

**MEETING AGENDA****TALCB Executive Committee**

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

Thursday, July 23, 2015, 3:00pm  
Via Teleconference

1. Call to order
2. Discussion and possible action regarding approval of Memorandum of Understanding between TALCB and TREC
3. Discussion and possible action regarding criminal history background checks for license holders, including new rules and/or possible amendments to
  - a. 22 TAC §153.5, Fees
  - b. 22 TAC §153.9, Applications
  - c. 22 TAC §153.17, Renewal or Extension of License
  - d. 22 TAC §153.19, Criminal History Checks
4. Discussion and possible action regarding possible amendments to
  - a. 22 TAC §153.1, Definitions
  - b. 22 TAC §153.5, Fees
  - c. 22 TAC §157.7, Denial of a License
  - d. 22 TAC §157.8, Adverse Action Against a License Holder or Registrant
  - e. 22 TAC §157.9, Notice of Hearing
  - f. 22 TAC §157.12, Failure to Attend Hearing; Default Judgment
  - g. 22 TAC §157.17, Final Decisions and Orders
  - h. 22 TAC §157.18, Motions for Rehearing; Finality of Decisions
  - i. 22 TAC §157.19, Prerequisite to Judicial Review (Repeal)
  - j. 22 TAC §157.20, Judicial Review
  - k. 22 TAC §157.25, Temporary Suspension
5. Discussion regarding future agenda items and meeting dates
6. Adjourn

**The meeting of the Executive Committee of the Texas Appraiser Licensing and Certification Board is not an open meeting under the Texas Open Meetings Act, Chapter 551, Tex. Gov't Code. This agenda is posted on the website, so the public can be aware of the time and subject matters of the meeting.**

**Memorandum of Understanding Texas Real Estate Commission and Texas Appraiser  
Licensing & Certification Board**

**I. Introduction and Background.** The Texas Real Estate Commission (TREC) is an executive branch agency of the State of Texas, and the Texas Appraiser Licensing & Certification Board (TALCB) is an independent regulatory subdivision of TREC. As part of the continuation of TREC for an additional 12-year period, the 80<sup>th</sup> Texas Legislature in 2007 required that TALCB be integrated with TREC to the fullest extent possible while retaining TALCB's identity as an independent regulatory body. To implement that requirement, TREC and TALCB entered into a Memorandum of Understanding in 2007 that was amended in 2010 to more fully describe the roles and responsibilities of each party. As of September 1, 2011, the parties have achieved self-directed, semi-independent status, which removes the agency from the legislative appropriations process and modifies the manner in which the agency collects and spends funds. This Memorandum of Understanding (Agreement) replaces all prior Agreements.

**II. Parties.** The Texas Real Estate Commission (TREC) and the Texas Appraiser Licensing & Certification Board (TALCB) are the parties to this Agreement.

**III. Purpose.** The purpose of this Agreement is to delineate:

- a. The roles and responsibilities of each party;
- b. The administrative and support services that TREC will provide to TALCB at no cost;
- c. The allocation of resources between TREC and TALCB; and
- d. The costs and expenses for which TALCB is directly responsible for payment.

**IV. General Agreements.** Under Texas Occupations Code Section 1103.101, the TREC **Executive Director** serves as the TALCB Commissioner. The Commissioner is responsible for supervision of all TALCB staff and oversight of all TALCB expenditures within the parameters of a TALCB-approved budget and any legislative appropriations. The Commissioner reports to and performs these duties under the policy direction of the TALCB and is ultimately responsible to TALCB for the board's operations. A portion of the **Executive Director/Commissioner's** salary is allocated from TALCB resources. **TALCB members will have the opportunity to provide individual input each time TREC reviews the performance of the Executive Director/Commissioner.**

The Texas Real Estate Commission (TREC) and the Texas Appraiser Licensing & Certification Board (TALCB) agree to the following.

A. TREC will provide, at no cost to TALCB, administrative services and support to TALCB, including but not limited to the following.

1. Staff Services in accordance with TREC operating procedures as follows:

- a) Human Resources;
- b) Budgeting, accounting and reporting;
- c) Purchasing and contracting;
- d) Cashier and mail room;
- e) Payroll; and

f) Facilities management

2. Technology **support** services, except as described in section C below;
3. Personnel training programs involving no charges to TREC;
4. Use of meeting rooms on a space available basis;
5. Texas Register Liaison services; and
6. Governmental and public relations services.

B. TALCB FTEs working in Licensing, Education, and Communications are subject to the day-to-day supervision of the TREC Director(s) and Managers who oversee those areas of activity. TALCB Enforcement staff report to the TALCB Enforcement Director who is supervised by the Commissioner or his designee.

C. TALCB bears the lawfully payable or reimbursable amounts of all costs incurred by the Board other than those TREC-provided support services enumerated in Part IV.A of this Agreement, including, but not limited to:

1. All direct and indirect costs salary and benefits for TALCB allocated FTEs;
2. Rent and overhead expenses for space occupied by TALCB and a pro-rata percentage of common area expenses
3. Services provided by the State Office of Administrative Hearings;
4. Services provided by the Office of the Attorney General;
5. Services provided by the State Auditor's Office;
6. Equipment, supplies, services, or other goods;
7. **Telephone and data system equipment and services;**
8. Travel, meals, and lodging;
9. Dues and subscriptions;
10. Personnel training and continuing professional education;
11. Database service modifications primarily benefiting TALCB; and
12. **Per capita cost for acquisition, lease or maintenance of computer hardware and software.**

D. Portions of staff salaries are allocable and payable as further described in Exhibit A to this Agreement and may be temporarily reallocated as necessary by the **Executive Director**/Commissioner to ensure the efficient provision of administrative and support services to TALCB, with notice to the Chairs of both governing bodies as soon as reasonably practicable.

E. TALCB is allocated its *pro rata* portion of the contribution to General Revenue required by Texas **Occupations Code Chapter 1105**.

