

**MEETING AGENDA****TALCB Enforcement Committee**

4th Floor, Stephen F. Austin State Office Building  
1700 North Congress, Austin, Texas 78701

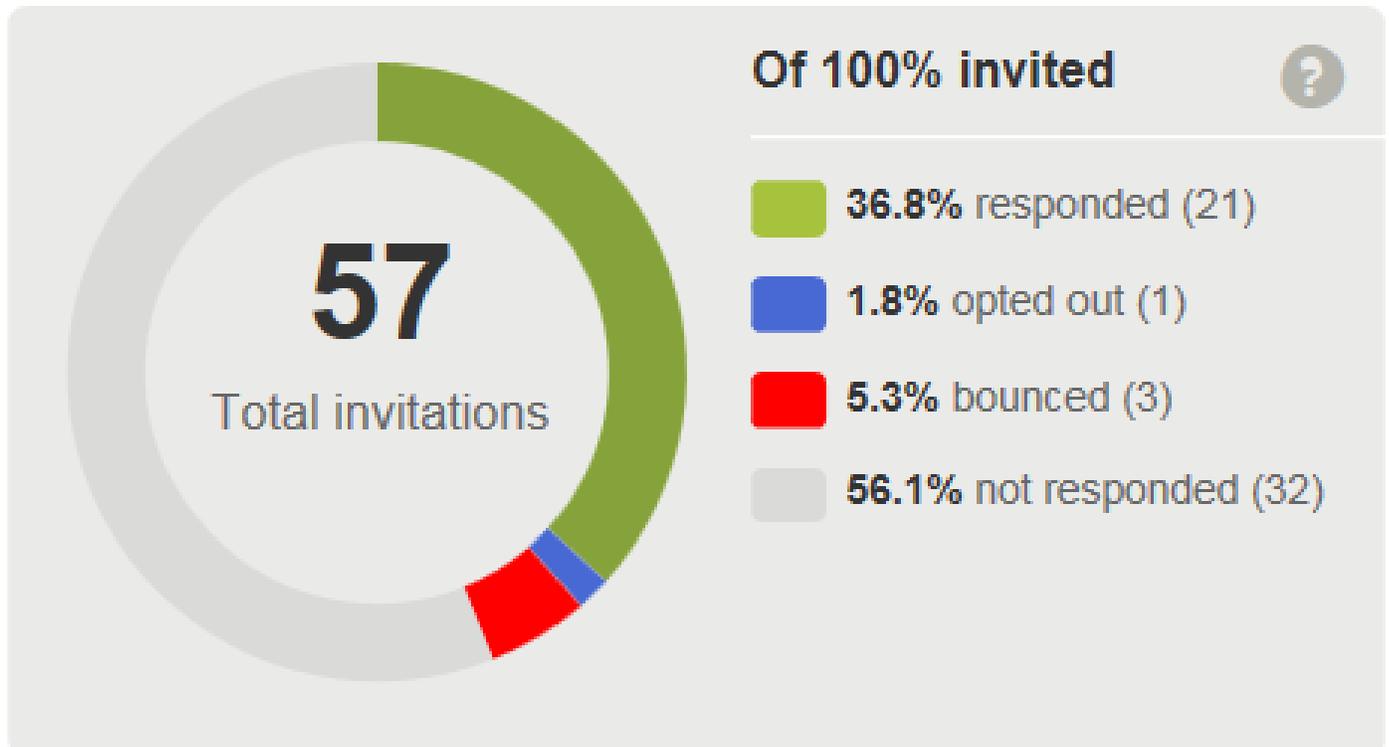
Friday, July 24, 2014, 1:30 p.m.  
Via Teleconference

1. Call to order
2. Discussion and possible action regarding qualifications for appointment as Mentors and consideration of a referral process for possible candidates
3. Discussion and possible action regarding alternative standards for evaluating required experience
4. Discussion and possible action regarding possible amendments to:
  - a. 22 TAC §153.20. Guidelines for Revocation, Suspension, Denial of License; Probationary License
  - b. 22 TAC §157.26 Unlicensed Activity
  - c. 22 TAC §157.31 Investigative Conference
5. Review of Action Items
6. Discussion regarding future agenda items
7. Discussion regarding future meeting dates
8. Adjourn

Recommended Mentor criteria:

