

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 53rd Legislature (2011)

4 HOUSE BILL 1831

 By: Mulready

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6
7 AS INTRODUCED

8
9 An Act relating to professions and occupations;
10 amending 59 O.S. 2001, Sections 858-702 and 858-703,
11 as amended by Sections 1 and 2, Chapter 165, O.S.L.
12 2006, 858-705.1, 858-706, 858-708, 858-709, 858-711,
13 858-712, as amended by Sections 4, 5, 7 and 8,
14 Chapter 165, O.S.L. 2006, 858-713, 858-714, 858-715,
15 858-722, 858-723, 858-724, 858-725, 858-726 and 858-
16 732, as amended by Sections 10, 11, 12, 13, 14 and
17 15, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010,
18 Sections 858-702, 858-703, 858-708, 858-709, 858-711,
19 858-712, 858-722, 858-723, 858-724, 858-725, 858-726
20 and 858-732), which relate to the Oklahoma Certified
21 Real Estate Appraisers Act; modifying application of
22 act; modifying definitions; modifying duties of
23 chairperson; modifying powers and duties of the
24 board; modifying federal registry fee; modifying
 application for temporary permit; modifying
 requirements for original certification; modifying
 examination for certification; modifying minimum
 experience requirements; modifying applications of
 nonresidents; modifying continuing education
 requirements; modifying penalties; expanding scope of
 certain notice; modifying procedure and venue for
 review of final order; modifying scope of certain
 standards; stating legislative intent; modifying code
 of ethics; and providing an effective date.

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

2 SECTION 1. AMENDATORY 59 O.S. 2001, Section 858-702, as
3 amended by Section 1, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010,
4 Section 858-702), is amended to read as follows:

5 Section 858-702. A. This act shall only apply to:

6 1. Any appraisal or appraiser involving the following:

7 a. a federally related transaction,

8 b. real estate-related financial transactions of the
9 agencies, instrumentalities, and federally recognized
10 entities covered by the Financial Institutions Reform,
11 Recovery, and Enforcement Act of 1989, and

12 c. any real estate-related transactions where an
13 appraisal report or appraisal review report was made
14 under a written agreement that the appraisal report or
15 appraisal review report would follow the Uniform
16 Standards of Professional Appraisal Practice
17 guidelines or where a written appraisal report or
18 appraisal review report states that it is in
19 compliance with the Uniform Standards of Professional
20 Appraisal Practice; and

21 2. Appraisers certified or licensed pursuant to the Oklahoma
22 Certified Real Estate Appraisers Act or representing themselves as
23 such, whether such license or certification is active, inactive,

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1 expired, suspended, or revoked as set forth in this act and the
2 rules and regulations promulgated pursuant thereto, to the extent
3 that the appraisers and any real property valuation and any real
4 property valuation activity performed by them shall conform to the
5 code of ethics as set forth in this act.

6 B. Certified public accountants, licensed in the states or
7 other U.S. jurisdictions, who perform appraisals of real estate
8 incidental to the performance of professional services they provide
9 to clients are excluded from the licensing and certification
10 provisions of the Oklahoma Certified Real Estate Appraisers Act
11 unless the appraisal is a federally related transaction or a real
12 estate-related financial transaction of the agencies,
13 instrumentalities and federally recognized entities covered by the
14 Financial Institutions, Reform, Recovery and Enforcement Act of
15 1989.

16 SECTION 2. AMENDATORY 59 O.S. 2001, Section 858-703, as
17 amended by Section 2, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010,
18 Section 858-703), is amended to read as follows:

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

21 1. "Appraisal" or "real estate appraisal" means an analysis,
22 opinion or conclusion relating to the nature, quality, value or
23 utility of specified interests in, or aspects of, identified real

1 estate other than oil, gas, coal, water, and all other energy and
2 nonfuel mineral and elements or the value of underground space to be
3 used for storage of commodities or for the disposal of waste unless
4 they are appraised as part of a federally related transaction
5 covered by the Financial Institutions Reform, Recovery, and
6 Enforcement Act of 1989. An appraisal may be classified by subject
7 matter into either a valuation or an analysis. A "valuation" is an
8 estimate of the value of real estate or real property. An
9 "analysis" is a study of real estate or real property other than
10 estimating value;

