ENGROSSED SENATE
BILL NO. 1809 By: Sharp of the Senate

and

Armes of the House

An Act relating to the Oklahoma Certified Real Estate Appraisers Act; amending 59 O.S. 2011, Section 858-706, which relates to duties of the board; modifying language; amending 59 O.S. 2011, Section 858-709, which relates to application for certification; requiring criminal history records check; amending 59 O.S. 2011, Section 858-717, which relates to denial of certificate; stating cause for denial of certificate; requiring criminal history records check by fingerprint search; establishing procedure to process criminal history records search; maintaining certain confidentiality of records; providing for re-fingerprinting; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 858-706, is amended to read as follows:

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

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

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

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

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

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

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

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

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

7. To censure, suspend and revoke certificates pursuant to the disciplinary proceedings provided in the Oklahoma Certified Real Estate Appraisers Act; and

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

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

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

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

SECTION 2. AMENDATORY 59 O.S. 2011, Section 858-709, is amended to read as follows:

Section 858-709. A. Applications for original certification, renewal certification and examinations shall be made in writing to the Oklahoma Insurance Department on forms approved by the Real Estate Appraiser Board. <u>Effective January 1, 2015, applicants for original certification must submit to a criminal history records search that complies with Section 4 of this act.</u>

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

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

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

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

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

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

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

5. As otherwise approved by the Board.

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

1. In the proper court of any county of this state in which a cause of action may arise due to the person's actions as a state licensed or certified real estate appraiser; or

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

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

SECTION 3. AMENDATORY 59 O.S. 2011, Section 858-717, is amended to read as follows:

Section 858-717. A. The Board shall, in accordance with the provisions of the Oklahoma Certified Real Estate Appraisers Act relating to hearings on original certification and the requirement for such applicants to submit to a criminal history records search

on and after January 1, 2015, deny the issuance of a certificate as a trainee, state-licensed, state-certified residential or state-certified general real estate appraiser to the applicant on any of the grounds stated below:

1. If the applicant has been convicted of, or pled guilty or nolo contendere to a felony in a domestic or foreign court during the five-year period immediately preceding the date of application;

2. If the applicant has been convicted of, or pled guilty or nolo contendere to a felony in a domestic or foreign court at any time preceding the date of application if such felony involved an act of fraud, dishonesty, a breach of trust or money laundering; or

3. The applicant has failed to demonstrate character and general fitness such as to warrant a determination that the applicant may not operate honestly and fairly in the conduct of appraisals as outlined within the real property appraisal qualifications criteria established by the Appraiser Qualifications Board.

B. The Board may for all other applicants, in accordance with the provisions of the Oklahoma Certified Real Estate Appraisers Act relating to hearings, deny the issuance of a certificate as a trainee, state licensed, state certified residential or state certified general real estate appraiser to an applicant on any of the grounds enumerated in the Oklahoma Certified Real Estate Appraisers Act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 858-709A of Title 59, unless there is created a duplication in numbering, reads as follows:

For purposes of the Oklahoma Certified Real Estate Appraisers Act, the required criminal history records check shall include a state and national criminal history records search conducted by the Oklahoma State Bureau of Investigation that is not more than ninety (90) days old. Each criminal background check shall require:

1. The applicant shall submit a full set of usable fingerprints that is not more than ninety (90) days old to the Real Estate Appraiser Board for the purpose of permitting a state and federal criminal history records search pursuant to Section 150.9 of Title 74 of the Oklahoma Statutes. The OSBI may exchange these fingerprints with the Federal Bureau of Investigation (FBI);

2. The applicant shall furnish the Board fingerprints as established by Board rules and any applicable fees as required by a state or federal law enforcement agency to process the background check;

3. The Board shall forward the fingerprints along with the applicable fee for a national criminal records history search to the OSBI. The Bureau shall retain one set of fingerprints in the Automated Fingerprint Identification System and submit the other set to the FBI for a national criminal history records search;

4. Any and all state and federal criminal history record information obtained by the Board from the OSBI or the FBI that is not already a matter of public record shall be deemed confidential. The confidential information shall be restricted to the exclusive use of the Board, its members, officers, investigators, agents and attorneys in evaluating the applicant's eligibility or disqualification for licensure; and

5. Fingerprint images may be rejected by the OSBI or the FBI for a variety of reasons, including, but not limited to, fingerprint quality or an inability by the OSBI or the FBI to classify the fingerprints. These rejections require the applicant to be fingerprinted again. Applicants with fingerprints rejected will be required to repay and be re-fingerprinted. Applicants are responsible for insuring and verifying that all data is correct in the fingerprinting process.

SECTION 5. This act shall become effective November 1, 2014.

Passed the Senate the 25th day of February, 2014.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2014.

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Presiding Officer of the House of Representatives