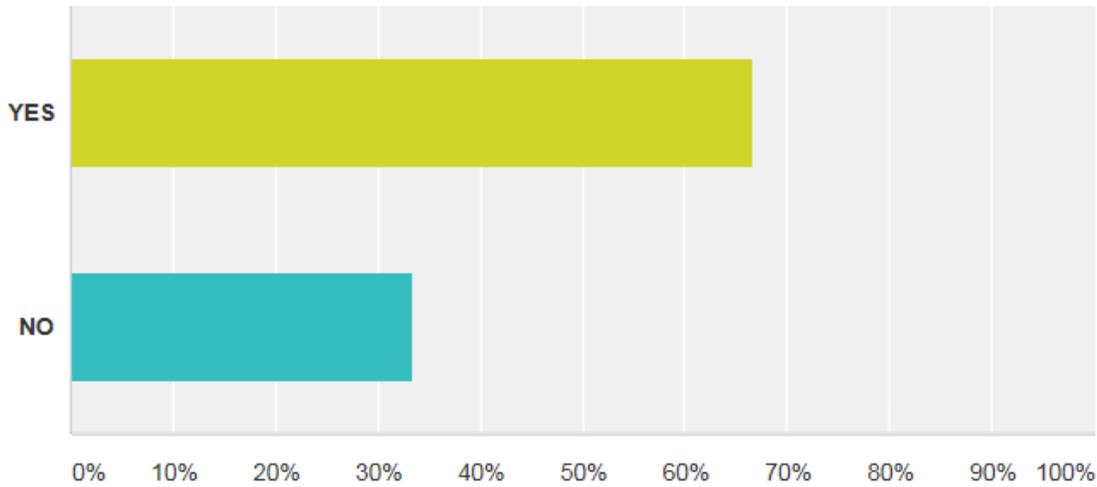
1. 10+ years of appraisal experience with a state certification (residential or general);
2. 2 letters of recommendation from other licensed appraisers;
3. Experience in the past 5 years as an appraiser course instructor, sponsor/supervisor for appraiser trainees, or former TALCB appraiser-investigator;
4. Any professional appraiser designation, including USPAP Certified Instructor, SRA, MAI, AI-GRS, ASA, IFA, IFAS or ARA; and
5. In good standing with no formal disciplinary history, in accordance with TALCB standards.

# TALCB Survey on Alternative Criteria to be a Board Approved Mentor



**Question #1**

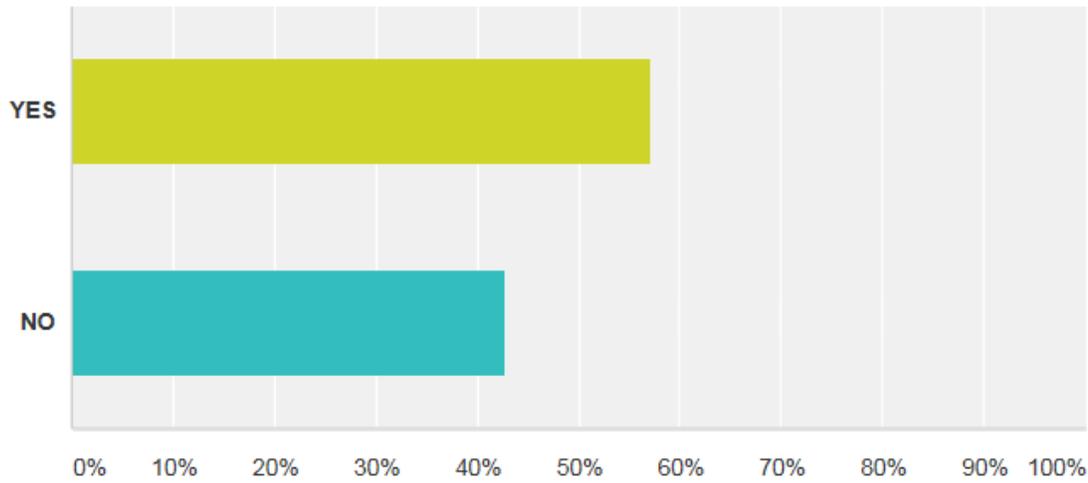
**If the Board approved alternative criteria to be a Board approved mentor (criteria yet to be determined), do you believe more appraisers would be willing to serve as a Board approved mentor?**



<b>YES</b>	<b>66.67%</b>	<b>14</b>
<b>NO</b>	<b>33.33%</b>	<b>7</b>

**Question #2**

**If the Board approved alternative criteria to be a Board approved mentor (criteria yet to be determined), and you qualified to be a mentor under the alternative criteria, would you be willing to serve as a mentor?**



<b>YES</b>	<b>57.14%</b>	<b>12</b>
<b>NO</b>	<b>42.86%</b>	<b>9</b>

**Question #3**

**If there was an experience component to the alternative criteria, what should that experience be (how many years and doing what)?**

<b>0-5 years</b>	<b>00.00%</b>	<b>0</b>
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<b>6-10 years</b>	<b>40.00%</b>	<b>8</b>
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6-10

All types of real estate appraisal

this should be the minimum

I'm not sure what answer your looking for here. Yes, 6 to 10 years of BOTH field and review work.

