

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1992



ENROLLED

SENATE BILL NO. 129

(By Senator Minard, et al)



PASSED March 7 1992

In Effect from Passage

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SECRETARY OF STATE

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 and thirty-six, 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 and thirty-six, 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
2 have the following meanings:

3 (a) "Appraisal" means an analysis, opinion or
4 conclusion prepared by a real estate appraiser relating
5 to the nature, quality, value or utility of specified
6 interests in, or aspects of, identified real estate or
7 identified real property. An appraisal may be classified
8 by the nature of the assignment as a valuation
9 appraisal, an analysis assignment, or a review assign-
10 ment. The term "valuation appraisal" refers to an
11 analysis, opinion or conclusion prepared by a real
12 estate appraiser that estimates the value of an identi-
13 fied parcel of real estate or identified real property at
14 a particular point in time. An "analysis assignment"
15 refers to an analysis, opinion or conclusion prepared
16 by a real estate appraiser that relates to the nature,
17 quality or utility of identified real estate or identified
18 real property. A "review assignment" refers to an
19 analysis, opinion or conclusion prepared by a real
20 estate appraiser that forms an opinion as to the
21 adequacy and appropriateness of a valuation appraisal
22 or an analysis assignment;

23 (b) "Appraisal foundation" means the appraisal
24 foundation established on the thirtieth day of Novem-
25 ber, one thousand nine hundred eighty-seven, as a
26 not-for-profit corporation under the laws of Illinois;

27 (c) "Appraisal report" means any communication,
28 written or oral, of an appraisal. An appraisal report
29 may be classified by the nature of the assignment as
30 a "valuation report", "analysis report" or "review
31 report". For the purposes of this article, the testimony
32 of an appraiser dealing with the appraiser's analyses,
33 conclusions or opinions concerning identified real
34 estate or identified real property is deemed to be an
35 oral appraisal report;

36 (d) "Board" means the real estate appraiser licens-

37 ing and certification board established by the provi-
38 sions of this article;

39 (e) "Certified appraisal report" means a written
40 appraisal report that is certified by a state licensed or
41 certified real estate appraiser. When a real estate
42 appraiser identifies an appraisal report as "certified",
43 the real estate appraiser must indicate the type of
44 licensure or certification he or she holds. By certifying
45 an appraisal report, a state licensed residential real
46 estate appraiser, a state certified general real estate
47 appraiser or a state certified residential real estate
48 appraiser, represents to the public that the report
49 meets the appraisal standards established by this
50 article;

51 (f) "Licensed real estate appraiser" means a person
52 who holds a current, valid license as a state licensed
53 residential real estate appraiser issued to him or her
54 under the provisions of this article;

55 (g) "Real estate" means an identified parcel or tract
56 of land, including improvements, if any;

57 (h) "Real estate appraisal activity" means the act or
58 process of making an appraisal of real estate or real
59 property and preparing an appraisal report;

60 (i) "Real estate appraiser" means a person who
61 engages in real estate appraisal activity for a fee or
62 other valuable consideration;

63 (j) "Real property interests" means one or more
64 defined interests, benefits or rights inherent in the
65 ownership of real estate; and

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

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

1 This article does not apply to:

2 (a) A real estate broker or salesperson licensed by

3 this state who, in the ordinary course of his or her
4 business, gives an opinion to a potential seller or third
5 party as to the recommended listing price of real
6 estate or an opinion to a potential purchaser or third
7 party as to the recommended purchase price of real
8 estate, when this opinion as to the listing price or the
9 purchase price is not to be referred to as an appraisal,
10 no opinion is rendered as to the value of the real
11 estate and no fee is charged;

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

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

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

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

39 (f) Any evaluation of the value of real estate serving
40 as collateral for a loan made by a financial institution
41 insured by the Federal Deposit Insurance Corporation:
42 *Provided*, That: (1) The amount of the loan is less than

43 fifty thousand dollars or such other amount not to
44 exceed one hundred thousand dollars established by
45 the federal deposit insurance corporation, the board of
46 governors of the federal reserve system, the office of
47 the comptroller of the currency or the office of thrift
48 supervision pursuant to authority granted under Title
49 XI of the United States Code, entitled "Financial
50 Institutions Reform, Recovery, and Enforcement Act
51 of 1989" applicable to a particular insured financial
52 institution as the level below which collateral evalua-
53 tions need not be performed by a licensed or certified
54 appraiser; (2) the evaluation is used solely by the
55 lender in its records to document the collateral value;
56 (3) the evaluation clearly indicates on its face that it is
57 for the lender's internal use only; (4) the evaluation
58 shall not be labeled an "appraisal"; and (5) the
59 evaluation be on a form approved by the board.
60 Individuals performing these evaluations may be
61 compensated for their services.

§37-14-14. Continuing education.

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

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

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

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

§37-14-28. Classification of licensure and certification.

1 There are three classifications of real estate
2 appraisers:

3 (a) *State licensed residential real estate appraiser.* —
4 The state licensed residential real estate appraiser
5 classification consists of those persons who meet the
6 requirements for licensure that relate to the appraisal
7 of: (1) Complex residential real estate of one to four
8 units having a value of less than two hundred fifty
9 thousand dollars; (2) noncomplex residential real
10 estate of one to four units having a value of less than
11 one million dollars; and (3) nonresidential real estate
12 having a value of less than one hundred thousand
13 dollars.

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

22 (c) *State certified general real estate appraiser.* —
23 The state certified general real estate appraiser
24 classification shall consist of those persons who meet
25 the requirements for certification relating to the
26 appraisal of all types of real estate.

