

An Act

ENROLLED SENATE
BILL NO. 758

By: Pugh of the Senate

and

Osburn of the House

An Act relating to the Real Estate Appraiser Board; amending 59 O.S. 2011, Sections 858-703, 858-705.1, as amended by Section 1, Chapter 90, O.S.L. 2019, 858-706, as amended by Section 1, Chapter 97 O.S.L. 2014, 858-707 and 858-709, as amended by Section 2, Chapter 97, O.S.L. 2014 (59 O.S. Supp. 2020, Sections 858-705.1, 858-706 and 858-709), which relate to definitions, chairperson duties, powers of Board, duties of Insurance Department and application for certification; adding definition; deleting certain duties of chairperson; authorizing employment of director for certain purposes; stating position as unclassified; stating authority of director; making employees state employees; providing certain employees are employees of the Insurance Department; providing for hire of temporary employees for certain purpose; expanding powers and duties of the Insurance Department to support the Appraiser Board; providing for certain reimbursements and expenditures; stating method to request reimbursement; setting time for certain payments; providing for other expenditures; modifying language; providing an effective date; and declaring an emergency.

SUBJECT: Real Estate Appraiser Board

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

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

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

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

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

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

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

5. "Board" means the Real Estate Appraiser Board established pursuant to the provisions of the Oklahoma Certified Real Estate Appraisers Act;

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

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

8. "Chairperson" means the chairperson of the Real Estate Appraiser Board;

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

10. "Director" means the individual employed by the Board who is responsible for supervising the regulation of appraiser and appraisal management companies' credentialing and enforcement programs; serves as liaison between the Board and other state and federal entities and professional organizations; directs and coordinates the day-to-day operations of the Board including training staff, budgeting and ensuring adherence to the Oklahoma Open Meeting Act and the Oklahoma Open Records Act;

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

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

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

~~13.~~ 14. "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third

party in rendering an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate; and

~~14.~~ 15. "Specialized services" means those appraisal services which do not fall within the definition of appraisal assignment. The term "specialized services" may include valuation work and analysis work. Regardless of the intention of the client or employer, if the appraiser would be perceived by third parties or the public as acting as a disinterested third party in rendering an unbiased analysis, opinion or conclusion, the work is classified as an appraisal assignment and not "specialized services".

SECTION 2. AMENDATORY 59 O.S. 2011, Section 858-705.1, as amended by Section 1, Chapter 90, O.S.L. 2019 (59 O.S. Supp. 2020, Section 858-705.1), is amended to read as follows:

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

B. As Chairperson, the Insurance Commissioner, in addition to his duties prescribed by law as Insurance Commissioner on September 1, 1991, shall be required to perform the following duties, for which duties he shall be paid an additional Twelve Thousand Dollars (\$12,000.00) annually, payable monthly from appropriations made to the Insurance Department:

1. Keep records of the proceedings of the Board;
2. Call special meetings of the Board when in the judgment of the chairperson it is necessary or proper to do so;
3. Procure appropriate examination questions and answers which shall meet criteria established by the Appraisal Qualifications Board of the Appraisal Foundation and approved by the Board;
4. ~~Develop guidelines for administration of and grading of the examinations in accordance with standards promulgated by the Appraisal Qualifications Board of the Appraisal Foundation and approved by the Board;~~

~~5.~~ Prepare and file an annual report with the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor detailing the number of applicants for the examination and the pass/fail rate;

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

~~7~~ 5. Establish and maintain a recordkeeping system approved by the Board to monitor compliance with the continuing education requirements imposed by law;

~~8~~ 6. Make recommendations to the Board concerning the establishment of administrative procedures for conducting disciplinary proceedings pursuant to the provisions of the Oklahoma Certified Real Estate Appraisers Act;

~~9~~ 7. Develop a procedure approved by the Board whereby persons aggrieved by the actions of a licensed or certified appraiser may file complaints with the Board;

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

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

~~12~~ 10. Submit to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor on or before January 1, 1994, a report evaluating the impact of the licensure/certification requirements imposed by the Oklahoma Certified Real Estate Appraisers Act on the appraiser and banking

industry and include in the report any recommendations for amendments to the Oklahoma Certified Real Estate Appraisers Act.

SECTION 3. AMENDATORY 59 O.S. 2011, Section 858-706, as amended by Section 1, Chapter 97, O.S.L. 2014 (59 O.S. Supp. 2020, 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. The Real Estate Appraiser Board may employ a Director to oversee the organization and activities of the Board and to ensure compliance with rules promulgated by the Board. The Director shall perform such other duties as the Board may prescribe. The salary of the Director shall be set by the Board. The position of Director shall be an unclassified position;

2. Board employees shall be hired by and subject to the supervision and control of the Director or designee. Persons employed by the Board shall serve at the direction and pleasure of the Director. All employees are employees of this state and shall be in the unclassified service;

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

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

5. 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 Appraiser Qualification Board of the Appraisal Foundation;

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

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

~~4.~~ 8. 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 Appraiser Qualification Board of the Appraisal Foundation;

~~5.~~ 9. 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.~~ 10. To establish administrative procedures for disciplinary proceedings conducted pursuant to the provisions of the Oklahoma Certified Real Estate Appraisers Act;

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

~~8.~~ 12. 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 Oklahoma Certified Real Estate Appraisers 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 4. AMENDATORY 59 O.S. 2011, Section 858-707, is amended to read as follows:

Section 858-707. The Insurance Department shall have the following powers and duties:

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

2. To receive application for Oklahoma certification;

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

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

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

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

SECTION 5. AMENDATORY 59 O.S. 2011, Section 858-709, as amended by Section 2, Chapter 97, O.S.L. 2014 (59 O.S. Supp. 2020, 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. Effective January 1, 2015, applicants for original certification must submit to a criminal history records search that complies with Section ~~4 of this act~~ 858-709A of this title.

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~~ Board's Director 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 6. This act shall become effective July 1, 2021.

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

Passed the Senate the 9th day of March, 2021.

Presiding Officer of the Senate

Passed the House of Representatives the 21st day of April, 2021.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____