

<DateSubmitted>

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB1831

By: Mulready of the House and Aldridge of the Senate

Title: Professions and occupations; modifying various provisions of the Oklahoma Certified Real Estate Appraisers Act; effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendment and that the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action _____ Date _____ Senate Action _____ Date _____

HOUSE CONFEREES

Dank

David M. Dank

Key

Charles Key

Kirby

McDaniel (Randy)

Randy McDaniel

McNiel

Skye McDaniel

Morrisette

Mulready

John Mulready

Ortega

Charles Ortega

Ownbey

Pat Ownbey

Pittman

Shelton

SENATE CONFEREES

Aldridge _____
Newberry _____
Holt _____
Brown _____
Ballenger _____
Sparks _____

1 STATE OF OKLAHOMA

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

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 1831

By: Mulready of the House

and

Aldridge of the Senate

7
8
9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to professions and occupations;
11 amending 59 O.S. 2001, Sections 858-702, 858-703 and
12 858-704, as amended by Sections 1, 2 and 3, Chapter
13 165, O.S.L. 2006, 858-705.1, 858-706, 858-707, 858-
14 708, 858-709, 858-711 and 858-712, as amended by
15 Sections 4, 5, 7 and 8, Chapter 165, O.S.L. 2006,
16 858-713, 858-714, 858-715, 858-717, 858-722, 858-723,
17 858-724, 858-725, 858-726 and 858-732, as amended by
18 Sections 10, 11, 12, 13, 14 and 15, Chapter 165,
19 O.S.L. 2006 (59 O.S. Supp. 2010, Sections 858-702,
20 858-703, 858-704, 858-708, 858-709, 858-711, 858-712,
21 858-722, 858-723, 858-724, 858-725, 858-726 and 858-
22 732), which relate to the Oklahoma Certified Real
23 Estate Appraisers Act; modifying application of act;
24 modifying definitions; modifying duties of
chairperson; modifying powers and duties of the
board; clarifying duties of the Insurance Department;
modifying federal registry fee; modifying basis for
certain consent to suits and actions; modifying
classes of Oklahoma certified real estate appraisers;
modifying requirements for original certification;
modifying examination for certification; modifying
education requirements; modifying minimum experience
requirements; modifying requirements for
nonresidents; specifying guidelines for continuing
education; modifying penalties; providing for payment
of costs; expanding scope of certain notice;
modifying procedure and venue for review of final

1 order; modifying scope of certain standards; stating
2 legislative intent; modifying code of ethics; and
3 providing an effective date.
4

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

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

9 Section 858-702. A. ~~This act~~ The Oklahoma Certified Real
10 Estate Appraisers Act shall only apply to:

11 1. Any appraisal or appraiser involving the following:

12 a. a federally related transaction,

13 b. real_estate-related financial transactions of the
14 agencies, instrumentalities, and federally recognized
15 entities covered by the Financial Institutions Reform,
16 Recovery, and Enforcement Act of 1989, and

17 c. any real_estate-related transactions where an
18 appraisal report or appraisal review report was made
19 under a written agreement that the appraisal report or
20 appraisal review report would follow the Uniform
21 Standards of Professional Appraisal Practice
22 guidelines or where a written appraisal report or
23 appraisal review report states that it is in
24

1 compliance with the Uniform Standards of Professional
2 Appraisal Practice; and

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

12 B. Certified public accountants, licensed in the states or
13 other U.S. jurisdictions, who perform appraisals of real estate
14 incidental to the performance of professional services they provide
15 to clients are excluded from the licensing and certification
16 provisions of the Oklahoma Certified Real Estate Appraisers Act
17 unless the appraisal is a federally related transaction or a real
18 estate-related financial transaction of the agencies,
19 instrumentalities and federally recognized entities covered by the
20 Financial Institutions, Reform, Recovery and Enforcement Act of
21 1989.

