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SENATE BILL NO. 1535

Offered January 20, 2017

A *BILL to amend and reenact § 54.1-2009 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-2101.2, relating to real estate appraisers; evaluations.*

Patron—Sturtevant

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2009 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-2101.2, 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. § 3345 (a)) 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. § 3345 (a)).

"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. *An evaluation is limited in its scope and development to the requirements for evaluations as set forth for a lender by a federal financial institutions regulatory agency or any nonfederal financial institutions regulatory agency, as the case may be, and as defined in and consistent with the Interagency Appraisal and Evaluation Guidelines promulgated by the Office of the Comptroller of the Currency et al., effective December 10, 2010.*

"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. § 3345 (c)) as a "state-licensed appraiser."

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

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

60 1. The sale, lease, purchase, investment in or exchange of real property, including interests in
61 property, or the financing thereof;

62 2. The refinancing of real property or interests in real property; or

63 3. The use of real property or interests in real property as security for a loan or investment, including
64 mortgage-backed securities.

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

67 "Regulation" means any regulations promulgated by the Real Estate Appraiser Board pursuant to the
68 Administrative Process Act (§ 2.2-4000 et seq.).

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

71 **§ 54.1-2101.2. Evaluations permitted for certain transactions.**

72 A. Evaluations may be performed for the following transactions:

73 1. The transaction has a value of \$250,000 or less;

74 2. The transaction involves a business loan with a transaction value equal to or less than a business
75 loan threshold of \$1 million and that is not dependent on the sale of, or rental income derived from,
76 real estate as the primary source of repayment; or

77 3. The transaction involves an existing extension of credit at a lending institution, provided that (i)
78 there has been no obvious and material change in market conditions or physical aspects of the property
79 that threaten the adequacy of the institution's real estate collateral protection after the transaction, even
80 with the advancement of new moneys, or (ii) there is no advancement of new moneys other than funds
81 necessary to cover reasonable closing costs.

82 B. If an evaluation is prepared for a nonfederal financial institution and such institution is not
83 regulated by a federal financial institutions regulatory agency, and if compliance with the Uniform
84 Standards of Professional Appraisal Practice (USPAP) is not required by such institution, the evaluation
85 may be performed by a certified residential appraiser or a certified general appraiser without complying
86 with USPAP.

87 C. The evaluation report may be prepared in any reporting format, including a self-contained report,
88 a summary report, or a restricted use report, if the reporting format meets the requirements of the
89 nonfederal financial institution.