WEST VIRGINIA CODE CHAPTER 30 ARTICLE 38

WV Legislature

§30-38-1. Real estate appraiser license required; exceptions.

(a) It is unlawful for any person, for compensation or valuable consideration, to prepare a valuation appraisal or a valuation appraisal report relating to real estate or real property in this state without first being licensed or certified as provided in this article. This section shall not be construed to apply to persons who do not render significant professional assistance in arriving at a real estate appraisal analysis, opinion or conclusion. Nothing in this article may be construed to prohibit any person who is licensed to practice in this state under any other law from engaging in the practice for which he or she is licensed.

(b) No person other than a person licensed or certified under this article may use the title of licensed appraiser or certified appraiser or any title, designation or abbreviation likely to create the impression that the person is licensed or certified by the state.

(c) This article does not apply to:

(1) A real estate broker or salesperson licensed by this state who, in the ordinary course of his or her business, gives an opinion to a potential seller or third party as to the recommended listing price of real estate or an opinion to a potential purchaser or third party as to the recommended purchase price of real estate, when this opinion as to the listing price or the purchase price is not to be referred to as an appraisal, no opinion is rendered as to the value of the real estate and no fee is charged;

(2) A casual or drive-by inspection of real estate in connection with a consumer loan secured by the real estate, when the inspection is not referred to as an appraisal, no opinion is rendered as to the value of the real estate and no fee is charged for the inspection;

(3) An employee who renders an opinion as to the value of real estate for his or her full-time employer, for the employer's internal use only and performed in the regular course of the employee's position, when the opinion is not referred to as an appraisal and no fee is charged;

(4) Appraisals of personal property, including, but not limited to, jewelry, household furnishings, vehicles and manufactured homes not attached to real estate;

(5) Any officer or employee of the United States, or of the State of West Virginia or a political subdivision thereof, when the employee or officer is performing his or her official duties: *Provided*, That such individual does not furnish advisory service for compensation to the public or act as an independent contracting party in West Virginia or any subdivision thereof in connection with the appraisal of real estate or real property: *Provided, however*, That this exception shall not apply with respect to federally related transactions as defined in Title XI of the United States Code, entitled "Financial Institutions Reform, Recovery, and Enforcement Act of 1989"; or

(6) An individual not licensed in accordance with §30-38-1, *et seq*. of this code who

WV Legislature

completes an evaluation of the value of real estate serving as collateral for a loan made by a financial institution insured by the federal deposit insurance corporation: *Provided*, That the evaluation is in a format that includes the following statements in a conspicuous location and in bold print: "This evaluation has been prepared in compliance with §30-38-1(c)(6) and the following conditions are satisfied, (A) The amount of the loan is equal to or less than the federal de minimus threshold; (B) the evaluation is used solely by the lender in its records to document the collateral value; (C) the evaluation clearly indicates on its face that it is for the lender's internal use only; (D) the evaluation is not labeled an appraisal and explicitly states that the evaluation was performed by an individual that is not licensed as an appraiser in accordance with §30-38-1, *et seq*. Individuals performing these evaluations may be compensated for their services.

WV Legislature

§30-38-2. Short title.

This article is known and may be cited as the "Real Estate Appraiser Licensing and Certification Act."

WV Legislature

§30-38-3. Definitions.

As used in this article, the following terms have the following meanings:

(a) "Appraisal" means an analysis, opinion, or conclusion prepared by a real estate appraiser relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate or identified real property. An appraisal may be classified by the nature of the assignment as a valuation appraisal, an analysis assignment, or a review assignment.

(b) "Analysis assignment" means an analysis, opinion, or conclusion prepared by a real estate appraiser that relates to the nature, quality, or utility of identified real estate or identified real property.

(c) "Appraisal foundation" means the appraisal foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois.

(d) "Appraisal report" means any communication, written or oral, of an appraisal. An appraisal report may be classified by the nature of the assignment as a "valuation report", "analysis report", or "review report". For purposes of this article, the testimony of an appraiser dealing with the appraiser’s analyses, conclusions, or opinions concerning identified real estate or identified real property is considered an oral appraisal report.

