

## 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

AS AMENDED ON SECOND CONSIDERATION, NOVEMBER 13, 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 to pass examinations relating to their  
20 qualifications for certification.

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

29 (3) To examine for, deny, approve, issue, revoke,  
30 suspend or renew certificates of appraisers and licenses of

1     appraiser trainees pursuant to this act and to conduct  
2     hearings in connection therewith.

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

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

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

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

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

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

29            (10) To submit annually pursuant to the Financial  
30    Institutions Reform, Recovery, and Enforcement Act of 1989 a

roster listing individuals who have received State certification.

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

Section 6. Application and qualifications.

(a) Classes of certification.--There shall be three classes of [certification for certified] certified real estate appraisers as follows:

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

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

(3) Broker/appraiser, which shall consist of those persons who, [on the effective date of this act, are] as of September 3, 1996, were licensed real estate brokers under 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.

(a.1) Appraiser trainee license.--In addition to the  
certificates authorized in subsection (a), the board shall issue  
an appraiser trainee license, without examination, to any person  
who meets the appraiser trainee educational requirements of the <—  
Appraiser Qualifications Board of the Appraisal Foundation SET <—  
BY THE BOARD and who does not already hold an appraiser  
credential under subsection (a). An appraiser trainee shall  
operate under the direct supervision of a ONE 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.  
THE SUPERVISORY APPRAISER SHALL BE IN GOOD STANDING, HAVE AT <—  
LEAST FIVE YEARS OF EXPERIENCE AS A CERTIFIED RESIDENTIAL  
APPRAISER OR CERTIFIED GENERAL APPRAISER AND SHALL NOT SUPERVISE  
MORE THAN THREE APPRAISER TRAINEES.

(b) Classification to be specified.--The application for  
examination, original certification or license and renewal of

1 certification or license shall specify the classification being  
2 applied for.

3 (c) Application.--An applicant for certification or license  
4 [as a certified real estate appraiser] shall submit a written  
5 application on forms provided by the board. The application and  
6 any and all documentation submitted with the application shall  
7 be subscribed and sworn to before a notary public. The applicant  
8 shall be held responsible for the statements contained in the  
9 application. The making of a false statement in an application  
10 may constitute a ground for certification or license denial or  
11 revocation. The application shall evidence that:

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

13 (2) His or her application has been accompanied by the  
14 application fee.

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

22 (e) General Appraiser certification.--As a prerequisite to  
23 taking the examination for the general certification relating to  
24 the appraisal of real property, an applicant shall, in addition  
25 to meeting the requirements of subsection (c), meet the minimum  
26 education and experience requirements established pursuant to  
27 the Financial Institutions Reform, Recovery, and Enforcement Act  
28 of 1989.

29 (f) Definition of subjects.--The board shall prescribe and  
30 define the subjects related to real property appraisal and the

1 experience in real property appraisal which will satisfy the  
2 requirements of subsections (a), (a.1), (d) and (e). To the  
3 extent permitted pursuant to the Financial Institutions Reform,  
4 Recovery, and Enforcement Act of 1989 with regard to certified  
5 residential and general appraisers, the board may give credit to  
6 an applicant for classroom hours of academic experience  
7 successfully completed prior to the board's prescription and  
8 definition of subjects pursuant to this subsection.

9 (g) Examinations.--Examinations for certification or license  
10 shall be selected in accordance with the Financial Institutions  
11 Reform, Recovery, and Enforcement Act of 1989. Examinations  
12 shall be prepared and administered by a qualified and approved  
13 professional testing organization in accordance with section  
14 812.1 of the act of April 9, 1929 (P.L.177, No.175), known as  
15 The Administrative Code of 1929.

16 (i) Real estate brokers as appraisers.--

17 (1) Nothing in this section shall preclude a licensed  
18 real estate broker from also holding an appraiser license or  
19 certificate under subsection (a)(1) or (2) or (a.1).

20 (2) All persons holding a broker/appraiser certificate  
21 under subsection (a)(3) shall be entitled to hold the  
22 certificate for the entire term and shall be entitled and  
23 subject to the privileges, obligations and renewals which  
24 accompany the certificate.

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

26 Section 7. Reciprocity.

27 The board shall have the power to grant a reciprocal  
28 [certification] certificate to an applicant who is certified [or  
29 licensed] as an appraiser in another state and has demonstrated  
30 qualifications which equal or exceed those required pursuant to

1 this act in the determination of the board, provided that no  
2 certificate shall be granted under this section to an applicant  
3 unless the state in which the applicant is certified or licensed  
4 affords reciprocal treatment to persons who are residents of  
5 this Commonwealth and who are certified pursuant to this act.