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

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

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

16 2. "Appraisal report" means any written or oral communication
17 of an appraisal;

18 3. "Appraisal review" means the act or process of developing
19 and communicating an opinion about the quality of another
20 appraiser's work that was performed as part of an appraisal or
21 appraisal review assignment;

22 4. "Appraisal review report" means any written or oral
23 communication of an appraisal review;
24

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

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

11 ~~5.~~ 7. "Board" means the Real Estate Appraiser Board established
12 pursuant to the provisions of the Oklahoma Certified Real Estate
13 Appraisers Act;

14 ~~6.~~ 8. "Certification" shall refer to either a trainee
15 appraiser, a state licensed appraiser, a state certified residential
16 appraiser or a state certified general appraiser;

17 ~~7.~~ 9. "Certified appraisal or certified appraisal report" means
18 an appraisal or appraisal report given or signed and certified as
19 such by a trainee appraiser, a state licensed, state certified
20 residential or state certified general real estate appraiser. When
21 identifying an appraisal or appraisal report as "certified", the
22 trainee, state licensed, state certified residential or state
23 certified general real estate appraiser must indicate which type of
24 certification is held. A certified appraisal or appraisal report

1 represents to the public that it meets the appraisal standards
2 defined in the Oklahoma Certified Real Estate Appraisers Act;

3 ~~8.~~ 10. "Chairperson" means the chairperson of the Real Estate
4 Appraiser Board;

5 ~~9.~~ 11. "Department" means the ~~Oklahoma~~ Insurance Department;

6 ~~10.~~ 12. "Grievance" means a written articulation of allegations
7 of violations of the Oklahoma Certified Real Estate Appraisers Act
8 by a certificate holder, course provider, or instructor to include
9 any supporting documents;

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

12 ~~11.~~ 14. "Real property" means one or more defined interests,
13 benefits, and rights inherent in the ownership of real estate;

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

20 ~~13.~~ 16. "Appraisal assignment" means an engagement for which an
21 appraiser is employed or retained to act, or would be perceived by
22 third parties or the public as acting, as a disinterested third
23 party in rendering an unbiased analysis, opinion, or conclusion
24

1 relating to the nature, quality, value, or utility of specified
2 interests in, or aspects of, identified real estate; and

3 ~~14.~~ 17. "Specialized services" means those appraisal services
4 which do not fall within the definition of appraisal assignment.

5 The term "specialized services" may include valuation work and
6 analysis work. Regardless of the intention of the client or
7 employer, if the appraiser would be perceived by third parties or
8 the public as acting as a disinterested third party in rendering an
9 unbiased analysis, opinion or conclusion, the work is classified as
10 an appraisal assignment and not "specialized services".

11 SECTION 3. AMENDATORY 59 O.S. 2001, Section 858-704, as
12 amended by Section 3, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010,
13 Section 858-704), is amended to read as follows:

14 Section 858-704. A. No person, other than a trainee, state
15 licensed, state certified residential or state certified general
16 real estate appraiser, shall assume or use that title or any title,
17 designation, or abbreviation likely to create the impression of
18 certification as a real estate appraiser by this state. A person
19 who is not certified pursuant to the provisions of the Oklahoma
20 Certified Real Estate Appraisers Act shall not describe or refer to
21 any appraisal or other evaluation of real estate located in this
22 state by using the term "state certified".

23 B. Violation of subsection A of this section, including using
24 or attempting to use the seal, certificate, or license of another as

1 their own, or falsely impersonating any duly licensed appraiser, or
2 using or attempting to use an inactive, expired, suspended, or
3 revoked license, is declared to be adverse to the public welfare, to
4 constitute a public nuisance, and to cause irreparable harm to the
5 public welfare. The Real Estate Appraiser Board, through the
6 Attorney General, or the local district attorney may maintain an
7 action for injunctive relief in the district court in the county in
8 which a violation of this section is alleged to have occurred to
9 enjoin any person from engaging in such practice.

10 C. Upon the filing of a verified petition in a district court,
11 the court, if satisfied by affidavit or otherwise that a person has
12 been engaged in the practice of real estate appraisal without a
13 valid license, may enter a temporary restraining order without
14 notice or bond enjoining the defendant from further practice. The
15 showing of the absence of a valid, active, unexpired license, by
16 affidavit or otherwise, is sufficient for the issuance of a
17 temporary injunction. If it is established that the defendant has
18 been or is engaged in violation of subsection A of this section, the
19 court may enter an order or judgment perpetually enjoining the
20 defendant from further unlawful acts. In all proceedings under this
21 section, the court, in its discretion, may apportion the costs among
22 the parties interested in the action, including the cost of filing
23 the complaint, service of process, witness fees and expenses, court-
24 reported charges, and reasonable attorney fees. These injunctive

1 proceedings shall be in addition to, and not in lieu of, all
2 penalties and other remedies provided in the Oklahoma Certified Real
3 Estate Appraisers Act.

