

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 721 Session of
2007

INTRODUCED BY PILEGGI, CORMAN, ERICKSON, PICCOLA, FONTANA,
COSTA, RAFFERTY, M. WHITE, MUSTO, DINNIMAN, WAUGH, BAKER AND
WASHINGTON, APRIL 2, 2007

SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL
LICENSURE, AS AMENDED, MAY 1, 2007

AN ACT

1 Amending the act of July 10, 1990 (P.L.404, No.98), entitled "An
2 act providing for the certification of real estate
3 appraisers; specifying requirements for certification;
4 providing for sanctions and penalties; and making an
5 appropriation," further providing for real estate appraiser
6 certification required, for powers and duties of board, for
7 application and qualifications, for reciprocity, for
8 certification renewal and record, for disciplinary and
9 corrective measures, for reinstatement, for reporting of
10 multiple certification, for surrender of suspended or revoked
11 certificate, for penalties, for injunctive relief and for
12 scope of practice.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Section 3 of the act of July 10, 1990 (P.L.404,
16 No.98), known as the Real Estate Appraisers Certification Act,
17 amended July 2, 1996 (P.L.460, No.71), is amended to read:

18 Section 3. Real estate appraiser certification required.

19 It shall be unlawful[, on or after January 1, 1993,] for any
20 person to hold himself out as a State-certified real estate
21 appraiser or to perform appraisals required by the Financial
22 Institutions Reform, Recovery, and Enforcement Act of 1989

1 (Public Law 101-73, 103 Stat. 183) to be performed by a State-
2 certified or State-licensed real estate appraiser unless that
3 person holds an appropriate, current and valid certification
4 from the board to perform real estate appraisals. It shall be
5 unlawful [two years after the effective date of this act] for
6 any person to perform real estate appraisals in nonfederally
7 related transactions unless that person holds [a] an
8 appropriate, current and valid certificate or license from the
9 board to perform real estate appraisals. It shall be unlawful
10 for a person to hold himself out as a real estate appraiser or
11 appraiser trainee without an appropriate, current and valid
12 certificate or license from the board.

13 Section 2. Section 5 of the act is amended to read:

14 Section 5. Powers and duties of board.

15 The board shall have the following powers and duties:

16 (1) To pass upon the qualifications and fitness of
17 applicants for certification or licensure and to adopt and
18 revise rules and regulations requiring applicants for
19 certification or licensure ~~as appraisers~~ to pass examinations <—
20 relating to their qualifications for certification or
21 licensure.

22 (2) To adopt and, from time to time, revise such rules
23 and regulations as may be necessary to carry out the
24 provisions of this act. Such regulations shall include, but
25 not be limited to, standards of professional appraisal
26 practice requiring that appraisals be performed in accordance
27 with generally accepted appraisal standards as required
28 pursuant to the Financial Institutions Reform, Recovery, and
29 Enforcement Act of 1989 (Public Law 101-73, 103 Stat. 183).

30 (3) To examine for, deny, approve, issue, revoke,

1 suspend or renew certificates ~~and licenses~~ of appraisers and <—
2 LICENSES OF appraiser trainees pursuant to this act and to <—
3 conduct hearings in connection therewith.

4 (4) To conduct hearings upon complaints concerning
5 violations of the provisions of this act and the rules and
6 regulations adopted pursuant to this act and seek the
7 prosecution and enjoinder of all such violations.

8 (5) To expend moneys necessary to the proper carrying
9 out of its assigned duties.

10 (6) To establish fees for the operation of the board,
11 including fees for the issuance and renewal of certificates
12 and licenses and for examinations.

13 (7) To submit annually a report to the Professional
14 Licensure Committee of the House of Representatives and the
15 Consumer Protection and Professional Licensure Committee of
16 the Senate containing a description of the types of
17 complaints received, status of the cases, board action which
18 has been taken and length of time from the initial complaint
19 to final board resolution.

20 (8) To submit annually to the Department of State, an
21 estimate of the financial requirements of the board for its
22 administrative, investigative, legal and miscellaneous
23 expenses.

24 (9) To submit annually to the Appropriations Committees
25 of the House of Representatives and the Senate, 15 days after
26 the Governor has submitted his budget to the General
27 Assembly, a copy of the budget request for the upcoming
28 fiscal year which the board previously submitted to the
29 Department of State.

30 (10) To submit annually pursuant to the Financial

1 Institutions Reform, Recovery, and Enforcement Act of 1989 a
2 roster listing individuals who have received State
3 certification.

