ENROLLED

Senate Bill No. 129
(By Senators Minard, J. Manchin, Spears and Brackenrich)

[Passed March 7, 1992; in effect from passage.]

AN ACT to amend and reenact sections two, four, fourteen, twenty-six, twenty-eight, twenty-nine, thirty, thirty-one, thirty-three, thirty-four, thirty-five, article fourteen, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to licensing and certification of real estate appraisers; exempting financial institutions from certain provisions; allowing the real estate licensing and certification board to set criteria for examination; establishing a new certification classification and amending other provisions of the article to comply with the new classification; and removing certain experience restrictions for examination eligibility.

Be it enacted by the Legislature of West Virginia:

That sections two, four, fourteen, twenty-six, twenty-eight, twenty-nine, thirty, thirty-one, thirty-three, thirty-four, thirty-five, article fourteen, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted 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;

23 (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;

27 (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;

36 (d) "Board" means the real estate appraiser licens-
ing and certification board established by the provi-
ditions of this article;

(e) "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;

(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 residential real estate appraiser or a state
certified general real estate appraiser issued to him or
her under the provisions of this article.

§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;

(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”; and

(f) Any 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: (1) The amount of the loan is less than
fifty thousand dollars or such other amount not to exceed one hundred thousand dollars established by the federal deposit insurance corporation, the board of governors of the federal reserve system, the office of the comptroller of the currency or the office of thrift supervision pursuant to authority granted under Title XI of the United States Code, entitled "Financial Institutions Reform, Recovery, and Enforcement Act of 1989" applicable to a particular insured financial institution as the level below which collateral evaluations need not be performed by a licensed or certified appraiser; (2) the evaluation is used solely by the lender in its records to document the collateral value; (3) the evaluation clearly indicates on its face that it is for the lender's internal use only; (4) the evaluation shall not be labeled an "appraisal"; and (5) the evaluation be on a form approved by the board. Individuals performing these evaluations may be compensated for their services.


(a) As a prerequisite to renewal of license, a licensed or certified real estate appraiser shall present evidence satisfactory to the board that he or she has had at least ten hours of continuing education.

(b) The board shall adopt rules to ensure that persons licensed under the provisions of this article have a working knowledge of current real estate appraisal theories, practices and techniques that will enable them to provide competent real estate appraisal services to the public and to financial institutions.

§37-14-26. State certified real estate appraiser; use of term.

No person other than a state certified real estate appraiser under this article shall assume or use that title or any title, designation or abbreviation likely to create the impression of certification as a real estate appraiser by this state.


There are three classifications of real estate appraisers:
(a) **State licensed residential real estate appraiser.** — The state licensed residential real estate appraiser classification consists of those persons who meet the requirements for licensure that relate to the appraisal of: (1) Complex residential real estate of one to four units having a value of less than two hundred fifty thousand dollars; (2) noncomplex residential real estate of one to four units having a value of less than one million dollars; and (3) nonresidential real estate having a value of less than one hundred thousand dollars.

(b) **State certified residential real estate appraiser.** — The state certified residential real estate appraiser classification shall consist of those persons who meet the requirements for certification that relate to the appraisal of residential real estate of one to four units without regard to value or complexity, and to the value of nonresidential real estate when the value is less than one hundred thousand dollars.

(c) **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 classes or classifications of appraiser licensing not prohibited by applicable federal law.

The application for licensure or certification or the application to take an examination shall include the classification of licensure or certification the applicant is seeking and, if applicable, the class of licensure or certification previously granted to the applicant.

§37-14-29. **Experience requirement.**

An applicant for certification shall furnish the board with a detailed listing of the real estate appraisal reports or file memoranda for each year for which experience is claimed by the applicant. Upon request,
the applicant shall make available to the board for
examination a sample of appraisal reports which the
applicant has prepared in the course of his or her
practice. All information provided by an applicant
shall be under oath or affirmation that the informa-
tion provided is true and correct and the oath or
affirmation shall be notarized.

§37-14-30. Qualifications.

(a) Residential licensed classification. — As a prereq-
usite 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 board pursuant to the provi-
sions of chapter twenty-nine-a of this code.

(b) Residential and general certified classifications. —
As a prerequisite to taking the examination for
certification as either a state certified residential or a
state certified general real estate appraiser, an appli-
cant shall present evidence satisfactory to the board
that he or she has satisfied the criteria, including
education and experience criteria, for certification of
residential or general appraisers issued by the
appraisal qualifications board of the appraisal founda-
tion, which criteria shall be incorporated in regula-
tions of the board adopted pursuant to the provisions
of chapter twenty-nine-a of this code.

(c) Transitional license. — The board may provide
for satisfying the requirements of subsection (a) of
this section with respect to either education require-
ments 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.
§37-14-31. Examination required.

1 An original license as a state licensed residential real
2 estate appraiser shall not be issued to any person who
3 has not passed an examination administered through
4 the board.

5 An original certification as a state certified real
6 estate appraiser shall not be issued to any person who
7 has not passed an examination administered by the
8 board. The examination, administered by the board,
9 shall be consistent with the uniform state examination
10 for licensure or certification issued or endorsed by the
11 appraisal qualifications board of the appraisal
12 foundation.