(e) "Board" means the real estate appraiser licensing and certification board established by the provisions of this article.

(f) "Certified appraisal report" means a written appraisal report that is certified by a state licensed or certified real estate appraiser. When a real estate appraiser identifies an appraisal report as "certified", the real estate appraiser must indicate the type of licensure or certification he or she holds. By certifying an appraisal report, a state licensed residential real estate appraiser, a state certified general real estate appraiser, or a state certified residential real estate appraiser represents to the public that the report meets the appraisal standards established by this article.

(g) "Certified real estate appraiser" means a person who holds a current, valid certification as a state certified residential real estate appraiser or a state certified general real estate appraiser issued to him or her under the provisions of this article.

(h) "Complex appraisal" means an appraisal that: (1) For nonresidential property, relies on all three approaches to value, being the cost approach, the income approach, and the sales comparison approach, or does not have the characteristics of a noncomplex appraisal; and (2) for residential property, relies to any significant degree on at least two of the three approaches to value, with one approach being the sales comparison approach, or one in which the property to be appraised, the form of ownership, or the market conditions are atypical.

(i) "Cost approach" means an approach to valuing real estate that requires an appraiser to:

WV Legislature

(1) Develop an opinion of site value by an appropriate appraisal method or technique; (2) analyze comparable cost data as are available to estimate the cost new of the improvements if any; and (3) analyze comparable data as are available to estimate the difference between the cost new and the present worth of the improvements, also called accrued depreciation.

(j) "Evaluation" means an opinion about the market value of real estate that is:

(1) Made in accordance with the 2010 "Interagency Appraisal and Evaluation Guidelines" developed by the following federal agencies that regulate financial institutions: The Federal Reserve Board; The Office of the Comptroller of the Currency; The Federal Deposit Insurance Corporation; The Office of Thrift Supervision; and the National Credit Union Administration,

(2) Provided to a financial institution for use in a real estate related transaction for which an appraisal is not required by the federal agencies listed in subsection (j)(1) of this section.

(k) "Income approach" means an approach to valuing real estate that requires an appraiser to: (1) Analyze comparable rental data as are available to estimate the market rental of the property; (2) analyze comparable operating expense data as are available to estimate the operating expenses of the property; (3) analyze comparable data as are available to estimate rates of capitalization or rates of discount; and (4) base projections of future rent and expenses on reasonably clear and appropriate evidence.

(l) "Licensed real estate appraiser" means a person who holds a current, valid license as a state licensed residential real estate appraiser issued to him or her under the provisions of this article.

(m) "Noncomplex appraisal" means an appraisal for which: (1) There is an active market of essentially identical properties; (2) adequate data is available to the appraiser; (3) adjustments to comparable sales are not large in the aggregate, specifically not exceeding the trading range found in the market of essentially identical properties; and (4) for residential properties, the contract sales price falls within the market norm or median sales price for homes or lots within the same area.

(n) "Real estate" means an identified parcel or tract of land, including improvements, if any.

(o) "Real estate appraisal activity" means the act or process of making an appraisal of real estate or real property and preparing an appraisal report.

(p) "Real estate appraiser" means a person who engages in real estate appraisal activity for a fee or other valuable consideration.

(q) "Real property interests" means one or more defined interests, benefits, or rights inherent in the ownership of real estate.

(r) "Review assignment" means an analysis, opinion, or conclusion prepared by a real estate

WVLegislature

appraiser that forms an opinion as to the adequacy and appropriateness of a valuation appraisal or an analysis assignment.

(s) "Sales comparison approach" means an approach to valuing real estate that requires an appraiser to analyze such comparable sales data as are available to indicate a value conclusion.

(t) "Valuation appraisal" means an analysis, opinion, or conclusion prepared by a real estate appraiser that estimates the value of an identified parcel of real estate or identified real property at a particular point in time.

WV Legislature

§30-38-4. Classifications of licensure and certification; authority of appraisers; classification and license or certificate number required on all documents; corporations.

