

BILL ANALYSIS

S.B. 1007
By: Eltife
Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that current law regulating appraisers is in need of certain revisions and clarifications, including changes to the structure of the Texas Appraiser Licensing and Certification Board and its functions to ensure that the board has the tools needed to comply with federal oversight requirements. S.B. 1007 seeks to address these issues by amending the applicable law.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Appraiser Licensing and Certification Board in SECTIONS 8 and 23 of this bill.

ANALYSIS

S.B. 1007 amends the Occupations Code to make revisions to the Texas Appraiser Licensing and Certification Act and establishes that the act does not prohibit an appraiser who is certified by a jurisdiction other than the state from performing an appraisal review of an appraisal performed on real property in Texas if the appraiser does not offer an opinion of value as part of the appraisal review. The bill removes a provision that made the Texas Appraiser Licensing and Certification Board subject to the Texas Sunset Act contingent on the federal government removing the requirements for the preparation or use of an appraisal by federally regulated financial institutions and instead makes the certification board unconditionally subject to the act and, unless continued in existence by the act, establishes that the certification board is abolished and the Texas Appraiser Licensing and Certification Act and the Texas Appraisal Management Company Registration and Regulation Act expire September 1, 2019.

S.B. 1007 prohibits a person who is appointed to and who qualifies for office as a member of the certification board from voting, deliberating, or being counted as a member in attendance at a meeting of the certification board until the person completes a training program established by the bill's provisions. The bill entitles a person appointed to the certification board to reimbursement for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office. The bill increases an appointed member's term from two years to six years, revises the staggering of terms, and removes a term limit prohibiting an appointed member from serving more than three consecutive two-year terms. The bill requires the governor, if a vacancy occurs during a member's term, to appoint a person to fill the unexpired term. The bill removes the requirement for the certification board to elect from its members a presiding officer and instead requires the governor to designate a certification board member who is an appraiser to serve as the

certification board's presiding officer. The bill requires the commissioner of the certification board, if the commissioner has knowledge that a potential ground for removal of an appointed certification board member exists, to notify the certification board's presiding officer; requires the presiding officer, in addition to notifying the governor, to notify the attorney general also of that potential ground; and, if such ground involves the presiding officer, requires the commissioner to notify the next highest ranking officer of the certification board, who then is required to immediately notify the governor and attorney general.

S.B. 1007 authorizes the certification board by rule to determine what constitutes a day or actual and necessary expenses for purposes of providing certification board members a per diem and reimbursement for actual and necessary expenses incurred in performing their official duties. The bill authorizes a member or employee of the certification board to make a presentation to a group of certificate or license holders for which the certificate or license holders may receive continuing education credit. The bill prohibits the certification board member or employee from receiving compensation for the presentation but authorizes reimbursement for the certification board member's or employee's reasonable travel expenses. The bill authorizes the certification board to delegate to the commissioner of the certification board the responsibility for administering the Texas Appraisal Management Company Registration and Regulation Act, authorizes the certification board to employ other officers and employees as necessary to administer that act, and transfers from the administrator of the Texas Real Estate Commission to the commissioner of the certification board the duty of determining the salaries of the certification board's officers and employees.

S.B. 1007 requires the commissioner to administer rules adopted by the certification board under the Texas Appraisal Management Company Registration and Regulation Act and to perform any other duty prescribed by the certification board under the act. The bill authorizes the certification board to adopt rules relating to the requirements for approval of a provider, course, or instructor for qualifying or continuing education and includes an appraiser trainee as an occupation for which the certification board is authorized to adopt certain rules regarding professional conduct. The bill increases from at least annually to at least weekly the frequency with which the certification board is required to send a copy of the roster of persons certified or licensed under the Texas Appraiser Licensing and Certification Act to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, or its successor. The bill authorizes the certification board to solicit, accept, and administer gifts, grants, and donations of any kind from any public or private source for the purposes of the Texas Appraisal Management Company Registration and Regulation Act.

S.B. 1007 expands the membership of the advisory committee established by the certification board from three persons to five persons by increasing the number of gubernatorial appointees from two to four, including an additional public member with recognized business ability and an additional member designated as a controlling person of a registered appraisal management company. The bill limits advisory committee members to no more than two consecutive two-year terms, requires the governor to fill a vacancy by appointment, and authorizes the advisory committee to hold a meeting by telephone conference call or other video or broadcast technology. The bill requires the governor, not later than the 60th day after the bill's effective date, to appoint the two new members of the advisory committee to serve staggered terms.

S.B. 1007 removes the specification that certification or licensing is by the state in prohibiting a person from using the title "certified real estate appraiser" and "licensed real estate appraiser" unless the person holds the appropriate certification or license, as applicable.

