

OCCUPATIONS CODE

SUBTITLE C. REGULATION OF LAND SURVEYING AND RELATED PRACTICES

CHAPTER 1071. LAND SURVEYORS

SUBCHAPTER A. GENERAL PROVISIONS

§ 1071.001. SHORT TITLE. This chapter may be cited as the Professional Land Surveying Practices Act.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.002. DEFINITIONS. In this chapter:

(1) "Board" means the Texas Board of Professional Land Surveying.

(2) "Commissioner" means the commissioner of the General Land Office.

(3) "Delegated responsible charge" means the direct control of professional surveying work performed under the supervision of a registered professional land surveyor.

(4) "Land surveyor" means a registered professional land surveyor or licensed state land surveyor.

(5) "Licensed state land surveyor" means a surveyor licensed by the board to survey land in which the state or the permanent school fund has an interest or perform other original surveys for the purpose of filing field notes in the General Land Office.

(6) "Professional surveying" means the practice of land, boundary, or property surveying or other similar professional practices. The term includes:

(A) performing any service or work the adequate performance of which involves applying special knowledge of the principles of geodesy, mathematics, related applied and physical sciences, and relevant laws to the measurement or location of sites, points, lines, angles, elevations, natural features, and existing man-made works in the air, on the earth's surface, within underground workings, and on the beds of bodies of water to determine areas and volumes for:

- (i) locating real property boundaries;
- (ii) platting and laying out land and

subdivisions of land; or

(iii) preparing and perpetuating maps, record plats, field note records, easements, and real property descriptions that represent those surveys; and

(B) consulting, investigating, evaluating, analyzing, planning, providing an expert surveying opinion or testimony, acquiring survey data, preparing technical reports, and mapping to the extent those acts are performed in connection with acts described by this subdivision.

(7) "Registered professional land surveyor" means a person registered by the board as a registered professional land surveyor.

(8) "State land surveying" means the science or practice of land measurement according to established and recognized methods engaged in as a profession or service for the public for compensation and consisting of the following activities conducted when the resulting field notes or maps are to be filed with the General Land Office:

- (A) determining by survey the location or relocation of original land grant boundaries and corners;
- (B) calculating area and preparing field note descriptions of surveyed and unsurveyed land or land in which the state or the permanent school fund has an interest; and
- (C) preparing maps showing the survey results.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.
Amended by Acts 2005, 79th Leg., ch. 611, § 1, eff. June 17, 2005.

§ 1071.003. APPLICATION OF SUNSET ACT. The Texas Board of Professional Land Surveying is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2015.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 16, § 1, eff. Sept. 1, 2003.

§ 1071.004. APPLICATION OF CHAPTER. This chapter does not require the use of a registered professional land surveyor to establish an easement or a construction estimate that does not involve the monumentation, delineation, or preparation of a metes and bounds description.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

SUBCHAPTER B. TEXAS BOARD OF PROFESSIONAL LAND SURVEYING

§ 1071.051. BOARD MEMBERSHIP. (a) The Texas Board of Professional Land Surveying consists of nine members as follows:

- (1) the commissioner;
- (2) two licensed state land surveyor members actively engaged in the practice of state land surveying for not less than the five years preceding appointment;
- (3) three registered professional land surveyor members actively engaged in the practice of professional surveying in this state for not less than the five years preceding appointment; and
- (4) three members who represent the public.

(b) The members of the board other than the commissioner are appointed by the governor with the advice and consent of the senate. The governor shall appoint the licensed state land surveyor board

members on the recommendation of the commissioner.

(c) A board member must be a United States citizen.

(d) If the commissioner is absent, the commissioner's duties as a board member shall be performed by:

(1) the chief clerk of the General Land Office appointed by the commissioner to perform any of the commissioner's duties if the commissioner is sick, is absent, dies, or resigns; or

(2) a licensed state land surveyor employee of the General Land Office designated by the commissioner to serve as director of surveying for the office.

(e) A registered professional land surveyor board member may not be licensed as a licensed state land surveyor.

(f) For purposes of the experience required for appointment as a registered professional land surveyor board member, the teaching of surveying in a recognized school of engineering or surveying may be regarded as the practice of professional land surveying.

(g) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 1170, § 23.01, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 16, § 2, eff. Sept. 1, 2003.

§ 1071.052. ELIGIBILITY OF PUBLIC MEMBERS. A person is not eligible for appointment as a public member of the board if the person or the person's spouse:

(1) is registered, certified, or licensed by an occupational regulatory agency in the field of surveying;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving funds from the board;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving funds from the board; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the board, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board and may not be an employee of the board employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29

U.S.C. Section 201 et seq.) and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of surveying; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of surveying.

(c) A person may not be a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 16, § 3, eff. Sept. 1, 2003.

§ 1071.054. TERMS; OATH; VACANCY. (a) Members of the board appointed by the governor serve staggered six-year terms, with the terms of approximately one-third of those members expiring on January 31 of each odd-numbered year.

(b) A board member appointed by the governor may not serve more than two consecutive terms.

(c) Before assuming the duties of office, each board member shall file with the secretary of state a copy of the constitutional oath of office taken by the member.

(d) A vacancy on the board is filled by appointment by the governor in the manner provided by Section 1071.051 for the unexpired term.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1170, § 23.02, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 16, § 4, eff. Sept. 1, 2003.

§ 1071.055. OFFICERS. (a) The governor shall designate one board member as the board's presiding officer to serve in that capacity at the pleasure of the governor.

