

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

COMMITTEE SUBSTITUTE FOR  
HOUSE BILL NO. 2236

By: Isaac

COMMITTEE SUBSTITUTE

An Act relating to Certified Real Estate Appraisers; amending 59 O.S. 1991, Sections 858-703, as amended by Section 1, Chapter 132, O.S.L. 1992, 858-705, as amended by Section 3, Chapter 132, O.S.L. 1992, 858-708, as amended by Section 4, Chapter 132, O.S.L. 1992, 858-709, 858-710, as amended by Section 5, Chapter 132, O.S.L. 1992, 858-712, as amended by Section 7, Chapter 132, O.S.L. 1992, 858-713, as amended by Section 8, Chapter 132, O.S.L. 1992, 858-715, 858-716 and 858-722, as amended by Section 14, Chapter 132, O.S.L. 1992 (59 O.S. Supp. 1993, Sections 858-703, 858-705, 858-708, 858-710, 858-712, 858-713 and 858-722), which relate to the Oklahoma Certified Real Estate Appraisers Act; adding definition; modifying requirements for membership on Real Estate Appraiser Board; modifying fee for temporary practice; modifying conditions for grant of temporary certification; modifying requirements for certification of State Certified Residential Appraiser and State Certified General Appraiser; modifying requirements for taking certain examinations; modifying certain qualification for original certification; modifying provisions related to certification of non-residents; modifying conditions for obtaining certificate based upon qualification with other states; modifying requirements for renewal certification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 1991, Section 858-703, as amended by Section 1, Chapter 132, O.S.L. 1992 (59 O.S. Supp. 1993, Section 858-703), is amended to read as follows:

Section 858-703. As used in the Oklahoma Certified Real Estate Appraisers Act:

1. "Appraisal" or "real estate appraisal" means an analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate other than oil, gas, coal, water, and all other energy and nonfuel mineral and elements or the value of underground space to

be used for storage of commodities or for the disposal of waste unless they are appraised as part of a federally related transaction covered by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. An appraisal may be classified by subject matter into either a valuation or an analysis. A "valuation" is an estimate of the value of real estate or real property. An "analysis" is a study of real estate or real property other than estimating value.

2. "Appraisal report" means any written communication of an appraisal.

3. "Appraisal Subcommittee" means the subcommittee created by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

4. "Appraiser Qualifications Board" (AQB) means the independent board appointed by the Board of Trustees of the Appraisal Foundation. The AQB establishes educational, experience, and examination criteria for appraisers. Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989 requires that state certified appraisers must meet the minimum qualifications set by the AQB.

5. "Board" means the Real Estate Appraisal Board established pursuant to the provisions of the Oklahoma Certified Real Estate Appraisers Act.

~~5.~~ 6. "Certification" shall refer to either a state licensed appraiser, a state certified residential appraiser or a state certified general appraiser.

~~6.~~ 7. "Certified appraisal or certified appraisal report" means an appraisal or appraisal report given or signed and certified as such by a state licensed, state certified residential or state certified general real estate appraiser. When identifying an appraisal or appraisal report as "certified", the state licensed, state certified residential or state certified general real estate appraiser must indicate which type of certification is held. A certified appraisal or appraisal report represents to the public that it meets the appraisal standards defined in the Oklahoma Certified Real Estate Appraisers Act.

~~7.~~ 8. "Chairperson" means the chairperson of the Real Estate Appraisal Board.

~~8.~~ 9. "Department" means the Oklahoma Insurance Department.

~~9.~~ 10. "Real estate" means an identified parcel or tract of land, including improvements, if any.

~~10.~~ 11. "Real property" means one or more defined interests, benefits, and rights inherent in the ownership of real estate.

~~11.~~ 12. "State licensed, state certified residential or state certified general real estate appraiser" means a person who develops and communicates real estate appraisals and who holds a current, valid certificate issued to such person for either general or residential real estate pursuant to provisions of the Oklahoma Certified Real Estate Appraisers Act.

~~12.~~ 13. "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate.

~~13.~~ 14. "Specialized services" means those appraisal services which do not fall within the definition of appraisal assignment. The term "specialized services" may include valuation work and analysis work. Regardless of the intention of the client or employer, if the appraiser would be perceived by third parties or the public as acting as a disinterested third party in rendering an unbiased analysis, opinion or conclusion, the work is classified as an appraisal assignment and not "specialized services".

