

**REPORT OF THE
VIRGINIA BOARD OF COMMERCE ON**

**Real Estate Appraisers
(Addendum to House Document No. 5, 1988)**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 12

**COMMONWEALTH OF VIRGINIA
RICHMOND
1990**



COMMONWEALTH of VIRGINIA

Department of Commerce Board of Commerce

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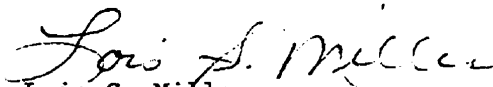
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November 9, 1989

TO: The Honorable Gerald L. Baliles
Governor of Virginia
and
The General Assembly of Virginia

The Board of Commerce transmits herewith a special report and draft legislation that will create a system of regulating real estate appraisers in the Commonwealth of Virginia. This report is submitted as an addendum to the 1987 Board of Commerce study on the need for regulating real estate appraisers (House Document No. 5, "The Study of the Desirability of Regulating the Profession of Real Estate Appraisers," 1988).

Respectfully submitted,


Lois S. Miller
Chairman

LSM/pbh

DRAFT LEGISLATION
REAL ESTATE APPRAISERS ACT
CHAPTER 20.1

§54.1-2060 Definitions.- As used in this chapter, unless the context clearly indicates otherwise:

"Act" means the Real Estate Appraisers Act.

"Appraisal" means an analysis, opinion or conclusion prepared by a real estate appraiser relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate or identified real property. An appraisal may be classified by subject matter into either a valuation or analysis. A "valuation" is an estimate of the value of real estate or real property. An "analysis" is a study of real estate or real property other than estimating value.

"Appraisal report" means any communication, written or oral, of an appraisal.

"Board" means the Real Estate Appraiser Board.

"Certified general real estate appraiser" means an individual who meets the requirements for licensure that relate to the appraisal of all types of real estate, as identified in Title 11, Sec. 1112(1) of the Financial

Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. 3301 et. seq.) as a "State certified appraiser".

"Certified residential real estate appraiser" means an individual who meets the requirements for licensure for the appraisal of real estate or real property limited to the following:

- a. residential real estate or real property of one to four units, the value of which is less than \$1,000,000;
- b. the appraisal of residential real estate or real property of up to twelve units when the value is less than \$1,000,000 and a net income capitalization analysis is not required by the terms of the assignment;
- c. the appraisal of farms and rural agricultural land when the value is less than \$1,000,000, and a net income capitalization analysis is not required by the terms of the assignment.

This designation is identified in Title 11, Sec. 1112(2) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. 3301 et. seq.) as a "State licensed appraiser".

"Department" means the Department of Commerce.

"Director" means the Director of the Department of Commerce.

"General real estate appraisal" means an appraisal conducted by an individual licensed as a certified general real estate appraiser.

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

"Real property" means one or more defined interests, benefits or rights inherent in the ownership of real estate.

"Regulation" means regulations promulgated by the Board for Real Estate Appraisers pursuant to the Administrative Process Act, §9-6.14:1 et seq., of the Code of Virginia.

"Residential real estate appraisal" means an appraisal conducted by an individual licensed as a certified residential real estate appraiser.

§54.1-2061. Exemptions from licensure.- The provisions of this chapter shall not apply to:

1. A real estate broker or salesperson licensed in this Commonwealth who, in the ordinary course of business, gives an opinion as to the price of real estate for the purpose of a prospective listing or sale, provided, however, that this opinion as to the listing price or the sale price shall not be referred to as an appraisal, and provided further that no compensation, fee or other consideration is charged for such opinion other than the real estate commission or brokerage fee charged or paid for brokerage service rendered in connection with the sale of the real property involved.

2. An officer or employee of the United States of America, or of this Commonwealth or a political subdivision thereof, where the employee or officer is performing his official duties; provided that such individual does not furnish advisory service for compensation to the public or act as an independent contracting party in this Commonwealth or any political subdivision thereof in connection with the appraisal of real estate or real property.

§54.1-2062. Necessity for license. - After July 1, 1991, except as provided in §54.1-2061 of this Act, it shall be unlawful to engage in the appraisal of real estate or real property in this Commonwealth for compensation without first obtaining a real estate appraiser's license in accordance with Board regulations promulgated pursuant to the Administrative Process Act, §9-6.14:1 et seq., of the Code of Virginia. This section shall not be construed to apply to apprentices or assistants employed by a licensed real estate appraiser provided that their work is reviewed and attested to be accurate and complete by a licensed appraiser as set forth in §54.1-2068, or to individuals who do not render significant professional assistance in performing a real estate appraisal. This chapter shall not prevent or affect the practice of any profession or trade for which licensing, certification or registration is required under any other Virginia law.

§54.1-2063. Real Estate Appraiser Board; membership; chairman; meetings; seal.- The Real Estate Appraiser Board shall be composed of seven members as follows: three members shall be licensed as certified general real estate appraisers and two members shall be licensed as certified residential real estate appraisers, all of whom have been licensed for a period of at least

five years prior to their appointment; and two citizen members. The terms of Board members shall be four years. For the initial appointments, their terms shall be as follows: two members shall serve a term of two years in length, two members shall serve a term three years in length and three members shall serve a term four years in length.

The certified general real estate appraisers and certified residential real estate appraisers initially appointed to the Board, and until such time as this Act has been in effect for five years, shall have had seven years of full-time, discipline-free experience in the field of real estate appraisal immediately preceding their appointment.

The Board shall elect a chairman from its membership.

The Board shall meet at least four times annually and additional meetings may be called by the Chairman as deemed necessary. All business meetings shall be conducted in Richmond.

