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

22 TAC §153.19

The Texas Appraiser Licensing and Certification Board (TALCB) adopts on an emergency basis amendments to 22 TAC §153.19, Licensing for Persons with Criminal History and Moral Character Determination, in Chapter 153, Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act.

The amendments are adopted on an emergency basis to implement statutory changes enacted by the 86th Legislature in HB 1342, which takes effect on September 1, 2019, and SB 1217, which took effect on June 14, 2019.

The amendments are adopted on an emergency basis under Texas Occupations Code §1103.151, which authorizes TALCB to adopt rules related to certificates and licenses, and changes enacted by the 86th Legislature in HB 1342 and SB 1217.

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


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

(b) The Board may suspend or revoke an existing valid license, disqualify an individual from receiving a license, deny to a person the opportunity to be examined for a license or deny any application for a license, if the person has been convicted of a felony, had their felony probation revoked, had their parole revoked, or had their mandatory supervision revoked. Any such action may be taken [shall be made] after consideration of the required factors [detailed] in Chapter 53, [Texas] Occupations Code, §§53.022 and [subsection (d) of] this section.

(c) A license holder must conduct himself or herself with honesty, integrity, and trustworthiness. After considering the required factors in Chapter 53, Occupations Code, [Thus] the Board determines that a conviction or deferred adjudication deemed a conviction under Chapter 53, Occupations Code, [has considered the factors in Texas Occupations Code §53.022 and deems] the following crimes to be directly related to the duties and responsibilities of a certified general or certified residential [occupation of] appraiser, a licensed appraiser or appraiser trainee:

1. offenses involving fraud or misrepresentation;
2. offenses against real or personal property belonging to another, if committed knowingly or intentionally;
3. offenses against public administration, including tampering with a government record, witness tampering, perjury, bribery, and corruption;
4. offenses involving the sale or other disposition of real or personal property belonging to another without authorization of law; and
5. offenses involving moral turpitude;
6. offenses of attempting or conspiring to commit any of the foregoing offenses.

(d) When determining whether a conviction of a criminal offense not listed in subsection (d) of this section directly relates to the duties and responsibilities of a licensed occupation regulated by the Board, the Board considers:

1. the nature and seriousness of the crime;
2. the relationship of the crime to the purposes for requiring a license to engage in the occupation;
3. the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved;
4. the relationship of the crime to the ability or capacity required to perform the duties and discharge the responsibilities of the licensed occupation; and
5. any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation.

(e) [Add] When [is] determining the present fitness of an applicant or license holder who has been convicted of a crime, the Board also considers [will consider the following evidence]:

1. the extent and nature of the person's past criminal activity;
2. the person's age at the time the crime was committed [of the commission of the crime];
3. the amount of time that has elapsed since the person's last criminal activity;
4. the person's conduct and work activity before and after [prior to and following] the criminal activity;
5. evidence of the person's compliance with any conditions of community supervision, parole, or mandatory supervision;
(6) [55] evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release; and

(7) [(6)] other evidence of the applicant's or license holder's present fitness including letters of recommendation. [from:]

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

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

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

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

(f) To the extent possible, it is the applicant's or license holder's responsibility to obtain and provide the recommendations described in subsection (e)(7) of this section.

(g) When determining a person's fitness to perform the duties and discharge the responsibilities of a licensed occupation regulated by the Board, the Board does not consider an arrest that did not result in a conviction or placement on deferred adjudication community supervision.

(h) [(4)] Fitness [Moral Character] Determination. Before applying for a license, a person may request the Board to determine if the prospective applicant's fitness [moral character] satisfies the Board's requirements for licensing by submitting the request form approved by the Board and paying the required fee. Upon receiving such a request, the Board may request additional supporting materials. Requests will be processed under the same standards as applications for a license.

The agency certifies that legal counsel has reviewed the emergency adoption and found it to be within the state agency's legal authority to adopt.

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