

CHAPTER 980

H.B. No. 2644

AN ACT

relating to the regulation of real estate appraisers; providing civil and criminal penalties.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 3(14), Texas Appraiser Licensing and Certification Act (Article 6573a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

(14) "State licensed real estate appraiser" means a person *who is* licensed under this Act.

SECTION 2. Section 5, Texas Appraiser Licensing and Certification Act (Article 6573a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. POWERS AND DUTIES OF BOARD. The board may:

(1) adopt rules for the licensing and certification of real estate appraisers in this state in accordance with this Act and consistent with, but no more stringent than, applicable federal law;

(2) establish categories of appraiser certification and appraiser licensing, consistent with the categories of appraiser certification and appraiser licensing recognized by the Appraiser Qualifications Board, the Appraisal Standards Board, and the Appraisal Subcommittee, and prescribe qualifications for each category that are no more stringent than the qualifications required by the Appraiser Qualifications Board, the Appraisal Standards Board, and the Appraisal Subcommittee for each category;

(3) adopt rules relating to the education and experience requirements for certification and licensing as an appraiser in a manner that is consistent with, but no more stringent than, the threshold requirements adopted by the Appraiser Qualifications Board or the Appraisal Subcommittee;

(4) adopt rules relating to the qualifying examination required for certification or licensing as an appraiser under this Act;

(5) adopt rules establishing a code of professional conduct and ethics for a certified or licensed appraiser that meets the standards generally accepted by the Appraisal Subcommittee and prescribed by the Uniform Standards of Professional Appraisal Practice;

(6) establish reasonable fees to implement this Act, including an application fee for certification or licensing, an examination fee, a renewal fee for a certificate or license, a federal appraiser registry fee, and [any] other *appropriate fees* [~~fee required by law~~];

(7) adopt rules relating to continuing education requirements for a licensed or certified appraiser;

(8) adopt rules relating to the standards for the development of a written appraisal by a certified or licensed appraiser that are consistent with the appraisal regulations adopted by a federal financial institution regulatory agency or the Uniform Standards of Professional Appraisal Practice; [~~and~~]

(9) grant or deny an application for the certification and licensing of a real estate appraiser;

(10) *institute an action in its own name in a district court of Travis County against a person, firm, corporation, partnership, or any other group or combination of persons to enjoin a violation of this Act or a rule adopted by the board under this Act with the attorney general as legal advisor to the board to provide any necessary legal assistance;*

(11) *adopt rules as necessary to conform with the minimum written standards of the Appraisal Subcommittee; and*

(12) *conduct disciplinary proceedings with regard to appraisers in this state except in circumstances when an appraiser is required to be licensed or certified by another state agency to perform property appraisals.*

SECTION 3. Sections 6(a), (b), (f), and (i), Texas Appraiser Licensing and Certification Act (Article 6573a.2, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) The Texas Appraiser Licensing and Certification Board is created as an independent subdivision of the Texas Real Estate Commission. The board is composed of eight members appointed by the governor with the advice and consent of the senate and the executive secretary of the Veterans' Land Board *or that person's designee*, who shall serve as a voting member of the board.

(b) An appointment to the board must be made without regard to race, color, religion, sex, *disability* [~~handicap~~], familial status, national origin, or [~~the~~] membership in any appraisal organization of the appointee.

(f) The appointed members of the board *shall* hold office for terms of two years. *Two appraiser members and two public members shall serve terms that expire on January 31 of each odd-numbered year. Two appraiser members and two public members shall serve terms that expire on January 31 of each even-numbered year.* An appointed member qualifies by taking the constitutional oath of office within 15 days after appointment. At a regular meeting in February of each year, the members of the committee shall elect from among the membership a *chair* [~~chairman~~], a *vice-chair* [~~vice-chairman~~], and a secretary *who together form the executive committee*. No appointed member may serve for more than three consecutive two-year terms.

(i) If the *chair* [~~chairman~~] of the board has knowledge that a potential ground for removal exists, the *chair* [~~chairman~~] shall immediately notify the governor.

