



## 96TH GENERAL ASSEMBLY

### State of Illinois

### 2009 and 2010

### HB5868

Introduced 2/10/2010, by Rep. Angelo Saviano

#### SYNOPSIS AS INTRODUCED:

225 ILCS 458/1-10  
225 ILCS 458/5-5  
225 ILCS 458/5-20.3 new  
225 ILCS 458/10-10  
225 ILCS 458/15-5  
225 ILCS 458/15-15  
225 ILCS 458/25-10

Amends the Real Estate Appraiser Licensing Act of 2002. Provides for the licensure of appraisal companies under the Act. Provides that the Department of Financial and Professional Regulation shall adopt by rule standards for the licensure of appraisal companies and charge a licensing fee not to exceed \$50. Provides conditions for licensure as a real estate appraiser or appraisal company for corporations and partnerships. Prohibits the licensure of limited liability companies. Provides conditional exemptions from the Act to certain persons and entities. Provides criminal penalties for engaging in certain activities without a license as a real estate appraiser or appraisal company. Prohibits certain means of influencing an appraisal. Provides requirements for appraisers concerning the maintenance of a place of business within the State. Specifies that the Board has the power to investigate the actions of a licensee or applicant. Defines "appraisal company", "appraisal management company", "managing appraiser", "turnaround time", and "due date"; requires due dates to be calculated on Central Standard (rather than Daylight Savings) Time. Makes other changes.

LRB096 18123 ASK 33498 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

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 Sections 1-10, 5-5, 10-10, 15-5, 15-15,  
6 and 25-10 and by adding Section 5-20.3 as follows:

7 (225 ILCS 458/1-10)

8 (Section scheduled to be repealed on January 1, 2012)

9 Sec. 1-10. Definitions. As used in this Act, unless the  
10 context otherwise requires:

11 "Accredited college or university, junior college, or  
12 community college" means a college or university, junior  
13 college, or community college that is approved or accredited by  
14 the Board of Higher Education, a regional or national  
15 accreditation association, or by an accrediting agency that is  
16 recognized by the U.S. Secretary of Education.

17 "Applicant" means person who applies to the Department for  
18 a license under this Act.

19 "Appraisal" means (noun) the act or process of developing  
20 an opinion of value; an opinion of value (adjective) of or  
21 pertaining to appraising and related functions, such as  
22 appraisal practice or appraisal services.

23 "Appraisal assignment" means a valuation service provided

1 as a consequence of an agreement between an appraiser and a  
2 client.

3 "Appraisal company" means any individual, corporation,  
4 partnership, sole proprietorship, subsidiary, unit, or other  
5 business entity that (i) administers networks of independent  
6 contractor appraisers to perform real estate appraisal  
7 services for clients; (ii) receives requests for real estate  
8 appraisal services from clients and enters into an agreement  
9 with one or more independent contractor appraisers to perform  
10 the real estate appraisal services contained in the request; or  
11 (iii) otherwise serves as a third-party broker of appraisal  
12 services between clients and appraisers.

13 For the purposes of this definition, "appraisal company"  
14 includes an appraisal management company.

15 "Appraisal consulting" means the act or process of  
16 developing an analysis, recommendation, or opinion to solve a  
17 problem, where an opinion of value is a component of the  
18 analysis leading to the assignment results.

19 "Appraisal management company" means a business entity  
20 that (i) administers a network of certified and licensed  
21 appraisers to fulfill real estate appraisal assignments on  
22 behalf of mortgage lending institutions, as well as other  
23 entities; (ii) recruits, qualifies, verifies the licensing of,  
24 and negotiates fees and service level expectations with a  
25 network of third-party appraisers; (iii) provides  
26 administrative duties including order entry and assignment,

1 tracking and status updates, pre-delivery quality control, and  
2 preliminary and hard copy report delivery; and (iv) involves  
3 ongoing quality control, accounts payable and receivable,  
4 market value dispute resolution, warranty administration, and  
5 record retention.

6 "Appraisal practice" means valuation services performed by  
7 an individual acting as an appraiser, including, but not  
8 limited to, appraisal, appraisal review, or appraisal  
9 consulting.

10 "Appraisal report" means any communication, written or  
11 oral, of an appraisal, appraisal review, or appraisal  
12 consulting service that is transmitted to a client upon  
13 completion of an assignment.

14 "Appraisal review" means the act or process of developing  
15 and communicating an opinion about the quality of another  
16 appraiser's work that was performed as part of an appraisal,  
17 appraisal review, or appraisal assignment.

18 "Appraisal Subcommittee" means the Appraisal Subcommittee  
19 of the Federal Financial Institutions Examination Council as  
20 established by Title XI.

21 "Appraiser" means an individual, partnership, corporation,  
22 or registered limited liability company that ~~a person who~~  
23 performs real estate or real property appraisals.