11 2. "Appraisal report" means any written or oral communication
12 of an appraisal;

13 3. "Appraisal review" means the act or process of developing
14 and communicating an opinion about the quality of another
15 appraiser's work that was performed as part of an appraisal or
16 appraisal review assignment;

17 4. "Appraisal review report" means any written or oral
18 communication of an appraisal review;

19 5. "Appraisal Subcommittee" means the subcommittee created by
20 Title XI of the Financial Institutions Reform, Recovery, and
21 Enforcement Act of 1989;

22 ~~4.~~ 6. "Appraiser Qualifications Board" (AQB) means the
23 independent board appointed by the Board of Trustees of the
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1 Appraisal Foundation. The AQB establishes educational, experience,
2 and examination criteria for appraisers. Title XI of the Financial
3 Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989
4 requires that state certified appraisers must meet the minimum
5 qualifications set by the AQB;

6 ~~5-~~ 7. "Board" means the Real Estate Appraiser Board established
7 pursuant to the provisions of the Oklahoma Certified Real Estate
8 Appraisers Act;

9 ~~6-~~ 8. "Certification" shall refer to either a trainee
10 appraiser, a state licensed appraiser, a state certified residential
11 appraiser or a state certified general appraiser;

12 ~~7-~~ 9. "Certified appraisal or certified appraisal report" means
13 an appraisal or appraisal report given or signed and certified as
14 such by a trainee appraiser, a state licensed, state certified
15 residential or state certified general real estate appraiser. When
16 identifying an appraisal or appraisal report as "certified", the
17 trainee, state licensed, state certified residential or state
18 certified general real estate appraiser must indicate which type of
19 certification is held. A certified appraisal or appraisal report
20 represents to the public that it meets the appraisal standards
21 defined in the Oklahoma Certified Real Estate Appraisers Act;

22 ~~8-~~ 10. "Chairperson" means the chairperson of the Real Estate
23 Appraiser Board;

1 ~~9.~~ 11. "Department" means the Oklahoma Insurance Department;

2 ~~10.~~ 12. "Grievance" means a written articulation of allegations
3 of violations of this act by a certificate holder, course provider,
4 or instructor to include any supporting documents;

5 13. "Real estate" means an identified parcel or tract of land,
6 including improvements, if any;

7 ~~11.~~ 14. "Real property" means one or more defined interests,
8 benefits, and rights inherent in the ownership of real estate;

9 ~~12.~~ 15. "Trainee, state licensed, state certified residential
10 or state certified general real estate appraiser" means a person who
11 develops and communicates real estate appraisals and who holds a
12 current, valid certificate issued to such person for either general
13 or residential real estate pursuant to provisions of the Oklahoma
14 Certified Real Estate Appraisers Act;

15 ~~13.~~ 16. "Appraisal assignment" means an engagement for which an
16 appraiser is employed or retained to act, or would be perceived by
17 third parties or the public as acting, as a disinterested third
18 party in rendering an unbiased analysis, opinion, or conclusion
19 relating to the nature, quality, value, or utility of specified
20 interests in, or aspects of, identified real estate; and

21 ~~14.~~ 17. "Specialized services" means those appraisal services
22 which do not fall within the definition of appraisal assignment.
23 The term "specialized services" may include valuation work and

1 analysis work. Regardless of the intention of the client or
2 employer, if the appraiser would be perceived by third parties or
3 the public as acting as a disinterested third party in rendering an
4 unbiased analysis, opinion or conclusion, the work is classified as
5 an appraisal assignment and not "specialized services".

6 SECTION 3. AMENDATORY 59 O.S. 2001, Section 858-705.1,
7 is amended to read as follows:

8 Section 858-705.1 A. In addition to the seven (7) appointed
9 members of the Board, the Insurance Commissioner shall serve as ex-
10 officio Chairperson of the Board, voting only in case of a tie.

