



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1635

Introduced 2/15/2011, by Rep. Robert Rita

SYNOPSIS AS INTRODUCED:

5 ILCS 80/4.22
5 ILCS 80/4.32 new
225 ILCS 458/1-10
225 ILCS 458/10-20
225 ILCS 458/15-10
225 ILCS 458/15-30
225 ILCS 458/15-65 new
225 ILCS 458/25-15
225 ILCS 458/5-21 rep.

Amends the Real Estate Appraiser Licensing Act of 2002. Defines "address of record". Requires a licensee of this Act to retain records as required by the most recent version of the USPAP and as further defined by rule. Permits the Department to disclose information and documents related to an examination or investigation of a licensee or applicant only to law enforcement officials, other regulatory agencies that have an appropriate regulatory interest as determined by the Secretary, or a party presenting a lawful subpoena to the Department. Provides that any formal complaint against a licensee filed with the Department or an order issued by the Department against a licensee or applicant shall be a public record. Authorizes the Coordinator of Real Estate Appraisal to investigate and determine the facts of a complaint, to interview witnesses, the complainant, and any licensees involved in the alleged matter, and to make a recommendation as to the findings of fact. Makes other changes. Amends the Regulatory Sunset Act to extend the Real Estate Appraiser Licensing Act of 2002 from January 1, 2012 to January 1, 2022. Effective immediately.

LRB097 10469 CEL 50721 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Regulatory Sunset Act is amended by changing
5 Section 4.22 and by adding Section 4.32 as follows:

6 (5 ILCS 80/4.22)

7 Sec. 4.22. Acts repealed on January 1, 2012. The following
8 Acts are repealed on January 1, 2012:

9 The Detection of Deception Examiners Act.

10 The Home Inspector License Act.

11 The Interior Design Title Act.

12 The Massage Licensing Act.

13 The Petroleum Equipment Contractors Licensing Act.

14 The Professional Boxing Act.

15 ~~The Real Estate Appraiser Licensing Act of 2002.~~

16 The Water Well and Pump Installation Contractor's License
17 Act.

18 (Source: P.A. 95-331, eff. 8-21-07.)

19 (5 ILCS 80/4.32 new)

20 Sec. 4.32. Act repealed on January 1, 2022. The following
21 Act is repealed on January 1, 2022:

22 The Real Estate Appraiser Licensing Act of 2002.

1 Section 10. The Real Estate Appraiser Licensing Act of 2002
2 is amended changing Sections 1-10, 10-20, 15-10, 15-30, and
3 25-15 and by adding Section 15-65 as follows:

4 (225 ILCS 458/1-10)

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

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

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

14 "Address of record" means the designated address recorded
15 by the Department in the applicant's or licensee's application
16 file or license file as maintained by the Department's
17 licensure maintenance unit. It is the duty of the applicant or
18 licensee to inform the Department of any change of address and
19 those changes must be made either through the Department's
20 website or by contacting the Department.

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

23 "Appraisal" means (noun) the act or process of developing
24 an opinion of value; an opinion of value (adjective) of or

1 pertaining to appraising and related functions, such as
2 appraisal practice or appraisal services.

3 "Appraisal assignment" means a valuation service provided
4 as a consequence of an agreement between an appraiser and a
5 client.

6 "Appraisal consulting" means the act or process of
7 developing an analysis, recommendation, or opinion to solve a
8 problem, where an opinion of value is a component of the
9 analysis leading to the assignment results.

10 "Appraisal practice" means valuation services performed by
11 an individual acting as an appraiser, including, but not
12 limited to, appraisal, appraisal review, or appraisal
13 consulting.

14 "Appraisal report" means any communication, written or
15 oral, of an appraisal, appraisal review, or appraisal
16 consulting service that is transmitted to a client upon
17 completion of an assignment.

18 "Appraisal review" means the act or process of developing
19 and communicating an opinion about the quality of another
20 appraiser's work that was performed as part of an appraisal,
21 appraisal review, or appraisal assignment.

