SENATE FLOOR VERSION
April 5, 2011
As Amended

ENGROSSED HOUSE
BILL NO. 1831 By: Mulready of the House

and

Aldridge of the Senate

[professions and occupations - Oklahoma Certified Real Estate Appraisers Act - effective date]

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

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

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

1. Any appraisal or appraiser involving the following:

a. a federally related transaction,

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

c. any real estate-related transactions where an appraisal report <u>or appraisal review report</u> was made under a written agreement that the appraisal report <u>or</u>

appraisal review report would follow the Uniform Standards of Professional Appraisal Practice guidelines or where a written appraisal report or appraisal review report states that it is in compliance with the Uniform Standards of Professional Appraisal Practice; and

2. Appraisers certified or licensed pursuant to the Oklahoma Certified Real Estate Appraisers Act or representing themselves as such, whether such license or certification is active, inactive, expired, suspended, or revoked as set forth in this act and the rules and regulations promulgated pursuant thereto, to the extent that the appraisers and any real property valuation and any real property valuation activity performed by them shall conform to the code of ethics as set forth in this act.

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

SECTION 2. AMENDATORY 59 O.S. 2001, Section 858-703, as amended by Section 2, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010, 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 or oral communication of an appraisal;

3. <u>"Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal or appraisal review assignment;</u>

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

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

~~4.~~ 6. "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.~~ 7. "Board" means the Real Estate Appraiser Board established pursuant to the provisions of the Oklahoma Certified Real Estate Appraisers Act;

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

~~7.~~ 9. "Certified appraisal or certified appraisal report" means an appraisal or appraisal report given or signed and certified as such by a trainee appraiser, a state licensed, state certified residential or state certified general real estate appraiser. When identifying an appraisal or appraisal report as "certified", the trainee, 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;

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

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

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

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

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

~~12.~~ 15. "Trainee, 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;

~~13.~~ 16. "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; and

~~14.~~ 17. "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 3. AMENDATORY 59 O.S. 2001, Section 858-705.1, is amended to read as follows:

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

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

1. Keep records of the proceedings of the Board;

2. Call special meetings of the Board when in the judgment of the chairperson it is necessary or proper to do so;

3. Procure appropriate examination questions and answers which shall meet criteria established by the Appraisal Subcommittee and approved by the Board;

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

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

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

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

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

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

10. Annually compile and file a report with the Speaker of the House, President Pro Tempore of the Senate, and the Governor detailing the number of ~~complaints~~ grievances received by the Board, the resulting number of investigations and hearings conducted and the final disposition of these matters;

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

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

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

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

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

1. To further define by regulation and with respect to each category of Oklahoma certified real estate appraisers the type of

educational experience, appraisal experience, and equivalent experience that will meet the requirements of the Oklahoma Certified Real Estate Appraisers Act, as approved by the Appraisal Subcommittee;

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 5. AMENDATORY 59 O.S. 2001, Section 858-708, as amended by Section 4, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010, 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. Trainee Appraiser Certificate (annually)	$300.00
2. State Licensed Appraiser Certificate (annually)	$300.00
3. State Certified General Appraiser	

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

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

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

D. The Insurance Department shall charge and collect a Federal Registry Fee ~~of Twenty-five Dollars ($25.00)~~ in such amount as may be assessed from time to time by the Appraisal Subcommittee of the

Federal Financial Institutions Examination Council for all state licensed, state certified residential, and state certified general appraisers. Said fee shall be transmitted to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

SECTION 6. AMENDATORY 59 O.S. 2001, Section 858-709, as amended by Section 5, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010, 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 Oklahoma Insurance Department on forms approved by the Real Estate Appraiser Board.

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

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;

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~~ under a temporary practice permit; 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 7. AMENDATORY 59 O.S. 2001, Section 858-711, as amended by Section 7, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010, Section 858-711), is amended to read as follows:

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

~~1. Appropriate knowledge of technical terms commonly used in or related to real estate appraising, appraisal report writing, and economic concepts applicable to real estate;~~

~~2. Understanding of the principles of land economics, real estate appraisal processes, and of problems likely to be encountered~~

~~in gathering, interpreting, and processing of data in carrying out appraisal disciplines;~~

~~3. Understanding of the standards for the development and communication of real estate appraisals as provided in the Oklahoma Certified Real Estate Appraisers Act;~~

~~4. Knowledge of theories of depreciation, cost estimating, methods of capitalization, and the mathematics of real estate appraisal that are appropriate for the classification of certificate applied for;~~

~~5. Knowledge of other principles and procedures as may be appropriate for the respective classifications;~~

~~6. Basic understanding of real estate law; and~~

~~7. Understanding of the types of misconduct for which disciplinary proceedings may be initiated against a trainee, state licensed, state certified residential or state certified general real estate appraiser, as set forth in the Oklahoma Certified Real Estate Appraisers Act.~~

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

SECTION 8. AMENDATORY 59 O.S. 2001, Section 858-712, as amended by Section 8, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010, 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 Real Estate Appraiser Board that such applicant has successfully completed the minimum educational requirement specified by the Appraiser Qualification Criteria 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 technology center 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 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 the minimum educational requirement specified by the Appraiser Qualification Criteria 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 technology center 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 which must include classroom hours related to standards of professional practice~~.

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 the minimum education requirement specified by the Appraiser Qualification Criteria 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 a college or university or technology center 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 which must include classroom hours related to standards of professional practice~~. Provided, that any appraiser who becomes state licensed prior to July 1, 2001, shall not be required to complete any additional classroom hours necessary to meet the minimum requirements of the Appraiser Qualifications Board of the Appraisal Foundation in order to maintain certification as a state licensed appraiser.