The Board shall adopt a seal by which it shall authenticate its proceedings.

§54.1-2064. General Powers of Real Estate Appraiser Board; regulations; educational requirements for licensure. - The Board may do all things necessary and convenient for carrying into effect the provisions of this chapter and shall promulgate necessary regulations. The Director shall have the authority to promulgate initial emergency regulations upon the enactment of this Act as necessary to comply with applicable Federal requirements,

provided that, within twelve months from the effective date of such emergency regulations, the Board repromulgates the regulations in accordance with the Administrative Process Act.

The Real Estate Appraiser Board shall include in its regulations educational requirements as conditions for licensure as a certified residential real estate appraiser and a certified general real estate appraiser to ensure the protection of the public interest. All regulations promulgated by the Board will, at a minimum, meet the requirements as set by the federal government for the regulation of appraisers.

All applicants for licensure as a certified residential real estate appraiser between July 1, 1990 and June 30, 1991 must meet the educational and experience standards established in regulation prior to licensure, and shall have successfully completed the examination requirement prior to renewal of their license. A passing grade upon an examination deemed by the Board to be substantially equivalent to an exam provided by the Board shall satisfy this requirement. After July 1, 1991 all such applicants shall meet the educational, experience and examination requirements prior to licensure.

All applicants for licensure as a certified general real estate appraiser shall meet examination, education and experience requirements established by regulation, including, but not limited to, the minimum criteria set forth in federal regulation.

§54.1-2065. Continuing Education. - The Board may establish in regulation requirements for continuing education as a prerequisite to renewal of a license issued under this Act.

§54.1-2066. Subpoena power. - In addition to any other provisions relating to the issuance of subpoenas contained in this title, the Board or its designees shall have the authority to subpoena bank records relating to real estate appraisals.

§54.1-2067. Additional licenses. - The Board may establish in regulations other categories of licensure, as well as the conditions required for such licensure in order to safeguard the public interest or as may be required to meet federal law.

§54.1-2068. Use of terms "State Certified Residential Real Estate Appraiser" and "State Certified General Real Estate Appraiser"; seal. - An individual who is not licensed by the Board as a certified general real estate appraiser or a certified residential real estate appraiser shall not represent himself as being so licensed or use in connection with his name or place of business the term "general real estate appraiser", "residential real estate appraiser", "state certified real estate appraiser", "state licensed real estate appraiser", or any words, letters, abbreviations or insignia indicating or implying that he is licensed as a certified general real estate appraiser or a certified residential real estate appraiser in this Commonwealth.

Each certified residential real estate appraiser and certified general real estate appraiser shall comply with the standards of professional

appraisal practice adopted by the Board and shall authenticate all written appraisal reports with a seal which shall indicate the license designation and license number.

§54.1-2069. Roster of Appraisers. - A roster showing the names and addresses of all licensed appraisers shall be published annually and made available to all interested parties at a cost, as determined by the Director.

§54.1-2070. Consent to suits and service of process of non-residents; manner of service. - A. Every non-resident applicant shall file with the Real Estate Appraiser Board an irrevocable consent that suits and actions may be commenced against such applicant in the proper court of any county or city of this Commonwealth in which a course of action may arise or in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this Commonwealth on the Director of the Department of Commerce. The consent shall stipulate that such service of process or pleadings on the Director shall be taken and held in all courts to be as valid and binding as if due service has been made upon the applicant in the Commonwealth of Virginia.

B. Any process or pleading served upon the Director shall be filed by the Director in his office and a copy thereof immediately forwarded by registered mail to the main office of the licensee at the last known address.

C. That an emergency exists and this act is in force from its passage.

SPECIAL REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY OF VIRGINIA

A. Study Overview

This study was initiated as a result of the passage of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, and Virginia House Joint Resolution 198 (1987 Session).

The Board of Commerce and the Director of the Department of Commerce, through means of survey data, meetings with affected organizations and individuals and a review of the federal law, have analyzed federal real estate appraiser requirements, state regulatory policy and the effectiveness of alternatives.

The creation of a state licensing program for real estate appraisers is recommended as a result of extensive analysis of that data.

B. Key Findings

1. The 1987 General Assembly initiated study found that a "state regulatory program would be premature in light of the proposed federal legislation and the self-regulatory mechanism proposed by the professional trade associations. Implementation of a regulatory program would be costly if revision is required after a national mechanism is adopted."
2. The U S. Congress passed the "Financial Institutions Reform, Recovery and Enforcement Act of 1989 (H.R. 1278, also referred to as the "Savings and Loan Bailout Bill") which mandates state licensing and certification for all real estate appraisers connected in any way with Federally insured or guaranteed mortgage loans.
3. The Congressionally-mandated deadline for all states to have a licensing and certification program in place is July 1, 1991.
4. For the convenience of the legislature, the Board of Commerce is enclosing draft legislation which meets or exceeds all current minimum Federal requirements.
5. A Policy issue the General Assembly may wish to consider involves the Administrative placement of such a Regulatory Program.

The State Corporation Commission was requested to comment on location within the Division of Financial Institutions. The Commission recommended placement of the program at the Department of Commerce.

The Director of the Department of Commerce makes no recommendation on placement of the program.

C. Conclusion

This report should be received as an addendum to House Document No. 5, "The Study of the Desirability of Regulating the Profession of Real Estate Appraisers", 1988.

D. Recommendation

The Board of Commerce recommends that the attached legislative proposal be treated as Emergency Legislation to be placed on the agenda for the 1990 Session of the General Assembly. This will give the state agency designated to administer the program ample time to implement the regulation requirements before the Federal deadline.