24 "AQB" means the Appraisal Qualifications Board of the  
25 Appraisal Foundation.

26 "Associate real estate trainee appraiser" means an

1 entry-level appraiser who holds a license of this  
2 classification under this Act with restrictions as to the scope  
3 of practice in accordance with this Act.

4 "Board" means the Real Estate Appraisal Administration and  
5 Disciplinary Board.

6 "Classroom hour" means 50 minutes of instruction out of  
7 each 60 minute segment of coursework.

8 "Client" means (i) the party or parties who engage an  
9 appraiser or appraisal management company by employment or  
10 contract in a specific assignment or (ii) the person who  
11 utilizes the services of an appraiser or engages an appraiser  
12 for an appraisal by employment or contract ~~in a specific~~  
13 ~~assignment.~~

14 "Coordinator" means the Coordinator of Real Estate  
15 Appraisal of the Division of Professional Regulation of the  
16 Department of Financial and Professional Regulation.

17 "Department" means the Department of Financial and  
18 Professional Regulation.

19 "Due date" means the agreed upon date, based on Central  
20 Standard Time, by which an assignment result is to be received  
21 by the client.

22 "Federal financial institutions regulatory agencies" means  
23 the Board of Governors of the Federal Reserve System, the  
24 Federal Deposit Insurance Corporation, the Office of the  
25 Comptroller of the Currency, the Office of Thrift Supervision,  
26 and the National Credit Union Administration.

1 "Federally related transaction" means any real  
2 estate-related financial transaction in which a federal  
3 financial institutions regulatory agency, the Department of  
4 Housing and Urban Development, Fannie Mae, Freddie Mae, or the  
5 National Credit Union Administration engages in, contracts  
6 for, or regulates and requires the services of an appraiser.

7 "Financial institution" means any bank, savings bank,  
8 savings and loan association, credit union, mortgage broker,  
9 mortgage banker, licensee under the Consumer Installment Loan  
10 Act or the Sales Finance Agency Act, or a corporate fiduciary,  
11 subsidiary, affiliate, parent company, or holding company of  
12 any such licensee, or any institution involved in real estate  
13 financing that is regulated by state or federal law.

14 "Managing appraiser" means a certified appraiser who has  
15 supervisory responsibilities for licensees in one or, in the  
16 case of a multi-office company, more than one office and who  
17 has been appointed as such by the owning appraiser.

18 "Modular Course" means the Appraisal Qualifying Course  
19 Design conforming to the Sub Topics Course Outline contained in  
20 the AQB Criteria 2008.

21 "Real estate" means an identified parcel or tract of land,  
22 including any improvements.

23 "Real estate related financial transaction" means any  
24 transaction involving:

25 (1) the sale, lease, purchase, investment in, or  
26 exchange of real property, including interests in property

1 or the financing thereof;

2 (2) the refinancing of real property or interests in  
3 real property; and

4 (3) the use of real property or interest in property as  
5 security for a loan or investment, including mortgage  
6 backed securities.

7 "Real property" means the interests, benefits, and rights  
8 inherent in the ownership of real estate.

9 "Secretary" means the Secretary of Financial and  
10 Professional Regulation.

11 "State certified general real estate appraiser" means an  
12 appraiser who holds a license of this classification under this  
13 Act and such classification applies to the appraisal of all  
14 types of real property without restrictions as to the scope of  
15 practice.

16 "State certified residential real estate appraiser" means  
17 an appraiser who holds a license of this classification under  
18 this Act and such classification applies to the appraisal of  
19 one to 4 units of residential real property without regard to  
20 transaction value or complexity, but with restrictions as to  
21 the scope of practice in a federally related transaction in  
22 accordance with Title XI, the provisions of USPAP, criteria  
23 established by the AQB, and further defined by rule.

24 "Supervising appraiser" means either (i) an appraiser who  
25 holds a valid license under this Act as either a State  
26 certified general real estate appraiser or a State certified

1 residential real estate appraiser, who co-signs an appraisal  
2 report for an associate real estate trainee appraiser or (ii) a  
3 State certified general real estate appraiser who holds a valid  
4 license under this Act who co-signs an appraisal report for a  
5 State certified residential real estate appraiser on  
6 properties other than one to 4 units of residential real  
7 property without regard to transaction value or complexity.

8 "Title XI" means Title XI of the federal Financial  
9 Institutions Reform, Recovery and Enforcement Act of 1989.

10 "Turnaround time" or "turn time" means the period from when  
11 an appraisal assignment is accepted by an appraiser or  
12 appraisal company until it is received by the vendor management  
13 company.

14 "USPAP" means the Uniform Standards of Professional  
15 Appraisal Practice as promulgated by the Appraisal Standards  
16 Board pursuant to Title XI and by rule.

17 "Valuation services" means services pertaining to aspects  
18 of property value.

