

## Committee Substitute for Senate Bill No. 466

An act relating to regulation of real estate appraisers; amending s. 475.611, F.S.; revising and providing definitions; amending s. 475.612, F.S.; revising requirements relating to work performed by persons who are not certified, licensed, or registered; providing requirements relating to issuance of appraisal reports and compensation of appraisers, including trainees; amending s. 475.615, F.S.; removing obsolete language relating to qualifications for registration, licensure, or certification; revising education and experience requirements; amending s. 475.616, F.S.; removing obsolete language relating to examination requirements; amending s. 475.617, F.S.; revising the minimum and maximum course hour requirements for trainee appraiser registration; removing obsolete provisions establishing education and experience requirements for licensure as an appraiser; revising education and experience requirements for certification as a residential appraiser or general appraiser; requiring applicants for certification to maintain certain application documents; providing rulemaking authority; creating s. 475.6171, F.S.; providing for the issuance of registration and certification upon receipt of proper documentation; providing rulemaking authority; amending s. 475.6221, F.S.; prohibiting supervisory appraisers from certain employment; amending s. 475.6222, F.S.; requiring supervisory appraisers to provide direct training to registered trainee appraisers; amending s. 475.623, F.S.; requiring appraisers to furnish their firm or business name and any change in that name to the Department of Business and Professional Regulation; amending s. 475.624, F.S.; removing obsolete references; correcting cross-references; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 475.611, Florida Statutes, is amended to read:

475.611 Definitions.—

(1) As used in this part, the term:

(a) “Appraisal” or “appraisal services” means the services provided by certified or licensed appraisers or registered trainee appraisers, and includes:

1. “Appraisal assignment” denotes an engagement for which a person is employed or retained to act, or could be perceived by third parties or the public as acting, as an agent or a disinterested third party in rendering an unbiased analysis, opinion, review, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real property.

2. “Analysis assignment” denotes appraisal services that relate to the employer’s or client’s individual needs or investment objectives and includes specialized marketing, financing, and feasibility studies as well as analyses, opinions, and conclusions given in connection with activities such as real estate brokerage, mortgage banking, real estate counseling, or real estate consulting.

3. “Appraisal review assignment” denotes an engagement for which an appraiser is employed or retained to develop and communicate an opinion about the quality of another appraiser’s appraisal, appraisal report, or work. An appraisal review may or may not contain the reviewing appraiser’s opinion of value.

(b) “Appraisal Foundation” or “foundation” means the Appraisal Foundation established on November 20, 1987, as a not-for-profit corporation under the laws of Illinois.

(c) “Appraisal report” means any communication, written or oral, of an appraisal, appraisal review, appraisal consulting service, analysis, opinion, or conclusion relating to the nature, quality, value, or utility of a specified interest in, or aspect of, identified real property, and includes any report communicating an appraisal analysis, opinion, or conclusion of value, regardless of title. However, in order to be recognized in a federally related transaction, an appraisal report must be written.

(d) “Appraisal review” means the act or process of developing and communicating an opinion about the quality of another appraiser’s appraisal, appraisal report, or work.

(e) “Appraisal subcommittee” means the designees of the heads of the federal financial institutions regulatory agencies established by the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. ss. 3301 et seq.), as amended.

(f) “Appraiser” means any person who is a registered trainee real estate appraiser, licensed real estate appraiser, or a certified real estate appraiser. An appraiser renders a professional service and is a professional within the meaning of s. 95.11(4)(a).

(g) “Board” means the Florida Real Estate Appraisal Board established under this section.

(h) “Certified general appraiser” means a person who is certified by the department as qualified to issue appraisal reports for any type of real property.

(i) “Certified residential appraiser” means a person who is certified by the department as qualified to issue appraisal reports for residential real property of one to four residential units, without regard to transaction value or complexity, or real property as may be authorized by federal regulation.

(j) “Department” means the Department of Business and Professional Regulation.