F. The **Executive Director**/Commissioner, at his discretion, may determine that TREC will provide additional administrative support services as necessary to ensure the smooth operation of the agency.

Texas Appraiser Licensing and Certification Board/Texas Real Estate Commission Memorandum of Understanding

G. The **Executive Director**/Commissioner may direct the transfer of funds between the parties as necessary to maintain the financial soundness of each, informing the Chairs of both governing bodies as soon as reasonably practicable and proposing a plan for repayment.

**V. Term of Agreement.** This Agreement becomes effective as of **September 1, 2015** and remains in effect for fiscal years **2016 and 2017** unless amended by mutual written agreement of the parties. This Agreement terminates and supersedes any other memorandum of understanding or agreement entered into between the parties before the effective date of this Agreement. Either party may withdraw from this Agreement by written notice to the Chair of the other governing body of the other party with 365 days prior notice.

The execution and performance of this Agreement has been authorized by each respective governing body.

This Agreement shall not be construed to create any additional liability or obligation for either party.

\_\_\_\_\_  
Avis Wukasch, Chair  
Texas Real Estate Commission

\_\_\_\_\_  
Jamie Wickliffe, Chair  
Texas Appraiser Licensing & Certification Board

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Exhibit A

1. Effective September 1, 2015, portions of the following TREC salaries are allocable to and payable by TALCB:

TREC Executive Director/TALCB Commissioner – 25%

2. Effective September 1, 2015, portions of the following TALCB salaries are allocable to and payable by TREC:

A. TALCB General Counsel/TREC Deputy General Counsel – 40%

B. TALCB/TREC Education & Licensing Supervisor – 25%



TEXAS

APPRAISER LICENSING &amp; CERTIFICATION BOARD

DOUGLAS E. OLDMIXON, COMMISSIONER

**PROPOSED RULE ACTION FROM**

**AUGUST 14, 2015 MEETING OF**

**THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD**

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

**22 TAC §153.5. Fees**

A fee would need to be added to this rule to cover the cost of the criminal background check charged by the FBI

**§153.5. Fees.**

(a) The Board shall charge and the Commissioner shall collect the following fees:

- (1) a fee of \$400 for an application for a certified general appraiser license;
- (2) a fee of \$350 for an application for a certified residential appraiser license;
- (3) a fee of \$325 for an application for a state appraiser license;
- (4) a fee of \$300 for an application for an appraiser trainee license;
- (5) a fee of \$360 for a timely renewal of a certified general appraiser license;
- (6) a fee of \$310 for a timely renewal of a certified residential appraiser license;
- (7) a fee of \$290 for a timely renewal of a state appraiser license;
- (8) a fee of \$250 for a timely renewal of an appraiser trainee license;
- (9) a fee equal to 1-1/2 times the timely renewal fee for the late renewal of a license within 90 days of expiration;
- (10) a fee equal to two times the timely renewal fee for the late renewal of a license more than 90 days but less than six months after expiration;
- (11) a fee of \$250 for nonresident license;
- (12) the national registry fee in the amount charged by the Appraisal Subcommittee;

(13) an application fee for licensure by reciprocity in the same amount as the fee charged for a similar 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;

(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 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) 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 website and entering the required information online; and

(24) 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

**TITLE 22. Examining Boards**

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

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

within thirty days, for whatever reason, shall submit all future fees in the form of a cashier's check or money order.

(c) Licensing fees are waived for members of the Board staff who must maintain a license for employment with the Board only and are not also using the license for outside employment.



**PROPOSED RULE ACTION FROM**

**AUGUST 14, 2015 MEETING OF**

**THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD**

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

**22 TAC §153.9. Applications**

Language would need to be changed/added to address national criminal background checks, if adopted.

**§153.9. Applications.**

(a) A person desiring to be licensed as an appraiser, appraiser trainee, or 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 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;
- (3) successfully completed any qualifying examination prescribed by the Board;
- (4) provided all supporting documentation or information requested by the Board in connection with the application;
- (5) satisfied all unresolved enforcement matters and requirements with the 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 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 to an applicant who fails to satisfy the Board as to the applicant's honesty, trustworthiness, and integrity.

(e) The Board may deny a license 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).

(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 license to an applicant who holds a current license issued by another state or jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the 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 license in this state that expired while the applicant lived in another state for at least six months.

(3) The Board may allow an applicant to demonstrate competency by alternative methods in

**TITLE 22. Examining Boards**

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

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

order to meet the requirements for obtaining a particular 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 license.

(4) In lieu of the standard method(s) of demonstrating competency for a particular 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 will 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.

(4) The Board will evaluate applications filed by an applicant who is serving on active duty or is a veteran of the armed forces of the United States consistent with the criteria adopted by the AQB and any exceptions to those criteria as authorized by the AQB.

(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 license by endorsement in the same manner as the Texas Department of Licensing and Regulation to an applicant under this subsection.



**PROPOSED RULE ACTION FROM**

**AUGUST 14, 2015 MEETING OF**

**THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD**

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

**22 TAC §153.17. Renewal or Extension of License**

Language would need to be added/changed to address national criminal background checks, if adopted.

***§153.17. Renewal or Extension of License.***

(a) General Provisions.

(1) The Board will send a renewal notice to the license holder at least 90 days prior to the expiration of the license. It is the responsibility of the license holder to apply for renewal in accordance with this chapter, and failure to receive a renewal notice from the Board does not relieve the license holder of the responsibility to timely apply for renewal.

(2) A license holder renews the license by timely filing an application for renewal, paying the appropriate fees to the Board, and satisfying all applicable education and experience requirements.

(3) An application for renewal or extension received by the Board is timely and acceptable for processing if it is:

(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 and State Appraiser License Holders.

(1) A license holder may renew the license by timely filing an application for renewal, paying the appropriate fees to the Board and, unless renewing on inactive status, satisfying ACE requirements.

(2) In order to renew on active status, the license holder must complete the ACE report form approved by the 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 electronic license record.

