



MEETING AGENDA
Executive Committee

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

Via Teleconference

Wednesday, April 16, 2014, 2:00 p.m.

1. Call to order
2. Discussion and possible action regarding proposed amendments to Chapter 153 pursuant to quadrennial rule review
3. Discussion and possible action regarding posting of Committee meetings on website and attendance by other Board members not assigned to the Committee holding the meeting
4. Discussion and possible action regarding timeline and process for review of existing Board policies
5. Discussion and possible action regarding
 - a. clarification of statutory per diem provision §1103.058
 - b. per diem and expense reimbursement policy
6. Discussion and possible action regarding process for placing items on an agenda
7. Discussion and possible action regarding the use of consent agendas
8. Discussion and possible action regarding use of Executive Session
9. Discussion and possible action regarding designation of the Board Chair to receive any and all communications related to *Harris County Flood Control Dist. v. Taub, et al*, No. 955,392 and TALCB Complaint #13-145.
10. Discussion and possible action regarding issues and agendas for future meetings
11. Discussion regarding future meetings dates
12. Adjourn



THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

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

22 TAC §153.1. Definitions.

§153.1. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

- (1) ACE--Appraiser Continuing Education.
- (2) Act--The Texas Appraiser Licensing and Certification Act.
- (3) Administrative Law Judge--A judge employed by the State Office of Administrative Hearings (SOAH).
- (4) Analysis--The act or process of providing information, recommendations or conclusions on diversified problems in real estate other than estimating value.
- (5) Applicant--A person seeking a certification, license, approval as an appraiser trainee, or registration as a temporary out-of-state appraiser from the Board [board].
- (6) Appraisal practice – valuation services performed by an individual acting as an appraiser, including but not limited to appraisal and appraisal review [process--The appraisal process consists of an analysis of factors that bear upon value; definition of the problem; gathering and analyzing data; applying the appropriate value approaches and methodology; arriving at an opinion of value and reporting the opinion of value].
- (7) Appraisal report--A report as defined by and prepared under the USPAP.
- (8)[(7)] Appraisal Standards Board--The Appraisal Standards Board (ASB) of the Appraisal Foundation, or its successor.

(9)[(8)] Appraisal Subcommittee--The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council or its successor.

(10)[(9)] Appraiser Qualifications Board--The Appraiser Qualifications Board (AQB) of the Appraisal Foundation, or its successor.

(11)[(10)] Appraiser trainee--A person approved by the Board [~~Texas Appraiser Licensing and Certification Board~~] to perform appraisals or appraiser services under the active, personal and diligent supervision and direction of the sponsoring certified appraiser. In addition an appraiser trainee may perform appraisals or appraiser services under the active, personal and diligent supervision of an authorized supervisor as further detailed in this chapter.

~~[(11) Authorized supervisor--A certified appraiser who is designated by the trainee's sponsor to supervise specific appraisal work performed by that trainee [and] which meets the requirements for experience for licensing and certification. An authorized supervisor assumes the same responsibilities regarding the work product of a trainee as a sponsor.]~~

(12) Board--The Texas Appraiser Licensing and Certification Board.

(13) Classroom hour--Fifty minutes of actual classroom session time.

(14) Client--Any party for whom an appraiser performs an assignment [~~a service~~].

(15) College--Junior or community college, senior college, university, or any other postsecondary educational institution established by

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the Texas Legislature, which is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or like commissions of other regional accrediting associations, or is a candidate for such accreditation.

(16) Commissioner--The commissioner of the Texas Appraiser Licensing and Certification Board.

(17) **Complainant** [~~Complaining witness~~]--Any person who has made a written complaint to the **Board** [~~board~~] against any person subject to the jurisdiction of the board.

~~[(18) Complete appraisal--An appraisal performed without invoking the departure rule.]~~

(18) ~~[(19)]~~ Complex appraisal--An appraisal in which the property to be appraised, the form of ownership, market conditions, or any combination thereof are atypical.

(19) ~~[(20)]~~ Contested case--A proceeding in which the legal rights, duties or privileges of a party are to be determined by the **Board** [~~board~~] after an opportunity for adjudicative hearing. A matter that is completed without being referred to SOAH is not a contested case.

(20) ~~[(21)]~~ Council--The Federal Financial Institutions Examination Council (FFIEC) or its successor.

(21) ~~[(22)]~~ Day--A calendar day unless clearly indicated otherwise.

~~[(23) Departure rule--A limited departure from a requirement of the Uniform Standards of Professional Appraisal Practice, as defined by the USPAP.]~~

(22) ~~[(24)]~~ Distance education-- Any educational process based on the geographical separation of **student** [~~learner~~] and instructor [~~(e.g., CD-ROM, online learning, correspondence courses, video conferencing, etc.),~~] that provides **a reciprocal environment where the student has verbal or written communication with** [~~interaction between the learner~~] **an** [~~and~~] instructor [~~and includes testing~~].

~~[(25) Evaluation--An estimate of value that is not more than a limited appraisal, may be presented in a format that is less than a self-contained report, is prepared by a certified or licensed real estate appraiser or other lawfully authorized real estate professional, and includes an estimate of a property's market value, a certification and limiting conditions, and an analysis of the supporting information used in forming the estimate of value.]~~

(23) ~~[(26)]~~ Feasibility analysis--A study of the cost-benefit relationship of an economic endeavor.

(24) ~~[(27)]~~ Federal financial institution regulatory agency--The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, or the successors of any of those agencies.

(25) ~~[(28)]~~ Federally related transaction--Any real estate-related transaction that requires the services of an appraiser and that is engaged in, contracted for, or regulated by a federal financial institution regulatory agency.

(26) ~~[(29)]~~ Foundation--The Appraisal Foundation (TAF) or its successor.

(27) ~~[(30)]~~ Fundamental real estate appraisal course--Those courses approved by the Appraiser Qualifications Boards as qualifying education.

(28) ~~[(31)]~~ Inactive certificate or license--A general certification, residential certification, or state license which has been placed on inactive status by the **Board** [~~board~~].

(29) ~~[(32)]~~ License--The whole or a part of any **Board** [~~board~~] permit, certificate, approval, registration or similar form of permission required by law.

(30) ~~[(33)]~~ **License holder** [~~Licensee~~]--A person certified, licensed, approved, authorized or registered by the **Board** [~~board~~] under the Texas Appraiser Licensing and Certification Act.

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(31) ~~[(34)]~~ Licensing--Includes the **Board** ~~[board]~~ processes respecting the granting, disapproval, denial, renewal, certification, revocation, suspension, annulment, withdrawal or amendment of a license.

~~[(35) Limited appraisal--An appraisal in which the departure rule is invoked.]~~

(32) ~~[(36)]~~ Market analysis--A study of market conditions for a specific type of property.

(33) ~~[(37)]~~ **Nonresidential** ~~[Non-residential]~~ real estate appraisal course--A course with emphasis on the appraisal of **nonresidential** ~~[non-residential]~~ real estate properties which include, but are not limited to, income capitalization, income property, commercial appraisal, rural appraisal, agricultural property appraisal, discounted cash flow analysis, subdivision analysis and valuation, or other courses specifically determined by the board.

(34) ~~[(38)]~~ Nonresidential property--A property which does not conform to the definition of residential property.

(35) ~~[(39)]~~ Party--The **Board** ~~[board]~~ and each person or other entity named or admitted as a party.

(36) ~~[(40)]~~ Person--Any individual, partnership, corporation, or other legal entity.

(37) ~~[(41)]~~ Personal property--Identifiable tangible objects and chattels that are considered by the general public as being "personal," for example, furnishings, artwork, antiques, gems and jewelry collectibles, machinery and equipment; all tangible property that is not classified as real estate.

(38) ~~[(42)]~~ Petitioner--The person or other entity seeking an advisory ruling, the person petitioning for the adoption of a rule, or the party seeking affirmative relief in a proceeding before the board.

(39) ~~[(43)]~~ Pleading--A written document, submitted by a party or a person seeking to participate in a case as a party, that requests procedural or substantive relief, makes claims, alleges facts, makes a legal argument, or otherwise addresses matters involved in the case.

~~[(44) Provisional License--A license issued to individuals who have met the educational and examination requirements for licensing but who have not met the experience requirements.]~~

(40) ~~[(45)]~~ Real estate--An identified parcel or tract of land, including improvements, if any.

(41) ~~[(46)]~~ Real estate-related financial transaction--Any transaction involving: the sale, lease, purchase, investment in, or exchange of real property, including an interest in property or the financing of property; the financing of real property or an interest in real property; or the use of real property or an interest in real property as security for a loan or investment including a mortgage-backed security.

(42) ~~[(47)]~~ Real property--The interests, benefits, and rights inherent in the ownership of real estate.

(43) ~~[(48)]~~ Record--All notices, pleadings, motions and intermediate orders; questions and offers of proof; objections and rulings on them; any decision, opinion or report by **the Board** ~~[board]~~; and all staff memoranda submitted to or considered by the board.

(44) ~~[(49)]~~ Report--Any communication, written or oral, of an appraisal, review, or analysis; the document that is transmitted to the client upon completion of an assignment.

(45) ~~[(50)]~~ Residential property--Property that consists of at least one but not more than four residential units.

(46) ~~[(51)]~~ Respondent--Any person subject to the jurisdiction of **the Board** ~~[board]~~, licensed or unlicensed, against whom any complaint has been made.

~~[(52) Restricted [use] appraisal report--A written report as defined by and prepared under the USPAP.]~~

~~[(53) Review--The act or process of critically studying a report prepared by another.]~~

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~~[(54) Rule—Any board statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the Board and is filed with the Texas Register]~~

~~[(47) [(55)] Self-contained appraisal report—A written report as defined by and prepared under the USPAP.~~

~~[(48) [(56)] Sponsor or sponsoring appraiser--A certified general or residential appraiser who is designated as a supervisory appraiser, as defined by the AQB, ~~[the supervising appraiser]~~ for an appraiser trainee. The sponsor or sponsoring appraiser is responsible for providing active, personal and diligent supervision and direction of the appraiser trainee.~~

~~[(49) [(57)] State certified real estate appraiser--A person certified under the Texas Appraiser Licensing and Certification Act.~~

~~[(50) [(58)] State licensed real estate appraiser--A person licensed under the Texas Appraiser Licensing and Certification Act.~~

~~[(59)] Summary appraisal report—A written report as defined by and prepared under the USPAP.]~~

~~[(51) [(60)] USPAP--Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation.~~

~~[(52) [(61)] Workfile--Documentation necessary to support an appraiser's analysis, opinions, and conclusions, and in compliance with the record keeping provisions ~~[Records Keeping section of the Ethics Rule]~~ of USPAP.~~

Kristen Worman
 General Counsel
 Texas Appraiser Licensing and Certification Board

This agency hereby certifies that the amendments have been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February, 2014.

**CHAPTER 153
RULES RELATING TO
PROVISIONS OF THE
TEXAS APPRAISER LICENSING
AND CERTIFICATION ACT**

§153.3 The Board.

A quorum of the Board~~[board]~~ consists of five members.

(b) Meetings of the Board~~[board]~~ may be called by the chair on a motion by the chair or upon the written request of five members. Unless state law or Board rules require otherwise, meetings ~~[Meetings]~~ shall be conducted in accordance with Robert's Rules of Order.

(c) At the end of a term, members shall continue to serve until their successors are qualified.

§153.5 Fees.

