

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 949 Session of 2007

INTRODUCED BY R. STEVENSON, BAKER, BELFANTI, BOYD, CAPPELLI, CREIGHTON, DeLUCA, FLECK, GEIST, GILLESPIE, GINGRICH, HARHART, HERSHEY, KORTZ, McILHATTAN, MILLARD, R. MILLER, MURT, MUSTIO, NAILOR, PICKETT, PYLE, REICHLEY, SAYLOR, STERN, THOMAS, YOUNGBLOOD, EVERETT, HELM, DERMODY, DENLINGER, LONGIETTI, PERRY AND SIPTROTH, MARCH 29, 2007

AS REPORTED FROM COMMITTEE ON PROFESSIONAL LICENSURE, HOUSE OF REPRESENTATIVES, AS AMENDED, DECEMBER 4, 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 STATE BOARD OF CERTIFIED REAL <—
7 ESTATE APPRAISERS, for powers and duties of board, for
8 application and qualifications, FOR RECIPROCITY, for <—
9 certification and licensure renewal, for disciplinary and
10 corrective measures, for reinstatement, for reporting of
11 multiple certification and, for surrender of suspended or <—
12 revoked certificate; and imposing, FOR penalties AND FOR <—
13 INJUNCTIVE RELIEF.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. Section 3 of the act of July 10, 1990 (P.L.404,
17 No.98), known as the Real Estate Appraisers Certification Act,
18 amended July 2, 1996 (P.L.460, No.71), is amended to read:

19 Section 3. Real estate appraiser certification required.

20 It shall be unlawful[, on or after January 1, 1993,] for any
21 person to hold himself out as a State-certified real estate

1 appraiser or to perform appraisals required by the Financial
2 Institutions Reform, Recovery, and Enforcement Act of 1989
3 (Public Law 101-73, 103 Stat. 183) to be performed by a State-
4 certified or State-licensed real estate appraiser unless that
5 person holds an appropriate, current and valid [certification] <—
6 CERTIFICATE from the board to perform real estate appraisals. It <—
7 shall be unlawful [two years after the effective date of this
8 act] for any person to perform real estate appraisals in
9 nonfederally related transactions unless that person holds a
10 valid certificate from the board to perform real estate
11 appraisals. It shall be unlawful for a person to hold himself
12 out as a licensed appraiser trainee without a current and valid
13 license issued by the board.

14 Section 2. ~~Section 5 of the act is~~ SECTIONS 4(A) AND (C) AND <—
15 5 OF THE ACT ARE amended to read:

16 SECTION 4. STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS. <—

17 (A) CREATION.--

18 (1) THERE IS HEREBY CREATED THE STATE BOARD OF CERTIFIED
19 REAL ESTATE APPRAISERS AS A DEPARTMENTAL ADMINISTRATIVE BOARD
20 IN THE DEPARTMENT OF STATE. THE BOARD SHALL CONSIST OF [SEVEN
21 MEMBERS WHO ARE] THE FOLLOWING MEMBERS:

22 (I) THE SECRETARY OF THE COMMONWEALTH OR A DESIGNEE.

23 (II) THE ATTORNEY GENERAL OR A DESIGNEE.

24 (III) THE SECRETARY OF BANKING OR A DESIGNEE.

25 (IV) SIX STATE-CERTIFIED REAL ESTATE APPRAISERS.

26 (V) TWO PUBLIC MEMBERS.

27 (2) MEMBERS UNDER SUBSECTION (A)(1)(IV) AND (V) MUST BE
28 CITIZENS OF THE UNITED STATES AND [WHO HAVE BEEN] MUST BE
29 RESIDENTS OF THIS COMMONWEALTH FOR A TWO-YEAR PERIOD
30 IMMEDIATELY PRIOR TO APPOINTMENT, [, TWO OF WHOM SHALL BE

1 PUBLIC MEMBERS, FOUR OF WHOM SHALL BE PERSONS WHO ARE 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
5 NEED NOT BE CERTIFIED AT THE TIME OF APPOINTMENT BUT SHALL
6 HAVE APPROPRIATE APPRAISAL EXPERIENCE AND EDUCATION AND SHALL
7 HAVE DEMONSTRATED ADHERENCE TO STANDARDS OF PROFESSIONAL
8 PRACTICE.]

9 * * *

10 [(C) INITIAL APPOINTMENTS.--WITHIN 90 DAYS OF THE EFFECTIVE
11 DATE OF THIS ACT, THE GOVERNOR SHALL NOMINATE ONE PROFESSIONAL
12 MEMBER TO SERVE A FOUR-YEAR TERM; ONE PUBLIC MEMBER AND ONE
13 PROFESSIONAL MEMBER TO SERVE THREE-YEAR TERMS; ONE PUBLIC MEMBER
14 AND ONE PROFESSIONAL MEMBER TO SERVE TWO-YEAR TERMS; AND ONE
15 PROFESSIONAL MEMBER TO SERVE A ONE-YEAR TERM.]

