

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 AND EVERETT, MARCH 29, 2007

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, MARCH 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 certification and
8 licensure renewal, for disciplinary and corrective measures,
9 for reinstatement, for reporting of multiple certification
10 and for surrender of suspended or revoked certificate; and
11 imposing penalties.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

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

17 Section 3. Real estate appraiser certification required.

18 It shall be unlawful[, on or after January 1, 1993,] for any
19 person to hold himself out as a State-certified real estate
20 appraiser or to perform appraisals required by the Financial
21 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 valid
8 certificate from the board to perform real estate appraisals. It
9 shall be unlawful for a person to hold himself out as a licensed
10 appraiser trainee without a current and valid license issued by
11 the board.

12 Section 2. Section 5 of the act is amended to read:

13 Section 5. Powers and duties of board.

14 The board shall have the following powers and duties:

15 (1) To pass upon the qualifications and fitness of
16 applicants for certification or licensure and to adopt and
17 revise rules and regulations requiring applicants for
18 certification to pass examinations relating to their
19 qualifications for certification.

20 (2) To adopt and, from time to time, revise such rules
21 and regulations as may be necessary to carry out the
22 provisions of this act. Such regulations shall include, but
23 not be limited to, standards of professional appraisal
24 practice requiring that appraisals be performed in accordance
25 with generally accepted appraisal standards as required
26 pursuant to the Financial Institutions Reform, Recovery, and
27 Enforcement Act of 1989 (Public Law 101-73, 103 Stat. 183).

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

1 (3.1) To deny, approve, issue, revoke, suspend or renew
2 licenses of appraiser trainees pursuant to this act and to
3 conduct hearings in connection therewith.

4 (4) To conduct hearings upon complaints concerning
5 violations of the provisions of this act and the rules and
6 regulations adopted pursuant to this act and seek the
7 prosecution and enjoinder of all such violations.

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

10 (6) To establish fees for the operation of the board,
11 including fees for the issuance and renewal of certificates
12 and licenses and for examinations.

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

20 (8) To submit annually to the Department of State, an
21 estimate of the financial requirements of the board for its
22 administrative, investigative, legal and miscellaneous
23 expenses.

24 (9) To submit annually to the Appropriations Committees
25 of the House of Representatives and the Senate, 15 days after
26 the Governor has submitted his budget to the General
27 Assembly, a copy of the budget request for the upcoming
28 fiscal year which the board previously submitted to the
29 Department of State.

30 (10) To submit annually pursuant to the Financial

1 Institutions Reform, Recovery, and Enforcement Act of 1989 a
2 roster listing individuals who have received State
3 certification or licensure.

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

7 Section 6. Application and qualifications.

8 * * *

9 (b) Classification to be specified.--The application for
10 examination, original certification or license and renewal of
11 certification or license shall specify the classification being
12 applied for.

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

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

24 (2) His or her application has been accompanied by the
25 application fee.

26 * * *

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

1 extent permitted pursuant to the Financial Institutions Reform,
2 Recovery, and Enforcement Act of 1989 with regard to certified
3 appraisers, the board may give credit to an applicant for
4 classroom hours of academic experience successfully completed
5 prior to the board's prescription and definition of subjects
6 pursuant to this subsection.

7 * * *

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

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

28 Section 10. Certification and licensure renewal; records.

29 (a) Renewal term.--Renewal of certification or licensure
30 shall be on a biennial basis for persons in good standing,

1 except that the board may prescribe limitations on the number of
2 times that a licensed appraiser trainee may renew such license.

3 (b) Continuing education for residential and general
4 appraisers.--The board shall by regulation require evidence of
5 professional activity or continuing education as a condition of
6 certification renewal of residential and general appraisers if,
7 and only to the minimum extent, required pursuant to the
8 Financial Institutions Reform, Recovery, and Enforcement Act of
9 1989 (Public Law 101-73, 103 Stat. 183). No credit shall be
10 given for any course in office management or practice building.

11 (b.1) Continuing education for broker/appraisers.--
12 Broker/appraisers shall be subject to the same continuing
13 education requirements for certification renewal as residential
14 and general appraisers. The board shall have the power and
15 authority to promulgate regulations to prescribe evidence of
16 continuing education required for certification renewal pursuant
17 to this section.

18 (b.2) Continuing education for licensed appraiser
19 trainees.--The board shall by regulation require evidence of
20 continuing education as a condition of licensure renewal for
21 licensed appraiser trainees. The board shall promulgate
22 regulations which adopt the continuing education requirements
23 for licensed appraiser trainees as set forth by the Appraiser
24 Qualifications Board of the Appraisal Foundation. As a condition
25 of licensure renewal, licensed appraiser trainees shall comply
26 with mandatory continuing education requirements established by
27 the board through regulation.

28 (c) Records.--A record of all persons licensed as appraiser
29 trainees and all persons certified as real estate appraisers in
30 this Commonwealth shall be kept in the office of the board and

1 shall be open to public inspection and copying upon payment of a
2 nominal fee for copying the record. Each certificateholder and
3 licensee shall advise the board of the address of his or her
4 principal place of business.

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

7 Section 11. Disciplinary and corrective measures.

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

11 (1) Procuring or attempting to procure a certificate or
12 license or renewal of a certificate or license pursuant to
13 this act by knowingly making a false statement, submitting
14 false information or refusing to provide complete information
15 in response to a question in an application for certification
16 or licensure or renewal of certification or licensure through
17 any form of fraud or misrepresentation.

18 (2) Failing to meet the minimum qualifications
19 established by this act.

20 (3) Paying, or offering to pay, any valuable
21 consideration other than provided for by this act to any
22 member or employee of the board to procure a certificate or
23 license under this act.