6 This section shall not apply to licensed appraiser trainees.

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

9 Section 10. Certification and licensure renewal; records.

10 (a) Renewal term.--Renewal of certification or licensure  
11 shall be on a biennial basis for persons in good standing,  
12 except that the board may prescribe limitations on the number of  
13 times that a licensed appraiser trainee may renew such license.

14 (b) Continuing education for certified residential and  
15 general appraisers.--The board shall by regulation require  
16 evidence of professional activity or continuing education as a  
17 condition of certification renewal of residential and general  
18 appraisers if, and only to the minimum extent, required pursuant  
19 to the Financial Institutions Reform, Recovery, and Enforcement  
20 Act of 1989 (Public Law 101-73, 103 Stat. 183). No credit shall  
21 be given for any course in office management or practice  
22 building.

23 (b.1) Continuing education for broker/appraisers.--  
24 Broker/appraisers shall be subject to the same continuing  
25 education requirements for certification renewal as residential  
26 and general appraisers. The board shall have the power and  
27 authority to promulgate regulations to prescribe evidence of  
28 continuing education required for certification renewal pursuant  
29 to this section.

30 (b.2) Continuing education for appraiser trainees.--



1 Appraiser trainees shall be subject to such continuing education  
2 requirements for licensure renewal as the board may prescribe by  
3 regulation.

4 (c) Records.--A record of all persons licensed as appraiser  
5 trainees and all persons certified as real estate appraisers in  
6 this Commonwealth shall be kept in the office of the board and  
7 shall be [open to public inspection and copying upon payment of  
8 a nominal fee for copying the record] accessible on the board's  
9 Internet website. Each certificateholder and licensee shall  
10 advise the board of the address of his or her principal place of  
11 business.

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

14 Section 11. Disciplinary and corrective measures.

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

18 (1) Procuring or attempting to procure a certificate or  
19 license or renewal of a certificate or license pursuant to  
20 this act by knowingly making a false statement, submitting  
21 false information or refusing to provide complete information  
22 in response to a question in an application for certification  
23 or licensure or renewal of certification or licensure through  
24 any form of fraud or misrepresentation.

25 (2) Failing to meet the minimum qualifications  
26 established by this act.

27 (3) Paying, or offering to pay, any valuable  
28 consideration other than provided for by this act to any  
29 member or employee of the board to procure a certificate  
30 under this act.

1           (4) Being convicted of or pleading guilty to a crime  
2 which is substantially related to the qualifications,  
3 functions and duties of a person developing real property  
4 appraisals and communicating real property appraisals to  
5 others.

6           (5) Performing an act or omitting an act when such  
7 performance or omission involves dishonesty, fraud or  
8 misrepresentation with intent to substantially benefit the  
9 certificateholder or licensee in his profession or with the  
10 intent to substantially injure another person.

11           (6) Violating any of the standards for the development  
12 or communication of real property appraisals as required  
13 pursuant to this act or the Financial Institutions Reform,  
14 Recovery, and Enforcement Act of 1989 (Public Law 101-73, 103  
15 Stat. 183).

16           (7) Failing or refusing, without good cause, to exercise  
17 reasonable diligence in developing an appraisal, preparing an  
18 appraisal report or communicating an appraisal.

19           (8) Negligently or incompetently developing an  
20 appraisal, preparing an appraisal report or communicating an  
21 appraisal.

22           (9) Willfully disregarding or violating any of the  
23 provisions of this act or the guidelines or regulations of  
24 the board for the administration and enforcement of the  
25 provisions of this act.

26           (10) Accepting an appraisal assignment when the  
27 employment itself is contingent upon the appraiser's  
28 reporting a predetermined analysis or opinion, or where the  
29 fee to be paid for the performance of the appraisal  
30 assignment is contingent upon the opinion, conclusion or

1 valuation reached, or upon the consequence resulting from the  
2 appraisal assignment.

3 (11) Violating the confidential nature of records to  
4 which the appraiser gained access through employment or  
5 engagement as an appraiser.

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

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

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

14 (15) Having a license or certificate to perform  
15 appraisals suspended, revoked or refused by an appraisal  
16 licensure or certification authority of another state,  
17 territory or country, or receiving other disciplinary actions  
18 by the appraisal licensure or certification authority of  
19 another state, territory or country.