(b) The board shall elect a member as assistant presiding officer at the first board meeting held after February 10 of each odd-numbered year.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.056. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the board that a member:

(1) does not have at the time of taking office the qualifications required by Sections 1071.051 and 1071.052;

(2) does not maintain during service on the board the qualifications required by Sections 1071.051 and 1071.052;

(3) is ineligible for membership under Section 1071.051, 1071.052, or 1071.053;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend

during a calendar year without an excuse approved by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that the action is taken when a ground for removal of a board member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 16, § 5, eff. Sept. 1, 2003.

§ 1071.057. PER DIEM; REIMBURSEMENT. (a) Each board member other than the commissioner is entitled to receive a per diem allowance as set by the legislature for each day that the member engages in official board duties, including time spent in necessary travel.

(b) Each board member other than the commissioner is entitled to reimbursement for all legitimate expenses incurred in performing the member's duties.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.058. MEETINGS. (a) The board shall hold meetings at least twice each year at times and places determined by the board to transact business and examine approved applicants for:

- (1) certification as a surveyor-in-training;
- (2) registration as a registered professional land surveyor; or
- (3) licensing as a licensed state land surveyor.

(b) The board shall hold regular and special meetings at the times determined by the board. A special meeting may be called by the presiding officer or by the assistant presiding officer if the presiding officer is out of the state or unable to act.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.059. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

- (1) the legislation that created the board;
- (2) the programs operated by the board;
- (3) the role and functions of the board;
- (4) the rules of the board, with an emphasis on the

rules that relate to disciplinary and investigatory authority;

- (5) the current budget for the board;
- (6) the results of the most recent formal audit of the board;
- (7) the requirements of:
 - (A) the open meetings law, Chapter 551, Government Code;
 - (B) the public information law, Chapter 552, Government Code;
 - (C) the administrative procedure law, Chapter 2001, Government Code; and
 - (D) other laws relating to public officials, including conflict-of-interest laws; and
- (8) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board 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.

Added by Acts 2003, 78th Leg., ch. 16, § 6, eff. Sept. 1, 2003.

SUBCHAPTER C. EXECUTIVE DIRECTOR AND PERSONNEL

§ 1071.101. EXECUTIVE DIRECTOR.. (a) The board shall employ an executive director to conduct the administrative affairs of the board under the board's direction. The executive director serves at the pleasure of the board.

(b) Repealed by Acts 2003, 78th Leg., ch. 285, § 31(42).

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 285, § 26, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 285, § 31(42), eff. Sept. 1, 2003.

§ 1071.102. PERSONNEL. (a) The board shall employ or retain persons as necessary to properly perform the board's work under this chapter, including investigative services.

(b) The board may accept services necessary to perform the board's work under this chapter that are provided by private sources at no cost to the board.

(c) Compensation paid by the board under this chapter may not exceed compensation paid for similar work in other state agencies.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.103. DIVISION OF RESPONSIBILITIES. The board shall develop and implement policies that clearly define the respective responsibilities of the board and the staff of the board.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.104. REQUIREMENTS AND STANDARDS OF CONDUCT INFORMATION. The executive director or the executive director's designee shall provide to members of the board and to board employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 16, § 7, eff. Sept. 1, 2003.

§ 1071.105. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS. (a) The executive director or the executive director's designee shall develop an intra-agency career ladder program. The program must require intra-agency posting of all nonentry level positions concurrently with any public posting. (b) The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for board employees must be based on the system established under this subsection.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.106. EQUAL EMPLOYMENT OPPORTUNITY POLICY; REPORT. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

- (1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel, that show the intent of the board to avoid the unlawful employment practices described by Chapter 21, Labor Code; and
- (2) an analysis of the extent to which the composition of the board's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(b) A policy statement prepared under Subsection (a) must:

- (1) be updated annually;
- (2) be reviewed by the Commission on Human Rights for compliance with Subsection (a)(1); and
- (3) be filed with the governor's office.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 16, § 8, eff. Sept. 1, 2003.

§ 1071.107. INFORMATION ON STATE EMPLOYEE INCENTIVE PROGRAM. The executive director or the executive director's

designee shall provide to board employees information and training on the benefits and methods of participation in the state employee incentive program under Subchapter B, Chapter 2108, Government Code.

Added by Acts 2003, 78th Leg., ch. 16, § 9, eff. Sept. 1, 2003.

SUBCHAPTER D. POWERS AND DUTIES OF BOARD

§ 1071.151. RULEMAKING AUTHORITY. (a) The board may adopt and enforce reasonable and necessary rules and bylaws to perform its duties under this chapter and to establish standards of conduct and ethics for land surveyors.

(b) The board by rule shall prescribe the minimum standards for professional surveying.

(c) The board by rule shall establish the enforcement process for a violation of this chapter or a board rule.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 16, § 10, eff. Sept. 1, 2003.

§ 1071.1515. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION. The board shall adopt rules necessary to comply with Chapter 53.

Added by Acts 2003, 78th Leg., ch. 16, § 11, eff. Sept. 1, 2003.

§ 1071.152. RECEIPT OF FEES; PAYMENT OF ADMINISTRATIVE COSTS. (a) The executive director shall receive and account for fees received under this chapter.

(b) General revenue of the state may not be used to pay the costs of administering this chapter in an amount that exceeds the amount of fees received under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.1521. FEE INCREASE. (a) The fee for the issuance of a certificate of registration to a registered professional land surveyor under this chapter and the fee for the renewal of a certificate of registration for a registered professional land surveyor under this chapter is increased by \$200.

(b) Of each fee increase collected, \$50 shall be deposited in the foundation school fund and \$150 shall be deposited in the general revenue fund.

(c) This section does not apply to state agency employees who are employed by the state as land surveyors.

Added by Acts 2003, 78th Leg., ch. 200, § 14(c), eff. Sept. 1, 2003.

§ 1071.1525. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of board rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the board's jurisdiction.