(a) The three classifications of real estate appraisers are state licensed residential real estate appraiser, state certified residential real estate appraiser, and state certified general real estate appraiser.

(b) A state licensed residential real estate appraiser is authorized to conduct appraisals of: (1) Complex residential real estate of one to four units having a value of less than $250,000; (2) noncomplex residential real estate of one to four units having a value of less than $1 million; and (3) nonresidential real estate having a value of less than $100,000.

(c) A state certified residential real estate appraiser is authorized to conduct appraisals of residential real estate of one to four units without regard to value or complexity, and nonresidential real estate when the value is less than $100,000.

(d) A state certified general real estate appraiser is authorized to conduct appraisals of all types of real estate.

(e) The board is authorized to establish by legislative rule other classifications of appraiser licensing not prohibited by applicable federal law.

(f) An appraiser shall indicate his or her classification and license or certificate number, as it appears on an issued license, on all appraisals, statements of qualification, contracts, and other instruments, including advertising media.

(g) A license or certificate may not be issued under the provisions of this article to a corporation, partnership, firm, or group.

(h) Nothing contained in this article prohibits any person licensed or certified under this article from engaging in the practice of real estate appraising as a professional corporation in accordance with the provisions of the Professional Service Corporation Act of this state.

WV Legislature

§30-38-5. Reciprocal credentialing.

The board shall issue a reciprocal license or certification to an applicant from another state if the applicant holds a valid license or certification from a state whose licensing and certification program:

(1) Is in compliance with the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 [12 U.S.C. 3331-3351] as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010; and

(2) That has credentialing requirements that meet or exceed those of West Virginia.

WV Legislature

§30-38-6. Board created; appointments, qualifications, terms, oath, removal of members; quorum; meetings; disqualification from participation; compensation; records; employing staff.

(a) The West Virginia Real Estate Appraiser Licensing and Certification Board, which consists of nine members appointed by the Governor with the advice and consent of the Senate, is continued.

(1) Each member shall be a resident of the State of West Virginia, except the appraisal management company representative is not required to be a resident of West Virginia.

(2) Four members shall be certified real estate appraisers having at least five years' experience in appraisal as a principal line of work immediately preceding their appointment, and shall remain certified real estate appraisers throughout their terms.

(3) Two members shall have at least five years' experience in real estate lending as employees of financial institutions.

(4) Two members may not be engaged in the practice of real estate appraisal, real estate brokerage or sales, or have any financial interest in these practices.

(5) One member shall be a representative from an appraisal management company registered under the provisions of §30-38A-1, *et seq*. of this code.

(6) No member of the board may concurrently be a member of the West Virginia Real Estate Commission.

(7) Not more than three appraiser members may be appointed from a congressional district.

(b) Members will be appointed for three-year terms, which are staggered in accordance with the initial appointments under prior enactment of this act.

(1) No member may serve for more than three consecutive terms.

(2) Before entering upon the performance of his or her duties, each member shall subscribe to the oath required by section five, article IV of the constitution of this state.

(3) The Governor shall, within 60 days following the occurrence of a vacancy on the board, fill the vacancy by appointing a person who meets the requirements of this section for the unexpired term.

(4) Any member may be removed by the Governor in case of incompetency, neglect of duty, gross immorality, or malfeasance in office.

(c) The board shall elect a chairman.

WV Legislature

(d) A majority of the members of the board constitutes a quorum.

(e) The board shall meet at least once in each calendar quarter on a date fixed by the board.

(1) The board may, upon its own motion, or shall upon the written request of three members of the board, call additional meetings of the board upon at least 24 hours' notice.

(2) No member may participate in a proceeding before the board to which a corporation, partnership, or unincorporated association is a party, and of which he or she is or was at any time in the preceding 12 months a director, officer, owner, partner, employee, member, or stockholder.

(3) A member may disqualify himself or herself from participation in a proceeding for any other cause the member considers sufficient.