20 (b) Board action.--When the board finds that the  
21 [certification] certificate or license or application for  
22 certification or licensure or renewal of [any person]  
23 certification or licensure may be denied, revoked, restricted or  
24 suspended under the terms of subsection (a), the board may:

25 (1) Deny the application for certification or licensure  
26 for renewal of certification or licensure.

27 (2) Administer a public reprimand.

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

30 (4) Suspend enforcement of its findings thereof and

1 place a certificateholder on probation with the right to  
2 vacate the probationary order for noncompliance.

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

6 (c) Hearing.--All actions of the board shall be taken  
7 subject to the right of notice, hearing and adjudication and the  
8 right of appeal therefrom in accordance with 2 Pa.C.S. (relating  
9 to administrative law and procedure). Appeals from actions of  
10 the board shall be taken to Commonwealth Court or to such other  
11 court as prescribed by law.

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

14 Section 12. Reinstatement of certificate or license.

15 Unless ordered to do so by Commonwealth Court or an appeal  
16 therefrom, the board shall not reinstate the certificate or  
17 license of a person to practice as a certified real estate  
18 appraiser, or as an appraiser trainee, pursuant to this act,  
19 which has been revoked. Any person whose [certification]  
20 certificate or license has been revoked may apply for  
21 reinstatement, after a period of at least five years, but must  
22 meet all of the certification or licensure qualifications of  
23 this act, including the examination requirement, if he or she  
24 desires to hold himself or herself out or to practice as a  
25 [certified] real estate appraiser pursuant to this act at any  
26 time after such revocation.

27 Section 13. Reporting of multiple certification.

28 Any appraiser certified or appraiser trainee licensed in this  
29 Commonwealth who is also certified or licensed to perform  
30 appraisals in any other state, territory or country shall report

1 this information to the board on the biennial renewal  
2 application. Any disciplinary action taken in any other state,  
3 territory or country shall be reported to the board on the  
4 biennial renewal application, or within 90 days of disposition,  
5 whichever is sooner. Multiple licensure or certification shall  
6 be noted by the board on the [certified] appraiser's record, and  
7 such state, territory or country shall be notified by the board  
8 of any disciplinary actions taken against [said certified] the  
9 appraiser in this Commonwealth.

10 Section 14. Surrender of suspended or revoked certificate.

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

15 Section 15. Penalties.

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

20 (b) Civil penalty.--In addition to any other civil remedy or  
21 criminal penalty provided for in this act, the board, by a vote  
22 of the majority of the maximum number of the authorized  
23 membership of the board as provided by law, or by a vote of the  
24 majority of the duly qualified and confirmed membership or a  
25 minimum of three members, whichever is greater, may levy a civil  
26 penalty of up to [\$1,000] \$10,000 on any [current]  
27 certificateholder or licensee who violates any provision of this  
28 act [or]; on any [person] noncertificateholder who holds himself  
29 [or herself] out as a [certified] real estate appraiser in this  
30 Commonwealth or who performs [appraisals] an appraisal for which

1 certification or licensure is required pursuant to the Financial  
2 Institutions Reform, Recovery, and Enforcement Act of 1989  
3 (Public Law 101-73, 103 Stat. 183) [without being so certified  
4 pursuant to this act.] or any other appraisal; or on any  
5 nonlicensee who holds himself out as an appraiser trainee or who  
6 performs the duties of a trainee. The board shall levy this  
7 penalty only after affording the accused party the opportunity  
8 for a hearing, as provided in 2 Pa.C.S. (relating to  
9 administrative law and procedure).

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

13 Section 17. Injunctive relief.

14 (a) Injunction.--A violation of section 3 may be enjoined by  
15 the courts upon petition of the secretary or the board. In any  
16 proceeding under this section, it shall not be necessary to show  
17 that any person is individually injured by the actions  
18 complained of. If the court finds that the respondent has  
19 violated section 3, it shall enjoin him or her from so  
20 practicing or holding himself or herself out until he or she has  
21 been duly certified or licensed. Procedure in such cases shall  
22 be the same as in any other injunction suit.

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

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

28 Section 18. Scope of practice.

29 Persons who are certified as residential real estate  
30 appraisers and general real estate appraisers under [this act]

1 section 6(a)(1) and (2) shall also have authority to perform  
2 real estate appraisals in nonfederally related transactions  
3 appropriate to their certification classification.  
4 Brokers/appraisers shall continue to have authority to perform  
5 real estate appraisals in nonfederally related transactions.  
6 Persons who are otherwise licensed by the board shall have  
7 authority to perform real estate appraisals in nonfederally  
8 related transactions appropriate to their appraiser license  
9 classification.

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