(a) The Board shall charge and the Commissioner~~[commissioner]~~ shall collect the following fees:

(1) a fee of \$400 for an application for a certified general appraiser license~~[general certification]~~;

(2) a fee of \$350 for an application for a certified residential appraiser license~~[residential certification]~~;

(3) a fee of \$325 for an application for a state appraiser license;

(4) a fee of \$300 for an application for ~~[approval as]~~ an appraiser trainee license;

(5) a fee of \$370 for a timely renewal of a certified general appraiser license~~[general certification]~~;

(6) a fee of \$320 for a timely renewal of a certified residential appraiser license~~[residential certification]~~;

(7) a fee of \$295 for a timely renewal of a state appraiser license;

(8) a fee of \$270 for a timely renewal of an appraiser trainee license~~[approval]~~;

(9) a fee equal to 1-1/2 times the timely renewal fee for the late renewal of a license ~~[or certification]~~ within 90 days of expiration;

(10) a fee equal to two times the timely renewal fee for the late renewal of a license ~~[or~~

~~certification]~~ more than 90 days but less than six months after expiration;

(11) a fee of \$250 for nonresident license~~[registration]~~;

(12) the national registry fee in the amount charged by the Appraisal Subcommittee ~~[for the registry]~~;

(13) an application fee for ~~[certification or]~~ licensure by reciprocity in the same amount as the fee charged for a similar ~~[certificate or]~~ license issued to a Texas resident;

(14) a fee of \$40 for preparing a certificate of licensure history, active licensure, or sponsorship;

(15) a fee of \$20 for an addition or termination of sponsorship of an appraiser trainee;

(16) a fee of \$20 for replacing a lost or destroyed license~~[certificate]~~;

(17) a fee for a returned check equal to that charged for a returned check by the Texas Real Estate Commission;

(18) a fee of \$200 for an extension of time to complete required continuing education;

(19) a fee of \$25 to request a ~~[certificate or]~~ license be placed on inactive status;

(20) a fee of \$50 to request a return to active status;

(21) a fee of \$50 for evaluation of an applicant's criminal history;

(22) an examination fee as provided in the Board's current examination administration agreement.

~~(23)~~ (22) a fee of \$20 for filing any application, renewal, change request, or other record on paper when the person may otherwise file electronically by accessing the Board's~~[board's]~~ website and entering the required information online; and

~~(24)~~ (23) any fee required by the Department of Information Resources for establishing and maintaining online applications.

(b) Fees must be submitted in U.S. funds payable to the order of the Texas Appraiser Licensing and Certification Board. Fees are not refundable once an application has been accepted for filing. Persons who have submitted a check which has been returned, and who have not made good on that check within thirty days, for whatever reason, shall submit all future fees in the form of a cashier's check or money order.

~~(c) Appraisers [certified or] licensed by the Board shall pay an annual **national** registry fee required under federal law.~~

~~(c)~~~~(d)~~ Licensing fees are waived for members of the **Board**~~[TALCB]~~ staff who must maintain a license~~[or certification]~~ for employment with the Board only and are not also using the license~~[or certification]~~ for outside employment.

~~§153.7 Categories of Appraiser Certification and Licensing.~~ *[repealed September 20, 2010]*

§153.8 Scope of Practice

(a) **License holders**~~[Appraisers]~~ are bound by the ~~[Competency Rule and all other provisions of the]~~USPAP **edition** in effect at the time of the appraisal.

(b) Certified General Real Estate Appraisers may appraise of all types of real property without regard to transaction value or complexity.

(c) Certified Residential Real Estate Appraisers:

(1) may appraise one-to-four residential units without regard to transaction value or complexity;

(2) may appraise vacant or unimproved land for which the highest and best use is for one-to-four family purposes;

(3) may not appraise subdivisions; and

(4) may associate with a state certified general real estate appraiser, who shall sign the appraisal report, to appraise non-residential properties.

(d) State Licensed Real Estate Appraisers:

(1) may appraise non-complex one-to-four residential units having a transaction value less than \$1 million and complex one-to-four residential units having a transaction value less than \$250,000;

(2) may appraise vacant or unimproved land for which the highest and best use is for one to four **unit residential**~~[family-]~~ purposes;

(3) may not appraise subdivisions; and

(4) may associate with a state certified general real estate appraiser, who shall sign the appraisal report, to appraise non-residential properties.

~~(e) Provisional Licensed Real Estate Appraisers~~

~~may appraise the same types of properties as a State Licensed Real Estate Appraiser.]~~

(f) Appraiser Trainees **may appraise those properties, under the active, personal and diligent supervision of their sponsoring appraiser, which the sponsoring appraiser is permitted to appraise.**~~[:~~

~~[(1) may appraise those properties, under the active, personal and diligent supervision of their sponsoring [certified] appraiser, which the [supervising certified] appraiser [sponsor] is permitted to appraise; and~~

~~(2) may perform appraisal or appraiser services under the active, personal and diligent supervision of an authorized supervisor as detailed in §153.21 of this title (relating to Appraiser Trainees and Sponsors).]~~

(g) If an appraiser or appraiser trainee is a person with a disability (as defined in the Americans with Disabilities Act or regulations promulgated thereunder), an unlicensed assistant may perform certain services normally requiring a license for or on behalf of the appraiser or appraiser trainee, provided that:

(1) the services performed by the assistant do not include appraisal analysis;

(2) the assistant only provides such services as would constitute **a** reasonable accommodation;

(3) the assistant is under the direct control of the appraiser or appraiser trainee;

(4) the appraiser or appraiser trainee is as close **in physical proximity** as is practical to the activity;

(5) the assistant is not represented as being or having the authority to act as an appraiser or appraiser trainee; and

(6) if the assistant provides significant assistance, the appraisal report includes the name of the assistant.

§153.9 Applications.

(a) A person desiring to be ~~[certified or]~~ licensed as an appraiser, ~~[approved as an]~~ appraiser trainee, or ~~[registered as a]~~ temporary out-of-state appraiser shall file an application using forms prescribed by the Board or the Board's

online application system, if available. The Board may decline to accept for filing an application that is materially incomplete or that is not accompanied by the appropriate fee. Except as provided by the Act, the Board may not grant a license~~[certification, license or approval of trainee status]~~ to an applicant who has not:

- (1) paid the required fees;
 - (2) satisfied any experience and education requirements established by the Act, Board rules, or the AQB~~[or by these sections]~~;
 - (3) successfully completed any qualifying examination prescribed by the Board~~[board]~~;
 - (4) provided all supporting documentation or information requested by the Board~~[board]~~ in connection with the application;
 - (5) satisfied all unresolved enforcement matters and requirements with the Board~~[board]~~; and
 - (6) met any additional or superseding requirements established by the Appraisal Qualifications Board.
- (b) An application may be considered void and subject to no further evaluation or processing if an applicant fails to provide information or documentation within 60 days after the Board makes a written request for the information or documentation.
- (c) A license~~[certification, license, or appraiser trainee approval]~~ is valid for the term for which it is issued by the Board unless suspended or revoked for cause and unless revoked, may be renewed in accordance with the requirements of §153.17 of this title (relating to Renewal or Extension of Certification and License or Renewal of Trainee Approval).
- (d) The Board may deny a license~~[certification, licensing, approval as an appraiser trainee, or registration for out of state temporary practice]~~ to an applicant who fails to satisfy the Board~~[board]~~ as to the applicant's honesty, trustworthiness, and integrity.
- (e) The Board may deny a license~~[certification, licensure, approval as an appraiser trainee, or registration for out of state temporary practice]~~ to an applicant who submits incomplete, false, or misleading information on the application or supporting documentation.
- (f) When an application is denied by the Board, no subsequent application will be accepted within one year after the date of the Board's

notice denying the application as required in §157.7 of this title (relating to Denial of a License) ~~[of the application denial]~~.

(g) This subsection applies to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States.

(1) The Board shall issue on an expedited basis a ~~[certificate or]~~ license to an applicant who holds a current ~~[certificate or]~~ license issued by another state or jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the ~~[certificate or]~~ license issued in this state.

(2) The Board may issue a license to an applicant who within the five years preceding the application date held the ~~[certificate or]~~ license in this state that expired while the applicant lived in another state for at least six months.

(3) The Board~~[board]~~ may allow an applicant to demonstrate competency by alternative methods in order to meet the requirements for obtaining a particular ~~[certificate or]~~ license issued by the Board. For purposes of this subsection, the standard method of demonstrating competency is the specific examination, education, and/or experience required to obtain a particular ~~[certificate or]~~ license.

(4) In lieu of the standard method(s) of demonstrating competency for a particular ~~[certificate or]~~ license and based on the applicant's circumstances, the alternative methods for demonstrating competency may include any combination of the following as determined by the Board:

- (A) education;
- (B) continuing education;
- (C) examinations (written and/or practical) ;
- (D) letters of good standing;
- (E) letters of recommendation;
- (F) work experience; or
- (G) other methods required by the commissioner.

(h) This subsection applies to an applicant who is serving on active duty or is a veteran of the armed forces of the United States.

(1) The Board shall credit any verifiable military service, training or education obtained by an applicant that is relevant to a license

toward the requirements of a license.

(2) This subsection does not apply to an applicant who holds a restricted license issued by another jurisdiction.

(3) The applicant must pass the qualifying examination, if any, for the type of license sought.

(i) A person applying for license under subsection (g) or (h) of this section must also:

(1) submit the Board's approved application form for the type of license sought;

(2) submit the appropriate fee for that application; and

(3) submit the supplemental form approved by the Board applicable to subsection (g) or (h) of this section.

(j) The commissioner may issue a ~~[certificate or]~~ license by endorsement in the same manner as the Texas Department of Licensing and Regulation to an applicant under this subsection.

§153.10 Date of Licensure.

(a) A ~~license~~~~[certification, license, approval, authorization or registration]~~ is issued when all requirements have been met and it is entered into the ~~Board's~~~~[board's]~~ database and a ~~license~~~~[certificate, license, approval, approval, or registration]~~ number has been assigned.

(b) An applicant is not ~~licensed~~~~[certified, licensed, approved, authorized, or registered]~~ and may not ~~represent himself or herself~~~~[hold himself or herself out]~~ as a certified or licensed appraiser, appraiser trainee, or registered temporary out-of-state appraiser until the ~~license~~~~[certificate, license, approval, authorization, or registration]~~ has been issued by the ~~Board~~~~[board]~~.

(c) A license~~[, certification, or trainee approval]~~ issued by the ~~Board~~~~[board]~~ is valid for two years from the date of issuance.

(d) A ~~license issued to~~~~[Registration as]~~ a temporary out-of-state appraiser is valid for the period determined by the ~~Board~~~~[board]~~, not to exceed six months.

(e) A ~~license~~~~[certification, license, approval, authorization, or registration]~~ is not renewed until the renewal has been issued by the ~~Board~~~~[board]~~.

§153.11 Examinations.

(a) Each examination shall be consistent with the examination criteria and examination content outline of the ~~AQB~~~~[Appraiser Qualifications Board (AQB)]~~ for the category of license ~~[or certification]~~ sought. To become licensed ~~[or certified]~~, an applicant must achieve a passing score acceptable to the AQB on the examination.

(b) The examination fee must be paid each time the examination is taken.

~~(c)[(b)-The examination fee is \$61.00.]~~

Examinations shall be administered at locations designated by the ~~Board~~~~[board]~~. An applicant who is registered for an examination and fails to attend shall forfeit the examination fee.

~~(d)[(e) To be authorized for admittance to an examination, the applicant must present to the examination proctor appropriate documentation required by the testing service under contract with the board. Examination proctors shall require official photo bearing personal identification of individuals appearing for an examination and shall deny entrance to anyone who cannot provide adequate identification. Proctors may refuse admittance to an examinee or dismiss an examinee prior to the completion of the examination[,] if, in the proctor's opinion, the individual's conduct or demeanor is such that the proctor feels the individual would be a disruptive influence on the other examinees. Proctors may assign a specific seat or desk to each examinee. Proctors may require that an examinee be reseated during the course of the examination. Proctors may refuse admittance to an examinee who reports to the proctor for admittance to the examination after the time the examination is scheduled to begin. Applicants must present the following documents to the examination proctor to be admitted to the examination:~~

(1) exam registration paperwork as required by the testing service under contract with the Board; and

(2) official photo-bearing personal identification.

