3) the scope of and limitations on the rulemaking
6-33 authority of the board;

6-34 (4) the types of board rules, interpretations, and
6-35 enforcement actions that may implicate federal antitrust law by
6-36 limiting competition or impacting prices charged by persons engaged
6-37 in a profession or business the board regulates, including any
6-38 rule, interpretation, or enforcement action that:

6-39 (A) regulates the scope of practice of persons in
6-40 a profession or business the board regulates;

6-41 (B) restricts advertising by persons in a
6-42 profession or business the board regulates;

6-43 (C) affects the price of goods or services
6-44 provided by persons in a profession or business the board
6-45 regulates; or

6-46 (D) restricts participation in a profession or
6-47 business the board regulates;

6-48 (5) the results of the most recent formal audit of the
6-49 board;

6-50 (6) [~~(4)~~] the requirements of:

6-51 (A) laws relating to open meetings, public
6-52 information, administrative procedure, and disclosure of conflicts
6-53 of interest; and

6-54 (B) other laws applicable to members of a state
6-55 policymaking body in performing their duties; and

6-56 (7) [~~(5)~~] any applicable ethics policies adopted by
6-57 the board or the Texas Ethics Commission.

6-58 (c) A person appointed to the board is entitled to
6-59 reimbursement, as provided by the General Appropriations Act, for
6-60 the travel expenses incurred in attending the training program
6-61 regardless of whether the attendance at the program occurs before
6-62 or after the person qualifies for office.

6-63 (d) The commissioner shall create a training manual that
6-64 includes the information required by Subsection (b). The
6-65 commissioner shall distribute a copy of the training manual
6-66 annually to each member of the board. Each member of the board
6-67 shall sign and submit to the commissioner a statement acknowledging
6-68 that the member received and has reviewed the training manual.

6-69 SECTION 23. Section 1103.057(a), Occupations Code, is

7-1 amended to read as follows:

7-2 (a) It is a ground for removal from the board that an
7-3 appointed member:

7-4 (1) does not have at the time of appointment the
7-5 qualifications required by this subchapter for appointment to the
7-6 board;

7-7 (2) does not maintain during service on the board the
7-8 qualifications required by this subchapter for appointment to the
7-9 board;

7-10 (3) is ineligible for membership under Section
7-11 1103.0521 or 1103.054;

7-12 (4) cannot, because of illness or disability,
7-13 discharge the member's duties for a substantial part of the member's
7-14 term; or

7-15 (5) [~~4~~] is absent from more than half of the
7-16 regularly scheduled board meetings that the member is eligible to
7-17 attend during a calendar year, unless the absence is excused by a
7-18 majority vote of the board.

7-19 SECTION 24. Subchapter C, Chapter 1103, Occupations Code,
7-20 is amended by adding Section 1103.105 to read as follows:

7-21 Sec. 1103.105. DIVISION OF RESPONSIBILITIES. The board
7-22 shall develop and implement policies that clearly separate the
7-23 policymaking responsibilities of the board and the management
7-24 responsibilities of the commissioner and the staff of the board.

7-25 SECTION 25. Section 1103.153, Occupations Code, is amended
7-26 to read as follows:

7-27 Sec. 1103.153. RULES RELATING TO QUALIFYING OR CONTINUING
7-28 EDUCATION. (a) The board may adopt rules relating to:

7-29 (1) continuing education requirements for a certified
7-30 or licensed appraiser or an appraiser trainee; and

7-31 (2) the requirements for approval of a provider or [~~7~~]
7-32 course[, or instructor] for qualifying or continuing education.

7-33 (b) In addition to the rules adopted under Subsection (a),
7-34 the board may by rule develop minimum education and experience
7-35 requirements for an instructor of a course for qualifying or
7-36 continuing education. For board approval of a course provider
7-37 application, the applicant must ensure that the instructors meet
7-38 the minimum education and experience requirements.

7-39 SECTION 26. The heading to Section 1103.159, Occupations
7-40 Code, is amended to read as follows:

7-41 Sec. 1103.159. ADVISORY COMMITTEE ON APPRAISAL MANAGEMENT
7-42 COMPANIES.

7-43 SECTION 27. Subchapter D, Chapter 1103, Occupations Code,
7-44 is amended by adding Sections 1103.160, 1103.161, 1103.162, and
7-45 1103.163 to read as follows:

7-46 Sec. 1103.160. ADVISORY COMMITTEES. (a) The board may
7-47 appoint advisory committees to perform the advisory functions
7-48 assigned to the committees by the board. An advisory committee
7-49 under this section is subject to Chapter 2110, Government Code.