11 B. As Chairperson, the Insurance Commissioner, in addition to
12 his duties prescribed by law as Insurance Commissioner on the
13 effective date of this act, shall be required to perform the
14 following duties, for which duties he shall be paid an additional
15 Twelve Thousand Dollars (\$12,000.00) annually, payable monthly from
16 appropriations made to the Insurance Department:

- 17 1. Keep records of the proceedings of the Board;
- 18 2. Call special meetings of the Board when in the judgment of
19 the chairperson it is necessary or proper to do so;
- 20 3. Procure appropriate examination questions and answers which
21 shall meet criteria established by the Appraisal Subcommittee and
22 approved by the Board;

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1 4. Develop guidelines for administration of and grading of the
2 examinations in accordance with standards promulgated by the
3 Appraisal Subcommittee and approved by the Board;

4 5. Prepare and file a annual report with the Speaker of the
5 House, the President Pro Tempore of the Senate, and the Governor
6 detailing the number of applicants for the examination and the
7 pass/fail rate;

8 6. Formulate a study to evaluate the number of appraisers
9 licensed or certified by the state on a countywide basis and report
10 to the Speaker of the House, the President Pro Tempore of the
11 Senate, and the Governor concerning whether there is a shortage of
12 qualified appraisers in the state;

13 7. Establish and maintain a recordkeeping system approved by
14 the Board to monitor compliance with the continuing education
15 requirements imposed by law;

16 8. Make recommendations to the Board concerning the
17 establishment of administrative procedures for conducting
18 disciplinary proceedings pursuant to the provisions of this act;

19 9. Develop a procedure approved by the Board whereby persons
20 aggrieved by the actions of a licensed or certified appraiser may
21 file ~~complaints~~ grievances with the Board;

22 10. Annually compile and file a report with the Speaker of the
23 House, President Pro Tempore of the Senate, and the Governor

1 detailing the number of ~~complaints~~ grievances received by the Board,
2 the resulting number of investigations and hearings conducted and
3 the final disposition of these matters;

4 11. Prepare and file a report with the Speaker of the House,
5 the President Pro Tempore of the Senate, and the Governor evaluating
6 the impact of the voluntary licensure/certification program on
7 future appraisers and recommend whether an appraiser trainee or
8 apprenticeship program should be instituted; and

9 12. Submit to the Speaker of the House, the President Pro
10 Tempore of the Senate, and the Governor on or before January 1,
11 1994, a report evaluating the impact of the licensure/certification
12 requirements imposed by this act on the appraiser and banking
13 industry and include in the report any recommendations for
14 amendments to the Oklahoma Certified Real Estate Appraisers Act.

15 SECTION 4. AMENDATORY 59 O.S. 2001, Section 858-706, is
16 amended to read as follows:

17 Section 858-706. A. The Board shall promulgate rules and
18 regulations to implement the provisions of the Oklahoma Certified
19 Real Estate Appraisers Act.

20 B. The Board shall have the following powers and duties:

21 1. To further define by regulation and with respect to each
22 category of Oklahoma certified real estate appraisers the type of
23 educational experience, appraisal experience, and equivalent

1 experience that will meet the requirements of the Oklahoma Certified
2 Real Estate Appraisers Act, as approved by the Appraisal
3 Subcommittee;

4 2. To establish the examination specifications for each
5 category of Oklahoma certified real estate appraiser;

6 3. To approve or disapprove applications for certification and
7 issue certificates;

8 4. To further define by regulation and with respect to each
9 category of Oklahoma certified real estate appraiser, the continuing
10 education requirements for the renewal of certification that will
11 meet the requirements of the Oklahoma Certified Real Estate
12 Appraisers Act as approved by the Appraisal Subcommittee;

13 5. To review from time to time the standards for the
14 development and communication of real estate appraisals provided in
15 the Oklahoma Certified Real Estate Appraisers Act and to adopt
16 regulations explaining and interpreting the standards;

17 6. To establish standards and criteria for approving and
18 withdrawing approval of course providers, instructors, and courses;

19 7. To establish administrative procedures for disciplinary
20 proceedings conducted pursuant to the provisions of the Oklahoma
21 Certified Real Estate Appraisers Act;

22 ~~7.~~ 8. To censure, suspend and revoke appraiser certificates,
23 course provider approvals, and instructor approvals pursuant to the

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1 disciplinary proceedings provided in the Oklahoma Certified Real
2 Estate Appraisers Act; and

3 ~~8.~~ 9. To perform such other functions and duties as may be
4 necessary in carrying out the provisions of the Oklahoma Certified
5 Real Estate Appraisers Act.