(k) “Direct supervision” means the degree of supervision required of a supervisory appraiser overseeing the work of a registered trainee appraiser by which the supervisory appraiser has control over and detailed professional knowledge of the work being done. Direct supervision is achieved when a registered trainee appraiser has regular direction, guidance, and support from a supervisory appraiser who has the competencies as determined by rule of the board.

~~(l)~~(k) “Federally related transaction” means any real estate-related financial transaction which a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates, and which requires the services of a state-licensed or state-certified appraiser.

~~(m)~~(l) “Licensed appraiser” means a person who is licensed by the department as qualified to issue appraisal reports for residential real property of one to four residential units or on such real estate or real property as may be authorized by federal regulation. After July 1, 2003, the department shall not issue licenses for the category of licensed appraiser.

~~(n)~~(m) “Registered trainee appraiser” means a person who is registered with the department as qualified to perform appraisal services only under the direct supervision of a licensed or certified appraiser. A registered trainee appraiser may accept appraisal assignments only from her or his primary or secondary supervisory appraiser.

~~(o)~~(n) “Supervisory appraiser” means a licensed appraiser, a certified residential appraiser, or a certified general appraiser responsible for the direct supervision of one or more registered trainee appraisers and fully responsible for appraisals and appraisal reports prepared by those registered trainee appraisers. The board, by rule, shall determine the responsibilities of a supervisory appraiser, the geographic proximity required, the minimum qualifications and standards required of a licensed or certified appraiser before she or he may act in the capacity of a supervisory appraiser, and the maximum number of registered trainee appraisers to be supervised by an individual supervisory appraiser.

(p) “Training” means the process of providing for and making available to a registered trainee appraiser, under direct supervision, a planned, prepared, and coordinated program, or routine of instruction and education, in appraisal professional and technical appraisal skills as determined by rule of the board.

(q)~~(o)~~ “Uniform Standards of Professional Appraisal Practice” means the most recent standards approved and adopted by the Appraisal Standards Board of the Appraisal Foundation.

(r)~~(p)~~ “Valuation services” means services pertaining to aspects of property value and includes such services performed by certified appraisers, registered trainee appraisers, and others.

(s)~~(q)~~ “Work file” means the documentation necessary to support an appraiser’s analysis, opinions, and conclusions.

Section 2. Section 475.612, Florida Statutes, is amended to read:

475.612 Certification, licensure, or registration required.—

(1) A person may not use the title “certified real estate appraiser,” “licensed real estate appraiser,” or “registered trainee real estate appraiser,” or any abbreviation or words to that effect, or issue an appraisal report ~~in connection with any federally related transaction~~, unless such person is certified, licensed, or registered by the department under this part. However, the work upon which an appraisal report is based may be performed by a person who is not a certified or licensed appraiser or registered trainee appraiser if the work report is supervised and approved, and the report is signed, by a certified or licensed appraiser who has full responsibility for all requirements of the report and valuation service. Only a certified or licensed appraiser may issue an appraisal report and receive direct compensation for providing valuation services for the appraisal report. A registered trainee appraiser may only receive compensation for appraisal services from her or his authorized certified or licensed appraiser.

(2) This section does not preclude a Florida licensed real estate broker, sales associate, or broker associate who is not a ~~Florida~~ certified or licensed real estate appraiser ~~or registered trainee real estate appraiser~~ from providing valuation services for compensation. Such persons may continue to provide valuation services for compensation so long as they do not represent themselves as certified, licensed, or registered under this part.

(3) This section does not apply to a real estate broker or sales associate who, in the ordinary course of business, performs a comparative market analysis, gives a price opinion, or gives an opinion of the value of real estate. However, in no event may this comparative market analysis, price opinion, or opinion of value of real estate be referred to or construed as an appraisal.