19 (Source: P.A. 96-844, eff. 12-23-09.)

20 (225 ILCS 458/5-5)

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

22 Sec. 5-5. Necessity of license; use of title; exemptions.

23 (a) It is unlawful for a person to (i) act, offer services,  
24 or advertise services as a State certified general real estate  
25 appraiser, State certified residential real estate appraiser,



1 or associate real estate trainee appraiser, (ii) develop a real  
2 estate appraisal, (iii) practice as a real estate appraiser,  
3 (iv) advertise or hold himself or herself out to be a real  
4 estate appraiser, or (v) solicit clients or enter into an  
5 appraisal engagement with clients without a license issued  
6 under this Act. A person who violates this subsection is guilty  
7 of a Class A misdemeanor for a first offense and a Class 4  
8 felony for any subsequent offense.

9 (b) It is unlawful for a person, other than a person who  
10 holds a valid license issued pursuant to this Act as a State  
11 certified general real estate appraiser, a State certified  
12 residential real estate appraiser, or an associate real estate  
13 trainee appraiser to use these titles or any other title,  
14 designation, or abbreviation likely to create the impression  
15 that the person is licensed as a real estate appraiser pursuant  
16 to this Act. A person who violates this subsection is guilty of  
17 a Class A misdemeanor for a first offense and a Class 4 felony  
18 for any subsequent offense.

19 (b-1) It is unlawful for any person, corporation, limited  
20 liability company, registered limited liability partnership,  
21 or partnership (i) to act as an appraiser or appraisal company  
22 or to advertise or assume to act as such appraiser or appraisal  
23 company without a properly issued license issued under this Act  
24 by the Department, either directly or through its authorized  
25 designee; (ii) to develop a real estate appraisal; (iii) to  
26 practice as a real estate appraiser; (iv) to advertise or hold

1 himself, herself, or itself out to be a real estate appraiser  
2 or appraisal company; or (v) to solicit clients or enter into  
3 an appraisal engagement with clients without a real estate  
4 appraiser license issued under this Act. A person who violates  
5 this subsection (b-1) is guilty of a Class A misdemeanor for a  
6 first offense and a Class 4 felony for any subsequent offense.

7 (b-2) No corporation shall be granted a license or engage  
8 in the business or capacity, either directly or indirectly, of  
9 a real estate appraiser or appraisal company, unless every  
10 officer of the corporation who actively participates in the  
11 activities of the corporation holds a license as a certified  
12 general real estate appraiser or a certified residential real  
13 estate appraiser and unless every employee who acts as an  
14 appraiser for the corporation holds a license as a certified  
15 general real estate appraiser, a certified residential real  
16 estate appraiser, or an associate real estate appraisal  
17 trainee.

18 (b-3) No partnership shall be granted a license or engage  
19 in the business or serve in the capacity, either directly or  
20 indirectly, of a real estate appraiser or appraisal company  
21 unless every general partner in the partnership holds a license  
22 as a certified general real estate appraiser or as a certified  
23 residential real estate appraiser and unless every employee who  
24 acts as an appraiser holds a license as a certified general  
25 real estate appraiser, a certified residential appraiser, or as  
26 an associate real estate appraisal trainee.

1       In the case of a registered limited liability partnership  
2       (LLP), every partner in the LLP must hold a license as a  
3       certified certified general real estate appraiser or as a  
4       certified residential real estate appraiser and every employee  
5       who acts as an appraiser must hold a license as a certified  
6       general real estate appraiser, a certified residential real  
7       estate appraiser, or an associate real estate appraisal  
8       trainee.

9       (b-4) No limited liability company shall be granted a  
10       license or engage in the business or serve in the capacity,  
11       either directly or indirectly, of a real estate appraiser or  
12       appraisal company.

13       (b-5) No partnership or corporation shall be licensed to  
14       conduct an appraisal business if an individual or group of  
15       individuals who are not licensed as certified appraisers in  
16       this State directly own or indirectly control more than 49% of  
17       the shares of stock or other ownership in the partnership or  
18       corporation.

19       (b-6) Except as provided in this Section, each appraiser  
20       shall maintain a definite office or place of business within  
21       this State for the transaction of appraisal business, and shall  
22       conspicuously display his or her license in his or her office  
23       or place of business. An appraiser who is licensed in this  
24       State pursuant to Sections 5-10, 5-15, and 5-30 of this Act  
25       shall not be required to maintain a definite office or place of  
26       business in this State provided all of the following conditions

1 are met:

2 (1) the appraiser maintains an active certified  
3 general real estate appraiser license or a certified  
4 residential real estate appraiser license in the  
5 appraiser's state of domicile

6 (2) the appraiser maintains an office in the  
7 appraiser's state of domicile; and

8 (3) the appraiser has filed with the Department written  
9 statements appointing the Secretary to act as the  
10 appraiser's agent upon whom all judicial and other process  
11 or legal notices directed to the licensee may be served and  
12 agreeing to abide by all of the provisions of this Act with  
13 respect to his or her appraisal activities within the State  
14 of Illinois and submitting to the jurisdiction of the  
15 Department.