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

§37-14-33. Renewal of license or certification.

1 To obtain a renewal of license or certification under
2 this article, the holder of a current, valid license or
3 certification shall make application and pay the
4 prescribed fee to the board no earlier than one
5 hundred twenty days nor later than thirty days prior
6 to the expiration date of the certification then held.
7 Each application for renewal shall be accompanied by
8 evidence in the form prescribed by the board that the
9 applicant has completed the continuing education
10 requirements for renewal specified in this article.

11 If the board determines that an applicant for
12 renewal has failed to meet the requirements for
13 renewal of license or certification through mistake,
14 misunderstanding, or circumstances beyond the con-
15 trol of the applicant, the board may extend the term
16 of the applicant's license or certification for a period
17 not to exceed six months upon payment by the
18 applicant of a prescribed fee for the extension. If the
19 applicant for renewal of license or certification satis-
20 fies the requirements for renewal during the exten-
21 sion period, the beginning date of his or her renewal
22 license or certificate shall be the day following the
expiration of the certificate previously held by the applicant.

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, within two years of the date that his or her certification expired.

§37-14-34. Basis for denial.

The board may deny the issuance of a license or certificate as a state licensed or certified real estate appraiser to an applicant on any ground enumerated in this article. Any applicant whose application for license or certification is denied may demand and shall be afforded a hearing pursuant to section seven of this article.

§37-14-35. Use of term “state licensed or certified real estate appraiser”.

The term “state certified real estate appraiser” or “state licensed real estate appraiser” may be used to refer only to an individual who is a state licensed or certified real estate appraiser under this article and may not be used following, or immediately in connection with, the name or signature of a firm, partnership, corporation, group, or in such manner that it might be interpreted as referring to a firm, partnership, corporation or group or to anyone other than the individual who is licensed or certified under this article. This requirement shall not be construed to prevent a state licensed or certified real estate appraiser from signing an appraisal report on behalf of a corporation, partnership, firm or group practice if it is clear that only the individual is licensed or certified and that the corporation, partnership, firm or group practice is not. A license or certificate may not be issued under the provisions of this article to a corpo-
ration, partnership, firm or group.


1 As a prerequisite to renewal of license or certification, a state licensed or certified real estate appraiser shall present evidence satisfactory to the board of having met the continuing education requirements of this section.

6 The basic continuing education requirement for renewal of license or certification shall be the completion by the applicant, during the immediately preceding term of licensure or certification, of not less than ten classroom hours of instruction per year in courses or seminars which have received the approval of the board.

13 In lieu of meeting the requirements set forth above, an applicant for relicensure or recertification may satisfy all or part of the requirements by presenting evidence of the following:

(a) Completion of an educational program of study determined by the board to be equivalent, for continuing education purposes, to courses or seminars approved by the board; or

(b) Participation other than as a student in educational processes and programs approved by the board which relate to real property appraisal theory, practices or techniques, including, but not necessarily limited to, teaching, program development and preparation of textbooks, monographs, articles and other instructional materials.

28 The board shall develop rules for the implementation of the provisions of this section to the end of assuring that an individual who renews his or her license or certification under this article has a working knowledge of current real estate appraisal theories, practices and techniques that will enable the individual to provide competent real estate appraisal services to the members of the public with whom such individual deals in a professional relationship under the authority of his or her license or certification. All rules
shall be promulgated pursuant to the provisions of
chapter twenty-nine-a of this code and shall prescribe
the following:

(1) Policies and procedures to be followed in approv-
al of courses of instruction and seminars;

(2) Standards, policies and procedures to be used in
evaluating an applicant's claim of equivalency;

(3) Standards, monitoring methods and systems for
recording attendance to be employed by course and
seminar sponsors as a prerequisite to approval of
courses and seminars for credit.

In developing and proposing rules pursuant to this
section, the board shall give consideration to courses of
instruction, seminars, and other appraisal education
programs developed by or under the auspices of
organizations or associations of professional real estate
appraisers which are utilized by such organizations or
associations for the purpose of awarding real estate
appraisal designations or indicating compliance with
the continuing education requirements of the organi-
izations or associations.

No amendment or repeal of a rule adopted by the
board pursuant to this section shall operate to deprive
a state licensed or certified real estate appraiser of
credit toward renewal of his or her license or certifi-
cation for any course of instruction or seminar that
has been completed by the state licensed or certified
real estate appraiser prior to the adoption of the rule.

On or after the first day of January, one thousand
nine hundred ninety-two, a license or certification as
a state licensed or certified real estate appraiser that
has been revoked or suspended as the result of a
disciplinary action taken by the board shall not be
reinstated unless the applicant for reinstatement
presents evidence that he or she has completed the
continuing education requirement that is provided in
this article for the renewal of license or certification.
This continuing education requirement shall not be
imposed upon an applicant for reinstatement who has
been required by the board to successfully complete the examination for state licensed or certified real estate appraiser required by section thirty-one of this article as a condition for reinstatement of certification.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Emmett G.reck
Chairman Senate Committee

Ernest E. Moore
Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Donald J. Kopf
Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 1st day of April, 1992.

Governor