

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 1831

By: Trebilcock

4
5
6 AS INTRODUCED

7 An Act relating to professions and occupations;
8 amending 59 O.S. 2001, Sections 858-702 and 858-703,
9 as amended by Sections 1 and 2, Chapter 165, O.S.L.
10 2006, 858-705.1, 858-706, 858-708, 858-709, 858-711,
11 858-712, as amended by Sections 4, 5, 7 and 8,
12 Chapter 165, O.S.L. 2006, 858-713, 858-714, 858-715,
13 858-722, 858-723, 858-724, 858-725, 858-726 and 858-
14 732, as amended by Sections 10, 11, 12, 13, 14 and
15 15, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010,
16 Sections 858-702, 858-703, 858-708, 858-709, 858-711,
17 858-712, 858-722, 858-723, 858-724, 858-725, 858-726
18 and 858-732), which relate to the Oklahoma Certified
19 Real Estate Appraisers Act; modifying application of
20 act; modifying definitions; modifying duties of
21 chairperson; modifying powers and duties of the
22 board; modifying federal registry fee; modifying
23 application for temporary permit; modifying
24 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.

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

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

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

- 5 1. Any appraisal or appraiser involving the following:
 - 6 a. a federally related transaction,
 - 7 b. real estate-related financial transactions of the
 - 8 agencies, instrumentalities, and federally recognized
 - 9 entities covered by the Financial Institutions Reform,
 - 10 Recovery, and Enforcement Act of 1989, and
 - 11 c. any real estate-related transactions where an
 - 12 appraisal report or appraisal review report was made
 - 13 under a written agreement that the appraisal report or
 - 14 appraisal review report would follow the Uniform
 - 15 Standards of Professional Appraisal Practice
 - 16 guidelines or where a written appraisal report or
 - 17 appraisal review report states that it is in
 - 18 compliance with the Uniform Standards of Professional
 - 19 Appraisal Practice; and

20 2. Appraisers certified or licensed pursuant to the Oklahoma
21 Certified Real Estate Appraisers Act or representing themselves as
22 such, whether such license or certification is active, inactive,
23 expired, suspended, or revoked as set forth in this act and the
24 rules and regulations promulgated pursuant thereto, to the extent

1 that the appraisers and any real property valuation and any real
2 property valuation activity performed by them shall conform to the
3 code of ethics as set forth in this act.

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

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

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

19 1. "Appraisal" or "real estate appraisal" means an analysis,
20 opinion or conclusion relating to the nature, quality, value or
21 utility of specified interests in, or aspects of, identified real
22 estate other than oil, gas, coal, water, and all other energy and
23 nonfuel mineral and elements or the value of underground space to be
24 used for storage of commodities or for the disposal of waste unless

1 they are appraised as part of a federally related transaction
2 covered by the Financial Institutions Reform, Recovery, and
3 Enforcement Act of 1989. An appraisal may be classified by subject
4 matter into either a valuation or an analysis. A "valuation" is an
5 estimate of the value of real estate or real property. An
6 "analysis" is a study of real estate or real property other than
7 estimating value;

8 2. "Appraisal report" means any written or oral communication
9 of an appraisal;

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

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

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

19 ~~4.~~ 6. "Appraiser Qualifications Board" (AQB) means the
20 independent board appointed by the Board of Trustees of the
21 Appraisal Foundation. The AQB establishes educational, experience,
22 and examination criteria for appraisers. Title XI of the Financial
23 Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989

24

1 requires that state certified appraisers must meet the minimum
2 qualifications set by the AQB;

3 ~~5-~~ 7. "Board" means the Real Estate Appraiser Board established
4 pursuant to the provisions of the Oklahoma Certified Real Estate
5 Appraisers Act;

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

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

19 ~~8-~~ 10. "Chairperson" means the chairperson of the Real Estate
20 Appraiser Board;

21 ~~9-~~ 11. "Department" means the Oklahoma Insurance Department;

22 ~~10-~~ 12. "Grievance" means a written articulation of allegations
23 of violations of this act by a certificate holder, course provider,
24 or instructor to include any supporting documents;

