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**SENATE BILL 5597**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senator Roach

AN ACT Relating to licensing real estate appraisers by reciprocity, fingerprint-based background checks for real estate appraiser applicants, and creating an inactive status for real estate appraisers; amending RCW 18.140.010, 18.140.060, 18.140.120, and 18.140.160; and adding new sections to chapter 18.140 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 18.140.010 and 2005 c 339 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Appraisal" means the act or process of estimating value; an estimate of value; or of or pertaining to appraising and related functions.

(2) "Appraisal report" means any communication, written or oral, of an appraisal, review, or consulting service in accordance with the standards of professional conduct or practice, adopted by the director, that is transmitted to the client upon completion of an assignment.

(3) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion relating to the value of specified interests in, or aspects of, identified real estate. The term "appraisal assignment" may apply to valuation work and analysis work.

(4) "Brokers price opinion" means an oral or written report of property value that is prepared by a real estate broker or salesperson licensed under chapter 18.85 RCW.

(5) "Client" means any party for whom an appraiser performs a service.

(6) "Commission" means the real estate appraiser commission of the state of Washington.

(7) "Comparative market analysis" means a brokers price opinion.

(8) "Department" means the department of licensing.

(9) "Director" means the director of the department of licensing.

(10) "Expert review appraiser" means a state-certified or state-licensed real estate appraiser chosen by the director for the purpose of providing appraisal review assistance to the director.

(11) "Federal department" means an executive department of the United States of America specifically concerned with housing finance issues, such as the department of housing and urban development, the department of veterans affairs, or their legal federal successors.

(12) "Federal financial institutions regulatory agency" 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, their successors and/or such other agencies as may be named in future amendments to 12 U.S.C. Sec. 3350(6).

(13) "Federal secondary mortgage marketing agency" means the federal national mortgage association, the government national mortgage association, the federal home loan mortgage corporation, their successors and/or such other similarly functioning housing finance agencies as may be federally chartered in the future.

(14) "Federally related transaction" means any real estate-related financial transaction that the federal financial institutions regulatory agency or the resolution trust corporation engages in, contracts for, or regulates; and that requires the services of an appraiser.

(15) "Financial institution" means any person doing business under the laws of this state or the United States relating to banks, bank holding companies, savings banks, trust companies, savings and loan associations, credit unions, consumer loan companies, and the affiliates, subsidiaries, and service corporations thereof.

(16) "Mortgage broker" for the purpose of this chapter means a mortgage broker licensed under chapter 19.146 RCW, any mortgage broker approved and subject to audit by the federal national mortgage association, the government national mortgage association, or the federal home loan mortgage corporation as provided in RCW 19.146.020, any mortgage broker approved by the United States secretary of housing and urban development for participation in any mortgage insurance under the national housing act, 12 U.S.C. Sec. 1201, and the affiliates, subsidiaries, and service corporations thereof.

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

(18) "Real estate-related financial transaction" means any transaction involving:

(a) The sale, lease, purchase, investment in, or exchange of real property, including interests in property, or the financing thereof;

(b) The refinancing of real property or interests in real property; and

(c) The use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

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

(20) "Review" means the act or process of critically studying an appraisal report prepared by another.

(21) "Specialized appraisal services" means all appraisal services that do not fall within the definition of appraisal assignment. The term "specialized appraisal service" may apply to valuation work and to analysis work. Regardless of the intention of the client or employer, if the appraiser would be perceived by third parties or the public as acting as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion, the work is classified as an appraisal assignment and not a specialized appraisal service.

(22) "State-certified general real estate appraiser" means a person certified by the director to develop and communicate real estate appraisals of all types of property. A state-certified general real estate appraiser may designate or identify an appraisal rendered by him or her as a "certified appraisal."

(23) "State-certified residential real estate appraiser" means a person certified by the director to develop and communicate real estate appraisals of all types of residential property of one to four units without regard to transaction value or complexity and nonresidential property having a transaction value as specified in rules adopted by the director. A state-certified residential real estate appraiser may designate or identify an appraisal rendered by him or her as a "certified appraisal."

(24) "State-licensed real estate appraiser" means a person licensed by the director to develop and communicate real estate appraisals of noncomplex one to four residential units and complex one to four residential units and nonresidential property having transaction values as specified in rules adopted by the director.

(25) "State-registered appraiser trainee," "trainee," or "trainee real estate appraiser" means a person registered by the director under RCW 18.140.280 to develop and communicate real estate appraisals under the immediate and personal direction of a state-certified real estate appraiser. Appraisals are limited to those types of properties that the supervisory appraiser is permitted by their current credential, and that the supervisory appraiser is competent and qualified to appraise. By signing the appraisal report, or being identified in the certification or addenda as having lent significant professional assistance, the state-registered appraiser trainee accepts total and complete individual responsibility for all content, analyses, and conclusions in the report.