D. Trainee Appraiser - There shall be no examination for certification as a Trainee Appraiser. As a prerequisite to certification as a Trainee 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~~ the minimum education requirement specified by the Appraiser Qualification Criteria promulgated by the Appraiser Qualifications Board of the Appraisal Foundation from a nationally recognized appraisal organization or a college or university or area technology center 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 the minimum educational requirement specified by the Appraiser Qualification Criteria promulgated by the Appraiser Qualifications Board of the Appraisal Foundation~~.

SECTION 9. AMENDATORY 59 O.S. 2001, 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 or state licensed appraiser shall not be issued to any person who does not possess the equivalent of 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 trainee appraiser. Provided, any state licensed appraiser who becomes state licensed prior to July 1, 2001, shall not be required to attain the minimum requirements of experience set forth by the Appraiser Qualification Criteria promulgated by the Appraiser Qualifications Board to maintain certification as a state licensed appraiser.

B. Each applicant for certification as a state certified general or a state certified residential or state licensed 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 10. AMENDATORY 59 O.S. 2001, Section 858-714, is amended to read as follows:

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

SECTION 11. AMENDATORY 59 O.S. 2001, 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. Nonresidents of this state may make certified appraisals <u>or appraisal reviews pertaining to real estate situated</u> in this state only if the appraiser is certified in a state with a reciprocity agreement to recognize the certification of appraisers from Oklahoma <u>and has applied for and been issued an Oklahoma certification, or has registered for temporary practice with the Board as provided in the Oklahoma Certified Real Estate Appraisers Act</u>.

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

Section 858-722. A. As a prerequisite to renewal of certification, a trainee, state licensed, state certified

residential or state certified general real estate appraiser shall present evidence satisfactory to the Real Estate Appraiser 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 the minimum number of classroom hours of instruction in courses or seminars according to the guidelines <u>set forth in the Appraiser Qualification Criteria</u> promulgated by the Appraiser Qualifications Board.

C. The Board shall adopt regulations for implementation of the provisions of this section assuring that persons renewing their certifications as trainee, 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; and

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

D. No amendment or repeal of a regulation adopted by the Board pursuant to this section shall operate to deprive a trainee, 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.

E. Commencing thirty (30) days after the effective date of this act, a certification as a trainee, 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 trainee, state licensed, state certified residential or state certified general real estate appraiser as a condition to reinstatement of certification.

SECTION 13. AMENDATORY 59 O.S. 2001, Section 858-723, as amended by Section 11, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010, 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, approved course provider, or approved instructor has violated any provision of the Oklahoma Certified Real Estate Appraisers Act, or rules promulgated pursuant thereto:

1. Revocation of the certificate or approval with or without the right to reapply;

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

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

4. Unless the certificate holder, approved course provider or approved instructor 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 or approval holder shall have an additional thirty-day period. If the double fine ~~is~~ and the costs imposed are not paid within the additional thirty-day period, the certificate or approval shall automatically be revoked.

5. All monies received by the Board as a result of the imposition of the administrative fine and costs 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, or approval as a course provider or instructor may be revoked or suspended, or the holder of the certificate or approval 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, approved course provider or approved instructor and may revoke or suspend the rights of a certificate or approval holder or otherwise discipline a trainee, state licensed, state certified residential or state certified general real estate appraiser, an

approved course provider or approved instructor for any of the following acts or omissions:

1. Procuring or attempting to procure a certificate or approval 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 approval 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 or approval 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 or approval 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~~ the Oklahoma Certified Real Estate Appraisers Act; ~~or~~

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

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

D. In a disciplinary proceeding based upon a civil judgment, the trainee, state licensed, state certified residential or state certified general real estate appraiser, or an approved course provider or approved instructor 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, or an approved course provider or approved instructor 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, or an approved course provider or approved instructor 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, or an approved course provider or approved instructor 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.

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

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

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

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

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

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

B. If the Board determines that an Oklahoma certified appraiser or approval holder is guilty of a violation of any of the provisions of the Oklahoma Certified Real Estate Appraisers Act, it shall prepare an order containing findings of fact, conclusions of law,

and disciplinary penalties in accordance with Section 858-723 of this title. The decision and order of the Board shall be final.

C. Any person aggrieved by a final ~~decision or~~ order of the Board ~~shall be reviewable by a court of appropriate jurisdiction~~ may obtain judicial review in accordance with the ~~provisions of the~~ Administrative Procedures Act. The venue of any such action shall be in the district court of Oklahoma County.

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

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

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

Section 858-732. ~~A.~~ It is the finding of the Legislature that the profession of real estate appraisal is vested with a fiduciary relationship of trust and confidence with respect to clients, lending institutions, both public and private guarantors or insurers of funds in real estate transactions, and to the citizens of Oklahoma and that the qualifications of honesty, integrity, candor and trustworthiness are directly and substantially related to and indispensible to establishment and maintenance of the public trust in the appraisal profession. All persons listed in paragraph 2 of subsection A of Section 858-702 of this title must conduct all real property valuations and any real property valuation-related activity in conformance with the following:

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

2. The acceptance of compensation that is contingent upon the reporting of a predetermined value or a direction in value that favors the cause of the client, the amount of the value estimate,

the attainment of a stipulated result or the occurrence of a subsequent event is unethical;

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

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

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

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

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

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

COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & COMMERCE, dated 3-31-11 - DO PASS, As Amended.