27 The board is authorized to establish by rules pro-
28 mulgated pursuant to the provisions of chapter
29 twenty-nine-a of this code classes or classifications of
30 appraiser licensing not prohibited by applicable federal
31 law.

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

§37-14-29. Experience requirement.

1 An applicant for certification shall furnish the board
2 with a detailed listing of the real estate appraisal
3 reports or file memoranda for each year for which
4 experience is claimed by the applicant. Upon request,

5 the applicant shall make available to the board for
 6 examination a sample of appraisal reports which the
 7 applicant has prepared in the course of his or her
 8 practice. All information provided by an applicant
 9 shall be under oath or affirmation that the informa-
 10 tion provided is true and correct and the oath or
 11 affirmation shall be notarized.

§37-14-30. Qualifications.

1 (a) *Residential licensed classification.* — As a prereq-
 2 uisite to taking the examination for licensure as a state
 3 licensed residential real estate appraiser, an applicant
 4 shall present evidence satisfactory to the board that he
 5 or she has satisfied the criteria, including education
 6 and experience criteria, for licensure of licensed
 7 appraisers issued by the board pursuant to the provi-
 8 sions of chapter twenty-nine-a of this code.

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

21 (c) *Transitional license.* — The board may provide ^{Section} ~~subdivision~~ ^{DEH}
 22 for satisfying the requirements of subdivision (a) of
 23 this section with respect to either education require-
 24 ments or experience requirements, but not both
 25 education and experience requirements, and may
 26 issue a transitional license as a state licensed residen-
 27 tial real estate appraiser so long as: (1) All other
 28 criteria for licensure are satisfied; (2) the applicant
 29 passes the examination required pursuant to section
 30 thirty-one of this article; and (3) the educational
 31 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

23 expiration of the certificate previously held by the
24 applicant.

25 If a state licensed or certified real estate appraiser
26 under this article fails to renew his or her license or
27 certification prior to its expiration or within any
28 period of extension granted by the board pursuant to
29 this article, the applicant may obtain a renewal of his
30 or her license or certification by satisfying all of the
31 requirements for renewal and filing an application for
32 renewal, accompanied by a late renewal fee, within
33 two years of the date that his or her certification
34 expired.

§37-14-34. Basis for denial.

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

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

1 The term “state certified real estate appraiser” or
2 “state licensed real estate appraiser” may be used to
3 refer only to an individual who is a state licensed or
4 certified real estate appraiser under this article and
5 may not be used following, or immediately in connec-
6 tion with, the name or signature of a firm, partner-
7 ship, corporation, group, or in such manner that it
8 might be interpreted as referring to a firm, partner-
9 ship, corporation or group or to anyone other than the
10 individual who is licensed or certified under this
11 article. This requirement shall not be construed to
12 prevent a state licensed or certified real estate
13 appraiser from signing an appraisal report on behalf of
14 a corporation, partnership, firm or group practice if it
15 is clear that only the individual is licensed or certified
16 and that the corporation, partnership, firm or group
17 practice is not. A license or certificate may not be
18 issued under the provisions of this article to a corpo-

19 ration, partnership, firm or group.

§37-14-36. Continuing education requirement.

1 As a prerequisite to renewal of license or certifica-
2 tion, a state licensed or certified real estate appraiser
3 shall present evidence satisfactory to the board of
4 having met the continuing education requirements of
5 this section.

6 The basic continuing education requirement for
7 renewal of license or certification shall be the comple-
8 tion by the applicant, during the immediately preced-
9 ing term of licensure or certification, of not less than
10 ten classroom hours of instruction per year in courses
11 or seminars which have received the approval of the
12 board.

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

17 (a) Completion of an educational program of study
18 determined by the board to be equivalent, for continu-
19 ing education purposes, to courses or seminars
20 approved by the board; or

21 (b) Participation other than as a student in educa-
22 tional processes and programs approved by the board
23 which relate to real property appraisal theory, practi-
24 ces or techniques, including, but not necessarily
25 limited to, teaching, program development and prepa-
26 ration of textbooks, monographs, articles and other
27 instructional materials.

28 The board shall develop rules for the implementa-
29 tion of the provisions of this section to the end of
30 assuring that an individual who renews his or her
31 license or certification under this article has a working
32 knowledge of current real estate appraisal theories,
33 practices and techniques that will enable the individ-
34 ual to provide competent real estate appraisal services
35 to the members of the public with whom such individ-
36 ual deals in a professional relationship under the
37 authority of his or her license or certification. All rules

38 shall be promulgated pursuant to the provisions of
39 chapter twenty-nine-a of this code and shall prescribe
40 the following:

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

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

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

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

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

66 On or after the first day of January, one thousand
67 nine hundred ninety-two, a license or certification as
68 a state licensed or certified real estate appraiser that
69 has been revoked or suspended as the result of a
70 disciplinary action taken by the board shall not be
71 reinstated unless the applicant for reinstatement
72 presents evidence that he or she has completed the
73 continuing education requirement that is provided in
74 this article for the renewal of license or certification.
75 This continuing education requirement shall not be
76 imposed upon an applicant for reinstatement who has

77 been required by the board to successfully complete
78 the examination for state licensed or certified real
79 estate appraiser required by section thirty-one of this
80 article as a condition for reinstatement of certification.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Stomer Leck
.....
Chairman Senate Committee

Ernest E. Moore
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Harrell Edwards
.....
Clerk of the Senate

Donald G. Kopp
.....
Clerk of the House of Delegates

Keith Buntline
.....
President of the Senate

Bozell
.....
Speaker House of Delegates

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

Yaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/21/92

Time 4:40 pm