6 In the exercise of all powers and the performance of all duties
7 provided in this act, the Board shall comply with the procedures
8 provided in the Administrative Procedures Act.

9 C. Actions of the Board shall not be subject to review by the
10 Department.

11 D. The members of the Board shall not be held civilly liable
12 for any action taken in good faith by the Board in its official
13 capacity pursuant to law unless such action is arbitrary and
14 capricious.

15 SECTION 5. AMENDATORY 59 O.S. 2001, Section 858-708, as
16 amended by Section 4, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010,
17 Section 858-708), is amended to read as follows:

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

- | | | |
|----|----------------------------------|----------|
| 20 | 1. Trainee Appraiser Certificate | |
| 21 | (annually) | \$300.00 |
| 22 | 2. State Licensed Appraiser | |
| 23 | Certificate (annually) | \$300.00 |

1	3. State Certified General Appraiser	
2	Certificate (annually)	\$300.00
3	4. State Certified Residential Appraiser	
4	Certificate (annually)	\$300.00
5	5. State Licensed	
6	Appraiser Examination	\$150.00
7	6. State Certified General Appraiser Examination	\$150.00
8	7. State Certified Residential Appraiser	
9	Examination	\$150.00
10	8. Reexamination Fee	\$150.00
11	9. Late Fee	\$50.00
12	10. Reinstatement Fee	\$50.00
13	11. Duplicate for Lost or Destroyed Certificate	\$5.00
14	12. Temporary Practice Fee Per Appraisal	\$50.00
15	13. Maximum Temporary Practice Fee Per Assignment	\$150.00

16 B. The Department shall charge and collect such fees as may be
17 promulgated by administrative rule by the Real Estate Appraiser
18 Board for the conduct of experience reviews required in the
19 licensing process.

20 C. The Department shall charge and collect such fees as may be
21 promulgated by administrative rule by the Real Estate Appraiser
22 Board for review of submissions by course providers and instructors.

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1 D. The Insurance Department shall charge and collect a Federal
2 Registry Fee ~~of Twenty five Dollars (\$25.00)~~ in such amount as may
3 be assessed from time to time by the Appraisal Subcommittee of the
4 Federal Financial Institutions Examination Council for all state
5 licensed, state certified residential, and state certified general
6 appraisers. Said fee shall be transmitted to the Appraisal
7 Subcommittee of the Federal Financial Institutions Examination
8 Council.

9 SECTION 6. AMENDATORY 59 O.S. 2001, Section 858-709, as
10 amended by Section 5, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010,
11 Section 858-709), is amended to read as follows:

12 Section 858-709. A. Applications for original certification,
13 renewal certification and examinations shall be made in writing to
14 the Oklahoma Insurance Department on forms approved by the Real
15 Estate Appraiser Board.

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

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

1 certified real estate appraiser, as set forth in the Oklahoma
2 Certified Real Estate Appraisers Act.

3 D. In accordance with Section 3351 of Title 12 of the United
4 States Code, the Board shall recognize, on a temporary basis, the
5 certification or license of an appraiser issued by another state if:

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

9 2. The appraiser's business is of a temporary nature and
10 certified by the appraiser;

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

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

17 5. As otherwise approved by the Board.

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

21 1. In the proper court of any county of this state in which a
22 cause of action may arise due to the person's actions ~~as a state~~

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1 ~~licensed or certified real estate appraiser~~ under a temporary
2 practice permit; or

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

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

14 SECTION 7. AMENDATORY 59 O.S. 2001, Section 858-711, as
15 amended by Section 7, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010,
16 Section 858-711), is amended to read as follows:

17 Section 858-711. ~~A.~~ An original certification as a state
18 licensed, state certified residential or state certified general
19 real estate appraiser shall not be issued to any person who has not
20 ~~made~~ completed an application with the Real Estate Appraiser Board
21 within ninety (90) days of having ~~demonstrated through a written~~
22 ~~examination process that such person possesses the following.~~