(26) "Supervisory appraiser" means a person holding a currently valid certificate issued by the director as a state-certified real estate appraiser providing direct supervision to another state-certified, state-licensed, or state-registered appraiser trainee. The supervisory appraiser must be in good standing in each jurisdiction that he or she is credentialed. The supervisory appraiser must sign all appraisal reports. By signing the appraisal report, the supervisory appraiser accepts full responsibility for all content, analyses, and conclusions in the report.

**Sec.**  RCW 18.140.060 and 2005 c 339 s 5 are each amended to read as follows:

(1) Applications for examinations, original certification, licensure, or registration, and renewal certification, licensure, or registration shall be made in writing to the department on forms approved by the director. Applications for original and renewal certification, licensure, or registration shall include a statement confirming that the applicant shall comply with applicable rules and regulations and that the applicant understands the penalties for misconduct.

(2) The appropriate fees shall accompany all applications for examination, reexamination, original certification, licensure, or registration, and renewal certification, licensure, or registration.

(3) Each applicant for registration as a state-registered appraiser trainee and each applicant seeking to change the level of his or her credential must submit to a background investigation under section 5 of this act.

(4) Qualified applicants for licensure or certification from another jurisdiction not requiring trainee registration shall submit to a background investigation under section 5 of this act.

(5) At the discretion of the director, existing credential holders may by rule be required to submit to background investigations under section 5 of this act.

**Sec.**  RCW 18.140.120 and 2005 c 339 s 9 are each amended to read as follows:

An applicant for certification or licensure who is currently certified or licensed and in good standing under the laws of another state may obtain a certificate or license as a Washington state-certified or state-licensed real estate appraiser without being required to satisfy the examination requirements of this chapter if((~~:~~))the director determines that ((~~the certification or licensure requirements are substantially similar to those found in Washington state; and that the other state has a written reciprocal agreement to provide similar treatment to holders of Washington state certificates and/or licenses~~)): The appraiser licensing and certification program of the other state is in compliance with 12 U.S.C. Secs. 3331-3355, as existed on the effective date of this section, or such subsequent date as the director may provide by rule, consistent with the purposes of this section; and the other state's requirements for certification or licensing meet or exceed the licensure standards established in this chapter.

**Sec.**  RCW 18.140.160 and 2007 c 256 s 1 are each amended to read as follows:

In addition to the unprofessional conduct described in RCW 18.235.130, the director may take disciplinary action for the following conduct, acts, or conditions:

(1) Failing to meet the minimum qualifications for state certification, licensure, or registration established by or pursuant to this chapter;

(2) Paying money other than the fees provided for by this chapter to any employee of the director or the commission to procure state certification, licensure, or registration under this chapter;

(3) Continuing to act as a state-certified real estate appraiser, state-licensed real estate appraiser, or state-registered appraiser trainee when his or her certificate, license, or registration is on an expired or inactive status;

(4) Violating any provision of this chapter or any lawful rule made by the director pursuant thereto;

(5) Issuing an appraisal report on any real property in which the appraiser has an interest unless his or her interest is clearly stated in the appraisal report;

(6) Being affiliated as an employer, independent contractor, or supervisory appraiser of a state-certified real estate appraiser, state-licensed real estate appraiser, or state-registered appraiser trainee whose certification, license, or registration is currently in a suspended or revoked status;

(7) Failure or refusal without good cause to exercise reasonable diligence in performing an appraisal practice under this chapter, including preparing an oral or written report to communicate information concerning an appraisal practice; and

(8) Negligence or incompetence in performing an appraisal practice under this chapter, including preparing an oral or written report to communicate information concerning an appraisal practice.

NEW SECTION. **Sec.**  A new section is added to chapter 18.140 RCW to read as follows:

Effective January 1, 2017, background investigations under this chapter consist of fingerprint-based background checks through the Washington state patrol criminal identification system and through the federal bureau of investigation. The applicant is required to pay the current federal and state fees for fingerprint-based criminal history background checks. The department shall determine the process for submitting the fingerprints through rule.

NEW SECTION. **Sec.**  A new section is added to chapter 18.140 RCW to read as follows:

(1) A holder of a valid certification or license may place his or her certification or license on inactive status. The holder of an inactive certification or license may not act as a state-certified or state-licensed real estate appraiser in this state without first activating the certification or license. The director shall establish rules governing inactive certifications or licenses and their maintenance, fees, and reactivation.

(2) Failure to renew an inactive certification, license, or registration results in cancellation of the certification, license, or registration.

(3) No holder of an inactive certification or license may maintain his or her certification or license on inactive status for a period longer than is established by the director by rule.

(4) The provisions relating to the denial, suspension, and revocation of active certifications and licenses, and the discipline of its holder, apply to inactive certifications and licenses and their holders.

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