16 (b-7) Upon the loss of a managing appraiser who is not  
17 replaced or in the event of the death or adjudicated disability  
18 of the sole proprietor of an office, a written request for  
19 authorization allowing the continued operation of the office  
20 may be submitted to the Department within 15 days after the  
21 loss. The Department may issue a written authorization allowing  
22 the continued operation, provided that a certified appraiser,  
23 or in the case of the death or adjudicated disability of a sole  
24 proprietor, the representative of the estate assumes  
25 responsibility, in writing, for the operation of the office and  
26 agrees to personally supervise the operation of the office. No

1 such written authorization shall be valid for more than 60 days  
2 unless extended by the Department for good cause shown and upon  
3 written request by the appraiser or representative.

4 (c) The licensing requirements of this Act do not require a  
5 person who holds a valid license pursuant to the Real Estate  
6 License Act of 2000, to be licensed as a real estate appraiser  
7 under this Act, unless that person is providing or attempting  
8 to provide an appraisal report, as defined in Section 1-10 of  
9 this Act, in connection with a federally-related transaction.  
10 Nothing in this Act shall prohibit a person who holds a valid  
11 license under the Real Estate License Act of 2000 from  
12 performing a comparative market analysis or broker price  
13 opinion for compensation, provided that the person does not  
14 hold himself out as being a licensed real estate appraiser.

15 (d) Nothing in this Act shall preclude a State certified  
16 general real estate appraiser, a State certified residential  
17 real estate appraiser, or an associate real estate trainee  
18 appraiser from rendering appraisals for or on behalf of a  
19 partnership, association, corporation, firm, or group.  
20 ~~However, no State appraisal license or certification shall be~~  
21 ~~issued under this Act to a partnership, association,~~  
22 ~~corporation, firm, or group.~~

23 (e) This Act does not apply to a county assessor, township  
24 assessor, multi-township assessor, county supervisor of  
25 assessments, or any deputy or employee of any county assessor,  
26 township assessor, multi-township assessor, or county

1 supervisor of assessments who is performing his or her  
2 respective duties in accordance with the provisions of the  
3 Property Tax Code.

4 (f) A State real estate appraisal certification or license  
5 is not required under this Act for any of the following:

6 (1) A person, partnership, association, or corporation  
7 that performs appraisals of property owned by that person,  
8 partnership, association, or corporation for the sole use  
9 of that person, partnership, association, or corporation.

10 (2) A court-appointed commissioner who conducts an  
11 appraisal pursuant to a judicially ordered evaluation of  
12 property.

13 However, any person who is certified or licensed under this Act  
14 and who performs any of the activities set forth in this  
15 subsection (f) must comply with the provisions of this Act. A  
16 person who violates this subsection (f) is guilty of a Class A  
17 misdemeanor for a first offense and a Class 4 felony for any  
18 subsequent offense.

19 (g) This Act does not apply to an employee, officer,  
20 director, or member of a credit or loan committee of a  
21 financial institution or any other person engaged by a  
22 financial institution when performing an evaluation of real  
23 property for the sole use of the financial institution in a  
24 transaction for which the financial institution would not be  
25 required to use the services of a State licensed or State  
26 certified appraiser pursuant to federal regulations adopted

1 under Title XI of the federal Financial Institutions Reform,  
2 Recovery, and Enforcement Act of 1989, nor does this Act apply  
3 to the procurement of an automated valuation model.

4 "Automated valuation model" means an automated system that  
5 is used to derive a property value through the use of publicly  
6 available property records and various analytic methodologies  
7 such as comparable sales prices, home characteristics, and  
8 historical home price appreciations.

9 (h) This Act does not apply to a corporate relocation  
10 company whereby the appraisal is not used for mortgage purposes  
11 and the end user client is an employer company.

12 (i) This Section shall not be applicable to appraisers or  
13 appraisal companies that contract with independent appraisers  
14 for the performance of fewer than 10 appraisals in this State  
15 in a calendar year.

16 (j) This Section does not apply to any corporation,  
17 partnership, sole proprietorship, subsidiary, unit, or other  
18 business entity that exclusively employs persons on an employer  
19 and employee basis for the performance of residential real  
20 estate appraisal services in the normal course of its business  
21 and is responsible for ensuring that the residential real  
22 estate appraisal services being performed by its employees are  
23 being performed in accordance with Uniform Standards of  
24 Professional Appraisal Practice.

25 (Source: P.A. 96-844, eff. 12-23-09.)