16 * * *

17 Section 5. Powers and duties of board.

18 The board shall have the following powers and duties:

19 (1) To pass upon the qualifications and fitness of
20 applicants for certification or licensure and to adopt and
21 revise rules and regulations requiring applicants for
22 certification to pass examinations relating to their
23 qualifications for certification.

24 (2) To adopt and, from time to time, revise such rules
25 and regulations as may be necessary to carry out the
26 provisions of this act. Such regulations shall include, but
27 not be limited to, standards of professional appraisal
28 practice requiring that appraisals be performed in accordance
29 with generally accepted appraisal standards as required
30 pursuant to the Financial Institutions Reform, Recovery, and

1 Enforcement Act of 1989 (Public Law 101-73, 103 Stat. 183).

2 (3) To examine for, deny, approve, issue, revoke,
3 suspend or renew certificates of appraisers pursuant to this
4 act and to conduct hearings in connection therewith.

5 (3.1) To deny, approve, issue, revoke, suspend or renew
6 licenses of appraiser trainees pursuant to this act and to
7 conduct hearings in connection therewith.

8 (4) To conduct hearings upon complaints concerning
9 violations of the provisions of this act and the rules and
10 regulations adopted pursuant to this act and seek the
11 prosecution and enjoinder of all such violations.

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

14 (6) To establish fees for the operation of the board,
15 including fees for the issuance and renewal of certificates
16 and licenses and for examinations.

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

24 (8) To submit annually to the Department of State, an
25 estimate of the financial requirements of the board for its
26 administrative, investigative, legal and miscellaneous
27 expenses.

28 (9) To submit annually to the Appropriations Committees
29 of the House of Representatives and the Senate, 15 days after
30 the Governor has submitted his budget to the General

1 Assembly, a copy of the budget request for the upcoming
2 fiscal year which the board previously submitted to the
3 Department of State.

4 (10) To submit annually pursuant to the Financial
5 Institutions Reform, Recovery, and Enforcement Act of 1989 a
6 roster listing individuals who have received State
7 certification or licensure.

8 Section 3. Section 6(b), (c) and (f) of the act, amended
9 October 18, 2000 (P.L.600, No.77), are amended and the section
10 is amended by adding a subsection to read:

11 Section 6. Application and qualifications.

12 * * *

13 (b) Classification to be specified.--The application for
14 examination, original certification or license and renewal of
15 certification or license shall specify the classification being
16 applied for.

17 (c) Application.--An applicant for certification as a
18 certified real estate appraiser or for a license as a licensed
19 appraiser trainee shall submit a written application on forms
20 provided by the board. The application and any and all
21 documentation submitted with the application shall be subscribed
22 and sworn to before a notary public. The applicant shall be held
23 responsible for the statements contained in the application. The
24 making of a false statement in an application may constitute a
25 ground for certification or license denial or revocation. The
26 application shall evidence that:

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

28 (2) His or her application has been accompanied by the
29 application fee.

30 * * *

1 (f) Definition of subjects.--The board shall prescribe and
2 define the subjects related to real property appraisal and the
3 experience in real property appraisal which will satisfy the
4 requirements of subsections (d)[and (e)], (e) and (i). To the
5 extent permitted pursuant to the Financial Institutions Reform,
6 Recovery, and Enforcement Act of 1989 with regard to certified
7 appraisers, the board may give credit to an applicant for
8 classroom hours of academic experience successfully completed
9 prior to the board's prescription and definition of subjects
10 pursuant to this subsection.

11 * * *

12 (i) Appraiser trainee license.--In addition to the
13 certificates authorized in subsection (a), the board shall MAY ←
14 issue an appraiser trainee license to an individual who, in
15 addition to meeting the other requirements of this act, meets
16 the appraiser trainee educational requirements of the Appraiser
17 Qualifications Board of the Appraisal Foundation and who does
18 not already hold an appraiser credential under subsection (a)(1)
19 or (2). A licensed appraiser trainee shall operate under the
20 direct supervision of an individual holding certification
21 pursuant to subsection (a)(1) or (2) for the purpose of
22 completing the experience requirement for an appraiser
23 credential set forth in subsection (a)(1) or (2). The board
24 shall promulgate regulations which adopt the supervision
25 requirements for the trainee real property appraiser
26 classification set forth by the Appraiser Qualifications Board
27 of the Appraisal Foundation. A licensed appraiser trainee shall
28 be permitted to assist in the performance of any appraisal that
29 is within the supervisory appraiser's scope of practice.

30 SECTION 3.1. SECTION 7 OF THE ACT IS AMENDED TO READ: ←

1 SECTION 7. RECIPROCITY.

2 THE BOARD SHALL HAVE THE POWER TO GRANT A RECIPROCAL
3 [CERTIFICATION] CERTIFICATE OR LICENSE TO AN APPLICANT WHO IS
4 CERTIFIED AS AN APPRAISER OR LICENSED AS AN APPRAISER TRAINEE IN
5 ANOTHER STATE AND HAS DEMONSTRATED QUALIFICATIONS WHICH EQUAL OR
6 EXCEED THOSE REQUIRED PURSUANT TO THIS ACT IN THE DETERMINATION
7 OF THE BOARD, PROVIDED THAT NO CERTIFICATE OR LICENSE SHALL BE
8 GRANTED UNDER THIS SECTION TO AN APPLICANT UNLESS THE STATE IN
9 WHICH THE APPLICANT IS CERTIFIED OR LICENSED AFFORDS RECIPROCAL
10 TREATMENT TO PERSONS WHO ARE RESIDENTS OF THIS COMMONWEALTH AND
11 WHO ARE CERTIFIED OR LICENSED PURSUANT TO THIS ACT.