I would suggest 6-10 years of residential appraisal experience for SF appraisal mentors.

6-10 appraising

With the same certification, i.e., residential/general

in the same line of work

<b>11+ years</b>	<b>65.00%</b>	<b>13</b>
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11+

As an appraiser

Specific to the experience required of the particular mentoring.

yes

I would suggest 11+ years of appraisal experience for commercial.

At least 10 years in the particular field

11+ years doing active field work

Active field appraisal with a review by TALCB prior to being approved.

Mortgage lending background & varied commercial appraisal by previous examples provided

License and Certification in good standing.

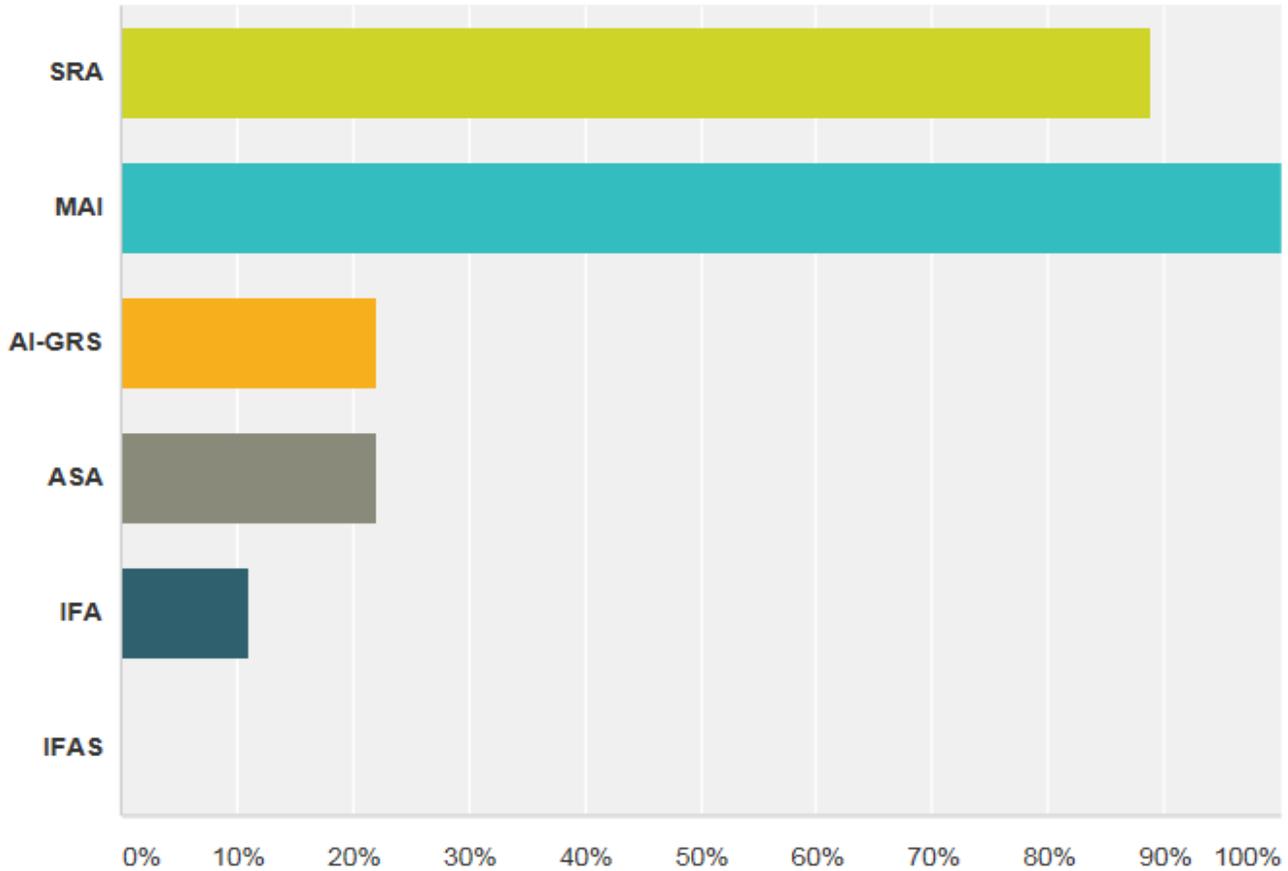
appraising the appropriate property type

Bachelors, General, and no formal complaints

Ten years

Question #4

If there was a certification or designation component to the alternative criteria, what certification or designation should that be?



