

HB 2097

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SENATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

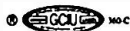
Com. Sub. for
HOUSE BILL No. 2097

(By Delegates Farris & Beane)



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

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

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

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

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

36 (f) Any evaluation of the value of real estate serving as
37 collateral for a loan made by a financial institution insured
38 by the federal deposit insurance corporation: *Provided*,
39 That: (1) The amount of the loan is equal to or less than
40 two hundred fifty thousand dollars; (2) the evaluation is
41 used solely by the lender in its records to document the
42 collateral value; (3) the evaluation clearly indicates on its
43 face that it is for the lender's internal use only; (4) the
44 evaluation shall not be labeled an "appraisal"; and (5) the
45 evaluation be on a form approved by the board. Individu-
46 als performing these evaluations may be compensated for
47 their services. The lender shall notify its customer if it
48 intends to use an unlicensed evaluator and give that cus-
49 tomer the opportunity to elect an evaluation, by a certified
50 or licensed appraiser, the cost of which shall be paid as
51 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 participa-
tion; compensation; records; office space; per-
sonnel.**

1 (a) There is hereby created the West Virginia real
2 estate appraiser licensing and certification board which
3 consists of nine members appointed by the governor with
4 the advice and consent of the Senate. Each member shall
5 be a resident of the state of West Virginia. Four members

6 shall be real estate appraisers having at least five years'
7 experience in appraisal as a principal line of work imme-
8 diately preceding their appointment, two members shall be
9 selected from financial institutions having at least five
10 years' experience in real estate lending, and three members
11 who shall not be engaged in the practice of real estate
12 appraisal, real estate brokerage or sales or have any finan-
13 cial interest in such practices. No member of the board
14 may concurrently be a member of the West Virginia real
15 estate commission. Not more than two appraiser members
16 may be appointed from each congressional district.

17 (b) Appointments shall be for a three-year term, ex-
18 cept of the members first appointed, three shall serve for
19 two years and one for one year. Each real estate appraiser
20 appointed after the first day of January, one thousand nine
21 hundred ninety-one, shall have appraisal as their principal
22 work and must be a state certified real estate appraiser
23 under this article at the time of appointment and during
24 the term of appointment. No member appointed shall
25 serve for more than six consecutive years. Before entering
26 upon the performance of his duties, each member shall
27 subscribe to the oath required by section five, article four
28 of the Constitution of this state. The governor shall, within
29 sixty days following the occurrence of a vacancy on the
30 board, fill the same by appointing a person for the unex-
31 pired term of, and meeting the same requirements for
32 membership as, the person vacating said office. Any
33 member may be removed by the governor in case of in-
34 competency, neglect of duty, gross immorality or malfea-
35 sance in office.

36 (c) The board shall elect a chairman. A majority of
37 the members of the board shall constitute a quorum. The
38 board shall meet at least once in each calendar quarter on
39 a date fixed by the board. The board may, upon its own
40 motion, or shall upon the written request of three members
41 of the board, call additional meetings of the board upon at
42 least twenty-four hours' notice. No member shall partici-
43 pate in a proceeding before the board to which a corpora-

44 tion, partnership or unincorporated association is a party,
45 and of which he is or was at any time in the preceding
46 twelve months a director, officer, owner, partner, employ-
47 ee, member or stockholder. A member may disqualify
48 himself from participation in a proceeding for any other
49 cause deemed by him to be sufficient. Each member shall
50 receive fifty dollars for each day or portion thereof spent
51 in attending meetings of the board and shall be reim-
52 bursed for all reasonable and necessary expenses incurred
53 incidental to his duties as a member of the board.

54 (d) The board shall keep an accurate record of all of
55 its proceedings and make certificates thereupon as may be
56 required by law.

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



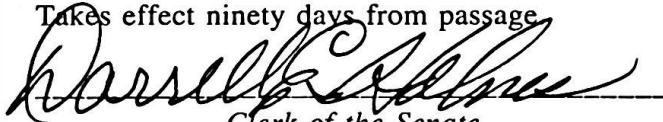
Chairman Senate Committee



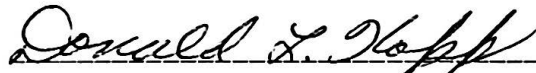
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.



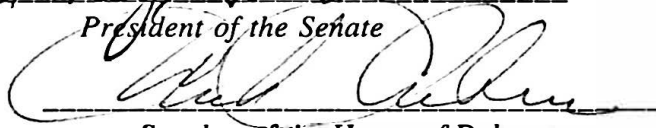
Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within _____ this the _____
day of _____, 1995.

Governor



PRESENTED TO THE

GOVERNOR

Date 3/24/95

Time 3:30 p.m.