(4) This section does not prevent any state court or administrative law judge from certifying as an expert witness in any legal or administrative proceeding an appraiser who is not certified, licensed, or registered; nor does it prevent any appraiser from testifying, with respect to the results of an appraisal.

(5) This section does not apply to any full-time graduate student who is enrolled in a degree program in appraising at a college or university in this state, if the student is acting under the direct supervision of a certified or licensed appraiser and is engaged only in appraisal activities related to the approved degree program. Any appraisal report by the student must be issued in the name of the supervising individual who is responsible for the report's content.

(6) This section does not apply to any employee of a local, state, or federal agency who performs appraisal services within the scope of her or his employment. However, this exemption does not apply where any local, state, or federal agency requires an employee to be registered, licensed, or certified to perform appraisal services.

Section 3. Section 475.615, Florida Statutes, is amended to read:

475.615 Qualifications for registration, ~~licensure~~, or certification.—

(1) Any person desiring to act as a registered trainee appraiser or as a ~~licensed or certified~~ appraiser must make application in writing to the department in such form and detail as the board shall prescribe. Each applicant must be at least 18 years of age and hold a high school diploma or its equivalent. ~~At the time of application, a person must furnish evidence of successful completion of required education and evidence of required experience, if any.~~

(2) The board is authorized to waive or modify any education, experience, or examination requirements established in this part in order to conform with any such requirements established by the Appraisal Qualifications Board of the Appraisal Foundation ~~and recognized by the Appraisal Subcommittee~~ or any successor body recognized by federal law, including any requirements adopted on February 20, 2004. The board shall implement this section by rule.

(3) Appropriate fees, as set forth in the rules of the board pursuant to s. 475.6147, and a fingerprint card must accompany all applications for registration ~~or, certification, or licensure~~. The fingerprint card shall be forwarded to the Division of Criminal Justice Information Systems within the Department of Law Enforcement for purposes of processing the fingerprint card to determine if the applicant has a criminal history record. The fingerprint card shall also be forwarded to the Federal Bureau of Investigation for purposes of processing the fingerprint card to determine if the applicant has a criminal history record. The information obtained by the processing of the fingerprint card by the ~~Florida~~ Department of Law Enforcement and the Federal Bureau of Investigation shall be sent to the department for the purpose of determining if the applicant is statutorily qualified for registration ~~or, certification, or licensure~~. Effective July 1, 2006, an applicant must provide fingerprints in electronic format.

(4) In the event that the applicant is currently a registered trainee appraiser or a licensed or certified appraiser and is making application to obtain a different status of appraisal credential licensure, should such application be received by the department within 180 days prior to through 180 days after the applicant's scheduled renewal, the charge for the application shall be established by the rules of the board pursuant to s. 475.6147.

(5) At the time of filing a notarized application for registration, ~~licensure~~, or certification, the applicant must sign a pledge to comply with the Uniform Standards of Professional Appraisal Practice upon registration, ~~licensure~~, or certification, and must indicate in writing that she or he understands the types of misconduct for which disciplinary proceedings may be initiated. The application shall expire 1 year after ~~from the date received, if the applicant for registration, licensure, or certification fails to take the appropriate examination.~~

(6) All applicants must be competent and qualified to make real estate appraisals with safety to those with whom they may undertake a relation-

ship of trust and confidence and the general public. If any applicant has been denied registration, licensure, or certification, or has been disbarred, or the applicant's registration, license, or certificate to practice or conduct any regulated profession, business, or vocation has been revoked or suspended by this or any other state, any nation, or any possession or district of the United States, or any court or lawful agency thereof, because of any conduct or practices which would have warranted a like result under this part, or if the applicant has been guilty of conduct or practices in this state or elsewhere which would have been grounds for disciplining her or his registration, license, or certification under this part had the applicant then been a registered trainee appraiser or a licensed or certified appraiser, the applicant shall be deemed not to be qualified unless, because of lapse of time and subsequent good conduct and reputation, or other reason deemed sufficient, it appears to the board that the interest of the public is not likely to be endangered by the granting of registration, ~~licensure~~, or certification.