4 Section 3. Section 6 of the act, amended July 2, 1996
5 (P.L.460, No.71) and October 18, 2000 (P.L.600, No.77), is
6 amended to read:

7 Section 6. Application and qualifications.

8 (a) Classes of certification.--There shall be three classes
9 of [certification for certified] certified and licensed real <—
10 estate appraisers as follows:

11 (1) [Residential] Certified Residential Appraiser, which
12 shall consist of those persons applying for and granted
13 certification relating solely to the appraisal of residential
14 real property [as] in accordance with the criteria
15 established by the Appraiser Qualifications Board of the
16 Appraisal Foundation required pursuant to the Financial
17 Institutions Reform, Recovery, and Enforcement Act of 1989
18 (Public Law 101-73, 103 Stat. 183).

19 (2) [General] Certified General Appraiser, which shall
20 consist of those persons applying for and granted
21 certification relating to the appraisal of both residential
22 and nonresidential real property without limitation [as] in
23 accordance with the criteria established by the Appraiser
24 Qualifications Board of the Appraisal Foundation required
25 pursuant to the Financial Institutions Reform, Recovery, and
26 Enforcement Act of 1989 (Public Law 101-73, 103 Stat. 183).

27 (3) Broker/appraiser, which shall consist of those
28 persons who, [on the effective date of this act, are] as of
29 September 3, 1996, were licensed real estate brokers under
30 the act of February 19, 1980 (P.L.15, No.9), known as the

Real Estate Licensing and Registration Act, and who, [within two years of the effective date of this act, make] by September 3, 1998, made application to the board and [are] were granted without examination a broker/appraiser certificate. A holder of a broker/appraiser certificate shall only be permitted to perform those real property appraisals that were permitted to be performed by a licensed real estate broker under the Real Estate Licensing and Registration Act as of [the effective date of this act] September 3, 1996. A holder of a broker/appraiser certificate is not authorized to perform real estate appraisals pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

~~(4) Licensed Real Estate Appraiser, if deemed appropriate, the board may establish a class of licensed real estate appraisers, which shall consist of those persons who, at a minimum, meet the requirements recommended by the Appraiser Qualifications Board of the Appraisal Foundation with regard to licensed appraisers on or after January 1, 2008. The board may prescribe limitations on the term, renewal and continuing education of licensed real estate appraisers consistent with progress toward certification.~~ <—

(b) Classification to be specified.--The application for examination, original certification or license and renewal of certification or license shall specify the classification being applied for.

(c) Application.--An applicant for certification or license [as a certified ~~or licensed~~ real estate appraiser] shall submit <— a written application on forms provided by the board. The application and any and all documentation submitted with the application shall be subscribed and sworn to before a notary

1 public. The applicant shall be held responsible for the
2 statements contained in the application. The making of a false
3 statement in an application may constitute a ground for
4 certification or license denial or revocation. The application
5 shall evidence that:

6 (1) He or she is of good moral character.

7 (2) His or her application has been accompanied by the
8 application fee.

9 (d) Residential Appraiser certification.--As a prerequisite
10 to taking the examination for certification relating solely to
11 the appraisal of residential real property, an applicant shall,
12 in addition to meeting the requirements of subsection (c), meet
13 the minimum education and experience requirements established
14 pursuant to the Financial Institutions Reform, Recovery, and
15 Enforcement Act of 1989.

16 (e) General Appraiser certification.--As a prerequisite to
17 taking the examination for the general certification relating to
18 the appraisal of real property, an applicant shall, in addition
19 to meeting the requirements of subsection (c), meet the minimum
20 education and experience requirements established pursuant to
21 the Financial Institutions Reform, Recovery, and Enforcement Act
22 of 1989.

23 (f) Definition of subjects.--The board shall prescribe and
24 define the subjects related to real property appraisal and the
25 experience in real property appraisal which will satisfy the
26 requirements of subsections (a), (d) [and (e)], (e) and (i). To
27 the extent permitted pursuant to the Financial Institutions
28 Reform, Recovery, and Enforcement Act of 1989 with regard to
29 certified appraisers, the board may give credit to an applicant
30 for classroom hours of academic experience successfully

completed prior to the board's prescription and definition of subjects pursuant to this subsection.

