

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 206 Session of
2001

INTRODUCED BY HOLL, JANUARY 31, 2001

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
JANUARY 31, 2001

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 requirements relating
6 to appraising real estate; prohibiting certain acts; and
7 making editorial changes.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Sections 2 and 4 of the act of July 10, 1990
11 (P.L.404, No.98), known as the Real Estate Appraisers
12 Certification Act, are amended to read:

13 Section 2. Definitions.

14 The following words and phrases when used in this act shall
15 have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "Applicant." A natural person.

18 "Appraisal." A written or oral analysis, opinion or
19 conclusion relating to the nature, quality, value or utility of
20 specified interests in, or aspects of, identified real property,

1 for or in expectation of compensation.

2 "Appraisal management company." An individual or company
3 that acts as an intermediary for mortgage lending institutions
4 or other end users to recruit and hire appraisers to perform
5 real estate appraisal or appraisal reviews and to transmit the
6 appraisals, appraisal reviews, final value estimates or
7 certificates of value to lending institutions to be used in the
8 making of mortgage loans or to other end users of appraisal
9 services.

10 "Appraisal review." The act or process of developing and
11 communicating an opinion about the quality of another
12 appraiser's work.

13 "Board." The State Board of Certified Real Estate Appraisers
14 [within the Bureau of Professional and Occupational Affairs in
15 the Department of State].

16 "Commissioner." The Commissioner of Professional and
17 Occupational Affairs in the Department of State.

18 "Secretary." The Secretary of the Commonwealth or his or her
19 designee.

20 "State-certified real estate appraiser." A person who holds
21 a current valid certificate issued to him under the provisions
22 of this act.

23 Section 4. State Board of Certified Real Estate Appraisers.

24 (a) Creation.--There is hereby created the State Board of
25 Certified Real Estate Appraisers as a departmental
26 administrative board in the Department of State. The board shall
27 consist of [seven] nine members who are citizens of the United
28 States and who have been residents of this Commonwealth for a
29 two-year period immediately prior to appointment, two of whom
30 shall be public members, [four] two of whom shall be persons who

1 are general certified appraisers, two of whom shall be State-
2 certified [real estate] appraisers, and one of whom shall be the
3 Secretary of the Commonwealth or his or her designee. [For the
4 initial board appointments, the four professional members need
5 not be certified at the time of appointment but shall have
6 appropriate appraisal experience and education and shall have
7 demonstrated adherence to standards of professional practice.]

8 (b) Term of office.--The professional and public members
9 shall serve four-year terms[, except as provided in subsection
10 (c),] and shall be appointed by the Governor by and with the
11 advice and consent of a majority of the members elected to the
12 Senate.

13 [(c) Initial appointments.--Within 90 days of the effective
14 date of this act, the Governor shall nominate one professional
15 member to serve a four-year term; one public member and one
16 professional member to serve three-year terms; one public member
17 and one professional member to serve two-year terms; and one
18 professional member to serve a one-year term.]

19 (d) Continuation in office.--Each professional and public
20 member shall continue in office until a successor is duly
21 appointed and qualified but no longer than six months after the
22 expiration of the term. In the event that a board member shall
23 die, resign or otherwise become disqualified during the term of
24 office, a successor shall be appointed in the same way and with
25 the same qualifications as set forth in this section and shall
26 hold office for the unexpired portion of the unexpired term.

27 (e) Limit on terms.--No board member shall be eligible for
28 appointment to serve more than two consecutive four-year terms.

29 (f) Forfeiture of membership.--A board member who fails to
30 attend three consecutive meetings shall forfeit his or her seat

1 unless the secretary, upon written request from the member,
2 finds that the member should be excused from a meeting because
3 of illness or the death of a family member.

4 (g) Compensation.--Each member of the board, except the
5 secretary, shall receive per diem compensation at the rate of
6 \$60 per diem when actually attending to the work of the board.
7 Members shall also receive reasonable traveling, hotel and other
8 necessary expenses incurred in the performance of their duties
9 in accordance with Commonwealth regulations.

10 (h) Forfeiture for nonattendance.--A public member who fails
11 to attend two consecutive statutorily mandated training seminars
12 in accordance with section 813(e) of the act of April 9, 1929
13 (P.L.177, No.175), known as The Administrative Code of 1929,
14 shall forfeit his or her seat unless the secretary, upon written
15 request from the public member, finds that the public member
16 should be excused from a meeting because of illness or the death
17 of a family member.

18 (i) Quorum.--A majority of the members of the board serving
19 in accordance with law shall constitute a quorum for purposes of
20 conducting the business of the board. A member may not be
21 counted as part of a quorum or vote on any issue unless he or
22 she is physically in attendance at the meeting.

23 (j) Meetings.--The board shall meet at least four times a
24 year in Harrisburg.

25 (k) Notice.--Reasonable notice of all meetings shall be
26 given in conformity with the act of July 3, 1986 (P.L.388,
27 No.84), known as the Sunshine Act.