(7) No applicant seeking to become registered, ~~licensed~~, or certified under this part may be rejected solely by virtue of membership or lack of membership in any particular appraisal organization.

Section 4. Section 475.616, Florida Statutes, is amended to read:

475.616 Examination requirements.—To be ~~licensed~~ or certified as an appraiser, the applicant must demonstrate, by passing a written examination, that she or he possesses:

(1) A knowledge of technical terms commonly used in real estate appraisal.

(2) An understanding of the principles of land economics, real estate appraisal processes, reliable sources of appraising data, and problems likely to be encountered in the gathering, interpreting, and processing of data in carrying out appraisal disciplines.

(3) An understanding of the standards for the development and communication of real estate appraisals as provided in this part.

(4) An understanding of the types of misconduct for which disciplinary proceedings may be initiated against a licensed or certified appraiser, as set forth in this part.

(5) Knowledge of the theories of depreciation, cost estimating, methods of capitalization, and the mathematics of real estate appraisal ~~that are appropriate for the licensure or certification for which application is made.~~

Section 5. Section 475.617, Florida Statutes, is amended to read:

475.617 Education and experience requirements.—

(1) To be registered as a trainee appraiser, an applicant must present evidence satisfactory to the board that she or he has successfully completed at least 100 ~~75~~ hours of approved academic courses in subjects related to real estate appraisal, which shall include coverage of the Uniform Standards of

Professional Appraisal Practice from a nationally recognized or state-recognized appraisal organization, career center, accredited community college, college, or university, state or federal agency or commission, or proprietary real estate school that holds a permit pursuant to s. 475.451. The board may increase the required number of hours to not more than ~~125~~ 100 hours. A classroom hour is defined as 50 minutes out of each 60-minute segment. Past courses may be approved on an hour-for-hour basis.

~~(2)~~ To be licensed as an appraiser, an applicant must present evidence satisfactory to the board that she or he:

~~(a)~~ Has 2 years of experience in real property appraisal as defined by rule.

~~(b)~~ Has successfully completed at least 90 classroom hours, inclusive of examination, of approved academic courses in subjects related to real estate appraisal, which shall include coverage of the Uniform Standards of Professional Appraisal Practice from a nationally recognized or state-recognized appraisal organization, career center, accredited community college, college, or university, state or federal agency or commission, or proprietary real estate school that holds a permit pursuant to s. 475.451. The board may increase the required number of hours to not more than 120 hours. A classroom hour is defined as 50 minutes out of each 60-minute segment. Past courses may be approved by the board and substituted on an hour-for-hour basis.

~~(2)(3)~~ To be certified as a residential appraiser, an applicant must present satisfactory evidence to the board that she or he has met the minimum education and experience requirements prescribed by rule of the board. The board shall prescribe by rule education and experience requirements that meet or exceed the following real property appraiser qualification criteria adopted on February 20, 2004, by the Appraisal Qualifications Board of the Appraisal Foundation:

~~(a)~~ Has at least 2,500 hours of experience obtained over a 24-month period in real property appraisal as defined by rule.

~~(b)~~ Has successfully completed at least ~~200~~ 120 classroom hours, inclusive of examination, of approved academic courses in subjects related to real estate appraisal, which shall include a 15-hour National coverage of the Uniform Standards of Professional Appraisal Practice course from a nationally recognized or state-recognized appraisal organization, career center, accredited community college, college, or university, state or federal agency or commission, or proprietary real estate school that holds a permit pursuant to s. 475.451. ~~The board may increase the required number of hours to not more than 165 hours.~~ A classroom hour is defined as 50 minutes out of each 60-minute segment. Past courses may be approved by the board and substituted on an hour-for-hour basis.

