

**Real Estate Appraisers
Certification Act
(Act 98 of 1990, as
amended, including
Act 103 of 2008 and
Act 72 of 2016), Appraisal
Management Company
Registration Act
(Act 4 of 2012), and
Assessors Certification Act
(Act 28 of 1992)**



Commonwealth
of Pennsylvania

State Board of Certified
Real Estate Appraisers

REAL ESTATE APPRAISERS CERTIFICATION ACT

Act of Jul. 10, 1990, P.L. 404, No. 98, as amended

AN ACT

Providing for the certification of real estate appraisers; specifying requirements for certification; providing for sanctions and penalties; and making an appropriation.

TABLE OF CONTENTS

Section 1.	Short title.
Section 2.	Definitions.
Section 3.	Real estate appraiser certification required.
Section 4.	State Board of Certified Real Estate Appraisers.
Section 5.	Powers and duties of board.
Section 6.	Application and qualifications.
Section 7.	Reciprocity.
Section 8.	Temporary practice.
Section 9.	Fees.
Section 10.	Certification renewal; records.
Section 11.	Disciplinary and corrective measures.
Section 12.	Reinstatement of certificate.
Section 13.	Reporting of multiple certification.
Section 14.	Surrender of suspended or revoked certificate.
Section 15.	Penalties.
Section 16.	Subpoenas.
Section 17.	Injunctive relief.
Section 18.	Scope of practice.
Section 19.	Appropriation.
Section 20.	Effective date.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Real Estate Appraisers Certification Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Applicant." A natural person.

"Appraisal." A written analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real property, for or in expectation of compensation.

"Board." The State Board of Certified Real Estate Appraisers within the Bureau of Professional and Occupational Affairs in the Department of State.

“Secretary.” The Secretary of the Commonwealth or his or her designee.

“State-certified real estate appraiser.” A person who holds a current valid certificate issued to him under the provisions of this act.

Section 3. Real estate appraiser certification required.

It shall be unlawful for any person to do any of the following:

- (1) To hold himself out as a State-certified real estate appraiser or to perform appraisals required by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Public Law 101-73, 103 Stat. 183) to be performed by a State-certified or State-licensed real estate appraiser unless that person holds an appropriate, current and valid certificate from the board to perform real estate appraisals.
- (2) To perform real estate appraisals in nonfederally related transactions unless that person holds an appropriate, current and valid certificate from the board to perform real estate appraisals.
- (3) To hold himself out as a real estate appraiser or appraiser trainee without an appropriate, current and valid certificate or license from the board.

(Sec. 3 amended July 2, 1996, P.L.460, No.71, July 8, 2008, P.L.833, No.59, and Oct. 9, 2008, P.L.1380, No.103)

Section 4. State Board of Certified Real Estate Appraisers.

- (a) Creation.--There is hereby created the State Board of Certified Real Estate Appraisers as a departmental administrative board in the Department of State. The board shall consist of the following members:
 - (1) The Secretary of the Commonwealth or a designee.
 - (2) The Attorney General or a designee.
 - (3) The Secretary of Banking or a designee.
 - (4) Eight members who are citizens of the United States and who have been residents of this Commonwealth for a two-year period immediately prior to appointment, two of whom shall be public members and six of whom shall be persons who are State-certified real estate appraisers.
- (b) Term of office.--The professional and public members shall serve four-year terms, except as provided in subsection (c), and shall be appointed by the Governor by and with the advice and consent of a majority of the members elected to the Senate.
- (c) Initial appointments.--Within 90 days of the effective date of this act, the Governor shall nominate one professional member to serve a four-year term; one public member and one professional

member to serve three-year terms; one public member and one professional member to serve two-year terms; and one professional member to serve a one-year term.

- (d) Continuation in office.--Each professional and public member shall continue in office until a successor is duly appointed and qualified but no longer than six months after the expiration of the term. In the event that a board member shall die, resign or otherwise become disqualified during the term of office, a successor shall be appointed in the same way and with the same qualifications as set forth in this section and shall hold office for the unexpired portion of the unexpired term.
- (e) Limit on terms.--No board member shall be eligible for appointment to serve more than two consecutive four-year terms.
- (f) Forfeiture of membership.--A board member who fails to attend three consecutive meetings shall forfeit his or her seat unless the secretary, upon written request from the member, finds that the member should be excused from a meeting because of illness or the death of a family member.
- (g) Compensation.--Each member of the board, except the secretary, the Attorney General and the Secretary of Banking, shall receive per diem compensation at the rate of \$60 per diem when actually attending to the work of the board. Members shall also receive reasonable traveling, hotel and other necessary expenses incurred in the performance of their duties in accordance with Commonwealth regulations.
- (h) Forfeiture for nonattendance.--A public member who fails to attend two consecutive statutorily mandated training seminars in accordance with section 813(e) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, shall forfeit his or her seat unless the secretary, upon written request from the public member, finds that the public member should be excused from a meeting because of illness or the death of a family member.
- (i) Quorum.--A majority of the members of the board serving in accordance with law shall constitute a quorum for purposes of conducting the business of the board. A member may not be counted as part of a quorum or vote on any issue unless he or she is physically in attendance at the meeting.
- (j) Meetings.--The board shall meet at least four times a year in Harrisburg.
- (k) Notice.--Reasonable notice of all meetings shall be given in conformity with the act of July 3, 1986 (P.L.388, No.84), known as the Sunshine Act.
- (l) Operating procedures.--The board shall meet within 30 days after the appointment of its initial members and set up operating

procedures and an application form for certifying appraisers. It shall be the responsibility of the board to circulate these forms and educate the public to the requirements of certification. No other board and no commission within the Bureau of Professional and Occupational Affairs shall be responsible, in any manner, for the policies, procedures or other substantive matters which are within the powers and duties of the board as set forth in this act.

- (m) Election of officers.--The board shall elect annually from its membership a chairman, a vice chairman and a secretary.

(Subsections (a) and (g) amended July 8, 2008, P.L. 833, No.59)

Section 5. Powers and duties of board.

The board shall have the following powers and duties:

- (1) To pass upon the qualifications and fitness of applicants for certification or licensure and to adopt and revise rules and regulations requiring applicants for certification to pass examinations relating to their qualifications for certification.
- (2) To adopt and, from time to time, revise such rules and regulations as may be necessary to carry out the provisions of this act. Such regulations shall include, but not be limited to, standards of professional appraisal practice requiring that appraisals be performed in accordance with generally accepted appraisal standards as required pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Public Law 101-73, 103 Stat. 183).
- (3) To examine for, deny, approve, issue, revoke, suspend or renew certificates of appraisers and licenses of appraiser trainees pursuant to this act and to conduct hearings in connection therewith.
- (4) To conduct hearings upon complaints concerning violations of the provisions of this act and the rules and regulations adopted pursuant to this act and seek the prosecution and enjoinder of all such violations.
- (5) To expend moneys necessary to the proper carrying out of its assigned duties.
- (6) To establish fees for the operation of the board, including fees for the issuance and renewal of certificates and licenses and for examinations.
- (7) To submit annually a report to the Professional Licensure Committee of the House of Representatives and the Consumer Protection and Professional Licensure Committee of the Senate containing a description of the types of complaints received, status of the cases, board action which has been taken and length of time from the initial complaint to final board resolution.