(d) Applicants shall comply with all instructions from the Board, an examination proctor, or the testing service under contract

with the Board. Examination proctors may:

(1) refuse admittance to any applicant who cannot provide adequate identification;

(2) refuse admittance to an applicant who reports for the examination after the time the examination is scheduled to begin;

(3) refuse admittance to an applicant or dismiss an applicant from the examination if, in the proctor's opinion, the applicant's conduct or demeanor is a disruptive influence to other applicants;

(4) assign a specific desk or seat to each applicant;

(5) require an applicant to be re-seated during the course of an examination;

(6) confiscate examination materials and dismiss an applicant from the examination for giving, receiving, or attempting to give or receive unauthorized assistance or answers to examination questions.

(e) No credit will be given to applicants who are dismissed from an examination, and dismissal may result in denial of an application.

(f)~~(d)~~ Examinees may ~~[are permitted to]~~ use slide rules or silent, battery-operated, electronic, ~~[pocket-sized]~~ hand-held calculators. If a calculator has printout capability, the use of the calculator must be approved by the examination proctor prior to the examination. No other electronic devices are permitted ~~[Cellular telephones with calculator capabilities are not permitted].~~

(f)~~(e)~~ Special examinations based on verified physical limitations or other good cause as determined by the Board~~[board]~~ may be arranged for individual applicants. Requests for special examinations will be handled individually and may require medical verification or confirmation.

(g)~~(f)~~ ~~Examinees shall comply with all instructions from the board, an examination proctor, or the testing service under contract with the board. Proctors may confiscate examination materials of an examinee giving or receiving or attempting to give or receive~~

~~unauthorized assistance or answers to examination questions, and such examinee will be dismissed from the examination session with a failing grade. Dismissal may result in disapproval of an application.~~ The Board~~[board]~~, or the testing service under contract with the Board~~[board]~~, may file theft charges against any person who removes or attempts to remove an examination or any portion thereof or any written material furnished with the examination whether by actual physical removal or by transcription. ~~[The board may deny, suspend, or revoke a license [or certification] for disclosing to another person the content of any portion of an examination with the expectation that the disclosed information would be used by or made available to another applicant.]~~

~~[(g) The examination fee must be paid each time the examination is taken.]~~

(h) The Board may deny, suspend, or revoke a license for disclosing to another person the content of any portion of an examination.

(i)~~(h)~~ If the applicant has not satisfied all requirements, including passing the examination, within one year from the date~~[time]~~ the Board~~[board]~~ accepted an application for filing, the application is terminated and a new application is required.

(j)~~(i)~~ Successful completion of the examination is valid for a period of 24 months.

(k)~~(j)~~ An applicant who fails the examination three consecutive times may not apply for reexamination or submit a new license application unless the applicant submits evidence satisfactory to the Board~~[board]~~ that the applicant has completed 30 additional hours of core education after the date the applicant failed the examination for the third time.

(l)~~(k)~~ Examination by endorsement: An applicant for a license~~[state license or certification]~~ who has successfully passed an AQB approved competency examination, and is currently licensed~~[or certified]~~ in another jurisdiction and in good standing, will not be required to retake the examination for the same level of licensure ~~[or certification]~~ to become ~~[certified or]~~ licensed in Texas. The applicant

shall provide appropriate documentation as required.

§153.13 Education~~[a]~~ Required for Licensing Requirements.

(a) Applicants for a license~~[certification, licensure, or approval as a trainee]~~ must meet all educational requirements set forth by the AQB~~[Appraiser Qualifications Board]~~.

(b) Education by endorsement: An applicant for a license~~[for certification]~~ who is currently licensed and in good standing in a state that has not been disapproved by the ASC~~[Appraisal Subcommittee]~~ is deemed to satisfy the education requirements for the same license category~~[level of certification]~~ in Texas. The applicant will~~[shall]~~ provide appropriate documentation as required by the Board~~[board]~~.

(c) The Board~~[board]~~ may accept a course of study to satisfy educational requirements for ~~[certification or]~~ licensing established by the Act or by this section if the Board~~[board]~~ has approved the course and determined it to be a course related to real estate appraisal.

(d) The Board~~[board]~~ will~~[shall]~~ approve courses for licensing~~[appraiser certification]~~ upon a determination of the Board~~[board]~~ that:

- (1) the subject matter of the course was appraisal related;
- (2) the course was offered by an accredited college or university, or the course was approved by the AQB~~[Appraiser Qualifications Board]~~ under its course approval process as a qualifying education course;
- (3) the applicant obtained credit received in a classroom presentation the hours of instruction for which credit was given and successfully completed a final examination for course credit except as specified in subsection (i) of this section (relating to distance education); and
- (4) the course was at least 15 classroom hours in duration, including ~~[which includes]~~ time devoted to examinations that ~~[which]~~ are considered to be part of the course.

(e) The Board~~[board]~~ may require an applicant to furnish materials such as course outlines, syllabi, course descriptions or official transcripts to verify course content or credit.

(f) Course providers may obtain prior approval of a course by filing forms prescribed by the Board~~[board]~~ and submitting a letter indicating that the course has been approved by the AQB~~[Appraiser Qualifications Board]~~ under its

course approval process. Approval of a course based on AQB approval expires ~~[shall expire]~~ on the date ~~[of expiration of]~~ the AQB approval expires and is ~~[shall be]~~ automatically revoked upon ~~[the]~~ revocation of the AQB approval.

(g) If the transcript reflects the actual hours of instruction the student received from an acceptable provider, the Board will~~[The board shall]~~ accept classroom hour units of instruction as shown on the transcript or other document evidencing course credit as follows:

~~[if the transcript reflects the actual hours of instruction the student received. Fifteen classroom hours of credit may be awarded for one semester hour of credit from an acceptable provider. Ten classroom hours of credit may be awarded for one quarter hour of credit from an acceptable provider. Ten classroom hours of credit may be awarded for each continuing education credit from an acceptable provider. The board may not accept courses repeated within three years of the original offering unless the subject matter has changed significantly.]~~

(1) fifteen classroom hours of credit may be awarded for one academic semester hour of credit;

(2) ten classroom hours of credit may be awarded for one academic quarter hour of credit; and

(3) ten classroom hours of credit may be awarded for one qualifying continuing education unit.

(h) The Board may not accept courses repeated within three years of the original offering unless the subject matter has changed significantly.

~~(i)(h)~~ Instructors who are also ~~[certified or]~~ licensed appraisers may receive continuing education credit consistent with the criteria adopted by the AQB~~[Appraiser Qualifications Board]~~. Credit for instructing any given course or seminar may ~~[can]~~ only be awarded once during a continuing education cycle.

~~(i)(g)~~ Distance education courses may be acceptable to meet the classroom hour requirement, or its equivalent, provided that the course is approved by the Board~~[board]~~, that a minimum time equal to the number of hours of credit elapses from the date of course enrollment until its completion, and that the course meets the criteria listed in paragraph (1) or (2) of this subsection.

(1) The course must have been presented by an accredited college or university that offers

distance education programs in other disciplines; and

(A) the person has successfully completed a written examination administered to the positively identified person at a location and proctored by an official approved by the college or university; and

(B) the content and length of the course must meet the requirements for real estate appraisal related courses established by this chapter and by the requirements for qualifying education established by the ~~AQB~~ ~~Appraiser Qualifications Board of the Appraisal Foundation~~ and is equivalent to a minimum of 15 classroom hours.

(2) The course has received ~~the~~ approval for ~~academic~~ ~~college~~ credit or has been approved under the AQB Course Approval program; and

(A) the person successfully completes a written examination proctored by an official approved by the presenting entity;

(B) the course meets the requirements for qualifying education established by the ~~AQB; and~~ ~~Appraiser Qualifications Board and is equivalent to the minimum of 15 classroom hours;~~

(C) is equivalent to a minimum of fifteen classroom hours.

~~(k)~~ ~~(j)~~ "In-house" education and training is not acceptable for meeting the educational requirements for ~~certification or~~ licensure.

~~(l)~~ ~~(k)~~ To ~~meet~~ ~~be acceptable for meeting~~ the USPAP educational ~~requirements~~ ~~requirement~~, a course must:

(1) utilize the "National Uniform Standards of Professional Appraisal Practice (USPAP) Course" promulgated by the Appraisal Foundation, including the Student Manual and Instructor Manual; or

(2) be an equivalent USPAP course as determined by the AQB that:

~~(A)~~ ~~(1)~~ ~~is~~ ~~Be~~ devoted to the USPAP with a minimum of 15 classroom hours of instruction;

~~(B)~~ ~~(2)~~ ~~uses~~ ~~Use~~ the current edition of the USPAP promulgated by the ~~ASB~~ ~~Appraisal Standards Board of the Appraisal Foundation~~; ~~and~~

~~(C)~~ ~~(3)~~ ~~provides~~ ~~Provide~~ each student with his or her own permanent copy of the current ~~edition of the~~ USPAP promulgated by the ~~ASB~~ ~~Appraisal Standards Board of the~~

~~Appraisal Foundation; and~~.

~~(4) utilize the "National Uniform Standards of Professional Appraisal Practice (USPAP) Course" promulgated by the Appraisal Foundation, including the Student Manual and Instructor Manual or an equivalent USPAP course as determined by the AQB;~~

(m) ~~(4)~~ Unless authorized by law, neither ~~Neither~~ current members of the ~~Texas~~ ~~Appraiser Licensing and Certification~~ Board nor those ~~Board~~ ~~board~~ staff engaged in the approval of courses or educational qualifications of applicants or license holders ~~certification holders or licensees~~ shall be eligible to teach or guest lecture as part of an ~~approved appraiser-qualifying or continuing~~ education course approved for licensing.

(n) ~~(m)~~ If the ~~Board~~ ~~board~~ determines that a course no longer complies with the requirements for approval, it may suspend or revoke the approval. Proceedings to suspend or revoke approval of a course shall be conducted in accordance with the ~~Board's~~ ~~board's~~ disciplinary provisions for ~~licenses~~ ~~certifications, licenses, authorizations, or registrations~~.

§153.15 Experience Required for ~~Certification or~~ Licensing.

(a) An applicant for a certified general real estate appraiser license ~~general real estate appraiser certification~~ must provide evidence satisfactory to the ~~Board~~ ~~board~~ that the applicant possesses the equivalent of 3,000 hours of real estate appraisal experience over a minimum of 30 months. At least 1,500 hours of experience must be in non-residential real estate appraisal work. Hours may be treated as cumulative in order to achieve the necessary hours of appraisal experience.

(b) An applicant for a certified residential real estate appraiser ~~license~~ ~~certification~~ must provide evidence satisfactory to the ~~Board~~ ~~board~~ that the applicant possesses the equivalent of 2,500 hours of real estate appraisal experience over a minimum of 24 months. Hours may be treated as cumulative in order to achieve the necessary hours of appraisal experience.

(c) An applicant for a state real estate appraiser license must provide evidence satisfactory to the ~~Board~~ ~~board~~ that the applicant possesses at least 2,000 hours of real estate appraisal experience ~~which was acquired~~ over a minimum of twelve months.

(d) Experience by endorsement: An applicant ~~[for certification]~~ who is currently licensed and in good standing in a state that has not been disapproved by the ~~ASC~~~~[Appraisal Subcommittee]~~ is deemed to satisfy the experience requirements for the same level of ~~license~~~~[certification]~~ in Texas. The applicant ~~must~~ ~~[shall]~~ provide appropriate documentation as required by the ~~Board~~~~[board]~~.

(e) ~~[Experience credit shall be awarded by the]~~ ~~The Board~~~~[board]~~ **awards experience credit** in accordance with current criteria established by the ~~AQB~~~~[Appraiser Qualifications Board]~~ and in accordance with the provisions of the Act specifically relating to experience requirements. An hour of experience means 60 minutes expended in one or more of the acceptable appraisal experience areas. Calculation of the hours of experience ~~is~~ ~~[must be]~~ based solely on actual hours of experience. Any one or any combination of the following categories may be acceptable for satisfying the applicable experience requirement. Experience credit may be awarded for:

(1) Fee or staff appraisal when it is performed in accordance with Standards 1 and 2 and other provisions of the USPAP in effect at the time of the appraisal.

