

AN ACT

relating to self-directed and semi-independent status of the Texas Real Estate Commission; making an appropriation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 7, Occupations Code, is amended by adding Chapter 1105 to read as follows:

CHAPTER 1105. SELF-DIRECTED AND SEMI-INDEPENDENT STATUS OF
TEXAS REAL ESTATE COMMISSION

Sec. 1105.001. DEFINITIONS. In this section:

(1) "Agency" means the commission and the board.

(2) "Board" means the Texas Appraiser Licensing and Certification Board.

(3) "Commission" means the Texas Real Estate Commission.

Sec. 1105.002. SELF-DIRECTED AND SEMI-INDEPENDENT STATUS.

(a) Notwithstanding any other provision of law, the agency is self-directed and semi-independent as specified by this chapter. Any Act of the 82nd Legislature that relates to the agency and that is inconsistent with the agency being self-directed and semi-independent may be implemented by the administrator of the agency only on authorization by the agency.

(b) This chapter does not affect the board's status as an

independent subdivision of the commission as provided by Section 1103.051.

Sec. 1105.003. BUDGET, REVENUES, AND EXPENSES.

(a) Notwithstanding any other provision of law, including the General Appropriations Act, the commission and the board shall each adopt a separate budget annually using generally accepted accounting principles.

(b) The commission shall be responsible for all direct and indirect costs of the commission's existence and operation. The board shall be responsible for all direct and indirect costs of the board's existence and operation. The agency may not directly or indirectly cause the general revenue fund to incur any cost.

(c) Notwithstanding any other provision of law, the commission and the board may each set the amounts of the respective fees, penalties, charges, and revenues required or permitted by statute or rule as necessary for the purpose of carrying out the separate functions of the commission and the board and funding the respective budgets of the commission and the board adopted and approved under Subsection (a).

(d) Except as provided by Subsection (e), all fees and funds collected by the commission or the board and any funds appropriated to the commission or the board shall be deposited in interest-bearing deposit accounts in the Texas Treasury Safekeeping Trust Company. The comptroller shall contract with the commission and

the board for the maintenance of the deposit accounts under terms comparable to a contract between a commercial banking institution and the institution's customers.

(e) A fee collected under:

(1) Section 1101.153(b)(2) shall be deposited in Fund 0193 in the state treasury; and

(2) Section 1101.153(b)(3) shall be deposited in Fund 0001 in the state treasury.

(f) Not later than August 31 of each fiscal year, the agency shall remit \$750,000 to the general revenue fund.

(g) The fiscal year for the agency begins on September 1 and ends on August 31.

Sec. 1105.004. AUDITS. (a) This chapter does not affect the duty of the state auditor to audit the agency. The state auditor shall enter into a contract and schedule with the agency to conduct audits.

(b) Not later than August 31 of each fiscal year, the agency shall remit a nonrefundable retainer to the state auditor in an amount not less than \$10,000. The agency shall reimburse the state auditor for all costs incurred, in excess of the aggregate nonrefundable retainer amounts paid each fiscal year, in performing the audits and shall provide to the governor a copy of any audit performed.

Sec. 1105.005. RECORDS; REPORTING REQUIREMENTS. (a) The

agency shall keep financial and statistical information as necessary to disclose completely and accurately the financial condition and results of operations of the agency.

(b) Before the beginning of each regular session of the legislature, the agency shall submit to the legislature and the governor a report describing all of the agency's activities in the previous biennium. The report must include:

(1) an audit as required by Section 1105.004;

(2) a financial report of the previous fiscal year, including reports on the financial condition and results of operations;

(3) a description of all changes in fees imposed on regulated persons;

(4) a report on changes in the regulatory jurisdiction of the agency; and

(5) a list of all new rules adopted or repealed.

(c) In addition to the reporting requirements of Subsection (b), not later than November 1 of each year, the agency shall submit to the governor, the committee of each house of the legislature that has jurisdiction over appropriations, and the Legislative Budget Board a report that contains:

(1) the salary for all agency personnel and the total amount of per diem expenses and travel expenses paid for all agency employees;

(2) the total amount of per diem expenses and travel expenses paid for each member of the agency;

(3) the agency's operating plan and the annual budgets of the commission and the board; and

(4) a detailed report of all revenue received and all expenses incurred by the agency in the previous 12 months.