(f) The appointed members will receive compensation and expense reimbursement in accordance with the provisions of §30-1-11 of this code.

(g) The board may employ and authorize staff as necessary to perform the functions of the board, to be paid out of the board fund created by the provisions of this article. Persons employed by any real estate agent, broker, appraiser, or lender, or by any partnership, corporation, association, or group engaged in any real estate business, may not be employed by the board. The board may hire a licensed or certified appraiser whose license status is inactive or who is not employed by any of the prohibited employers listed.

WV Legislature

§30-38-7. General powers and duties.

The board shall:

(a) Define by rule the type of educational experience, appraisal experience and equivalent experience that will meet the statutory requirements of this article;

(b) Establish examination specifications as prescribed herein and provide for appropriate examinations;

(c) Establish registration requirements and procedures for appraisal management companies under the provisions of §30-38a-1, *et seq.*;

(d) Approve or disapprove applications for certification and licensure;

(e) Approve or disapprove applications for registration under the provisions of §30-38a-1, *et seq.*;

(f) Define by rule continuing education requirements for the renewal of certifications and licenses;

(g) Censure, suspend or revoke licenses and certification as provided in this article;

(h) Suspend or revoke registrations under the provisions of §30-38a-1, *et seq.*;

(i) Hold meetings, hearings and examinations;

(j) Establish procedures for submitting, approving and disapproving applications;

(k) Maintain an accurate registry of the names, addresses and contact information of all persons certified or issued a license to practice under this article;

(l) Maintain an accurate registry of the names, addresses and contact information of all persons and firms registered under the provisions of article thirty-eight-a of this chapter;

(m) Maintain accurate records on applicants and licensed or certified real estate appraisers;

(n) Maintain accurate records on applicants under the provisions of article thirty-eight-a of this chapter;

(o) Issue to each licensed or certified real estate appraiser a copy of their current active license credential via an electronic format of the board’s choosing;

(p) Issue registration numbers to registrants under the provisions of article thirty-eight-a of this chapter;

(q) Deposit all fees collected by the board to the credit of the West Virginia appraiser

WV Legislature

licensing and certification board fund established in the office of the State Treasurer. The board shall disburse moneys from the account to pay the cost of board operation. Disbursements from the account may not exceed the moneys credited to it;

(r) Keep records and make reports as required by article one of this chapter; and

(s) Perform any other functions and duties necessary to carry out the provisions of this article and article thirty-eight-a of this chapter.

WV Legislature

§30-38-8. Board fund; disposition of funds.

(a) The West Virginia appraiser licensing and certification board fund established in the office of the State Treasurer is continued.

(b) The disposition of all funds received by the board shall be governed by the provisions of section ten, article one of this chapter.

WV Legislature

§30-38-9. Rulemaking.

(a) The board may propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, to provide for:

(1) Licensure and certification requirements, including requirements for applications, examinations, reciprocity, temporary permits, apprentice permits and reinstatement;

(2) Registration requirements, including delinquent and expired registrations, for appraisal management companies under the provisions of article thirty-eight-a of this chapter;

(3) Fees for licenses, renewals of licenses and other services provided by the board;

(4) A fee schedule for registrations of appraisal management companies under the provisions of article thirty-eight-a of this chapter;

(5) Surety bond requirements for registrations of appraisal management companies under the provisions of article thirty-eight-a of this chapter;

(6) Requirements and procedures for appraisal management companies to maintain records under the provisions of article thirty-eight-a of this chapter;

(7) Experience, education and continuing education requirements and approval of courses; and

(8) Any other purpose to carry out the requirements of this article and article thirty-eight-a of this chapter.

(b) The rule governing appraiser qualifications must include requirements which meet or exceed the education, experience and examination requirements issued or endorsed by the appraisal qualifications board of the appraisal foundation.

(c) Any rules in effect on the effective date of the reenactment of this section during the regular session of the legislature in 2013 will remain in effect until amended, modified, repealed or replaced, except that references to provisions of former enactments of this act are interpreted to mean provisions of this article.