4 D. ~~This act~~ The Oklahoma Certified Real Estate Appraisers Act
5 is hereby deemed to be voluntary on the part of those who apply to
6 become trainee, state licensed, state certified residential or state
7 certified general real estate appraisers. Users of appraisals may
8 determine, by their own discretion or by guidelines, whether or not
9 to use a trainee, state licensed, state certified residential or
10 state certified general real estate appraiser.

11 SECTION 4. AMENDATORY 59 O.S. 2001, Section 858-705.1,
12 is amended to read as follows:

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

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

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

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

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

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

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

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

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

21 8. Make recommendations to the Board concerning the
22 establishment of administrative procedures for conducting
23 disciplinary proceedings pursuant to the provisions of ~~this act~~ the
24 Oklahoma Certified Real Estate Appraisers Act;

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

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

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

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

21 SECTION 5. AMENDATORY 59 O.S. 2001, Section 858-706, is
22 amended to read as follows:

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

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

5 1. To further define by regulation and with respect to each
6 category of Oklahoma certified real estate appraisers the type of
7 educational experience, appraisal experience, and equivalent
8 experience that will meet the requirements of the Oklahoma Certified
9 Real Estate Appraisers Act, as approved by the Appraisal
10 Subcommittee;

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

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

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

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

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

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

6 ~~7.~~ 8. To censure, suspend and revoke appraiser certificates,
7 course provider approvals, and instructor approvals pursuant to the
8 disciplinary proceedings provided in the Oklahoma Certified Real
9 Estate Appraisers Act; and

10 ~~8.~~ 9. To perform such other functions and duties as may be
11 necessary in carrying out the provisions of the Oklahoma Certified
12 Real Estate Appraisers Act.

13 In the exercise of all powers and the performance of all duties
14 provided in ~~this act~~ the Oklahoma Certified Real Estate Appraisers
15 Act, the Board shall comply with the procedures provided in the
16 Administrative Procedures Act.

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

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

23 SECTION 6. AMENDATORY 59 O.S. 2001, Section 858-707, is
24 amended to read as follows:

1 Section 858-707. The Insurance Department shall have the
2 following powers and duties pursuant to the Oklahoma Certified Real
3 Estate Appraisers Act:

4 1. To receive application for Oklahoma certification;

5 2. To establish the administrative procedures for processing
6 applications for Oklahoma certification;

7 3. To maintain a registry of the names and addresses of people
8 certified pursuant to the provisions of the Oklahoma Certified Real
9 Estate Appraisers Act and transmit such registry to the Appraisal
10 Subcommittee;

11 4. To retain records and all application materials submitted to
12 it; and

13 5. To assist the Real Estate Appraiser Board in such other
14 manner as may be requested.

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

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

20 1. Trainee Appraiser Certificate (annually) \$300.00

21 2. State Licensed Appraiser Certificate
22 (annually) \$300.00

23 3. State Certified General Appraiser
24 Certificate (annually) \$300.00

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

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

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

23 D. The ~~Insurance~~ Department shall charge and collect a Federal
24 Registry Fee ~~of Twenty-five Dollars (\$25.00)~~ in such amount as may

1 be assessed from time to time by the Appraisal Subcommittee of the
2 Federal Financial Institutions Examination Council for all state
3 licensed, state certified residential, and state certified general
4 appraisers. ~~Said~~ The fee shall be transmitted to the Appraisal
5 Subcommittee of the Federal Financial Institutions Examination
6 Council.

7 SECTION 8. AMENDATORY 59 O.S. 2001, Section 858-709, as
8 amended by Section 5, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010,
9 Section 858-709), is amended to read as follows:

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

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

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

24

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

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

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

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

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

15 5. As otherwise approved by the Board.

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

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

23 2. In the county in which the plaintiff may reside.
24

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

11 SECTION 9. AMENDATORY 59 O.S. 2001, Section 858-711, as
12 amended by Section 7, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010,
13 Section 858-711), is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

18 B. State Certified Residential Appraiser - As a prerequisite to
19 taking the examination for certification as a State Certified
20 Residential Appraiser, an applicant shall present satisfactory
21 evidence to the Board that such applicant has successfully completed
22 the minimum educational requirement specified by the Appraiser
23 Qualification Criteria promulgated by the Appraiser Qualifications
24 Board of the Appraisal Foundation ~~of courses in subjects related to~~

1 ~~real estate appraisal~~ from a nationally recognized appraisal
2 organization or college or university or technology center school or
3 private school approved by the Board and ~~such classes shall be made~~
4 ~~available on a regional basis throughout this state prior to the~~
5 ~~required examination date which must include classroom hours related~~
6 ~~to standards of professional practice.~~