(g) Examinations.--Examinations for certification or license shall be selected in accordance with the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. Examinations shall be prepared and administered by a qualified and approved professional testing organization in accordance with section 812.1 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(i) Appraiser trainee license.--In addition to the certificates and licenses authorized in subsection (a), the board shall issue an appraisal trainee license, without examination, to any person who meets the appraiser trainee educational requirements of the Appraiser Qualifications Board of the Appraisal Foundation and who does not already hold an appraiser credential under subsection (a). An appraiser trainee shall operate under the direct supervision of a Certified Residential Appraiser or Certified General Appraiser for the purpose of completing the experience requirement for an appraiser credential in subsection (a). An appraisal trainee shall be permitted to assist in the performance of any appraisal that is within the supervisory appraiser's scope of practice.

(j) Real estate brokers as appraisers.--

(1) Nothing in this section shall preclude a licensed real estate broker from also holding an appraiser license or certificate under subsection (a)(1), ~~(2) or (4)~~ OR (2) or (i).

(2) All persons holding a broker/appraiser certificate under subsection (a)(3) shall be entitled to hold the certificate for the entire term and shall be entitled and

1 subject to the privileges, obligations and renewals which
2 accompany the certificate.

3 Section 4. Section 7 of the act is amended to read:

4 Section 7. Reciprocity.

5 The board shall have the power to grant a reciprocal
6 [certification] certificate or license to an applicant who is
7 certified or licensed as an appraiser in another state and has
8 demonstrated qualifications which equal or exceed those required
9 pursuant to this act in the determination of the board, provided
10 that no certificate or license shall be granted under this
11 section to an applicant unless the state in which the applicant
12 is certified or licensed affords reciprocal treatment to persons
13 who are residents of this Commonwealth and who are certified or
14 licensed pursuant to this act.

15 Section 5. Section 10 of the act, amended December 20, 2000
16 (P.L.733, No.103), is amended to read:

17 Section 10. Certification and licensure renewal; records.

18 (a) Renewal term.--Renewal of certification or licensure
19 shall be on a biennial basis for persons in good standing,
20 except that the board may prescribe limitations on the number of
21 times that a licensed real estate appraiser or appraiser trainee
22 may renew such CERTIFICATES AND licenses. <—

23 (b) Continuing education for ~~licensed appraisers and~~ <—
24 certified residential and general appraisers.--The board shall
25 by regulation require evidence of professional activity or
26 continuing education as a condition of ~~licensure renewal of~~ <—
27 ~~appraisers and~~ certification renewal of residential and general
28 appraisers if, and only to the minimum extent, required pursuant
29 to the Financial Institutions Reform, Recovery, and Enforcement
30 Act of 1989 (Public Law 101-73, 103 Stat. 183). No credit shall

1 be given for any course in office management or practice
2 building.

3 (b.1) Continuing education for broker/appraisers.--
4 Broker/appraisers shall be subject to the same continuing
5 education requirements for certification renewal as residential
6 and general appraisers. The board shall have the power and
7 authority to promulgate regulations to prescribe evidence of
8 continuing education required for certification renewal pursuant
9 to this section.

10 (b.2) Continuing education for appraisal trainees.--
11 Appraisal trainees shall be subject to such continuing education
12 requirements for licensure renewal as the board may prescribe by
13 regulation.

14 (c) Records.--A record of all persons licensed as appraiser
15 trainees and all persons certified ~~or licensed~~ as real estate <—
16 appraisers in this Commonwealth shall be kept in the office of
17 the board and shall be open to public inspection and copying
18 upon payment of a nominal fee for copying the record. Each
19 certificateholder and licensee shall advise the board of the
20 address of his or her principal place of business.

21 Section 6. Section 11 of the act, amended July 2, 1996
22 (P.L.460, No.71), is amended to read:

23 Section 11. Disciplinary and corrective measures.

24 (a) Authority of board.--The board may deny, suspend or
25 revoke certificates or licenses, or limit, restrict or reprimand
26 a certificateholder or licensee for any of the following causes:

27 (1) Procuring or attempting to procure a certificate or
28 license or renewal of a certificate or license pursuant to
29 this act by knowingly making a false statement, submitting
30 false information or refusing to provide complete information

1 in response to a question in an application for certification
2 or licensure or renewal of certification or licensure through
3 any form of fraud or misrepresentation.

4 (2) Failing to meet the minimum qualifications
5 established by this act.

6 (3) Paying, or offering to pay, any valuable
7 consideration other than provided for by this act to any
8 member or employee of the board to procure a certificate
9 under this act.