7-50 (b) A member of an advisory committee who is not a member of
7-51 the board may not receive compensation for service on the
7-52 committee. The member may receive reimbursement for actual and
7-53 necessary expenses incurred in performing committee functions as
7-54 provided by Section 2110.004, Government Code.

7-55 (c) A member of an advisory committee serves at the will of
7-56 the board.

7-57 (d) An advisory committee may hold a meeting by telephone
7-58 conference call or other video or broadcast technology.

7-59 (e) If the board appoints an advisory committee under this
7-60 section, the board shall adopt rules regarding:

7-61 (1) the advisory committee's purpose, role,
7-62 responsibility, and goals;

7-63 (2) size and quorum requirements;

7-64 (3) qualifications for membership, including
7-65 experience requirements and geographic representation;

7-66 (4) appointment procedures;

7-67 (5) membership terms;

7-68 (6) training requirements for advisory committee
7-69 members; and

8-1 (7) the advisory committee's compliance with Chapter
 8-2 551, Government Code.

8-3 (f) In addition to the rules adopted under Subsection (e),
 8-4 the board by rule shall adopt a process to regularly evaluate the
 8-5 need for an advisory committee appointed under this section.

8-6 Sec. 1103.161. PUBLIC PARTICIPATION. The board shall
 8-7 develop and implement policies that provide the public with a
 8-8 reasonable opportunity to appear before the board and to speak on
 8-9 any agenda item at a regular board meeting.

8-10 Sec. 1103.162. NEGOTIATED RULEMAKING AND ALTERNATIVE
 8-11 DISPUTE RESOLUTION PROCEDURES. (a) The board shall develop and
 8-12 implement a policy to encourage the use of:

8-13 (1) negotiated rulemaking procedures under Chapter
 8-14 2008, Government Code, for the adoption of board rules; and

8-15 (2) appropriate alternative dispute resolution
 8-16 procedures under Chapter 2009, Government Code, to assist in the
 8-17 resolution of internal and external disputes under the board's
 8-18 jurisdiction.

8-19 (b) The board's procedures relating to alternative dispute
 8-20 resolution must conform, to the extent possible, to any model
 8-21 guidelines issued by the State Office of Administrative Hearings
 8-22 for the use of alternative dispute resolution by state agencies.

8-23 (c) The board shall:

8-24 (1) coordinate the implementation of the policy
 8-25 adopted under Subsection (a);

8-26 (2) provide training as needed to implement the
 8-27 procedures for negotiated rulemaking or alternative dispute
 8-28 resolution; and

8-29 (3) collect data concerning the effectiveness of those
 8-30 procedures.

8-31 Sec. 1103.163. COMPLAINT INFORMATION. (a) The board shall
 8-32 maintain a system to promptly and efficiently act on complaints
 8-33 filed with the board. The board shall maintain information about
 8-34 parties to the complaint, the subject matter of the complaint, a
 8-35 summary of the results of the review or investigation of the
 8-36 complaint, and its disposition.

8-37 (b) The board shall make information available describing
 8-38 its procedures for complaint investigation and resolution.

8-39 (c) The board shall periodically notify the complaint
 8-40 parties of the status of the complaint until final disposition.

8-41 SECTION 28. Subchapter E, Chapter 1103, Occupations Code,
 8-42 is amended by adding Section 1103.214 to read as follows:

8-43 Sec. 1103.214. DENIAL OF CERTIFICATE OR LICENSE RENEWAL.

8-44 (a) The board may deny the renewal of a certificate or license
 8-45 issued under this chapter if the applicant is in violation of a
 8-46 board order.

8-47 (b) The denial of a certificate or license renewal under
 8-48 this section is subject to the same provisions as are applicable
 8-49 under Section 1103.210 to the denial of a certificate or license.

