

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 ARMSTRONG, APPROPRIATIONS, RE-REPORTED AS AMENDED,
OCTOBER 29, 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~~ to pass examinations relating to <—
20 their qualifications for certification ~~or licensure~~. <—

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 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.

(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 real estate appraiser] shall submit a written

1 application on forms provided by the board. The application and
2 any and all documentation submitted with the application shall
3 be subscribed and sworn to before a notary public. The applicant
4 shall be held responsible for the statements contained in the
5 application. The making of a false statement in an application
6 may constitute a ground for certification or license denial or
7 revocation. The application shall evidence that:

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

9 (2) His or her application has been accompanied by the
10 application fee.

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

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

25 (f) Definition of subjects.--The board shall prescribe and
26 define the subjects related to real property appraisal and the
27 experience in real property appraisal which will satisfy the
28 requirements of subsections (a), (d) [and (e)], (e) and (i) <—

29 (A.1), (D) AND (E). To the extent permitted pursuant to the <—
30 Financial Institutions Reform, Recovery, and Enforcement Act of

1 1989 with regard to certified RESIDENTIAL AND GENERAL <—
2 appraisers, the board may give credit to an applicant for
3 classroom hours of academic experience successfully completed
4 prior to the board's prescription and definition of subjects
5 pursuant to this subsection.

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

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

26 ~~(j) (I) Real estate brokers as appraisers.--~~ <—

27 (1) Nothing in this section shall preclude a licensed
28 real estate broker from also holding an appraiser license or
29 certificate under subsection (a)(1) or (2) or (i) (A.1). <—

30 (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 subject to the privileges, obligations and renewals which accompany the certificate.

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

Section 7. Reciprocity.

The board shall have the power to grant a reciprocal

[certification] certificate or license to an applicant who is certified [or licensed] as an appraiser in another state and has demonstrated qualifications which equal or exceed those required pursuant to this act in the determination of the board, provided that no certificate or license shall be granted under this section to an applicant unless the state in which the applicant is certified or licensed affords reciprocal treatment to persons who are residents of this Commonwealth and who are certified or licensed pursuant to this act. THIS SECTION SHALL NOT APPLY TO LICENSED APPRAISER TRAINEES.

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

Section 10. Certification and licensure renewal; records.

(a) Renewal term.--Renewal of certification or licensure shall be on a biennial basis for persons in good standing, except that the board may prescribe limitations on the number of times that a licensed real estate appraiser or appraiser trainee may renew such certificates and licenses LICENSE.

(b) Continuing education for certified residential and general appraisers.--The board shall by regulation require evidence of professional activity or continuing education as a condition of certification renewal of residential and general appraisers if, and only to the minimum extent, required pursuant

1 to the Financial Institutions Reform, Recovery, and Enforcement
2 Act of 1989 (Public Law 101-73, 103 Stat. 183). No credit shall
3 be given for any course in office management or practice
4 building.

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

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

16 (c) Records.--A record of all persons licensed as appraiser
17 trainees and all persons certified as real estate appraisers in
18 this Commonwealth shall be kept in the office of the board and
19 shall be [open to public inspection and copying upon payment of <—
20 a nominal fee for copying the record] ACCESSIBLE ON THE BOARD'S <—
21 INTERNET WEBSITE. Each certificateholder and licensee shall
22 advise the board of the address of his or her principal place of
23 business.

24 Section 6. Section 11 of the act, amended July 2, 1996
25 (P.L.460, No.71), is amended to read:
26 Section 11. Disciplinary and corrective measures.

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

30 (1) Procuring or attempting to procure a certificate or

1 license or renewal of a certificate or license pursuant to
2 this act by knowingly making a false statement, submitting
3 false information or refusing to provide complete information
4 in response to a question in an application for certification
5 or licensure or renewal of certification or licensure through
6 any form of fraud or misrepresentation.

7 (2) Failing to meet the minimum qualifications
8 established by this act.

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

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

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

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

28 (7) Failing or refusing, without good cause, to exercise
29 reasonable diligence in developing an appraisal, preparing an
30 appraisal report or communicating an appraisal.

1 (8) Negligently or incompetently developing an
2 appraisal, preparing an appraisal report or communicating an
3 appraisal.

4 (9) Willfully disregarding or violating any of the
5 provisions of this act or the guidelines or regulations of
6 the board for the administration and enforcement of the
7 provisions of this act.

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

15 (11) Violating the confidential nature of records to
16 which the appraiser gained access through employment or
17 engagement as an appraiser.

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

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

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

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

another state, territory or country.

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

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

(2) Administer a public reprimand.

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

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

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

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

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

Section 12. Reinstatement of certificate or license.

Unless ordered to do so by Commonwealth Court or an appeal therefrom, the board shall not reinstate the certificate or license of a person to practice as a certified real estate appraiser, or as an appraiser trainee, pursuant to this act,

1 which has been revoked. Any person whose [certification]
2 certificate or license has been revoked may apply for
3 reinstatement, after a period of at least five years, but must
4 meet all of the certification or licensure qualifications of
5 this act, including the examination requirement, if he or she
6 desires to hold himself or herself out or to practice as a
7 [certified] real estate appraiser pursuant to this act at any
8 time after such revocation.

9 Section 13. Reporting of multiple certification.

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

22 Section 14. Surrender of suspended or revoked certificate.

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

27 Section 15. Penalties.

28 (a) Criminal penalties.--A person who violates this act
29 commits a misdemeanor of the third degree and shall, upon
30 conviction, be sentenced to pay a fine of up to \$1,000 or to

1 imprisonment for not more than 90 days, or both.

2 (b) Civil penalty.--In addition to any other civil remedy or
3 criminal penalty provided for in this act, the board, by a vote
4 of the majority of the maximum number of the authorized
5 membership of the board as provided by law, or by a vote of the
6 majority of the duly qualified and confirmed membership or a
7 minimum of three members, whichever is greater, may levy a civil
8 penalty of up to [\$1,000] \$10,000 on any [current]
9 certificateholder or licensee who violates any provision of this
10 act [or]; on any [person] noncertificateholder who holds himself
11 [or herself] out as a [certified] real estate appraiser in this
12 Commonwealth or ~~performs appraisals~~ WHO PERFORMS [APPRAISALS] AN <—
13 APPRAISAL for which certification or licensure is required
14 pursuant to the Financial Institutions Reform, Recovery, and
15 Enforcement Act of 1989 (Public Law 101-73, 103 Stat. 183) ~~or~~ <—
16 ~~any other appraiser without being so certified pursuant to this~~
17 ~~act.~~ [WITHOUT BEING SO CERTIFIED PURSUANT TO THIS ACT.] OR ANY <—
18 OTHER APPRAISAL; OR ON ANY NONLICENSEE WHO HOLDS HIMSELF OUT AS
19 AN APPRAISER TRAINEE OR WHO PERFORMS THE DUTIES OF A TRAINEE.

20 The board shall levy this penalty only after affording the
21 accused party the opportunity for a hearing, as provided in 2
22 Pa.C.S. (relating to administrative law and procedure).

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

26 Section 17. Injunctive relief.

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

1 complained of. If the court finds that the respondent has
2 violated section 3, it shall enjoin him or her from so
3 practicing or holding himself or herself out until he or she has
4 been duly certified or licensed. Procedure in such cases shall
5 be the same as in any other injunction suit.

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

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

11 Section 18. Scope of practice.

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

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

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

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