(b) The board's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings regarding the use of alternative dispute resolution by state agencies.

(c) The board shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training necessary for implementation of the negotiated rulemaking or alternative dispute resolution procedures; and

(3) collect data on the effectiveness of the procedures as implemented by the board.

Added by Acts 2003, 78th Leg., ch. 16, § 12, eff. Sept. 1, 2003.

§ 1071.1526. FEES. The board shall set fees in amounts reasonable and necessary to cover the costs of administering this chapter.

Added by Acts 2003, 78th Leg., ch. 16, § 12, eff. Sept. 1, 2003.

§ 1071.1527. REDUCED FEES FOR ELDERLY LAND SURVEYORS. The board by rule may adopt reduced certificate of registration and license fees and annual renewal fees for land surveyors who are at least 65 years of age.

Added by Acts 2005, 79th Leg., ch. 170, § 1, eff. Sept. 1, 2005.

§ 1071.153. OFFICE SPACE. The board shall arrange for suitable office space and equipment as the board determines to be necessary. The rental of office space and cost of equipment are considered administrative expenses of the board.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.154. SURVEYOR ROSTER; INFORMATION PROVIDED TO SURVEYORS. (a) The board shall publish annually, at a time determined by the board:

(1) a roster containing the name and place of business of each land surveyor;

(2) the rules adopted by the board; and

(3) a copy of this chapter.

(b) The board shall charge a fee in an amount reasonable and

necessary to cover the costs of reproducing and mailing a copy of the roster to a person who requests a copy.

(c) The board shall send annually to each land surveyor a copy of this chapter and of the board's rules.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.155. BOARD RECORDS. (a) The board shall maintain a record of its proceedings, including a record of money received and spent by the board and a register of each applicant for registration or licensing. The record shall be open for public inspection at all reasonable times.

(b) The register must include:

- (1) the name, age, and place of residence of the applicant;
- (2) the application date;
- (3) the applicant's place of business;
- (4) the applicant's qualifications;
- (5) if the application is rejected, the reasons for the rejection;
- (6) the date and result of each examination;
- (7) the date and number of any certificate of registration or license issued; and
- (8) any other information the board determines necessary.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.156. REPRESENTATION OF BOARD AT CERTAIN MEETINGS. The board's general counsel and board members may appear and represent the board at committee meetings and other formal meetings within the legislative or executive branch.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.157. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The board by rule shall prescribe standards for compliance with Subchapter A, Chapter 2254, Government Code.

(b) Except as provided by Subsection (a), the board may not adopt rules restricting advertising or competitive bidding by a person regulated by the board except to prohibit false, misleading, or deceptive practices by that person.

(c) The board may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the board a rule that:

- (1) restricts the use of any advertising medium;
- (2) restricts the person's personal appearance or use of the person's voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the person; or
- (4) restricts the person's advertisement under a trade name.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.158. TECHNOLOGY POLICY. The board shall develop and implement a policy requiring the executive director and board employees to research and propose appropriate technological solutions to improve the board's ability to perform its functions. The technological solutions must:

(1) ensure that the public is able to easily find information about the board on the Internet;

(2) ensure that persons who want to use the board's services are able to:

(A) interact with the board through the Internet; and

(B) access any service that can be provided effectively through the Internet; and

(3) be cost-effective and developed through the board's planning process.

Added by Acts 2003, 78th Leg., ch. 16, § 12, eff. Sept. 1, 2003.

SUBCHAPTER E. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

§ 1071.201. PUBLIC INTEREST INFORMATION. (a) The board shall prepare information of public interest describing the functions of the board and the procedures by which complaints are filed with and resolved by the board.

(b) The board shall make the information available to the public and appropriate state agencies.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.202. PUBLIC PARTICIPATION. The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the board's jurisdiction.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.203. COMPLAINTS. (a) Any person may file a complaint with the board regarding a violation of this chapter or a board rule.

(b) The board by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board. The board may provide for that notice:

(1) on each registration form, application, or written contract for services of a person regulated under this chapter;

(2) on a sign prominently displayed in the place of business of each person regulated under this chapter; or

(3) in a bill for services provided by a person regulated under this chapter.

(c) The board shall accept a complaint regardless of whether

the complaint is notarized.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 16, § 13, eff. Sept. 1, 2003.

§ 1071.204. RECORDS OF COMPLAINTS. (a) The board shall maintain a file on each written complaint filed with the board that the board has authority to resolve. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the board;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) an explanation of the reason the file was closed, if the board closed the file without taking action other than to investigate the complaint.

(b) If a written complaint that the board has authority to resolve is filed with the board, the board shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the board's policies and procedures relating to complaint investigation and resolution.

(c) The board, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

(d) Except as provided by Subsection (e), a complaint filed with the board is public information.

(e) A frivolous complaint is public information, except that the license holder's name and other personal information shall be redacted.

(f) In this section, "frivolous complaint" means a complaint that the executive director and investigator, with board approval, determine:

- (1) was made for the purpose of harassment; and
- (2) does not demonstrate harm to any person.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 16, § 14, eff. Sept. 1, 2003.

SUBCHAPTER F. REGISTRATION, LICENSING, AND CERTIFICATION REQUIREMENTS

§ 1071.251. REGISTRATION, LICENSE, OR CERTIFICATE REQUIRED. (a) In this section, "offer to practice" means to represent by verbal claim, sign, letterhead, card, or other method that a person is registered or licensed to perform professional surveying in this state.

(b) A person may not engage in the practice of professional surveying unless the person is registered, licensed, or certified

as provided by this chapter.

(c) A person may not offer to practice professional surveying in this state unless the person is registered or licensed as provided by this chapter.