<b>SRA</b>	<b>88.89%</b>	<b>8</b>
<b>MAI</b>	<b>100.00%</b>	<b>9</b>
<b>AI-GRS</b>	<b>22.22%</b>	<b>2</b>
<b>ASA</b>	<b>22.22%</b>	<b>2</b>
<b>IFA</b>	<b>11.11%</b>	<b>1</b>
<b>IFAS</b>	<b>00.00%</b>	<b>0</b>

**Other/Comments:**

At a minimum any designation

RPA through TDLR

Designations would be nice, but there are some idiots who possess them.

None

No, I find in my classes most appraisers do NOT hold a designation from AI, ASA or IFA; they don't need it to get field work.

Quality education & experience are more important

Most designations by legitimate trade organizations should be acceptable. The problem with the above listing is that there are none with any rural or non-urban training, which is where many complaints originate. ARA would be a good one for rural mentorship.

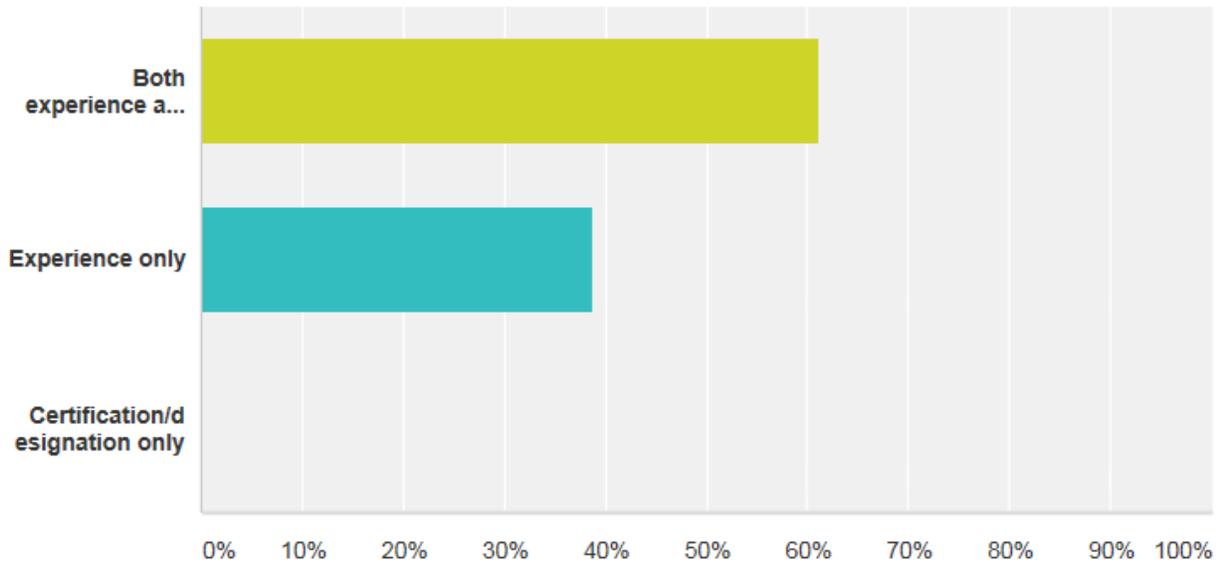
Designation not required

State Certification

AI-RRS

**Question #5**

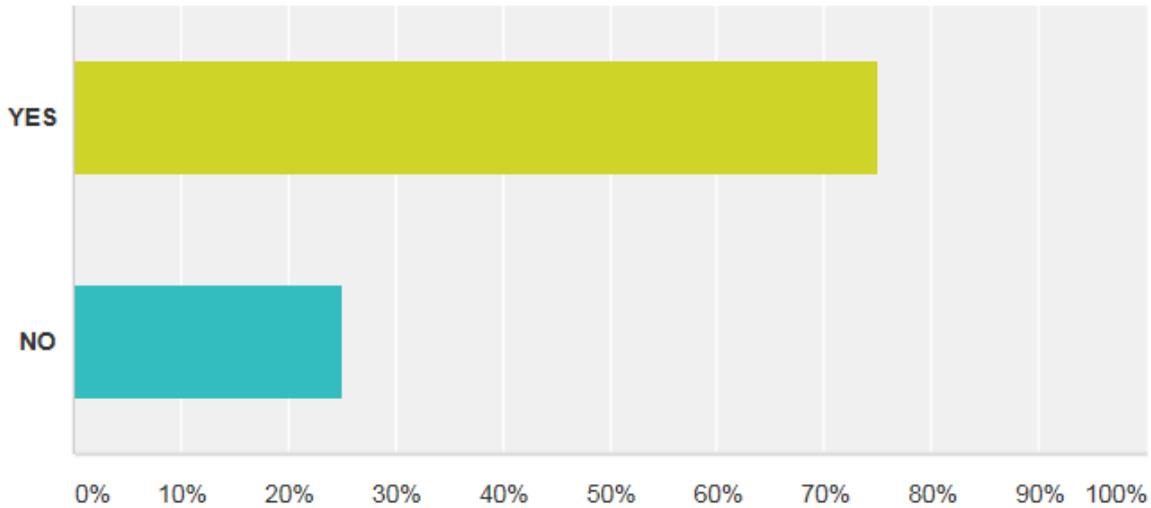
**Would you favor alternative criteria that has both an experience and certification or designation component, or just one or the other, and if so; which one?**