- (8) To submit annually to the Department of State, an estimate of the financial requirements of the board for its administrative, investigative, legal and miscellaneous expenses.
- (9) To submit annually to the Appropriations Committees of the House of Representatives and the Senate, 15 days after the Governor has submitted his budget to the General Assembly, a copy of the budget request for the upcoming fiscal year which the board previously submitted to the Department of State.
- (10) To submit annually pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 a roster listing individuals who have received State certification.
- (11) To the extent required by standards and regulations for the qualifications of appraisers promulgated pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, to consider criminal history record information of convictions and arrests that do not result in a conviction, notwithstanding the provisions of 18 Pa.C.S. § 9124(b)(1) (relating to use of records by licensing agencies).

(Sec. 5 amended July 8, 2008, P.L.833, No.59) (Subsection (11) added July 7, 2016, P.L.474, No.72)

Section 6. Application and qualifications.

- (a) **CLASSES OF CERTIFICATION.**--There shall be three classes of certified real estate appraisers as follows:
 - (1) Certified residential appraiser, which shall consist of those persons applying for and granted certification relating solely to the appraisal of residential real property in accordance with the criteria established by the Appraiser Qualifications Board of the Appraisal Foundation required pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Public Law 101-73, 103 Stat. 183).
 - (2) Certified general appraiser, which shall consist of those persons applying for and granted certification relating to the appraisal of both residential and nonresidential real property without limitation in accordance with the criteria established by the Appraiser Qualifications Board of the Appraisal Foundation required pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Public Law 101-73, 103 Stat. 183).
 - (3) Broker/appraiser, which shall consist of those persons who, as of September 3, 1996, were licensed real estate brokers under the act of February 19, 1980 (P.L.15, No.9), known as the Real Estate Licensing and Registration Act, and who, by September 3, 1998, made application to the board

and were granted without examination a broker/appraiser certificate. A holder of a broker/appraiser certificate shall only be permitted to perform those real property appraisals that were permitted to be performed by a licensed real estate broker under the Real Estate Licensing and Registration Act as of September 3, 1996. A holder of a broker/appraiser certificate is not authorized to perform real estate appraisals pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

- (a.1) **APPRAISER TRAINEE LICENSE.**--In addition to the certificates authorized in subsection (a), the board shall issue an appraiser trainee license, without examination, to any person who meets the appraiser trainee educational requirements set by the board and who does not already hold an appraiser credential under subsection (a). An appraiser trainee shall operate under the direct supervision of one certified residential appraiser or certified general appraiser for the purpose of completing the experience requirement for an appraiser credential in subsection (a). An appraiser trainee shall be permitted to assist in the performance of any appraisal that is within the supervisory appraiser's scope of practice. The supervisory appraiser shall be in good standing, have at least five years of experience as a certified residential appraiser or certified general appraiser and shall not supervise more than three appraiser trainees.
- (b) **CLASSIFICATION TO BE SPECIFIED.**--The application for examination, original certification or license and renewal of certification or license shall specify the classification being applied for.
- (c) **APPLICATION.**--An applicant for certification or license shall submit a written application on forms provided by the board that includes information subject to the penalties for false swearing set forth in 18 Pa. C.S. §4903 (relating to false swearing) or unsworn falsification to authorities set forth in 18 Pa. C.S. §4904 (relating to unsworn falsification to authorities) and which demonstrates that:
- (1) The applicant is of good moral character.
 - (2) The applicant has paid the application fee.
 - (3) The applicant has satisfied requirements for dissemination to the board of criminal history record information required by the Appraiser Qualifications Board of the Appraisal Foundation.
 - (4) The applicant has satisfied the qualifications for licensure as an appraiser trainee or certification as a residential real estate appraiser or general real estate appraiser required by:
 - (i) This act.

- (ii) The regulations of the board.
 - (iii) The Real Property Appraiser Qualification Criteria of the Appraiser Qualifications Board of the Appraisal Foundation.
- (d) **RESIDENTIAL APPRAISER CERTIFICATION.**--As a prerequisite to taking the examination for certification relating solely to the appraisal of residential real property, an applicant shall, in addition to meeting the requirements of subsection (c), meet the minimum education and experience requirements established pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.
- (e) **GENERAL APPRAISER CERTIFICATION.**--As a prerequisite to taking the examination for the general certification relating to the appraisal of real property, an applicant shall, in addition to meeting the requirements of subsection (c), meet the minimum education and experience requirements established pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.
- (f) **DEFINITION OF SUBJECTS.**--The board shall prescribe and define the subjects related to real property appraisal and the experience in real property appraisal which will satisfy the requirements of subsections (a), (a.1), (d) and (e). To the extent permitted pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 with regard to certified residential and general appraisers, the board may give credit to an applicant for classroom hours of academic experience successfully completed prior to the board's prescription and definition of subjects pursuant to this subsection.
- (g) **EXAMINATIONS.**--Examinations for certification shall be selected in accordance with the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. Examinations shall be prepared and administered by a qualified and approved professional testing organization in accordance with section 812.1 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.
- (h) **GUIDELINES AND REGULATIONS.**--(Deleted by amendment).
- (i) **REAL ESTATE BROKERS AS APPRAISERS.**--
- (1) Nothing in this section shall preclude a licensed real estate broker from also holding a license or certificate under subsection (a)(1) or (2) or (a.1).
 - (2) All persons holding a broker/appraiser certificate under subsection (a)(3) shall be entitled to hold the certificate for the entire term and shall be entitled and subject to the privileges, obligations and renewals which accompany the certificate.

(Sec. 6 amended July 2, 1996, P.L.460, No.71, October 8, 2000, P.L.600, No.77, July 8, 2008, P.L.833, No.59, including adding subsections (a.1) and (i) and other

amendments related to licensed appraiser trainees. Sec. 6 was also amended Oct. 9, 2008, P.L.1380, No.103 with corrective amendments.) (Subsection (c) was amended July 7, 2016, P.L.474, No.72)

Section 7. Reciprocity.

The board shall have the power to grant a reciprocal certification to an applicant who is certified as an appraiser or licensed as an appraiser trainee in another state and has demonstrated qualifications which equal or exceed those required pursuant to this act in the determination of the board.

(Sec. 7 amended July 7, 2016, P.L.474, No.72)

Section 8. Temporary practice.

As required by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Public Law 101-73, 103 Stat. 183), 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;
- (2) the appraiser's business is of a temporary nature; and
- (3) the appraiser registers with the board.

Section 9. Fees.

- (a) **IMPOSITION AND INCREASES.**--All fees established pursuant to this act shall be fixed by the board by regulation and shall be subject to the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act. If the revenues raised by fees, fines and civil penalties imposed pursuant to this act are not sufficient to meet expenditures over a two-year period, the board shall increase those fees by regulation so that the projected revenues will meet or exceed projected expenditures.
- (b) **ADDITIONAL INCREASES.**--If the Bureau of Professional and Occupational Affairs determines that the fees established by the board under subsection (a) are inadequate to meet the minimum enforcement efforts required by this act, then the bureau, after consultation with the board and subject to the Regulatory Review Act, shall increase the fees by regulation in an amount that adequate revenues are raised to meet the required enforcement effort.
- (c) **ADDITIONAL FEES.**--In addition to fees established pursuant to this act, the board is authorized to collect and transmit fees required pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Public Law 101-73, 103 Stat. 183).

Section 10. Certification renewal, licensure renewal and records.