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- 1 ~~1. Appropriate knowledge of technical terms commonly used in or~~
2 ~~related to real estate appraising, appraisal report writing, and~~
3 ~~economic concepts applicable to real estate;~~
- 4 ~~2. Understanding of the principles of land economics, real~~
5 ~~estate appraisal processes, and of problems likely to be encountered~~
6 ~~in gathering, interpreting, and processing of data in carrying out~~
7 ~~appraisal disciplines;~~
- 8 ~~3. Understanding of the standards for the development and~~
9 ~~communication of real estate appraisals as provided in the Oklahoma~~
10 ~~Certified Real Estate Appraisers Act;~~
- 11 ~~4. Knowledge of theories of depreciation, cost estimating,~~
12 ~~methods of capitalization, and the mathematics of real estate~~
13 ~~appraisal that are appropriate for the classification of certificate~~
14 ~~applied for;~~
- 15 ~~5. Knowledge of other principles and procedures as may be~~
16 ~~appropriate for the respective classifications;~~
- 17 ~~6. Basic understanding of real estate law; and~~
- 18 ~~7. Understanding of the types of misconduct for which~~
19 ~~disciplinary proceedings may be initiated against a trainee, state~~
20 ~~licensed, state certified residential or state certified general~~
21 ~~real estate appraiser, as set forth in the Oklahoma Certified Real~~
22 ~~Estate Appraisers Act.~~

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1 ~~B. As long as the Board contracts with a private testing firm~~
2 ~~in the administration of the written examination process, the Board~~
3 ~~shall not require passing test scores which deviate from the~~
4 ~~recommendations of such private testing firm~~ successfully completed
5 the written examination promulgated by the Appraiser Qualifications
6 Board of the Appraisal Foundation by furnishing proof of completion
7 to the Board.

8 SECTION 8. AMENDATORY 59 O.S. 2001, Section 858-712, as
9 amended by Section 8, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010,
10 Section 858-712), is amended to read as follows:

11 Section 858-712. A. State Certified General Appraiser - As a
12 prerequisite to taking the examination for certification as a State
13 Certified General Appraiser, an applicant shall present satisfactory
14 evidence to the Real Estate Appraiser Board that such applicant has
15 successfully completed the minimum educational requirement specified
16 by the Appraiser Qualification Criteria promulgated by the Appraiser
17 Qualifications Board of the Appraisal Foundation ~~of courses in~~
18 ~~subjects related to real estate appraisal~~ from a nationally
19 recognized appraisal organization or college or university or
20 technology center school or private school approved by the Board ~~and~~
21 ~~such classes shall be made available on a regional basis throughout~~
22 ~~the State of Oklahoma prior to the required examination date which~~

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UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 ~~must include classroom hours related to standards of professional~~
2 ~~practice.~~

3 B. State Certified Residential Appraiser - As a prerequisite to
4 taking the examination for certification as a State Certified
5 Residential Appraiser, an applicant shall present satisfactory
6 evidence to the Board that such applicant has successfully completed
7 the minimum educational requirement specified by the Appraiser
8 Qualification Criteria promulgated by the Appraiser Qualifications
9 Board of the Appraisal Foundation ~~of courses in subjects related to~~
10 ~~real estate appraisal~~ from a nationally recognized appraisal
11 organization or college or university or technology center school or
12 private school approved by the Board ~~and such classes shall be made~~
13 ~~available on a regional basis throughout this state prior to the~~
14 ~~required examination date which must include classroom hours related~~
15 ~~to standards of professional practice.~~

16 C. State Licensed Appraiser - As a prerequisite to taking the
17 examination for certification as a State Licensed Appraiser, an
18 applicant shall present satisfactory evidence to the Board that such
19 applicant has successfully completed the minimum education
20 requirement specified by the Appraiser Qualification Criteria
21 promulgated by the Appraiser Qualifications Board of the Appraisal
22 Foundation ~~of courses in subjects related to real estate appraisal~~
23 from a nationally recognized appraisal organization or a college or

1 university or technology center school or private school approved by
2 the Board and such classes shall be made available on a regional
3 basis throughout the State of Oklahoma prior to the required
4 examination date which must include classroom hours related to
5 standards of professional practice. Provided, that any appraiser
6 who becomes state licensed prior to July 1, 2001, shall not be
7 required to complete any additional classroom hours necessary to
8 meet the minimum requirements of the Appraiser Qualifications Board
9 of the Appraisal Foundation in order to maintain certification as a
10 state licensed appraiser.