(d) A person may not use in connection with the person's name or use or advertise a title or description that tends to convey the impression that the person is a professional land surveyor unless the person is registered or licensed under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.252. APPLICATION REQUIREMENTS. (a) An applicant for certification as a surveyor-in-training, registration as a registered professional land surveyor, or licensing as a licensed state land surveyor must file a written application with the board accompanied by an application fee in an amount determined by the board.

(b) An application must be made on a form prescribed and furnished by the board and contain statements that show the applicant's education and experience. The application must contain a detailed summary of the applicant's education and experience and references from at least three registered professional land surveyors having personal knowledge of the applicant's surveying experience. The board shall accept an application that meets board requirements regardless of whether the application is notarized.

(c) After the board determines that the applicant is qualified to take the appropriate section of the examination under Section 1071.256, the board shall set the examination section the applicant is approved to take and notify the applicant of the examination section and of the time and place of the examination. The applicant may take the examination section on payment of an examination fee in an amount determined by the board.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 16, § 15, eff. Sept. 1, 2003.

§ 1071.253. SURVEYOR-IN-TRAINING CERTIFICATE. (a) An applicant for a surveyor-in-training certificate must:

(1) have earned a bachelor of science degree in surveying from an accredited institution of higher education;

(2) have:

(A) earned a bachelor's degree from an accredited institution of higher education that included at least 32 semester hours in a combination of courses acceptable to the board in:

(i) civil engineering;

(ii) land surveying;

(iii) mathematics;

(iv) photogrammetry;

(v) forestry;

(vi) land law; or

(vii) the physical sciences; and

(B) completed at least one year of experience acceptable to the board in delegated responsible charge as a subordinate to a registered professional land surveyor actively

engaged in professional surveying;

(3) have:

(A) earned an associate degree in surveying from an accredited institution of higher education; and

(B) completed at least two years of experience acceptable to the board in delegated responsible charge as a subordinate to a registered professional land surveyor actively engaged in professional surveying;

(4) have:

(A) successfully completed a course of instruction consisting of 32 semester hours in land surveying or the equivalent number of semester hours in board-approved courses related to surveying; and

(B) completed at least two years of experience acceptable to the board in delegated responsible charge as a subordinate to a registered professional land surveyor actively engaged in professional surveying; or

(5) have:

(A) graduated from an accredited high school;

(B) completed at least four years of experience acceptable to the board in delegated responsible charge as a subordinate to a registered professional land surveyor actively engaged in professional surveying; and

(C) provided evidence satisfactory to the board that the applicant is self-educated in professional surveying.

(b) On proof that an applicant has the qualifications required by Subsection (a), the board shall allow the applicant to take an examination consisting of parts of the examination under Section 1071.256, the contents of which are as determined or approved by the board.

(c) The board shall issue a surveyor-in-training certificate to an applicant who passes the applicable parts of the examination taken under Subsection (b). The certificate is valid until the earlier of:

(1) the sixth anniversary of the date of issuance; or

(2) the date the certificate holder becomes registered as a registered professional land surveyor.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.254. QUALIFICATIONS FOR REGISTRATION AS REGISTERED PROFESSIONAL LAND SURVEYOR. (a) An applicant for registration as a registered professional land surveyor must:

(1) hold a certificate as a surveyor-in-training;

(2) have at least two years of experience satisfactory to the board as a surveyor-in-training in performing surveying in delegated responsible charge as a subordinate to a surveyor registered or licensed to engage in the practice of surveying in this state or in another state having registration or licensing requirements equivalent to the requirements of this state; and

(3) if the application is filed after January 1, 2003, have earned a bachelor's degree from an accredited institution of higher education that included at least 32 semester hours in a combination of courses acceptable to the board in:

(A) civil engineering;

(B) land surveying;

- (C) mathematics;
- (D) photogrammetry;
- (E) forestry;
- (F) land law; or
- (G) the physical sciences.

(b) An applicant is entitled to registration as a registered professional land surveyor if the applicant meets the qualifications prescribed by Subsection (a) and is approved to take and passes the required sections of the examination prescribed under Section 1071.256.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.255. QUALIFICATIONS FOR LICENSING AS LICENSED STATE LAND SURVEYOR; OATH. (a) A registered professional land surveyor is entitled to be licensed as a licensed state land surveyor if the person is approved to take and passes the appropriate sections of the examination prescribed under Section 1071.256.

(b) The board may not issue a license to a licensed state land surveyor until the applicant takes the official oath stating that the person will faithfully, impartially, and honestly perform all the duties of a licensed state land surveyor to the best of the person's skill and ability in all matters in which the person may be employed.

(c) The board may not issue a license as a licensed state land surveyor to a person residing outside of this state.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.256. EXAMINATION. (a) The board shall prescribe the scope of the written examination and examination procedures with special reference to the applicant's ability in order to protect the public safety, welfare, and property rights.

(b) The examination for an applicant for registration as a registered professional land surveyor must be developed and given as provided by this chapter under board rules designed to determine the knowledge and ability of the applicant.

(c) The examination for an applicant for licensing as a licensed state land surveyor must be developed under board rules and include examination on:

- (1) the theory of surveying;
- (2) the law of land boundaries;
- (3) the history and functions of the General Land Office; and
- (4) other matters pertaining to surveying as determined by the board.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.257. EXAMINATION RESULTS. (a) Not later than the 30th day after the date a person takes a licensing examination, the board shall notify the person of the results of the examination.

(b) If the examination is graded or reviewed by a testing

service:

(1) the board shall notify the person of the results of the examination not later than the 14th day after the date the board receives the results from the testing service; and

(2) if notice of the examination results will be delayed for longer than 90 days after the examination date, the board shall notify the person of the reason for the delay before the 90th day.