SECTION 4. Section 7, Texas Appraiser Licensing and Certification Act (Article 6573a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. POWERS AND DUTIES OF COMMISSIONER. The commissioner shall:

(1) *disseminate information and administer* [~~enforce~~] rules adopted by the board under this Act;

(2) review an application for the certification or licensing of a real estate appraiser and make a recommendation for final action to the board;

(3) review and make recommendations to the board concerning the adoption of rules relating to:

(A) the licensing and certification examination;

- (B) education and experience requirements for licensing and certification;
- (C) continuing education for a licensed or certified appraiser;
- (D) standards of professional practice and ethics for a certified or licensed appraiser;
- (E) standards for a real estate appraisal performed by a certified or licensed appraiser; and

(F) the fees [fee] to be established by the board to be charged for the implementation of this Act;

(4) collect fees established by the board; and

~~(5) [conduct any reviews and make recommendations as the board may prescribe by rule regarding disciplinary actions for a licensed or certified appraiser and the enforcement of this Act; and~~

~~(6) perform any other duty prescribed by the board under this Act.~~

SECTION 5. Section 9(e), Texas Appraiser Licensing and Certification Act (Article 6573a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) An applicant for certification or licensing must furnish under oath, on an affidavit [a] form prescribed by the board, *a statement that the applicant has the equivalent of 2,000 hours of experience in performing appraisals. If a consumer complaint or peer complaint is brought against the applicant alleging fraud, incompetency, or malpractice and the board finds the complaint is reasonable or if the board determines other just cause exists for requiring further information, the board may obtain the additional information or documentation requested by:*

*(1) requiring the applicant to complete a form, prescribed by the board, that includes detailed listings of appraisal experience showing, for each appraisal claimed by the applicant, the city or county where the appraisal was performed, the type and description of the building or property appraised, the approaches to value utilized in the appraisal, the actual number of hours expended on the appraisal, and other information determined to be appropriate by the board; or*

~~(2) engaging in other research determined to be appropriate by the board[, information on the applicant's real estate appraisal experience for each year that experience is claimed by the applicant. The form must include a cumulative total of hours expended in each area of acceptable appraisal experience. If after investigation the board determines that a preponderance of evidence exists that fraud or misrepresentation occurred at the time of application, the board may request additional information on the appraisal experience. That form must include information as to the city or county, the type and description of the building or property appraised, and the number of hours expended for each appraisal. The board may not request further documentation of an applicant's experience unless a consumer complaint or peer complaint of fraud, incompetency, or malpractice is substantiated through a formal hearing process held under this Act or the board determines that other just cause exists for reviewing further documentation].~~

SECTION 6. Sections 10(a), (b), and (e), Texas Appraiser Licensing and Certification Act (Article 6573a.2, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) The board shall prescribe an appraiser examination. The examination must be written and must be approved by the Appraisal Foundation or its successor agency. The examination must be consistent with, but no more stringent than, the Uniform State Certification/Licensing Examination *guidelines* endorsed by the Appraiser Qualifications Board. The board may contract with a testing service to administer the examination. *The testing service may collect an examination fee from an applicant for certification or licensing.*

(b) An application to take the examination must be on a form prescribed by the board ~~and be accompanied by an examination fee].~~

(e) An applicant for licensing or certification must achieve the minimum score required or approved by the Appraiser Qualifications Board, whichever is less, to pass an examination. The board shall notify each person taking an examination whether the person has passed or failed the examination not later than:

- (1) the 31st day after the examination date; or

(2) if the examination is graded or reviewed by a national testing service, the 31st day after the date on which the board [department] receives the results from the national testing service.

SECTION 7. Section 12, Texas Appraiser Licensing and Certification Act (Article 6573a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 12. ~~ENFORCEMENT PROCEEDINGS [INVESTIGATION; SANCTIONS].~~ (a) ~~Except as otherwise provided by this Act, proceedings under this Act shall be conducted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and its subsequent amendments [The commissioner may investigate the actions of a state certified or state licensed appraiser and may make recommendations to the board on an administrative sanction, including revocation of a license or certification, for the violation of this Act or a rule adopted under this Act].~~

(b) A complaint that alleges that an appraiser licensed or certified under this Act has violated a rule of professional conduct adopted by the board shall be filed with the board. The complaint process under this section may be initiated by any person, including a member of the board, by filing with the board a written complaint on an affidavit form prescribed by the board. The board may, on its own motion, file a formal complaint against an appraiser licensed or certified under this Act.

(c) On receipt of a complaint or on its own motion, the board shall review and investigate alleged acts or omissions that the board believes constitute cause for disciplinary action. To determine if probable cause exists for a hearing on a complaint, an investigator designated by the chair of the board shall investigate the allegations contained in a complaint. If the board determines that the complaint does not present facts that constitute a basis for disciplinary action, the board may not take further action.