WV Legislature

§30-38-10. Civil liability for board members; liability limitations of professionals reporting to board; disqualification of board members from disciplinary proceedings or actions.

(a) Members of the board will be immune from individual civil liability for actions taken in good faith and without malice, within the scope of their duties as board members.

(b) Any person licensed or certified by this board who reports or otherwise provides evidence of violations of this article or the board's rules by another person engaging in real estate appraisal activity to the board, is not liable for making the report if it is made without malice and in the reasonable belief that the report is warranted by the facts known to him or her at the time.

(c) No member of the board may participate in or vote on a disciplinary proceeding or action concerning a real estate appraisal activity in which he or she has previously participated or in which he or she has given testimony or been engaged to give testimony, or in which the board member has a conflict of interest. In any such instance, the board member shall recuse himself or herself from the proceeding or action.

WV Legislature

§30-38-11. Applications for license or certification; renewals.

(a) An individual who desires to engage in real estate appraisal activity in this state shall make application for a license, in writing, on a form as the board may prescribe.

(b) To assist the board in determining whether grounds exist to deny the issuance of a license to an applicant, the board may require the fingerprinting of every applicant for an original license.

(c) The payment of the appropriate fee must accompany all applications for original certification and renewal of certification and all applications to take an examination.

(d) At the time of filing an application for original certification or for renewal of certification, each applicant shall sign a pledge to comply with the standards of professional appraisal practice and the ethical rules to be observed by an appraiser. Each applicant shall also certify that he or she understands the types of misconduct, as set forth in this article, for which disciplinary proceedings may be initiated.

(e) To obtain a renewal of license or certification under this article, the holder of a current license or certification shall make application and pay the prescribed fee to the board no earlier than 120 days nor later than 30 days prior to the expiration date of the current license or certification. Each application for renewal must be accompanied by evidence in the form prescribed by the board that the applicant has completed the continuing education requirements for renewal specified in this article and the board's rules.

(f) If the board determines that an applicant for renewal has failed to meet the requirements for renewal of license or certification through mistake, misunderstanding, or circumstances beyond the control of the applicant, the board may extend the term of the applicant's license or certification for a period not to exceed six months upon payment by the applicant of a prescribed fee for the extension. If the applicant for renewal of license or certification satisfies the requirements for renewal during the extension period, the beginning date of his or her renewal license or certificate shall be the day following the expiration of the certificate previously held by the applicant.

(g) If a state-licensed or certified real estate appraiser under this article fails to renew his or her license or certification prior to its expiration or within any period of extension granted by the board pursuant to this article, the applicant may obtain a renewal of his or her license or certification by satisfying all of the requirements for renewal and filing an application for renewal, accompanied by a late renewal fee: *Provided*, That the applicant can demonstrate they could resume practicing with reasonable skill and safety in accordance with §30-1-8a of this code.

(h) The board may deny the issuance or renewal of a license or certification for any reason enumerated in this article or in the rules of the board, or for any reason for which it may refuse an initial license or certification.

WV Legislature

(i)(1) If the board denies issuance of a renewal of a license or certification, or denies an initial license or certification application, the board shall provide a written statement to the applicant for an initial license or certification, or applicant for a renewal of a license or certification, clearly describing the deficiencies of the application for his or her license or certificate.

(2) The board shall provide this statement to an initial applicant or a renewal applicant within 15 calendar days of its decision to deny licensure or certification. The board may send its statement through the United States mail, electronic mail service, or both, to ensure it reaches the applicant or renewal applicant.

(3) If the basis for the denial is due to submitted appraisals failing to conform to the Uniform Standards of Professional Appraisal Practice (USPAP), the board shall provide written guidance to the applicant describing, in detail, each aspect of each submitted appraisal that does not conform to USPAP and the corrective action necessary to remedy nonconformity. The board shall provide 60 days to the applicant to remedy any nonconformity. The applicant shall resubmit any corrected appraisals on or before the 60th day and the board shall reevaluate the appraisals only pertaining to any nonconformity. If the nonconformity or nonconformities are remedied and resubmitted on or before the 60th day, the board shall accept the appraisal for purposes of issuing a license.