(2) Ad valorem tax appraisal ~~that~~ ~~[which]~~:

(A) conforms to USPAP Standard 6; and

(B) demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under USPAP Standard 1.

(3) Condemnation appraisal.

(4) Technical review appraisal to the extent that it demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under USPAP Standard 1.

(5) Appraisal analysis. A market analysis typically performed by a real estate broker or ~~salesperson~~~~[salesman]~~ may be awarded experience credit when the analysis is prepared in conformity with USPAP Standards 1 and 2.

(6) Real property appraisal consulting services, including market analysis, cash flow and/or investment analysis, highest and best use analysis, and feasibility analysis when it demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under USPAP Standard 1 and performed in accordance with USPAP Standards 4 and 5.

~~(f)~~~~(7)~~ Experience credit may not be awarded

for teaching appraisal courses.

~~(g)~~~~(8)~~ Experience claimed by an applicant must be submitted on **an Appraisal Experience Log with an accompanying Appraisal Experience Affidavit**~~[forms prescribed by the board]~~.

~~[(1) Experience claimed by an applicant shall be submitted upon an Appraisal Experience Log with an accompanying Appraisal Experience Affidavit.]~~

~~(1)~~~~(2)~~ In exceptional situations, the ~~Board~~~~[board]~~, at its discretion, may accept other evidence of experience claimed by the applicant.

~~(2)~~~~(3)~~ If ~~[a consumer complaint or peer complaint is brought against the applicant alleging fraud, incompetence, or malpractice and the board finds the complaint is reasonable or if]~~ the ~~Board~~~~[board]~~ determines ~~[other]~~ just cause exists for requiring further information, the ~~Board~~~~[board]~~ may obtain ~~[the]~~ additional information ~~[or documentation requested]~~ by:

(A) requiring the applicant to complete a form, ~~approved~~~~[prescribed]~~ by the ~~Board~~~~[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, name of client, and other information determined to be appropriate by the ~~Board~~~~[board]~~; or

(B) engaging in other investigative research determined to be appropriate by the ~~Board~~~~[board]~~.

~~(3)~~~~(4)~~ The ~~Board~~~~[board]~~ ~~will~~~~[shall]~~ require verification of acceptable experience of all applicants ~~[for all appraiser credentials]~~. Applicants have 60 days to provide all documentation requested by the ~~Board~~~~[board]~~. The verification may be obtained by:

(A) requiring the applicant to complete a form, ~~approved~~~~[prescribed]~~ by the ~~Board~~~~[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, name of client, and other information determined to be appropriate by the ~~Board~~~~[board]~~;

(B) requesting copies of appraisals and all supporting documentation, including the workfiles; and

(C) engaging in other investigative research determined to be appropriate by the **Board**[board].

~~(4)(5)~~ Failure to comply with a request for verification of experience, or submission of experience that is found not to comply with the requirements for experience credit, is a violation of these rules and may result in denial of a **license application**[~~certification or licensure~~], and any disciplinary action up to and including revocation.

~~(h)(g)~~ An applicant may be granted experience credit only for real property appraisals **that** [~~which~~]:

(1) comply with the USPAP **edition** in effect at the time of the appraisal;

(2) are verifiable and supported by workfiles in which the applicant is identified as participating in the appraisal process;

(3) were performed when the applicant had legal authority; and

(4) comply with the acceptable categories of experience as per the AQB experience criteria and stated in subsection (e) of this section.

~~§153.16 — Provisional License. Persons practicing under provisional licensure must maintain a current log of appraisal activities performed on a form prescribed by the board.~~

§153.17 Renewal or Extension of License[~~Certification and License or Renewal of Trainee Approval~~].

(a) General Provisions.

(1) The **Board**[board] **will**[~~shall~~] send a renewal notice to the **license holder**[~~appraiser~~] at least 90 days prior to the expiration of the **license** [~~certification, license, or approval~~]. It is the responsibility of the **license holder**[~~appraiser or trainee~~] to apply for renewal in accordance with this chapter, and failure to receive a renewal notice from the **Board**[board] does not relieve the **license holder**[~~appraiser~~] of the responsibility to timely apply for renewal.

(2) **A license holder**[~~An appraiser or appraiser trainee~~] renews the **license**[~~certification, license, or approval~~] by timely filing **an**[~~the prescribed~~] application for renewal, paying the appropriate

fees to the **Board**[board], and satisfying all applicable education and experience requirements.

(3) **An application for**[~~A~~] renewal **or extension received by the Board** is timely **and acceptable for processing if it is:**[~~complete and, on or before the date of expiration, it is postmarked by the U.S. Postal Service, accepted by an overnight delivery service, or accepted by the agency's online renewal system.~~]

(A) complete;

(B) accompanied with payment of proper fees; and

(C) postmarked by the U.S. Postal Service, accepted by an overnight delivery service, or accepted by the Board's online processing system on or before the date of expiration.

(b) **Certified General, Certified Residential** [~~General Certification, Residential Certification,~~] and State **Appraiser License Holders**.

(1) A **license holder**[~~certified or licensed appraiser~~] may renew the [~~certification or~~] license by timely filing **an**[~~the prescribed~~] application for renewal, paying the appropriate fees to the **Board**[board] and, unless renewing on inactive status, satisfying ACE requirements.

(2) In order to renew on active status, the **license holder**[~~applicant~~] must complete the ACE report form approved by the **Board**[board] and, within 20 days of filing the renewal, submit course completion certificates for each course that was not already submitted by the provider and reflected in the **license holder's**[~~applicant's~~] electronic license record.

(A) The **Board**[board] may request additional verification of ACE submitted in connection with a renewal. If requested, such documentation must be provided within 20 days after the date of request.

(B) Knowingly or intentionally furnishing false or misleading ACE information in connection with a renewal is grounds for disciplinary action up to and including **license** revocation[~~of certification or licensure~~].

~~(3) An appraiser renewal application or extension is acceptable for processing when it is received by the board, with proper fees, and is postmarked by the U.S. Postal Service, accepted by an overnight delivery service, or entered electronically into the TexasOnline system, on or before the expiration date of the certification or license.~~

~~(3)(A)~~ The **Board**~~[board]~~ may grant, at the time it issues a ~~[certification or]~~ license renewal, an extension of time of up to 60 days after the **expiration** ~~[of expiration]~~ date of the previous license to complete ACE required to renew a **license, subject to the following** ~~[general certification, residential certification, state license, or provisional license, provided the person]:~~

(A) The license holder must:

(i) timely **submit** ~~[submits]~~ the completed renewal form with the appropriate renewal fees;

(ii) **complete** ~~[completes]~~ an extension request form; and

(iii) **pay** ~~[pays]~~ an extension fee of \$200.

(B) ACE courses completed during the 60-day extension period apply only to the current renewal and may not be applied to any subsequent renewal of the license ~~[or certification]~~.

(C) A person whose license was renewed with a 60-day ACE extension:

(i) **will**~~[shall]~~ not perform appraisals in a federally related transaction ~~[(FRT)]~~ until verification is received by the **Board**~~[board]~~ that the ACE requirements have been met;

(ii) may continue to perform appraisals in non-federally related transactions ~~[(non-FRT)]~~ under the renewed license ~~[or certification]~~;

(iii) must, within 60 days after the date of expiration of the previous license, complete the approved ACE report form and submit course completion certificates for each course that was not already submitted by the provider and reflected in the applicant's electronic license record; and

(iv) will have the renewed license ~~[or certification]~~ placed in inactive status if, within

60 days of the previous expiration date, ACE is not completed and reported in the manner indicated in paragraph (2) of this subsection. The renewed license ~~[or certification]~~ will remain on inactive status until satisfactory evidence of meeting the ACE requirements has been received by the **Board**~~[board]~~ and the fee to return to active status required by §153.5 of this title (relating to Fees) has been paid.

(c) Appraiser Trainees.

(1) Appraiser trainees must maintain an appraisal log and appraisal experience affidavits on forms **approved**~~[prescribed]~~ by the **Board**~~[board]~~, for the **license** period ~~[of authorization or approval]~~ being renewed. It is the responsibility of both the appraiser trainee and the sponsor to ensure the appraisal log is accurate, complete and signed by both parties at least quarterly or upon change in sponsors. The appraiser trainee will promptly provide copies of the experience logs and affidavits to the **Board**~~[board]~~ upon request.

(2) Appraiser trainees may not obtain an extension of time to complete required continuing education.

(d) Renewal of Licenses ~~[or Certification]~~ for **Persons**~~[Servicemen]~~ on Active Duty.

~~(1)~~ A **license holder**~~[person previously licensed [or certified] by the board under this Act]~~ who is on active duty in the United States armed forces may renew an expired license ~~[or certification]~~ without being subject to any increase in fee imposed in his or her absence, or any additional education or experience requirements if the **license holder**~~[person]~~:

~~(1)(A)~~ did not provide appraisal services **while**~~[when]~~ on active duty;

~~(2)(B)~~ provides a copy of official orders or other documentation acceptable to the **Board**~~[board]~~ showing ~~[that]~~ the **license holder**~~[person]~~ was on active duty during the ~~[person's]~~ last renewal period;

~~(3)(C)~~ applies for the renewal within 90 days after the **license holder's**~~[person's]~~ active duty ends; and

~~(4)(D)~~ pays the renewal application fees in

effect when the previous license ~~[or certification]~~ expired.

~~(5)(2)~~ completes ACE requirements that would have been imposed for a timely renewal ~~[shall be deferred under this section for a period of up to 90 days].~~

(e) Expiration and Reapplication. If an application is filed within six months of the expiration of a previous ~~license~~~~[certification, license, or approval]~~, the applicant shall also provide satisfactory evidence of completion of any continuing education that would have been required for a timely renewal of the previous ~~license~~~~[certification, license, or approval]~~. If the application for ~~license~~~~[certification, license, or approval]~~ is filed more than six months after the expiration of the previous ~~license~~~~[certification, license, or approval]~~, the applicant must meet all then-current requirements for ~~license~~~~[certification, license, or approval]~~, including retaking and passing the examination.

§153.18 Appraiser Continuing Education.

(a) The purpose of ACE is to ensure that license holders participate in programs that maintain and increase their skill, knowledge, and competency in real estate appraising.

~~(b)(a) [Certified and licensed appraisers. In order to renew a license or certification,] To renew a license, a license holder [an appraiser] must successfully complete [, during the two-year period preceding the expiration of the certification or license,] the equivalent of at least 28 classroom hours of ACE courses approved by the Board [board], including the 7-hour National USPAP Update course during the two-year period before a license expires. The courses must comply with the requirements set out in subsection (c) of this section.~~

~~(b) Appraiser trainees. To [In order to] renew a license [an approval], a trainee must successfully complete, during the one-year period preceding the expiration of the license [approval], 14 classroom hours of ACE courses. Every two years, the required hours must include the 7-hour National USPAP Update course.]~~

(c) The Board ~~[Approval of ACE courses. In approving ACE courses, the board]~~ will~~[shall]~~

base its review and approval of ACE courses upon the ~~[then-current]~~ appraiser qualifications criteria of the AQB~~[Appraiser Qualifications Board (AQB)].~~

~~(1) The purpose of ACE is to ensure that certified and licensed appraisers participate in programs that maintain and increase their skill, knowledge, and competency in real estate appraising.]~~

~~(d)(2)~~ The following types of courses~~[educational offerings]~~ may be accepted for ACE~~[that may be accepted for meeting the ACE requirements are listed in subparagraphs (A)–(H) of this paragraph]:~~

~~(1)(A)~~ A course that meets the requirements for ~~[certification or]~~ licensing also may be accepted for ~~[meeting]~~ACE if~~[provided]:~~

~~(A)(i)~~ The course is devoted to one or more of the appraisal related topics of the ~~[then-current]~~ appraiser qualifications criteria of the AQB~~[Appraiser Qualifications Board (AQB)]~~ for continuing education;

~~(B)(ii)~~ the course was not repeated within a three year period; and

~~(C)(iii)~~ the course~~[educational offering]~~ is at least two hours in length.