(d) The chair of the board with the advice and consent of the executive committee may appoint a peer investigative committee consisting of three real estate appraisers certified or licensed under this Act. The chair of the investigative committee must be an appraiser member of the board. Each remaining member of the committee shall certify to the board that the member is familiar with the appraisal process in the appraisal to be reviewed. The investigative committee shall review and determine the facts of the complaint and submit a written report to the board in a timely manner.

(e) For the purposes of an investigation of a complaint, the board may subpoena witnesses, books, papers, records, and other evidence to determine whether the board should institute a contested case proceeding.

(f) On completion of an investigation, a written report containing statements of fact, the recommendations of the investigator, and the position or defense of the investigated appraiser shall be submitted by the investigator for the board to determine what further action is necessary. Based on the report, the board may:

(1) order that the matter be further investigated;

(2) permit the appraiser who is the subject of the complaint to appear before the board for an informal discussion as provided by Subsection (g) of this section regarding the alleged violation;

(3) determine that probable cause does not exist to believe that a violation occurred and dismiss the case; or

(4) determine that probable cause that a violation occurred exists and proceed with a contested case hearing as the complainant.

(g) The board may permit an appraiser under investigation an opportunity to appear before the board for a voluntary informal discussion of the facts and circumstances of an alleged violation on the board's motion or on request of the appraiser. The informal discussion constitutes part of the board's investigation of the pending disciplinary case and the facts discussed at the informal discussion may be considered by the board if the case proceeds to a contested case hearing. The board may seek a consent order as provided by Subsection (h) of this section at the time of the informal discussion.

(h) The board may negotiate a settlement and enter into a consent order with an appraiser who is under investigation. An appraiser member of the board designated by the

chair and the attorney general may agree to negotiate a settlement under this subsection. A proposed consent order shall be presented to the board for approval and shall be binding if approved by the board and signed by the board chair and the appraiser. A board member who participates in negotiation of a consent order is not disqualified from participating in adjudication of the contested case that results from the negotiations. Consent to negotiation by the appraiser constitutes waiver of the right to notice and the opportunity to be heard under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and its subsequent amendments during the settlement negotiations. A prosecuting attorney may discuss informal settlement with the board chair or a representative of the board. If the parties agree to a consent order, a statement of charges shall be filed with the consent order.

(i) The board, in its discretion and in lieu of prosecuting a first-time violator of the rules of professional conduct adopted by the board, may enter into a consent agreement as provided by this subsection. An appraiser member of the board, designated by the chair, and the attorney general may agree to negotiate a consent agreement. The proposed consent agreement shall be presented to the board for approval and shall be binding if approved by the board and signed by the board chair and the appraiser. Failure by the appraiser to comply with the terms of the agreement constitutes grounds for prosecution.

(j) A certified or licensed appraiser who files a complaint against another certified or licensed appraiser that the board determines to be frivolous is liable for a civil penalty. At the request of the board, the attorney general or a district or county attorney may institute a civil action in district court to collect a civil penalty under this subsection. A civil penalty under this subsection may not be less than \$500 or more than \$10,000. A civil penalty recovered in a suit instituted under this subsection shall be deposited in the state treasury to the credit of the general revenue fund.

SECTION 8. The Texas Appraiser Licensing and Certification Act (Article 6573a.2, Vernon's Texas Civil Statutes) is amended by adding Section 12A to read as follows:

Sec. 12A. **CONTESTED CASE PROCEEDINGS.** (a) The board shall provide notice to the parties of a contested case hearing stating the time and place of the hearing. The notice must contain a statement requiring the appraiser to submit an answer as required by Subsection (b) of this section not later than the 20th day after the date of receipt of the notice. The notice, together with a statement of charges, shall be personally delivered or mailed to the appraiser by certified mail, return receipt requested, not later than the 30th day before the hearing date. The statement of charges shall be prepared by the prosecuting attorney and must state the acts or omissions with which the appraiser is charged, including the standards of professional practice or professional conduct rules alleged to have been violated. The statement must be in sufficient detail to enable the preparation of the appraiser's defense.

(b) The answer filed by the appraiser must contain the following:

(1) the name, address, and telephone number of the appraiser;

(2) a specific statement regarding any or all allegations in the complaint in the form of admissions or denials and containing any explanations, remarks, or statement of mitigating circumstances the appraiser determines to be relevant; and

(3) any additional facts or information the appraiser determines to be relevant to the investigation and that may assist in the determination of the case.

(c) A statement of charges and notice of hearing prepared by the board shall be reviewed and approved by the attorney general. The attorney general shall provide legal representation for the public interest in all proceedings before the board. An assistant attorney general assigned to prosecute a contested case before the board may not represent the board in that case but shall represent the public interest.

