

State Board of Certified Real Estate Appraisers November Newsletter

Broker Price Opinion Bill Introduced in PA General Assembly
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State Board of Certified Real Estate Appraisers

A bill amending the 1980 Real Estate Licensing and Registration Act was introduced in the PA House of Representatives in September of 2016. One of the provisions defines the use of Broker Price Opinions and how they are and are not to be utilized.

House Bill 2347 was referred to the House Professional Licensure Committee on Sept. 20, 2016

Although there is likely insufficient time for the bill to move to a floor vote in the limited number of session days before the current session ends in mid-November, it is important for real estate appraisers to be aware of the pending legislation, which will likely be reintroduced in 2017.

In his co-sponsorship memo for the House bill, the bill's sponsor Rep. Greg Rothman (R-87, Cumberland County), explains his bill this way:

"This legislation would:

Increases pre-licensure education from 60 hours to 75 hours, allowing for a grandfathering process for those already enrolled in classes.

Requires that all courses for salesperson licenses be completed within five years prior to the date of taking and passing the exam, allowing for a grandfathering process for those already enrolled in classes.

Requires a high school diploma or equivalent for licensure as a real estate salesperson.

Defines a Broker Price Opinion (BPO) as "an estimate prepared by a broker, associate broker or salesperson that details the probable selling price of a particular parcel of real property and provides a varying level of detail about the property's condition, market, and neighborhood, and information on comparable sales, but does not include an automated valuation model" and provides standards."

Some significant passages from the House Bill follow:

"A comparative market analysis must contain the following statement printed conspicuously and without change on the first page:

This analysis has not been performed in accordance with the Uniform Standards of Professional Appraisal Practice which require valuers to act as unbiased, disinterested third parties with impartiality, objectivity and independence and without accommodation of personal interest. It is not to be construed as an appraisal and may not be used as such for any purpose."

(Section 608.3(a))

"A broker price opinion may be prepared by a broker, associate broker or salesperson only for use in conjunction with:

- (1) a property owned by a lender after an unsuccessful sale at a foreclosure auction;
- (2) a modification of a first or junior mortgage or equity line of credit;
- (3) a short sale of a property;
- (4) an evaluation or monitoring of a portfolio of properties; or
- (5) the relocation of an individual who is the owner of a property or a prospective purchaser of a property."

(Section 608.6(e))

"A broker price opinion may not be used :

(1) as the basis to determine the value of a parcel of real property for a mortgage loan origination, including a first or junior mortgage, refinancing or equity line of credit; or

(2) in connection with :

- (i) an eminent domain proceeding;
- (ii) a Federal, State or local tax appeal ;
- (iii) a bankruptcy or insolvency proceeding ;
- (iv) an action or proceeding involving divorce or equitable distribution of property; or
- (v) any other action or proceeding before a court of record.”

(Section 608.6(f))

The full text of House Bill 2347 may be found here:

<http://www.legis.state.pa.us/cfdocs/legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2015&sessInd=0&billBody=H&billTyp=B&billNbr=2347&pn=3872>.

Members of the General Assembly require education on specific issues by constituents who have a deep understanding of those issues. For example, physicians are best suited to educate legislators about legislation which impacts the practice of medicine – and it is incumbent upon those who have experience and understanding of real estate appraisal to educate their state Representatives and Senators about this piece of legislation.

We urge real estate appraisal licensees in Pennsylvania to contact their state legislators in the coming months to express your opinion of this important piece of legislation – and if making contact with legislators isn't something which comes naturally to you, here's a quick lesson on how to do it effectively.

Legislators appreciate hearing from constituents on issues which impact the citizens of Pennsylvania – and **your opinion really does matter** in how legislation is moved through the General Assembly. On average, most legislators assume that a single contact from a constituent represents the opinion of TEN constituents (since most people don't bother.) You can greatly impact your effectiveness by asking friends and family, professional staff, colleagues, etc. to contact their legislators on behalf of the piece of legislation you support or oppose as well.

While there are many ways to make contact with your own legislators, the best is a face to face meeting. Most legislators will be home in the districts through the end of the year, providing excellent opportunities for casual and scheduled meetings. Don't be shy about calling and asking for a meeting – your legislator works for YOU and it is part of his or her job to meet with constituents about issues which are important to them. The scheduler will ask what you'd like to talk about and you can simply say, "My name is John Doe, I'm a constituent and a real estate appraiser, and I'd like to talk with the Senator about a pending bill which impacts my profession and Pennsylvania's consumers." AFTER your personal meeting, make sure to send a personal thank you for the legislator's valuable time.

If a personal meeting isn't possible, a personal letter is also a powerful way to impact a legislator; in these days of email and text messaging, a letter with a real signature gets special attention. (Hint – best to send letters to your legislator's DISTRICT office, as they're less likely to be delayed by layers of security.) Keep your letter to a single page, focus on one or two points and offer to serve as a resource should he or she need more information.