(A) The 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.

(3) The Board may grant, at the time it issues a license renewal, an extension of time of up to 60 days after the expiration date of the previous license to complete ACE required to renew a license, subject to the following:

(A) The license holder must:

(i) timely submit the completed renewal form with the appropriate renewal fees;

(ii) complete an extension request form; and

(iii) pay 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.

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

(i) will not perform appraisals in a federally related transaction until verification is received by the Board that the ACE requirements have been met;

**TITLE 22. Examining Boards**

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

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

(ii) may continue to perform appraisals in non-federally related transactions under the renewed license;

(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 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 will remain on inactive status until satisfactory evidence of meeting the ACE requirements has been received by the 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 by the Board, for the license period 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 upon request.

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

**(d) Renewal of Licenses for Persons on Active Duty.** A person who is on active duty in the United States armed forces may renew an expired license without being subject to any increase in fee imposed in his or her absence, or any additional education or experience requirements if the person:

(1) did not provide appraisal services while on active duty;

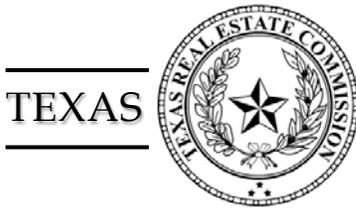
(2) provides a copy of official orders or other documentation acceptable to the Board showing the person was on active duty during the last renewal period;

(3) applies for the renewal within 90 days after the person's active duty ends;

(4) pays the renewal application fees in effect when the previous license expired; and

(5) completes ACE requirements that would have been imposed for a timely renewal.

**(e) Expiration and Reapplication.** If an application is filed within six months of the expiration of a previous license, 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. If the application for license is filed more than six months after the expiration of the previous license, the applicant must meet all then-current requirements for license, including retaking and passing the examination.



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

DOUGLAS E. OLDMIXON, COMMISSIONER

**PROPOSED RULE ACTION FROM**

**AUGUST 14, 2015 MEETING OF**

**THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD**

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

**22 TAC §153.1. Definitions**

The Texas Appraiser Licensing and Certification Board (TALCB or Board) proposes amendments to 22 TAC §153.1. Definitions. The amendments clarify the definition of “Appraiser Trainee” and propose a definition of “Trade Association” to align the rule with statutory changes to Chapter 1103, Texas Occupations Code, adopted by the 84<sup>th</sup> Legislature.

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

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

Comments on the proposal may be submitted to Kristen Worman, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or emailed to [general.counsel@talcb.texas.gov](mailto:general.counsel@talcb.texas.gov). The deadline for

comments is 30 days after publication in the Texas Register.

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

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

**§153.1. 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.

TITLE 22. Examining Boards

Part VIII. Texas Appraiser Licensing and Certification Board

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

(6)Appraisal practice--Valuation services performed by an individual acting as an appraiser, including but not limited to appraisal and appraisal review.

(7)Appraisal report--A report as defined by and prepared under the USPAP.

(8)Appraisal Standards Board--The Appraisal Standards Board (ASB) of the Appraisal Foundation, or its successor.

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

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

(11)Appraiser trainee--A person approved by the Board to perform appraisals or appraiser services under the active, personal and diligent supervision and direction of the ~~[sponsoring certified]~~ supervisory 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.]~~

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

(13)Certified General Appraiser--a certified appraiser who is authorized to appraise all types of real property without regard to complexity or transaction value for federally related transactions and non-federally related transactions.

(14)Certified Residential Appraiser--a certified appraiser who is authorized to appraise 1-4 unit residential properties without regard to complexity or transaction value for federally related transactions and non-federally related transactions.

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

(16)~~(14)~~ Client--Any party for whom an appraiser performs an assignment.

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

~~(18)~~~~(16)~~ Commissioner--The commissioner of the Texas Appraiser Licensing and Certification Board.

~~(19)~~~~(17)~~ Complainant--Any person who has made a written complaint to the Board against any person subject to the jurisdiction of the Board.

~~(20)~~~~(18)~~ Complex appraisal--An appraisal in which the property to be appraised, the form of ownership, market conditions, or any combination thereof are atypical.

~~(21)~~~~(19)~~ Council--The Federal Financial Institutions Examination Council (FFIEC) or its successor.

~~(22)~~~~(20)~~ Day--A calendar day unless clearly indicated otherwise.

~~(23)~~~~(21)~~ Distance education--Any educational process based on the geographical separation of student and instructor that provides a reciprocal environment where the student has verbal or written communication with an instructor.

~~(24)~~~~(22)~~ Feasibility analysis--A study of the cost-benefit relationship of an economic endeavor.

~~(25)~~~~(23)~~ 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.

~~(26)~~~~(24)~~ 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.

~~(27)~~~~(25)~~ Foundation--The Appraisal Foundation (TAF) or its successor.

~~(28)~~~~(26)~~ Fundamental real estate appraisal course--Those courses approved by the Appraiser Qualifications Board as qualifying education.

~~(29)~~~~(27)~~ Inactive certificate or license--A general certification, residential certification, or state license which has been placed on inactive status by the Board.

TITLE 22. Examining Boards

Part VIII. Texas Appraiser Licensing and Certification Board

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

~~(30)~~~~(28)~~ License--The whole or a part of any Board permit, certificate, approval, registration or similar form of permission required by law.

~~(31)~~~~(29)~~ License holder--A person certified, licensed, approved, authorized or registered by the Board under the Texas Appraiser Licensing and Certification Act.

~~(32)~~ Licensed Residential Appraiser—a licensed appraiser who is authorized to appraise non-complex 1-4 residential units having a value less than \$1 million and complex 1-4 residential units having a transaction value less than \$250,000 for federally related transactions and non-federally related transactions.

~~(33)~~~~(30)~~ Licensing--Includes the Board processes respecting the granting, disapproval, denial, renewal, certification, revocation, suspension, annulment, withdrawal or amendment of a license.