1 (225 ILCS 458/5-20.3 new)

2 Sec. 5-20.3. Licensure of appraisal company. The  
3 Department of Financial and Professional Regulation shall  
4 adopt by rule standards for the licensure of appraisal  
5 companies designed to protect the public interest and to ensure  
6 compliance with this Act. The Department shall specify any  
7 qualifications, including education or training, necessary for  
8 licensure. The fee for licensure as an appraisal company  
9 license shall not exceed \$50.

10 (225 ILCS 458/10-10)

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

12 Sec. 10-10. Standards of practice. All persons licensed  
13 under this Act must comply with standards of professional  
14 appraisal practice adopted by the Department. The Department  
15 must adopt, as part of its rules, the Uniform Standards of  
16 Professional Appraisal Practice (USPAP) as published from time  
17 to time by the Appraisal Standards Board of the Appraisal  
18 Foundation. The Department shall consider federal laws and  
19 regulations regarding the licensure of real estate appraisers  
20 prior to adopting its rules for the administration of this Act.  
21 When an appraisal is used for loan purposes, the borrower or  
22 loan applicant shall be provided a written disclosure of the  
23 total compensation to the appraisal company within the body of  
24 the appraisal report and it shall not be redacted or otherwise  
25 obscured.



1 (Source: P.A. 96-844, eff. 12-23-09.)

2 (225 ILCS 458/15-5)

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

4 Sec. 15-5. Unlicensed practice; civil penalty; injunctive  
5 relief; unlawful influence.

6 (a) A person who violates Section 5-5 of this Act shall, in  
7 addition to any other penalty provided by law, pay a civil  
8 penalty to the Department in an amount not to exceed \$25,000  
9 for each violation as determined by the Secretary. The civil  
10 penalty shall be assessed by the Secretary after a hearing in  
11 accordance with the provisions of this Act regarding the  
12 provision of a hearing for the discipline of a license.

13 (b) The Department has the authority to investigate any  
14 activity that may violate this Act.

15 (c) A civil penalty imposed pursuant to subsection (a)  
16 shall be paid within 60 days after the effective date of the  
17 order imposing the civil penalty. The order shall constitute a  
18 judgment and may be filed and executed in the same manner as  
19 any judgment from any court of record. Any civil penalty  
20 collected under this Act shall be made payable to the  
21 Department of Financial and Professional Regulation and  
22 deposited into the Appraisal Administration Fund. In addition  
23 to or in lieu of the imposition of a civil penalty, the  
24 Department may report a violation of this Act or the failure or  
25 refusal to comply with an order of the Department to the

1 Attorney General or to the appropriate State's Attorney.

2 (d) Practicing as an appraiser without holding a valid  
3 license as required under this Act is declared to be adverse to  
4 the public welfare, to constitute a public nuisance, and to  
5 cause irreparable harm to the public welfare. The Secretary,  
6 the Attorney General, or the State's Attorney of any county in  
7 the State may maintain an action for injunctive relief in any  
8 circuit court to enjoin any person from engaging in such  
9 practice.

10 Upon the filing of a verified petition in a circuit court,  
11 the court, if satisfied by affidavit or otherwise that a person  
12 has been engaged in the practice of real estate appraisal  
13 without a valid license, may enter a temporary restraining  
14 order without notice or bond enjoining the defendant from  
15 further practice. The showing of non-licensure, by affidavit or  
16 otherwise, is sufficient for the issuance of a temporary  
17 injunction. If it is established that the defendant has been or  
18 is engaged in unlawful practice, the court may enter an order  
19 or judgment perpetually enjoining the defendant from further  
20 unlawful practice. In all proceedings under this Section, the  
21 court, in its discretion, may apportion the costs among the  
22 parties interested in the action, including the cost of filing  
23 the complaint, service of process, witness fees and expenses,  
24 court reporter charges, and reasonable attorneys' fees. These  
25 injunction proceedings shall be in addition to, and not in lieu  
26 of, all penalties and other remedies provided in this Act.

1 (e) No person shall influence or attempt to influence  
2 through coercion, extortion, or bribery the independent  
3 judgment of an appraiser licensed or certified under this Act  
4 in the development, reporting, result, or review of a real  
5 estate appraisal. A person who violates this subsection (e) is  
6 guilty of a Class A misdemeanor for the first offense and a  
7 Class 4 felony for any subsequent offense.

