



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 02/05/04, by Angelo Saviano

SYNOPSIS AS INTRODUCED:

225 ILCS 458/10-25 new
225 ILCS 458/15-12 new
225 ILCS 458/15-15

Amends the Real Estate Appraiser Licensing Act of 2002. Provides that all supervisory appraisers or co-appraisers who are required to retain records pursuant to specified provisions of the Act, original work files, and copies of appraisals completed by both the supervisory appraiser or co-appraiser and the appraiser, shall furnish such documentation to the appraiser or co-appraiser upon request. Provides that the Commissioner of Banks and Real Estate may temporarily suspend the license of a licensee without a hearing, simultaneously with the institution of proceedings for a hearing, if the Commissioner finds that the evidence indicates that the public interest, safety, or welfare requires emergency action. Makes changes concerning the Office of Banks and Real Estate's subpoena power.

LRB093 20886 AMC 46841 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning professional regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Real Estate Appraiser Licensing Act of 2002
5 is amended by changing Section 15-15 and by adding Sections
6 10-25 and 15-12 as follows:

7 (225 ILCS 458/10-25 new)

8 Sec. 10-25. Documentation. All supervisory appraisers or
9 co-appraisers who are required to retain records pursuant to
10 Section 10-20, original work files, and copies of appraisals
11 completed by both the supervisory appraiser or co-appraiser and
12 the appraiser, shall furnish such documentation to the
13 appraiser or co-appraiser upon request.

14 (225 ILCS 458/15-12 new)

15 Sec. 15-12. Temporary suspension. The Commissioner may
16 temporarily suspend the license of a licensee without a
17 hearing, simultaneously with the institution of proceedings
18 for a hearing provided for in Section 15-15 of this Act, if the
19 Commissioner finds that the evidence indicates that the public
20 interest, safety, or welfare requires emergency action. In the
21 event that the Commissioner temporarily suspends the license
22 without a hearing before the Board, a hearing shall be held
23 within 30 days after the suspension has occurred. The suspended
24 licensee may seek a continuance of the hearing during which the
25 suspension shall remain in effect. The proceeding shall be
26 concluded without appreciable delay.

27 (225 ILCS 458/15-15)

28 (Section scheduled to be repealed on January 1, 2012)

29 Sec. 15-15. Investigation; notice; hearing.

30 (a) Upon the motion of the Office of Banks and Real Estate

1 or the Board or upon a complaint in writing of a person setting
2 forth facts that, if proven, would constitute grounds for
3 suspension, revocation, or other disciplinary action against a
4 licensee or applicant for licensure, the Office of Banks and
5 Real Estate shall investigate the actions of the licensee or
6 applicant.

7 (b) Formal disciplinary proceedings shall commence upon
8 the issuance of a written complaint describing the charges that
9 are the basis of the disciplinary action and delivery of the
10 detailed complaint to the address of record of the licensee or
11 applicant. OBRE shall notify the licensee or applicant to file
12 a verified written answer within 20 days after the service of
13 the notice and complaint. The notification shall inform the
14 licensee or applicant of his or her right to be heard in person
15 or by legal counsel; that the hearing will be afforded not
16 sooner than 30 days after receipt of the answer to the specific
17 charges; that failure to file an answer will result in a
18 default being entered against the licensee or applicant; that
19 the license may be suspended, revoked, or placed on
20 probationary status; and that other disciplinary action may be
21 taken pursuant to this Act, including limiting the scope,
22 nature, or extent of the licensee's practice. If the licensee
23 or applicant fails to file an answer after service of notice,
24 his or her license may, at the discretion of the Office of
25 Banks and Real Estate, be suspended, revoked, or placed on
26 probationary status and the Office of Banks and Real Estate may
27 take whatever disciplinary action it deems proper, including
28 limiting the scope, nature, or extent of the person's practice,
29 without a hearing.