Phone calls are good, too – especially when a vote is pending and you'd like to ask your legislator to vote yes or no. EVERY call is logged and totals are communicated to legislators, who sometimes alter their positions based on constituent contact. This can work the other way, though, in cases when there has been NO constituent contact from one stakeholder group but the other has coordinated legislative contact effectively.

Many groups and professional organizations offer easy email contact forms online – and while these pre-written emails are better than NO contact, be aware that legislators at the state level get hundreds of emails per day, and these "boilerplate" methods of contact are counted and logged by staff members, but generally are not weighted as heavily as other methods of contact. However, if you personally know your

legislator or a member of the staff and have a personal email address, feel free to use those, as they are more likely to be read than group efforts or emails generated through the legislator's online portal.

Another effective and quick way to touch base with a legislator is to send a prepaid postcard. Since these are handwritten, they get attention, but you can make your point with just a few sentences. Whenever making contact with a legislator, make sure to identify yourself as a constituent.

This is especially important – if you want your legislators to pay attention to your opinions, there's a single action in which you **MUST** engage. You must **VOTE**. In every election. Your legislator's staff separates constituent communications into several different piles to make it easier for them – and they **KNOW** if you vote. Or don't vote. And the "don't vote" pile, understandably, doesn't get as much attention.

Lastly, it's a good idea to get you know your legislators even if there isn't something you need to communicate at the present time. You represent not only yourself, but as a professional licensee in Pennsylvania, you represent your profession as well. If you've already established a relationship with your legislator, he or she will be more likely to pay attention when you reach out about a specific issue. Let your legislator know that you're an expert in your field and that you're willing to be a resource should he or she have questions about the profession.

There are many easy to use tools on the Internet to identify and contact your legislators. Here is the official **Find Your Legislator** tool provided by the PA General Assembly; all you need to do is enter your address to obtain a list, with links, of your state and federal legislators:

<http://www.legis.state.pa.us/cfdocs/legis/home/findyourlegislator/>

This resource, also from the Commonwealth, is a PDF of all PA precincts, state representatives and senators and Members of the US Congress.

http://www.legis.state.pa.us/cfdocs/legis/home/findyourlegislator/pdf/2016_PrecinctDirectory_1451924263020.pdf

A MESSAGE FROM THE CHAIRMAN REGARDING CONTINUING EDUCATION

The State Board of Certified Real Estate Appraisers (Board) requires all of its licensees, including certified real estate appraisers, broker/appraisers, licensed appraiser trainees, and certified Pennsylvania evaluators, to complete continuing education (CE) during each biennial renewal period, as a condition of biennial renewal. After every biennial renewal period, the Board conducts an audit to determine CE compliance by licensees. Those licensees who fail the audit will be referred for possible disciplinary action under the Real Estate Appraisers Certification Act (REACA) or the Assessors Certification Act (ACA).

The purpose of this article is to provide an overview of CE requirements, potential disciplinary action for failure to meet CE requirements, and the Board's validation efforts that ensure compliance with CE requirements. While this overview should assist licensees in understanding CE requirements, licensees should also review the applicable practice act, REACA or ACA, and the correlating Board regulations, which are available on the Board's website at www.dos.pa.gov/real

Additionally, certified real estate appraisers and licensed appraiser trainees should also review the Appraiser Qualification Board (AQB) Criteria for continuing education to ensure

compliance with federal standards. The AQB Criteria is accessible on The Appraisal Foundation's website at www.appraisalfoundation.org/

Continuing Education Requirements

General and Residential Real Estate Appraisers Broker/Appraisers, and Licensed Appraiser Trainees

Under REACA, as a condition of biennial renewal, licensees must obtain 28 hours of Board approved CE within the immediately preceding two-year period. The biennial license period is July 1 of the previous odd-numbered year through June 30, of the current odd-numbered year (i.e. your license expiration date). Only CE taken during this period may be counted toward license renewal. Licensees whose initial certification becomes effective between January 1 and June 30 of a biennial renewal year are not required to furnish proof of CE as a condition of renewal in that biennial renewal year.

In accordance with Section 36.41 of the Board's regulations, CE is necessary to ensure that licensees "maintain and increase their skill, knowledge and competency in real estate appraising." The required 28 hours of CE must include the 7-hour National USPAP Update Course, or an equivalent 7-hour course approved by the AQB, and at least 2 hours on REACA.

Continuing education credit may also be granted—up to 50% of the biennial requirement—for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted include teaching, program development, authorship of textbooks or similar activities which the applicant can demonstrate to the Board are equivalent to obtaining continuing education. Written requests for approval for appraisal educational processes and programs should be made prior to the service to assure approval will be given by the Board to the program.