SECTION 2. AMENDATORY 59 O.S. 1991, Section 858-705, as amended by Section 3, Chapter 132, O.S.L. 1992 (59 O.S. Supp. 1993, Section 858-705), is amended to read as follows:

Section 858-705. A. There is hereby established as an adjunct to the Department an independent Real Estate Appraiser Board which shall consist of seven (7) regular members and one ex officio member. The ex officio member shall be the Insurance Commissioner. The seven (7) regular members shall be as follows:

one from the commercial banking industry; one from the savings and loan or credit union industry; one of whom shall be in the real estate sales industry; and four of whom shall be real estate appraisers with no nationally recognized organization having a plurality of members on the Board.

B. The Governor shall appoint the members of the Real Estate Appraiser Board.

C. Each real estate appraiser member of the Board appointed after July 1, 1991, or within twenty-four (24) months of the effective date of this act, whichever occurs first, must be a state licensed, state certified residential or state certified general real estate appraiser.

D. The term of each member shall be five (5) years; except that of the members first appointed, two shall serve for one (1) year, two shall serve for two (2) years, one shall serve for three (3) years, one shall serve for four (4) years, and one shall serve for five (5) years.

E. Members of the Board shall hold office until the appointment and qualification of their successors. No person shall serve as a member of the Board for more than two consecutive terms. The Governor may remove a member for inefficiency, neglect of duty, or malfeasance in office. The member shall be given notice and an opportunity to be heard prior to removal.

F. The Board shall meet at least once each calendar quarter to conduct its business. Written notice shall be given to each member of the time and place of each meeting of the Board at least ten (10) days before the scheduled date of the meetings.

G. The members of the Board shall elect a vice-chairperson from among the members to preside at Board meetings when the chairperson is absent.

H. A quorum of the Board shall be five (5) members.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 858-708, as amended by Section 4, Chapter 132, O.S.L. 1992 (59 O.S. Supp. 1993, Section 858-708), is amended to read as follows:

Section 858-708. A. The Insurance Department shall charge and collect fees not to exceed the following:

1. State Licensed Appraiser Certificate (annually)	\$150.00
2. State Certified General Appraiser Certificate (annually)	\$150.00
3. State Certified Residential Appraiser Certificate (annually)	\$150.00
4. State Licensed Appraiser Examination	\$150.00
5. State Certified General Appraiser Examination	\$150.00
6. State Certified Residential Appraiser Examination	\$150.00
7. Re-examination Fee	\$150.00
8. Late Fee	\$10.00
9. Reinstatement Fee	\$50.00
10. Duplicate for Lost or Destroyed Certificate	\$5.00
11. Temporary Practice Fee <u>Per Appraisal</u>	<del>\$200.00</del>
	<u>\$</u>
	<u>50.00</u>

B. The Insurance Department shall charge and collect a Federal Registry Fee of Twenty-five Dollars (\$25.00). Said fee shall be transmitted to the Federal Financial Institutions Examination Council.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 858-709, is amended to read as follows:

Section 858-709. A. Applications for original certification, renewal certification and examinations shall be made in writing to the Department on forms approved by the Board.

B. Appropriate fees, as fixed by the Department pursuant to Section 858-708 of this title, must accompany all applications for original certification, renewal certification and examination.

C. At the time of filing an application for certification, each applicant shall sign a pledge to comply with the standards set forth in the Oklahoma Certified Real Estate Appraisers Act, and state that such applicant understands the types of misconduct for which disciplinary proceedings may be initiated against an Oklahoma certified real estate appraiser, as set forth in the Oklahoma Certified Real Estate Appraisers Act.

D. In accordance with Section 3351 of Title 12 of the United States Code, the Board shall recognize, on a temporary basis, the

certification or license of an appraiser issued by another state if:

1. The property to be appraised is part of a federally related transaction, as defined in the federal real estate appraisal reform amendments;

2. The appraiser's business is of a temporary nature and certified by the appraiser ~~not to exceed ninety (90) days;~~

3. The appraiser registers the temporary practice with the Board and pays fees as provided herein; and

4. The appraiser resides in or is working out of a state that is also in compliance with Section 3351 of Title 12 of the United States Code, that recognizes, on a temporary basis, the certification or license of an Oklahoma appraiser in their state, or;

5. As otherwise approved by the Board.

E. The applicant or any person registering with the Board for temporary practice shall file an irrevocable consent that suits and actions may be commenced against such person:

1. In the proper court of any county of this state in which a cause of action may arise due to the person's actions as a state licensed or certified real estate appraiser; or