11 D. Trainee Appraiser - There shall be no examination for
12 certification as a Trainee Appraiser. As a prerequisite to
13 certification as a Trainee Appraiser, an applicant shall present
14 satisfactory evidence to the Board that such applicant has
15 successfully completed ~~not less than seventy-five (75) classroom~~
16 ~~hours of courses in subjects related to real estate appraisal~~ the
17 minimum education requirement specified by the Appraiser
18 Qualification Criteria promulgated by the Appraiser Qualifications
19 Board of the Appraisal Foundation from a nationally recognized
20 appraisal organization or a college or university or area technology
21 center school or private school approved by the Board and such
22 ~~classes shall be made available on a regional basis throughout the~~
23 ~~State of Oklahoma prior to the required examination date with the~~

1 ~~cost of the classes being established by the Board which must~~
2 ~~include classroom hours related to standards of professional~~
3 ~~practice the minimum educational requirement specified by the~~
4 ~~Appraiser Qualification Criteria promulgated by the Appraiser~~
5 ~~Qualifications Board of the Appraisal Foundation.~~

6 SECTION 9. AMENDATORY 59 O.S. 2001, Section 858-713, is
7 amended to read as follows:

8 Section 858-713. A. An original certification as a state
9 certified general or a state certified residential or state licensed
10 appraiser shall not be issued to any person who does not possess the
11 equivalent of the minimum requirements of experience promulgated by
12 the Appraisal Qualifications Board of the Appraisal Foundation in
13 real property appraisal supported by adequate written reports or
14 file memoranda. Provided, there shall be no experience requirement
15 for a trainee appraiser. Provided, any state licensed appraiser who
16 becomes state licensed prior to July 1, 2001, shall not be required
17 to attain the minimum requirements of experience set forth by the
18 Appraiser Qualification Criteria promulgated by the Appraiser
19 Qualifications Board to maintain certification as a state licensed
20 appraiser.

21 B. Each applicant for certification as a state certified
22 general or a state certified residential or state licensed appraiser
23 shall furnish under oath a detailed listing of the real estate

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 appraisal reports or file memoranda for each year for which
2 experience is claimed by the applicant. Upon request, the applicant
3 shall make available to the Board for examination, a sample of
4 appraisal reports which the applicant has prepared in the course of
5 that applicant's appraisal practice.

6 SECTION 10. AMENDATORY 59 O.S. 2001, Section 858-714, is
7 amended to read as follows:

8 Section 858-714. The term of a certificate issued under the
9 authority of this act shall be three (3) years from the date of
10 issuance. The expiration date of the certificate shall appear on
11 the certificate and no other notice of its expiration need be given
12 to its holder.

13 SECTION 11. AMENDATORY 59 O.S. 2001, Section 858-715, is
14 amended to read as follows:

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

3 B. Nonresidents of this state may make certified appraisals or
4 appraisal reviews pertaining to real estate situated in this state
5 only if the appraiser is certified in a state with a reciprocity
6 agreement to recognize the certification of appraisers from Oklahoma
7 and has applied for and been issued an Oklahoma certification, or
8 has registered for temporary practice with the Board as provided in
9 the Oklahoma Certified Real Estate Appraisers Act.

10 SECTION 12. AMENDATORY 59 O.S. 2001, Section 858-722, as
11 amended by Section 10, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010,
12 Section 858-722), is amended to read as follows:

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

18 B. The basic continuing education requirement of renewal of
19 certification shall be the completion by the applicant, during the
20 immediately preceding term of certification, of the minimum number
21 of classroom hours of instruction in courses or seminars according
22 to the guidelines set forth in the Appraiser Qualification Criteria
23 promulgated by the Appraiser Qualifications Board.