(c) If requested in writing by a person who fails an examination administered under this chapter, the board shall furnish the person with an analysis of the person's performance on the examination. The analysis shall be provided in a summary form that does not compromise the integrity of the examination.

(d) The board may require a testing service to notify a person of the results of the person's examination.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 16, § 16, eff. Sept. 1, 2003.

§ 1071.258. REEXAMINATION; FEE. An applicant who fails an examination may apply to take a subsequent examination by filing an updated application and paying an additional examination fee set by the board.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 16, § 17, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, § 14A.101(a), eff. Sept. 1, 2003.

§ 1071.259. REGISTRATION OF OUT-OF-STATE SURVEYORS. (a) The board may waive any registration requirement for an applicant who holds a license from another state having registration or licensing requirements substantially equivalent to the registration requirements of this state.

(b) The board may issue a certificate of registration as a registered professional land surveyor to an applicant under this section who meets all waived and unwaived registration requirements and who:

(1) applies to the board for a certificate of registration;

(2) pays a fee set by the board; and

(3) passes an examination on Texas surveying.

(c) The board shall determine the contents of the examination under Subsection (b)(3). The examination may not exceed four hours in duration.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 16, § 18, eff. Sept. 1, 2003.

§ 1071.260. REGISTRATION NUMBER; FORM OF CERTIFICATE OR LICENSE. (a) The board shall issue to each registered professional land surveyor a registration number that may not be

assigned to or used by any other surveyor. The number must be on the certificate of registration and recorded in the board's permanent records and is the surveyor's registration number for use on all official documents.

(b) Each certificate of registration and license issued by the board must show the full name of the registration holder or license holder and shall be signed by the presiding officer and the executive director of the board.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.261. DISPLAY OF CERTIFICATE AND LICENSE. (a) An original or renewal certificate of registration or license is evidence that the person whose name and registration number appear on the document is qualified to practice as a registered professional land surveyor or licensed state land surveyor.

(b) A person holding a certificate of registration or license shall display the certificate or license at the person's place of business or practice. The person shall be prepared to substantiate that the certificate or license has been renewed for the current year.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.262. REPLACEMENT OF REVOKED, LOST, OR DESTROYED CERTIFICATE OR LICENSE. The board may issue, on payment of a fee set by the board and subject to board rules, a new certificate of registration or license to replace a certificate or license that has been revoked, lost, destroyed, or mutilated.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 16, § 19, eff. Sept. 1, 2003.

§ 1071.263. INACTIVE STATUS. (a) A registered professional land surveyor may request inactive status at any time before the expiration date of the person's certificate of registration. A registration holder on inactive status may not practice surveying.

(b) A registration holder on inactive status must pay an annual fee set by the board.

(c) A registration holder on inactive status is not required to:

- (1) comply with the professional development requirements adopted by the board; or
- (2) take an examination for reinstatement to active status.

(d) To return to active status, a registration holder on inactive status must file with the board a written notice requesting reinstatement to active status.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 16, § 20, eff. Sept. 1, 2003.

SUBCHAPTER G. RENEWAL OF REGISTRATION AND LICENSE

§ 1071.301. ANNUAL RENEWAL REQUIRED. (a) The board by rule may adopt a system under which certificates of registration and licenses expire on various dates during the year. For the year in which the certificate or license expiration date is changed, the board shall prorate certificate and license fees on a monthly basis so that each certificate or license holder pays only that portion of the certificate or license fee that is allocable to the number of months during which the certificate or license is valid. On renewal of the certificate or license on the new expiration date, the total certificate or license renewal fee is payable.

(b) A renewal certificate must have the same registration number as the original certificate.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 16, § 21, eff. Sept. 1, 2003.

§ 1071.302. NOTICE OF EXPIRATION. Not later than the 30th day before the date a person's certificate of registration or license is scheduled to expire, the board shall send written notice of the impending expiration to the person at the person's last known address according to the board's records.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 16, § 22, eff. Sept. 1, 2003.

§ 1071.303. PROCEDURE FOR RENEWAL. (a) A person who is otherwise eligible to renew a certificate of registration or license may renew an unexpired certificate or license by paying the required renewal fee to the board before the expiration date of the certificate or license. A person whose certificate or license has expired may not engage in activities that require a certificate or license until the certificate or license has been renewed.

(b) A person whose certificate or license has been expired for 90 days or less may renew the certificate or license by paying to the board a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(c) A person whose certificate or license has been expired for more than 90 days but less than one year may renew the certificate or license by paying to the board a renewal fee that is equal to two times the normally required renewal fee.

(d) A person whose certificate or license has been expired for one year or more may not renew the certificate or license. The person may obtain a new certificate or license by complying with the requirements and procedures, including the examination requirements, for obtaining an original certificate or license.

(e) A person who was registered or licensed in this state, moved to another state, and is currently registered or licensed and has been in practice in the other state for the two years preceding

the date of application may obtain a new certificate or license without reexamination. The person must pay to the board a fee that is equal to two times the normally required renewal fee for the certificate or license.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 16, § 23, eff. Sept. 1, 2003.

§ 1071.304. NOTICE OF FAILURE TO RENEW STATE LAND SURVEYOR LICENSE. The executive director shall immediately notify the commissioner when the license of a licensed state land surveyor expires due to the person's failure to timely renew the license.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.305. CONTINUING PROFESSIONAL EDUCATION. (a) As a condition for renewal of a certificate of registration, the board shall require a registered professional land surveyor to successfully complete continuing professional education courses as prescribed by board rule. The board's rules must provide that the continuing professional education requirement may be met by completing annually not more than eight hours, a calendar day, of professional development courses or programs.