~~(3)(4)~~ To be certified as a general appraiser, an applicant must present evidence satisfactory to the board that she or he has met the minimum education and experience requirements prescribed by rule of the board. The board shall prescribe education and experience requirements that meet or

exceed the following real property appraiser qualification criteria adopted on February 20, 2004, by the Appraisal Qualifications Board of the Appraisal Foundation:

(a) Has at least 3,000 hours of experience obtained over a 30-month period in real property appraisal as defined by rule.

(b) Has successfully completed at least ~~300~~ 180 classroom hours, inclusive of examination, of approved academic courses in subjects related to real estate appraisal, which shall include a 15-hour National coverage of the Uniform Standards of Professional Appraisal Practice course from a nationally recognized or state-recognized appraisal organization, career center, accredited community college, college, or university, state or federal agency or commission, or proprietary real estate school that holds a permit pursuant to s. 475.451. ~~The board may increase the required number of hours to not more than 225 hours.~~ A classroom hour is defined as 50 minutes out of each 60-minute segment. Past courses may be approved by the board and substituted on an hour-for-hour basis.

~~(4)~~(5) Each applicant must furnish, under oath, a detailed statement of the experience for each year of experience she or he claims. Upon request, the applicant shall furnish to the board, for its examination, copies of appraisal reports or file memoranda to support the claim for experience. Any appraisal report or file memoranda used to support a claim for experience must be maintained by the applicant for no less than 5 years after the date of certification.

(5) The board may implement the provisions of this section by rule.

Section 6. Section 475.6171, Florida Statutes, is created to read:

475.6171 Issuance of registration or certification.—The registration or certification of an applicant may be issued upon receipt by the board of the following:

(1) A complete application indicating compliance with qualifications as specified in s. 475.615.

(2) Proof of successful course completion as specified in s. 475.617.

(3) Proof of experience for certification as specified in s. 475.617.

(4) If required, proof of passing a written examination as specified in s. 475.616. No certification shall be issued based upon any examination results obtained more than 24 months after the date of examination.

(5) The board shall implement this section by rule.

Section 7. Subsection (3) is added to section 475.6221, Florida Statutes, to read:

475.6221 Employment of and by registered trainee real estate appraisers.—



(3) A supervisory appraiser may not be employed by a trainee or by a corporation, partnership, firm, or group in which the trainee has a controlling interest.

Section 8. Section 475.6222, Florida Statutes, is amended to read:

475.6222 Supervision and training of registered trainee appraisers.—The primary or secondary supervisory appraiser of a registered trainee appraiser shall provide direct supervision and training to the registered trainee appraiser. The role and responsibility of the supervisory appraiser is determined by rule of the board.

Section 9. Section 475.623, Florida Statutes, is amended to read:

475.623 Registration of firm or business name and office location.—Each appraiser registered, licensed, or certified under this part shall furnish in writing to the department each firm or business name and address from which she or he operates in the performance of appraisal services. Each appraiser must notify the department of any change of firm or business name and any change of address within 10 days on a form provided by the department.

Section 10. Section 475.624, Florida Statutes, is amended to read:

475.624 Discipline.—The board may deny an application for registration, licensure, or certification; may investigate the actions of any appraiser registered, licensed, or certified under this part; may reprimand or impose an administrative fine not to exceed \$5,000 for each count or separate offense against any such appraiser; and may revoke or suspend, for a period not to exceed 10 years, the registration, license, or certification of any such appraiser, or place any such appraiser on probation, if it finds that the registered trainee, licensee, or certificateholder:

(1) Has violated any provisions of this part or s. 455.227(1); however, certificateholders, registrants, and licensees under this part are exempt from the provisions of s. 455.227(1)(i).