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

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

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

15 D. No amendment or repeal of a regulation adopted by the Board
16 pursuant to this section shall operate to deprive a trainee, state
17 licensed, state certified residential or state certified general
18 real estate appraiser of credit toward renewal of certification for
19 any course of instruction completed by the applicant prior to the
20 amendment or repeal of the regulation which would have qualified for
21 continuing education credit under the regulation as it existed prior
22 to the repeal or amendment.

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

13 SECTION 13. AMENDATORY 59 O.S. 2001, Section 858-723, as
14 amended by Section 11, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010,
15 Section 858-723), is amended to read as follows:

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

- 1 1. Revocation of the certificate or approval with or without
2 the right to reapply;
- 3 2. Suspension of the certificate or approval for a period not
4 to exceed 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

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 and costs shall be paid within
5 thirty (30) days of notification of the certificate holder, approved
6 course provider or approved instructor by the Board of the order of
7 the Board imposing the administrative fine, unless the certificate
8 holder, approved course provider or approved instructor has entered
9 into an agreement with the Board extending the period for payment.

10 3. The certificate or holder may be suspended until any ~~fine~~
11 fines and costs imposed upon the licensee by the Board ~~is~~ are paid.

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

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

3 C. The rights of any holder under a certificate as a trainee,
4 state licensed, state certified residential or state certified
5 general real estate appraiser, or approval as a course provider or
6 instructor may be revoked or suspended, or the holder of the
7 certificate or approval may be otherwise disciplined pursuant to the
8 provisions of the Oklahoma Certified Real Estate Appraisers Act,
9 upon any of the grounds set forth in this section. The Board may
10 investigate the actions of a trainee, state licensed, state
11 certified residential or state certified general real estate
12 appraiser, approved course provider or approved instructor and may
13 revoke or suspend the rights of a certificate or approval holder or
14 otherwise discipline a trainee, state licensed, state certified
15 residential or state certified general real estate appraiser, an
16 approved course provider or approved instructor for any of the
17 following acts or omissions:

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

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

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

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

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

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

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

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

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

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

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

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

21 13. Violating any of the provisions in the code of ethics set
22 forth in ~~this act~~ the Oklahoma Certified Real Estate Appraisers Act;

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

3 15. Failing to comply with an order lawfully issued pursuant to
4 the provisions of the Oklahoma Certified Real Estate Appraisers Act.

5 D. In a disciplinary proceeding based upon a civil judgment,
6 the trainee, state licensed, state certified residential or state
7 certified general real estate appraiser, or an approved course
8 provider or approved instructor shall be afforded an opportunity to
9 present matters in mitigation and extenuation, but may not
10 collaterally attack the civil judgment.

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

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

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

7 4. Any ~~complaint~~ grievance filed pursuant to this subsection
8 shall be in writing and signed by the person filing same ~~and shall~~
9 ~~be on a form approved by the Board.~~ The trainee or state licensed
10 or state certified appraiser, or an approved course provider or
11 approved instructor shall be entitled to any hearings or subject to
12 any disciplinary proceedings provided for in the Oklahoma Certified
13 Real Estate Appraisers Act based upon any complaint filed pursuant
14 to this subsection.

15 SECTION 14. AMENDATORY 59 O.S. 2001, Section 858-724, as
16 amended by Section 12, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010,
17 Section 858-724), is amended to read as follows:

18 Section 858-724. A. Before suspending or revoking any
19 certification or approval, the Real Estate Appraiser Board shall
20 notify the appraiser or approval holder in writing of any charges
21 made at least thirty (30) days prior to the date set for the hearing
22 and shall afford the appraiser an opportunity to be heard in person
23 or by counsel.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 B. The written notice may be served either personally or sent
2 by registered or certified mail to the last-known business and/or
3 residence address of the appraiser or approval holder.

4 C. The Board shall have the power to subpoena and issue
5 subpoenas duces tecum and to bring before it any person in this
6 state, or to take testimony by deposition, in the same manner as
7 prescribed by law in judicial proceedings in the courts of this
8 state.

9 SECTION 15. AMENDATORY 59 O.S. 2001, Section 858-725, as
10 amended by Section 13, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010,
11 Section 858-725), is amended to read as follows:

12 Section 858-725. A. The hearing on the charges shall be at a
13 time and place prescribed by the Real Estate Appraiser Board and in
14 accordance with the provisions of the Administrative Procedures Act.

