

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 758

By: Pugh

6 AS INTRODUCED

7 An Act relating to the Real Estate Appraiser Board;
8 amending 59 O.S. 2011, Sections 858-703, 858-706, as
9 amended by Section 1, Chapter 97 O.S.L. 2014, 858-
10 707, and 858-709, as amended by Section 2, Chapter
11 97, O.S.L. 2014 (59 O.S. Supp. 2020, Sections 858-706
12 and 858-709), which relate to definitions, powers of
13 Board, duties of Insurance Department and application
14 for certification; adding definition; authorizing
15 employment of director for certain purposes; stating
16 position as unclassified; stating authority of
17 director; making employees state employees; providing
18 certain employees are employees of the Insurance
19 Department; providing for hire of temporary employees
20 for certain purpose; expanding powers and duties of
21 the Insurance Department to support the Appraiser
22 Board; providing for certain reimbursements and
23 expenditures; stating method to request
24 reimbursement; setting time for certain payments;
25 providing for other expenditures; modifying language;
26 providing an effective date; and declaring an
27 emergency.

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

29 SECTION 1. AMENDATORY 59 O.S. 2011, Section 858-703, is
30 amended to read as follows:

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

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

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

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

19 4. "Appraiser Qualifications Board" (AQB) means the independent
20 board appointed by the Board of Trustees of the Appraisal
21 Foundation. The AQB establishes educational, experience, and
22 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. "Board" means the Real Estate Appraiser Board established
4 pursuant to the provisions of the Oklahoma Certified Real Estate
5 Appraisers Act;

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

9 7. "Certified appraisal or certified appraisal report" means an
10 appraisal or appraisal report given or signed and certified as such
11 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. "Chairperson" means the chairperson of the Real Estate
20 Appraiser Board;

21 9. "Department" means the Oklahoma Insurance Department;

22 10. "Director" means the individual employed by the Board who
23 is responsible for supervising the regulation of appraiser and
24 appraisal management companies' credentialing and enforcement

1 programs; serves as liaison between the Board and other state and
2 federal entities and professional organizations; directs and
3 coordinates the day-to-day operations of the Board including
4 training staff, budgeting and ensuring adherence to the Open Meeting
5 Act and Open Records Act;

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

8 ~~11.~~ 12. "Real property" means one or more defined interests,
9 benefits, and rights inherent in the ownership of real estate;

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

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

22 ~~14.~~ 15. "Specialized services" means those appraisal services
23 which do not fall within the definition of appraisal assignment.

24 The term "specialized services" may include valuation work and

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

6 SECTION 2. AMENDATORY 59 O.S. 2011, Section 858-706, as
7 amended by Section 1, Chapter 97, O.S.L. 2014 (59 O.S. Supp. 2020,
8 Section 858-706), is 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. The Real Estate Appraiser Board may employ a Director to
14 oversee the organization and activities of the Board and to ensure
15 compliance with rules promulgated by the Board. The Director shall
16 perform such other duties as the Board may prescribe. The salary of
17 the Director shall be set by the Board. The position of Director
18 shall be an unclassified position;

19 2. Board employees shall be hired by and subject to the
20 supervision and control of the Director or designee. Persons
21 employed by the Board shall serve at the direction and pleasure of
22 the Director. All employees are employees of the State of Oklahoma
23 and shall be in the unclassified service;

1 3. Employees of the Board shall be considered unclassified
2 employees of the Oklahoma Insurance Department only for the purpose
3 of administrative support provided by the Oklahoma Insurance
4 Department;

5 4. The Director is authorized to employ temporary workers or
6 contract labor as may be required to properly administer the
7 Oklahoma Certified Real Estate Appraisers Act;

8 5. To further define by regulation and with respect to each
9 category of Oklahoma certified real estate appraisers the type of
10 educational experience, appraisal experience, and equivalent
11 experience that will meet the requirements of the Oklahoma Certified
12 Real Estate Appraisers Act, as approved by the Appraiser
13 Qualification Board of the Appraisal Foundation;