WV Legislature

§30-38-12. Refusal to issue or renew license or certification; suspension or revocation; grounds for disciplinary action.

(a) The following acts or omissions are grounds for disciplinary action, and the board may refuse to issue or renew a license or certification, or after issuance may suspend or revoke a license or certification or impose disciplinary sanctions for:

(1) Procuring or attempting to procure license or certification under this article by knowingly making a false statement, submitting false information or making a material misrepresentation in an application filed with the board, or procuring or attempting to procure a license or certification through fraud or misrepresentation;

(2) Paying money other than the fees provided for by this article to any member or employee of the board to procure a license or certification under this article;

(3) An act or omission in the practice of real estate appraising which constitutes dishonesty, fraud or misrepresentation with the intent to substantially benefit the licensee or another person or with the intent to substantially injure another person;

(4) Entry of a final civil or criminal judgment against a licensee on grounds of fraud, misrepresentation or deceit in the making of an appraisal of real estate;

(5) Conviction, including a conviction based upon a plea of guilty or nolo contendre, of a crime which is substantially related to the qualifications, functions or duties of a person developing real estate appraisals and communicating real estate appraisals to others;

(6) Making a false or misleading statement in that portion of a written appraisal report that deals with professional qualifications or in any testimony concerning professional qualifications;

(7) Violation of any section of this article, or any rule of the board;

(8) Violation of the confidential nature of governmental records to which a licensee gained access through employment or engagement as an appraiser by a governmental agency;

(9) Acceptance of a fee that is or was contingent upon the appraiser reporting a predetermined analysis, opinion, or conclusion, or is or was contingent upon the analysis, opinion, conclusion or valuation reached, or upon the consequences resulting from the appraisal assignment;

(10) Failing to meet the minimum qualifications for state licensure or certification established by or pursuant to this article; or

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

WV Legislature

(b) Every person licensed or certified by the board has a duty to report to the board in a timely manner any known or observed violation of this article or the board's rules by any other person licensed or certified by the board.

WV Legislature

§30-38-13. Disciplinary proceedings.

(a) The board may, upon its own motion, and shall, upon the written complaint of any aggrieved person, cause an investigation to be made with respect to an alleged violation of this article or the rules of the board.

(b) The board may revoke, suspend or refuse to renew the license or certificate or otherwise discipline an appraiser, or deny an application, for any of the acts or omissions set forth in this article or in the rules of the board.

(c) If an investigation indicates that an appraiser licensed or certified by the board has violated a law or rule, the board shall serve a formal complaint upon the appraiser. The accused party is required to file an answer within twenty days of the date of service.

(d) In responding to a complaint, the accused party may admit the allegations of the complaint, deny the allegations of the complaint or otherwise plead. Failure to make a timely response shall be considered an admission of the allegations of the complaint.

(e) The board may make informal disposition of the matter, including entering into a consent agreement, or taking one or more of the disciplinary actions set forth in the board's rules.

(f) In a disciplinary proceeding based upon a civil judgment, the licensee shall be afforded an opportunity to present matters in mitigation and extenuation but may not collaterally attack the civil judgment.

WV Legislature

§30-38-14. Hearings; orders; entry of order without notice and hearing; judicial review; appeals to Supreme Court of Appeals.

(a) Subject to the provisions of subsection (c) of this section, the board shall provide notice and hearing to the accused party in advance of the entry of any order. The hearing and the administrative procedures are governed by the provisions of article five, chapter twenty-nine-a of this code and the board's rules, and will be held at a time and place set by the board, but may not be held less than thirty or more than ninety days after the notice is given. A hearing may be continued by the board on its own motion or for good cause shown. At any hearing a party may represent himself or herself, or be represented by an attorney admitted to practice before any circuit court of this state.

(b) The board has the power and authority to issue subpoenas and subpoenas duces tecum, administer oaths and examine any person under oath in connection with any subject relating to duties imposed upon or powers vested in the board.