~~(34)~~~~(31)~~ Market analysis--A study of market conditions for a specific type of property.

~~(35)~~~~(32)~~ Nonresidential real estate appraisal course--A course with emphasis on the appraisal of nonresidential 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.

~~(36)~~~~(33)~~ Nonresidential property--A property which does not conform to the definition of residential property.

~~(37)~~~~(34)~~ Party--The Board and each person or other entity named or admitted as a party.

~~(38)~~~~(35)~~ Person--Any individual, partnership, corporation, or other legal entity.

~~(39)~~~~(36)~~ 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.

~~(40)~~~~(37)~~ 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.

~~(41)~~~~(38)~~ 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.

~~(42)~~~~(39)~~ Real estate--An identified parcel or tract of land, including improvements, if any.

~~(43)~~~~(40)~~ Real estate appraisal experience--valuation services performed as an appraiser or appraiser trainee by the person claiming experience credit. Significant real property appraisal experience requires active participation; mere observation of another appraiser's work is not real estate appraisal experience.

~~(44)~~~~(41)~~ 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.

~~(45)~~~~(42)~~ Real property--The interests, benefits, and rights inherent in the ownership of real estate.

~~(46)~~~~(43)~~ 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; and all staff memoranda submitted to or considered by the Board.

~~(47)~~~~(44)~~ 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.

~~(48)~~~~(45)~~ Residential property--Property that consists of at least one but not more than four residential units.

~~(49)~~~~(46)~~ Respondent--Any person subject to the jurisdiction of the Board, licensed or unlicensed, against whom any complaint has been made.

~~(47) [Sponsor or sponsoring appraiser—A certified general or residential appraiser who is designated as a supervisory appraiser, as defined by the AQB, for an appraiser trainee. The sponsor or sponsoring appraiser is responsible for providing active, personal and diligent supervision and direction of the appraiser trainee.]~~

TITLE 22. Examining Boards

Part VIII. Texas Appraiser Licensing and Certification Board

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

~~(48) State-certified real-estate appraiser—A person certified under the Texas Appraiser Licensing and Certification Act.~~

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

Supervisory Appraiser--A certified general or residential appraiser who is designated as a supervisory appraiser, as defined by the AQB, for an appraiser trainee. The supervisory appraiser is responsible for providing active, personal and diligent supervision and direction of the appraiser trainee.

(48) Trade Association--a nonprofit or voluntary association or organization:

(A) whose membership consists primarily of persons who are licensed as appraisers and pay membership dues to the association or organization;

(B) that is governed by a board of directors elected by the members; and

(C) that subscribes to a written code of professional conduct or ethics.

(49)[(50)] USPAP--Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation.

(50)[(51)] Workfile--Documentation necessary to support an appraiser's analysis, opinions, and conclusions, and in compliance with the record keeping provisions of USPAP.



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

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

**22 TAC §153.5. Fees**

The Texas Appraiser Licensing and Certification Board (TALCB or Board) proposes amendments to 22 TAC §153.5. Fees. The amendments align this section with statutory changes adopted by the 84<sup>th</sup> Legislature and add a provision for the Board to collect fees for providing certified copies.

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

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

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

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

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

**§153.5. Fees.**

- (a) The Board shall charge and the Commissioner shall collect the following fees:
- (1) a fee of \$400 for an application for a certified general appraiser license;
  - (2) a fee of \$350 for an application for a certified residential appraiser license;
  - (3) a fee of \$325 for an application for a [licensed residential](#)[state] appraiser license;
  - (4) a fee of \$300 for an application for an appraiser trainee license;
  - (5) a fee of \$360 for a timely renewal of a certified general appraiser license;
  - (6) a fee of \$310 for a timely renewal of a certified residential appraiser license;
  - (7) a fee of \$290 for a timely renewal of a [licensed residential](#)[state] appraiser license;
  - (8) a fee of \$250 for a timely renewal of an appraiser trainee license;

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

(10) a fee equal to two times the timely renewal fee for the late renewal of a license more than 90 days but less than six months after expiration;

(11) a fee of \$250 for nonresident license;

(12) the national registry fee in the amount charged by the Appraisal Subcommittee;

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

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

supervision~~[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;

(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 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) a fee of \$20 for providing certified copies of documents;

~~(24)~~~~(23)~~ 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 website and entering the required information online; and

~~(25)~~~~(24)~~ 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) Licensing fees are waived for members of the Board staff who must maintain a license for employment with the Board only and are not also using the license for outside employment.



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

**Chapter 157. Rules Relating to Practice and Procedure  
Subchapter A. General Provisions**

**22 TAC §157.7. Denial of a License,  
22 TAC §157.8. Adverse Action Against a License Holder or Registrant**

The Texas Appraiser Licensing and Certification Board (TALCB or Board) proposes amendments to 22 TAC §§157.7, Denial of a License, and 157.8, Adverse Action Against a License Holder or Registrant. The proposed amendments reorganize these sections for better understanding and clarity.

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

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

Comments on the proposal may be submitted to Kristen Worman, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or emailed to [general.counsel@talcb.texas.gov](mailto:general.counsel@talcb.texas.gov). The deadline for

comments is 30 days after publication in the Texas Register.

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

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

**§157.7. Denial of a License; Adverse Action Against a License Holder.**

(a) **Denial of a License.**

(1) If the Board denies a certification, license, trainee approval, or registration, the Board shall promptly give written notice **of denial** to the applicant. If the applicant is sponsored by another license holder, the Board shall send a copy of the notice of denial to the sponsor.

**(2) The notice of denial shall include:**

**(A) a statement of the Board's action;**

**(B) a summary of the facts and laws on which the action is based;**

**(C) a statement of the right of the person to request a hearing; and**

**(D) the following language in capital letters in boldface type: IF YOU FAIL TO REQUEST A HEARING IN WRITING WITHIN 30 DAYS,**

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

THIS DETERMINATION WILL BECOME FINAL.