14 ~~2.~~ 6. To establish the examination specifications for each
15 category of Oklahoma certified real estate appraiser;

16 ~~3.~~ 7. To approve or disapprove applications for certification
17 and issue certificates;

18 ~~4.~~ 8. To further define by regulation and with respect to each
19 category of Oklahoma certified real estate appraiser, the continuing
20 education requirements for the renewal of certification that will
21 meet the requirements of the Oklahoma Certified Real Estate
22 Appraisers Act as approved by the Appraiser Qualification Board of
23 the Appraisal Foundation;

1 ~~5.~~ 9. To review from time to time the standards for the
2 development and communication of real estate appraisals provided in
3 the Oklahoma Certified Real Estate Appraisers Act and to adopt
4 regulations explaining and interpreting the standards;

5 ~~6.~~ 10. To establish administrative procedures for disciplinary
6 proceedings conducted pursuant to the provisions of the Oklahoma
7 Certified Real Estate Appraisers Act;

8 ~~7.~~ 11. To censure, suspend and revoke certificates pursuant to
9 the disciplinary proceedings provided in the Oklahoma Certified Real
10 Estate Appraisers Act; and

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

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

17 C. Actions of the Board shall not be subject to review by the
18 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 3. AMENDATORY 59 O.S. 2011, 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:

3 1. The Department shall provide administrative support for the
4 Board including, but not limited to, office space, equipment and
5 furnishings, IT support, payroll and employee benefit administration
6 and processing, and travel and expense reimbursement, and shall
7 manage the Board's funds at the direction of the Board. The
8 Oklahoma Insurance Department shall be entitled to reimbursement for
9 the annual cost of providing said administrative support. Upon
10 invoice and a written directive of expenditure approved by the
11 Director, the Oklahoma Insurance Department shall process and make
12 payment for said expenditure from Board funds within fifteen (15)
13 business days of receipt of the written directive from the Board.
14 All other Board-directed expenditures shall be processed according
15 to Oklahoma Insurance Department policy;

16 2. To receive application for Oklahoma certification;

17 ~~2.~~ 3. To establish the administrative procedures for processing
18 applications for Oklahoma certification;

19 ~~3.~~ 4. To maintain a registry of the names and addresses of
20 people certified pursuant to the provisions of the Oklahoma
21 Certified Real Estate Appraisers Act and transmit such registry to
22 the Appraisal Subcommittee;

23 ~~4.~~ 5. To retain records and all application materials submitted
24 to it; and

1 ~~5.~~ 6. To assist the Board in such other manner as may be
2 requested.

3 SECTION 4. AMENDATORY 59 O.S. 2011, Section 858-709, as
4 amended by Section 2, Chapter 97, O.S.L. 2014 (59 O.S. Supp. 2020,
5 Section 858-709), is amended to read as follows:

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

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

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

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

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

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

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

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

12 5. As otherwise approved by the Board.

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

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

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

20 The consent also shall stipulate and agree that service of
21 process or pleadings on the person shall be made by service upon the
22 Board as the person's agent and held in all courts to be as valid
23 and binding as if personal service had been made upon the applicant
24 in Oklahoma. In case any processes or pleading mentioned in the

1 case is served upon the Board, it shall be by duplicate copies, one
2 of which shall be filed with the ~~Board administrator~~ Board's
3 Director and the other immediately forwarded by registered mail to
4 the nonresident state licensed or certified real estate appraiser to
5 whom the processes or pleadings are directed.

6 SECTION 5. This act shall become effective July 1, 2021.

7 SECTION 6. It being immediately necessary for the preservation
8 of the public peace, health or safety, an emergency is hereby
9 declared to exist, by reason whereof this act shall take effect and
10 be in full force from and after its passage and approval.

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