2. In the county in which the plaintiff may reside.

The consent also shall stipulate and agree that service of process or pleadings on the person shall be made by service upon the Board as the person's agent and held in all courts to be as valid and binding as if personal service had been made upon the applicant in Oklahoma. In case any processes or pleading mentioned in the case is served upon the Board, it shall be by duplicate copies, one of which shall be filed with the Board administrator and the other immediately forwarded by registered mail to the nonresident state licensed or certified real estate appraiser to whom the processes or pleadings are directed.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 858-710, as amended by Section 5, Chapter 132, O.S.L. 1992 (59 O.S. Supp. 1993, Section 858-710), is amended to read as follows:

Section 858-710. A. There shall be three classes for Oklahoma certified real estate appraisers:

1. State Licensed Appraiser shall consist of those persons meeting the requirements for certification relating to the appraisal of:

- a. noncomplex residential property up to a value of One Million Dollars (\$1,000,000.00);
- b. nonresidential property up to a value of Two Hundred Fifty Thousand Dollars (\$250,000.00); and
- c. complex residential up to Two Hundred Fifty Thousand Dollars (\$250,000.00).

2. State Certified Residential Appraiser ~~shall consist of those persons meeting the requirements for certification relating to the appraisal of all the properties which a state licensed appraiser may appraise, as provided for in paragraph 1 of this subsection, and residential real property of one to four units without regard to the value or complexity of the transaction as defined by the Appraiser Qualifications Board of the Appraisal Foundation.~~

3. State Certified General Appraiser ~~shall consist of those persons meeting the requirements for certification relating to the appraisal of all types of real property as defined by the Appraiser Qualifications Board of the Appraisal Foundation.~~

B. The application for original certification, renewal certification and examination shall specify the classification of certification being applied for and previously granted.

SECTION 6. AMENDATORY 59 O.S. 1991, Section 858-712, as amended by Section 7, Chapter 132, O.S.L. 1992 (59 O.S. Supp. 1993, Section 858-712), is amended to read as follows:

Section 858-712. A. State Certified General Appraiser - As a prerequisite to taking the examination for certification as a State Certified General Appraiser, an applicant shall present satisfactory evidence to the Board that such applicant has successfully completed ~~not less than one hundred sixty-five (165)~~ the minimum requirement of classroom hours promulgated by the Appraiser Qualifications Board of the Appraisal Foundation of

courses in subjects related to real estate appraisal from a nationally recognized appraisal organization or college or university or area vocational-technical school or private school approved by the Board and such classes shall be made available on a regional basis throughout the State of Oklahoma prior to the required examination date with the cost of the classes being established by the Board which must include classroom hours related to standards of professional practice.

B. State Certified Residential Appraiser - As a prerequisite to taking the examination for certification as a State Certified Residential Appraiser, an applicant shall present satisfactory evidence to the Board that such applicant has successfully completed ~~not less than one hundred five (105)~~ the minimum requirement of classroom hours promulgated by the Appraiser Qualifications Board of the Appraisal Foundation of courses, ~~which may include the seventy-five (75) classroom hours requirement for the State Licensed Appraiser,~~ in subjects related to real estate appraisal from a nationally recognized appraisal organization or college or university or area vocational-technical school or private school approved by the Board and such classes shall be made available on a regional basis throughout this state prior to the required examination date with the cost of the classes being established by the Board which must include classroom hours related to standards of professional practice. ~~Beginning January 1, 1994, all applicants must have successfully completed one hundred sixty-five (165) classroom hours of courses in subjects related to real estate appraisals which are approved by the Board.~~

C. State Licensed Appraiser - As a prerequisite to taking the examination for certification as a State Licensed Appraiser, an applicant shall present satisfactory evidence to the Board that such applicant has successfully completed not less than seventy-five (75) classroom hours of courses in subjects related to real estate appraisal from a nationally recognized appraisal organization or a college or university or area vocational-technical school or private school approved by the Board and such classes shall be made available on a regional basis throughout the

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State of Oklahoma prior to the required examination date with the cost of the classes being established by the Board which must include classroom hours related to standards of professional practice.

SECTION 7. AMENDATORY 59 O.S. 1991, Section 858-713, as amended by Section 8, Chapter 132, O.S.L. 1992 (59 O.S. Supp. 1993, Section 858-713), is amended to read as follows:

Section 858-713. A. An original certification as a state certified general or a state certified residential appraiser shall not be issued to any person who does not possess the equivalent of ~~two (2) years' experience~~ the minimum requirements of experience promulgated by the Appraisal Qualifications Board of the Appraisal Foundation in real property appraisal supported by adequate written reports or file memoranda. Provided, there shall be no experience requirement for a state licensed appraiser.