- (a) **RENEWAL TERM.**--

- (1) Except as provided under paragraph (2), renewal of certification or licensure shall be on a biennial basis for persons in good standing.
 - (2) The board may prescribe limitations on the number of times a licensed appraiser trainee may renew a license.
- (b) **CONTINUING EDUCATION FOR RESIDENTIAL AND GENERAL APPRAISERS.**--The board shall by regulation require evidence of professional activity or continuing education as a condition of certification renewal of residential and general appraisers if, and only to the minimum extent, required pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Public Law 101-73, 103 Stat. 183). No credit shall be given for any course in office management or practice building.
- (b.1) **CONTINUING EDUCATION FOR BROKER/APPAISERS.**--Broker/appraisers shall be subject to the same continuing education requirements for certification renewal as residential and general appraisers. The board shall have the power and authority to promulgate regulations to prescribe evidence of continuing education required for certification renewal pursuant to this section.
- (b.2) **CONTINUING EDUCATION FOR LICENSED APPRAISER TRAINEES.**--Licensed appraiser trainees shall be subject to the same continuing education requirements for licensure renewal as residential and general appraisers, but any qualifying education completed after the issuance of the license and during the biennial licensure period may also be applied to satisfy the licensed appraiser trainee's continuing education requirements under this subsection.
- (c) **RECORDS.**--A record of all persons licensed as appraiser trainees and all persons certified as real estate appraisers in this Commonwealth shall be kept in the office of the board, shall be open to public inspection and copying upon payment of a nominal fee for copying the record and shall be accessible on the board's Internet website. Each certificate holder and licensee shall advise the board of the address of his or her principal place of business.

(Sec. 10 amended December 20, 2000, P.L. 733, No. 133, July 8, 2008, P.L. 833, No. 59 and Oct. 9, 2008, P.L.1380, No.103) (Subsection (b.2) added July 7, 2016, P.L.474, No.72)

Section 11. Disciplinary and corrective measures.

- (a) **AUTHORITY OF BOARD.**--The board may deny, suspend or revoke certificates or licenses, or limit, restrict or reprimand a certificate holder or licensee for any of the following causes:
- (1) Procuring or attempting to procure a certificate or license or renewal of a certificate or license pursuant to this act by knowingly making a false statement, submitting false

information or refusing to provide complete information in response to a question in an application for certification or licensure or renewal of certification or licensure through any form of fraud or misrepresentation.

- (2) Failing to meet the minimum qualifications established by this act.
- (3) Paying, or offering to pay, any valuable consideration other than provided for by this act to any member or employee of the board to procure a certificate under this act.
- (4) Being convicted of or pleading guilty to a crime which is substantially related to the qualifications, functions and duties of a person developing real property appraisals and communicating real property appraisals to others.
- (5) Performing an act or omitting an act when such performance or omission involves dishonesty, fraud or misrepresentation with intent to substantially benefit the certificate holder or licensee in his profession or with the intent to substantially injure another person.
- (6) Violating any of the standards for the development or communication of real property appraisals as required pursuant to this act or the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Public Law 101-73, 103 Stat. 183).
- (7) Failing or refusing, without good cause, to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal.
- (8) Negligently or incompetently developing an appraisal, preparing an appraisal report or communicating an appraisal.
- (9) Willfully disregarding or violating any of the provisions of this act or the guidelines or regulations of the board for the administration and enforcement of the provisions of this act.
- (10) Accepting an appraisal assignment when the employment itself is contingent upon the appraiser's reporting a predetermined analysis or opinion, or where the fee to be paid for the performance of the appraisal assignment is contingent upon the opinion, conclusion or valuation reached, or upon the consequence resulting from the appraisal assignment.
- (11) Violating the confidential nature of records to which the appraiser gained access through employment or engagement as an appraiser.
- (12) Making the fee or compensation contingent upon an award or recovery in any case where the amount of the award or recovery would be affected by the appraisal.
- (13) Basing the fee or compensation on a percentage of the final estimate of value.

- (14) Contracting for or accepting compensation for appraisal services in the form of a commission, rebate, division of brokerage commissions or any other similar form.
 - (15) Having a license or certificate to perform appraisals suspended, revoked or refused by an appraisal licensure or certification authority of another state, territory or country, or receiving other disciplinary actions by the appraisal licensure or certification authority of another state, territory or country.
 - (16) Suspension or revocation of the right to practice by a Federal or State governmental agency.
 - (17) Having been found by a civil court of competent jurisdiction to have performed a fraudulent appraisal.
- (b) **BOARD ACTION.**--When the board finds that the certificate or license, application for certification or licensure or renewal of certification or licensure of any person may be denied, revoked, restricted or suspended under the terms of subsection (a), the board may:
- (1) Deny the application for certification or licensure or for renewal of certification or licensure.
 - (2) Administer a public reprimand.
 - (3) Revoke, suspend, limit or otherwise restrict a certificate or license as determined by the board.
 - (4) Suspend enforcement of its findings thereof and place a certificate holder or licensee on probation with the right to vacate the probationary order for noncompliance.
 - (5) Restore a suspended certificate or license and impose any disciplinary or corrective measure which it might originally have imposed.
- (c) **HEARING.**--All actions of the board shall be taken subject to the right of notice, hearing and adjudication and the right of appeal therefrom in accordance with 2 Pa. C.S. (relating to administrative law and procedure). Appeals from actions of the board shall be taken to Commonwealth Court or to such other court as prescribed by law.

(Section 11 amended July 12, 1996, P.L. 460, No. 71 and Subsections (a) and (b) amended July 8, 2008, P.L.833, No.59)

Section 12. Reinstatement of certificate or license.

Unless ordered to do so by Commonwealth Court or an appeal therefrom, the board shall not reinstate the certificate or license of a person to practice as a certified real estate appraiser or as an appraiser trainee, pursuant to this act, which has been revoked. Any person whose certificate or license has been revoked may apply for reinstatement, after a period of at least five years, but must meet all of the certification or licensure qualifications of this act, including the examination requirement, if he or she desires to hold himself or herself

out or to practice as a real estate appraiser pursuant to this act at any time after such revocation.

(Sec. 12 amended July 8, 2008, P.L.833, No.59)

Section 13. Reporting of multiple certification.

Any appraiser certified in this Commonwealth who is also certified or licensed to perform appraisals in any other state, territory or country shall report this information to the board on the biennial renewal application. Any disciplinary action taken in any other state, territory or country shall be reported to the board on the biennial renewal application, or within 90 days of disposition, whichever is sooner. Multiple licensure or certification shall be noted by the board on the certified appraiser's record, and such state, territory or country shall be notified by the board of any disciplinary actions taken against said certified appraiser in this Commonwealth.

Section 14. Surrender of suspended or revoked certificate or license.

The board shall require a person whose certificate or license has been suspended or revoked to return the certificate or license in such manner as the board directs. Failure to do so shall be a misdemeanor of the third degree.

(Sec. 14 amended July 8, 2008, P.L.833, No.59)

Section 15. Penalties.

- (a) **CRIMINAL PENALTIES.**--A person who violates this act commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of up to \$1,000 or to imprisonment for not more than 90 days, or both.
- (b) Civil penalty.--In addition to any other civil remedy or criminal penalty provided for in this act, the board, by a vote of the majority of the maximum number of the authorized membership of the board as provided by law, or by a vote of the majority of the duly qualified and confirmed membership or a minimum of three members, whichever is greater, may levy a civil penalty of up to \$10,000 on any certificate holder or licensee who violates any provision of this act or any noncertificate holder who holds himself out as a real estate appraiser in this Commonwealth or who performs an appraisal for which certification or licensure is required under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Public Law 101-73, 103 Stat. 183) an appraisal in any federally related or nonfederally related transaction or any other appraisal. The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in 2 Pa. C.S. (relating to administrative law and procedure).
- (c) **DISPOSITION.**--All fines and civil penalties imposed in accordance with this section shall be paid into the Professional Licensure Augmentation Account.