<b>Both experience &amp; designation/certification</b>	<b>61.11%</b>	<b>11</b>
<b>Experience only</b>	<b>38.89%</b>	<b>7</b>
<b>Designation/certification only</b>	<b>00.00%</b>	<b>0</b>

**Question #6**

**Do you believe there should be an experience component added to the current criteria to be a Board approved mentor (that there should be an experience requirement in addition to being a Certified USPAP Instructor)?**



<b>YES</b>	<b>75.00%</b>	<b>15</b>
<b>NO</b>	<b>25.00%</b>	<b>5</b>

## Question #7

### Additional comments or suggestions:

Just being an instructor & not a practicing appraiser gives you no real world experience.

1. There is already an experience component to becoming an AQB Certified USPAP Instructor. 2. There are USPAP instructors with NO PRACTICAL knowledge or experience of the areas for which they're required to provide mentoring. PML

I chose not to be a mentor this year only. I want to see what the PIC entails. I plan to apply as a mentor next time - or do neither. Maybe a little more discussion with TALCB or an actual mentor would help; I truly don't know what they do or the time involved.

I do not see anyone volunteering for this as it may be time consuming. If there is some payment involved, then maybe others are willing to apply. Also, there is the liability associated with mentoring another appraiser. The liability issues would need to be resolved.

Would be ideal if it was a team.....One USPAP instructor and one experienced individual that was actually practicing rather than just academic.

I am designated, but that is not enough & not the most important component. Active field work & quality education including USPAP instructor certification are more important..

Don't forget about rural Texas. Some of the highest qualified appraisers in the State hold other designations other than those listed above. The mentorship program is a good idea and should work if both parties really want it to help make a more qualified appraiser.

Actively regulate AMC with enforcement!!

Not true in all cases, but many times I think USPAP instructors are less in touch with the real world issues in appraising and the balance between the economics of running a business and how far one has to go to be "USPAP Compliant". Don't read this as me saying you can't achieve both, but it seems some USPAP instructors are not in touch with the economics of running a business in an ethical and competent manner.

A mentor program should be based on the state's certification and/or license, bachelors, more than ten years experience, and no formal complaints with state regulators. There should also be letters of recommendation. If the mentor program continues on its current path with "Certified USPAP Instructors" and/or a "designation" from some organization, we will continue to lack the mentorship within the ethnic minority appraisal community. The ethnic minority appraisal community is the area in which the state should be looking at to assist them with mentorship. The number of ethnic minority

appraisers continue to decline at a much higher rate. If we eliminate ethnic minority appraisers, ethnic minority communities will lack appraisers willing to go into their neighborhoods and appraise their most valuable investment.

Being a USPAP instructor is one of the requirements that should be reconsidered. Too many times the AQB certified USPAP instructors disagree on what USPAP says to make that a meaningful requirement. I'd rather have a well trained, experienced and designated member mentoring than someone who holds the AQB USPAP credential.

## Education Committee Report May 15, 2015

**Members: Jim Jeffries, Chair, Walker Beard and Brian Padden**

The Education Committee met via teleconference on May 7, 2015.

### Meeting on May 7, 2015

**Committee Members in attendance:** Jim Jeffries, Chair; Walker Beard and Brian Padden.

**Other Board Members in attendance:** None

**Staff in attendance:** Douglas Oldmixon, Commissioner; Kristen Worman, General Counsel; Tony Slagle, Government Affairs; Dione Frederick, Recording Secretary; Troy Beaulieu, Managing Attorney-SES; Jennifer Wheeler, Education Manager.

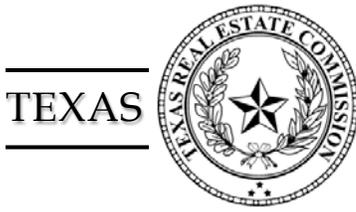
**Public in attendance:** Joe Woller, on behalf of FACT; Teresa Walker, on behalf of ATA; Bobby Crisp, on behalf of ATA.

The Committee discussed several items, including resources needed for approval of education courses, the development of a voluntary appraiser trainee review program and a request about appraiser designations and the criteria for Board-approved Mentors referred from the Enforcement Committee. The Committee asked staff to bring back a recommended structure for the voluntary appraiser trainee review program for discussion at the next Committee meeting.