(d) A contested case hearing may be conducted before a majority of the board members and shall be open to the public. The board may provide for an administrative law judge to act as presiding officer to conduct the hearing for the board. The designated presiding officer shall be in control of the proceedings and may administer oaths, admit or exclude testimony or other evidence, and rule on all motions and objections. The presiding officer or other board members may conduct direct examination of the witnesses at any stage of the

witness's testimony. Contested proceedings shall be recorded either by mechanical or electrical means or by a certified shorthand reporter. The proceedings or part of the proceedings shall be transcribed at the request of any party, with the expense of the transcription charged to the requesting party. The recording, stenographic notes, or transcription of oral proceedings shall be filed with and maintained by the board for not less than five years from the date of the decision in the proceedings.

(e) A subpoena for books, papers, records, witnesses, or other evidence shall be issued to a party on request. The commissioner of the board shall issue subpoenas for both parties on reasonable cause shown. A request may be verbal or written and must specify the documents sought and the full names and addresses of the witnesses sought. Discovery procedures applicable to a civil action are available to the parties in a proceeding under this Act. A party or the board may petition the district court for its enforcement of a subpoena. If a proper showing is made, the district court shall order the person to obey the subpoena.

(f) The board and presiding officer may conduct a hearing or enter an order or judgment as the board determines appropriate for an appraiser who received proper notice of the hearing but who fails to appear in person at the hearing. The appraiser shall be bound by the results of the hearing to the same extent as if the appraiser had appeared.

(g) Before testimony may be presented in a contested case hearing, the record must show the identities of the board members present, of the presiding officer, and of the parties and their representatives and must reflect that all testimony is being recorded. The appraiser who is the subject of the proceeding may challenge any member of the board for cause before the commencement of the hearing. The members of the board, with the challenged member abstaining, shall decide by a majority vote whether cause exists for the challenge and whether the challenged member may participate in the hearing. The board shall set dates, times, and rules for hearings and shall rule on all issues. Hearings shall be conducted in the following order, subject to modification at the discretion of the board:

(1) the presiding officer shall read a summary of the charges and answers to the charges and other responsive pleadings filed by the appraiser before the hearing;

(2) the assistant attorney general representing the public interest before the board shall make a brief opening statement, including a summary of charges and the witnesses and documents to support the charges;

(3) the appraiser may make an opening statement, including the names of any witnesses the appraiser may call;

(4) evidence shall be presented for the state, including a summary made at the close of the evidence on behalf of the state;

(5) evidence shall be presented for the appraiser;

(6) rebuttal evidence may be presented for the state;

(7) rebuttal evidence may be presented for the appraiser; and

(8) closing arguments are made first for the state, then for the appraiser, and finally for the state on rebuttal.

(h) The presiding officer may grant immunity from disciplinary action before the board to a witness only on the unanimous vote of all members of the board hearing the case. The official record of the hearing must include the reasons for granting the immunity.

(i) Copies of documents offered as evidence at the hearing shall be provided to opposing parties. Copies shall also be provided to members of the board. To the extent the appraiser believes the appraiser is being asked to reply to accusations, charges, innuendos, or facts for the first time in the hearing, the appraiser may respond to the evidence to the board either in writing or at a subsequent scheduled meeting of the board. However, the assistant attorney general assigned to prosecute the case before the board shall be allowed to continue to present evidence during the hearing.

(j) By a majority vote of the members hearing the contested matter, the board shall make findings of fact and conclusions of law and may take one or more of the following actions:

(1) dismissal of the charges, including an order that the file in the case is confidential;

(2) suspension or revocation of the appraiser's license or certification;

(3) imposition of a period of probation with or without conditions;

(4) a requirement that the appraiser submit to reexamination for licensing or certification as an appraiser;

(5) a requirement that the appraiser participate in additional professional education or continuing education;

(6) issuance of a public or private reprimand or a warning;

(7) issuance of a consent order; or

(8) imposition of an administrative penalty, the amount of which shall be set at the discretion of the board at an amount that may not exceed \$1,000 for each violation or \$5,000 for multiple violations in one hearing, to be paid not later than the 20th day after the date of final disposition of the case.