7 C. State Licensed Appraiser - As a prerequisite to taking the
8 examination for certification as a State Licensed Appraiser, an
9 applicant shall present satisfactory evidence to the Board that such
10 applicant has successfully completed not less than seventy-five (75)
11 classroom hours of courses relating to real estate appraisal from a
12 nationally recognized appraisal organization or a college or
13 university or technology center school or private school approved by
14 the Board and meets the minimum education requirement specified by
15 the Appraiser Qualification Criteria promulgated by the Appraiser
16 Qualifications Board of the Appraisal Foundation ~~of courses in~~
17 ~~subjects related to real estate appraisal from a nationally~~
18 ~~recognized appraisal organization or a college or university or~~
19 ~~technology center school or private school approved by the Board and~~
20 ~~such classes shall be made available on a regional basis throughout~~
21 ~~the State of Oklahoma prior to the required examination date which~~
22 ~~must include classroom hours related to standards of professional~~
23 ~~practice.~~ Provided, that any appraiser who becomes state licensed
24 prior to July 1, 2001, shall not be required to complete any

1 additional classroom hours necessary to meet the minimum
2 requirements of the Appraiser Qualifications Board of the Appraisal
3 Foundation in order to maintain certification as a state licensed
4 appraiser.

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

21 SECTION 11. AMENDATORY 59 O.S. 2001, Section 858-713, is
22 amended to read as follows:

23 Section 858-713. A. An original certification as a state
24 certified general or a state certified residential or state licensed

1 appraiser shall not be issued to any person who does not possess the
2 equivalent of the minimum requirements of experience promulgated by
3 the Appraisal Qualifications Board of the Appraisal Foundation in
4 real property appraisal supported by adequate written reports or
5 file memoranda. Provided, there shall be no experience requirement
6 for a trainee appraiser. Provided, any state licensed appraiser who
7 becomes state licensed prior to July 1, 2001, shall not be required
8 to attain the minimum requirements of experience set forth by the
9 Appraiser Qualification Criteria promulgated by the Appraiser
10 Qualifications Board to maintain certification as a state licensed
11 appraiser.

12 B. Each applicant for certification as a state certified
13 general or a state certified residential or state licensed appraiser
14 shall furnish under oath a detailed listing of the real estate
15 appraisal reports or file memoranda for each year for which
16 experience is claimed by the applicant. Upon request, the applicant
17 shall make available to the Appraiser Qualification Board for
18 examination, a sample of appraisal reports which the applicant has
19 prepared in the course of that applicant's appraisal practice.

20 SECTION 12. AMENDATORY 59 O.S. 2001, Section 858-714, is
21 amended to read as follows:

22 Section 858-714. The term of a certificate issued under the
23 authority of ~~this act~~ the Oklahoma Certified Real Estate Appraisers
24 Act shall be three (3) years from the date of issuance. The

1 expiration date of the certificate shall appear on the certificate
2 and no other notice of its expiration need be given to its holder.

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

5 Section 858-715. A. Every applicant for certification pursuant
6 to the provisions of the Oklahoma Certified Real Estate Appraisers
7 Act who is not a resident of this state shall submit, with the
8 application for certification, an irrevocable consent that service
9 of process upon the applicant may be made by delivery of the process
10 to the Secretary of State if, in an action against the applicant in
11 a court of this state arising out of the applicant's activities as
12 an Oklahoma certified real estate appraiser, the plaintiff cannot,
13 in the exercise of due diligence, effect personal service upon the
14 applicant.

15 B. Nonresidents of this state may make certified appraisals or
16 appraisal reviews pertaining to real estate situated in this state
17 only if the appraiser is certified in a state with a reciprocity
18 agreement to recognize the certification of appraisers from Oklahoma
19 and has applied for and been issued an Oklahoma certification, or
20 has registered for temporary practice with the Real Estate Appraiser
21 Board as provided in the Oklahoma Certified Real Estate Appraisers
22 Act.

23 SECTION 14. AMENDATORY 59 O.S. 2001, Section 858-717, is
24 amended to read as follows:

1 Section 858-717. The Real Estate Appraiser Board may, in
2 accordance with the provisions of the Oklahoma Certified Real Estate
3 Appraisers Act relating to hearings, deny the issuance of a
4 certificate as a trainee, state licensed, state certified
5 residential or state certified general real estate appraiser to an
6 applicant on any of the grounds enumerated in the Oklahoma Certified
7 Real Estate Appraisers Act.

