

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

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,  
APRIL 2, 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 as appraisers to pass examinations  
20 relating to their qualifications for certification or  
21 licensure.

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

30 (3) To examine for, deny, approve, issue, revoke,

1 suspend or renew certificates and licenses of appraisers and  
2 appraiser trainees pursuant to this act and to conduct  
3 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.

4 Section 3. Section 6 of the act, amended July 2, 1996  
5 (P.L.460, No.71) and October 18, 2000 (P.L.600, No.77), is  
6 amended to read:

7 Section 6. Application and qualifications.

8 (a) Classes of certification.--There shall be three classes  
9 of [certification for certified] certified and licensed real  
10 estate appraisers as follows:

11 (1) [Residential] Certified Residential Appraiser, which  
12 shall consist of those persons applying for and granted  
13 certification relating solely to the appraisal of residential  
14 real property [as] in accordance with the criteria  
15 established by the Appraiser Qualifications Board of the  
16 Appraisal Foundation required pursuant to the Financial  
17 Institutions Reform, Recovery, and Enforcement Act of 1989  
18 (Public Law 101-73, 103 Stat. 183).

19 (2) [General] Certified General Appraiser, which shall  
20 consist of those persons applying for and granted  
21 certification relating to the appraisal of both residential  
22 and nonresidential real property without limitation [as] in  
23 accordance with the criteria established by the Appraiser  
24 Qualifications Board of the Appraisal Foundation required  
25 pursuant to the Financial Institutions Reform, Recovery, and  
26 Enforcement Act of 1989 (Public Law 101-73, 103 Stat. 183).

27 (3) Broker/appraiser, which shall consist of those  
28 persons who, [on the effective date of this act, are] as of  
29 September 3, 1996, were licensed real estate brokers under  
30 the act of February 19, 1980 (P.L.15, No.9), known as the

1 Real Estate Licensing and Registration Act, and who, [within  
2 two years of the effective date of this act, make] by  
3 September 3, 1998, made application to the board and [are]  
4 were granted without examination a broker/appraiser  
5 certificate. A holder of a broker/appraiser certificate shall  
6 only be permitted to perform those real property appraisals  
7 that were permitted to be performed by a licensed real estate  
8 broker under the Real Estate Licensing and Registration Act  
9 as of [the effective date of this act] September 3, 1996. A  
10 holder of a broker/appraiser certificate is not authorized to  
11 perform real estate appraisals pursuant to the Financial  
12 Institutions Reform, Recovery, and Enforcement Act of 1989.

13 (4) Licensed Real Estate Appraiser, if deemed  
14 appropriate, the board may establish a class of licensed real  
15 estate appraisers, which shall consist of those persons who,  
16 at a minimum, meet the requirements recommended by the  
17 Appraiser Qualifications Board of the Appraisal Foundation  
18 with regard to licensed appraisers on or after January 1,  
19 2008. The board may prescribe limitations on the term,  
20 renewal and continuing education of licensed real estate  
21 appraisers consistent with progress toward certification.

22 (b) Classification to be specified.--The application for  
23 examination, original certification or license and renewal of  
24 certification or license shall specify the classification being  
25 applied for.

26 (c) Application.--An applicant for certification or license  
27 as a certified or licensed real estate appraiser shall submit a  
28 written application on forms provided by the board. The  
29 application and any and all documentation submitted with the  
30 application shall be subscribed and sworn to before a notary

1 public. The applicant shall be held responsible for the  
2 statements contained in the application. The making of a false  
3 statement in an application may constitute a ground for  
4 certification or license denial or revocation. The application  
5 shall evidence that:

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

7 (2) His or her application has been accompanied by the  
8 application fee.