22 "Appraisal Subcommittee" means the Appraisal Subcommittee
23 of the Federal Financial Institutions Examination Council as
24 established by Title XI.

25 "Appraiser" means a person who performs real estate or real
26 property appraisals.

1 "AOB" means the Appraisal Qualifications Board of the
2 Appraisal Foundation.

3 "Associate real estate trainee appraiser" means an
4 entry-level appraiser who holds a license of this
5 classification under this Act with restrictions as to the scope
6 of practice in accordance with this Act.

7 "Board" means the Real Estate Appraisal Administration and
8 Disciplinary Board.

9 "Classroom hour" means 50 minutes of instruction out of
10 each 60 minute segment of coursework.

11 "Client" means the party or parties who engage an appraiser
12 by employment or contract in a specific assignment.

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

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

18 "Federal financial institutions regulatory agencies" means
19 the Board of Governors of the Federal Reserve System, the
20 Federal Deposit Insurance Corporation, the Office of the
21 Comptroller of the Currency, the Office of Thrift Supervision,
22 and the National Credit Union Administration.

23 "Federally related transaction" means any real
24 estate-related financial transaction in which a federal
25 financial institutions regulatory agency, the Department of
26 Housing and Urban Development, Fannie Mae, Freddie Mae, or the

1 National Credit Union Administration engages in, contracts
2 for, or regulates and requires the services of an appraiser.

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

10 "Modular Course" means the Appraisal Qualifying Course
11 Design conforming to the Sub Topics Course Outline contained in
12 the AQB Criteria 2008.

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

15 "Real estate related financial transaction" means any
16 transaction involving:

17 (1) the sale, lease, purchase, investment in, or
18 exchange of real property, including interests in property
19 or the financing thereof;

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

22 (3) the use of real property or interest in property as
23 security for a loan or investment, including mortgage
24 backed securities.

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

1 "Secretary" means the Secretary of Financial and
2 Professional Regulation.

3 "State certified general real estate appraiser" means an
4 appraiser who holds a license of this classification under this
5 Act and such classification applies to the appraisal of all
6 types of real property without restrictions as to the scope of
7 practice.

8 "State certified residential real estate appraiser" means
9 an appraiser who holds a license of this classification under
10 this Act and such classification applies to the appraisal of
11 one to 4 units of residential real property without regard to
12 transaction value or complexity, but with restrictions as to
13 the scope of practice in a federally related transaction in
14 accordance with Title XI, the provisions of USPAP, criteria
15 established by the AQB, and further defined by rule.

16 "Supervising appraiser" means either (i) an appraiser who
17 holds a valid license under this Act as either a State
18 certified general real estate appraiser or a State certified
19 residential real estate appraiser, who co-signs an appraisal
20 report for an associate real estate trainee appraiser or (ii) a
21 State certified general real estate appraiser who holds a valid
22 license under this Act who co-signs an appraisal report for a
23 State certified residential real estate appraiser on
24 properties other than one to 4 units of residential real
25 property without regard to transaction value or complexity.

26 "Title XI" means Title XI of the federal Financial

1 Institutions Reform, Recovery and Enforcement Act of 1989.

2 "USPAP" means the Uniform Standards of Professional
3 Appraisal Practice as promulgated by the Appraisal Standards
4 Board pursuant to Title XI and by rule.

5 "Valuation services" means services pertaining to aspects
6 of property value.

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

8 (225 ILCS 458/10-20)

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

10 Sec. 10-20. Retention of records. A person licensed under
11 this Act shall retain records as required by the most recent
12 version of the USPAP and as further defined by rule ~~the~~
13 ~~original copy of all written contracts engaging his or her~~
14 ~~services as an appraiser and all appraisal reports, including~~
15 ~~any supporting data used to develop the appraisal report, for a~~
16 ~~period of 5 years or 2 years after the final disposition of any~~
17 ~~judicial proceeding in which testimony was given, whichever is~~
18 ~~longer. In addition, a person licensed under this Act shall~~
19 ~~retain contracts, logs, and appraisal reports used in meeting~~
20 ~~pre-license experience requirements for a period of 5 years and~~
21 ~~shall be made available to the Department upon request.~~

