WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1991

ENROLLED

SENATE BILL NO. 32

(By Senator Pritt, et al)

PASSED March 9, 1991
In Effect from Passage
ENROLLED

Senate Bill No. 32

(By Senators Pritt, J. Manchin and M. Manchin)

[Passed March 9, 1991; in effect from passage.]

AN ACT to repeal sections ten, eleven, twelve, twenty, twenty-one and thirty-two, article fourteen, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections two, three, four, six, thirteen, twenty-eight, thirty, thirty-one, forty and forty-four of said article, relating to application, licensure and certification for real estate appraisers; eliminating waiver of certain requirements for licensure; definitions; extending date for compliance with licensure and certification requirements if extended by applicable federal law; exemption for appraisals of personal property and government officers or employees; authorizing emergency rules; classification of licensure and certification; qualifications for licensure and certification; permitting transitional license if either experience or education requirement is not met in certain cases; requiring examination; increasing certain fees; and licensure, certification, or registration for temporary practice for nonresidents.

Be it enacted by the Legislature of West Virginia:

That sections ten, eleven, twelve, twenty, twenty-one and thirty-two, article fourteen, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-
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one, as amended, be repealed; that sections two, three, four, six, thirteen, twenty-eight, thirty, thirty-one, forty and forty-four of said article fourteen be amended and re-enacted to read as follows:

ARTICLE 14. THE REAL ESTATE APPRAISER LICENSING AND CERTIFICATION ACT.

§37-14-2. Definitions.

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

3 (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. The term “valuation appraisal” refers to 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. An “analysis assignment” refers to 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. A “review assignment” refers to an analysis, opinion or conclusion prepared by a real estate appraiser that forms an opinion as to the adequacy and appropriateness of a valuation appraisal or an analysis assignment;

5 (b) “Appraisal foundation” means the appraisal foundation established on the thirtieth day of November, one thousand nine hundred eighty-seven, as a not-for-profit corporation under the laws of Illinois;

7 (c) “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 the 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 deemed to be an
oral appraisal report;
(d) "Board" means the real estate appraiser licens-
ing and certification board established pursuant to the
provisions of this article;
(e) "Certified appraisal report" means a written
appraisal report that is certified as such by a state
licensed or certified real estate appraiser. When a real
estate appraiser identifies an appraisal report as
"certified", such real estate appraiser must indicate
which type of licensure or certification he or she
holds. The certification of an appraisal report by a
state licensed residential real estate appraiser or a
state certified general real estate appraiser represents
to the public that it meets the appraisal standards
established pursuant to this article;
(f) "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;
(g) "Real estate" means an identified parcel or tract
of land, including improvements, if any;
(h) "Real estate appraisal activity" means the act or
process of making an appraisal of real estate or real
property and preparing an appraisal report;
(i) "Real estate appraiser" means a person who
engages in real estate appraisal activity for a fee or
other valuable consideration;
(j) "Real property interests" means one or more
defined interests, benefits or rights inherent in the
ownership of real estate; and
(k) "Certified real estate appraiser" means a person
who holds a current, valid certification as a state
certified general real estate appraiser issued to him or
her under the provisions of this article.
§37-14-3. Real estate appraiser license required.

(a) Beginning the first day of July, one thousand nine hundred ninety-one, 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, however, shall 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) Notwithstanding the provisions of subsection (a) herein, the real estate appraiser licensing and certification board may, by emergency rule, extend the date for complying with the provisions of this article in accordance with any extensions which may be provided under applicable federal law, except that the date for compliance set by emergency rule may not be extended beyond the thirty-first day of December, one thousand nine hundred ninety-one.

§37-14-4. Exceptions to license or certification requirement.

This article does not apply to:

(a) 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;

(b) A casual or drive-by inspection of real estate in connection with a consumer loan secured by the said 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;

(c) An employee who renders an opinion as to the
value of real estate for his 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; and

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

(e) 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 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."

§37-14-6. General powers and duties.