Sec. 1105.006. ABILITY TO CONTRACT. (a) To carry out and promote the objectives of this chapter, the commission or board may enter into contracts and do all other acts incidental to those contracts that are necessary for the administration of the commission's or board's respective affairs and for the attainment of the commission's or board's respective purposes, except as limited by Subsection (b).

(b) Any indebtedness, liability, or obligation of the commission or board incurred under this section may not:

(1) create a debt or other liability of this state or another entity other than the commission or board, as appropriate;

or

(2) create any personal liability on the part of the members or employees of the agency.

Sec. 1105.007. PROPERTY. The commission or board may:

(1) acquire by purchase, lease, gift, or any other manner provided by law and maintain, use, and operate any real, personal, or mixed property, or any interest in property, necessary

or convenient to the exercise of the respective powers, rights, privileges, or functions of the commission or board;

(2) sell or otherwise dispose of any real, personal, or mixed property, or any interest in property, that the commission or board, as appropriate, determines is not necessary or convenient to the exercise of the commission's or board's respective powers, rights, privileges, or functions;

(3) construct, extend, improve, maintain, and reconstruct, or cause to construct, extend, improve, maintain, and reconstruct, and use and operate all facilities necessary or convenient to the exercise of the respective powers, rights, privileges, or functions of the commission or board; and

(4) borrow money, as may be authorized from time to time by an affirmative vote of a two-thirds majority of the commission or board, as appropriate, for a period not to exceed five years if necessary or convenient to the exercise of the commission's or board's respective powers, rights, privileges, or functions.

Sec. 1105.008. SUITS. (a) The office of the attorney general shall represent the agency in any litigation.

(b) Not later than August 31 of each fiscal year, the agency shall remit a nonrefundable retainer to the office of the attorney general in an amount of not less than \$75,000. The nonrefundable retainer shall be applied to any services provided to the agency. If additional litigation services are required, the attorney

general may assess and collect from the agency reasonable attorney's fees, in excess of the aggregate nonrefundable retainer amount paid each fiscal year, associated with any litigation under this section.

Sec. 1105.009. ADMINISTRATIVE HEARINGS. (a) Not later than August 31 of each fiscal year, the agency shall remit a nonrefundable retainer to the State Office of Administrative Hearings in an amount of not less than \$75,000 for hearings conducted by the State Office of Administrative Hearings under a law administered by the commission or the board.

(b) The nonrefundable retainer shall be applied to the costs associated with conducting the hearings. If additional costs are incurred, the State Office of Administrative Hearings may assess and collect from the agency reasonable fees, in excess of the nonrefundable retainer amount paid each fiscal year, associated with conducting the hearings.

Sec. 1105.010. POST-PARTICIPATION LIABILITY. (a) If the agency no longer has status under this chapter as a self-directed semi-independent agency for any reason, the agency shall be liable for any expenses or debts incurred by the agency during the time the agency was a self-directed semi-independent agency. The agency's liability under this section includes liability for any lease entered into by the agency. This state is not liable for any expense or debt covered by this subsection, and money from the

general revenue fund may not be used to repay the expense or debt.

(b) If the agency no longer has status under this chapter as a self-directed semi-independent agency for any reason, ownership of any property or other asset acquired by the agency during the time the agency was a self-directed semi-independent agency, including unexpended fees in a deposit account in the Texas Treasury Safekeeping Trust Company, shall be transferred to this state.

Sec. 1105.011. DUE PROCESS; OPEN GOVERNMENT. The commission and the board are governmental bodies for purposes of Chapters 551 and 552, Government Code. The commission is a state agency for purposes of Chapters 2001 and 2005, Government Code.

Sec. 1105.012. MEMBERSHIP IN EMPLOYEES RETIREMENT SYSTEM. Employees of the agency are members of the Employees Retirement System of Texas under Chapter 812, Government Code, and the commission's and the board's transition to independent status as provided by this chapter has no effect on their membership or any benefits under that system.