(Subsection (b) amended July 8, 2008, P.L.833, No.59)

Compiler's Note: Section 1 of Act 25 of 2009, (July 17,2009 P.L. 95), Section 1, amended section 5 of that act and authorizes boards and commissions within the Bureau of Professional and Occupational Affairs under their respective practice acts to levy a civil penalty of not more than \$10,000 per violation on "... any licensee, registrant, certificate holder, permit holder or unlicensed person who violates a lawful disciplinary order of the board[;] any licensee, registrant, certificate holder, permit holder or unlicensed person who aids and abets the unlicensed practice of a profession, occupation or business[;] any corporation, partnership, institution, association or sole proprietorship which aids and abets any individual in the unlicensed practice of a profession[; and] any licensee, registrant, certificate holder, permit holder or unlicensed person who violates any provision of the applicable licensing act or board regulation. Section 3(23) of Act 25 of 2009 provided that section 15(b) is repealed insofar as it is inconsistent with the amendment of section 5.

Section 16. Subpoenas.

- (a) **POWER TO ISSUE.**--The board shall have the authority to issue subpoenas, upon application of an attorney responsible for representing the Commonwealth in disciplinary matters before the board, for the purpose of investigating alleged violations of the disciplinary provisions administered by the board. The board shall have the power to subpoena witnesses, to administer oaths, to examine witnesses and to take such testimony or compel the production of such books, records, papers and documents as it may deem necessary or proper in, and pertinent to, any proceeding, investigation or hearing held or had by it. Client records may not be subpoenaed without consent of the client or without order of a court of competent jurisdiction on a showing that the records are reasonably necessary for the conduct of the investigation. The court may impose such limitations on the scope of the subpoena as are necessary to prevent unnecessary intrusion into client confidential information. The board is authorized to apply to Commonwealth Court to enforce its subpoenas.
- (b) **NOTIFICATION OF BOARD.**--An attorney responsible for representing the Commonwealth in disciplinary matters before the board shall notify the board immediately upon receiving notification of an alleged violation of this act. The board shall maintain current records of all reports of alleged violations and periodically review the records for the purpose of determining that each alleged violation has been resolved in a timely manner.

Section 17. Injunctive relief.

- (a) **INJUNCTION.**--A violation of section 3 may be enjoined by the courts upon petition of the secretary or the board. In any proceeding under this section, it shall not be necessary to show that any person is individually injured by the actions complained

of. If the court finds that the respondent has violated section 3, it shall enjoin him or her from so practicing or holding himself or herself out until he or she has been duly certified. Procedure in such cases shall be the same as in any other injunction suit.

- (b) **REMEDY CUMULATIVE.**--The injunctive remedy provided in this section shall be in addition to any other civil or criminal prosecution and punishment.

Section 18. Scope of practice.

Persons who are certified as residential real estate appraisers and general real estate appraisers under this act shall also have authority to perform real estate appraisals in nonfederally related transactions appropriate to their certification classification. Brokers/appraisers shall continue to have authority to perform real estate appraisals in nonfederally related transactions.

(Sec. 18 amended July 2, 1996, P.L.460, No.71)

Section 19. Appropriation.

The sum of \$85,000, or as much thereof as may be necessary, is hereby appropriated from the Professional Licensure Augmentation Account within the General Fund to the Bureau of Professional and Occupational Affairs in the Department of State for the payment of costs of processing certificates and renewals, for the operation of the board and for other general costs of the bureau operations relating to this act. The appropriation granted shall be repaid by the board within six years of the beginning of issuance of certificates by the board.

Section 20. Effective date.

This act shall take effect immediately.

APPRAISAL MANAGEMENT COMPANY REGISTRATION ACT

Act No. 2012-4

H.B. No. 398

AN ACT

Providing for registration of appraisal management companies, for powers of the State Board of Certified Real Estate Appraisers with respect to appraisal management companies, for the responsibilities and duties of appraisal management companies, for prohibited activities, for discipline and for penalties.

TABLE OF CONTENTS

Section 1.	Short title.
Section 2.	Definitions.
Section 3.	Registration of appraisal management companies required.
Section 4.	Powers of board.
Section 5.	Requirements for registration.
Section 6.	Fees and renewals.
Section 7.	Responsibilities and duties of appraisal management companies.
Section 8.	Prohibited activities.
Section 9.	Registry of applicants and roster.
Section 10.	Disciplinary measures.
Section 11.	Application.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title [63 P.S. § 457.21]

This act shall be known and may be cited as the Appraisal Management Company Registration Act.

Section 2. Definitions [63 P.S. § 457.22]

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Applicant." A person who files an application for registration as an appraisal management company.

"Appraisal." The term has the meaning provided in section 2 of the act of July 10, 1990 (P.L. 404, No. 98) , known as the Real Estate Appraisers Certification Act.

"Appraisal management company." A person that provides appraisal management services and acts as a third-party intermediary between a

person seeking a valuation of real estate located in this Commonwealth and an appraiser or firm of appraisers.

"Appraisal management services." Conducting business by telephone, by electronic means, by mail or in person directly or indirectly for compensation or in the expectation of compensation to manage the performance of appraisals for a client, including, without limitation:

- (1) Recruiting appraisers.
- (2) Contracting with appraisers to perform appraisals.
- (3) Negotiating fees with appraisers.
- (4) Receiving appraisal orders and appraisals.
- (5) Submitting appraisals received from appraisers to the client.
- (6) Providing related administrative and clerical duties.

"Appraisal review." An appraisal review as defined by the Uniform Standards of Professional Appraisal Practice issued by the Appraisal Standards Board.

"Appraiser." An individual certified under the act of July 10, 1990 (P.L. 404, No. 98) , known as the Real Estate Appraisers Certification Act, as a certified residential appraiser or certified general appraiser.

"Appraiser panel." A group of appraisers that have been selected by an appraisal management company to perform appraisals for the appraisal management company.

"Board." The State Board of Certified Real Estate Appraisers within the Bureau of Professional and Occupational Affairs in the Department of State.

"Client." A person that contracts with or otherwise enters into an agreement with an appraisal management company for the performance of appraisal management services.

"Compliance person." An individual who is employed, appointed or authorized by an appraisal management company to be responsible for ensuring compliance with this act.

"Exempt company." A person that is exempted from registering under this act under section 1124 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Public Law 101-73, 103 Stat. 183).

"Key person." A person other than a compliance person who is a director, officer, supervisor, manager or other person performing a similar function in an appraisal management company.

"Mortgage Bankers and Brokers and Consumer Equity Protection Act." The act of December 22, 1989 (P.L. 687, No.90), known as the Mortgage Bankers and Brokers and Consumer Equity Protection Act.

"REACA." The act of July 10, 1990 (P.L. 404, No. 98), known as the Real Estate Appraisers Certification Act.

"Registrant." An appraisal management company that is registered under this act.

"RELRA." The act of February 19, 1980 (P.L. 15, No.9), known as the Real Estate Licensing and Registration Act.

Section 3. Registration of appraisal management companies required [63 P.S. § 457.23]

Except as provided in section 11, a person who is not an exempt company or a registrant may not:

- (1) Act as an appraisal management company in this Commonwealth.
- (2) Hold out as an appraisal management company in this Commonwealth.
- (3) Advertise or hold out as engaging in or conducting the business of an appraisal management company in this Commonwealth.