S.B. 1007 sets out provisions relating to the application process and eligibility requirements for a certificate or license or for renewal of a certificate or license under the Texas Appraiser Licensing and Certification Act. The bill authorizes the certification board by rule to require that an applicant submit a complete and legible set of fingerprints, on a form prescribed by the certification board, to the certification board or to the Department of Public Safety (DPS) for the

purpose of obtaining criminal history record information from DPS or the Federal Bureau of Investigation and sets out provisions for the conduct of a criminal history check by the certification board if the certification board implements such a requirement. The bill also authorizes the certification board to enter into an agreement with DPS or other federally authorized entity to administer a required criminal history check and to authorize DPS or other federally authorized entity to collect from each applicant the costs incurred by DPS in conducting the criminal history check. The bill adds compliance with these provisions to the eligibility requirements for an original, renewal, reciprocal, and an inactive returning to active status certificate or license under the Texas Appraiser Licensing and Certification Act and makes additional revisions to harmonize these eligibility requirements.

S.B. 1007 removes the requirement for the certification board to rely on appropriate sampling techniques when reviewing the appraisal experience of all applicants for certification for purposes of verifying the evidence of appraisal experience submitted by an applicant for a certificate or license and clarifies that an applicant has at least 60 days after the date notice is sent to submit any records requested by the certification board for such verification. The bill specifies that a complaint against an applicant for a certificate or license alleging fraud, incompetency, or malpractice that the certification board determines is reasonable and that the certification board uses as a basis for obtaining other information or documentation from the applicant is a formal complaint, whether filed by a consumer or a peer. The bill changes the deadline for applying to the certification board for placement of a certificate or license on inactive status, for a person whose license or certificate has expired, from not later than the first anniversary of the date the certificate or license expired to not later than the 180th day after such expiration date and requires the applicant to meet the requirements for a late renewal of a certificate or license.

S.B. 1007 authorizes the certification board, as an alternative to the testing service, to collect an examination fee from an applicant for a certificate or license and revises statutory provisions regarding the time and place of the examination to require the certification board or testing service to offer the examination at least once each month in Austin and at other locations and times as the certification board may determine or require and to provide public notice of all examinations on the certification board's website. The bill removes a statutory provision establishing that an applicant for an examination is not required to fulfill the experience requirement before taking the examination and instead requires an applicant for the examination to fulfill the applicable experience requirement for a certificate or license before taking the examination. The bill changes the deadline for providing notice to an applicant of the applicant's examination results from not later than the 31st day to not later than the 10th day after the date a person takes an examination and requires the certification board, if notice of the examination results will be delayed for more than 10 days after the examination date, rather than for more than 90 days, to notify each examinee of the reason for the delay not later than the 10th day.

S.B. 1007 adds payment of the required fee to the requirements a person must fulfill to register with the certification board as a temporary out-of-state appraiser, revises the eligibility requirements for such registration with respect to the approval authority for the certification and licensing program under which the person is certified or licensed by another state, and subjects such a registrant to the professional standards set out for a person certified or licensed under the Texas Appraiser Licensing and Certification Act.

S.B. 1007 specifies that an appraiser trainee is supervised by a certified appraiser instead of being sponsored by such an appraiser and requires the appraiser to meet the requirements of the certification board consistent with applicable federal law. The bill revises statutory provisions relating to the approval of an appraiser trainee by the certification board and references to an approved appraiser trainee to instead apply to the licensing of an appraiser trainee and to refer to a licensed appraiser trainee. The bill makes the existing eligibility requirements for approval as an appraiser trainee applicable to the eligibility for licensing as an appraiser trainee and expands those eligibility requirements to include compliance with the application and criminal history

record information requirements applicable to a certificate or other license issued by the certification board.

S.B. 1007 revises Texas Appraiser Licensing and Certification Act provisions relating to the complaint process, the review and investigation of a complaint, the composition of a peer investigative committee, the required report on an investigation, certification board actions based on the report, a consent order and agreement, the public availability of a final decision, a rehearing, and the reinstatement of a certificate or license. The bill sets out provisions relating to the confidentiality of investigation material and relating to cost recovery by the certification board if the respondent fails to appear for a contested case hearing. The bill requires a collected administrative penalty to be deposited in a restricted fund maintained and operated by the certification board to develop educational programs for appraisers or to conduct studies that enhance consumer protection. The bill authorizes the certification board, if it appears to the board that a person is violating a provision of, or a rule under, the Texas Appraiser Licensing and Certification Act or the Texas Appraisal Management Company Registration and Regulation Act, to issue, after notice and opportunity for a hearing, a cease and desist order prohibiting the person from engaging in the activity. The bill makes a violation of the cease and desist order grounds for imposing an administrative penalty under such acts, as applicable.

S.B. 1007 repeals the following provisions of the Occupations Code:

- Section 1103.005
- Section 1103.2015
- Section 1103.457

EFFECTIVE DATE

January 1, 2016.