28 (l) Operating procedures.--[The board shall meet within 30
29 days after the appointment of its initial members and] The board
30 shall set up operating procedures and an application form for

1 certifying appraisers. It shall be the responsibility of the
2 board to circulate these forms and educate the public to the
3 requirements of certification. No other board and no commission
4 within the Bureau of Professional and Occupational Affairs shall
5 be responsible, in any manner, for the policies, procedures or
6 other substantive matters which are within the powers and duties
7 of the board as set forth in this act.

8 (m) Election of officers.--The board shall elect annually
9 from its membership a chairman, a vice chairman and a secretary.

10 Section 2. Section 11(a)(14) of the act is amended to read:
11 Section 11. Disciplinary and corrective measures.

12 (a) Authority of board.--The board may deny, suspend or
13 revoke certificates, or limit, restrict or reprimand a
14 certificateholder for any of the following causes:

15 * * *

16 (14) [Contracting] Rebating appraisal fees under section
17 3, paying referral fees which provide anything of substantial
18 economic value in order to obtain appraisal assignments
19 except to the persons authorized to receive appraisal fees
20 under section 18.1, or contracting for or accepting
21 compensation for appraisal services in the form of a
22 commission, rebate, division of brokerage commissions or any
23 other similar form. Nothing in this paragraph shall be
24 construed to prohibit advertising, promotional activities,
25 gifts or entertainment of a routine and customary nature not
26 intended as consideration for the referral or procurement of
27 appraisal assignments.

28 * * *

29 Section 3. The act is amended by adding sections to read:
30 Section 14.1. Registration of appraisal management companies.

1 An appraisal management company shall register with the
2 board, pay a registration fee and acknowledge receipt and
3 understanding of the board's current certification law and
4 professional and vocational standards.

5 Section 14.2. Unlawful acts.

6 It shall be unlawful for:

7 (1) Any person to knowingly solicit a certificateholder
8 to violate any provision of this act or to knowingly aid or
9 abet a certificateholder in committing any violation of this
10 act.

11 (2) Any person to collect and retain a fee for real
12 estate appraisal or real estate appraisal review services
13 unless that person holds a valid certificate from the board
14 to perform real estate appraisals.

15 (3) Any person with an interest in the transaction
16 involving an appraisal to intimidate, coerce, threaten,
17 extort, bribe or otherwise adversely impact the independence
18 of a State-certified appraiser or State-certified
19 broker/appraiser in the development and reporting of an
20 appraisal. Nothing in this paragraph shall be construed to
21 prohibit any person from performing relevant property
22 appraisal underwriting in accordance with, but not limited
23 to, the guidelines of federally or State-chartered financial
24 institutions or government-sponsored enterprises, including,
25 but not limited to, Fannie Mae or Freddie Mac.

26 Section 4. Sections 15(b) and 17(a) of the act are amended
27 to read:

28 Section 15. Penalties.

29 * * *

30 (b) Civil penalty.--

1 (1) In addition to any other civil remedy or criminal
2 penalty provided for in this act, the board, by a vote of the
3 majority of the maximum number of the authorized membership
4 of the board as provided by law, or by a vote of the majority
5 of the duly qualified and confirmed membership or a minimum
6 of three members, whichever is greater, may levy a civil
7 penalty of up to \$1,000 on any person or any current
8 certificateholder who violates any provision of this act or
9 on any person who holds himself or herself out as a certified
10 real estate appraiser or performs appraisals for which
11 certification or licensure is required pursuant to the
12 Financial Institutions Reform, Recovery, and Enforcement Act
13 of 1989 (Public Law 101-73, 103 Stat. 183) without being so
14 certified pursuant to this act. The board shall levy this
15 penalty only after affording the accused party the
16 opportunity for a hearing, as provided in 2 Pa.C.S. (relating
17 to administrative law and procedure).

18 (2) In the same manner as provided to levy a civil
19 penalty, the board may initiate a proceeding before a court
20 of competent jurisdiction to levy a civil penalty of up to
21 \$1,000 on any person who is not a certificateholder who
22 violates a provision of this act.

23 * * *

24 Section 17. Injunctive relief.

25 (a) Injunction.--A violation of section 3, 14.1 or 14.2 may
26 be enjoined by the courts upon petition of the secretary or the
27 board. In any proceeding under this section, it shall not be
28 necessary to show that any person is individually injured by the
29 actions complained of. If the court finds that the respondent
30 has violated section 3, it shall enjoin [him or her] the

1 respondent from so practicing or holding [himself or herself]
2 out until [he or she] the respondent has been duly certified. If
3 the court finds that the respondent violated section 14.1, it
4 shall enjoin the respondent from operating in this Commonwealth
5 until the respondent has been duly registered. If the court
6 finds that the respondent has violated section 14.2, it shall
7 enjoin the respondent from committing further violations.
8 Procedure in such cases shall be the same as in any other
9 injunction suit.

10 * * *

11 Section 5. This act shall take effect in 60 days.