(b) The board may also grant professional education credit for:

- (1) satisfactory completion of academic work at an accredited institution;
- (2) teaching or consulting in a program approved by the board; or
- (3) authorship of a technical paper approved by the board.

(c) A registered professional land surveyor shall maintain records relating to the person's professional education activities. The records are subject to audit by the board on application by the person for renewal of registration.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

SUBCHAPTERH. PRACTICE OF LAND SURVEYING

§ 1071.351. PERFORMANCE OF LAND SURVEYING; OFFICIAL SEAL. (a) In this section, "employee" means a person who receives compensation for work performed under the direct supervision of a land surveyor.

(b) On receipt of a certificate of registration, a registered professional land surveyor shall obtain an authorized seal bearing the person's name and registration number and the title "Registered Professional Land Surveyor."

(c) Each licensed state land surveyor shall obtain a seal of office. The seal must contain the license holder's official title, "Licensed State Land Surveyor," around the margin and the word "Texas" between the points of the star in the seal. A licensed

state land surveyor shall attest with the seal all official acts authorized under law. An act, paper, or map of a licensed state land surveyor may not be filed in the county records of the General Land Office unless it is certified to under the surveyor's seal.

(d) A registration holder or license holder may not affix the person's name, seal, or certification to any plat, design, specification, or other professional surveying work that is prepared by a person who is not registered or licensed under this chapter unless the work is performed by an employee under the direct supervision of the registration holder or license holder.

(e) A registration holder or license holder may not allow a person who is not registered or licensed under this chapter to exert control over the end product of professional surveying work.

(f) If professional surveying is performed as a joint venture of an association of two or more firms, each firm shall use the seal of the surveyor having primary responsibility for the venture.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.352. SURVEYING BY BUSINESS ENTITY. (a) An association, partnership, or corporation may not offer professional surveying services unless a registered professional land surveyor is employed full-time where the services are offered.

(b) A registration holder or license holder may organize or engage in any form of individual or group practice of surveying allowed by state statute. The individual or group practice must properly identify the registration holder or license holder who is responsible for the practice.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.353. PRACTICE UNDER ASSUMED NAME. A person engaging in the practice of surveying in this state under any business title other than the real name of one or more persons authorized to engage in public or state land surveying, whether individually or as an association, partnership, or corporation, shall file with the board, in the manner prescribed by the board, a certificate stating the full name and place of residence of each person engaging in the practice and the place, including the street address, city, and zip code, where the practice or business is principally conducted.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.354. JURISDICTION OF LICENSED STATE LAND SURVEYORS. A licensed state land surveyor may perform surveys under Section 21.011, Natural Resources Code, and is subject to the commissioner's direction in matters of land surveying in cases that come under the supervision of the commissioner. The jurisdiction of the license holder is coextensive with the limits of the state.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.355. LICENSED STATE LAND SURVEYOR AS AGENT OF STATE. A licensed state land surveyor is an agent of this state when acting in that official capacity.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.356. RESIGNATION OF LICENSED STATE LAND SURVEYOR. (a) A licensed state land surveyor may resign at any time by filing a written resignation with the board. On receipt of the resignation, the board shall inform the General Land Office.

(b) A licensed state land surveyor who resigns under this section is not entitled to reinstatement of the person's license. To obtain a new license, the person must meet the requirements for an original license.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.357. COUNTY SURVEYORS. (a) A licensed state land surveyor may hold office as a county surveyor. If elected, the person must qualify as provided by law for county surveyors.

(b) The election of a licensed state land surveyor as county surveyor does not limit the jurisdiction of the license holder to that county, and the election of a county surveyor for any particular county does not prevent any licensed state land surveyor from performing the duties of a surveyor in that county.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.358. COURT ORDER FOR PERMISSION TO CROSS LAND. (a) A licensed state land surveyor engaged in surveying in the person's official capacity who is denied permission to cross land owned by a private party is entitled to a court order to enforce the license holder's authority to cross the land.

(b) The attorney general shall promptly apply for an order under this section from the district court. Venue for the action is in the county in which the land is located.

(c) The court shall grant the order on proof that the person is licensed under this chapter and acting in the person's official capacity.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.359. LICENSED STATE LAND SURVEYOR FIELD NOTES. (a) Official field notes made by a licensed state land surveyor must be signed by the surveyor, followed by the designation "Licensed State Land Surveyor."

(b) Field notes and plats prepared by a licensed state land surveyor must conform to Sections 21.041 and 21.042, Natural Resources Code.

(c) Field notes made by a licensed state land surveyor in any county in this state are admissible in evidence.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.360. DISCOVERY OF UNDISCLOSED LAND. A licensed state land surveyor who discovers an undisclosed tract of public land shall:

- (1) make that fact known to any person who has the tract enclosed; and
- (2) forward a report of the existence of the tract and the tract's acreage to the commissioner.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.361. ACCESS TO COUNTY SURVEYOR RECORDS. (a) A licensed state land surveyor is entitled to access to a county surveyor's records for information and examination.

(b) An examination fee may not be charged if the investigation of the records is for the purpose of:

- (1) making a survey of public land under the law regulating the sale or lease of public land; or
- (2) identifying and establishing the boundaries of public land.

(c) A licensed state land surveyor who examines records under this section shall comply with any regulations prescribed by the county surveyor or the commissioners court for protecting and preserving the records.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

SUBCHAPTER I. DISCIPLINARY PROCEDURES

§ 1071.401. DISCIPLINARY POWERS OF BOARD. (a) The board shall revoke, suspend, or refuse to renew a certificate of registration or license, place on probation a person whose certificate or license has been suspended, or reprimand a registration holder or license holder for:

- (1) fraud or deceit in obtaining a certificate or license under this chapter;
- (2) gross negligence, incompetence, or misconduct in the practice of surveying as a land surveyor; or
- (3) a violation of this chapter or a board rule.