SECTION 2. Subsection (c), Section 1101.059, Occupations Code, is amended to read as follows:

(c) A person appointed to the commission is entitled to reimbursement~~[, as provided by the General Appropriations Act,]~~ for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before

or after the person qualifies for office.

SECTION 3. Subsection (d), Section 1101.101, Occupations Code, is amended to read as follows:

(d) The commission shall determine the salaries of the administrator, officers, and employees of the commission. [~~The amounts of the salaries may not exceed the amounts specified by the General Appropriations Act.~~]

SECTION 4. Subsection (b), Section 1103.103, Occupations Code, is repealed.

SECTION 5. (a) To provide a reasonable period for the Texas Real Estate Commission to establish itself as a self-directed and semi-independent agency under Chapter 1105, Occupations Code, as added by this Act, the following amounts are appropriated out of the general revenue fund:

(1) for the state fiscal year ending August 31, 2012, an amount equal to 50 percent of the amount of general revenue appropriated to the agency for the state fiscal year ending August 31, 2011; and

(2) for the state fiscal year ending August 31, 2013, an amount equal to 50 percent of the amount of general revenue appropriated to the agency for the state fiscal year ending August 31, 2011.

(b) Subject to Chapter 1105, Occupations Code, as added by this Act, the appropriations made by Subsection (a) of this section

may be spent by the Texas Real Estate Commission as the commission directs. The Texas Real Estate Commission shall repay to the general revenue fund the appropriation made to the commission for the state fiscal year ending August 31, 2012, not later than that date and as funds become available. The Texas Real Estate Commission shall repay to the general revenue fund the appropriation made to the commission for the state fiscal year ending August 31, 2013, not later than that date and as funds become available.

SECTION 6. The transfer of the Texas Real Estate Commission to self-directed and semi-independent status under Chapter 1105, Occupations Code, as added by this Act, and the expiration of self-directed and semi-independent status may not act to cancel, suspend, or prevent:

- (1) any debt owed to or by the commission or the Texas Appraiser Licensing and Certification Board;
- (2) any fine, tax, penalty, or obligation of any party;
- (3) any contract or other obligation of any party; or
- (4) any action taken by the commission or the board in the administration or enforcement of the commission's or the board's duties.

SECTION 7. The Texas Real Estate Commission and the Texas Appraiser Licensing and Certification Board shall continue to have and exercise the powers and duties allocated to the commission or

the board in the commission's or the board's enabling legislation, except as specifically amended by this Act.

SECTION 8. Title to or ownership of all supplies, materials, records, equipment, books, papers, and furniture used by the Texas Real Estate Commission or the Texas Appraiser Licensing and Certification Board is transferred to the commission or the board, respectively. This Act does not affect any property owned by the commission or the board on or before the effective date of this Act.

SECTION 9. The Texas Real Estate Commission and the Texas Appraiser Licensing and Certification Board shall relocate to state-owned office space not later than September 1, 2011, and shall pay rent to this state in a reasonable amount to be determined by the Texas Facilities Commission for the use and occupancy of the office space. Aggregate rental payments may not be less than \$550,000 per fiscal year for the state fiscal years ending August 31, 2012, and August 31, 2013. Aggregate rental payments may not be less than \$425,000 per fiscal year for each state fiscal year ending August 31, 2014, August 31, 2015, and August 31, 2016.

SECTION 10. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1000 passed the Senate on April 20, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 27, 2011, by the following vote: Yeas 31, Nays 0; passed subject to the provisions of Article III, Section 49a, of the Constitution of Texas.

Secretary of the Senate

I hereby certify that S.B. No. 1000 passed the House, with amendment, on May 23, 2011, by the following vote: Yeas 147, Nays 0, two present not voting; passed subject to the provisions of Article III, Section 49a, of the Constitution of Texas.

Chief Clerk of the House

Approved:

Date

Governor

I, Susan Combs, Comptroller of Public Accounts, do hereby certify that the amounts appropriated in the herein S.B. No. 1000, Regular

Session, 82nd Legislature, are within the amount estimated to be available in the affected fund.

Certified _____,
2011.

Comptroller of Public Accounts