

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION BY SENATE

FLOOR AMENDMENT

No. _____

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 1528, Page 1, Line 11 ½,

as follows:

By inserting a new SECTION 1 to read as per attached, by renumbering subsequent sections, and by amending the title to conform.

Submitted by:

Senator Anderson

Anderson-LKS-FA-SB1528

4/23/2008 1:17 PM

SECTION 1. AMENDATORY 59 O.S. 2001, Section 858-723, as amended by Section 11, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2007, Section 858-723), is amended to read as follows:

Section 858-723. A. The Real Estate Appraiser Board, after notice and opportunity for a hearing, pursuant to Article II of the Administrative Procedures Act, may issue an order imposing one or more of the following penalties whenever the Board finds, by clear and convincing evidence, that a certificate holder has violated any provision of the Oklahoma Certified Real Estate Appraisers Act, or rules promulgated pursuant thereto:

1. Revocation of the certificate with or without the right to reapply;
2. Suspension of the certificate for a period not to exceed five (5) years;
3. Probation, for a period of time and under such terms and conditions as deemed appropriate by the Board;
4. Stipulations, limitations, restrictions, and conditions relating to practice;
5. Censure, including specific redress, if appropriate;
6. Reprimand, either public or private;
7. Satisfactory completion of an educational program or programs;
8. Administrative fines as authorized by the Oklahoma Certified Real Estate Appraisers Act; and

9. Payment of costs expended by the Board for any legal fees and costs and probation and monitoring fees including, but not limited to, administrative costs, witness fees and attorney fees.

B. 1. Any administrative fine imposed as a result of a violation of the Oklahoma Certified Real Estate Appraisers Act or the rules of the Board promulgated pursuant thereto shall not:

- a. be less than Fifty Dollars (\$50.00) and shall not exceed Two Thousand Dollars (\$2,000.00) for each violation of this act or the rules of the Board, or
- b. exceed Five Thousand Dollars (\$5,000.00) for all violations resulting from a single incident or transaction.

2. All administrative fines shall be paid within thirty (30) days of notification of the certificate holder by the Board of the order of the Board imposing the administrative fine, unless the certificate holder has entered into an agreement with the Board extending the period for payment.

3. The certificate may be suspended until any fine imposed upon the licensee by the Board is paid.

4. Unless the certificate holder has entered into an agreement with the Board extending the period for payment, if fines are not paid in full by the licensee within thirty (30) days of the notification by the Board of the order, the fines shall double and the certificate holder shall have an additional thirty-day period. If the double fine is not paid within the additional thirty-day period, the certificate shall automatically be revoked.

5. All monies received by the Board as a result of the imposition of the administrative fine provided for in this section shall be deposited in the Oklahoma Certified Real Estate Appraisers Revolving Fund created pursuant to Section 858-730 of this title.

C. The rights of any holder under a certificate as a trainee, state licensed, state certified residential or state certified general real estate appraiser may be revoked or suspended, or the holder of the certificate may be otherwise disciplined pursuant to the provisions of the Oklahoma Certified Real Estate Appraisers Act, upon any of the grounds set forth in this section. The Board may investigate the actions of a trainee, state licensed, state certified residential or state certified general real estate appraiser, and may revoke or suspend the rights of a certificate holder or otherwise discipline a trainee, state licensed, state certified residential or state certified general real estate appraiser for any of the following acts or omissions:

1. Procuring or attempting to procure a certificate pursuant to the provisions of the Oklahoma Certified Real Estate Appraisers Act by knowingly making a false statement, knowingly submitting false information, refusing to provide complete information in response to a question in an application for certification or through any form of fraud or misrepresentation;

2. Failing to meet the minimum qualifications established pursuant to the provisions of the Oklahoma Certified Real Estate Appraisers Act;

3. Paying money other than provided for by the Oklahoma Certified Real Estate Appraisers Act to any member or employee of the Board to procure a certificate pursuant to the Oklahoma Certified Real Estate Appraisers Act;

4. A conviction, including a conviction based upon a plea of guilty or nolo contendere, of a felony which is substantially related to the qualifications, functions, and duties of a person developing real estate appraisals and communicating real estate appraisals to others;

5. An act or omission involving dishonesty, fraud, or misrepresentation with the intent to substantially benefit the certificate holder or another person or with the intent to substantially injure another person;

6. Violation of any of the standards for the development or communication of real estate appraisals as provided in the Oklahoma Certified Real Estate Appraisers Act;

7. Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal;

8. Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;

9. Willfully disregarding or violating any of the provisions of the Oklahoma Certified Real Estate Appraisers Act or the regulations of the Board for the administration and enforcement of the provisions of the Oklahoma Certified Real Estate Appraisers Act;

10. Accepting an appraisal assignment when the employment itself is contingent upon the appraiser reporting a predetermined estimate, analysis or opinion, or where the fee to be paid is contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment;

11. Violating the confidential nature of governmental records to which the appraiser gained access through employment or engagement as an appraiser by a governmental agency;

12. Entry of a final civil judgment against the person on grounds of deceit, fraud, or willful or knowing misrepresentation in the making of any appraisal of real property;

13. Violating any of the provisions in the code of ethics set forth in this act; or

14. Failing to at any time properly identify themselves according to the specific type of certification held.

D. In a disciplinary proceeding based upon a civil judgment, the trainee, state licensed, state certified residential or state certified general real estate appraiser shall be afforded an opportunity to present matters in mitigation and extenuation, but may not collaterally attack the civil judgment.

E. 1. A ~~complaint~~ grievance may be filed with the Board against a trainee or state licensed or state certified appraiser for any violations relating to a specific transaction of the Oklahoma Certified Real Estate Appraisers Act by any person who is the recipient of, relies upon or uses an appraisal prepared for a

federally related transaction or real-estate-related financial transaction as described in Section 858-701 of this title.

2. Any person with knowledge of any circumstances surrounding an act or omission by a trainee or state licensed or state certified appraiser involving fraud, dishonesty or misrepresentation in any real property valuation-related activity, not limited to federally related transactions, may file a ~~complaint~~ grievance with the Board setting forth all facts surrounding the act or omission.

3. A ~~complaint~~ grievance may be filed against a trainee or state licensed or state certified appraiser directly by the Board, if reasonable cause exists for violations of the code of ethics set forth in this act.

4. Any ~~complaint~~ grievance filed pursuant to this subsection shall be in writing ~~and signed by the person filing same and shall be~~ on a form approved by the Board. The trainee or state licensed or state certified appraiser shall be entitled to any hearings or subject to any disciplinary proceedings provided for in the Oklahoma Certified Real Estate Appraisers Act based upon any complaint filed pursuant to this subsection.