(b) The license of a licensed state land surveyor is subject to revocation if the license holder is found to be directly or indirectly interested in the purchase or acquisition of title to public land.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 16, § 24, eff. Sept. 1, 2003.

§ 1071.402. DISCIPLINARY PROCEEDINGS. (a) The board may institute proceedings against a registration holder or license holder on the board's behalf without a formal written third-party

complaint.

(b) The board shall assign an employee or contract with an investigator to investigate each alleged violation of this chapter or a board rule that is reported to the board. The board may employ investigators and inspectors as necessary to properly enforce this chapter.

(c) A board employee investigating an alleged violation may:

(1) dismiss a complaint that is without merit; or
(2) determine whether a person has committed the violation and recommend sanctions to the board.

(d) A board employee investigating an alleged violation shall report the dismissal of a complaint under Subsection (c)(1) to the board in the manner required by the board.

(e) The person making a complaint that is dismissed under Subsection (c)(1) may request reconsideration of the dismissal by the board.

(f) The board may appoint a subcommittee of the board that includes at least one board member who represents the public to assist in an investigation. A member of a subcommittee or a member of the board who consults with board personnel or an investigator on a complaint may not vote at a board disciplinary hearing related to the complaint.

(g) The board may not take into consideration a previously dismissed complaint while resolving a complaint before the board. The board may take into consideration any previous violation of this chapter or a board rule when assessing a sanction or penalty for a complaint before the board.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 16, § 25, eff. Sept. 1, 2003.

§ 1071.403. RIGHT TO HEARING; ADMINISTRATIVE PROCEDURE. (a) If the board proposes to suspend or revoke a person's certificate of registration or license, the person is entitled to a hearing before the board or a hearings officer appointed by the board.

(b) The board shall prescribe procedures by which a decision to suspend or revoke a certificate of registration or license is made by or appealable to the board.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.4035. INFORMAL SETTLEMENT CONFERENCE; RESTITUTION. (a) The board by rule shall establish guidelines for an informal settlement conference related to a complaint filed with the board.

(b) Subject to Subsection (c), the board may order a person licensed or registered under this chapter to pay restitution to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to assessing an administrative penalty under this chapter.

(c) The amount of restitution ordered as provided in an agreement resulting from an informal settlement conference may not

exceed the amount the consumer paid to the person for a service regulated by this chapter. The board may not require payment of other damages or estimate harm in a restitution order.

Added by Acts 2003, 78th Leg., ch. 16, § 26, eff. Sept. 1, 2003.

§ 1071.404. PROBATION. (a) The board may require a person whose certificate of registration or license suspension is probated to:

- (1) report regularly to the board on matters that are the basis of the probation;
- (2) limit practice to the areas prescribed by the board; or
- (3) continue or renew professional education until the practitioner attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

(b) The board by rule shall adopt written guidelines to ensure that probation is administered consistently.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 16, § 27, eff. Sept. 1, 2003.

§ 1071.405. REISSUANCE OF CERTIFICATE OR LICENSE. The board for reasons the board determines sufficient may reissue a certificate of registration or license to a surveyor whose certificate or license has been revoked. At least six board members must vote in favor of reissuing the certificate or license.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

SUBCHAPTER J. ADMINISTRATIVE PENALTY

§ 1071.451. IMPOSITION OF PENALTY. The board may impose an administrative penalty on a person who violates this chapter or a rule adopted or order issued under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.452. AMOUNT OF PENALTY. (a) The amount of an administrative penalty may not exceed \$1,500 for each violation.

(b) In determining the amount of the penalty, the board shall consider:

- (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts;
- (2) the economic damage to property caused by the violation;
- (3) the history of previous violations;
- (4) the amount necessary to deter a future violation;
- (5) efforts to correct the violation; and
- (6) any other matter that justice may require.

(c) The board by rule shall adopt an administrative penalty

schedule for violations of this chapter or board rules to ensure that the amounts of penalties imposed are appropriate to the violation.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 16, § 28, eff. Sept. 1, 2003.

§ 1071.453. REPORT AND NOTICE OF VIOLATION AND

PENALTY. (a) If the executive director determines after an investigation of a possible violation and the facts surrounding the possible violation that a violation has occurred, the executive director may issue a violation report to the board stating:

(1) the facts on which the determination is based; and
(2) the recommendation of the executive director that an administrative penalty be imposed, including a recommendation on the amount of the penalty.

(b) The executive director shall base the recommended amount of the proposed penalty on the seriousness of the violation determined by considering the factors listed in Section 1071.452(b).

(c) Not later than the 14th day after the date the report is issued, the executive director shall give written notice of the report to the person charged. The notice must:

(1) include a brief summary of the alleged violation;
(2) state the amount of the recommended penalty; and
(3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.454. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Not later than the 20th day after the date the person receives the notice under Section 1071.453, the person may:

(1) accept the executive director's determination, including the recommended administrative penalty; or
(2) request in writing a hearing on the determination.

(b) If the person accepts the executive director's determination, the board by order shall approve the determination and order payment of the recommended penalty.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.455. HEARING ON RECOMMENDATIONS. (a) If the person requests a hearing or fails to respond in a timely manner to the notice under Section 1071.453, the board shall set a hearing and give notice of the hearing to the person.