After due consideration, the Committee recommends that, as an alternative to being a currently certified USPAP Instructor, a certified appraiser with at least ten years of experience and who holds a recognized professional appraiser designation and is currently approved to teach the courses required to obtain that designation, should be considered as qualified to become a Board approved Mentor. This is in addition to other criteria recommended by the Board's Enforcement Committee.

The Committee also received an update from staff on the number of providers of the required appraiser trainee/sponsor course. There are currently three approved online providers for the appraiser trainee/sponsor course, and one provider has been approved for an in-person classroom course. The Committee welcomes feedback from appraiser trainees and sponsors who take this required course.

The Committee set a tentative future meeting date for a teleconference meeting on July 23, 2015 at 10:00am.



TEXAS

APPRAISER LICENSING &amp; CERTIFICATION BOARD

DOUGLAS E. OLDMIXON, COMMISSIONER

**PROPOSED RULE ACTION FROM**

**AUGUST 14, 2015 MEETING OF**

**THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD**

**Chapter 153. Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act**

**22 TAC §153.20. Guidelines for Revocation, Suspension, Denial of License; Probationary License**

The Texas Appraiser Licensing and Certification Board (TALCB or Board) proposes amendments to 22 TAC §153.20. Guidelines for Revocation, Suspension, Denial of License; Probationary License. The amendments propose changes regarding compliance with an agreed order of the Board and the statute of limitations for investigating a complaint to align the rule with statutory changes to Chapter 1103, Texas Occupations Code, adopted by the 84<sup>th</sup> Legislature.

Kristen Worman, General Counsel, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the proposed amendments. There is no anticipated significant impact on small businesses, micro-businesses or local or state employment as a result of implementing the proposed amendments. There is no significant anticipated economic cost to persons who are required to comply with the proposed amendments.

Ms. Worman also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections as proposed will be a requirement that is consistent with the statute and easier to understand, apply and process.

Comments on the proposal may be submitted to Kristen Worman, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or emailed to

general.counsel@talcb.texas.gov. The deadline for comments is 30 days after publication in the Texas Register.

The amendments are proposed under Texas Occupations Code, §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the Appraiser Qualifications Board.

The statute affected by these amendments is Texas Occupations Code, Chapter 1103. No other statute, code or article is affected by the proposed amendments.

***§153.20. Guidelines for Revocation, Suspension, Denial of License; Probationary License.***

(a) The Board may suspend or revoke a license or deny issuing a license to an applicant at any time the Board determines that the applicant or license holder:

- (1) disregards or violates a provision of the Act or the Board rules;
- (2) is convicted of a felony;
- (3) fails to notify the Board not later than the 30th day after the date of the final conviction if the person, in a court of this or another state or in a federal court, has been convicted of or entered a plea of guilty or nolo contendere to a felony or a criminal offense involving fraud or moral turpitude;
- (4) fails to notify the Board not later than the 30th day after the date of incarceration if the person, in

**TITLE 22. Examining Boards**

**Part VIII. Texas Appraiser Licensing and Certification Board**

**Chapter 153. Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act**

this or another state, has been incarcerated for a criminal offense involving fraud or moral turpitude;

(5) fails to notify the Board not later than the 30th day after the date disciplinary action becomes final against the person with regard to any occupational license the person holds in Texas or any other jurisdiction;

(6) fails to comply with the USPAP edition in effect at the time of the appraiser service;

(7) acts or holds himself or herself or any other person out as a person licensed [~~real-estate appraiser~~] under the Act when not so licensed;

(8) accepts payment for appraiser services but fails to deliver the agreed service in the agreed upon manner;

(9) refuses to refund payment received for appraiser services when he or she has failed to deliver the appraiser service in the agreed upon manner;

(10) accepts payment for services contingent upon a minimum, maximum, or pre-agreed value estimate except when such action would not interfere with the appraiser's obligation to provide an independent and impartial opinion of value and full disclosure of the contingency is made in writing to the client;

(11) offers to perform appraiser services or agrees to perform such services when employment to perform such services is contingent upon a minimum, maximum, or pre-agreed value estimate except when such action would not interfere with the appraiser's obligation to provide an independent and impartial opinion of value and full disclosure of the contingency is made in writing to the client;

(12) makes a material misrepresentation or omission of material fact;

(13) has had a license as an appraiser revoked, suspended, or otherwise acted against by any other jurisdiction for an act which is a crime under Texas law;

(14) procures, or attempts to procure, a license by making false, misleading, or fraudulent representation;

(15) fails to actively, personally, and diligently supervise an appraiser trainee or any person not licensed under the Act who assists the license holder in performing real estate appraiser services;

(16) has had a final civil judgment entered against him or her on any one of the following grounds:

(A) fraud;

(B) intentional or knowing misrepresentation;

(C) grossly negligent misrepresentation in the performance of appraiser services;