(c) If the board finds that extraordinary circumstances exist which require immediate action, it may without notice or hearing enter an order taking any action permitted by this article. Immediately upon the entry of the order, certified copies shall be served upon all persons affected, who upon demand are entitled to a hearing at the earliest practicable time.

(d) If, at the conclusion of the hearing, the board determines that an appraiser has violated any of the provisions of this article or the board's rules, it shall prepare a formal decision containing findings of fact, conclusions of law, and disciplinary actions to be taken.

(e) The board may elect to have an administrative law judge or hearing examiner conduct the hearing. If the board makes this election, the administrative law judge or hearing examiner shall present a decision containing recommended findings of fact, conclusions of law, and appropriate disciplinary actions to be taken. The board may accept, reject or modify the decision of the administrative law judge or hearing examiner.

(f) Any party adversely affected by a final order or decision made by the board after a hearing is entitled to judicial review as provided in article five, chapter twenty-nine-a of this code.

(g) Any party adversely affected by a final judgment of a circuit court following judicial review may seek review by appeal to the Supreme Court of Appeals in the manner provided in article six, chapter twenty-nine-a of this code.

WV Legislature

§30-38-15. Penalties.

(a) Any person engaging in real estate appraisal activity in this state who is not licensed under this article is guilty of a misdemeanor and, upon conviction, shall be fined not less than $500 nor more than $1,000 and shall be ineligible to obtain a license for a period of one year from the date of his or her conviction of such offense: Provided, That the board, at its discretion, may grant a license within a period of one year upon a finding of extenuating circumstances, and after an administrative hearing.

(b) Any person acting or purporting to act as a certified real estate appraiser who is not certified under this article is guilty of a misdemeanor and, upon conviction, shall be fined not more than $2,500 or imprisoned in the county or regional jail for not more than one year, or both.

(c) If any person receives any money or the equivalent as a fee, commission, compensation or profit by or in consequence of a violation of any provision of this article, he or she shall, in addition to the penalties prescribed above, be subject to a penalty of not less than the sum of money so received nor more than three times the sum as may be determined by the court, which penalty may be recovered in a court of competent jurisdiction by any person aggrieved as a result of any such violation.

WV Legislature

§30-38-16. Collection of appraisal fees.

No person engaged in the business of real estate appraising in this state or acting in the capacity of a real estate appraiser in this state may bring or maintain any action in any court of this state to collect compensation for the performance of real estate appraisal services for which a license is required by this article without alleging and proving that he or she was the holder of a valid real estate appraiser license in this state at all times during the performance of such services.

WV Legislature

§30-38-17. Standards of professional appraisal practice.

Each real estate appraiser licensed or certified under this act shall comply with generally accepted standards of professional appraisal practice and generally accepted ethical rules to be observed by a real estate appraiser. Generally accepted standards of professional appraisal practice are currently evidenced by the uniform standards of professional appraisal practice promulgated by the appraisal foundation.

WV Legislature

§30-38-18. Attorney general opinions and duties.

At the request of the board, the state Attorney General shall render to the board an opinion with respect to all questions of law arising in connection with the administration of this article and shall act as attorney for the board in all actions and proceedings brought by or against the board under, or pursuant to, any of the provisions of this article. All fees and expenses of the Attorney General arising out of such duties shall be paid out of the special fund created under this article to pay the expenses of the administration of this article.

WV Legislature

§30-38-19. Temporary permit.

(a) The board may issue a temporary permit to perform one specific assignment relating to the appraisal of real estate or real property in this state to an applicant who:

(1) Completes an application;

(2) Pays a nonrefundable application fee;

(3) Provides an irrevocable consent that service of process upon him or her may be made by service of process to the Secretary of State if, in an action against the applicant in a court of this state arising out of the applicant's activities as a real estate appraiser in this state, the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant; and

(4) Meets the requirements for a temporary permit as established by the board by legislative rule.

(b) The temporary permit is subject to the terms, conditions and limitations set forth by the board by legislative rule.

WV Legislature