B. Each applicant for certification as a state certified general or a state certified residential appraiser shall furnish under oath 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 that applicant's appraisal practice.

SECTION 8. AMENDATORY 59 O.S. 1991, Section 858-715, is amended to read as follows:

Section 858-715. A. Every applicant for certification pursuant to the provisions of the Oklahoma Certified Real Estate Appraisers Act who is not a resident of this state shall submit, with the application for certification, an irrevocable consent that service of process upon the applicant may be made by delivery of the process to the Secretary of State if, in an action against the applicant in a court of this state arising out of the applicant's activities as an Oklahoma certified real estate appraiser, the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant.

B. ~~A nonresident of this state who has complied with the provisions of subsection A of this section may obtain a certificate as an Oklahoma certified real estate appraiser by conforming to all of the provisions of the Oklahoma Certified Real Estate Appraisers Act relating to Oklahoma certified real estate appraisers.~~

C. Nonresidents of this state may make certified appraisals in this state only if the appraiser is certified in a state with a reciprocity agreement to recognize the certification of appraisers from Oklahoma.

SECTION 9. AMENDATORY 59 O.S. 1991, Section 858-716, is amended to read as follows:

Section 858-716. If, in the determination by the Board, another state is deemed to have substantially equivalent certification requirements, an applicant who is certified under the laws of such other state may obtain a certificate as an Oklahoma certified real estate appraiser upon such terms and conditions as may be determined by the Board provided they are ~~not~~ under suspension or a resident of Oklahoma in good standing with the state in which they hold a current certification and have become a resident of Oklahoma.

SECTION 10. AMENDATORY 59 O.S. 1991, Section 858-722, as amended by Section 14, Chapter 132, O.S.L. 1992 (59 O.S. Supp. 1993, Section 858-722), is amended to read as follows:

Section 858-722. A. As a prerequisite to renewal of certification, a state licensed, state certified residential or state certified general real estate appraiser shall present evidence satisfactory to the Board of having met the continuing education requirements of this section.

B. The basic continuing education requirement of renewal of certification shall be the completion by the applicant, during the immediately preceding term of certification, of ~~not less than thirty (30) classroom hours of instruction in courses or seminars which have received the approval of the Board~~ the minimum number of classroom hours of instruction in courses or seminars according

to the guidelines promulgated by the Appraiser Qualifications Board.

C. In lieu of meeting the requirements of subsection B of this section, an applicant for recertification may satisfy all or part of the requirements by presenting evidence of the following:

1. Completion of an educational program of study determined by the Board to be equivalent, for continuing education purposes, to courses approved by the Board pursuant to subsection B of this section; or

2. 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.

D. The Board shall adopt regulations for implementation of the provisions of this section assuring that persons renewing their certifications as state licensed, state certified residential or state certified general real estate appraisers have current knowledge of real property appraisal theories, practices, and techniques which will provide a high degree of service and protection to those members of the public with whom they deal in a professional relationship under authority of the certification. The regulations shall prescribe the following:

1. Policies and procedures for obtaining Board approval of courses of instruction pursuant to subsection B of this section;

2. Standards, policies, and procedures to be applied by the Board in evaluating applicant's claims of equivalency in accordance with subsection C of this section;

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

E. No amendment or repeal of a regulation adopted by the Board pursuant to this section shall operate to deprive a state licensed, state certified residential or state certified general real estate appraiser of credit toward renewal of certification

for any course of instruction completed by the applicant prior to the amendment or repeal of the regulation which would have qualified for continuing education credit under the regulation as it existed prior to the repeal or amendment.

F. Commencing thirty (30) days after the effective date of this act, a certification as a state licensed, state certified residential or state certified general real estate appraiser that has been revoked as a result of disciplinary action by the Board shall not be reinstated unless the applicant presents evidence of completion of the continuing education required pursuant to the provisions of the Oklahoma Real Estate Appraisers Act. This requirement of evidence of continuing education shall not be imposed upon an applicant for reinstatement who has been required to successfully complete the examination for state licensed, state certified residential or state certified general real estate appraiser as a condition to reinstatement of certification.

SECTION 11. This act shall become effective September 1, 1994.

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