(17) fails to make good on a payment issued to the Board within thirty days after the Board has mailed a request for payment by certified mail to the license holder's last known business address as reflected by the Board's records;

(18) knowingly or willfully engages in false or misleading conduct or advertising with respect to client solicitation;

(19) acts or holds himself or any other person out as a person licensed [~~real-estate appraiser~~] under this or another state's Act when not so licensed;

(20) misuses or misrepresents the type of classification or category of license number;

(21) engages in any other act relating to the business of appraising that the Board, in its discretion, believes warrants a suspension or revocation;

(22) uses any title, designation, initial or other insignia or identification that would mislead the public as to that person's credentials, qualifications, competency, or ability to perform licensed appraisal services;

(23) fails to comply with an agreed order or a final order of the Board;

(24) fails to answer all inquiries concerning matters under the jurisdiction of the Board within 20 days of notice to said individual's address of record, or within the time period allowed if granted a written extension by the Board; or

(25) after conducting reasonable due diligence, knowingly accepts an assignment from an appraisal management company that is not exempt from registration under the Act which:

(A) has not registered with the Board; or

(B) is registered with the Board but has not placed the appraiser on its panel of appraisers maintained with the Board; or

(26) fails to approve, sign, and deliver to their appraiser trainee the appraisal experience log and affidavit required by §153.15(f)(1) and §153.17(c)(1) of this title for all experience actually

**TITLE 22. Examining Boards**

**Part VIII. Texas Appraiser Licensing and Certification Board**

**Chapter 153. Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act**

and lawfully acquired by the trainee while under the appraiser's sponsorship.

(b) The Board has discretion in determining the appropriate penalty for any violation under subsection (a) of this section.

(c) The Board may probate a penalty or sanction, and may impose conditions of the probation, including, but not limited to:

(1) the type and scope of appraisals or appraisal practice;

(2) the number of appraiser trainees or authority to sponsor appraiser trainees;

(3) requirements for additional education;

(4) monetary administrative penalties; and

(5) requirements for reporting real property appraisal activity to the Board.

(d) A person applying for reinstatement after revocation or surrender of a license must comply with all requirements that would apply if the license had instead expired.

(e) The provisions of this section do not relieve a person from civil liability or from criminal prosecution under the Act or other laws of this State.

(f) The Board may not investigate a complaint submitted to the Board more than four years after the date on which the alleged violation

occurred [~~either more than two years after the date of discovery or more than two years after the completion of any litigation involving the incident, whichever event occurs later, involving the license holder who is the subject of the complaint~~].

(g) Except as provided by Texas Government Code §402.031(b) and Texas Penal Code §32.32(d), there shall be no undercover or covert investigations conducted by authority of the Act.

(h) A license may be revoked or suspended by the Attorney General or other court of competent jurisdiction for failure to pay child support under the provisions of Chapter 232 of the Texas Family Code.

(i) If the Board determines that issuance of a probationary license is appropriate, the order entered by the Board with regard to the application must set forth the terms and conditions for the probationary license. Terms and conditions for a probationary license may include any of the following:

(1) that the probationary license holder comply with the Act and with the rules of the Texas Appraiser Licensing and Certification Board;

(2) that the probationary license holder fully cooperate with the enforcement division of the Board in the investigation of any complaint filed against the license holder or any other complaint in which the license holder may have relevant information;

(3) that the probationary license holder attend a prescribed number of classroom hours in specific areas of study during the probationary period;

(4) that the probationary license holder limit appraisal practice as prescribed in the order;

(5) that the probationary license holder work under the direct supervision of a certified general or certified residential appraiser who will review and sign each appraisal report completed;

(6) that the probationary license holder report regularly to the Board on any matter which is the basis of the probationary license; or

(7) that the probationary license holder comply with any other terms and conditions contained in the order which have been found to be reasonable and appropriate by the Board after due consideration of the circumstances involved in the particular application.

(k) Unless the order granting a probationary license specifies otherwise, a probationary license holder may renew the license after the probationary period by filing a renewal application, satisfying applicable renewal requirements, and paying the prescribed renewal fee.

(l) If a probationary license expires prior to the completion of a probationary term and the probationary license holder files a late renewal application, any remaining probationary period shall be reinstated effective as of the day following the renewal of the probationary license.



TEXAS

APPRAISER LICENSING &amp; CERTIFICATION BOARD

DOUGLAS E. OLDMIXON, COMMISSIONER

**PROPOSED RULE ACTION FROM  
AUGUST 14, 2015 MEETING OF  
THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD**

**Chapter 157. Rules Relating to Practice and Procedure  
Subchapter D. Penalties and Other Enforcement Provisions**

**22 TAC §157.26. Unlicensed Activity**

The Texas Appraiser Licensing and Certification Board (TALCB or Board) proposes a new rule, 22 TAC §157.26. Unlicensed Activity. The Board proposes this rule to implement statutory changes to Chapter 1103, Texas Occupations Code, adopted by the 84<sup>th</sup> Legislature.

