

CHAPTER 416

S.B. No. 842

AN ACT

relating to the power of certain licensing agencies to issue subpoenas in enforcement proceedings and to enforcement of the power by contempt.

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

SECTION 1. 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. (a) 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 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; and

(10) request and, if necessary, compel by subpoena the attendance of witnesses for examination under oath and the production for inspection and copying of books, accounts,

records, papers, correspondence, documents, and other evidence relevant to the investigation of alleged violations of this Act.

(b) If a person fails to comply with a subpoena issued under Subsection (a)(10) of this section, the board, acting through the attorney general, may file suit to enforce the subpoena in a district court in Travis County or in the county in which a hearing conducted by the board may be held. The court, if it determines that good cause exists for the issuance of the subpoena, shall order compliance with the requirements of the subpoena. Failure to obey the order of the court may be punished by the court as contempt.

SECTION 2. Section 4, Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), is amended by adding Subsection (l) to read as follows:

(l) The commission may request and, if necessary, compel by subpoena the attendance of witnesses for examination under oath and the production for inspection and copying of books, accounts, records, papers, correspondence, documents, and other evidence relevant to the investigation of alleged violations of this Act. If a person fails to comply with a subpoena issued under this subsection, the commission, acting through the attorney general, may file suit to enforce the subpoena in a district court in Travis County or in the county in which a hearing conducted by the commission may be held. The court, if it determines that good cause exists for the issuance of the subpoena, shall order compliance with the requirements of the subpoena. Failure to obey the order of the court may be punished by the court as contempt.

SECTION 3. Chapter 9, Title 71, Revised Statutes, is amended by adding Article 4549-1.1 to read as follows:

Art. 4549-1.1. SUBPOENA POWER. The State Board of Dental Examiners may request and, if necessary, compel by subpoena the attendance of witnesses for examination under oath and the production for inspection and copying of books, accounts, records, papers, correspondence, documents, and other evidence relevant to the investigation of alleged violations of the provisions of the statutes of the State of Texas relating to the practice of dentistry or any provisions of this chapter. If a person fails to comply with a subpoena issued under this article, the board, acting through the attorney general, may file suit to enforce the subpoena in a district court in Travis County or in the county in which a hearing conducted by the board may be held. The court, if it determines that good cause exists for the issuance of the subpoena, shall order compliance with the requirements of the subpoena. Failure to obey the order of the court may be punished by the court as contempt.

SECTION 4. Section 8, The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), is amended by adding Subsection (d) to read as follows:

(d) The Board may request and, if necessary, compel by subpoena the attendance of witnesses for examination under oath and the production for inspection and copying of books, accounts, records, papers, correspondence, documents, and other evidence relevant to the investigation of alleged violations of this Act. If a person fails to comply with a subpoena issued under this subsection, the Board, acting through the attorney general, may file suit to enforce the subpoena in a district court in Travis County or in the county in which a hearing conducted by the Board may be held. The court, if it determines that good cause exists for the issuance of the subpoena, shall order compliance with the requirements of the subpoena. Failure to obey the order of the court may be punished by the court as contempt.

SECTION 5. Section 4, Texas Structural Pest Control Act (Article 135b-6, Vernon's Texas Civil Statutes), is amended by adding Subsection (i) to read as follows:

(i) The board may request and, if necessary, compel by subpoena the attendance of witnesses for examination under oath and the production for inspection and copying of books, accounts, records, papers, correspondence, documents, and other evidence relevant to the investigation of alleged violations of this Act. If a person fails to comply with a subpoena issued under this subsection, the board, acting through the attorney general, may file suit to enforce the subpoena in a district court in Travis County or in the county in which a hearing conducted by the board may be held. The court, if it determines that good cause exists for the issuance of the subpoena, shall order compliance with the requirements

of the subpoena. Failure to obey the order of the court may be punished by the court as contempt.