~~(2)(B)~~ The Board~~[board]~~ will~~[shall]~~ accept as ACE~~[continuing education]~~ any continuing education course~~[offering]~~ that has been approved by the AQB course approval process or by another state appraiser licensing and certification board. ~~[Course providers may obtain prior approval of continuing education offerings by filing forms prescribed by the board and submitting a letter indicating that the course has been approved by the AQB under its course approval process or by another state appraiser licensing and certification board. Approval of a course based on AQB approval shall expire on the date of expiration of the AQB approval and shall be automatically revoked upon the revocation of AQB approval. Approval of a course based on any other authority shall expire on the earlier of the date of expiration in another state, if applicable, or two years from board approval and shall be automatically revoked upon the revocation of the other state's~~

~~approval.]~~

(A) Course providers may obtain prior approval of ACE courses by filing forms approved by the Board and submitting a letter indicating that the course has been approved by the AQB under its course approval process or by another state appraiser licensing and certification board.

(B) Approval of a course based on AQB approval expires on the date the AQB approval expires and is automatically revoked upon revocation of the AQB approval.

(C) Approval of a course based on another state licensing and certification board shall expire on the earlier of the expiration date in the other state, if applicable, or two years from Board approval and is automatically revoked upon revocation of the other state board's approval.

~~(3)(C) Distance education courses, provided that the course is approved by the board and the course either has been presented by an accredited college or university that offers distance education programs in other disciplines, or has been approved by the Appraiser Qualifications Board under its course approval process and the student successfully completed a written examination proctored by an official approved by the presenting college or university or by the sponsoring organization consistent with the requirements of the course accreditation. A minimum number of hours equal to the number of hours of credit must elapse from course enrollment until completion.]~~
Distance education courses may be accepted as ACE if:

(A) The course is:

(i) Approved by the Board;

(ii) Presented by an accredited college or university that offers distance education programs in other disciplines; or

(iii) Approved by the AQB under its course approval process; and

(B) The student successfully completes a written examination proctored by an official

approved by the presenting college, university, or sponsoring organization consistent with the requirements of the course accreditation; and

(C) A minimum number of hours equal to the hours of course credit have elapsed between the time of course enrollment and completion.

~~(D) "In house" education and training may not be counted toward ACE requirements.]~~

~~(e)(E)~~ To satisfy the USPAP ACE requirement, a course must:

~~(1)(+)~~ be the 7-hour National USPAP Update Course or its equivalent, as determined by the AQB;

~~(2)(+)~~ use the current edition of the USPAP ~~[promulgated by the Appraisal Standards Board of the Appraisal Foundation];~~

~~(3)(+)~~ provide each student with his or her own permanent copy of the current USPAP ~~[promulgated by the Appraisal Standards Board of the Appraisal Foundation];~~ and

~~(4)(+)~~ be taught by at least one instructor who is an AQB-certified USPAP instructor and also licensed as a certified general or certified residential appraiser.

~~(f)(F)~~ Providers of USPAP ACE courses may include up to one additional hour of supplemental Texas specific information. This may include topics such ~~[such topics]~~ as the ~~[TALCB]~~ Act, Board ~~[TALCB]~~ Rules, processes and procedures, enforcement issues, or other topics deemed ~~[to be]~~ appropriate by the Board ~~[board]~~.

~~(g)(G)~~ Up to one half of a license holder's ACE requirements ~~[an individual's continuing education requirement]~~ may be satisfied through participation other than as a student, in real estate appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching an ACE course, educational program development, authorship of real estate appraisal textbooks, or similar activities that are determined by the Board ~~[board]~~ to be equivalent to obtaining ACE. ~~[Appraisal experience may not be~~

~~substituted for ACE.]~~

(h) The following types of courses or activities may not be counted toward ACE requirements:

- (1) Teaching the same ACE course more than once per license renewal cycle;**
- (2) “In house” education or training; or**
- (3) Appraisal experience.**

(i)~~(H)~~ **Unless authorized by law, neither** ~~[Neither]~~ current members of the ~~[Texas Appraiser Licensing and Certification]~~ Board nor those **Board**~~[board]~~ staff engaged in the approval of courses or educational qualifications of applicants, certificate holders or licensees **will**~~[shall]~~ be eligible to teach or guest lecture as part of an approved **ACE**~~[appraiser qualifying or continuing education]~~ course.

(j)~~(d)~~ If the **Board**~~[board]~~ determines that **an** **ACE**~~[a]~~ course no longer complies with the requirements for approval, it may suspend or revoke the approval. Proceedings to suspend or revoke approval of a course shall be conducted in accordance with the **Board’s**~~[board’s]~~ disciplinary provisions for **licenses**~~[certifications, licenses, authorizations, or registrations]~~.

§153.19 Licensing ~~[and Certification]~~ for Persons with Criminal Histories.

(a) No currently incarcerated individual **is**~~[will be]~~ eligible to obtain or renew **a license**~~[an appraiser license or certification]~~. **A person’s license will be revoked upon the person’s imprisonment following a felony conviction, felony probation revocation, revocation of parole, or revocation of mandatory suspension.**

(b) The **Board**~~[board]~~ may suspend or revoke an existing valid license ~~[or certification]~~, disqualify an individual from receiving a license ~~[or certification]~~, deny to a person the opportunity to be examined for a license ~~[or certification]~~ or deny any application for a license ~~[or certification]~~, if the person has been convicted of a felony, had their felony probation revoked, had their parole revoked, or had their mandatory supervision revoked. Any such action

shall be made after consideration of the factors detailed in **Texas Occupations Code §53.022 and subsection (d)** ~~[subsections (e) and (f)]~~ of this section. ~~[A person’s license, certification, authorization as an appraiser trainee, or non-resident temporary practice registration shall be revoked upon the person’s imprisonment following a felony conviction, felony probation revocation, revocation of parole, or revocation of mandatory supervision.]~~

(c) **A license holder**~~[The Texas Appraiser Licensing and Certification Board considers it very important that persons who are licensed or certified, persons who are candidates to be licensed or certified, and persons who are training to be licensed or certified be honest, trustworthy, and reliable. The public necessarily reposes a great deal of trust and reliance upon licensed and certified appraisers because of the complex nature of appraisal valuation, and such relationship should not be undermined. When entering onto another’s business or residential property or when representing the interests of another, an appraiser]~~ must conduct himself or herself with honesty, **integrity, and trustworthiness**~~[trustworthiness, reliability, and integrity]~~. Thus, the **Board has considered the factors in Texas Occupations Code §53.022 and**~~[board]~~ deems the following **crimes to be**~~[felonies and misdemeanors]~~ directly related to the occupation of **appraiser or appraiser trainee**~~[licensed or certified appraisers or appraiser trainees]~~:

- (1) offenses involving fraud or misrepresentation;
- (2) offenses against real or personal property belonging to another, if committed knowingly or intentionally;
- (3) offenses against public administration;
- (4) offenses involving the sale or other disposition of real or personal property belonging to another without authorization of law;
- (5) offenses involving moral turpitude; and
- (6) offenses of attempting or conspiring to commit any of the foregoing offenses.

~~[(d) In determining whether a criminal offense is~~

~~directly related to an occupation, the board shall consider the following factors:~~

- ~~(1) the nature and seriousness of the crime;~~
- ~~(2) the relationship of the crime to the purposes for requiring a license or certification to engage in the occupation;~~
- ~~(3) the extent to which a license or certification might offer an opportunity to engage in further criminal activity of the same type as that which the person had previously been involved; and~~
- ~~(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed or certified occupation.~~

~~(d)~~**(e)** In determining the present fitness of **an applicant or license holder**~~[a person]~~ who has been convicted of a crime ~~[under this section]~~, the **Board**~~[board]~~ **will**~~[shall]~~ consider the following evidence:

- (1) the extent and nature of the ~~[person's]~~ past criminal activity;
- (2) the age ~~[of the person]~~ at the time of the commission of the crime;
- (3) the amount of time that has elapsed since the ~~[person's]~~ last criminal activity;
- (4) the conduct and work activity ~~[of the person]~~ prior to and following the criminal activity;
- (5) evidence of ~~[the person's]~~ rehabilitation or rehabilitative effort while incarcerated or following release; and
- (6) other evidence of ~~[the person's]~~ present fitness including letters of recommendation from:

(A) prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility~~[for the person]~~;

(B) the sheriff and chief of police in the community where the **applicant or license holder**~~[person]~~ resides; and

(C) any other person~~[s]~~ in contact with the **applicant or license holder**~~[convicted person]~~.

~~(e)~~**(f)** It shall be the responsibility of the

applicant **or license holder** to the extent possible to secure and provide the **Board**~~[board]~~ the recommendations of the prosecution, law enforcement, and correctional authorities, as well as evidence, in the form required by the **Board**~~[board]~~, relating to whether the applicant has maintained a record of steady employment, has supported his or her dependents and otherwise maintained a record of good conduct, and is current on the payment of all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which **the person**~~[he or she]~~ has been convicted.

~~(f)~~**(g)** Criminal History Evaluation. Before applying for a license ~~[or certification under this chapter]~~, a person with a criminal history may request ~~[that]~~ the Board **to** evaluate the prospective applicant's criminal history by submitting the request form approved by the **Board**~~[board]~~ **and paying the required fee**. Upon receiving such a request, the Board may request additional supporting materials. Requests will be processed under the same standards as applications for **a license**~~[licensure or certification]~~. In responding to a request, the Board shall address each offense listed in the request.

§153.20 Guidelines for Revocation, Suspension, Denial of License~~[Licensure or Certification]~~; **Probationary License**~~[Licensure]~~

(a) The **Board**~~[board]~~ may suspend or revoke a license~~[, certification, authorization or registration issued under provisions of this Act]~~ or deny issuing a license~~[, certification, authorization or registration]~~ to an applicant at any time **the Board determines that the applicant or license holder**~~[when it has been determined that the person applying for or holding the license, certification, authorization, or registration]~~:

- (1) disregards or violates a provision of the Act or ~~[of]~~ the **Board rules**~~[Rules of the Texas Appraiser Licensing and Certification Board]~~;
- (2) is convicted of a felony;
- (3) fails to notify the **Board**~~[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~~[board]~~ not later than the 30th day after the date of incarceration if the person, in this or another state, has been incarcerated for a criminal offense involving fraud or moral turpitude;

(5) fails to notify the Board~~[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~~~~[Uniform Standards of Professional Appraisal Practice (USPAP)]~~ in effect at the time of the appraiser service~~[appraisal service or appraisal practice]~~;

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

(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~~[or certification]~~ as an appraiser revoked, suspended, or otherwise acted against by any other jurisdiction for an act which is a crime~~[an offense]~~ under Texas law;

(14) procures, or attempts to procure, a license~~[-certification, authorization, approval, or registration pursuant to the Act]~~ by making false, misleading, or fraudulent representation;

(15) fails to actively, personally, and diligently supervise an appraiser trainee ~~[under his or her sponsorship]~~ or any person not licensed~~[or certified]~~ under the Act who assists the license~~[licensee or certificate]~~ 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~~[making of real estate]~~ appraiser services;

(17) fails to make good on a payment issued to the Board~~[board]~~ within thirty days after the Board~~[board]~~ has mailed a request for payment by certified mail to the license holder's~~[licensee's]~~ last known business address as reflected by the Board's~~[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 licensed ~~[or certified]~~ real estate appraiser under this or another state's Act when not so licensed ~~[or certified]~~;

(20) misuses or misrepresents the type of classification or category of license~~[licensure, certification, approval, or registration]~~, or the license~~[-certification, approval, or registration]~~ number;

(21) engages in any other act relating to the

business ~~of~~ appraising that the Board~~[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 ~~[certified or]~~ licensed appraisal services;

(23) fails to comply with a final order of the Board~~[board]~~;

(24) fails to answer all inquiries concerning matters under the jurisdiction of the Board~~[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~~[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~~[board]~~; or

(B) is registered with the Board~~[board]~~ but has not placed the appraiser on its panel of appraisers maintained with the Board~~[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 and lawfully acquired by the trainee while under the appraiser's sponsorship.