Section 4. Powers of board [63 P.S. § 457.24]

- (a) **REGULATIONS.**--The board shall have the powers necessary to implement, administer and enforce this act, including the power to adopt rules and regulations consistent with this act.
- (b) **TEMPORARY REGULATIONS.**--In order to facilitate the prompt implementation of this act, regulations promulgated by the board shall be deemed temporary regulations which shall expire no later than three years following the effective date of this section. The board may promulgate temporary regulations which shall not be subject to:
 - (1) Sections 201, 202 and 203 of the act of July 31, 1968 (P.L. 769, No.240), referred to as the Commonwealth Documents Law.
 - (2) The act of June 25, 1982 (P.L. 633, No. 181), known as the Regulatory Review Act.
- (c) **EXPIRATION.**--The authority provided to the board to adopt temporary regulations under subsection (b) shall expire three years from the effective date of this section. Regulations adopted after that date shall be promulgated as provided by law.

Section 5. Requirements for registration [63 P.S. § 457.25]

- (a) **APPLICATION.**--Before acting or offering to act as an appraisal management company in this Commonwealth, a person that is not an exempt company shall make written application to the board for registration accompanied by the required fee and bond or letter of credit.
- (b) **REQUIRED INFORMATION.**--The application shall contain such information as the board shall require, including the following information:

- (1) The name, business street address, telephone number and other contact information of the applicant.
 - (2) If the applicant is not an individual and is incorporated or otherwise formed under the laws of a jurisdiction other than this Commonwealth, documentation that the applicant is authorized to transact business in this Commonwealth.
 - (3) The name, street address, telephone number and other contact information of any person that owns 10% or more of the applicant.
 - (4) The name, street address, telephone number and other contact information of the applicant's compliance person.
 - (5) A certification that the applicant:
 - (i) Has a system in place to verify that a person being added to an appraiser panel of the applicant or who will otherwise perform appraisals for the applicant of property located in this Commonwealth is a certified appraiser and in good standing in this Commonwealth under REACA.
 - (ii) Has a system in place for the performance of appraisal reviews with respect to the work of all appraisers that are performing appraisals for the applicant of property located in this Commonwealth to determine whether the appraisals are being conducted in conformance with the minimum standards under REACA both on a periodic basis and whenever requested by a client.
 - (iii) Maintains a detailed record of each request for an appraisal that it receives, the appraiser assigned to perform the appraisal, the fees received from the client for the appraisal and the fees paid to the appraiser.
 - (6) Any discipline imposed on the applicant in this Commonwealth or any other state under any law regulating appraisers, appraisal management companies or real estate brokers or salespersons.
 - (7) Any criminal conviction of the applicant during the previous ten years in this Commonwealth or any other state or federal jurisdiction.
 - (8) Any other information required by rules and regulations of the board.
- (c) **REQUIREMENTS FOR REGISTRATION.**--The board shall register an applicant as an appraisal management company in this Commonwealth upon:
- (1) Receipt of a properly completed application.
 - (2) Payment of the required fee.

- (3) Posting of the required bond or letter of credit.
 - (4) A determination by the board that the activities of the applicant will be directed and conducted by persons of good moral character as defined in the rules and regulations of the board.
- (d) **DENIAL OF APPLICATION.**--
- (1) If the board finds that there is reason to deny the application for registration, the board shall notify the applicant that the application has been denied and shall afford the applicant an opportunity for a hearing before the board to show cause why the application should not be denied.
 - (2) All proceedings concerning the denial of an application for registration shall be governed by 2 Pa. C.S. (relating to administrative law and procedure).
- (e) **CONSTRUCTION.**--The acceptance by the board of an application for registration does not constitute the approval of its contents or waive the authority of the board to take disciplinary action under this act.

Section 6. Fees and renewals [63 P.S. § 457.26]

- (a) **FILING FEES.**--The fee to file an application for registration or renewal of a registration under this act shall be \$1,000 or such other amounts as are set by the rules and regulations of the board.
- (b) **BOND OR LETTER OF CREDIT.**
- (1) In addition to the filing fee, each applicant for registration shall either comply with:
 - (i) paragraph (2) regarding the posting of a bond; or
 - (ii) paragraph (3) regarding the posting of a letter of credit.
 - (2) The requirements for posting a bond shall be:
 - (i) The bond shall be in the amount of \$20,000 or any other amount as set by the rules and regulations of the board.
 - (ii) The bond shall be in the form prescribed by the rules and regulations of the board.
 - (iii) The bond shall accrue to the Commonwealth for the benefit of:
 - (A) a claimant against the registrant to secure the faithful performance of the registrant's obligations under this act; or
 - (B) an appraiser who has performed an appraisal for the registrant for which the appraiser has not been paid.

- (iv) The aggregate liability of the surety shall not exceed the principal sum of the bond.
 - (v) A party having a claim against the registrant may bring suit directly on the surety bond or the board may bring suit on behalf of the party having a claim against the registrant.
 - (vi) The amount of the bond shall be restored to the full amount required within 15 days after the payment of any claim on the bond.
- (3) The requirements for posting a letter of credit shall be:
- (i) The letter of credit shall be in the amount of \$20,000 or any other amount as set by the rules and regulations of the board.
 - (ii) The letter of credit shall be irrevocable and in a form approved by the board. The letter of credit shall be payable to the Bureau of Professional and Occupational Affairs in the Department of State.
 - (iii) The letter of credit shall be for the use and the benefit of:
 - (A) a person suffering damages for failure of the registrant to perform its obligations under this act; or
 - (B) An appraiser who has performed an appraisal for the registrant for which the appraiser has not been paid.
 - (iv) A person described under subparagraph (iii) may file with the bureau a complaint against the registrant and request a draw upon the registrant's letter of credit. Upon receipt of a complaint, the bureau shall notify the registrant and investigate the complaint. Upon determination by the bureau that the registrant is liable to the complainant, the bureau may, after providing notice to the registrant, draw upon the irrevocable letter of credit to satisfy the complaint.
 - (v) Upon a draw against a letter of credit, the registrant must provide a new letter of credit in the amount required under subparagraph (i).
- (c) **RENEWAL.--**
- (1) Registrations under this act shall be renewed on a biennial basis for persons in good standing.
 - (2) Failure to timely renew a registration shall result in a loss of authority to operate under this act.
 - (3) A request to reinstate a registration shall be accompanied by payment of a penalty of \$50 for each month of delinquency.

- (4) The contents of an application for renewal shall be prescribed by the rules and regulations of the board.

Section 7. Responsibilities and duties of appraisal management companies [63 P.S. § 457.27]

- (a) **CONDUCT OF REVIEWS.**--All appraisal reviews in this Commonwealth must be conducted for an appraisal management company by:
 - (1) a certified appraiser in good standing in this Commonwealth; or
 - (2) a certified or licensed appraiser in good standing in another state.
- (b) **RECORDS.**--
 - (1) An appraisal management company shall maintain or cause to be maintained:
 - (i) in the case of a registrant, complete records of its compliance with the certifications required under section 5(b)(5); and
 - (ii) in the case of registrants and exempt companies, such accounts, correspondence, memoranda, papers, books and other records as shall be required by the rules and regulations of the board.
 - (2) The records must be retained for:
 - (i) five years after their preparation;
 - (ii) two years after final disposition of any judicial proceeding that involves the actions of the appraisal management company that are the subject of the records; or
 - (iii) such other period as shall be required by the rules and regulations of the board with respect to a particular class or type of records.
 - (3) The board may inspect the records required under paragraph (1) at any time.
- (c) **COMPLIANCE PERSON.**--
 - (1) An appraisal management company shall at all times have a compliance person.
 - (2) A registrant shall file a certification with the board in a form approved by the board certifying:
 - (i) The identity of its compliance person.
 - (ii) The individual's acceptance of the responsibilities of a compliance person.
 - (3) A registrant shall notify the board within 30 days of a change in its compliance person.