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

3 ~~11.~~ 14. "Real property" means one or more defined interests,
4 benefits, and rights inherent in the ownership of real estate;

5 ~~12.~~ 15. "Trainee, state licensed, state certified residential
6 or state certified general real estate appraiser" means a person who
7 develops and communicates real estate appraisals and who holds a
8 current, valid certificate issued to such person for either general
9 or residential real estate pursuant to provisions of the Oklahoma
10 Certified Real Estate Appraisers Act;

11 ~~13.~~ 16. "Appraisal assignment" means an engagement for which an
12 appraiser is employed or retained to act, or would be perceived by
13 third parties or the public as acting, as a disinterested third
14 party in rendering an unbiased analysis, opinion, or conclusion
15 relating to the nature, quality, value, or utility of specified
16 interests in, or aspects of, identified real estate; and

17 ~~14.~~ 17. "Specialized services" means those appraisal services
18 which do not fall within the definition of appraisal assignment.
19 The term "specialized services" may include valuation work and
20 analysis work. Regardless of the intention of the client or
21 employer, if the appraiser would be perceived by third parties or
22 the public as acting as a disinterested third party in rendering an
23 unbiased analysis, opinion or conclusion, the work is classified as
24 an appraisal assignment and not "specialized services".

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

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

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

12 1. Keep records of the proceedings of the Board;

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

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

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

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

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

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

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

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

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

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

1 12. Submit to the Speaker of the House, the President Pro
2 Tempore of the Senate, and the Governor on or before January 1,
3 1994, a report evaluating the impact of the licensure/certification
4 requirements imposed by this act on the appraiser and banking
5 industry and include in the report any recommendations for
6 amendments to the Oklahoma Certified Real Estate Appraisers Act.

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

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

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

13 1. To further define by regulation and with respect to each
14 category of Oklahoma certified real estate appraisers the type of
15 educational experience, appraisal experience, and equivalent
16 experience that will meet the requirements of the Oklahoma Certified
17 Real Estate Appraisers Act, as approved by the Appraisal
18 Subcommittee;

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

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

23 4. To further define by regulation and with respect to each
24 category of Oklahoma certified real estate appraiser, the continuing

1 education requirements for the renewal of certification that will
2 meet the requirements of the Oklahoma Certified Real Estate
3 Appraisers Act as approved by the Appraisal Subcommittee;

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

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

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

13 ~~7.~~ 8. To censure, suspend and revoke appraiser certificates,
14 course provider approvals, and instructor approvals pursuant to the
15 disciplinary proceedings provided in the Oklahoma Certified Real
16 Estate Appraisers Act; and

17 ~~8.~~ 9. To perform such other functions and duties as may be
18 necessary in carrying out the provisions of the Oklahoma Certified
19 Real Estate Appraisers Act.

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

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

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

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

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

- | | | |
|----|--|----------|
| 10 | 1. Trainee Appraiser Certificate | |
| 11 | (annually) | \$300.00 |
| 12 | 2. State Licensed Appraiser | |
| 13 | Certificate (annually) | \$300.00 |
| 14 | 3. State Certified General Appraiser | |
| 15 | Certificate (annually) | \$300.00 |
| 16 | 4. State Certified Residential Appraiser | |
| 17 | Certificate (annually) | \$300.00 |
| 18 | 5. State Licensed | |
| 19 | Appraiser Examination | \$150.00 |
| 20 | 6. State Certified General Appraiser Examination | \$150.00 |
| 21 | 7. State Certified Residential Appraiser | |
| 22 | Examination | \$150.00 |
| 23 | 8. Reexamination Fee | \$150.00 |
| 24 | 9. Late Fee | \$50.00 |

1	10. Reinstatement Fee	\$50.00
2	11. Duplicate for Lost or Destroyed Certificate	\$5.00
3	12. Temporary Practice Fee Per Appraisal	\$50.00
4	13. Maximum Temporary Practice Fee Per Assignment	\$150.00

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

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

12 D. The Insurance Department shall charge and collect a Federal
13 Registry Fee of ~~Twenty-five Dollars (\$25.00)~~ in such amount as may
14 be assessed from time to time by the Appraisal Subcommittee of the
15 Federal Financial Institutions Examination Council for all state
16 licensed, state certified residential, and state certified general
17 appraisers. Said fee shall be transmitted to the Appraisal
18 Subcommittee of the Federal Financial Institutions Examination
19 Council.