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

(c) The Board~~[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~~[board]~~.

(d) A person applying for reinstatement after revocation or surrender of a license ~~[or certification]~~ must comply with all requirements that would apply if the license ~~[or certification]~~ 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~~[under the]~~ laws of this State.

(f) The Board~~[board]~~ may not investigate ~~[under this section]~~ a complaint submitted 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~~[state licensed real estate appraiser, provisional licensed appraiser, state certified real estate appraiser, or appraiser trainee]~~ 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) All board members, officers, directors, and employees of this agency shall be held harmless with respect to any disclosures made to the board in connection with any complaints filed with the board.]~~

(i) A license~~[- certification, authorization or registration]~~ 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.

~~[(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 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.]~~

(k) If the **Board**[~~board~~] determines that issuance of a probationary license is appropriate, the order entered by the **Board**[~~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**[~~licensee~~] comply with the Act and with the rules of the Texas Appraiser Licensing and Certification Board;
 - (2) that the probationary **license holder**[~~licensee~~] fully cooperate with the enforcement division of the [~~Texas Appraiser Licensing and Certification~~] Board in the investigation of any complaint filed against the **license holder**[~~licensee~~] or any other complaint in which the **license holder**[~~licensee~~] may have relevant information;
 - (3) that the probationary **license holder**[~~licensee~~] attend a prescribed number of classroom hours in specific areas of study during the probationary period;
 - (4) that the probationary **license holder**[~~licensee~~] limit appraisal practice as prescribed in the order;
 - (5) that the probationary **license holder**[~~licensee~~] 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**[~~licensee~~] report regularly to the **Board**[~~board~~] on any matter which is the basis of the probationary license; or
 - (7) that the probationary **license holder**[~~licensee~~] comply with any other terms and conditions contained in the order which have been found to be reasonable and appropriate by the **Board**[~~board~~] after due consideration of the circumstances involved in the particular application.
- (l) Unless the order granting a probationary license specifies otherwise, a probationary

license holder[~~licensee~~] may renew the license after the probationary period by filing a renewal application, satisfying applicable renewal requirements, and paying the prescribed renewal fee.

(m) If a **probationary license holder**[~~licensee~~] files a late renewal application, any remaining probationary period shall be reinstated effective as of the day following the renewal of the **probationary**[~~previous~~] license.

§153.21 Appraiser Trainees and Sponsors.

(a) A person desiring to be an appraiser trainee [~~under the sponsorship of one or more state-certified appraisers~~] may apply to the **Board**[~~board~~] on the approved application **form** for trainee authorization. In addition to the requirements set forth in §1103.353 of the Act, a prospective appraiser trainee must:

- (1) complete 75 creditable classroom hours as set forth in the Trainee Core Curriculum of the **AQB**[~~Appraiser Qualifications Board~~];
- (2) pass the **15-hour**[~~15 hours~~] National USPAP course and examination; and
- (3) beginning January 1, 2015, complete a Board approved Appraiser Trainee/Sponsor course.

(b) Once a person is **licensed**[~~approved~~] as an appraiser trainee by the **Board**[~~board~~], the person may perform appraisals or appraiser services only under the active, personal and diligent direction and supervision of a sponsoring [~~certified~~] appraiser. The trainee's authorization to perform appraisals or appraisal services terminates if:

- (1) the appraiser trainee **license**[~~approval~~] expires due to nonpayment of the renewal fee or failure to satisfy the educational or experience requirements for renewal; or
- (2) the **appraiser** trainee's authority to act has been suspended or revoked by the **Board**[~~board~~].

(c) The sponsoring [~~certified~~] appraiser shall immediately notify the **Board**[~~board~~] and the trainee in writing of any termination of

sponsorship of an appraiser trainee, on a form approved by the Board~~[board]~~ and shall pay a fee set by the Board~~[board]~~ not later than the 10th day after the date of such termination.

(d) If an appraiser trainee's license~~[approval]~~ has expired or been revoked by the Board~~[board]~~ or the appraiser trainee is no longer under the sponsorship of a sponsoring~~[certified]~~ appraiser, the appraiser trainee may not perform the duties of an appraiser trainee until an application to sponsor the trainee has been filed together with payment of the appropriate fee and approved by the Board~~[board]~~.

(e) Sponsoring appraisers are~~[Certified appraisers who sponsor appraiser trainees or who sign a report shall be]~~ responsible to the public and to the Board~~[board]~~ for the conduct of the appraiser trainee under the Act. After notice and hearing, the Board~~[board]~~ may reprimand a sponsoring appraiser ~~[or supervisor]~~ or may suspend or revoke a sponsoring appraiser's or supervisor's license~~[certification]~~ based on conduct by the appraiser trainee constituting a violation of the Act or a rule of the Board~~[board]~~.

(f) A sponsor~~[certified appraiser]~~ may be added ~~[as a sponsor]~~ during the term of an appraiser trainee's license~~[authorization]~~, by completing a form approved by the Board~~[board]~~, paying a fee set by the Board~~[board]~~, and beginning January 1, 2015, completing a Board approved Appraiser Trainee/Sponsor course ~~[and shall assume all the duties, responsibilities, and obligations of an appraiser trainee sponsor as specified in these rules]~~.

(g) The sponsoring ~~[certified]~~ appraiser ~~[and any authorized supervisors]~~ assumes all the duties, responsibilities, and obligations of a sponsor as specified in these rules and must diligently supervise the appraiser trainee. Diligent supervision includes, but is not limited to, the following:

- (1) direct supervision and training as necessary;
- (2) ongoing training and supervision as necessary after the sponsor determines that the appraiser trainee no longer requires direct supervision;

(3) communication with and accessibility to the appraiser trainee; and

(4) review and quality control of the appraiser trainee's work.

(h) A licensed~~[An approved]~~ appraiser trainee who signs an appraisal report must include his or her license~~[TALCB approval or authorization]~~ number and the word "Trainee~~[-]~~" as part of the appraiser trainee's signature in the appraisal report.

(i) Sponsoring~~[Certified]~~ appraisers may sponsor no more than three trainees at one time. Notification of sponsorship of an appraiser trainee must be provided in writing to the Board~~[board]~~ on a form approved by the Board~~[board]~~ with payment of the appropriate fee prior to the start~~[assumption]~~ of sponsorship. ~~[Termination of sponsorship of an appraiser trainee must be provided in writing to the board on a form approved by the board with the appropriate fee prior to the release from sponsorship.]~~

(j) Sponsors~~[Certified appraisers who sponsor appraiser trainees]~~ must approve and sign the appraiser trainee's appraisal log and experience affidavit at least quarterly and provide appraiser trainees~~[the trainee]~~ with access to any appraisals and work files completed under the sponsor ~~[or any authorized supervisor designated by the sponsor]~~.

(k) Sponsors~~[Certified appraisers who sponsor appraiser trainees]~~ must be in good standing and not subject to any disciplinary action within the last three years that affected the sponsor's ~~[legal]~~ eligibility to engage in appraisal practice. Disciplinary action taken against a~~[the]~~ sponsor within the last three years that did not affect the sponsor's ~~[legal]~~ eligibility to engage in appraisal practice must be disclosed in writing to the appraiser trainee prior to sponsorship.

(l) To obtain Board approval of an Appraiser Trainee/Sponsor course, a course provider must submit form ATS-0, Appraiser Trainee/Sponsor Course Approval, adopted herein by reference, ~~[and which is published and available from the Board at PO Box 12188, Austin, Texas 78711-2188, www.talcb.texas.gov,]~~ and satisfy the

Board that all required content set out in form ATS-0 is adequately covered. Approval of an Appraiser Trainee/Sponsor course shall expire two years from the date of Board approval. An approved Board Appraiser Trainee/Sponsor course may be delivered through classroom or distance education. The delivery mechanism for distance education courses offered by a non-academic provider must be approved by an AQB-approved organization providing approval of course design and delivery.

(m) Sponsors who complete the Appraiser Trainee/Sponsor course may receive ACE~~[continuing education]~~ credit for the course.

(n) Appraiser Trainees may not receive qualifying or ACE credit for completing the Appraiser Trainee/Sponsor course.

~~§153.22 — License Holder's Responsibility to the Board.~~ *[repealed December 27, 2010]*

§153.23 Inactive Status.

(a) A license holder~~[certified or licensed appraiser or appraiser trainee]~~ may request to be placed on inactive status by filing a request for inactive status on a form approved by the Board~~[board]~~ and paying the required fee.

(b) A license holder~~[certified or licensed appraiser or appraiser trainee]~~ whose license~~[certificate, license, or approval]~~ has expired may renew on inactive status within six months after the license expiration date by:

(1) filing~~[, within one year of expiration,]~~ an application for renewal~~[inactive status]~~ on a form approved by the Board~~[board]~~;

(2) indicating on the application that the license holder~~[appraiser]~~ wishes to renew on inactive status; and

(3) paying the required late renewal fees.

(c) A license holder~~[An appraiser]~~ on inactive status:

(1) shall not appraise real property, engage in appraisal practice, or perform any activity for

which a~~[an appraiser]~~ license ~~[or certification]~~ is required; and

(2) must file the proper renewal application and pay all required fees, except for the national registry fee, in order to renew the license~~[, certification, or trainee approval]~~.

(d) To return to active status, a license holder~~[licensed or certified appraiser or appraiser trainee]~~ who has been placed on inactive status must:

(1) request to return to active status on a form approved by the Board~~[board]~~;

(2) pay the required~~[return to active status]~~ fee;

(3) satisfy all ACE~~[appraiser continuing education (ACE)]~~ requirements that were not completed while on inactive status, except that the license holder~~[appraiser]~~ is not required to complete the most current USPAP update course more than once in order to return to active status and shall substitute other approved courses to meet the required number of ACE hours. ~~[of ACE; and]~~

~~[(4) meet all then current requirements for certification, licensure, or approval, including retaking and passing the examination, if the certificate, license, or approval was expired for more than six months at the time the licensed or certified appraiser or appraiser trainee applied for inactive status.]~~

(e) A license holder~~[licensed or certified appraiser or appraiser trainee]~~ who has been on inactive status may not resume practice until the ~~[active certification, license, or approval has been issued by]~~ the Board issues an active license~~[board]~~.

§153.24 Complaint Processing.

(a) Receipt of a Complaint Intake Form by the Board~~[board]~~ does not constitute the filing of a formal complaint by the Board~~[board]~~ against the individual named on the Complaint Intake Form. Upon receipt of a signed Complaint Intake Form, staff shall:

(1) assign the complaint a case number in the complaint tracking system; and

(2) send written acknowledgement of receipt

to the Complainant~~[complainant]~~.

(b) If the staff determines at any time that the complaint is not within the Board's jurisdiction or that no violation exists, the complaint shall ~~[then]~~ be dismissed with no further processing. The Board or the commissioner may delegate to staff the duty to dismiss complaints.

(c) A complaint alleging mortgage fraud or in which mortgage fraud is suspected:

(1) may be investigated covertly; and

(2) shall be referred to the appropriate prosecutorial authorities.

(d) Staff may request additional information from any person, if necessary, to determine how to proceed with the complaint~~[-from any person]~~.