Certified Pennsylvania Evaluators

Under ACA, as a condition of biennial renewal, licensees must obtain 28 hours of Board approved CE within the immediately preceding two-year period. The biennial license period is July 1 of the previous odd-numbered year through June 30, of the current odd-numbered year (i.e. your license expiration date). Only CE taken during this period may be counted toward license renewal. Licensees whose initial certification becomes effective between January 1 and June 30 of a biennial renewal year are not required to furnish proof of CE as a condition of renewal in that biennial renewal year.

In accordance with Section 36.261 of the Board's regulations, the required 28 hours of CE must include the 7-hour National USPAP Update Course, or an equivalent 7-hour course approved by the Board, and at least 2 hours on ACA. Continuing education credit may also be granted—up to 50% of the biennial requirement—for participation, other than as a student, in appraisal or assessment educational processes and programs. Examples of activities for which credit may be

granted include teaching, program development, authorship of textbooks or similar activities which the applicant can demonstrate to the Board are equivalent to obtaining continuing education. Written requests for approval for appraisal educational processes and programs should be made prior to the service to assure approval will be given by the Board to the program.

Selecting Continuing Education Courses

Pursuant to the Board's regulations, providers of CE courses must file an application with the Board for approval of CE courses. Only Board-approved courses may be used to meet CE requirements. Distance education courses are acceptable for CE credit provided that the course meets the requirements of the Board regulations and is a Board-approved course. All Board-approved courses, including AQB-approved courses and IDECC-approved courses, can be found on the Board's website, on the *CREA Education Provider Course List*. The *CREA Education Provider Course List* provides a course end date, which is the expiration date for approval of the course. **Licensees are responsible for verifying whether CE courses are Board-approved courses and are also responsible for verifying the expiration dates of courses. Courses taken after the expiration date of the course approval are not eligible Board-approved courses and cannot be counted towards the CE requirement.**

Discipline

Renewal applications require certified real estate appraisers, broker/appraisers, licensed appraiser trainees, and certified Pennsylvania evaluators to answer a number of questions, including whether licensees have met current CE requirements. In answering these questions on renewal applications, licensees should take steps to ensure that they know and understand appraiser and evaluator CE requirements. Under REACA and ACA, the Board may impose discipline, including but not limited to public reprimands, civil penalties, suspension and revocation, for submitting false information in response to a question in a renewal of certification or licensure and for failing to comply with CE requirements. Additionally, failure to meet the Board's CE requirement by certified real estate appraisers and licensed appraiser trainees can result in suspension of the appraiser's eligibility to perform appraisals in federally related transactions.

The Board's Continuing Education Audit

After each biennial renewal period, the Board conducts a random audit of its licensees to verify compliance with CE requirements. Additionally, the Appraisal Subcommittee (ASC), the federal agency responsible for oversight of the Board with respect to certified residential and general real estate appraisers and licensed appraiser trainees, conducts a field compliance review of Pennsylvania's appraiser Regulatory Program, which includes a review of the Board's CE program and audit results.

In the fall of 2015, the Board's random audit found that 12 percent of the audited certified residential and general real estate appraisers and licensed appraiser trainees failed to comply with the Board's CE requirements. Under the ASC policies, the Board's 12 percent failure rate requires remedial action, which will include increasing the percentage of licensees audited in the next biennial period. In contrast to the appraiser audit results, the Board's random audit of

Broker/Appraisers and Certified Pennsylvania Evaluators did not identify any non-compliant licensees.

As Board Chair, I am disappointed with the 12 percent failure rate of certified residential and general real estate appraisers and licensed appraiser trainees and wish to emphasize the importance of complying with the Board's CE requirements. CE is of the utmost importance for licensees. Licensees must stay current with the latest developments, skills, and technology, and must make continuing efforts to maintain the required competence. Additionally, as noted above, a licensee puts his or her license in jeopardy of disciplinary action by failing to comply with the mandated CE requirements.

I urge all licensees to comply with CE requirements and review the applicable statutory and regulatory requirements for CE. The Board's staff is available to you if you have questions regarding CE requirements.

D. Thomas Smith
Chairman
State Board of Certified
Real Estate Appraisers

LICENSED APPRAISER TRAINEE BIENNIAL RENEWAL FEES

On January 23, 2016, the State Board of Certified Real Estate Appraisers (Board) published a final-form rulemaking regarding biennial fees for licensed appraiser trainees. The Board's final-form rulemaking amended Section 36.6 of the Board's regulations, which lists a schedule of fees charged by the Board.

Beginning with the June 30, 2017, renewal period, the biennial renewal fee for licensed appraiser trainees is \$150. You may access the Board's amended regulation at <http://www.pacode.com/secure/data/049/chapter36/s36.6.html>