WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995

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ENROLLED

Com. Sub. for

HOUSE BILL No. 2097

(By Delegates Harris & Beane)

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Passed March 11, 1995

In Effect 90 Days From Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 2097

(BY DELEGATES FARRIS AND BEANE)

[Passed March 11, 1995; in effect ninety days from passage.]

AN ACT to amend and reenact sections four and five, article fourteen, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to circumstances under which the requirement that appraisements of property be performed by licensed or certified appraisers does not apply; increasing the value of real estate which certain financial institutions may consider to be potential collateral for a loan below which the requirement that an appraisement of the real estate be performed by a licensed or certified appraiser does not apply from one hundred thousand dollars to two hundred fifty thousand dollars; requiring that loan customers be notified of the financial institution's intention to use an evaluation rather than an appraisement of the real estate in such circumstance and provide the customer the opportunity to elect an evaluation by a certified or licensed appraiser; payment of the cost of such elected evaluation; increasing the membership of the real estate appraiser licensing and certification board from seven to nine members; increasing the number of members of the board who must be real estate appraisers having at least five years experience in appraisal as a principal line of
work immediately preceding their appointment from two to four members; and increasing the number of members which may be appointed to the board from each congressional district from one to two members.

Be it enacted by the Legislature of West Virginia:

That sections four and 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.

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

1 This article does not apply to:

2 (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;

3 (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;

4 (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;

5 (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 equal to or less than two hundred fifty thousand dollars; (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. The lender shall notify its customer if it intends to use an unlicensed evaluator and give that customer the opportunity to elect an evaluation, by a certified or licensed appraiser, the cost of which shall be paid as agreed between the lender and the customer.

§37-14-5. Board created; appointment, qualifications, terms, oath, etc., of members; quorum; meetings; when members are disqualified from participation; compensation; records; office space; personnel.

(a) There is hereby created 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. Each member shall be a resident of the state of West Virginia. Four members
shall be real estate appraisers having at least five years' experience in appraisal as a principal line of work immediately preceding their appointment, two members shall be selected from financial institutions having at least five years' experience in real estate lending, and three members who shall not be engaged in the practice of real estate appraisal, real estate brokerage or sales or have any financial interest in such practices. No member of the board may concurrently be a member of the West Virginia real estate commission. Not more than two appraiser members may be appointed from each congressional district.

(b) Appointments shall be for a three-year term, except of the members first appointed, three shall serve for two years and one for one year. Each real estate appraiser appointed after the first day of January, one thousand nine hundred ninety-one, shall have appraisal as their principal work and must be a state certified real estate appraiser under this article at the time of appointment and during the term of appointment. No member appointed shall serve for more than six consecutive years. Before entering upon the performance of his duties, each member shall subscribe to the oath required by section five, article four of the Constitution of this state. The governor shall, within sixty days following the occurrence of a vacancy on the board, fill the same by appointing a person for the unexpired term of, and meeting the same requirements for membership as, the person vacating said office. 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. A majority of the members of the board shall constitute a quorum. The board shall meet at least once in each calendar quarter on a date fixed by the board. 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 twenty-four hours' notice. No member shall participate in a proceeding before the board to which a corpora-
tion, partnership or unincorporated association is a party, and of which he is or was at any time in the preceding twelve months a director, officer, owner, partner, employee, member or stockholder. A member may disqualify himself from participation in a proceeding for any other cause deemed by him to be sufficient. Each member shall receive fifty dollars for each day or portion thereof spent in attending meetings of the board and shall be reimbursed for all reasonable and necessary expenses incurred incidental to his duties as a member of the board.

(d) The board shall keep an accurate record of all of its proceedings and make certificates thereupon as may be required by law.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

Speaker of the House of Delegates

The within ______________ this the ____________

day of ______________________, 1995.