24 (4) Being convicted of or pleading guilty to a crime
25 which is substantially related to the qualifications,
26 functions and duties of a person developing real property
27 appraisals and communicating real property appraisals to
28 others.

29 (5) Performing an act or omitting an act when such
30 performance or omission involves dishonesty, fraud or

1 misrepresentation with intent to substantially benefit the
2 certificateholder or licensee in his profession or with the
3 intent to substantially injure another person.

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

9 (7) Failing or refusing, without good cause, to exercise
10 reasonable diligence in developing an appraisal, preparing an
11 appraisal report or communicating an appraisal.

12 (8) Negligently or incompetently developing an
13 appraisal, preparing an appraisal report or communicating an
14 appraisal.

15 (8.1) With respect to an individual holding
16 certification under section 6(a)(1) or (2), failing to
17 properly supervise a licensed appraiser trainee.

18 (9) Willfully disregarding or violating any of the
19 provisions of this act or the guidelines or regulations of
20 the board for the administration and enforcement of the
21 provisions of this act.

22 (10) Accepting an appraisal assignment when the
23 employment itself is contingent upon the appraiser's
24 reporting a predetermined analysis or opinion, or where the
25 fee to be paid for the performance of the appraisal
26 assignment is contingent upon the opinion, conclusion or
27 valuation reached, or upon the consequence resulting from the
28 appraisal assignment.

29 (11) Violating the confidential nature of records to
30 which the appraiser gained access through employment or

1 engagement as an appraiser.

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

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

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

10 (15) Having a license or certificate to assist in
11 performing or perform appraisals suspended, revoked or
12 refused by an appraisal licensure or certification authority
13 of another state, territory or country, or receiving other
14 disciplinary actions by the appraisal licensure or
15 certification authority of another state, territory or
16 country.

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

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

23 (2) Administer a public reprimand.

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

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

29 (5) Restore a suspended [certification] certificate or
30 license and impose any disciplinary or corrective measure

1 which it might originally have imposed.

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

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

10 Section 12. Reinstatement of certificate or license.

11 Unless ordered to do so by Commonwealth Court or an appeal
12 therefrom, the board shall not reinstate the certificate or
13 license of a person to practice as a certified real estate
14 appraiser, or as a licensed appraiser trainee, pursuant to this
15 act, which has been revoked. Any person whose [certification]
16 certificate or license has been revoked may apply for
17 reinstatement, after a period of at least five years, but must
18 meet all of the certification or licensure qualifications of
19 this act, including [the] any examination requirement, if he or
20 she desires to hold himself or herself out or to practice as a
21 certified real estate appraiser or as a licensed appraiser
22 trainee pursuant to this act at any time after such revocation.

23 Section 13. Reporting of multiple certification.

24 [Any appraiser certified in this Commonwealth] An individual
25 certified or licensed under this act who is also certified or
26 licensed to perform appraisals in any other state, territory or
27 country shall report this information to the board on the
28 biennial renewal application. Any disciplinary action taken in
29 any other state, territory or country shall be reported to the
30 board on the biennial renewal application, or within 90 days of

1 disposition, whichever is sooner. Multiple licensure or
2 certification shall be noted by the board on the [certified
3 appraiser's] individual's record, and such state, territory or
4 country shall be notified by the board of any disciplinary
5 actions taken against [said certified appraiser] the individual
6 in this Commonwealth.

7 Section 14. Surrender of suspended or revoked certificate.

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

12 Section 15. Penalties.

13 (a) Criminal penalties.--A person who violates this act
14 commits a misdemeanor of the third degree and shall, upon
15 conviction, be sentenced to pay a fine of up to \$1,000 or to
16 imprisonment for not more than 90 days, or both.

17 (b) Civil penalty.--In addition to any other civil remedy or
18 criminal penalty provided for in this act, the board, by a vote
19 of the majority of the maximum number of the authorized
20 membership of the board as provided by law, or by a vote of the
21 majority of the duly qualified and confirmed membership or a
22 minimum of three members, whichever is greater, may levy a civil
23 penalty of up to \$1,000 on any [current] certificateholder or
24 licensee who violates any provision of this act [or on any
25 person], any noncertificateholder who holds himself or herself
26 out as a certified real estate appraiser or [performs
27 appraisals] a real estate appraiser, any nonlicensee who holds
28 himself or herself out as a licensed appraiser trainee or
29 appraiser trainee or any noncertificateholder or nonlicensee who
30 performs an appraisal or acts relating to an appraisal for which

1 certification or licensure is required pursuant to this act or
2 the Financial Institutions Reform, Recovery, and Enforcement Act
3 of 1989 (Public Law 101-73, 103 Stat. 183) [without being so
4 certified pursuant to this act]. The board shall levy this
5 penalty only after affording the accused party the opportunity
6 for a hearing, as provided in 2 Pa.C.S. (relating to
7 administrative law and procedure).

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

11 Section 17. Injunctive relief.

12 (a) Injunction.--A violation of section 3 may be enjoined by
13 the courts upon petition of the secretary or the board. In any
14 proceeding under this section, it shall not be necessary to show
15 that any person is individually injured by the actions
16 complained of. If the court finds that the respondent has
17 violated section 3, it shall enjoin him or her from so
18 practicing or holding himself or herself out until he or she has
19 been duly certified or licensed. Procedure in such cases shall
20 be the same as in any other injunction suit.

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

24 Section 7. The board shall promulgate regulations to carry
25 into effect the provisions of this act within 18 months of the
26 effective date of this section.

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

28 (1) This section shall take effect immediately.

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

30 (3) The remainder of this act shall take effect in 60

1 days.