10 (4) Being convicted of or pleading guilty to a crime
11 which is substantially related to the qualifications,
12 functions and duties of a person developing real property
13 appraisals and communicating real property appraisals to
14 others.

15 (5) Performing an act or omitting an act when such
16 performance or omission involves dishonesty, fraud or
17 misrepresentation with intent to substantially benefit the
18 certificateholder or licensee in his profession or with the
19 intent to substantially injure another person.

20 (6) Violating any of the standards for the development
21 or communication of real property appraisals as required
22 pursuant to this act or the Financial Institutions Reform,
23 Recovery, and Enforcement Act of 1989 (Public Law 101-73, 103
24 Stat. 183).

25 (7) Failing or refusing, without good cause, to exercise
26 reasonable diligence in developing an appraisal, preparing an
27 appraisal report or communicating an appraisal.

28 (8) Negligently or incompetently developing an
29 appraisal, preparing an appraisal report or communicating an
30 appraisal.

1 (9) Willfully disregarding or violating any of the
2 provisions of this act or the guidelines or regulations of
3 the board for the administration and enforcement of the
4 provisions of this act.

5 (10) Accepting an appraisal assignment when the
6 employment itself is contingent upon the appraiser's
7 reporting a predetermined analysis or opinion, or where the
8 fee to be paid for the performance of the appraisal
9 assignment is contingent upon the opinion, conclusion or
10 valuation reached, or upon the consequence resulting from the
11 appraisal assignment.

12 (11) Violating the confidential nature of records to
13 which the appraiser gained access through employment or
14 engagement as an appraiser.

15 (12) Making the fee or compensation contingent upon an
16 award or recovery in any case where the amount of the award
17 or recovery would be affected by the appraisal.

18 (13) Basing the fee or compensation on a percentage of
19 the final estimate of value.

20 (14) Contracting for or accepting compensation for
21 appraisal services in the form of a commission, rebate,
22 division of brokerage commissions or any other similar form.

23 (15) Having a license or certificate to perform
24 appraisals suspended, revoked or refused by an appraisal
25 licensure or certification authority of another state,
26 territory or country, or receiving other disciplinary actions
27 by the appraisal licensure or certification authority of
28 another state, territory or country.

29 (b) Board action.--When the board finds that the
30 [certification] certificate or license or application for

1 certification or licensure or renewal of [any person]
2 certification or licensure may be denied, revoked, restricted or
3 suspended under the terms of subsection (a), the board may:

4 (1) Deny the application for certification or licensure
5 for renewal of certification or licensure.

6 (2) Administer a public reprimand.

7 (3) Revoke, suspend, limit or otherwise restrict a
8 certificate or license as determined by the board.

9 (4) Suspend enforcement of its findings thereof and
10 place a certificateholder on probation with the right to
11 vacate the probationary order for noncompliance.

12 (5) Restore a suspended [certification] certificate or
13 license and impose any disciplinary or corrective measure
14 which it might originally have imposed.

15 (c) Hearing.--All actions of the board shall be taken
16 subject to the right of notice, hearing and adjudication and the
17 right of appeal therefrom in accordance with 2 Pa.C.S. (relating
18 to administrative law and procedure). Appeals from actions of
19 the board shall be taken to Commonwealth Court or to such other
20 court as prescribed by law.

21 Section 7. Sections 12, 13, 14, 15 and 17 of the act are
22 amended to read:

23 Section 12. Reinstatement of certificate or license.

24 Unless ordered to do so by Commonwealth Court or an appeal
25 therefrom, the board shall not reinstate the certificate or
26 license of a person to practice as a certified ~~or licensed~~ real ←
27 estate appraiser, or as an appraiser trainee, pursuant to this
28 act, which has been revoked. Any person whose [certification]
29 certificate or license has been revoked may apply for
30 reinstatement, after a period of at least five years, but must

1 meet all of the certification or licensure qualifications of
2 this act, including the examination requirement, if he or she
3 desires to hold himself or herself out or to practice as a
4 [certified] real estate appraiser pursuant to this act at any
5 time after such revocation.