8-50 SECTION 29. Section 1103.353, Occupations Code, is amended
 8-51 to read as follows:

8-52 Sec. 1103.353. ELIGIBILITY REQUIREMENTS FOR APPRAISER
 8-53 TRAINEE. To be eligible for a license as an appraiser trainee, an
 8-54 applicant must:

8-55 (1) be at least 18 years of age;

8-56 (2) be a citizen of the United States or a lawfully
 8-57 admitted alien;

8-58 (3) ~~have been a resident of this state for the 60 days~~
 8-59 ~~preceding the date the application is filed,~~

8-60 ~~[(4)] satisfy the board as to the applicant's honesty,~~
 8-61 ~~trustworthiness, and integrity;~~

8-62 ~~[(4)] [(5)] comply with the requirements of Sections~~
 8-63 ~~1103.203 and 1103.2031; and~~

8-64 ~~[(5)] [(6)] meet all other qualifications established~~
 8-65 ~~by the board.~~

8-66 SECTION 30. Section 1103.460, Occupations Code, is amended
 8-67 by adding Subsection (d-1) to read as follows:

8-68 (d-1) The board shall protect the identity of a complainant
 8-69 to the extent possible by excluding the complainant's identifying

9-1 information from a complaint notice sent to a respondent.

9-2 SECTION 31. Section 1103.552(c), Occupations Code, is
 9-3 amended to read as follows:

9-4 (c) Notwithstanding any other law, the board shall remit an
 9-5 administrative penalty collected under this section to the
 9-6 comptroller for deposit in the general revenue fund [~~shall be~~
 9-7 ~~deposited in a restricted fund maintained and operated by the board~~
 9-8 ~~to develop educational programs for appraisers or conduct studies~~
 9-9 ~~that enhance consumer protection~~].

9-10 SECTION 32. Subchapter L, Chapter 1103, Occupations Code,
 9-11 is amended by adding Section 1103.5526 to read as follows:

9-12 Sec. 1103.5526. REFUND. (a) Subject to Subsection (b),
 9-13 the board may order a person regulated by the board under this
 9-14 chapter or Chapter 1104 to pay a refund to a consumer as provided in
 9-15 an agreement resulting from an informal settlement conference or an
 9-16 enforcement order instead of or in addition to imposing an
 9-17 administrative penalty or other sanctions.

9-18 (b) The amount of a refund ordered as provided in an
 9-19 agreement resulting from an informal settlement conference or an
 9-20 enforcement order may not exceed the amount the consumer paid to the
 9-21 person for a service regulated by the board. The board may not
 9-22 require payment of other damages or estimate harm in a refund order.

9-23 SECTION 33. Section 1104.102(c), Occupations Code, is
 9-24 amended to read as follows:

9-25 (c) A person owning more than 10 percent of an appraisal
 9-26 management company in this state must[+

9-27 [~~(1) be of good moral character, as determined by the~~
 9-28 ~~board, and~~

9-29 [~~(2)~~] submit to a background investigation, as
 9-30 determined by the board.

9-31 SECTION 34. Section 1104.104(b), Occupations Code, is
 9-32 amended to read as follows:

9-33 (b) The controlling person designated under Subsection (a):

9-34 (1) must:

9-35 (A) be certified as an appraiser in at least one
 9-36 state at all times during the designation; or

9-37 (B) have completed:

9-38 (i) the 15-hour national Uniform Standards
 9-39 of Professional Appraisal Practice course; and

9-40 (ii) the seven-hour national Uniform
 9-41 Standards of Professional Appraisal Practice update course not more
 9-42 than two years before the renewal of the appraisal management
 9-43 company's registration;

9-44 (2) may not have had a license or certificate to act as
 9-45 an appraiser denied, revoked, or surrendered in lieu of revocation
 9-46 in any state unless:

9-47 (A) the person has subsequently had the license
 9-48 or certificate to act as an appraiser granted or reinstated; and

9-49 (B) the license or certificate to act as an
 9-50 appraiser was denied, revoked, or surrendered for a nonsubstantive
 9-51 reason as determined by the board; and

9-52 (3) [~~must be of good moral character, as determined by~~
 9-53 ~~the board, and~~

9-54 [~~(4)~~] shall submit to a background investigation, as
 9-55 determined by the board.

9-56 SECTION 35. Section 1104.105, Occupations Code, is amended
 9-57 by adding Subsection (a-1) to read as follows:

9-58 (a-1) The board may deny an application for registration
 9-59 renewal if the applicant is in violation of a board order.

9-60 SECTION 36. Section 1104.2082, Occupations Code, is amended
 9-61 by adding Subsection (e-1) to read as follows:

9-62 (e-1) The board shall protect the identity of a complainant
 9-63 to the extent possible by excluding the complainant's identifying
 9-64 information from a complaint notice sent to a respondent.