8 SECTION 15. 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 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 16. 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; provided, however, the Board shall not have authority to
7 specify the exact location or designate a specific instructor for
8 any educational program requirement and shall accept when completed
9 a program offered by an approved school, instructor or course;

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

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

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

18 a. be less than Fifty Dollars (\$50.00) ~~and shall not~~
19 ~~exceed Two Thousand Dollars (\$2,000.00)~~ nor more than
20 Five Hundred Dollars (\$500.00) for each violation of
21 ~~this act~~ the Oklahoma Certified Real Estate Appraisers
22 Act or the rules of the Board, or

1 b. exceed ~~Five Thousand Dollars (\$5,000.00)~~ Two Thousand
2 Five Hundred Dollars (\$2,500.00) for all violations
3 resulting from a single incident or transaction.

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

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

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

22 5. All monies received by the Board as a result of the
23 imposition of the administrative fine and costs provided for in this
24 section shall be deposited in the Oklahoma Certified Real Estate

1 Appraisers Revolving Fund created pursuant to Section 858-730 of
2 this title.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 ~~or~~

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

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

23 D. In a disciplinary proceeding based upon a civil judgment,
24 the trainee, state licensed, state certified residential or state

1 certified general real estate appraiser, or an approved course
2 provider or approved instructor shall be afforded an opportunity to
3 present matters in mitigation and extenuation, but may not
4 collaterally attack the civil judgment.

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

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

19 3. A ~~complaint~~ grievance may be filed against a trainee or
20 state licensed or state certified appraiser, or an approved course
21 provider or approved instructor, directly by the Board, if
22 reasonable cause exists for violations of the code of ethics set
23 forth in ~~this act~~ the Oklahoma Certified Real Estate Appraisers Act.

24

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

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

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

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

21 C. The Board shall have the power to subpoena and issue
22 subpoenas duces tecum and to bring before it any person in this
23 state, or to take testimony by deposition, in the same manner as
24

1 prescribed by law in judicial proceedings in the courts of this
2 state.

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

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

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

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

20 SECTION 19. AMENDATORY 59 O.S. 2001, Section 858-726, as
21 amended by Section 14, Chapter 165, O.S.L. 2006 (59 O.S. Supp. 2010,
22 Section 858-726), is amended to read as follows:

23 Section 858-726. An Oklahoma certified real estate appraiser
24 must comply with the current edition of the Uniform Standards of

1 Professional Appraisal Practice, as promulgated by the Appraisal
2 Standards Board of the Appraisal Foundation when involved in a
3 federally related transaction or a real estate-related financial
4 transaction of the agencies, instrumentalities and federally
5 recognized entities as defined and recognized by the Financial
6 Institutions Reform, Recovery, and Enforcement Act of 1989, or when
7 both the appraiser and user of appraisal services agree in writing
8 that the work product is an appraisal or an appraisal review, or
9 when a written appraisal or appraisal review states that it is in
10 compliance with the Uniform Standards of Professional Appraisal
11 Practice.

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

15 Section 858-732. ~~A.~~ It is the finding of the Legislature that
16 the profession of real estate appraisal is vested with a fiduciary
17 relationship of trust and confidence with respect to clients,
18 lending institutions, both public and private guarantors or insurers
19 of funds in real estate transactions, and to the citizens of
20 Oklahoma and that the qualifications of honesty, integrity, candor
21 and trustworthiness are directly and substantially related to and
22 indispensible to establishment and maintenance of the public trust
23 in the appraisal profession. All persons listed in paragraph 2 of
24 subsection A of Section 858-702 of this title must conduct all real

1 property valuations and any real property valuation-related activity
2 in conformance with the following:

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

9 2. The acceptance of compensation that is contingent upon the
10 reporting of a predetermined value or a direction in value that
11 favors the cause of the client, the amount of the value estimate,
12 the attainment of a stipulated result or the occurrence of a
13 subsequent event is unethical;

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

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

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

21 6. Using or attempting to use the seal, certificate, or license
22 of another as their own; falsely impersonating any duly licensed
23 appraiser; using or attempting to use an inactive, expired,
24

1 suspended, or revoked license; or aiding or abetting any of the
2 foregoing is unethical.

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

8 SECTION 21. This act shall become effective November 1, 2011.

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