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

23 Section 858-709. A. Applications for original certification,
24 renewal certification and examinations shall be made in writing to

1 the Oklahoma Insurance Department on forms approved by the Real
2 Estate Appraiser Board.

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

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

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

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

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

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

23 4. The appraiser resides in or is working out of a state that
24 is also in compliance with Section 3351 of Title 12 of the United

1 States Code, that recognizes, on a temporary basis, the
2 certification or license of an Oklahoma appraiser in their state; or

3 5. As otherwise approved by the Board.

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

7 1. In the proper court of any county of this state in which a
8 cause of action may arise due to the person's actions ~~as a state~~
9 ~~licensed or certified real estate appraiser~~ under a temporary
10 practice permit; or

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

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

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

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

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

10 ~~2. Understanding of the principles of land economics, real~~
11 ~~estate appraisal processes, and of problems likely to be encountered~~
12 ~~in gathering, interpreting, and processing of data in carrying out~~
13 ~~appraisal disciplines;~~

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

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

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

23 ~~6. Basic understanding of real estate law; and~~
24

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

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

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

16 Section 858-712. A. State Certified General Appraiser - As a
17 prerequisite to taking the examination for certification as a State
18 Certified General Appraiser, an applicant shall present satisfactory
19 evidence to the Real Estate Appraiser Board that such applicant has
20 successfully completed the minimum educational requirement specified
21 by the Appraiser Qualification Criteria promulgated by the Appraiser
22 Qualifications Board of the Appraisal Foundation ~~of courses in~~
23 ~~subjects related to real estate appraisal~~ from a nationally
24 recognized appraisal organization or college or university or

1 technology center school or private school approved by the Board and
2 ~~such classes shall be made available on a regional basis throughout~~
3 ~~the State of Oklahoma prior to the required examination date which~~
4 ~~must include classroom hours related to standards of professional~~
5 ~~practice.~~

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

19 C. State Licensed Appraiser - As a prerequisite to taking the
20 examination for certification as a State Licensed Appraiser, an
21 applicant shall present satisfactory evidence to the Board that such
22 applicant has successfully completed the minimum education
23 requirement specified by the Appraiser Qualification Criteria
24 promulgated by the Appraiser Qualifications Board of the Appraisal

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

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

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

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

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

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

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,
23 in the exercise of due diligence, effect personal service upon the
24 applicant.

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

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

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

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

22 C. The Board shall adopt regulations for implementation of the
23 provisions of this section assuring that persons renewing their
24 certifications as trainee, state licensed, state certified

1 residential or state certified general real estate appraisers have
2 current knowledge of real property appraisal theories, practices,
3 and techniques which will provide a high degree of service and
4 protection to those members of the public with whom they deal in a
5 professional relationship under authority of the certification. The
6 regulations shall prescribe the following:

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

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

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

20 E. Commencing thirty (30) days after the effective date of this
21 act, a certification as a trainee, state licensed, state certified
22 residential or state certified general real estate appraiser that
23 has been revoked as a result of disciplinary action by the Board
24 shall not be reinstated unless the applicant presents evidence of

1 completion of the continuing education required pursuant to the
2 provisions of the Oklahoma Real Estate Appraisers Act. This
3 requirement of evidence of continuing education shall not be imposed
4 upon an applicant for reinstatement who has been required to
5 successfully complete the examination for trainee, state licensed,
6 state certified residential or state certified general real estate
7 appraiser as a condition to reinstatement of certification.