9-65 SECTION 37. Section 1105.004(b), Occupations Code, is
 9-66 amended to read as follows:

9-67 (b) [~~Not later than August 31 of each fiscal year, the~~
 9-68 ~~agency shall remit a nonrefundable retainer to the state auditor in~~
 9-69 ~~an amount not less than \$10,000.] The agency shall reimburse the~~

10-1 state auditor for all costs incurred~~[, in excess of the aggregate~~
 10-2 ~~nonrefundable retainer amounts paid each fiscal year,]~~ in
 10-3 performing the audits and shall provide to the governor a copy of
 10-4 any audit performed.

10-5 SECTION 38. Sections 1105.005(b) and (c), Occupations Code,
 10-6 are amended to read as follows:

10-7 (b) Before the beginning of each regular session of the
 10-8 legislature, the agency shall submit to the legislature and the
 10-9 governor a report describing all of the agency's activities in the
 10-10 previous biennium. The report must include:

- 10-11 (1) an audit as required by Section 1105.004;
- 10-12 (2) a financial report of the previous fiscal year,
 10-13 including reports on the financial condition and results of
 10-14 operations;
- 10-15 (3) a description of all changes in fees imposed on
 10-16 regulated persons;
- 10-17 (4) a report on changes in the regulatory jurisdiction
 10-18 of the agency;
- 10-19 (5) a report on the number of examination candidates,
 10-20 license, certificate, and registration holders, and enforcement
 10-21 activities and any changes in those figures; and
- 10-22 (6) ~~[(5)]~~ a list of all new rules adopted or repealed.

10-23 (c) In addition to the reporting requirements of Subsection
 10-24 (b), not later than November 1 of each year, the agency shall submit
 10-25 to the governor, the committee of each house of the legislature that
 10-26 has jurisdiction over appropriations, and the Legislative Budget
 10-27 Board a report that contains:

- 10-28 (1) the salary for all agency personnel and the total
 10-29 amount of per diem expenses and travel expenses paid for all agency
 10-30 employees, including trend performance data for the preceding five
 10-31 fiscal years;
- 10-32 (2) the total amount of per diem expenses and travel
 10-33 expenses paid for each member of the agency, including trend
 10-34 performance data for the preceding five fiscal years;
- 10-35 (3) the agency's operating plan covering a period of
 10-36 two fiscal years [and the annual budgets of the commission and the
 10-37 board]; [and]
- 10-38 (4) the agency's operating budget, including revenues
 10-39 and a breakdown of expenditures by program and administrative
 10-40 expense, showing:
 - 10-41 (A) projected budget data for a period of two
 10-42 fiscal years; and
 - 10-43 (B) trend performance data for the preceding five
 10-44 fiscal years; and
 - 10-45 (5) trend performance data for the preceding five
 10-46 fiscal years regarding:
 - 10-47 (A) the number of full-time equivalent positions
 10-48 at the agency;
 - 10-49 (B) the number of complaints received from the
 10-50 public and the number of complaints initiated by agency staff;
 - 10-51 (C) the number of complaints dismissed and the
 10-52 number of complaints resolved by enforcement action;
 - 10-53 (D) the number of enforcement actions by sanction
 10-54 type;
 - 10-55 (E) the number of enforcement cases closed
 10-56 through voluntary compliance;
 - 10-57 (F) the amount of administrative penalties
 10-58 assessed and the rate of collection of assessed administrative
 10-59 penalties;
 - 10-60 (G) the number of enforcement cases that allege a
 10-61 threat to public health, safety, or welfare or a violation of
 10-62 professional standards of care and the disposition of those cases;
 - 10-63 (H) the average time to resolve a complaint;
 - 10-64 (I) the number of license holders or regulated
 10-65 persons broken down by type of license and license status,
 10-66 including inactive status or retired status;
 - 10-67 (J) the fee charged to issue and renew each type
 10-68 of license, certificate, or registration issued by the agency;
 - 10-69 (K) the average time to issue a license,

11-1 certificate, or registration;
 11-2 (L) litigation costs, broken down by
 11-3 administrative hearings, judicial proceedings, and outside counsel
 11-4 costs; and

11-5 (M) reserve fund balances [a detailed report of
 11-6 all revenue received and all expenses incurred by the agency in the
 11-7 previous 12 months].