- (4) An individual registrant who operates as a sole proprietorship is considered the compliance person under this act.
- (d) **UPDATING OF BOARD RECORDS.**--If the information contained in a document filed with the board is or becomes inaccurate or incomplete in any material respect, the registrant shall promptly file an amendment correcting the information contained in the document.
- (e) **DISCLOSURE.**--An appraisal management company shall disclose to its lender the fees paid for an appraisal separately from any other fees or charges for appraisal management services.
- (f) **NOTICE OF DISCIPLINE.**--A registrant must notify the board in writing within 30 days after its occurrence of any denial, revocation or suspension of its designation, registration, certificate or license under any law of any jurisdiction other than this Commonwealth regulating appraisal management companies, the imposition of any other form of discipline under any such law or the commencement of a disciplinary or enforcement action against the registrant under any such law.
- (g) **PROVISION OF SALES CONTRACT.**--Whenever an appraisal management company requests an appraiser to perform an appraisal, the appraisal management company must make a reasonable effort to provide in a timely manner to the appraiser a copy of the contract for the sale of the property, if available, along with legal descriptions and any other documents pertinent to the assignment.

Section 8. Prohibited activities [63 P.S. § 457.28]

- (a) **IMPROPER INFLUENCE.**--An employee, key person, compliance person or agent of an appraisal management company shall not improperly influence or attempt to improperly influence the development, reporting, result or review of an appraisal, including, without limitation, through the use of intimidation, coercion, extortion, bribery, blackmail, threat of nonpayment or withholding payment for an appraisal or threat of exclusion from future appraisal work.
- (b) **OTHER PROHIBITIONS.**--A registrant or exempt company shall not:
- (1) Hire, employ or in any way contract with or pay a person who is not an appraiser and who holds a license under the RELRA to perform a valuation of real estate unless it is a comparative market analysis as defined in section 201 of the RELRA.
 - (2) Require an appraiser to provide the registrant or exempt company with the appraiser's digital signature or seal.
 - (3) Alter, amend or change an appraisal submitted by an appraiser, including, without limitation, by:

- (i) removing the appraiser's signature or seal; or
 - (ii) adding or removing information to or from the appraisal.
 - (4) Remove an appraiser from an appraiser panel without prior written notice to the appraiser. The notice must include evidence of:
 - (i) illegal or unlawful conduct by the appraiser;
 - (ii) a violation of the minimum reporting standards under the REACA or other applicable statute or regulation;
 - (iii) failure to satisfy minimum standards required by the appraisal management company or any contract between the appraiser and the appraisal management company;
 - (iv) otherwise improper or unprofessional behavior; or
 - (v) a legitimate business reason for the removal that is not related to the appraiser's performance.
 - (5) Enter into a contract or agreement with an appraiser for the performance of appraisals unless the appraiser is certified and in good standing with the board.
 - (6) Request that an appraiser provide:
 - (i) an estimated, predetermined or desired valuation in an appraisal; or
 - (ii) estimated values or comparable sales at any time before the appraiser completes an appraisal.
 - (7) Except as provided in section 7(g), provide to an appraiser:
 - (i) an anticipated, estimated, encouraged or desired value for a property; or
 - (ii) a proposed or target amount to be loaned to the borrower.
 - (8) Commit an act or practice that impairs or attempts to impair an appraiser's independence, objectivity or impartiality or solicit an appraiser to violate this act or the RELRA or REACA.
 - (9) Prohibit an appraiser from recording the fee the appraiser was paid for the performance of an appraisal in the appraisal report.
- (c) **CONSTRUCTION.**--Subsection (a) does not prohibit an appraisal management company from requesting that an appraiser:
- (1) Correct objective factual errors in an appraisal.
 - (2) Provide additional detail, substantiation or explanation for the appraiser's value conclusion, including, without limitation, the applicability of additional comparables as presented.

(d) **OWNERS AND EMPLOYEES.--**

- (1) Except as provided in paragraph (2), a person that has been denied registration under this act or a similar law of another jurisdiction or that would be disqualified from eligibility to be certified or licensed under the REACA may not be:
 - (i) a key person or compliance person; or
 - (ii) directly involved in the provision of appraisal services by an appraisal management company as an employee or in any other capacity.
- (2) Paragraph (1) shall cease to apply at such time as a person is subsequently registered under this act or becomes eligible to be certified or licensed under the REACA.

Section 9. Registry of applicants and roster [63 P.S. § 457.29]

- (a) **REGISTRY.--**The board shall keep a register of all applicants for registration showing:
 - (1) The date of application.
 - (2) The applicant's name.
 - (3) The applicant's business street address.
 - (4) Whether the registration was granted or denied.
- (b) **ROSTER.--**The board shall keep a current roster showing for each registrant registered at any time with the board:
 - (1) Its last known name and street address.
 - (2) An identification number.
- (c) **AVAILABILITY OF RECORDS.--**The register and roster shall be kept on file in the office of the board and shall be open for public inspection. The board shall also post the roster on its Internet website.

Section 10. Disciplinary measures [63 P.S. § 457.30]

- (a) **AUTHORITY OF BOARD.--**The board may impose disciplinary action as set forth in subsection (b) upon an applicant, registrant, exempt company, person acting as an appraisal management company, person holding out as an appraisal management company or person advertising or holding out as engaging in or conducting the business of an appraisal management company, for any of the following causes:
 - (1) The appraisal management company's application for registration or renewal of registration when filed contained a statement that, in light of the circumstances under which it was made, is false or misleading with respect to a material fact.

- (2) The applicant, registrant, exempt company, its compliance person or key person has violated or failed to comply with:
 - (i) This act or the regulations or guidelines promulgated by the board for the administration and enforcement of this act.
 - (ii) The REACA or the regulations or guidelines promulgated by the board for the administration and enforcement of the REACA.
- (3) The State Real Estate Commission has found the applicant, registrant, exempt company, compliance person or key person in violation of the RELRA or the regulations to administer and effectuate the purposes of the RELRA.
- (4) The Department of Banking or a court of competent jurisdiction has found the applicant, registrant, exempt company, compliance person or key person in violation of the provisions of 7 Pa.C.S. Ch.61 (relating to mortgage loan industry licensing and consumer protection) or the Mortgage Bankers and Brokers and Consumer Equity Protection Act.
- (5) The applicant, registrant, exempt company, compliance person or key person has been convicted of:
 - (i) A felony.
 - (ii) Within the past ten years, a misdemeanor involving mortgage lending or real estate appraising, breach of trust, moral turpitude or fraudulent or dishonest dealing.
- (6) The applicant, registrant, exempt company, compliance person or key person is permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving appraisal management services or operating an appraisal management company.
- (7) The applicant, registrant, exempt company, compliance person or key person is the subject of an order of the board or any other state appraisal management company regulatory agency denying, suspending or revoking the person's privilege to operate as an appraisal management company, or other disciplinary actions by an agency of another jurisdiction responsible for regulating appraisers, mortgage brokers, real estate salespersons or real estate brokers.
- (8) The person was not an exempt company and:
 - (i) Acted as an appraisal management company.
 - (ii) Held out as an appraisal management company within this Commonwealth.
 - (iii) Advertised or held out as engaging in or conducting the business of an appraisal management company

