

SENATE BILL REPORT

SHB 1740

As of March 25, 2013

Title: An act relating to fingerprint-based background checks for state- registered appraiser trainee applicants and existing credential holders.

Brief Description: Concerning fingerprint-based background checks for state-registered appraiser trainee applicants and existing credential holders.

Sponsors: House Committee on Business & Financial Services (originally sponsored by Representatives Kirby, Ryu and Moscoso; by request of Department of Licensing).

Brief History: Passed House: 3/07/13, 91-6.

Committee Activity: Financial Institutions, Housing & Insurance: 3/21/13.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Staff: Edward Redmond (786-7471)

Background: Real estate appraisers evaluate the value of real property. The Department of Licensing (Department) oversees persons who provide appraisal services under the Certified Real Estate Appraiser Act (CREAA). CREAA prohibits a person from using the terms certified appraisal or state certified real estate appraiser unless that person is certified by the state.

The law authorizes the Department to issue four types of credentials to real estate appraisers: (1) state registered real estate appraiser trainee; (2) state licensed real estate appraiser; (3) state certified residential real estate appraiser; and (4) state certified general real estate appraiser. Each level of credentialing authorizes different appraisal work at a different level of property value.

Reciprocity. An applicant for certification or licensure who is currently certified or licensed and in good standing in 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 if the Director of DOL (Director) determines that:

- the certification or licensure requirements are substantially similar to those in Washington; and
- the other state has a written reciprocal agreement to provide similar treatment to holders of Washington certificates and/or licenses.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Federal Law. The Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) was signed into law in 1989. Under Title XI of FIRREA (Title XI), the Appraiser Qualifications Board (AQB), a board of the Appraisal Foundation, establishes the minimum education, experience, and examination requirements for real property appraisers to obtain a state license or certification. The Appraisal Foundation is a nongovernmental entity funded from a variety of sources including grants and sponsor fees. Title XI also established the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC). ASC must perform a number of functions including to monitor the requirements established by AQB. ASC also monitors the certification and licensing of appraisers by the states. ASC reviews each state's compliance with the requirements of Title XI and is authorized by Title XI to take action against noncomplying states. After a formal hearing, ASC can issue a non-recognition order that prohibits other states and many other federal instrumentalities from recognizing the licenses or certifications issued by the noncomplying state.

In 2010, The Dodd–Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) was signed into law. The Dodd-Frank Act made a number of changes to FIRREA, including changes to provisions affecting AQB and ASC.

Federal law requires a state to provide reciprocity in certifying or licensing an applicant when:

- the other state complies with federal law regarding appraisers; and
- the other state has standards that meet or exceed the licensing or certifications standard in the state where the applicant is seeking to be registered or licensed.

If a state is not in compliance with the reciprocity provisions, persons who are registered or licensed in that state are not allowed to appraise federally related transactions.

Beginning on January 1, 2015, federal standards will include background checks, including submitting fingerprints to the Federal Bureau of Investigation (FBI), for all applicants for a real estate appraiser credential. States are strongly encouraged to also perform background checks on all existing credential holders. A state must not issue a license to an applicant that had an appraiser license revoked in the preceding five years, has a felony conviction in the last five years, or has a felony conviction at any time for fraud, dishonesty, breach of trust, or money laundering. A state must consider any criminal conviction that goes to the honesty or veracity of the applicant, any action or order by a state, federal, or foreign regulatory agency, and any license encumbrances by a state, federal, or foreign regulatory agency.

Summary of Bill: Background Checks. An applicant for any real estate appraisal services credential must undergo a background investigation. Qualified applicants for licensure or certification from another jurisdiction not requiring trainee registration must also undergo a background investigation.

The Director may, by rule, require existing credential holders to submit to background investigations at the time of license renewal.

Beginning on January 1, 2015, a background investigation is a fingerprint-based background check through the Washington State Patrol criminal identification system and through the

FBI. An applicant must pay the current federal and state fees for the fingerprint-based criminal history background checks.

Reciprocity. An applicant for certification or licensure who is currently certified or licensed and in good standing in 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 if the Director determines that:

- the appraiser licensing and certification program of the other state is in compliance with applicable federal standards for appraisers; and
- the other state's requirements for certification or licensing meet or exceed the licensure standards of Washington.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This is a DOL-requested bill dealing with real estate appraisal services. The changes in the bill are needed to make sure that we are in compliance with federal law. This bill does not have a companion so it is important that it passes so that over 3000 appraisers in this state can continue to work on federal projects and have reciprocal treatment in other states. This bill is a product of the Dodd-Frank Act. Part of that Act requires real property appraisers to undergo criminal background checks prior to receiving or upgrading their credentials.

Persons Testifying: PRO: Representative Kirby, prime sponsor; Tony Sermonti, DOL.