

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1185

By: Anderson

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5
6 AS INTRODUCED

7 An Act relating to professions and occupations;
8 amending 59 O.S. 2001, Section 858-723, as amended by
9 Section 11, Chapter 165, O.S.L. 2006 (59 O.S. Supp.
10 2007, Section 858-723), which relates to appraisers
11 and disciplinary proceedings, penalties, grounds,
12 civil judgment as basis and complaints; providing for
13 certain anonymous complaints; and providing an
14 effective date.

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

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

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

- 1 1. Revocation of the certificate with or without the right to
- 2 reapply;
- 3 2. Suspension of the certificate for a period not to exceed
- 4 five (5) years;
- 5 3. Probation, for a period of time and under such terms and
- 6 conditions as deemed appropriate by the Board;
- 7 4. Stipulations, limitations, restrictions, and conditions
- 8 relating to practice;
- 9 5. Censure, including specific redress, if appropriate;
- 10 6. Reprimand, either public or private;
- 11 7. Satisfactory completion of an educational program or
- 12 programs;
- 13 8. Administrative fines as authorized by the Oklahoma Certified
- 14 Real Estate Appraisers Act; and
- 15 9. Payment of costs expended by the Board for any legal fees
- 16 and costs and probation and monitoring fees including, but not
- 17 limited to, administrative costs, witness fees and attorney fees.
- 18 B. 1. Any administrative fine imposed as a result of a
- 19 violation of the Oklahoma Certified Real Estate Appraisers Act or
- 20 the rules of the Board promulgated pursuant thereto shall not:
- 21 a. be less than Fifty Dollars (\$50.00) and shall not
- 22 exceed Two Thousand Dollars (\$2,000.00) for each
- 23 violation of this act or the rules of the Board, or
- 24

1 b. exceed Five Thousand Dollars (\$5,000.00) for all
2 violations resulting from a single incident or
3 transaction.

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

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

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

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

22 C. The rights of any holder under a certificate as a trainee,
23 state licensed, state certified residential or state certified
24 general real estate appraiser may be revoked or suspended, or the

1 holder of the certificate may be otherwise disciplined pursuant to
2 the provisions of the Oklahoma Certified Real Estate Appraisers Act,
3 upon any of the grounds set forth in this section. The Board may
4 investigate the actions of a trainee, state licensed, state
5 certified residential or state certified general real estate
6 appraiser, and may revoke or suspend the rights of a certificate
7 holder or otherwise discipline a trainee, state licensed, state
8 certified residential or state certified general real estate
9 appraiser for any of the following acts or omissions:

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

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

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

23 4. A conviction, including a conviction based upon a plea of
24 guilty or nolo contendere, of a felony which is substantially

1 related to the qualifications, functions, and duties of a person
2 developing real estate appraisals and communicating real estate
3 appraisals to others;

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

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

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

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

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

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

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

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

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

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

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

16 E. 1. A complaint may be filed with the Board against a
17 trainee or state licensed or state certified appraiser for any
18 violations relating to a specific transaction of the Oklahoma
19 Certified Real Estate Appraisers Act by any person who is the
20 recipient of, relies upon or uses an appraisal prepared for a
21 federally related transaction or real-estate-related financial
22 transaction as described in Section 858-701 of this title.

23 2. Any person with knowledge of any circumstances surrounding
24 an act or omission by a trainee or state licensed or state certified

1 appraiser involving fraud, dishonesty or misrepresentation in any
2 real property valuation-related activity, not limited to federally
3 related transactions, may file a complaint with the Board setting
4 forth all facts surrounding the act or omission.

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

9 4. Any complaint filed pursuant to this subsection shall be in
10 writing on a form approved by the Board and shall be either signed
11 by the person filing same and shall be on a form approved by the
12 Board the complaint or made anonymously. The trainee or state
13 licensed or state certified appraiser shall be entitled to any
14 hearings or subject to any disciplinary proceedings provided for in
15 the Oklahoma Certified Real Estate Appraisers Act based upon any
16 complaint filed pursuant to this subsection.

17 SECTION 2. This act shall become effective November 1, 2008.

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