SECTION 6. Section 3, Chapter 836, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4512e, Vernon's Texas Civil Statutes), is amended by adding Subsection (m) to read as follows:

(m) The board may request and, if necessary, compel by subpoena the attendance of witnesses for examination under oath and the production for inspection and copying of books, accounts, records, papers, correspondence, documents, and other evidence relevant to the investigation of alleged violations of this Act. If a person fails to comply with a subpoena issued under this subsection, the board, acting through the attorney general, may file suit to enforce the subpoena in a district court in Travis County or in the county in which a hearing conducted by the board may be held. The court, if it determines that good cause exists for the issuance of the subpoena, shall order compliance with the requirements of the subpoena. Failure to obey the order of the court may be punished by the court as contempt.

SECTION 7. Section 8A, The Plumbing License Law (Article 6243-101, Vernon's Texas Civil Statutes), is amended by adding Subsection (f) to read as follows:

(f) The Board may request and, if necessary, compel by subpoena the attendance of witnesses for examination under oath and the production for inspection and copying of books, accounts, records, papers, correspondence, documents, and other evidence relevant to the investigation of alleged violations of this Act. If a person fails to comply with a subpoena issued under this subsection, the Board, acting through the attorney general, may file suit to enforce the subpoena in a district court in Travis County or in the county in which a hearing conducted by the Board may be held. The court, if it determines that good cause exists for the issuance of the subpoena, shall order compliance with the requirements of the subpoena. Failure to obey the order of the court may be punished by the court as contempt.

SECTION 8. Section 15, The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes), is amended by adding Subsection (e) to read as follows:

(e) The commission may request and, if necessary, compel by subpoena the attendance of witnesses for examination under oath and the production for inspection and copying of books, accounts, records, papers, correspondence, documents, and other evidence relevant to the investigation of alleged violations of this Act. If a person fails to comply with a subpoena issued under this subsection, the commission, acting through the attorney general, may file suit to enforce the subpoena in a district court in Travis County or in the county in which a hearing conducted by the commission may be held. The court, if it determines that good cause exists for the issuance of the subpoena, shall order compliance with the requirements of the subpoena. Failure to obey the order of the court may be punished by the court as contempt.

SECTION 9. Section 10, The Property Taxation Professional Certification Act (Article 8885, Revised Statutes), is amended by adding Subsection (c) to read as follows:

(c) The board may request and, if necessary, compel by subpoena the attendance of witnesses for examination under oath and the production for inspection and copying of books, accounts, records, papers, correspondence, documents, and other evidence relevant to the investigation of alleged violations of this Act. If a person fails to comply with a subpoena issued under this subsection, the board, acting through the attorney general, may file suit to enforce the subpoena in a district court in Travis County or in the county in which a hearing conducted by the board may be held. The court, if it determines that good cause exists for the issuance of the subpoena, shall order compliance with the requirements of the subpoena. Failure to obey the order of the court may be punished by the court as contempt.

SECTION 10. The Veterinary Licensing Act (Article 8890, Revised Statutes) is amended by adding Section 13B to read as follows:

Sec. 13B. SUBPOENA POWER. The board may request and, if necessary, compel by subpoena the attendance of witnesses for examination under oath and the production for inspection and copying of books, accounts, records, papers, correspondence, documents, and

other evidence relevant to the investigation of alleged violations of this Act. If a person fails to comply with a subpoena issued under this section, the board, acting through the attorney general, may file suit to enforce the subpoena in a district court in Travis County or in the county in which a hearing conducted by the board may be held. The court, if it determines that good cause exists for the issuance of the subpoena, shall order compliance with the requirements of the subpoena. Failure to obey the order of the court may be punished by the court as contempt.

SECTION 11. This Act takes effect September 1, 1993.

SECTION 12. 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 the Senate on April 15, 1993, by a viva-voce vote; passed the House on May 22, 1993, by a non-record vote.

Approved June 6, 1993.

Effective Sept. 1, 1993.