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

23 (225 ILCS 458/15-10)

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

1 Sec. 15-10. Grounds for disciplinary action.

2 (a) The Department may suspend, revoke, refuse to issue,
3 renew, or restore a license and may reprimand place on
4 probation or administrative supervision, or take any
5 disciplinary or non-disciplinary action, including imposing
6 conditions limiting the scope, nature, or extent of the real
7 estate appraisal practice of a licensee or reducing the
8 appraisal rank of a licensee, and may impose an administrative
9 fine not to exceed \$25,000 for each violation upon a licensee
10 for any one or combination of the following:

11 (1) Procuring or attempting to procure a license by
12 knowingly making a false statement, submitting false
13 information, engaging in any form of fraud or
14 misrepresentation, or refusing to provide complete
15 information in response to a question in an application for
16 licensure.

17 (2) Failing to meet the minimum qualifications for
18 licensure as an appraiser established by this Act.

19 (3) Paying money, other than for the fees provided for
20 by this Act, or anything of value to a member or employee
21 of the Board or the Department to procure licensure under
22 this Act.

23 (4) Conviction by plea of guilty or nolo contendere,
24 finding of guilt, jury verdict, or entry of judgment or by
25 sentencing of any crime, including, but not limited to,
26 convictions, preceding sentences of supervision,

1 conditional discharge, or first offender probation, under
2 the laws of any jurisdiction of the United States: (i) that
3 is a felony; or (ii) that is a misdemeanor, an essential
4 element of which is dishonesty, or that is directly related
5 to the practice of the profession. Conviction of or entry
6 of a plea of guilty or nolo contendere to any crime that is
7 a felony under the laws of the United States or any state
8 or territory thereof or a misdemeanor of which an essential
9 element is dishonesty or that is directly related to the
10 practice of the profession.

11 (5) Committing an act or omission involving
12 dishonesty, fraud, or misrepresentation with the intent to
13 substantially benefit the licensee or another person or
14 with intent to substantially injure another person as
15 defined by rule.

16 (6) Violating a provision or standard for the
17 development or communication of real estate appraisals as
18 provided in Section 10-10 of this Act or as defined by
19 rule.

20 (7) Failing or refusing without good cause to exercise
21 reasonable diligence in developing, reporting, or
22 communicating an appraisal, as defined by this Act or by
23 rule.

24 (8) Violating a provision of this Act or the rules
25 adopted pursuant to this Act.

26 (9) Having been disciplined by another state, the

1 District of Columbia, a territory, a foreign nation, a
2 governmental agency, or any other entity authorized to
3 impose discipline if at least one of the grounds for that
4 discipline is the same as or the equivalent of one of the
5 grounds for which a licensee may be disciplined under this
6 Act.

7 (10) Engaging in dishonorable, unethical, or
8 unprofessional conduct of a character likely to deceive,
9 defraud, or harm the public.

10 (11) Accepting an appraisal assignment when the
11 employment itself is contingent upon the appraiser
12 reporting a predetermined estimate, analysis, or opinion
13 or when the fee to be paid is contingent upon the opinion,
14 conclusion, or valuation reached or upon the consequences
15 resulting from the appraisal assignment.

16 (12) Developing valuation conclusions based on the
17 race, color, religion, sex, national origin, ancestry,
18 age, marital status, family status, physical or mental
19 handicap, or unfavorable military discharge, as defined
20 under the Illinois Human Rights Act, of the prospective or
21 present owners or occupants of the area or property under
22 appraisal.

23 (13) Violating the confidential nature of government
24 records to which the licensee gained access through
25 employment or engagement as an appraiser by a government
26 agency.

1 (14) Being adjudicated liable in a civil proceeding on
2 grounds of fraud, misrepresentation, or deceit. In a
3 disciplinary proceeding based upon a finding of civil
4 liability, the appraiser shall be afforded an opportunity
5 to present mitigating and extenuating circumstances, but
6 may not collaterally attack the civil adjudication.