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

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

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

21 2. Suspension of the certificate or approval for a period not
22 to exceed five (5) years;

23 3. Probation, for a period of time and under such terms and
24 conditions as deemed appropriate by the Board;

1 4. Stipulations, limitations, restrictions, and conditions
2 relating to practice;

3 5. Censure, including specific redress, if appropriate;

4 6. Reprimand, either public or private;

5 7. Satisfactory completion of an educational program or
6 programs;

7 8. Administrative fines as authorized by the Oklahoma Certified
8 Real Estate Appraisers Act; and

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

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

15 a. be less than Fifty Dollars (\$50.00) and shall not
16 exceed Two Thousand Dollars (\$2,000.00) for each
17 violation of this act or the rules of the Board, or

18 b. exceed Five Thousand Dollars (\$5,000.00) for all
19 violations resulting from a single incident or
20 transaction.

21 2. All administrative fines and costs shall be paid within
22 thirty (30) days of notification of the certificate holder, approved
23 course provider or approved instructor by the Board of the order of
24 the Board imposing the administrative fine, unless the certificate

1 holder, approved course provider or approved instructor has entered
2 into an agreement with the Board extending the period for payment.

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

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

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

19 C. The rights of any holder under a certificate as a trainee,
20 state licensed, state certified residential or state certified
21 general real estate appraiser, or approval as a course provider or
22 instructor may be revoked or suspended, or the holder of the
23 certificate or approval may be otherwise disciplined pursuant to the
24 provisions of the Oklahoma Certified Real Estate Appraisers Act,

1 upon any of the grounds set forth in this section. The Board may
2 investigate the actions of a trainee, state licensed, state
3 certified residential or state certified general real estate
4 appraiser, approved course provider or approved instructor and may
5 revoke or suspend the rights of a certificate or approval holder or
6 otherwise discipline a trainee, state licensed, state certified
7 residential or state certified general real estate appraiser, an
8 approved course provider or approved instructor for any of the
9 following acts or omissions:

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

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

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

24

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

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

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

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

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

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

22 10. Accepting an appraisal assignment when the employment
23 itself is contingent upon the appraiser reporting a predetermined
24 estimate, analysis or opinion, or where the fee to be paid is

1 contingent upon the opinion, conclusion, or valuation reached, or
2 upon the consequences resulting from the appraisal assignment;

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

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

9 13. Violating any of the provisions in the code of ethics set
10 forth in ~~this act~~ the Oklahoma Certified Real Estate Appraisers Act;
11 ~~or~~

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

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

16 D. In a disciplinary proceeding based upon a civil judgment,
17 the trainee, state licensed, state certified residential or state
18 certified general real estate appraiser, or an approved course
19 provider or approved instructor shall be afforded an opportunity to
20 present matters in mitigation and extenuation, but may not
21 collaterally attack the civil judgment.

22 E. 1. A ~~complaint~~ grievance may be filed with the Board
23 against a trainee or state licensed or state certified appraiser for
24 any violations relating to a specific transaction of the Oklahoma

1 Certified Real Estate Appraisers Act by any person who is the
2 recipient of, relies upon or uses an appraisal prepared for a
3 federally related transaction or real-estate-related financial
4 transaction as described in Section 858-701 of this title.

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

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

16 4. Any ~~complaint~~ grievance filed pursuant to this subsection
17 shall be in writing and signed by the person filing same ~~and shall~~
18 ~~be on a form approved by the Board.~~ The trainee or state licensed
19 or state certified appraiser, or an approved course provider or
20 approved instructor shall be entitled to any hearings or subject to
21 any disciplinary proceedings provided for in the Oklahoma Certified
22 Real Estate Appraisers Act based upon any complaint filed pursuant
23 to this subsection.

24

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

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

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

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

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

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

24

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

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

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

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

1 when a written appraisal or appraisal review states that it is in
2 compliance with the Uniform Standards of Professional Appraisal
3 Practice.

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

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

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

1 2. The acceptance of compensation that is contingent upon the
2 reporting of a predetermined value or a direction in value that
3 favors the cause of the client, the amount of the value estimate,
4 the attainment of a stipulated result or the occurrence of a
5 subsequent event is unethical;

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

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

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

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

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

23
24

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

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