

VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

CHAPTER 327

An Act to amend and reenact §§ 54.1-2009 and 54.1-2010 of the Code of Virginia, relating to the Real Estate Appraiser Board; exemption from licensure.

[H 2087]

Approved March 16, 1995

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2009 and 54.1-2010 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2009. Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

"Appraisal" means an analysis, opinion, or conclusion 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. *The term "appraiser" or "appraisal" may be used only by a person licensed or certified by the Board.*

"Appraisal report" means any communications, 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 and real property and is licensed as a certified general real estate appraiser. This designation is identified in Title 11, § 1116 (a) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. § 3301 et seq.) as a "state certified real estate appraiser."

"Certified residential real estate appraiser" means an individual who meets the requirements for licensure for the appraisal of (i) all types of real estate and real property that a licensed residential real estate appraiser is permitted to appraise and (ii) such other real estate and real property as the Board, by regulation, may permit.

To the extent permitted by federal law and regulation, a certified residential real estate appraiser shall be considered a state certified real estate appraiser within the meaning of Title 11, § 1116 (a) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. § 3301 et seq.).

"Department" means the Department of Professional and Occupational Regulation.

"Director" means the Director of the Department of Professional and Occupational Regulation.

"Evaluation" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real property.

"Federal financial institutions regulatory agencies" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, the Resolution Trust Corporation, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

"Federally related transaction" means any real estate-related financial transaction which:

1. A federal financial institutions regulatory agency engages in, contracts for or regulates; and
2. Requires the services of an appraiser.

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

"Licensed residential real estate appraiser" means an individual who meets the requirements for licensure for the appraisal of any residential real estate or real property of one to four family residential units as the Board, by regulation, may permit, and such other real estate and real property as the Board, by regulation, may permit.

This designation is identified in Title 11, § 1116 (c) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. § 3301 et seq.) as a "state-licensed appraiser."

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

"Real estate-related financial transaction" means any transaction involving:

1. The sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof;
2. The refinancing of real property or interests in real property; or
3. The use of real property or interests in real property as security for a loan or investment, including mortgage-backed securities.

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

"Regulation" means any regulations promulgated by the Real Estate Appraiser Board pursuant to the Administrative Process Act (§ 9-6.14:1 et seq.).

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

§ 54.1-2010. Exemptions from licensure.

A. 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, provides a valuation or analysis of real estate for the purpose of a prospective listing, sale or purchase in connection with services related to real estate brokerage, provided (i) that the valuation or analysis shall not be referred to as an appraisal and shall not be used in connection with obtaining a loan to finance or refinance the real estate, and (ii) that in connection with a sale or purchase of real estate no compensation, fee, or other consideration is paid for such valuation or analysis other than the fee paid for brokerage services rendered in connection with the sale or purchase 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.

3. Any person who, in the ordinary course of business, provides consulting services, or consultative brokerage for a fee, which services may include a valuation or analysis of real estate or standing or severed timber; provided such consulting services or consultative brokerage shall not be referred to as an appraisal and shall not be used in connection with obtaining a loan to finance or refinance real property or standing or severed timber or in connection with any federally related transaction.

4. Any person who, in the regular course of business, provides services to his employer, which services may include a valuation or analysis of real estate, provided such services shall not be referred to as an appraisal and shall not be used in lieu of an appraisal performed by an appraiser licensed hereunder.

5. Any person, or an employee of a financial institution or lender, who provides an ~~appraisal, valuation or analysis~~ *evaluation* of real estate or real property in connection with a real estate-related financial transaction where an appraisal by a state-certified or state-licensed appraiser is not required by the state or federal financial institution's regulatory agency engaging in, contracting for or regulating such real estate-related financial transaction or regulating the financial institution or lender engaged in or about to engage in such real estate-related financial transaction. The ~~appraisals, valuations or analyses~~ *evaluations* provided by such persons must comply with any standards imposed by state or federal financial institution's or lender's regulatory agencies for ~~appraisals, valuations, or analyses~~ *evaluations* prepared by nonstate-certified or nonstate-licensed appraisers.

B. *Nothing contained herein shall proscribe the powers of a judge to determine who may qualify as an expert witness to testify in any legal proceeding. This provision is declarative of existing law.*