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

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

23 (f) Definition of subjects.--The board shall prescribe and  
24 define the subjects related to real property appraisal and the  
25 experience in real property appraisal which will satisfy the  
26 requirements of subsections (a), (d) [and (e)], (e) and (i). To  
27 the extent permitted pursuant to the Financial Institutions  
28 Reform, Recovery, and Enforcement Act of 1989 with regard to  
29 certified appraisers, the board may give credit to an applicant  
30 for classroom hours of academic experience successfully

1 completed prior to the board's prescription and definition of  
2 subjects pursuant to this subsection.

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

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

23 (j) Real estate brokers as appraisers.--

24 (1) Nothing in this section shall preclude a licensed  
25 real estate broker from also holding an appraiser license or  
26 certificate under subsection (a)(1), (2) or (4) or (i).

27 (2) All persons holding a broker/appraiser certificate  
28 under subsection (a)(3) shall be entitled to hold the  
29 certificate for the entire term and shall be entitled and  
30 subject to the privileges, obligations and renewals which

1 accompany the certificate.

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

3 Section 7. Reciprocity.

4 The board shall have the power to grant a reciprocal  
5 [certification] certificate or license to an applicant who is  
6 certified or licensed as an appraiser in another state and has  
7 demonstrated qualifications which equal or exceed those required  
8 pursuant to this act in the determination of the board, provided  
9 that no certificate or license shall be granted under this  
10 section to an applicant unless the state in which the applicant  
11 is certified or licensed affords reciprocal treatment to persons  
12 who are residents of this Commonwealth and who are certified or  
13 licensed pursuant to this act.

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

16 Section 10. Certification and licensure renewal; records.

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

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

1 building.

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

9 (b.2) Continuing education for appraisal trainees.--  
10 Appraisal trainees shall be subject to such continuing education  
11 requirements for licensure renewal as the board may prescribe by  
12 regulation.

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

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

22 Section 11. Disciplinary and corrective measures.

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

26 (1) Procuring or attempting to procure a certificate or  
27 license or renewal of a certificate or license pursuant to  
28 this act by knowingly making a false statement, submitting  
29 false information or refusing to provide complete information  
30 in response to a question in an application for certification

1 or licensure or renewal of certification or licensure through  
2 any form of fraud or misrepresentation.

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

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

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

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

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

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

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

30 (9) Willfully disregarding or violating any of the

1 provisions of this act or the guidelines or regulations of  
2 the board for the administration and enforcement of the  
3 provisions of this act.

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

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

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

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

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

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

28 (b) Board action.--When the board finds that the  
29 [certification] certificate or license or application for  
30 certification or licensure or renewal of [any person]

1 certification or licensure may be denied, revoked, restricted or  
2 suspended under the terms of subsection (a), the board may:

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

5 (2) Administer a public reprimand.

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

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

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

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

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

22 Section 12. Reinstatement of certificate or license.

23 Unless ordered to do so by Commonwealth Court or an appeal  
24 therefrom, the board shall not reinstate the certificate or  
25 license of a person to practice as a certified or licensed real  
26 estate appraiser, or as an appraiser trainee, pursuant to this  
27 act, which has been revoked. Any person whose [certification]  
28 certificate or license has been revoked may apply for  
29 reinstatement, after a period of at least five years, but must  
30 meet all of the certification or licensure qualifications of

1 this act, including the examination requirement, if he or she  
2 desires to hold himself or herself out or to practice as a  
3 [certified] real estate appraiser pursuant to this act at any  
4 time after such revocation.

5 Section 13. Reporting of multiple certification.

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

18 Section 14. Surrender of suspended or revoked certificate.

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

23 Section 15. Penalties.

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

28 (b) Civil penalty.--In addition to any other civil remedy or  
29 criminal penalty provided for in this act, the board, by a vote  
30 of the majority of the maximum number of the authorized

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

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

18 Section 17. Injunctive relief.

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

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

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

3 Section 18. Scope of practice.

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

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

11 Persons who are otherwise licensed by the board shall have  
12 authority to perform real estate appraisals in nonfederally  
13 related transactions appropriate to their appraiser license  
14 classification.

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