(3) If a person fails to request a hearing in writing within 30 days of receiving the notice, the Board's determination will become final.

(b) Adverse Action Against a License Holder.

(1) The notice of adverse action shall include:

(A) a summary of the facts and laws on which the proposed action is based;

(B) a statement of the action proposed by the Board, including the proposed sanction and/or the amount of any administrative penalties; and

(C) a statement of the right of the person to a hearing. [The notice shall include:

~~–(1) a statement of the Board's action;~~

~~–(2) a summary of the facts and laws on which the action is based;~~

~~–(3) a statement of the right of the person to request a hearing; and~~

~~–(4) the following language in capital letters in boldface type: IF YOU FAIL TO REQUEST A HEARING IN WRITING WITHIN 30 DAYS, THIS DETERMINATION WILL BECOME FINAL.]~~

(c) A license holder who has agreed in writing to suspension or revocation for failure to comply with the terms of a consent order, consent agreement, or agreed order in connection with an application or a previous disciplinary matter is deemed to have had notice and an opportunity for a hearing in a subsequent action resulting from failure to comply with an administrative requirement of probation, such as payment of a fee or completion of coursework. [If a person fails to request a hearing in writing within 30 days of receiving the notice, the Board's determination will become final.]

§157.8. Order Modifications~~[Adverse Action Against a License Holder or Registrant].~~

~~[(a) If the Board proposes to take adverse action against a license holder, former license holder, or registrant, the Board shall promptly give written notice to the person against whom the action is proposed to be taken. If an appraiser trainee is the~~

~~respondent, the Board shall send a copy of the notice to the sponsor.~~

~~(b) The notice shall include:~~

~~–(1) a summary of the facts and laws on which the proposed action is based;~~

~~–(2) a statement of the action proposed by the Board, including the proposed sanction and/or the amount of any administrative penalties; and~~

~~–(3) a statement of the right of the person to a hearing.~~

~~(c) A license holder or registrant who has agreed in writing to suspension or revocation for failure to comply with the terms of a consent order, consent agreement, or agreed order in connection with an application or a previous disciplinary matter is deemed to have had notice and an opportunity for a hearing in a subsequent action resulting from failure to comply with an administrative requirement of probation, such as payment of a fee or completion of coursework.~~

~~(d) The Board will consider a modification of an existing agreed or consent order at its next scheduled Board meeting if the license holder or registrant:~~

~~(a) [1] is currently in compliance with the existing order; and~~

~~(b) [2] submits a written request that sets out the specific modification requested and the reason for the modification to the Board's general counsel on or before the 14th day prior to a scheduled Board meeting. Submission of a request for modification of an agreed or consent order to the Board does not relieve the license holder or registrant of compliance obligations under the existing order.~~



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

DOUGLAS E. OLDMIXON, COMMISSIONER

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

**Chapter 157. Rules Relating to Practice and Procedure  
Subchapter B. Contested Case Hearings**

**22 TAC §157.9. Notice of Hearing, 22 TAC §157.12. Failure to Attend Hearing; Default Judgment**

The Texas Appraiser Licensing and Certification Board (TALCB or Board) proposes amendments to 22 TAC §§157.9, Notice of Hearing, and 157.12, Failure to Attend Hearing; Default Judgment. The proposed amendments align these sections with statutory changes adopted by the 84<sup>th</sup> Legislature.

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

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

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

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

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

***§157.9. Notice of Hearing.***

(a) [The notice of hearing must comply with Chapter 2001, Texas Government Code.](#)

(b) The notice of hearing shall be served not later than the 30th day before the hearing date.

(c) ~~(b)~~ Service of notice of hearing must be made in the manner prescribed by Chapter 2001, Texas Government Code, and the rules of the State Office of Administrative Hearings. Notice to a person who is a current license holder or applicant of the Board shall be complete and effective if sent by certified mail, return receipt requested, to the respondent or applicant at his or her most recent address as shown by the records of the Board. Service by mail shall be complete upon deposit of the document in question in a post paid properly addressed envelope in a post office of official depository under the care and custody of the United States Postal Service.

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

~~(d)~~~~(e)~~ The notice shall include the following language in capital letters in boldface type:  
FAILURE TO APPEAR AT THE HEARING WILL RESULT IN THE ALLEGATIONS AGAINST YOU SET OUT IN THE COMPLAINT BEING ADMITTED AS TRUE AND A DEFAULT JUDGMENT BEING TAKEN AGAINST YOU.

*§157.12. Failure to Attend Hearing; Default Judgment; Cost Recovery.*

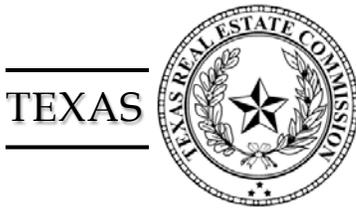
(a) ~~[1 TAC §155.501 and §155.503 (relating to Default Proceedings and Dismissal Proceedings) (SOAH rules)]~~ SOAH rules regarding Default Proceedings and Dismissal Proceedings, apply when ~~[where]~~ a respondent or applicant~~[respondent]~~ fails to appear ~~[in person or through his legal representative]~~ on the day and ~~[at the]~~ time set for hearing in a contested case. If a respondent or applicant fails to appear at a contested case hearing, ~~[regardless of whether an appearance has been entered and]~~ the Board's staff may move~~[moves]~~ either for dismissal of the case from SOAH's docket or for the issuance of a default proposal for decision by the administrative law judge.

(b) ~~[For purposes of this section, a default judgment shall mean the issuance of a final order against the respondent in which the factual allegations against the respondent contained in the notice sent to respondent pursuant to §157.9 of this chapter (relating to Notice of Hearing) or the petition filed at SOAH shall be admitted as prima facie evidence and deemed admitted as true, without any requirement for additional proof to be submitted to the Board prior to the Board entering the final order]~~ If the administrative law judge issues a default proposal for decision or an order dismissing the case from the SOAH docket, the factual allegations included in the notice sent to respondent or applicant are deemed admitted as true and~~[In either case]~~, upon return of the case from SOAH, the Board shall enter a default order against~~[judgment in the matter adverse to]~~ the respondent or applicant~~[respondent who has failed]~~

~~to attend the hearing, upon proper proof of notice to the defaulting party].~~

(c) No additional proof is required to be submitted to the Board before the Board enters the final default order.