8 (f) It shall be unlawful for any employee, director,  
9 officer, or agent of an appraisal company licensed in this  
10 State to influence or attempt to influence the development,  
11 reporting, or review of an appraisal through coercion,  
12 extortion, collusion, compensation, instruction, inducement,  
13 intimidation, bribery, or in any other manner, including, but  
14 not limited to, the following:

15 (1) withholding or threatening to withhold timely  
16 payment for an appraisal;

17 (2) withholding or threatening to withhold future  
18 business for an independent appraiser, or demoting or  
19 terminating or threatening to demote or terminate an  
20 independent appraiser;

21 (3) imposing turnaround time monetary penalties that  
22 are not specified at the time of engagement;

23 (4) requiring an appraiser to submit a notice of  
24 absence when not an employee of the entity;

25 (5) requiring an appraiser to sign a non-compete clause  
26 when not an employee of the entity;

1           (6) requesting the payment of compensation to achieve  
2           higher priority in the assignment of appraisal business;

3           (7) requiring uploading fees, late fees, or review  
4           fees;

5           (8) requiring an appraiser or appraisal company to sign  
6           any sort of indemnification agreement that would require  
7           the appraiser to defend and hold harmless the company, any  
8           software provider that an appraisal company requires an  
9           appraiser to use, or any other company that the company  
10          does business with, from any liability, damage, loss, or  
11          claim; and

12          (9) requiring an appraiser or appraisal company to  
13          collect the appraisal fee from the borrower, occupant or  
14          any other person.

15          (g) It shall be unlawful for any licensed appraiser or  
16          appraisal company to alter, modify, or otherwise change a  
17          completed appraisal report submitted by an independent  
18          appraiser, including, without limitation, by doing any of the  
19          following:

20                (1) permanently removing the appraiser's signature or  
21                seal;

22                (2) adding information to, or removing information  
23                from, the appraisal report with an intent to change the  
24                value conclusion;

25                (3) expressly or impliedly promising future business,  
26                promotions, or increased compensation for an independent

1       appraiser;

2           (4) conditioning the request for an appraisal service  
3       or the payment of an appraisal fee or salary or bonus on  
4       the opinion, conclusion, or valuation to be reached, or on  
5       a preliminary estimate or opinion requested from an  
6       independent appraiser;

7           (5) requesting that an independent appraiser provide  
8       an estimated, predetermined, or desired valuation in an  
9       appraisal report, or provide estimated values or  
10       comparable sales at any time prior to the independent  
11       appraiser's completion of an appraisal service;

12           (6) providing to an independent appraiser an  
13       anticipated, estimated, encouraged, or desired value for a  
14       subject property or a proposed or target amount to be  
15       loaned to the borrower, except that a copy of the sales  
16       contract for purchase transactions may be provided;

17           (7) providing to an independent appraiser, or any  
18       entity or person related to the appraiser, stock or other  
19       financial or non-financial benefits;

20           (8) allowing the removal of an independent appraiser  
21       from an appraiser panel, without prior written notice to  
22       such appraiser;

23           (9) obtaining, using, or paying for a second or  
24       subsequent appraisal or ordering an automated valuation  
25       model in connection with a mortgage financing transaction  
26       unless there is a reasonable basis to believe that the

1       initial appraisal was flawed or tainted and such basis is  
2       clearly and appropriately noted in the loan file, or unless  
3       such appraisal or automated valuation model is done  
4       pursuant to a bona fide pre- or post-funding appraisal  
5       review or quality control process; or

6               (10) any other act or practice that impairs or attempts  
7               to impair an appraiser's independence, objectivity, or  
8               impartiality.

9       (Source: P.A. 96-844, eff. 12-23-09.)

10           (225 ILCS 458/15-15)

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

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

13           (a) Upon the motion of the Department or the Board or upon  
14 a complaint in writing of a person setting forth facts that, if  
15 proven, would constitute grounds for suspension, revocation,  
16 or other disciplinary action against a licensee or applicant  
17 for licensure, the Department or the Board shall investigate  
18 the actions of the licensee or applicant. If, upon  
19 investigation, the Department believes that there may be cause  
20 for suspension, revocation, or other disciplinary action, the  
21 Department shall use the services of a State certified general  
22 real estate appraiser, a State certified residential real  
23 estate appraiser, or the Real Estate Coordinator to assist in  
24 determining whether grounds for disciplinary action exist  
25 prior to commencing formal disciplinary proceedings.

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

23           (c) At the time and place fixed in the notice, the Board  
24 shall conduct hearing of the charges, providing both the  
25 accused person and the complainant ample opportunity to present  
26 in person or by counsel such statements, testimony, evidence,

1 and argument as may be pertinent to the charges or to a defense  
2 thereto.