- (b) **BOARD ACTION.**--When the board finds any of the causes listed in subsection (a) supported by substantial evidence the board may:
- (1) Deny, suspend, revoke or refuse to issue or renew the registration of an appraisal management company under this act.
 - (2) Restrict, reprimand, limit or suspend enforcement of its findings and place the appraisal management company on probation with the right to vacate the probation for noncompliance.
 - (3) In lieu of imposing a sanction authorized by paragraph (1), the board may order the removal, replacement or restriction of a compliance person or a key person found to have committed any of the violations of subsection (a) as a condition of approving, renewing or retaining an applicant's or registrant's registration.
 - (4) In lieu of imposing a sanction authorized by paragraph (1), the board may order a person found to have committed any of the violations of subsection (a) and that owns an interest in or participates in the business of an appraisal management company to divest partially or wholly of such interest or participation as a condition of granting, renewing or retaining an applicant's or registrant's registration.
 - (5) Levy a civil penalty or costs of investigation under subsection (d) or the act of July 2, 1993, (P.L. 345, No. 48), entitled "An act empowering the General Counsel or his designee to issue subpoenas for certain licensing board activities; providing for hearing examiners in the Bureau of Professional and Occupational Affairs; providing additional powers to the Commissioner of Professional and Occupational Affairs; and further providing for civil penalties and license suspension."
 - (6) Require a surety bond or letter of credit in addition to the requirements of section 6(b) and regulations of the board promulgated pursuant to that subsection.
- (c) **CRIMINAL PENALTIES.**--A person that violates this act commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of up to \$1,000 or to imprisonment for not more than 90 days, or both.
- (d) **CIVIL PENALTY.**--In addition to any other civil remedy or criminal penalty provided for in this act, the board may levy a civil penalty of up to \$10,000 on any person that violates any provision of this act or any person that acts as an appraisal management company, holds out as an appraisal management company in this Commonwealth or advertises or holds out as engaging in or conducting the business of an appraisal

management company at a time when the person is not an exempt company or registered under this act. The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in 2 Pa.C.S. (relating to administrative law and procedure). All civil penalties imposed in accordance with this section shall be paid into the Professional Licensure Augmentation Account.

- (e) **PROCEDURES.**--The investigation and prosecution of disciplinary proceedings under this section shall be conducted by the board under the provisions of the REACA.

Section 11. Application [63 P.S. § 457.31]

This act shall not apply to:

- (1) An appraiser who:
 - (i) in the normal course of business enters into an agreement, whether written or otherwise, with an appraiser for the performance of an appraisal; and
 - (ii) under the agreement cosigns the appraisal upon its completion.
- (2) A person authorized to engage in business as a banking institution, credit union or savings association organized under the laws of this Commonwealth or any other jurisdiction and whose employees perform appraisals for the person or arrange for the performance of appraisals for the person by an independent contractor to the person.

Section 12. Effective date.

This act shall take effect as follows:

- (1) The following provisions shall take effect immediately:
 - (i) This section.
 - (ii) Section 4.
- (2) The remainder of this act shall take effect on the earlier of:
 - (i) Sixty days after the effective date of temporary regulations promulgated under section 4(b) that provide for registration of appraisal management companies; or
 - (ii) One hundred eighty days after the effective date of this section.

Approved February 2, 2012.

Title 63 P.S. Professions and Occupations (State Licensed)

Chapter 13D. Assessors Certification Act

458.1. Short title.

1992, April 16, P.L. 155, No. 28, § 1

This act shall be known and may be cited as the Assessors Certification Act.

NOTE

Title of Act:

An Act providing for the certification and recertification of assessors; establishing eligibility and training requirements; defining the powers and duties of the State Board of Certified Real Estate Appraisers relating to training, certification and recertification of assessors; and authorizing the board to establish fees. 1992, April 16, P.L. 155, No. 28.

458.2. Definitions.

1992, April 16, P.L. 155, No. 28, § 2

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Assessor." Any person responsible for the valuation of real property for ad valorem taxation purposes.

"Board." The State Board of Certified Real Estate Appraisers.

"Certified Pennsylvania Evaluator." An individual who has completed a minimum of 90 hours of basic courses of study covering the appraisal assessing profession and has successfully completed a comprehensive examination covering all phases of the appraisal process and the assessment function established by the assessment statutes of this Commonwealth.

"Commissioner." The Commissioner of Professional and Occupational Affairs in the Department of State.

"Revaluation company." A mass appraisal company.

458.3. Regulations.

1992, April 16, P.L. 155, No. 28, § 3

The board may promulgate rules and regulations consistent with the statutes of this Commonwealth to administer and enforce the provisions of this act.

458.4. Duties of board.

1992, April 16, P.L. 155, No. 28, § 4

- (a) **CERTIFICATION OF ASSESSORS.**--It shall be the duty of the board to certify all assessors in this Commonwealth. Any assessor employed on or before March 16, 1992, but not holding the title of Certified Pennsylvania Evaluator shall have three years from the effective date of employment as an assessor to obtain certification by the board. Any assessor employed after March 16, 1992, shall obtain certification within a period of three years from the effective date of employment as an assessor.

- (b) **QUALIFICATION OF REVALUATION COMPANY PERSONNEL.**--Any person employed by a revaluation company who is directly responsible for the valuation of real property shall have met the educational requirements of this act or successfully completed educational courses equal to the minimum qualifications established by the board. Failure to meet the requirements contained in this section will prohibit that person from determining the value of real property in this Commonwealth.
- (c) **BIENNIAL RENEWAL OF CERTIFICATES.**--Renewal of certification shall occur on a biennial basis commencing with the 1993 renewal cycle administered by the board for other professional certification renewals.
- (d) **CONTINUING EDUCATION.**--An assessor applying for renewal of certification shall submit proof to the board that, during the two years immediately preceding renewal, the assessor has satisfactorily completed a minimum of 20 hours of continuing education relating to assessment and appraisal practices, provided that, for the 1993 renewal, an assessor shall be required to complete only ten hours of continuing education. The board shall approve continuing education courses and providers pursuant to regulations promulgated by the board.

458.5. Qualifications.

1992, April 16, P.L. 155, No. 28, § 5

- (a) **GENERAL RULE.**--All assessors in this Commonwealth shall meet the requirements enumerated in subsection (b).
- (b) **REQUIREMENTS.**--An applicant shall meet the following requirements:
 - (1) The applicant shall have a high school diploma, or its equivalent, or two years of assessing experience.
 - (2) The applicant shall be at least 18 years of age.
 - (3) The applicant shall be a resident of this Commonwealth for at least six months.
 - (4) The applicant shall have successfully completed a minimum of 90 hours of the basic courses of study approved by the board covering the appraisal assessing profession or any other professional courses acceptable to the board. At the discretion of the county commissioners, the county may reimburse county assessors for the costs of completing the courses of study required by this subsection.

458.6. Certification.

1992, April 16, P.L. 155, No. 28, § 6

- (a) **REQUIREMENT.**--All assessors in this Commonwealth shall be certified under this act.
- (b) **APPLICATION.**--Application for certification shall be made to the board by completion of the board's prescribed application

form and shall be accompanied by the appropriate fee established by the board.

- (c) **EXAMINATION.**--Applicants shall successfully complete a comprehensive examination covering all phases of the appraisal process and the assessment function established by the assessment statutes of this Commonwealth. Any such examination shall be prepared and administered by a qualified and approved professional testing organization in accordance with section 812.1 of the act of April 9, 1929 (P.L. 177, No. 175), known as The Administrative Code of 1929. [FN1]
- (d) **CERTIFICATION.**--Upon successful completion of the comprehensive examination, the board shall issue a Certified Pennsylvania Evaluator's Certificate to the applicant. A certificate shall be valid for two years or until the next renewal cycle administered by the board for other professional certification renewals, whichever occurs earlier.
- (e) **LICENSURE.**--Nothing in this act shall relieve any individual or company from any otherwise applicable legal obligation to be licensed as a real estate broker pursuant to the act of February 19, 1980 (P.L. 15, No. 9), known as the Real Estate Licensing and Registration Act, or to be certified as a certified State real estate appraiser under the act of July 10, 1990 (P.L. 404, No. 98), known as the Real Estate Appraisers Certification Act.