(d) Cost Recovery. For purposes of §1103.523, Texas Occupations Code, the Board may submit written testimony, affidavits, copies of invoices or other vendor statements or cost estimates, including an estimate of costs to be charged to the Board by SOAH.



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

DOUGLAS E. OLDMIXON, COMMISSIONER

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

**Chapter 157. Rules Relating to Practice and Procedure  
Subchapter C. Post Hearing**

**22 TAC §157.17. Final Decisions and Orders,  
22 TAC §157.18. Motions for Rehearing; Finality of Decisions, §157.20. Judicial Review**

The Texas Appraiser Licensing and Certification Board (TALCB or Board) proposes amendments to 22 TAC §§157.17, Final Decisions and Orders, 157.18, Motions for Rehearing; Finality of Decisions, and 157.20, Judicial Review. The proposed amendments align these sections with statutory changes to Chapter 1103, Texas Occupations Code, and Chapter 2001, Texas Government Code, adopted by the 84<sup>th</sup> Legislature.

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

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

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

Austin, Texas 78711-2188 or emailed to [general.counsel@talcb.texas.gov](mailto:general.counsel@talcb.texas.gov). The deadline for comments is 30 days after publication in the Texas Register.

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

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

***§157.17. Final Decisions and Orders.***

(a) After a proposal for decision has been issued by an administrative law judge, the Board will render the final decision in the contested case or remand the proceeding for further consideration by the administrative law judge.

(b) The Board is responsible for imposing disciplinary action and/or assessing administrative penalties, if any, against a respondent who is found to have violated any of the Board's statutes or rules. The Board welcomes recommendations from an administrative law judge as to the sanctions to be imposed, but the Board is not required to give presumptively binding effect to the judge's recommendations and is not bound by such recommendations.

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

(c) If the Board remands the case to the administrative law judge, the Board may direct that further consideration be accomplished with or without reopening the hearing and may limit the issues to be considered. If, on remand, additional evidence is admitted that results in a substantial revision of the proposal for decision, or the underlying facts, an amended or supplemental proposal for decision shall be prepared by the administrative law judge and the provisions of this subchapter shall apply. Exceptions and replies shall be limited to items contained in the supplemental proposal for decision.

(d) The proposal for decision may be acted upon by the Board after the expiration of the applicable time periods for filing exceptions and replies to exceptions, and after the administrative law judge has ruled on any exceptions and replies.

(e) Any party may request oral arguments before the Board prior to the final disposition of the contested case. Oral arguments will be conducted in accordance with paragraphs (1) (5) of this subsection.

(1) The chairperson or the Board member designated by the chairperson to preside (the presiding member) shall announce the case. Upon the request of any party, the presiding member may conduct a prehearing conference with the parties and their attorneys of record. The presiding member may announce reasonable time limits for any oral arguments to be presented by the parties.

(2) The hearing on the proposal for decision shall be limited to the record. New evidence may not be presented on the substance of the case unless the party submitting the evidence can establish that the new evidence was not reasonably available at the time of the original hearing or the party offering the evidence was misled by a party regarding the necessity for offering the evidence at the original hearing.

(3) In presenting oral arguments, the party bearing the burden of proof shall open and close. The party responding may offer rebuttal arguments. Parties may request an opportunity for additional rebuttal subject to the discretion of the presiding member.

(4) After being recognized by the presiding member, the members of the Board may ask

questions of the parties. If a party is represented by counsel, the questions must be directed to the party's attorney. Questions must be limited to the record and to the arguments made by the parties.

(5) Upon the conclusion of oral arguments, questions by the members of the Board, and any discussion by the member of the Board, the presiding member shall call for a motion regarding disposition of the contested case. The presiding member may vote on the motion. A motion may be granted only if a majority of the members present and voting vote in favor of the motion. In the event of a tie vote, the presiding member shall announce that the motion is overruled.

(f) Final orders on contested cases shall be in writing and signed by the presiding officer of the Board. Final orders shall include findings of fact and conclusions of law separately stated from disciplinary actions imposed and administrative penalties assessed. Parties shall be notified as provided in Chapter 2001, Texas Government Code, ~~[either personally or by mail of any decision or order]~~. On written request, a copy of the decision or order shall be delivered or mailed to any party and to the respondent's attorney of record.

(g) The Board may change a finding of fact or conclusion of law in a proposal for decision when the Board determines:

(1) that the judge did not properly apply or interpret applicable law, agency rules, written policies provided by staff or prior administrative decisions;

(2) that a prior administrative decision on which the judge relied is incorrect or should be changed;

(3) that a technical error in a finding of fact should be changed.

(h) If the Board modifies, amends, or changes a finding of fact or conclusion of law in a proposal for decision, the order shall reflect the Board's changes as stated in the record of the meeting and state the specific reason and legal basis for the changes.

(i) If the Board does not follow the recommended disciplinary action and/or administrative penalty in a proposal for decision, the order shall explain why the Board chose not to follow the recommendation as stated in the record of the meeting.

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

(j) Imminent Peril. If the Board finds that an imminent peril to the public health, safety, or welfare requires immediate effect on a final decision or order in a contested case, it shall recite the factual and legal basis for its finding in the decision or order as well as the fact that the decision or order is final and effective on the date rendered, in which event the decision or order is final and appealable on the date rendered, and no motion for rehearing is required as a prerequisite for appeal.

(k) Conflict of Interest. A Board member shall recuse himself or herself from all deliberations and votes regarding any matter:

(1) the Board member reviewed as a member of a Peer Investigative Committee;

(2) involving persons or transactions about which the Board member has a conflict of interest; ~~[or]~~

(3) involving persons or transactions related to the Board member sufficiently closely as to create the appearance of a conflict of interest; or

(4) in which the Board member participated in the negotiation of a consent order.

