

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 206 Session of
2001

INTRODUCED BY HOLL, JANUARY 31, 2001

SENATOR BELL, CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, AS
AMENDED, MARCH 20, 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 THE STATE BOARD OF
6 CERTIFIED REAL ESTATE APPRAISERS AND FOR requirements
7 relating to appraising real estate; prohibiting certain acts;
8 and making editorial changes. <—

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

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

14 Section 2. Definitions.

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

18 "Applicant." A natural person.

19 "Appraisal." A written or oral analysis, opinion or
20 conclusion relating to the nature, quality, value or utility of

specified interests in, or aspects of, identified real property,
for or in expectation of compensation.

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

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

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

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

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

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

Section 4. State Board of Certified Real Estate Appraisers.

(a) Creation.--There is hereby created the State Board of
Certified Real Estate Appraisers as a departmental
administrative board in the Department of State. The board shall
consist of ~~seven~~ nine members who are citizens of the United
States and who have been residents of this Commonwealth for a
two-year period immediately prior to appointment, two of whom

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

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

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

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

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

30 (f) Forfeiture of membership.--A board member who fails to

1 attend three consecutive meetings shall forfeit his or her seat
2 unless the secretary, upon written request from the member,
3 finds that the member should be excused from a meeting because
4 of illness or the death of a family member.

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

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

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

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

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

29 (l) Operating procedures.--[The board shall meet within 30
30 days after the appointment of its initial members and] The board

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

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

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

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

16 * * *

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

29 * * *

30 Section 3. The act is amended by adding sections to read:

1 Section 14.1. Registration of appraisal management companies.

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

6 Section 14.2. Unlawful acts.

7 It shall be unlawful for:

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

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

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

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

29 Section 15. Penalties.

30 * * *

1 (b) Civil penalty.--

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

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

24 * * *

25 Section 17. Injunctive relief.

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

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

11 * * *

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