3 (d) The Board shall present to the Secretary a written  
4 report of its findings and recommendations. A copy of the  
5 report shall be served upon the licensee or applicant, either  
6 personally or by certified mail. Within 20 days after the  
7 service, the licensee or applicant may present the Secretary  
8 with a motion in writing for either a rehearing, a proposed  
9 finding of fact, a conclusion of law, or an alternative  
10 sanction, and shall specify the particular grounds for the  
11 request. If the accused orders a transcript of the record as  
12 provided in this Act, the time elapsing thereafter and before  
13 the transcript is ready for delivery to the accused shall not  
14 be counted as part of the 20 days. If the Secretary is not  
15 satisfied that substantial justice has been done, the Secretary  
16 may order a rehearing by the Board or other special committee  
17 appointed by the Secretary, may remand the matter to the Board  
18 for its reconsideration of the matter based on the pleadings  
19 and evidence presented to the Board, or may enter a final order  
20 in contravention of the Board's recommendation. In all  
21 instances under this Act in which the Board has rendered a  
22 recommendation to the Secretary with respect to a particular  
23 licensee or applicant, the Secretary, if he or she disagrees  
24 with the recommendation of the Board, shall file with the Board  
25 and provide to the licensee or applicant a copy of the  
26 Secretary's specific written reasons for disagreement with the



1 Board. The reasons shall be filed within 60 days of the Board's  
2 recommendation to the Secretary and prior to any contrary  
3 action. Notwithstanding a licensee's or applicant's failure to  
4 file a motion for rehearing, the Secretary shall have the right  
5 to take any of the actions specified in this subsection (d).  
6 Upon the suspension or revocation of a license, the licensee  
7 shall be required to surrender his or her license to the  
8 Department, and upon failure or refusal to do so, the  
9 Department shall have the right to seize the license.

10 (e) The Department has the power to issue subpoenas and  
11 subpoenas duces tecum to bring before it any person in this  
12 State, to take testimony, or to require production of any  
13 records relevant to an inquiry or hearing by the Board in the  
14 same manner as prescribed by law in judicial proceedings in the  
15 courts of this State. In a case of refusal of a witness to  
16 attend, testify, or to produce books or papers concerning a  
17 matter upon which he or she might be lawfully examined, the  
18 circuit court of the county where the hearing is held, upon  
19 application of the Department or any party to the proceeding,  
20 may compel obedience by proceedings as for contempt.

21 (f) Any license that is suspended indefinitely or revoked  
22 may not be restored for a minimum period of 2 years, or as  
23 otherwise ordered by the Secretary.

24 (g) In addition to the provisions of this Section  
25 concerning the conduct of hearings and the recommendations for  
26 discipline, the Department has the authority to negotiate

1 disciplinary and non-disciplinary settlement agreements  
2 concerning any license issued under this Act. All such  
3 agreements shall be recorded as Consent Orders or Consent to  
4 Administrative Supervision Orders.

5 (h) The Secretary shall have the authority to appoint an  
6 attorney duly licensed to practice law in the State of Illinois  
7 to serve as the hearing officer in any action to suspend,  
8 revoke, or otherwise discipline any license issued by the  
9 Department. The Hearing Officer shall have full authority to  
10 conduct the hearing.

11 (i) The Department, at its expense, shall preserve a record  
12 of all formal hearings of any contested case involving the  
13 discipline of a license. At all hearings or pre-hearing  
14 conferences, the Department and the licensee shall be entitled  
15 to have the proceedings transcribed by a certified shorthand  
16 reporter. A copy of the transcribed proceedings shall be made  
17 available to the licensee by the certified shorthand reporter  
18 upon payment of the prevailing contract copy rate.

19 (Source: P.A. 96-844, eff. 12-23-09.)

20 (225 ILCS 458/25-10)

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

22 Sec. 25-10. Real Estate Appraisal Administration and  
23 Disciplinary Board; appointment.

24 (a) There is hereby created the Real Estate Appraisal  
25 Administration and Disciplinary Board. The Board shall be

1 composed of 10 persons appointed by the Governor, plus the  
2 Coordinator of the Real Estate Appraisal Division. Members  
3 shall be appointed to the Board subject to the following  
4 conditions:

5 (1) All appointed members shall have been residents and  
6 citizens of this State for at least 5 years prior to the  
7 date of appointment.

8 (2) The appointed membership of the Board should  
9 reasonably reflect the geographic distribution of the  
10 population of the State.

11 (3) Four appointed members shall have been actively  
12 engaged and currently licensed as State certified general  
13 real estate appraisers for a period of not less than 5  
14 years.

15 (4) Two appointed members shall have been actively  
16 engaged and currently licensed as State certified  
17 residential real estate appraisers for a period of not less  
18 than 5 years.

19 (5) Two appointed members shall hold a valid license as  
20 a real estate broker for at least 10 years prior to the  
21 date of the appointment, one of whom shall hold a valid  
22 State certified general real estate appraiser license  
23 issued under this Act or a predecessor Act for a period of  
24 at least 5 years prior to the appointment and one of whom  
25 shall hold a valid State certified residential real estate  
26 appraiser license issued under this Act or a predecessor

1 Act for a period of at least 5 years prior to the  
2 appointment.

3 (6) One appointed member shall be a representative of a  
4 financial institution, as evidenced by his or her  
5 employment with a financial institution.

6 (7) One appointed member shall represent the interests  
7 of the general public. This member or his or her spouse  
8 shall not be licensed under this Act nor be employed by or  
9 have any interest in an appraisal business, real estate  
10 brokerage business, or a financial institution.