~~[(1) A Board member's participation in the negotiation of a consent order under Texas Occupations Code, §1103.458, does not require recusal under subsection (k) of this section.]~~

***§157.18. Motions for Rehearing***~~*[; Finality of Decisions]*~~.

(a) Motions for rehearing in proceedings under Chapter 1103, Texas Occupations Code, are governed by §§2001.144-.147, Texas Government Code, and this section~~[Filing times. A motion for rehearing must be filed within 20 days after a party has been notified, either in person or by certified mail, return receipt requested, of the final decision or order made by the Board].~~

(b) Motions for rehearing in proceedings under Chapter 1104, Texas Occupations Code, are governed by §1104.216, Texas Occupations Code, §§2001.144-.147, Texas Government Code, and this section.

(c) A timely-filed motion for rehearing is a prerequisite to appeal except as provided in section 157.17 of this subchapter.

(d) Replies to a motion for rehearing may be filed as provided in Chapter 2001, Texas Government Code.

(e) A motion for rehearing shall set forth the particular finding of fact, conclusion of law, ruling, or other action which the complaining party asserts caused substantial injustice to the party and was in error such as violation of a constitutional or statutory provision, lack of authority, unlawful procedure, lack of substantial evidence, abuse of discretion, other error of law, or other good cause specifically described in the motion. In the absence of specific grounds in the motion, the Board shall presume that the motion should be overruled.

~~[(e) Board action. Board action on a motion must be taken no later than the 20th day after the date the commissioner is served with the motion for rehearing. If Board action is not taken within the 20 day period, the motion for rehearing is overruled by operation of law.]~~

~~(d) A decision is final, in the absence of a timely motion for rehearing, on the expiration of the period for filing a motion for rehearing. A decision is final and appealable on the date of rendition of the order overruling a motion for rehearing, or on the date the motion for rehearing is overruled by operation of law.]~~

(f)~~(e)~~ Any party may request oral arguments before the Board prior to the final disposition of the motion for rehearing. If the Board grants a request for oral argument, oral~~[Oral]~~ arguments will be conducted in accordance with paragraphs (1) through (5) of this subsection.

(1) The chairperson or the Board member designated by the chairperson to preside (the presiding member) shall announce the case. Upon the request of any party, the presiding member may conduct a prehearing conference with the parties and their attorneys of record. The presiding member may announce reasonable time limits for any oral arguments to be presented by the parties.

(2) The hearing on the motion shall be limited to a consideration of the grounds set forth in the motion. Testimony by affidavit or documentary evidence such as excerpts of the record before the presiding officer may be offered in support of, or in opposition to, the motion; provided, however, a party offering

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

affidavit testimony or documentary evidence must provide the other party with copies of the affidavits or documents at the time the motion is filed. New evidence may not be presented on the substance of the case unless the party submitting the evidence can establish that the new evidence was not reasonably available at the time of the original hearing or the party offering the evidence was misled by a party regarding the necessity for offering the evidence at the original hearing.

(3) In presenting oral arguments, the party filing the motion will have the burden of proof and shall open and close. The party responding to the motion may offer rebuttal arguments. Parties may request an opportunity for additional rebuttal subject to the discretion of the presiding member.

(4) After being recognized by the presiding member, the members of the Board may ask questions of the parties. If a party is represented by counsel, the questions must be directed to the party's attorney. Questions must be limited to the grounds asserted for the motion to be granted and to the arguments made by the parties.

(5) Upon the conclusion of oral arguments, questions by the members of the Board, and any discussion by the member of the Board, the presiding member shall call for a vote on the motion. A member of the Board need not make a separate motion or second a motion filed by a party. The presiding member may vote on the motion. A motion may be granted only if a majority of the members present and voting vote in favor of the motion. In the event of a tie vote, the presiding member shall announce that the motion is overruled.

(g)~~(f)~~ A decision is final and appealable on the date rendered if:

(1) the Board finds that an imminent peril to the public health, safety or welfare requires immediate effect~~(f)~~; and

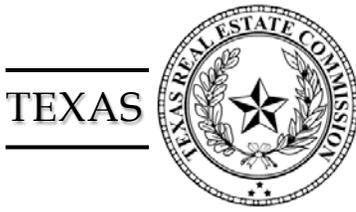
(2) the Board's~~(f)~~ ~~in which event the~~ decision or order recites this~~(f)~~ ~~shall recite the~~ finding and the fact that the decision is final and effective on the date rendered.

(a) A person who has exhausted all administrative remedies~~(f)~~ and who is aggrieved by a final decision in a contested case is entitled to judicial review.

(b) The petition for judicial review must~~(f)~~ be filed in a district court of Travis County, Texas, as provided in Chapter 2001, Texas Government Code~~(f)~~ ~~within 30 days after the decision or order of the Board is final and appealable~~.

(c) Pursuant to Texas Government Code, §2001.177, a party seeking judicial review of a final decision of the Texas Appraiser Licensing and Certification Board in a contested case shall pay all costs of preparing the original or certified copy of a record of the contested case proceedings.

*§157.20. Judicial Review.*



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

**Chapter 157. Rules Relating to Practice and Procedure  
Subchapter C. Post Hearing**

**22 TAC §157.19. Prerequisite to Judicial Review**

The Texas Appraiser Licensing and Certification Board (TALCB) proposes the repeal of 22 TAC §157.19, Prerequisite to Judicial Review. The proposed repeal results from statutory changes to Chapter 1103, Texas Occupations Code, and Chapter 2001, Texas Government Code, adopted by the 84<sup>th</sup> Legislature.

The Board proposes repealing this section and moving the language to section 157.18, Motions for Rehearing, in this chapter.