458.7. Disciplinary and correction measures.

1992, April 16, P.L. 155, No. 28, § 7

- (a) **AUTHORITY OF BOARD.**--The board may deny, suspend or revoke certificates or limit, restrict or reprimand a certificate holder for any of the following causes:
 - (1) Procuring or attempting to procure a certificate or renewal of a certificate pursuant to this act by knowingly making a false statement, submitting false information or refusing to provide complete information in response to a question in an application for certification or renewal.
 - (2) Failing to meet the minimum qualifications established by this act.
 - (3) Paying or offering to pay any valuable consideration other than provided for by this act to any member or employee of the board to procure a certificate or renewal of a certificate under this act.
 - (4) Being convicted of or pleading guilty to a crime which is substantially related to the qualifications, functions and duties of a person developing real property assessments.
 - (5) Performing an act or omitting an act when such performance or omission involves dishonesty, fraud or misrepresentation with intent to substantially benefit the certificate holder in his profession or with the intent to substantially injure another person.

- (6) Violating any of the standards of professional conduct for real property assessment as adopted by the board by regulation.
 - (7) Failing or refusing, without good cause, to exercise reasonable diligence in developing an assessment or preparing an assessment report.
 - (8) Negligently or incompetently developing an assessment or preparing an assessment.
 - (9) Willfully disregarding or violating any of the provisions of this act or the regulations of the board for the administration and enforcement of the provisions of this act.
 - (10) Violating the confidential nature of records to which the assessor gained access through employment or engagement as an assessor.
 - (11) Having an assessor's license or certificate suspended, revoked or refused or receiving other disciplinary action by a licensing or certification authority of another state, territory or country.
- (b) **BOARD ACTION.**--When the board finds that the certification or application for certification or renewal of a person should be denied, revoked, restricted or suspended under the terms of subsection (a), the board may:
- (1) Deny the application for certification or renewal.
 - (2) Administer a public reprimand.
 - (3) Revoke, suspend, limit or otherwise restrict a certificate as determined by the board.
 - (4) Suspend enforcement of its findings and place a certificate holder on probation with the right to vacate the probationary order for noncompliance.
 - (5) Restore a suspended certification and impose any disciplinary or corrective measure which it might originally have imposed.

458.8. Unlawful practice.

1992, April 16, P.L. 155, No. 28, § 8

- (a) **PROHIBITION.**--A person may not perform valuations of real property for ad valorem tax purposes, except as provided by the three-year grace period under section 4(a), unless the person is currently certified by the board as a Certified Pennsylvania Evaluator.
- (b) **PENALTY.**--A person who intentionally violates subsection (a) commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of \$2,500 or to imprisonment for not more than one year, or both.
- (c) **INJUNCTION.**--A violation of subsection (a) may be enjoined by the courts upon petition of the commissioner or the board. In any proceeding under this section, it shall not be necessary

to show that any person is individually injured by the actions complained of. If the court finds that the respondent has violated subsection (a), it shall enjoin him or her from so practicing or holding himself or herself out until he or she has been duly certified. Procedure in such cases shall be the same as in any other injunctive suit.

- (d) **REMEDY CUMULATIVE.**--The injunctive remedy provided in this section shall be in addition to any other civil or criminal prosecution and punishment.
- (e) **CIVIL PENALTY.**--In addition to any other civil remedy or criminal penalty provided in this act, the board, by a vote of the majority of the maximum number of the authorized membership of the board as provided by law or by a vote of the majority of the duly qualified and confirmed membership or a minimum of three members, whichever is greater, may levy a civil penalty of up to \$1,000 on any current certificate holder who violates any provision of this act or on any person who holds himself or herself out as a Certified Pennsylvania Evaluator or performs valuations of real property for ad valorem tax purposes for which certification as a Certified Pennsylvania Evaluator is required without being so certified pursuant to this act. The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in 2 Pa.C.S. (relating to administrative law and procedure).

458.9. Fees.

1992, April 16, P.L. 155, No. 28, § 9

The board shall establish by regulation such fees as it deems necessary for applications, examinations, certifications and renewals authorized by this act or by regulations promulgated by the board.

458.10. Disposition of fees.

1992, April 16, P.L. 155, No. 28, § 10

All fees collected under this act shall be deposited in the Professional Licensure Augmentation Account.

458.11. Nonapplicability.

1992, April 16, P.L. 155, No. 28, § 11.

Amended 2004, Nov. 19, P.L. 834, No. 100, § 1.

This act shall not apply to counties of the first class.

Act 2004-100 legislation

Sections 2 and 3 of 2004, Nov. 19, P.L. 834, No. 100, effective Jan. 18, 2005, provide:

“§ 2. Assessors who are employees of a county of the second class prior to the effective date of this section shall have three years from such effective date to become certified as required by the act.

“§ 3. The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.”

458.12. Implementation.

1992, April 16, P.L. 155, No. 28, § 12

In order to facilitate the speedy implementation of this act, the board shall have the power and authority to promulgate, adopt and use guidelines, including the authority to prescribe the examination and other qualifications required for certification and renewal under this section. Such guidelines shall be published in the Pennsylvania Bulletin. The guidelines shall not be subject to review under section 205 of the act of July 31, 1968 (P.L. 769, No. 240), referred to as the Commonwealth Documents Law, sections 204(b) and 301(10) of the act of October 15, 1980 (P.L. 950, No. 164), known as the Commonwealth Attorneys Act, or the act of June 25, 1982 (P.L. 633, No. 181), known as the Regulatory Review Act, and shall be effective for a period not to exceed two years from the effective date of this act. After the expiration of the two-year period, the guidelines shall expire and shall be replaced by regulations which shall have been promulgated, adopted and published as provided by law.

458.13. Holders of valid certification.

1992, April 16, P.L. 155, No. 28, § 13

Any person who, on the effective date of this act, holds a valid certificate issued by the State Tax Equalization Board under the act of December 17, 1986 (P.L. 1675, No. 192), known as the Assessors Certification Act, prior to the effective date of this act shall on and after the effective date of this act be deemed to be certified by the State Board of Certified Real Estate Appraisers as provided in this act, provided that such certification shall expire commencing with the 1993 renewal cycle administered by the board for other professional certification renewals unless renewed in accordance with this act.

458.14. Ratification of action.

1992, April 16, P.L. 155, No. 28, § 14

All actions taken by the State Tax Equalization Board relative to the administration of the provisions of the expired act of December 17, 1986 (P.L. 1675, No. 192), known as the Assessors Certification Act, between March 17, 1992, and the effective date of this act are hereby ratified and validated.

458.15. Construction of act.

1992, April 16, P.L. 155, No. 28, § 15

This act shall be construed as a continuation of the act of December 17, 1986 (P.L. 1675, No. 192), known as the Assessors Certification Act.

458.16. Retroactivity.

1992, April 16, P.L. 155, No. 28, § 16

This act shall be retroactive to March 17, 1992.



pennsylvania
DEPARTMENT OF STATE

Bureau of Professional and Occupational Affairs
P.O. Box 2649
Harrisburg, PA 17105-2649
www.dos.pa.gov