11 In making appointments as provided in paragraphs (3) and  
12 (4) of this subsection, the Governor shall give due  
13 consideration to recommendations by members and organizations  
14 representing the profession.

15 In making the appointments as provided in paragraph (5) of  
16 this subsection, the Governor shall give due consideration to  
17 the recommendations by members and organizations representing  
18 the real estate industry.

19 In making the appointment as provided in paragraph (6) of  
20 this subsection, the Governor shall give due consideration to  
21 the recommendations by members and organizations representing  
22 financial institutions.

23 (b) The term for members of the Board shall be 4 years, and  
24 each member shall serve until his or her successor is appointed  
25 and qualified. No member shall serve more than 10 years in a  
26 lifetime.

1           (c) The Governor may terminate the appointment of a member  
2 for cause that, in the opinion of the Governor, reasonably  
3 justifies the termination. Cause for termination may include,  
4 without limitation, misconduct, incapacity, neglect of duty,  
5 or missing 4 Board meetings during any one calendar year.

6           (d) A majority of the Board members shall constitute a  
7 quorum. A vacancy in the membership of the Board shall not  
8 impair the right of a quorum to exercise all of the rights and  
9 perform all of the duties of the Board.

10          (e) The Board shall meet at least quarterly and may be  
11 convened by the Chairperson, Vice-Chairperson, or 3 members of  
12 the Board upon 10 days written notice.

13          (f) The Board shall, annually at the first meeting of the  
14 fiscal year, elect a Chairperson and Vice-Chairperson from its  
15 members. The Chairperson shall preside over the meetings and  
16 shall coordinate with the Coordinator in developing and  
17 distributing an agenda for each meeting. In the absence of the  
18 Chairperson, the Vice-Chairperson shall preside over the  
19 meeting.

20          (g) The Coordinator of the Real Estate Appraisal Division  
21 shall serve as a member of the Board without vote.

22          (h) The Board shall advise and make recommendations to the  
23 Department on the education and experience qualifications of  
24 any applicant for initial licensure as a State certified  
25 general real estate appraiser or a State certified residential  
26 real estate appraiser. The Department shall not make any

1 decisions concerning education or experience qualifications of  
2 an applicant for initial licensure as a State certified general  
3 real estate appraiser or a State certified residential real  
4 estate appraiser without having first received the advice and  
5 recommendation of the Board and shall give due consideration to  
6 all such advice and recommendations; however, if the Board does  
7 not render advice or make a recommendation within a reasonable  
8 amount of time, then the Department may render a decision.

9 (h-5) The Board shall issue educational findings, as it  
10 deems appropriate.

11 (h-10) The Board shall adopt an official letterhead.

12 (i) Except as provided in Section 15-17 of this Act, the  
13 Board shall hear and make recommendations to the Secretary on  
14 disciplinary matters that require a formal evidentiary  
15 hearing. The Secretary shall give due consideration to the  
16 recommendations of the Board involving discipline and  
17 questions involving standards of professional conduct of  
18 licensees.

19 (j) The Department shall seek and the Board shall provide  
20 recommendations to the Department consistent with the  
21 provisions of this Act and for the administration and  
22 enforcement of all rules adopted pursuant to this Act. The  
23 Department shall give due consideration to such  
24 recommendations prior to adopting rules.

25 (k) The Department shall seek and the Board shall provide  
26 recommendations to the Department on the approval of all

1 courses submitted to the Department pursuant to this Act and  
2 the rules adopted pursuant to this Act. The Department shall  
3 not approve any courses without having first received the  
4 recommendation of the Board and shall give due consideration to  
5 such recommendations prior to approving and licensing courses;  
6 however, if the Board does not make a recommendation within a  
7 reasonable amount of time, then the Department may approve  
8 courses.

9 (l) Each voting member of the Board shall receive a per  
10 diem stipend in an amount to be determined by the Secretary.  
11 Each member shall be paid his or her necessary expenses while  
12 engaged in the performance of his or her duties.

13 (m) Members of the Board shall be immune from suit in an  
14 action based upon any disciplinary proceedings or other acts  
15 performed in good faith as members of the Board.

16 (n) If the Department disagrees with any advice or  
17 recommendation provided by the Board under this Section to the  
18 Secretary or the Department, then notice of such disagreement  
19 must be provided to the Board by the Department.

20 (o) Upon resolution adopted at any Board meeting, the  
21 exercise of any Board function, power, or duty enumerated in  
22 this Section or in subsection (d) of Section 15-10 of this Act  
23 may be suspended. The exercise of any suspended function,  
24 power, or duty of the Board may be reinstated by a resolution  
25 adopted at a subsequent Board meeting. Any resolution adopted  
26 pursuant to this Section shall take effect immediately.

1 (Source: P.A. 96-844, eff. 12-23-09.)