(k) Not later than the 20th day after the date of issuance of a final decision, a party may file an application with the board for a rehearing stating the specific grounds for rehearing and the relief sought. The application shall be denied if it is not granted before the 20th day after the date of service on the commissioner of the board. The decision made on the conclusion of the original proceeding, may not be reversed or modified for procedural, evidentiary, or other error that did not cause substantial injustice to the parties. The decision made on a rehearing may incorporate by reference any and all parts of the decision made at the conclusion of the original proceeding. On rehearing, the board shall consider facts not presented in the original proceeding if:

(1) the facts arose after the original proceeding was concluded;

(2) the party offering the evidence could not reasonably have provided the evidence at the original proceedings; or

(3) the party offering the additional evidence was misled by any party as to the necessity for offering the evidence at the original proceeding.

(l) The final decision of the board shall be filed with the commissioner. A copy of the decision and order shall immediately be sent by certified mail, return receipt requested, to the appraiser's last known address or may be served as in the manner of an original notice on the appraiser.

(m) A person whose certificate or license has been revoked or suspended by the board may apply to the board for reinstatement in accordance with the terms of the order of revocation or suspension. If the order of revocation or suspension does not establish terms on which reinstatement may occur, an initial application for reinstatement may not be made until the first anniversary of the date the order became effective and successive applications may not be made more often than once every two years.

(n) Final decisions of the board relating to disciplinary actions, including consent agreements and consent orders, may be transmitted to other states and made available to the public.

(o) A member of the board is entitled to quasi-judicial immunity from suit for actions as a member of the board, provided the actions are in compliance with the law.

SECTION 9. Section 13(a), Texas Appraiser Licensing and Certification Act (Article 6573a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The board shall maintain a roster of individuals who have received a state certification or a state license under this Act. The roster must indicate the type of [whether any] license or certification for each individual listed [~~is a transitional license or certification or a temporary certification~~].

SECTION 10. Section 14(b), Texas Appraiser Licensing and Certification Act (Article 6573a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) A license or certification may be renewed on payment of a renewal fee prescribed by the board and on furnishing evidence satisfactory to the board and the Appraiser Qualifications Board that the holder of the license or certification has completed any continuing education requirements imposed by rule under this Act, met the experience requirements of this Act, and complied with any minimum or maximum requirements of the Appraiser Qualifications Board. The board shall accept as continuing education any continuing

education a licensed or certified appraiser was awarded by a national appraiser organization approved by the board as a provider of qualifying appraisal education.

SECTION 11. Section 15, Texas Appraiser Licensing and Certification Act (Article 6573a.2, Vernon's Texas Civil Statutes), is amended by adding Subsections (d)–(j) to read as follows:

(d) *If the board determines that another state has substantially equivalent certification or licensure requirements to those of this state, an applicant who is certified or licensed under the laws of that state may obtain certification as a state certified real estate appraiser or licensure as a state licensed real estate appraiser in this state under terms and conditions determined by the board. The terms and conditions must comply with the minimum criteria for certification or licensure issued by the Appraiser Qualifications Board of the Appraisal Foundation. The fee charged to an appraiser from another state and the form submitted by the appraiser for reciprocity must be comparable to the fee and form required by the state where the appraiser is certified or licensed.*

(e) *An applicant for certification or licensure under this Act who is not a resident of this state shall submit with the application for certification or licensure an irrevocable consent that service of process in an action against the applicant arising out of the applicant's activities as a state certified real estate appraiser or state licensed real estate appraiser in this state may be made by delivery of the process to the commissioner of the board, if the plaintiff in the action cannot, in the exercise of due diligence, effect personal service on the applicant. If process is served as provided by this subsection, the commissioner shall immediately mail a copy of the materials served on the commissioner by ordinary mail to the state certified real estate appraiser or state licensed real estate appraiser at both the appraiser's principal place of business and residence address.*

(f) *An application may not be accepted for an applicant from a state that refuses to offer reciprocal treatment to residents of this state who are certified or licensed real estate appraisers.*

(g) *The board shall seek verification from an applicant's home state that the applicant's certification or license is valid and in good standing. A reciprocal certificate or license may not be issued without the verification required by this subsection.*

(h) *The holder of a certificate or license by reciprocity must pay the federal registry fee and other fees that the board may impose.*

(i) *A reciprocal certificate or license expires on the same date that the certificate or license held by the applicant in the applicant's home state expires or on the first anniversary of the date the reciprocal certificate or license was issued, whichever date occurs first.*

(j) *A reciprocal certificate or license is renewable under terms and conditions determined by the board.*

SECTION 12. Section 17, Texas Appraiser Licensing and Certification Act (Article 6573a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 17. APPRAISER TRAINEES. (a) The board may authorize a person certified [~~or licensed~~] under this Act to sponsor an appraiser trainee. *An appraiser trainee may have more than one sponsor. Each [The] certified [~~or licensed~~] appraiser and the prospective appraiser trainee shall apply to the board for approval of the appraiser trainee on a form prescribed by the board. The board may set reasonable application and annual renewal fees for an appraiser trainee. A prospective trainee must:*

- (1) be a citizen of the United States or a lawfully admitted alien;
- (2) be at least 18 years of age;
- (3) be a legal resident of this state for at least 60 days immediately before the filing of the application; and
- (4) satisfy the board as to the prospective trainee's honesty, trustworthiness, and integrity.