7 (15) Being adjudicated liable in a civil proceeding for
8 violation of a state or federal fair housing law.

9 (16) Engaging in misleading or untruthful advertising
10 or using a trade name or insignia of membership in a real
11 estate appraisal or real estate organization of which the
12 licensee is not a member.

13 (17) Failing to fully cooperate with a Department
14 investigation by knowingly making a false statement,
15 submitting false or misleading information, or refusing to
16 provide complete information in response to written
17 interrogatories or a written request for documentation
18 within 30 days of the request.

19 (18) Failing to include within the certificate of
20 appraisal for all written appraisal reports the
21 appraiser's license number and licensure title. All
22 appraisers providing significant contribution to the
23 development and reporting of an appraisal must be disclosed
24 in the appraisal report. It is a violation of this Act for
25 an appraiser to sign a report, transmittal letter, or
26 appraisal certification knowing that a person providing a

1 significant contribution to the report has not been
2 disclosed in the appraisal report.

3 (19) Violating the terms of a disciplinary order or
4 consent to administrative supervision order.

5 (20) Habitual or excessive use or addiction to alcohol,
6 narcotics, stimulants, or any other chemical agent or drug
7 that results in a licensee's inability to practice with
8 reasonable judgment, skill, or safety.

9 (21) A physical or mental illness or disability which
10 results in the inability to practice under this Act with
11 reasonable judgment, skill, or safety.

12 (22) Gross negligence in developing an appraisal or in
13 communicating an appraisal or failing to observe one or
14 more of the Uniform Standards of Professional Appraisal
15 Practice.

16 (23) A pattern of practice or other behavior that
17 demonstrates incapacity or incompetence to practice under
18 this Act.

19 (24) Using or attempting to use the seal, certificate,
20 or license of another as his or her own; falsely
21 impersonating any duly licensed appraiser; using or
22 attempting to use an inactive, expired, suspended, or
23 revoked license; or aiding or abetting any of the
24 foregoing.

25 (25) Solicitation of professional services by using
26 false, misleading, or deceptive advertising.

1 (26) Making a material misstatement in furnishing
2 information to the Department.

3 (27) Failure to furnish information to the Department
4 upon written request.

5 (b) The Department may reprimand suspend, revoke, or refuse
6 to issue or renew an education provider's license, may
7 reprimand, place on probation, or otherwise discipline an
8 education provider and may suspend or revoke the course
9 approval of any course offered by an education provider and may
10 impose an administrative fine not to exceed \$25,000 upon an
11 education provider, for any of the following:

12 (1) Procuring or attempting to procure licensure by
13 knowingly making a false statement, submitting false
14 information, engaging in any form of fraud or
15 misrepresentation, or refusing to provide complete
16 information in response to a question in an application for
17 licensure.

18 (2) Failing to comply with the covenants certified to
19 on the application for licensure as an education provider.

20 (3) Committing an act or omission involving
21 dishonesty, fraud, or misrepresentation or allowing any
22 such act or omission by any employee or contractor under
23 the control of the provider.

24 (4) Engaging in misleading or untruthful advertising.

25 (5) Failing to retain competent instructors in
26 accordance with rules adopted under this Act.

1 (6) Failing to meet the topic or time requirements for
2 course approval as the provider of a pre-license curriculum
3 course or a continuing education course.

4 (7) Failing to administer an approved course using the
5 course materials, syllabus, and examinations submitted as
6 the basis of the course approval.

7 (8) Failing to provide an appropriate classroom
8 environment for presentation of courses, with
9 consideration for student comfort, acoustics, lighting,
10 seating, workspace, and visual aid material.

11 (9) Failing to maintain student records in compliance
12 with the rules adopted under this Act.

13 (10) Failing to provide a certificate, transcript, or
14 other student record to the Department or to a student as
15 may be required by rule.

16 (11) Failing to fully cooperate with an investigation
17 by the Department by knowingly making a false statement,
18 submitting false or misleading information, or refusing to
19 provide complete information in response to written
20 interrogatories or a written request for documentation
21 within 30 days of the request.