(2) Has been guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest conduct, culpable negligence, or breach of trust in any business transaction in this state or any other state, nation, or territory; has violated a duty imposed upon her or him by law or by the terms of a contract, whether written, oral, express, or implied, in an appraisal assignment; has aided, assisted, or conspired with any other person engaged in any such misconduct and in furtherance thereof; or has formed an intent, design, or scheme to engage in such misconduct and committed an overt act in furtherance of such intent, design, or scheme. It is immaterial to the guilt of the registered trainee, licensee, or certificateholder that the victim or intended victim of the misconduct has sustained no damage or loss; that the damage or loss has been settled and paid after discovery of the misconduct; or that such victim or intended victim was a customer or a person in confidential relation with the registered trainee, licensee, or certificateholder, or was an identified member of the general public.

(3) Has advertised services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(4) Has violated any of the provisions of this part section or any lawful order or rule issued under the provisions of this part section or chapter 455.

(5) Has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the activities of a registered trainee appraiser or licensed or certified appraiser, or which involves moral turpitude or fraudulent or dishonest conduct. The record of a conviction certified or authenticated in such form as admissible in evidence under the laws of the state shall be admissible as prima facie evidence of such guilt.

(6) Has had a registration, license, or certification as an appraiser revoked, suspended, or otherwise acted against, or has been disbarred, or has had her or his registration, license, or certificate to practice or conduct any regulated profession, business, or vocation revoked or suspended by this or any other state, any nation, or any possession or district of the United States, or has had an application for such registration, licensure, or certification to practice or conduct any regulated profession, business, or vocation denied by this or any other state, any nation, or any possession or district of the United States.

(7) Has become temporarily incapacitated from acting as an appraiser with safety to those in a fiduciary relationship with her or him because of drunkenness, use of drugs, or temporary mental derangement; however, suspension of a license, certification, or registration in such cases shall only be for the period of such incapacity.

(8) Is confined in any county jail, postadjudication; is confined in any state or federal prison or mental institution; or, through mental disease or deterioration, can no longer safely be entrusted to deal with the public or in a confidential capacity.

(9) Has failed to inform the board in writing within 30 days after pleading guilty or nolo contendere to, or being convicted or found guilty of, any felony.

(10) Has been found guilty, for a second time, of any misconduct that warrants disciplinary action, or has been found guilty of a course of conduct or practice which shows that she or he is incompetent, negligent, dishonest, or untruthful to an extent that those with whom she or he may sustain a confidential relationship may not safely do so.

(11) Has made or filed a report or record, either written or oral, which the registered trainee, licensee, or certificateholder knows to be false; has willfully failed to file a report or record required by state or federal law; has willfully impeded or obstructed such filing, or has induced another person to impede or obstruct such filing. However, such reports or records shall include only those which are signed or presented in the capacity of a registered trainee appraiser or licensed or certified appraiser.

(12) Has obtained or attempted to obtain a registration, license, or certification by means of knowingly making a false statement, submitting false information, refusing to provide complete information in response to an application question, or engaging in fraud, misrepresentation, or concealment.

(13) Has paid money or other valuable consideration, except as required by this section, to any member or employee of the board to obtain a registration, license, or certification under this section.

(14) Has violated any standard for the development or communication of a real estate appraisal or other provision of the Uniform Standards of Professional Appraisal Practice.

(15) Has failed or refused to exercise reasonable diligence in developing an appraisal or preparing an appraisal report.

(16) Has failed to communicate an appraisal without good cause.

(17) Has accepted an appraisal assignment if the employment itself is contingent upon the appraiser reporting a predetermined result, analysis, or opinion, or if the fee to be paid for the performance of the appraisal assignment is contingent upon the opinion, conclusion, or valuation reached upon the consequences resulting from the appraisal assignment.

(18) Has failed to timely notify the department of any change in business location, or has failed to fully disclose all business locations from which she or he operates as a registered trainee real estate appraiser or licensed or certified real estate appraiser.

Section 11. This act shall take effect July 1, 2006.

Approved by the Governor June 13, 2006.

Filed in Office Secretary of State June 13, 2006.