(b) A proceeding under this section is subject to Chapter 2001, Government Code.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.456. NOTICE OF DECISION BY BOARD. The board shall give notice of the board's order to the person charged. The notice must include:

- (1) the findings of fact and conclusions of law separately stated;
- (2) the amount of any administrative penalty imposed;
- (3) a statement of the person's right to judicial review of the board's order; and
- (4) other information required by law.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.457. OPTIONS FOLLOWING DECISION: PAY OR APPEAL. (a) Not later than the 30th day after the date the board's order becomes final as provided by Section 2001.144, Government Code, the person shall:

- (1) pay the administrative penalty; or
- (2) file a petition for judicial review contesting the fact of the violation, the amount of the penalty, or both.

(b) Within the 30-day period, a person who acts under Subsection (a)(2) may stay enforcement of the penalty by:

- (1) forwarding the penalty to the board for placement in an escrow account;
- (2) giving to the board a supersedeas bond in a form approved by the board that:
 - (A) is for the amount of the penalty; and
 - (B) is effective until judicial review of the board's order is final; or

(3) filing with the board an affidavit of the person stating that the person is financially unable to forward the penalty for placement into an escrow account and is financially unable to give the supersedeas bond.

(c) Failure to take action under Subsection (b) within the time provided results in waiver of the right to judicial review.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.458. ENFORCEMENT OF PENALTY. If the person does not pay the administrative penalty and the enforcement of the penalty is not stayed, the board may refer the matter to the attorney general for enforcement.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.459. REMITTANCE OF PENALTY AND INTEREST. (a) If after judicial review the administrative penalty is reduced or not imposed by the court, the board shall:

- (1) remit the appropriate amount, plus accrued interest, to the person if the person paid the penalty; or
- (2) release the bond if the person gave a supersedeas bond.

(b) Interest accrues under Subsection (a)(1) at the rate charged on loans to depository institutions by the New York Federal Reserve Bank. The interest shall be paid for the period beginning

on the date the penalty is paid and ending on the date the penalty is remitted.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

SUBCHAPTER K. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

§ 1071.501. INJUNCTION. (a) In addition to any other action authorized by law, the board may institute an action in the board's name against any person to enjoin a violation of this chapter or a board rule.

(b) An action under this section must be brought in a district court in Travis County. The attorney general shall act as legal advisor to the board and provide necessary legal assistance.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.502. ENFORCEMENT BY ATTORNEY GENERAL. The attorney general shall act as legal advisor to the board and provide legal assistance as necessary in enforcing this chapter and board rules.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.503. CIVIL PENALTY. (a) A person who violates this chapter or a rule adopted under this chapter is liable for a civil penalty not to exceed \$1,500 for each violation.

(b) At the request of the board, the attorney general shall bring an action to recover the civil penalty in the name of the state.

(c) A civil penalty recovered under this section shall be deposited in the state treasury.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

§ 1071.504. CRIMINAL PENALTY. (a) In this section, "offer to practice" has the meaning assigned by Section 1071.251.

(b) A person commits an offense if the person:

(1) engages in the practice of or offers to practice professional surveying or state land surveying in this state without being registered or licensed in accordance with this chapter;

(2) presents or attempts to use another person's certificate of registration, license, or seal issued under this chapter;

(3) gives false or forged evidence to obtain or assist another person in obtaining a certificate of registration or license; or

(4) violates this chapter or a rule adopted by the board.

(c) An offense under this section is a Class B misdemeanor.

Added by Acts 2001, 77th Leg., ch. 1421, § 1, eff. June 1, 2003.

SUBCHAPTER L. EXAMINATION ADVISORY COMMITTEES

§ 1071.551. EXAMINATION ADVISORY COMMITTEES. The board may establish examination advisory committees to assist the board in developing each examination required by this chapter.

Added by Acts 2003, 78th Leg., ch. 16, § 29, eff. Sept. 1, 2003.

§ 1071.552. BOARD RULES. (a) The board by rule shall:

- (1) establish the purpose, role, responsibility, and goals of an examination advisory committee;
- (2) determine the size of and quorum requirements for an examination advisory committee;
- (3) determine the qualifications of an examination advisory committee member, which may include experience and geographic location requirements;
- (4) provide a process for the appointment of examination advisory committee members;
- (5) establish the term of office for examination advisory committee members; and
- (6) determine the training requirements for an examination advisory committee member.

(b) The board by rule shall define the examination development process under this chapter, including the board's interaction with the examination advisory committees during the process.

Added by Acts 2003, 78th Leg., ch. 16, § 29, eff. Sept. 1, 2003.

§ 1071.553. ELIGIBILITY OF BOARD MEMBER. (a) A board member is not eligible to serve as a voting member of an examination advisory committee.

(b) A board member may attend an examination advisory committee meeting to act as a liaison with the board.

Added by Acts 2003, 78th Leg., ch. 16, § 29, eff. Sept. 1, 2003.

§ 1071.554. MEETINGS. (a) Except as provided by Subsection (b), the meetings of an examination advisory committee are open meetings under Chapter 551, Government Code.

(b) An examination advisory committee may hold a closed meeting to consider a test item or information related to a test item as provided by Section 551.088, Government Code.

Added by Acts 2003, 78th Leg., ch. 16, § 29, eff. Sept. 1, 2003.

§ 1071.555. APPLICABILITY OF OTHER LAW. (a) Except as provided by Subsection (b), an examination advisory committee is subject to Chapter 2110, Government Code.

(b) Section 2110.002(b), Government Code, does not apply to the appointment of examination advisory committee members.

Added by Acts 2003, 78th Leg., ch. 16, § 29, eff. Sept. 1, 2003.

§ 1071.556. EXAMINATION ADVISORY COMMITTEE DUTIES. An examination advisory committee shall:

(1) develop the examinations required by this chapter in accordance with board rules; and

(2) perform other tasks assigned by the board.

Added by Acts 2003, 78th Leg., ch. 16, § 29, eff. Sept. 1, 2003.