(e) As part of a preliminary investigative review, a copy of the Complaint Intake Form and all supporting documentation shall be sent to the Respondent~~[respondent]~~ unless the complaint qualifies for covert investigation and the Standards and Enforcement Services Division deems covert investigation appropriate.

(f) The Respondent~~[respondent]~~ shall submit a response within 20 days of receiving a copy of the Complaint Intake Form. The 20-day period may be extended for good cause upon request in writing or by e-mail. The response shall include the following:

(1) a copy of the appraisal report that is the subject of the complaint;

(2) a copy of the Respondent's~~[respondent's]~~ work file associated with the appraisal(s) listed in the complaint, with the following signed statement attached to the work file(s): I SWEAR AND AFFIRM THAT EXCEPT AS SPECIFICALLY SET FORTH HEREIN, THE COPY OF EACH AND EVERY APPRAISAL WORK FILE ACCOMPANYING THIS RESPONSE IS A TRUE AND CORRECT COPY OF THE ACTUAL WORK FILE, AND NOTHING HAS BEEN ADDED TO OR REMOVED FROM THIS WORK FILE OR ALTERED AFTER PLACEMENT IN THE WORK FILE. (SIGNATURE OF RESPONDENT);

(3) a narrative response to the complaint, addressing each and every item in the complaint;

(4) a list of any and all persons known to the Respondent~~[respondent]~~ to have actual knowledge of any of the matters made the subject of the complaint and, if in the Respondent's~~[respondent's]~~ possession, contact information;

(5) any documentation that supports Respondent's~~[respondent's]~~ position that was not in the work file, as long as it is conspicuously labeled as non-work file documentation and kept separate from the work file. The Respondent~~[respondent]~~ may also address other matters not raised in the complaint that the Respondent~~[respondent]~~ believes need explanation; and

(6) a signed, dated and completed copy of any questionnaire sent by Board~~[board]~~ staff.

(g) Staff will evaluate the complaint within three months after~~[of]~~ receipt of the response from Respondent~~[respondent]~~ to determine whether sufficient evidence of a potential violation of the Act, Board rules, or the USPAP~~[TALCB's statutes or rules, or the Uniform Standards of Professional Appraisal Practice (USPAP)]~~ exists to pursue investigation and possible formal disciplinary action. If the staff determines that there is no jurisdiction, no violation exists, there is insufficient evidence to prove a violation, or the complaint warrants dismissal, including contingent dismissal, under subsection (j) of this section, the complaint shall be dismissed with no further processing.

(h) A formal complaint will be opened and investigated by a staff investigator or peer investigative committee, as appropriate, if:

(1) the informal complaint is not dismissed under subsection (g) of this section; or

(2) staff opens a formal complaint on its own motion~~[If the complaint is not dismissed under subsection (g) of this section, a formal complaint will be opened and it will be investigated by a staff investigator or peer investigative committee, as appropriate. Staff may also open a formal complaint on its own motion. A written notice that a formal complaint~~

~~has been opened will be sent to the complainant and respondent).~~

(i) Written notice that a formal complaint has been opened will be sent to the Complainant and Respondent.

~~(j)(+)~~ The staff investigator or peer investigative committee assigned to investigate a formal complaint shall prepare a report detailing its findings on a form approved by the Board ~~[for that purpose]~~. Reports prepared by a peer investigative committee shall be reviewed by the Standards and Enforcement Services Division ~~[which shall determine the appropriate disposition of the complaint]~~.

~~(k)(+)~~ In determining the proper disposition of a formal complaint pending as of or filed after the effective date of this subsection, and subject to the maximum penalties authorized under Texas Occupations Code §1103.552, staff, the administrative law judge in a contested case hearing, and the Board shall consider the following sanctions guidelines and list of non-exclusive factors as demonstrated by the evidence in the record of a contested case proceeding.

(1) For the purposes of these sanctions guidelines:

(A) a person will not be considered to have had a prior warning letter, contingent dismissal or discipline if that prior warning letter, contingent dismissal or discipline occurred more than seven ~~(7)~~ years ago;

(B) a prior warning letter, contingent dismissal or discipline given less than seven years ago will not be considered unless the Board had taken final action against the person before the date of the appraisal that led to the subsequent disciplinary action;

(C) prior discipline is defined as any sanction (including administrative penalty) received under a Board final or agreed order;

(D) a violation refers to a violation of any provision of the Act, Board ~~rules~~ **Rules** or USPAP;

(E) "minor deficiencies" is defined as violations of the Act, Board ~~rules~~ **Rules** or

USPAP which do not impact the credibility of the appraisal assignment results, the assignment results themselves and do not impact the ~~license holder's~~ **appraiser's** honesty, ~~integrity, or trustworthiness~~ **[or integrity]** to the Board, the ~~license holder's~~ **appraiser's** clients, or intended users of the appraisal service provided;

(F) "serious deficiencies" is defined as violations of the Act, Board ~~rules~~ **Rules** or USPAP which do impact the credibility of the appraisal assignment results, the assignment results themselves or do impact the ~~license holder's~~ **appraiser's** honesty, trustworthiness or integrity to the Board, the ~~license holder's~~ **appraiser's** clients, or intended users of the appraisal service provided;

(G) "remedial measures" include, but are not limited to, training, mentorship, education, reexamination, or any combination thereof; and

(H) The terms of a contingent dismissal agreement will be in writing and agreed to by all parties. If ~~the Respondent~~ **respondent** completes all remedial measures required in the agreement within ~~the~~ **a certain** prescribed period of time, the complaint will be dismissed with a non-disciplinary warning letter.

(2) List of factors to consider in determining proper disposition of a formal complaint:

(A) Whether the Respondent has previously received a warning letter or contingent dismissal ~~;~~ and, if so, the similarity of facts or violations in that previous complaint to the facts or violations in the instant complaint matter;

(B) Whether the Respondent has previously been disciplined;

(C) If previously disciplined, the nature of the ~~prior~~ **prior** discipline, including:

(i) Whether ~~prior discipline~~ **it** concerned the same or similar violations or facts;

(ii) The nature of the disciplinary sanctions ~~previously~~ **imposed**; ~~and~~

(iii) The length of time since the ~~prior~~ **previous** discipline;

(D) The difficulty or complexity of the appraisal assignment(s) at issue;

(E) Whether the violations found were of a negligent, grossly negligent or a knowing or intentional nature;

(F) Whether the violations found involved a single appraisal/instance of conduct or multiple appraisals/instances of conduct;

(G) To whom were the appraisal report(s) or the conduct directed, with greater weight placed upon appraisal report(s) or conduct directed at:

(i) A financial institution or their agent, contemplating a lending decision based, in part, on the appraisal report(s) or conduct at issue;

(ii) The Board;

(iii) A matter which is actively being litigated in a state or federal court or before a regulatory body of a state or the federal government;

(iv) Another government agency or government sponsored entity, including, but not limited to, the United States Department of Veteran's Administration, the United States Department of Housing and Urban Development, the State of Texas, Fannie Mae, and Freddie Mac; or

(v) A consumer contemplating a real property transaction involving the consumer's principal residence;

(H) Whether Respondent's violations caused any harm, including financial harm, and the extent or amount of such harm;

(I) Whether Respondent acknowledged or admitted to violations and cooperated with the Board's investigation prior to any contested case hearing;

(J) The level of experience Respondent had in the appraisal profession at the time of the violations, including:

(i) The level of appraisal credential Respondent held;

(ii) The length of time Respondent had been an appraiser;

(iii) The nature and extent of any education Respondent had received related to the areas in which violations were found; and

(iv) Any other real estate or appraisal related background or experience Respondent had;

(K) Whether Respondent can improve appraisal skills and reports through the use of remedial measures;

(3) The following sanctions guidelines ~~[contained herein]~~ shall be employed in conjunction with the factors listed in paragraph (2) of this subsection to assist in reaching the proper disposition of a formal complaint:

(A) 1st Time Discipline Level 1--violations of the Act, Board rules~~[Rules]~~, or USPAP which evidence minor deficiencies will result in one of the following outcomes:

(i) Dismissal;

(ii) Dismissal with non-disciplinary warning letter; or

(iii) Contingent dismissal with remedial measures.

(B) 1st Time Discipline Level 2--violations of the Act, Board rules~~[Rules]~~, or USPAP which evidence serious deficiencies will result in one of the following outcomes:

(i) Contingent dismissal with remedial measures; or

(ii) A final order which imposes one or more of the following:

(I) Remedial measures;

(II) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(III) A probationary period with provisions for monitoring the Respondent's~~[appraiser's]~~ practice;

(IV) Restrictions on the Respondent's~~[a certified appraiser's]~~ ability to sponsor any appraiser trainees;

(V) Restrictions on the scope of practice the Respondent~~[appraiser]~~ is allowed to engage in for a specified time period or until specified conditions are satisfied; or

(VI) Up to \$250.00 in administrative

penalties per act or omission which constitutes a violation(s) of the Act, Board rules, or USPAP, [~~Board Rules or the Act,~~], not to exceed \$3,000.00 in the aggregate.

(C) 1st Time Discipline Level 3--violations of the Act, Board rules[~~Rules~~], or USPAP which evidence serious deficiencies and were done with knowledge, deliberately, willfully, or with gross negligence will result in a final order which imposes one or more of the following:

- (i) A period of suspension;
- (ii) A revocation;
- (iii) Remedial measures;

(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(v) A probationary period with provisions for monitoring the Respondent's[~~appraiser's~~] practice;

(vi) Restrictions on the Respondent's[~~a-certified appraiser's~~] ability to sponsor any appraiser trainees;

(vii) Restrictions on the scope of practice the Respondent[~~appraiser~~] is allowed to engage in for a specified time period or until specified conditions are satisfied; or

(viii) Up to \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of the Act, Board rules, or USPAP, [~~Board Rules or the Act,~~] up to the maximum \$5,000 statutory limit per complaint matter.

(D) 2nd Time Discipline Level 1--violations of the Act, Board rules[~~Rules~~], or USPAP which evidence minor deficiencies will result in one of the following outcomes:

- (i) Dismissal;
- (ii) Dismissal with non-disciplinary warning letter;
- (iii) Contingent dismissal with remedial measures; or

(iv) A final order which imposes one or more of the following:

- (I) Remedial measures;

(II) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(III) A probationary period with provisions for monitoring the Respondent's[~~appraiser's~~] practice;

(IV) Restrictions on the Respondent's[~~a-certified appraiser's~~] ability to sponsor any appraiser trainees;

(V) Restrictions on the scope of practice the Respondent[~~appraiser~~] is allowed to engage in for a specified time period or until specified conditions are satisfied; or

(VI) Up to \$250.00 in administrative penalties per act or omission which constitutes a violation(s) of the Act, Board rules, or USPAP, [~~Board Rules or the Act,~~] up to the maximum \$1,000 statutory limit per complaint matter.

(E) 2nd Time Discipline Level 2--violations of the Act, Board rules[~~Rules~~], or USPAP which evidence serious deficiencies will result in a final order which imposes one or more of the following:

- (i) A period of suspension;
- (ii) A revocation;
- (iii) Remedial measures;

(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(v) A probationary period with provisions for monitoring the Respondent's[~~appraiser's~~] practice;

(vi) Restrictions on the Respondent's[~~a-certified appraiser's~~] ability to sponsor any appraiser trainees;

(vii) Restrictions on the scope of practice the Respondent[~~appraiser~~] is allowed to engage in for a specified time period or until specified conditions are satisfied; or

(viii) Up to \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of the Act, Board rules, or USPAP, [~~Board Rules or the Act,~~] up to the maximum

\$5,000 statutory limit per complaint matter.