12 Section 4. Section 10 of the act, amended December 20, 2000
13 (P.L.733, No.103), is amended to read:

14 Section 10. Certification and licensure renewal; records.

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

19 (b) Continuing education for residential and general
20 appraisers.--The board shall by regulation require evidence of
21 professional activity or continuing education as a condition of
22 certification renewal of residential and general appraisers if,
23 and only to the minimum extent, required pursuant to the
24 Financial Institutions Reform, Recovery, and Enforcement Act of
25 1989 (Public Law 101-73, 103 Stat. 183). No credit shall be
26 given for any course in office management or practice building.

27 (b.1) Continuing education for broker/appraisers.--
28 Broker/appraisers shall be subject to the same continuing
29 education requirements for certification renewal as residential
30 and general appraisers. The board shall have the power and

1 authority to promulgate regulations to prescribe evidence of
2 continuing education required for certification renewal pursuant
3 to this section.

4 (b.2) Continuing education for licensed appraiser
5 trainees.--The board shall by regulation require evidence of
6 continuing education as a condition of licensure renewal for
7 licensed appraiser trainees. The board shall promulgate
8 regulations which adopt the continuing education requirements
9 for licensed appraiser trainees as set forth by the Appraiser
10 Qualifications Board of the Appraisal Foundation. As a condition
11 of licensure renewal, licensed appraiser trainees shall comply
12 with mandatory continuing education requirements established by
13 the board through regulation.

14 (c) Records.--A record of all persons licensed as appraiser
15 trainees and all persons certified as real estate appraisers in
16 this Commonwealth shall be kept in the office of the board and
17 shall be open to public inspection and copying upon payment of a
18 nominal fee for copying the record. Each certificateholder and
19 licensee shall advise the board of the address of his or her
20 principal place of business.

21 Section 5. Section 11 of the act, amended July 2, 1996
22 (P.L.460, No.71), is amended to read:

23 Section 11. Disciplinary and corrective measures.

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

27 (1) Procuring or attempting to procure a certificate or
28 license or renewal of a certificate or license pursuant to
29 this act by knowingly making a false statement, submitting
30 false information or refusing to provide complete information

1 in response to a question in an application for certification
2 or licensure or renewal of certification or licensure through
3 any form of fraud or misrepresentation.

4 (2) Failing to meet the minimum qualifications
5 established by this act.

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

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

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

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

25 (7) Failing or refusing, without good cause, to exercise
26 reasonable diligence in developing an appraisal, preparing an
27 appraisal report or communicating an appraisal.

28 (8) Negligently or incompetently developing an
29 appraisal, preparing an appraisal report or communicating an
30 appraisal.

1 (8.1) With respect to an individual holding
2 certification under section 6(a)(1) or (2), failing to
3 properly supervise a licensed appraiser trainee.

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 assist in
27 performing or perform appraisals suspended, revoked or
28 refused by an appraisal licensure or certification authority
29 of another state, territory or country, or receiving other
30 disciplinary actions by the appraisal licensure or

1 certification authority of another state, territory or
2 country.

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

8 (1) Deny the application for [certification] renewal.

9 (2) Administer a public reprimand.

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

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

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

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

24 Section 6. Sections 12, 13, 14, 15 and 17 of the act are
25 amended to read:

26 Section 12. Reinstatement of certificate or license.

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

1 act, 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] any examination requirement, if he or
6 she desires to hold himself or herself out or to practice as a
7 certified real estate appraiser or as a licensed appraiser
8 trainee pursuant to this act at any time after such revocation.
9 Section 13. Reporting of multiple certification.

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

23 Section 14. Surrender of suspended or revoked certificate.

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

28 Section 15. Penalties.

29 (a) Criminal penalties.--A person who violates this act
30 commits a misdemeanor of the third degree and shall, upon

1 conviction, be sentenced to pay a fine of up to \$1,000 or to
2 imprisonment for not more than 90 days, or both.

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

24 (c) Disposition.--All fines and civil penalties imposed in
25 accordance with this section shall be paid into the Professional
26 Licensure Augmentation Account.
27 Section 17. Injunctive relief.

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

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

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

10 Section 7. The board shall promulgate regulations to carry
11 into effect the provisions of this act within 18 months of the
12 effective date of this section.

13 Section 8. This act shall take effect as follows:

14 (1) This section shall take effect immediately.

15 (2) Section 7 of this act shall take effect immediately.

16 (3) The remainder of this act shall take effect in 60
17 days.