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(Act 88 of 2020)

HB 1033 (Printer's No. 4539) Analysis

Date: October 19, 2020

**Amending the Assessors Certification Act –
Further providing for the qualifications and training
of revaluation company personnel and Certified Pennsylvania Evaluators**

Prime Sponsor: Representative Moul

A. Synopsis of Bill

The proposed legislation clarifies that revaluation company personnel who are directly responsible for the valuation of real property must be certified as a Certified Pennsylvania Evaluator (CPE). The legislation further requires that an individual who is employed by a revaluation company, or by a contractor of a county or a revaluation company, and is directly responsible for the development of a property valuation model, as defined, complete the educational requirements set forth in the Assessors Certification Act and be certified as a CPE. The bill also requires, as a condition of certification as a CPE, completion of a basic course of study that includes instruction on the judicial interpretation of the Pennsylvania Constitution's uniformity clause. Finally, the legislation makes technical, clarifying and organizational changes to the act. The legislation is an outcome of the [Local Government Commission Assessment Reform Task Force](#).

The legislation does not apply to an individual licensed as a State-certified real estate appraiser or appraiser trainee pursuant to the Real Estate Appraisers Certification Act (Act of Jul. 10, 1990, P.L. 404, No. 98).

B. Summary and Analysis of Bill

HB 1033 was amended by the Senate. The Senate amendments are in bold.

The bill amends the Assessors Certification Act (Act 28 of 1992) to:

- (1) Clarify that revaluation company personnel who are directly responsible for the valuation of real property must not only complete the educational requirements pursuant to Act 28, but also be certified as a CPE.
- (2) Extend the educational and CPE certification requirements to any individual employed by a

- revaluation company, or by a contractor of a county or a revaluation company, who is directly responsible for the development of a property valuation model.
- (3) Define "Property valuation model" in terms recognized by the International Association of Assessing Officers (IAAO) standards and educational materials, and the Uniform Standards of Professional Appraisal Practices (USPAP), Standard 6.
 - (4) Require, as a component of the basic course of study requirement for CPE certification, instruction about Pennsylvania appellate court decisions interpreting Article VIII, Section 1, of the Pennsylvania Constitution relating to uniformity of taxation. Specifically prohibit any person from valuing real property for ad valorem tax purposes, including valuations for mass appraisals or developing property valuation models, unless certified as a CPE.
 - (5) Consolidate Sections 5 and 6 of the Act.
 - (6) Add a new Section 6.1 to codify current practices in the assessment offices relating to duties, responsibilities and restrictions of employees who are not CPEs.
 - (7) **In addition to clarifying amendments to Section 7 (disciplinary and corrective measures), further clarifies that the Board may deny, suspend or revoke certificates or limit, restrict or reprimand a certificate holder being convicted of or pleading guilty to a crime that directly relates to or has a direct bearing on the fitness or ability to perform one or more of the duties or responsibilities necessarily related to the development of property assessments.**
 - (8) **Add a new Section 11.1 to make Act 28 applicable to counties of the first class.**

The act would take effect in 180 days.

C. Relevant Current Law

- The Assessors Certification Act (Act 28 of 1992) and the Real Estate Appraisers Certification Act (Act 98 of 1990), collectively, charge the State Board of Real Estate Appraisers with the training/education, certification, oversight and discipline of CPEs (as well as certified residential and general real estate appraisers, and appraiser trainees). Act 28 defines an "assessor" as *any person* responsible for the valuation of real property for ad valorem taxation purposes. Sections 6 and 8 of the act, respectively, require *all assessors* in the Commonwealth to be certified as a CPE and *prohibit a person from valuing property unless certified by the Board as a CPE*. The statutory construction of Act 28 creates ambiguity as to whether revaluation company personnel directly responsible for the valuation of property are required to be certified as a CPE (as opposed to simply meeting the educational requirements). Section 4(b) of the act requires "any person employed by a revaluation company who is directly responsible for the valuation of real property to complete the educational requirements of the act," but does not specifically include an employee of a revaluation company, or a contractor of a county or a revaluation company, who is responsible for the development of property valuation models.
- Section 5 of Act 28 requires an applicant for certification as a CPE to complete a minimum of 90 hours of the basic courses of study approved by the Board, covering the appraisal assessing profession or any other professional courses acceptable to the Board. Title 49 Pa. Code § 36.222 outlines the approved courses/ topics of study for certification as a CPE including "legal considerations influencing value."

D. Background of Bill

The ambiguity of Act 28 as it relates to CPE certification of revaluation company personnel has resulted in some confusion about the intent of the act. Previous correspondence from the State Board of Certified Real Estate Appraisers suggests that the Board has deemed that *any person* placing a value on property must be certified as a CPE.

Act 28 does not explicitly require a person who develops a property valuation model to complete the education and certification requirements. Personnel responsible for the development of a property valuation model perform a statistical analysis of the relevant market forces and the specific characteristics of properties located in a similar neighborhood to create base valuation tables. The model developer will make determinations including, but not limited to: the final base cost per square foot when relying on the cost approach to value; the market rents, gross income multipliers and cap rates when using the income approach to value; and the base price per square foot from sales when using the sales comparison approach to value. Individuals developing property valuation models are placing value on property and should comply with the educational and certification requirements of Act 28.

In 2010, the Legislative Budget and Finance Committee (LB&FC) issued a report, as directed by House Resolution 334 of 2009, making various recommendations to improve Pennsylvania's property assessment process. One of the LB&FC recommendations is to "assure all certified assessors, including contracted assessors from out-of-state, are familiar with the Pennsylvania Constitution's uniformity clause as understood by the Pennsylvania Supreme Court and its implications for valuation and assessment practices."¹ Pennsylvania has a constitutional requirement for uniformity of taxation.² Although other states have uniformity of taxation provisions in their respective constitutions, Pennsylvania's courts have narrowly interpreted our uniformity clause since 1909. The courts have held that real estate is a subject of one class and taxes must be uniform upon the same class of subjects.³ The Pennsylvania courts have further prohibited selective or partial reassessments in a county; other states, including neighboring states, are permitted to reassess a portion of the county. As such, assessors working in Pennsylvania must understand the judicial interpretation of the Pennsylvania Constitution's uniformity clause.

E. Effect of Bill

The bill clarifies and strengthens the training and certification requirements for assessors and certain personnel working for revaluation (mass appraisal) companies. The fiscal impact may include costs for training and certification, and actual reasonable travel expenses for certain revaluation company personnel. The benefit is enhancing accountability and accuracy in real estate valuation.

F. Issues, Policy Questions and Stakeholder Feedback

- The County Commissioners Association of Pennsylvania and the Assessors Association of Pennsylvania support this legislation.
- The revaluation companies currently working in Pennsylvania (Evaluator Services and Technology and Tyler Technologies) support this legislation.
- The Department of State has reviewed the proposal and recommended several technical and organizational changes, which have been incorporated into the bill.

G. Bill History

In the 2017-2018 Session, this bill was introduced in the House as House Bill 1594. House Bill 1594 was passed by the House on September 26, 2017 (149-48). The legislation was referred to the Senate Consumer Protection and Professional Licensure Committee on September 29, 2017, where it remained upon sine die adjournment. The legislation was also introduced in the Senate during the 2017-2018 Session as Senate Bill 832. The bill was given second consideration by the Senate on June 13, 2018, and was immediately rereferred to the Senate Appropriations Committee where it remained upon sine die adjournment. The legislation was not introduced previously.