11-8 SECTION 39. Section 1105.007, Occupations Code, is amended
 11-9 to read as follows:

11-10 Sec. 1105.007. PROPERTY. The commission or board may[+
 11-11 [~~(1)~~] acquire by [~~purchase,~~] lease[~~, gift, or any~~
 11-12 ~~other manner provided by law~~] and maintain, use, and operate any
 11-13 real, personal, or mixed property[~~, or any interest in property,~~]
 11-14 necessary [~~or convenient~~] to the exercise of the respective powers,
 11-15 rights, privileges, or functions of the commission or board[+

11-16 [~~(2)~~ sell or otherwise dispose of any real, personal,
 11-17 or mixed property, or any interest in property, that the commission
 11-18 or board, as appropriate, determines is not necessary or convenient
 11-19 to the exercise of the commission's or board's respective powers,
 11-20 rights, privileges, or functions,

11-21 [~~(3)~~ construct, extend, improve, maintain, and
 11-22 reconstruct, or cause to construct, extend, improve, maintain, and
 11-23 reconstruct, and use and operate all facilities necessary or
 11-24 convenient to the exercise of the respective powers, rights,
 11-25 privileges, or functions of the commission or board; and

11-26 [~~(4)~~ borrow money, as may be authorized from time to
 11-27 time by an affirmative vote of a two-thirds majority of the
 11-28 commission or board, as appropriate, for a period not to exceed five
 11-29 years if necessary or convenient to the exercise of the
 11-30 commission's or board's respective powers, rights, privileges, or
 11-31 functions].

11-32 SECTION 40. Section 1105.008(b), Occupations Code, is
 11-33 amended to read as follows:

11-34 (b) The [~~Not later than August 31 of each fiscal year, the~~
 11-35 ~~agency shall remit a nonrefundable retainer to the office of the~~
 11-36 ~~attorney general in an amount of not less than \$75,000. The~~
 11-37 ~~nonrefundable retainer shall be applied to any services provided to~~
 11-38 ~~the agency. If additional litigation services are required, the]~~
 11-39 attorney general may assess and collect from the agency reasonable
 11-40 attorney's fees[~~, in excess of the aggregate nonrefundable retainer~~
 11-41 ~~amount paid each fiscal year,]~~ associated with any litigation under
 11-42 this section.

11-43 SECTION 41. Section 1105.009, Occupations Code, is amended
 11-44 to read as follows:

11-45 Sec. 1105.009. ADMINISTRATIVE HEARINGS. The [~~(a) Not~~
 11-46 ~~later than August 31 of each fiscal year, the agency shall remit a~~
 11-47 ~~nonrefundable retainer to the]~~ State Office of Administrative
 11-48 Hearings shall enter into a contract with the agency [~~in an amount~~
 11-49 ~~of not less than \$75,000]~~ for hearings conducted by the State Office
 11-50 of Administrative Hearings under a law administered by the
 11-51 commission or the board. The agency shall reimburse the State
 11-52 Office of Administrative Hearings for costs incurred in conducting
 11-53 the hearings.

11-54 [~~(b) The nonrefundable retainer shall be applied to the~~
 11-55 ~~costs associated with conducting the hearings. If additional costs~~
 11-56 ~~are incurred, the State Office of Administrative Hearings may~~
 11-57 ~~assess and collect from the agency reasonable fees, in excess of the~~
 11-58 ~~nonrefundable retainer amount paid each fiscal year, associated~~
 11-59 ~~with conducting the hearings.]~~

11-60 SECTION 42. Subchapter B, Chapter 1303, Occupations Code,
 11-61 is amended by adding Section 1303.054 to read as follows:

11-62 Sec. 1303.054. COMPLAINT INVESTIGATION. If the commission
 11-63 determines at any time that an allegation made or formal complaint
 11-64 submitted by a person is inappropriate or without merit, the
 11-65 commission shall dismiss the complaint and no further action may be
 11-66 taken. The commission may delegate to staff the duty to dismiss
 11-67 complaints described by this section.

11-68 SECTION 43. Subchapter C, Chapter 221, Property Code, is
 11-69 amended by adding Section 221.0245 to read as follows:

12-1 Sec. 221.0245. COMPLAINT INVESTIGATION. If the commission
 12-2 determines at any time that an allegation made or formal complaint
 12-3 submitted by a person is inappropriate or without merit, the
 12-4 commission shall dismiss the complaint and no further action may be
 12-5 taken. The commission may delegate to commission staff the duty to
 12-6 dismiss complaints under this section.