15 B. If the Board determines that an Oklahoma certified appraiser
16 or approval holder is guilty of a violation of any of the provisions
17 of the Oklahoma Certified Real Estate Appraisers Act, it shall
18 prepare an order containing findings of fact, conclusions of law,
19 and disciplinary penalties in accordance with Section 858-723 of
20 this title. The decision and order of the Board shall be final.

21 C. Any person aggrieved by a final decision ~~or order of the~~
22 ~~Board shall be reviewable by a court of appropriate jurisdiction~~ may
23 obtain judicial review in accordance with the ~~provisions of the~~

1 Administrative Procedures Act. The venue of any such action shall
2 be in the district court of Oklahoma County.

3 SECTION 16. AMENDATORY 59 O.S. 2001, Section 858-726, as
4 amended by Section 14, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010,
5 Section 858-726), is amended to read as follows:

6 Section 858-726. An Oklahoma certified real estate appraiser
7 must comply with the current edition of the Uniform Standards of
8 Professional Appraisal Practice, as promulgated by the Appraisal
9 Standards Board of the Appraisal Foundation when involved in a
10 federally related transaction or a real estate-related financial
11 transaction of the agencies, instrumentalities and federally
12 recognized entities as defined and recognized by the Financial
13 Institutions Reform, Recovery, and Enforcement Act of 1989, or when
14 both the appraiser and user of appraisal services agree in writing
15 that the work product is an appraisal or an appraisal review, or
16 when a written appraisal or appraisal review states that it is in
17 compliance with the Uniform Standards of Professional Appraisal
18 Practice.

19 SECTION 17. AMENDATORY 59 O.S. 2001, Section 858-732, as
20 amended by Section 15, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010,
21 Section 858-732), is amended to read as follows:

22 Section 858-732. ~~A.~~ It is the finding of the Legislature that
23 the profession of real estate appraisal is vested with a fiduciary

1 relationship of trust and confidence with respect to clients,
2 lending institutions, both public and private guarantors or insurers
3 of funds in real estate transactions, and to the citizens of
4 Oklahoma and that the qualifications of honesty, integrity, candor
5 and trustworthiness are directly and substantially related to and
6 indispensible to establishment and maintenance of the public trust
7 in the appraisal profession. All persons listed in paragraph 2 of
8 subsection A of Section 858-702 of this title must conduct all real
9 property valuations and any real property valuation-related activity
10 in conformance with the following:

11 1. An appraiser must perform ethically and competently and not
12 engage in conduct that is unlawful, unethical or improper. An
13 appraiser who could reasonably be perceived to act as a
14 disinterested third party in rendering an unbiased real property
15 valuation must perform assignments with impartiality, objectivity
16 and independence and without accommodation of personal interests;

17 2. The acceptance of compensation that is contingent upon the
18 reporting of a predetermined value or a direction in value that
19 favors the cause of the client, the amount of the value estimate,
20 the attainment of a stipulated result or the occurrence of a
21 subsequent event is unethical;

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1 3. The payment of undisclosed fees, commissions or things of
2 value in connection with the procurement of real property valuation
3 assignments is unethical;

4 4. Advertising for or soliciting appraisal assignments in a
5 manner which is false, misleading or exaggerated is unethical;

6 5. An appraiser must protect the confidential nature of the
7 appraiser-client relationship; and

8 6. Using or attempting to use the seal, certificate, or license
9 of another as their own; falsely impersonating any duly licensed
10 appraiser; using or attempting to use an inactive, expired,
11 suspended, or revoked license; or aiding or abetting any of the
12 foregoing is unethical.

13 ~~B. Although this code of ethics is based upon the ethics~~
14 ~~provisions of the Uniform Standards of Professional Appraisal~~
15 ~~Practice, it is not the intent of the Legislature to incorporate the~~
16 ~~standards set forth in the Uniform Standards of Professional~~
17 ~~Appraisal Practice.~~

18 SECTION 18. This act shall become effective November 1, 2011.

19
20 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 03-03-2011 - DO
21 PASS, As Coauthored.