The board shall:

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

(b) Establish examination specifications as pres-
cribed herein and provide or procure appropriate
examinations;

(c) Approve or disapprove applications for certifica-
tion and licensure;

(d) Define by rule continuing education require-
ments for the renewal of certification and licenses;
(e) Censure, suspend or revoke licenses and certification as provided in this article;

(f) Hold meetings, hearings and examinations in places and at times as it shall designate;

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

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

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

(j) Issue to each licensed or certified real estate appraiser a pocket card with the name and license or certification number on each in the size and form it may approve. The license or certification pocket card shall remain the property of the state of West Virginia, and, upon suspension or revocation of the license to practice pursuant to this article, shall be returned immediately to the commission;

(k) Deposit all fees collected by the commission in the state treasury. The state treasurer shall deposit the fees to the credit of the West Virginia appraiser licensing and certification board and shall disburse moneys from the account to pay the cost of board operation. Disbursements from the account shall not exceed the moneys credited to it;

(l) Hire employees to assist in the discharge of the duties imposed upon it by this article subject to the policies and standards of the department of administration. No employee of the commission may be a paid employee of any real estate association, group or real estate dealers, brokers, appraisers or lenders;

(m) Perform any other functions and duties as may be necessary in carrying out the provisions of this article.

All rules shall be promulgated pursuant to the provisions of chapter twenty-nine-a of this code. Emergency rules are specifically authorized upon the
effective date of this article and prior to the first day of July, one thousand nine hundred ninety-one. The members of the board shall be immune from any civil action or criminal prosecution for initiating or assisting in any lawful investigation of the actions of, or participating in any disciplinary proceeding concerning a licensed or certified real estate appraiser pursuant to this article: Provided, That such action is taken without malicious intent and in the reasonable belief that the action was taken pursuant to the powers and duties vested in the members of the board under this article.

§37-14-13. Term of license or certification.

1 If the board determines that an applicant meets the requirements of this article and is qualified to be licensed or certified, it shall issue a license or certification to the applicant that shall expire one year following the date of issuance unless revoked or suspended prior thereto. The board shall approve or deny each application within ninety days of receipt.


1 There shall be two classifications of real estate appraisers:

3 (a) State licensed residential real estate appraiser. — The state licensed residential real estate appraiser classification shall consist of those persons who meet the requirements for licensure that relate to the appraisal of residential real estate of one to four units, when the value of the property appraised is less than one million dollars, a net operating income capitalization analysis is not required by the terms of the assignment, and, if the value of the property appraised is over two hundred fifty thousand dollars, the appraisal is non-complex; and to the appraisal of nonresidential real estate when the value of the property appraised is less than one hundred thousand dollars.

17 (b) State certified general real estate appraiser. — The state certified general real estate appraiser
classification shall consist of those persons who meet the requirements for certification relating to the appraisal of all types of real estate.

The board is authorized to establish by rules promulgated pursuant to the provisions of chapter twenty-nine-a of this code such further classes or classifications as may be required by applicable federal law.

Each application for licensure or certification and each application to take an examination shall specify the classification being applied for and, if applicable, the class of licensure or certification previously granted.

§37-14-30. Qualifications.

(a) Residential classification. — As a prerequisite to taking the examination for licensure as a state licensed residential real estate appraiser, an applicant shall present evidence satisfactory to the board that he or she has satisfied the criteria, including education and experience criteria, for licensure of licensed appraisers issued by the appraisal qualifications board of the appraisal foundation, which criteria shall be incorporated in regulations of the board adopted pursuant to the provisions of chapter twenty-nine-a of this code.

(b) General classification. — As a prerequisite to taking the examination for certification as a state certified general real estate appraiser, an applicant shall present evidence satisfactory to the board that he or she has satisfied the criteria, including education and experience criteria, for certification of general appraisers issued by the appraisal qualifications board of the appraisal foundation, which criteria shall be incorporated in regulations of the board adopted pursuant to the provisions of chapter twenty-nine-a of this code.

(c) Transitional License. — The board may extend the time for satisfying the requirements of subdivision (a) of this section with respect to either education requirements or experience requirements, but not
both education and experience requirements, and may
issue a transitional license as a state licensed residen-
tial real estate appraiser so long as: (1) All other
criteria for licensure are satisfied; (2) the applicant
passes the examination required pursuant to section
thirty-one of this article; and (3) the educational
deficiency is corrected within one year of licensure, or
the experience deficiency, within two years.