12-7 SECTION 44. Subchapter C, Chapter 221, Property Code, is
 12-8 amended by adding Section 221.028 to read as follows:

12-9 Sec. 221.028. DENIAL OF REGISTRATION RENEWAL. (a) The
 12-10 commission may deny the renewal of a registration under this
 12-11 chapter if the developer is in violation of a commission order.

12-12 (b) The denial of a registration renewal under this section
 12-13 is subject to the same provisions as are applicable under Section
 12-14 1101.364, Occupations Code, to the denial of a license.

12-15 SECTION 45. Section 1101.552(c), Occupations Code, is
 12-16 repealed.

12-17 SECTION 46. As soon as practicable after the effective date
 12-18 of this Act, the Texas Real Estate Commission and the Texas
 12-19 Appraiser Licensing and Certification Board shall adopt rules and
 12-20 policies and enter into contracts necessary to implement the
 12-21 changes in law made by this Act.

12-22 SECTION 47. The changes in law made by this Act relating to
 12-23 an applicant's entitlement to a hearing following the denial of an
 12-24 application to renew a license, certificate of registration, or
 12-25 approval by the Texas Real Estate Commission or the Texas Appraiser
 12-26 Licensing and Certification Board, as applicable, apply only to an
 12-27 application for renewal that is submitted on or after the effective
 12-28 date of this Act. An application for renewal that is submitted
 12-29 before that date is governed by the law in effect on the date the
 12-30 application was submitted, and the former law is continued in
 12-31 effect for that purpose.

12-32 SECTION 48. (a) Except as provided by Subsection (b) of
 12-33 this section, Sections 1101.059 and 1103.0545, Occupations Code, as
 12-34 amended by this Act, apply to a member of the Texas Real Estate
 12-35 Commission or the Texas Appraiser Licensing and Certification Board
 12-36 appointed before, on, or after the effective date of this Act.

12-37 (b) A member of the Texas Real Estate Commission or the
 12-38 Texas Appraiser Licensing and Certification Board who, before the
 12-39 effective date of this Act, completed the training program required
 12-40 by Section 1101.059 or 1103.0545, Occupations Code, as the
 12-41 applicable law existed before the effective date of this Act, is
 12-42 required to complete additional training only on the subjects added
 12-43 by this Act to the training program required by Section 1101.059 or
 12-44 1103.0545, Occupations Code, as applicable. A member described by
 12-45 this subsection may not vote, deliberate, or be counted as a member
 12-46 in attendance at a meeting of the applicable commission or board
 12-47 held on or after December 1, 2019, until the member completes the
 12-48 additional training.

12-49 SECTION 49. Sections 1101.354, 1102.107, and 1103.353,
 12-50 Occupations Code, as amended by this Act, apply only to an
 12-51 application submitted to the Texas Real Estate Commission or the
 12-52 Texas Appraiser Licensing and Certification Board, as applicable,
 12-53 on or after the effective date of this Act. An application
 12-54 submitted before that date is governed by the law in effect on the
 12-55 date the application was submitted, and the former law is continued
 12-56 in effect for that purpose.

12-57 SECTION 50. Section 1101.652(a), Occupations Code, as
 12-58 amended by this Act, and Section 1103.5526, Occupations Code, as
 12-59 added by this Act, apply only to disciplinary action regarding
 12-60 conduct that occurs on or after the effective date of this Act.
 12-61 Conduct that occurs before that date is governed by the law in
 12-62 effect on the date the conduct occurred, and the former law is
 12-63 continued in effect for that purpose.

12-64 SECTION 51. Section 1103.0521, Occupations Code, as added
 12-65 by this Act, and Section 1103.054, Occupations Code, as amended by
 12-66 this Act, do not affect the entitlement of a member serving on the
 12-67 Texas Appraiser Licensing and Certification Board immediately
 12-68 before the effective date of this Act to continue to serve for the
 12-69 remainder of the member's term. As the terms of board members

13-1 expire, the governor shall appoint or reappoint members who have
13-2 the qualifications required for members under Subchapter B, Chapter
13-3 1103, Occupations Code, as amended by this Act.

13-4 SECTION 52. Section 1103.552(c), Occupations Code, as
13-5 amended by this Act, applies only to an administrative penalty that
13-6 is collected on or after the effective date of this Act. An
13-7 administrative penalty collected before that date is governed by
13-8 the law in effect on the date the penalty was collected, and the
13-9 former law is continued in effect for that purpose.

13-10 SECTION 53. This Act takes effect September 1, 2019.

13-11

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