22 (c) In appropriate cases, the Department may resolve a
23 complaint against a licensee through the issuance of a Consent
24 to Administrative Supervision order. A licensee subject to a
25 Consent to Administrative Supervision order shall be
26 considered by the Department as an active licensee in good

1 standing. This order shall not be reported or considered by the
2 Department to be a discipline of the licensee. The records
3 regarding an investigation and a Consent to Administrative
4 Supervision order shall be considered confidential and shall
5 not be released by the Department except as mandated by law. A
6 complainant shall be notified if his or her complaint has been
7 resolved by a Consent to Administrative Supervision order.

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

9 (225 ILCS 458/15-30)

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

11 Sec. 15-30. Statute of limitations. No action may be taken
12 under this Act against a person licensed under this Act unless
13 the action is commenced within 5 years after the occurrence of
14 the alleged violation or within ~~at least~~ 2 years after final
15 disposition of any judicial proceeding, including any appeals,
16 in which the appraiser provided testimony related to the
17 assignment, whichever period expires last. A continuing
18 violation is deemed to have occurred on the date when the
19 circumstances last existed that gave rise to the alleged
20 continuing violation.

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

22 (225 ILCS 458/15-65 new)

23 Sec. 15-65. Confidentiality. All information collected by
24 the Department in the course of an examination or investigation

1 of a licensee or applicant, including, but not limited to, any
2 complaint against a licensee filed with the Department and
3 information collected to investigate any such complaint, shall
4 be maintained for the confidential use of the Department and
5 shall not be disclosed. The Department may not disclose the
6 information to anyone other than law enforcement officials,
7 other regulatory agencies that have an appropriate regulatory
8 interest as determined by the Secretary, or to a party
9 presenting a lawful subpoena to the Department. Information and
10 documents disclosed to a federal, State, county, or local law
11 enforcement agency shall not be disclosed by the agency for any
12 purpose to any other agency or person. A formal complaint filed
13 against a licensee by the Department or any order issued by the
14 Department against a licensee or applicant shall be a public
15 record, except as otherwise prohibited by law.

16 (225 ILCS 458/25-15)

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

18 Sec. 25-15. Coordinator of Real Estate Appraisal;
19 appointment; duties. The Secretary shall appoint, subject to
20 the Personnel Code, a Coordinator of Real Estate Appraisal. In
21 appointing the Coordinator, the Secretary shall give due
22 consideration to recommendations made by members,
23 organizations, and associations of the real estate appraisal
24 industry. On or after January 1, 2010, the Coordinator must
25 hold a current, valid State certified general real estate

1 appraiser license or a State certified residential real estate
2 appraiser license, which shall be surrendered to the Department
3 during the term of his or her appointment. The Coordinator must
4 take the 30-hour National Instructors Course on Uniform
5 Standards of Professional Appraisal Practice. The
6 Coordinator's license shall be returned in the same status as
7 it was on the date of surrender, credited with all fees that
8 came due during his or her employment. The Coordinator shall:

9 (1) serve as a member of the Real Estate Appraisal
10 Administration and Disciplinary Board without vote;

11 (2) be the direct liaison between the Department, the
12 profession, and the real estate appraisal industry
13 organizations and associations;

14 (3) prepare and circulate to licensees such
15 educational and informational material as the Department
16 deems necessary for providing guidance or assistance to
17 licensees;

18 (4) appoint necessary committees to assist in the
19 performance of the functions and duties of the Department
20 under this Act; ~~and~~

21 (5) (blank); and -

22 (6) be authorized to investigate and determine the
23 facts of a complaint; the coordinator may interview
24 witnesses, the complainant, and any licensees involved in
25 the alleged matter and make a recommendation as to the
26 findings of fact.

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

2 (225 ILCS 458/5-21 rep.)

3 Section 15. The Real Estate Appraiser Licensing Act of 2002
4 is amended by repealing Section 5-21.

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.