(b) *An appraiser trainee approved by the board may perform an appraisal under the direction of one or more sponsors [~~the trainee's sponsor~~], one of whom [who] shall sign the appraiser trainee's reports. A sponsor who signs a report shall [and] be responsible to the*



public and to the board for the conduct of the appraiser trainee. *An appraiser trainee may co-sign a report under this subsection.* The board may reprimand an appraiser trainee or suspend or revoke an appraiser trainee's authority to act as an appraiser trainee for a violation of this Act or a rule adopted under this section. A disciplinary proceeding involving an appraiser trainee is governed by the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

SECTION 13. Section 18, Texas Appraiser Licensing and Certification Act (Article 6573a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 18. **BROKER'S OR SALESMAN'S LICENSE NOT REQUIRED; EXEMPTIONS.** (a) A person certified or licensed *under this Act* or approved as an appraiser trainee under this Act [section] is not required to be licensed as a real estate broker or salesman under *The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes), and its subsequent amendments, [this Act]* to appraise real property in this state. A person certified or licensed as an appraiser by another state is not required to be licensed as a real estate broker or salesman [under this Act] to appraise real property in this state [in connection with a federally related transaction for which a federal financial institution's regulatory agency or the Resolution Trust Corporation or its successor has required the use of a state certified or licensed appraiser].

(b) This Act does not prohibit:

(1) a real estate broker or salesman licensed under *The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes)* but not licensed or certified under this Act from performing an appraisal in a nonfederally related transaction; [or]

(2) the requirement of a real estate broker's or salesman's license for an appraisal in nonfederally related transactions by a person not licensed or certified under this Act; or

(3) *a real estate broker or salesman licensed under The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes) and its subsequent amendments from giving an opinion in the ordinary course of the broker's or salesman's business to a potential seller or third party as to the recommended listing price of real estate or to a potential purchaser or third party as to the recommended purchase price of real estate if the opinion given under this subdivision is not referred to as an appraisal.*

SECTION 14. Section 21, Texas Appraiser Licensing and Certification Act (Article 6573a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 21. **OFFENSES.** (a) A person commits an offense if the person knowingly or intentionally violates Section 4(c) of this Act *or knowingly or intentionally furnishes false information in connection with an affidavit filed under Section 9(e) of this Act.*

(b) An offense under this section is a Class B [C] misdemeanor.

SECTION 15. This Act takes effect September 1, 1993.

SECTION 16. (a) A member of the Texas Appraiser Licensing and Certification Board immediately before the effective date of this Act continues to serve as a member of the board on or after the effective date of this Act for the remainder of the member's term. The governor shall make appointments to the board on or after the effective date of this Act as terms of members of the board expire and vacancies occur on the board, as follows:

(1) the first and third appraiser member appointment and the first and third public member appointment made on or after the effective date of this Act shall be for terms that expire on January 31 of the odd-numbered year following the appointment; and

(2) the second and fourth appraiser member appointment and the second and fourth public member appointment made on or after the effective date of this Act shall be for terms that expire on January 31 of the even-numbered year following the appointment.

(b) The change in law made by this Act to the application requirements for licensing or certification as a real estate appraiser applies only to a license or certificate issued on or after the effective date of this Act.

(c) The change in law made by this Act to the enforcement procedures and contested case procedures under Sections 12 and 12A, Texas Appraiser Licensing and Certification Act (Article 6573a.2, Vernon's Texas Civil Statutes), as amended and as added by this Act, applies

only to a proceeding initiated on or after the effective date of this Act. A proceeding initiated before the effective date of this Act is governed by the law in effect on the date the proceeding was initiated, and the former law is continued in effect for that purpose.

SECTION 17. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 14, 1993, by a non-record vote; passed by the Senate on May 30, 1993, by a viva-voce vote.

Approved June 19, 1993.

Effective Sept. 1, 1993.