Kristen Worman, General Counsel, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the proposed amendments. There is no anticipated significant impact on small businesses, micro-businesses or local or state employment as a result of implementing the proposed amendments. There is no significant anticipated economic cost to persons who are required to comply with the proposed amendments.

Ms. Worman also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections as proposed will be a requirement that is consistent with the statute and easier to understand, apply and process.

Comments on the proposal may be submitted to Kristen Worman, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or emailed to general.counsel@talcb.texas.gov. The deadline for comments is 30 days after publication in the Texas Register.

The amendments are proposed under Texas Occupations Code, §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1104.051, which authorizes TALCB to adopt rules to administer Chapter 1104.

The statutes affected by these amendments are Chapters 1103 and 1104, Texas Occupations Code. No other statute, code or article is affected by the proposed amendments.

[§157.26 . Unlicensed Activity.](#)

[\(a\) If the Board receives information indicating that a person has violated Chapter 1103 or 1104, Texas Occupations Code, or Board rules, the Board shall conduct an investigation to determine if such information is accurate. If the investigation produces evidence to indicate a probable violation of Chapter 1103 or Chapter 1104, Texas Occupations Code, or Board rules, the Board may, after notice and an opportunity for a hearing:](#)

- [\(1\) impose an administrative penalty;](#)
- [\(2\) issue an order to cease and desist; or](#)
- [\(3\) take such other action as may be necessary and proper.](#)



TEXAS

APPRAISER LICENSING &amp; CERTIFICATION BOARD

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**PROPOSED RULE ACTION FROM  
AUGUST 14, 2015 MEETING OF  
THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD**

**Chapter 157. Rules Relating to Practice and Procedure  
Subchapter E. Alternative Dispute Resolution**

**22 TAC §157.31. Investigative Conference**

The Texas Appraiser Licensing and Certification Board (TALCB or Board) proposes amendments to 22 TAC §157.31. Investigative Conference. The amendments propose changes to align the rule with statutory changes to Chapter 1103, Texas Occupations Code, adopted by the 84<sup>th</sup> Legislature.

Kristen Worman, General Counsel, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the proposed amendments. There is no anticipated significant impact on small businesses, micro-businesses or local or state employment as a result of implementing the proposed amendments. There is no significant anticipated economic cost to persons who are required to comply with the proposed amendments.

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The amendments are proposed under Texas Occupations Code, §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1104.051, which authorizes TALCB to adopt rules to administer Chapter 1104.

The statutes affected by these amendments are Chapters 1103 and 1104, Texas Occupations Code. No other statute, code or article is affected by the proposed amendments.

***§157.31. Investigative Conference.***

- (a) A respondent may meet with the Board for an investigative discussion of the facts and circumstances of the alleged violations.
- (b) A respondent may, but is not required to, have an attorney or other advocate present at an investigative conference.
- (c) A respondent will be provided with ~~[a list of topics that may be discussed and]~~ a Statement of Investigative Conference Procedures and Rights (IC Form) not later than three ~~[(3)]~~ days before~~[prior to]~~ the date of the investigative conference. The respondent and respondent's attorney, if any, must acknowledge receipt of the IC Form by signing it and delivering it to the Board at the beginning of the investigative conference.
- (d) The Board will provide a copy of the investigative report to the respondent and respondent's representative(s), if any, not later than three days before the date of the investigative conference if respondent and respondent's representative(s), if any:

**TITLE 22. Examining Boards**  
**Part VIII. Texas Appraiser Licensing and Certification Board**  
**Chapter 157. Rules Relating to Practice and Procedure**

(1) Submit a written request for a copy of the investigative report not later than five days before the date of the investigative conference;  
and

(2) Sign the Board's confidentiality agreement prohibiting the re-release of the investigative report without written permission of the Board or a court order~~[At its sole discretion, the Board may provide a copy of the investigative report to the respondent or respondent's attorney for the purpose of advancing case settlement or resolution].~~

(e) Participation in an investigative conference is not mandatory and may be terminated at any time by either party.

(f) At the conclusion of the investigative conference, the Board staff may propose a settlement offer that can include administrative penalties and any other disciplinary action authorized by the Act or recommend that the complaint be dismissed.

(g) The respondent may accept, reject, or make a counter offer to the proposed settlement not later than ten (10) days following the date of the investigative conference.

(h) If the parties cannot reach a settlement not later than ten (10) days following the date of the investigative conference, the matter will be referred to the Director of Standards and Enforcement Services to pursue appropriate action.