§37-14-31. Examination required.

An original license or certification as a state licensed
or certified real estate appraiser shall not be issued to
any person who has not passed an examination admin-
istered through the board, which examination is consis-
tent with the uniform state examination for licensure
or certification issued or endorsed by the appraisal
qualifications board of the appraisal foundation.

The board may offer for the benefit of prospective
applicants for licensure or certification a program of
instruction and preparation for the examination.

§37-14-40. Licensure and certification fees.

The board shall charge and collect appropriate fees
annually for its services under this article. The fees
charged by the board shall not exceed the amounts
indicated below:

1. A license application fee of fifty dollars;
2. A license examination fee of fifty dollars;
3. A license fee of three hundred twenty-five
dollars;
4. A delinquent license fee of an additional one
   hundred dollars;
5. A registration fee for temporary practice of one
   hundred dollars;
6. A certification application fee of seventy-five
dollars;
7. A certification examination fee of fifty dollars;
8. A certification fee of five hundred twenty-five
17 dollars;
18 (9) A delinquent certification fee of an additional one
19 hundred dollars;
20 (10) The board may collect from individuals who
21 perform or seek to perform appraisal transactions
22 where required by federal law an annual registry fee
23 in an amount to be set by regulation in order to enable
24 the board to transfer the necessary fees to the federal
25 financial institution examination council on an annual
26 basis.
27 All fees and revenues collected by the board pursuant
28 to this act shall be deposited in a special fund that
29 shall be used solely for the purpose of paying the
30 expenses incurred in connection with the administra-
31 tion of this article.
§37-14-44. Licensure and certification of nonresidents.
1 (a) Consent to service of process. — Each applicant
2 for licensure or certification and each registrant for
3 temporary practice within this state who is not a
4 resident of this state shall submit, with his or her
5 application, an irrevocable consent that service of
6 process upon him or her may be made by delivery of
7 the process to the secretary of state if, in an action
8 against the applicant in a court of this state arising out
9 of the applicant's activities as a real estate appraiser in
10 this state, the plaintiff cannot, in the exercise of due
11 diligence, effect personal service upon the applicant.
12 (b) Nonresident licensure and certification. — A
13 nonresident of this state who has complied with the
14 provisions of subsection (a) of this section may obtain
15 a license or certification as a real estate appraiser in
16 this state by complying with all of the provisions of
17 this article relating to the licensing or certification of
18 real estate appraisers.
19 (c) Temporary practice. — A nonresident of this
20 state who has complied with the provisions of subsec-
21 tion (a) of this section may perform a contract relating
22 to the appraisal of real estate or real property in this
23 state by registering with the board. An applicant for
temporary registration shall:
(1) Submit an application on a form approved by the board;
(2) Submit evidence that he or she is licensed or certified to appraise real estate and real property in his or her state of domicile;
(3) Submit evidence that the applicant's business in the state is of a temporary nature;
(4) Certify that disciplinary proceedings are not pending against the applicant in the applicant's state of domicile; and
(5) Pay the temporary registration fee set forth in section forty of this article.

(d) License by reciprocity. — If, in the determination of the board, another state or territory or the District of Columbia is deemed to have substantially equivalent license or certification laws for real estate appraisers, an applicant for licensure or certification in this state who is licensed or certified under the law of such other state, territory or district may obtain a license or certificate as a real estate appraiser in this state upon such terms and conditions as may be determined by the board: Provided, That the laws of such state, territory or district accord substantially equal reciprocal rights to a licensed or certified real estate appraiser in good standing in this state: Provided, however, That disciplinary proceedings are not pending against such applicant in his or her state of licensure or certification.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Herbert Flick
Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

K. R. G. Smith
Clerk of the Senate

Donald W. Kopp
Clerk of the House of Delegates

Keith Curdette
President of the Senate

Speaker House of Delegates

The within ... this the ... day of ... , 1991.

Yasmin Caperton
Governor