Kristen Worman, General Counsel, has determined that for the first five-year period the proposed repeal is in effect, there will be no fiscal implications for the state or for units of local government as a result of implementing the repeal. There is no anticipated impact on local or state employment as a result of implementing the repeal. There will be no impact to small businesses or micro-businesses as a result of implementing the repeal.

Ms. Worman has also determined that for the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is greater clarity and consistency in TALCB's processes.

Comments on the proposed repeal may be submitted to Kristen Worman, General Counsel, P.O. Box 12188, Austin, Texas 78711-2188 or emailed to [general.counsel@talcb.texas.gov](mailto:general.counsel@talcb.texas.gov). The deadline for comments is 30 days after publication in the Texas Register.

The repeal is proposed under the Texas Occupations Code, §1103.151, Rules Relating to Certificates and Licenses, and §1104.051, Rules.

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

~~§157.19. Prerequisite to Judicial Review.~~

~~Except in the case of an emergency decision or order, a motion for rehearing is a prerequisite to judicial review.~~



TEXAS

**APPRAISER LICENSING & CERTIFICATION BOARD**

DOUGLAS E. OLDMIXON, COMMISSIONER

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

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

**22 TAC §157.25. Temporary Suspension**

The Texas Appraiser Licensing and Certification Board (TALCB or Board) proposes amendments to 22 TAC §§157.25, Temporary Suspension. The proposed amendments align these sections with statutory changes to Chapter 2001, Texas Government Code, adopted by the 84<sup>th</sup> Legislature.

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

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

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

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

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

**§157.25. Temporary Suspension.**

- (a) The purpose of a temporary suspension proceeding is to determine whether the continued practice by a person licensed, certified or registered by the Board would constitute a continuing threat to the public welfare. It is ancillary to a disciplinary proceeding regarding alleged violations of the Act or Board rules and is not dispositive concerning any such violations.
- (b) The three Board members of the Enforcement Committee appointed by the chair of the Board shall serve as the disciplinary panel ("Panel") under Texas Occupations Code, §1103.5511 and §1104.211. The chair of the Board shall also appoint a Board member to act as an alternate member of the Panel in the event a member of the Panel is recused or unable to attend a temporary suspension proceeding.
- (c) Board staff must request a temporary suspension proceeding in writing by filing a motion for temporary suspension with the Board's general counsel.

**TITLE 22. Examining Boards**

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

**Chapter 157. Rules Relating to Practice and Procedure**

(d) The Panel may make a determination regarding a temporary suspension without notice or hearing pursuant to Texas Occupations Code, §1103.5511(c)(1) or §1104.211(c)(1), or may, if appropriate in the judgment of the chair of the Panel, provide the license holder or registrant with three days' notice of a temporary suspension hearing.

(e) The requirement under Texas Occupations Code, §1103.5511(c)(1) or §1104.211(c)(1) that "institution of proceedings for a contested case hearing is initiated simultaneously with the temporary suspension" shall be satisfied if, on the same day the motion for temporary suspension is filed with the Board's general counsel, the licensed, certified or registered person that is the subject of the temporary suspension motion, and the State Office of Administrative Hearings, as applicable, is sent one of the following documents that alleges facts that precipitated the need for a temporary suspension:

- (1) Notice of Alleged Violation;
- (2) Original Statement of Charges; or
- (3) Amended Statement of Charges.

(f) The Panel shall post notice of the temporary suspension proceeding pursuant to §551.045 of the Texas Government Code and Texas Occupations Code, §1103.5511(e) or §1104.211(e) and hold the temporary suspension proceeding as soon as possible.

(g) The determination whether the continued practice by a person licensed, certified or registered by the Board would constitute a continuing threat to the public welfare shall be determined from information presented to the Panel. The Panel may receive information and testimony in oral or written form. Documentary evidence must be submitted to the Board's general counsel in electronic format at least 24 hours in advance of the time posted for the temporary suspension hearing in all cases where the Panel will be meeting via teleconference. If a hearing is held following notice to a license holder or registrant, Board staff will have the burden of proof and shall open and close. The party responding to the motion for temporary suspension may offer rebuttal arguments. Parties may request an opportunity for additional rebuttal subject to the discretion of the chair of the Panel. The chair of the

Panel may set reasonable time limits for any oral arguments and evidence to be presented by the parties. The Panel may question witnesses and attorneys at the members' discretion. Information and testimony that is clearly irrelevant, unreliable, or unduly inflammatory will not be considered.

(h) The determination of the Panel may be based not only on evidence admissible under the Texas Rules of Evidence, but may be based on information of a type on which a reasonably prudent person commonly relies in the conduct of the person's affairs.

(i) If the Panel suspends a license or certificate, it shall do so by order and the suspension shall remain in effect for the period of time stated in the order, not to exceed the date a final order is issued by the Board in the underlying contested case proceeding.

[The Panel order must recite the factual and legal basis for imminent peril warranting temporary suspension.](#)

(j) A temporary suspension under Texas Occupations Code, §1103.5511 or §1104.211 shall not automatically expire after 45 days if the Board has scheduled a hearing on the contested case to take place within that time and the hearing is continued beyond the 45th day for any reason other than at the request of the Board.

(k) If credible and verifiable information that was not presented to the Panel at a temporary suspension hearing, which contradicts information that influenced the decision of the Panel to order a temporary suspension, is subsequently presented to the Panel with a motion for rehearing on the suspension, the chair of the Panel will schedule a rehearing on the matter. The chair of the Panel will determine, in the chair's sole discretion, whether the new information meets the standard set out in this subsection. A rehearing on a temporary suspension will be limited to presentation and rebuttal of the new information. The chair of the Panel may set reasonable time limits for any oral arguments and evidence to be presented by the parties. Panel members may question witnesses and attorneys. Information and testimony that is clearly irrelevant, unreliable, or unduly inflammatory will not be considered. Any temporary suspension previously ordered will remain in effect, unless the Panel holds

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

a rehearing on the matter and issues a new order  
rescinding the temporary suspension.