30 (c) At the time and place fixed in the notice, the Board
31 shall conduct hearing of the charges, providing both the
32 accused person and the complainant ample opportunity to present
33 in person or by counsel such statements, testimony, evidence,
34 and argument as may be pertinent to the charges or to a defense
35 thereto.

36 (d) The Board shall present to the Commissioner a written

1 report of its findings and recommendations. A copy of the
2 report shall be served upon the licensee or applicant, either
3 personally or by certified mail. Within 20 days after the
4 service, the licensee or applicant may present the Commissioner
5 with a motion in writing for either a rehearing, a proposed
6 finding of fact, a conclusion of law, or an alternative
7 sanction, and shall specify the particular grounds for the
8 request. If the accused orders a transcript of the record as
9 provided in this Act, the time elapsing thereafter and before
10 the transcript is ready for delivery to the accused shall not
11 be counted as part of the 20 days. If the Commissioner is not
12 satisfied that substantial justice has been done, the
13 Commissioner may order a rehearing by the Board or other
14 special committee appointed by the Commissioner, may remand the
15 matter to the Board for its reconsideration of the matter based
16 on the pleadings and evidence presented to the Board, or may
17 enter a final order in contravention of the Board's
18 recommendation. In all instances under this Act in which the
19 Board has rendered a recommendation to the Commissioner with
20 respect to a particular licensee or applicant, the
21 Commissioner, if he or she disagrees with the recommendation of
22 the Board, shall file with the Board and provide to the
23 licensee or applicant a copy of the Commissioner's specific
24 written reasons for disagreement with the Board. The reasons
25 shall be filed within 60 days of the Board's recommendation to
26 the Commissioner and prior to any contrary action. At the
27 expiration of the time specified for filing a motion for a
28 rehearing, the Commissioner shall have the right to take any of
29 the actions specified in this subsection (d). Upon the
30 suspension or revocation of a license, the licensee shall be
31 required to surrender his or her license to OBRE, and upon
32 failure or refusal to do so, OBRE shall have the right to seize
33 the license.

34 (e) The Office of Banks and Real Estate has the power to
35 issue subpoenas and subpoenas duces tecum to bring before it
36 any licensee or person in this State, to take testimony, or to

1 require production of any document or record that is ~~records~~
2 relevant to an inquiry, investigation, or hearing by the Board
3 in the same manner as prescribed by law in judicial proceedings
4 in the courts of this State. In a case of refusal of a witness
5 to attend, testify, or to produce books or papers concerning a
6 matter upon which he or she might be lawfully examined, the
7 circuit court of the county where the hearing is held, upon
8 application of the Office of Banks and Real Estate or any party
9 to the proceeding, may compel obedience by proceedings as for
10 contempt.

11 (f) Any license that is suspended indefinitely or revoked
12 may not be restored for a minimum period of 2 years, or as
13 otherwise ordered by the Commissioner.

14 (g) In addition to the provisions of this Section
15 concerning the conduct of hearings and the recommendations for
16 discipline, OBRE has the authority to negotiate disciplinary
17 and non-disciplinary settlement agreements concerning any
18 license issued under this Act. All such agreements shall be
19 recorded as Consent Orders or Consent to Administrative
20 Supervision Orders.

21 (h) The Commissioner shall have the authority to appoint an
22 attorney duly licensed to practice law in the State of Illinois
23 to serve as the hearing officer in any action to suspend,
24 revoke, or otherwise discipline any license issued by the
25 Office of Banks and Real Estate. The Hearing Officer shall have
26 full authority to conduct the hearing.

27 (i) OBRE, at its expense, shall preserve a record of all
28 formal hearings of any contested case involving the discipline
29 of a license. At all hearings or pre-hearing conferences, OBRE
30 and the licensee shall be entitled to have the proceedings
31 transcribed by a certified shorthand reporter. A copy of the
32 transcribed proceedings shall be made available to the licensee
33 by the certified shorthand reporter upon payment of the
34 prevailing contract copy rate.

35 (Source: P.A. 92-180, eff. 7-1-02.)