(F) 2nd Time Discipline Level 3--violations of the Act, Board rules[~~Rules~~], or USPAP which evidence serious deficiencies and were done with knowledge, deliberately, willfully, or with gross negligence will result in a final order which imposes one or more of the following:

- (i) A period of suspension;
- (ii) A revocation;
- (iii) Remedial measures;
- (iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(v) A probationary period with provisions for monitoring the Respondent's[~~appraiser's~~] practice;

(vi) Restrictions on the Respondent's[~~a-certified appraiser's~~] ability to sponsor any appraiser trainees;

(vii) Restrictions on the scope of practice the Respondent[~~appraiser~~] is allowed to engage in for a specified time period or until specified conditions are satisfied; or

(viii) Up to \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of the Act, Board rules, or USPAP, [~~Board Rules or the Act,~~] up to the maximum \$5,000 statutory limit per complaint matter.

(G) 3rd Time Discipline Level 1--violations of the Act, Board rules[~~Rules~~], or USPAP which evidence minor deficiencies will result in a final order which imposes one or more of the following:

- (i) A period of suspension;
- (ii) A revocation;
- (iii) Remedial measures;
- (iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(v) A probationary period with provisions for monitoring the Respondent's[~~appraiser's~~] practice;

(vi) Restrictions on the Respondent's[~~a-certified appraiser's~~] ability to sponsor any appraiser trainees;

(vii) Restrictions on the scope of practice the Respondent's[~~appraiser's~~] is allowed to engage in for a specified time period or until specified conditions are satisfied; or

(viii) \$1,000 to \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of the Act, Board rules, or USPAP, [~~Board Rules or the Act,~~] up to the maximum \$5,000 statutory limit per complaint matter.

(H) 3rd Time Discipline Level 2--violations of the Act, Board rules[~~Rules~~], or USPAP which evidence serious deficiencies will result in a final order which imposes one or more of the following:

- (i) A period of suspension;
- (ii) A revocation;
- (iii) Remedial measures;

(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(v) A probationary period with provisions for monitoring the Respondent's[~~appraiser's~~] practice;

(vi) Restrictions on the Respondent's[~~a-certified appraiser's~~] ability to sponsor any appraiser trainees;

(vii) Restrictions on the scope of practice the Respondent[~~appraiser~~] is allowed to engage in for a specified time period or until specified conditions are satisfied; or

(viii) \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of the Act, Board rules, or USPAP, [~~Board Rules or the Act,~~] up to the maximum \$5,000 statutory limit per complaint matter.

(I) 3rd Time Discipline Level 3--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies and were done with knowledge, deliberately, willfully, or with gross negligence will result in a final order which imposes one or more of the following:

(i) A revocation; ~~or~~~~and~~

(ii) \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of the Act, Board rules, or USPAP, [~~Board Rules or the Act,~~] up to the maximum \$5,000 statutory limit per complaint matter.

(J) 4th Time Discipline--violations of the Act, Board rules,~~[Rules]~~ or USPAP will result in a final order which imposes the following:

(i) A revocation; and

(ii) \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board rules,~~[Rules]~~ or the Act, up to the maximum \$5,000 statutory limit per complaint matter.

(K) Unlicensed appraisal activity will result in a final order which imposes a \$1,500 in administrative penalties per unlicensed appraisal activity, up to the maximum \$5,000 statutory limit per complaint matter.

(4) In addition, staff may recommend any or all of the following:

(A) reducing or increasing the recommended sanction or administrative penalty for a complaint based on documented factors that support the deviation, including but not limited to those factors articulated under paragraph (2) of this subsection;

(B) probating all or a portion of any sanction or administrative penalty for a period not to exceed five years;

(C) requiring additional reporting requirements; and

(D) such other recommendations, with documented support, as will achieve the purposes of the Act, Board rules~~[the Rules]~~, ~~or~~~~and/or~~ USPAP.

~~(1)~~~~(k)~~ Agreed resolutions of complaint matters pursuant to Tex. Occupations Code §1103.458 or §1103.459 must be signed by the Respondent~~[respondent]~~, a representative of the Standards and Enforcement Services Division,

and the Commissioner~~[commissioner]~~.

153.25 Temporary Out-of-State Appraiser Registration~~[Registration]~~.

(a) A person licensed ~~[or-certified]~~ as an appraiser by another state, commonwealth, or territory may register with the Board~~[board]~~ so as to qualify to appraise real property in this state without holding a license ~~[or-certification]~~ issued under the Act if:

(1) the state, commonwealth or territory licensing ~~[and-certification]~~ program under which the person holds a license ~~[or-certification]~~ has not been disapproved by the ASC~~[Appraisal Subcommittee]~~; and

(2) the appraiser's business in this state is of a temporary nature not to exceed six months.

(b) A person wishing to be registered under this section must submit a completed application form approved by the Board~~[board]~~.

(c) A person registered under this section must submit an irrevocable consent to service of process in this state on a form approved by the Board~~[board]~~.

(d) A person~~[An appraiser]~~ registered under this section may apply for a 90 day extension to the original expiration date of the temporary registration, provided the person~~[appraiser]~~:

(1) is continuing the same appraisal assignment listed on the original application for temporary out-of-state appraiser registration; and

(2) requests an extension on a form approved by the Board~~[board]~~, received by the Board~~[board]~~ or postmarked prior to the expiration of the current temporary registration.

§153.26 Identity Theft.

(a) For purposes of this section, “identity theft” shall mean any of the following activities occurring in connection with the rendition of real estate appraisal services:

(1) Unlawfully obtaining, possessing, transferring or using a license~~[certification, license, authorization or registration]~~ issued by the Board~~[board]~~; and/or

(2) Unlawfully obtaining, possessing, transferring or using a person's electronic or

handwritten signature.

(b) A **license holder**~~[person holding a certification, license, authorization or registration issued by the board]~~ shall implement and maintain reasonable procedures to protect and safeguard themselves from identity theft.

(c) A **license holder**~~[person holding a certification, license, authorization or registration]~~ shall notify the **Board**~~[board]~~ if **he or she is**~~[they are]~~ the victim of identity theft within 90 days of discovering such theft. Notice shall be effectuated by filing a signed, written complaint on a form prescribed by the **Board**~~[board]~~.

(d) The **Board**~~[board]~~ may invalidate a current **license**~~[certification, license, authorization or registration]~~ and issue a new one to a person the **Board**~~[board]~~ determines is a victim of identity theft. Any person seeking the invalidation of a current **license**~~[certification, license, authorization or registration]~~ and issuance of a new one shall submit a written, signed request on a form provided by the **Board**~~[board]~~ for the invalidation of a current **license**~~[certification, license, authorization or registration]~~ and issuance of a new one. The basis for the request must be identity theft, and the requestor must submit credible evidence that the person is a victim of identity theft. Without limiting the type of evidence a person may submit to the **Board**~~[board]~~, a court order issued in accordance with Texas Business and Commerce Code Chapter 521, Subchapter C, declaring that the person is a victim of identity theft shall constitute credible evidence. Any such court order must relate to identity theft as defined in this section.

(e) Engaging in identity theft in order to perform appraisals a person is not legally permitted to perform constitutes a violation of §153.20(a)(7), (20), and (22) of this title (relating to Guidelines for Revocation, Suspension, Denial of **License**~~[Licensure or Certification]~~; Probationary **License**~~[Licensure]~~). In addition to any action taken by the **Board**~~[board]~~, persons engaging in identity theft may also be referred to the appropriate law enforcement agency for criminal prosecution.

§153.27 License~~[Certification and Licensure]~~ **by Reciprocity.**

(a) A person who is licensed ~~[or certified]~~ as an appraiser under the laws of a state whose

appraiser program has not been disapproved by the ASC may apply for a Texas license ~~[or certification]~~ at that same level by completing and submitting to the **Board**~~[board]~~ the application for ~~[licensure or certification]~~ or license by reciprocity and paying **the appropriate fee** to the **Board**~~[board the fee]~~.

(b) The **Board**~~[board]~~ shall seek verification from an applicant's state of current licensure that the applicant's license ~~[or certification]~~ is valid and in good standing. A reciprocal license ~~[or certificate]~~ may not be issued without the verification required by this subsection.

(c) Renewal of a ~~[certification or]~~ license granted through reciprocity shall be in the same manner, and with the same requirements, term, and fees, as for the same classification of **license**~~[certified or licensed appraiser]~~ as provided in §153.17 of this title (relating to Renewal or Extension of **License**~~[Certification and License or Renewal of Trainee Approval]~~).

~~§153.31 Office Location.~~ *repealed December 27, 2010*

§153.33 Signature or Endorsement of Appraisal. A **license holder**~~[certified or licensed appraiser]~~ who signs an appraisal report is responsible for the content of the entire appraisal report.

§153.37 Offenses with Criminal, Civil, and Administrative Penalties. Matters that are referred to the appropriate state or federal law enforcement agency for criminal investigation and prosecution shall also be fully and appropriately investigated by the **Board's**~~[board's]~~ investigators, and the **Board**~~[board]~~ shall take appropriate disciplinary action.

Chapter 1103 Occupations Code

PER DIEM

Sec. 1103.058. PER DIEM; REIMBURSEMENT. An appointed board member is entitled to receive:

(1) \$75 for each day the member engages in official duties as a board member; and

(2) reimbursement for actual and necessary expenses incurred in performing official duties as a board member.



TEXAS

REAL ESTATE COMMISSION

 APPRAISER LICENSING & CERTIFICATION BOARD

MEMORANDUM

TO: TREC/TALCB Policy Makers and Staff

FROM: Douglas E. Oldmixon

RE: Commissioner/Board Member Per Diem & Travel Expenses

DATE: November 1, 2009, updated 5/17/10 & 12/1/11

(A) Compensatory Per Diem Payment

Commissioners/Board Members may request compensatory per diem for any day during which they represent the Commission/Board in an official capacity. Any day other than one for a regularly scheduled or specially called Commission/Board meeting requires the preapproval of the Chair.

(B) Commissioner/Board Member Travel

In addition to regularly scheduled Commission/Board meetings, travel reimbursement shall be paid to Commissioners/Board Members when on official business. Official business means representing the Commission/Board at a meeting wherein participation has been approved by the Chair and scheduled through the Administration & Management Services Division.

(C) Expense Reimbursement

As provided for in the State and Agency Travel Guidelines, Commissioners/Board members will be reimbursed for certain travel expenses incurred in connection with official duties on behalf of TREC/TALCB. For purposes of reimbursement, participation in any TREC/TALCB committee or subcommittee meeting should be held on the same day as a scheduled Commission or Board meeting, unless otherwise approved by the Chair. The agency has not historically had funds budgeted to pay per diem or to reimburse expenses for such meetings. Historically, lodging and meal expenses are not reimbursable for travel of less than 75 miles one way.

(D) Representation at ARELLO/AARO Meetings

The Chair shall officially represent the Commission/Board at Annual and/or Mid-Year ARELLO/AARO meetings as necessary and shall vote for the Commission/Board. If the Chair is not able to attend, the Chair may designate an alternate to attend. If the Administrator/Commissioner certifies that sufficient travel funds are available, the Commission/Board Chair may designate an additional Commissioner/Board Member to attend and represent the agency at such meetings.

(E) Administrator/Commissioner Attendance

The Administrator/Commissioner or their designee may attend all ARELLO/AARO meetings as necessary to represent the agency. In the absence of the Chair or the Chair's designated alternate, the Administrator/Commissioner shall vote on behalf of the agency.

(F) General Counsel Attendance

If the Administrator/Commissioner certifies that sufficient travel funds are available, the General Counsel may attend ARELLO/AARO meetings as appropriate to represent the agency.

(G) Out of State Travel

The appropriations act for FY 2010-11 has placed a limit on out of state travel for all state agencies. In addition, all travel reimbursement reports for Commissioners/Board Members which involve out of state travel must be filed with the Ethics Commission prior to payment. Commissioners/Board Members representing TREC/TALCB at meetings and other functions held outside Texas should obtain advance approval of the Commission/Board Chair prior to attending such meetings when they will be submitting a request for reimbursement of travel and related expenses.