6 Section 13. Reporting of multiple certification.

7 Any appraiser certified or APPRAISER TRAINEE licensed in this <—
8 Commonwealth who is also certified or licensed to perform
9 appraisals in any other state, territory or country shall report
10 this information to the board on the biennial renewal
11 application. Any disciplinary action taken in any other state,
12 territory or country shall be reported to the board on the
13 biennial renewal application, or within 90 days of disposition,
14 whichever is sooner. Multiple licensure or certification shall
15 be noted by the board on the [certified] appraiser's record, and
16 such state, territory or country shall be notified by the board
17 of any disciplinary actions taken against [said certified] the
18 appraiser in this Commonwealth.

19 Section 14. Surrender of suspended or revoked certificate.

20 The board shall require a person whose [certification]
21 certificate or license has been suspended or revoked to return
22 the certificate or license in such manner as the board directs.
23 Failure to do so shall be a misdemeanor of the third degree.

24 Section 15. Penalties.

25 (a) Criminal penalties.--A person who violates this act
26 commits a misdemeanor of the third degree and shall, upon
27 conviction, be sentenced to pay a fine of up to \$1,000 or to
28 imprisonment for not more than 90 days, or both.

29 (b) Civil penalty.--In addition to any other civil remedy or
30 criminal penalty provided for in this act, the board, by a vote

1 of the majority of the maximum number of the authorized
2 membership of the board as provided by law, or by a vote of the
3 majority of the duly qualified and confirmed membership or a
4 minimum of three members, whichever is greater, may levy a civil
5 ~~penalty of up to \$1,000 on any [current] certificateholder or~~ <—
6 ~~licensee who violates any provision of this act or on any person~~
7 ~~who holds himself or herself out as a certified or licensed real~~
8 ~~estate appraiser or appraiser trainee or performs appraisals for~~
9 ~~which certification [or licensure] is required pursuant to the~~
10 ~~Financial Institutions Reform, Recovery, and Enforcement Act of~~
11 ~~1989 (Public Law 101-73, 103 Stat. 183) without being so~~
12 ~~certified pursuant to this act. The board shall levy this~~
13 PENALTY OF UP TO [\$1,000] \$10,000 ON ANY [CURRENT] <—
14 CERTIFICATEHOLDER OR LICENSEE WHO VIOLATES ANY PROVISION OF THIS
15 ACT [OR]; ON ANY [PERSON] NONCERTIFICATEHOLDER WHO HOLDS HIMSELF
16 [OR HERSELF] OUT AS A [CERTIFIED] REAL ESTATE APPRAISER IN THIS
17 COMMONWEALTH OR PERFORMS APPRAISALS FOR WHICH CERTIFICATION OR
18 LICENSURE IS REQUIRED PURSUANT TO THE FINANCIAL INSTITUTIONS
19 REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989 (PUBLIC LAW 101-
20 73, 103 STAT. 183) OR ANY OTHER APPRAISER WITHOUT BEING SO
21 CERTIFIED PURSUANT TO THIS ACT. THE BOARD SHALL LEVY THIS
22 penalty only after affording the accused party the opportunity
23 for a hearing, as provided in 2 Pa.C.S. (relating to
24 administrative law and procedure).

25 (c) Disposition.--All fines and civil penalties imposed in
26 accordance with this section shall be paid into the Professional
27 Licensure Augmentation Account.

28 Section 17. Injunctive relief.

29 (a) Injunction.--A violation of section 3 may be enjoined by
30 the courts upon petition of the secretary or the board. In any

1 proceeding under this section, it shall not be necessary to show
2 that any person is individually injured by the actions
3 complained of. If the court finds that the respondent has
4 violated section 3, it shall enjoin him or her from so
5 practicing or holding himself or herself out until he or she has
6 been duly certified or licensed. Procedure in such cases shall
7 be the same as in any other injunction suit.

8 (b) Remedy cumulative.--The injunctive remedy provided in
9 this section shall be in addition to any other civil or criminal
10 prosecution and punishment.

11 Section 8. Section 18 of the act, amended July 2, 1996
12 (P.L.460, No.71), is amended to read:

13 Section 18. Scope of practice.

14 Persons who are certified as residential real estate
15 appraisers and general real estate appraisers under [this act]
16 section 6(a)(1) and (2) shall also have authority to perform
17 real estate appraisals in nonfederally related transactions
18 appropriate to their certification classification.

19 Brokers/appraisers shall continue to have authority to perform
20 real estate appraisals in nonfederally related transactions.

21 Persons who are otherwise licensed by the board shall have
22 authority to perform real estate appraisals in nonfederally
23 related transactions appropriate to their appraiser license
24 classification.

25 Section 9. This act shall take effect in 60 days.