

CHAPTER 290**REAL ESTATE APPRAISAL***H.F. 790*

AN ACT relating to the voluntary certification of real estate appraisers, real estate appraisal standards, and providing for penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 117B.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Iowa Voluntary Appraisal Standards and Appraiser Certification Law".

Sec. 2. NEW SECTION. 117B.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Appraisal" or "real estate 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. An appraisal may be classified by subject matter into either a valuation or an 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.

2. "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 appraisal, valuation, or analysis.

3. "Appraisal report" means any written communication of an appraisal.

4. "Appraisal foundation" means the appraisal foundation incorporated as an Illinois not-for-profit corporation on November 30, 1987.

5. "Board" means the real estate appraiser examining board established pursuant to this chapter.

6. "Certified appraisal or certified appraisal report" means an appraisal or appraisal report given or signed and certified as an appraisal or appraisal report by an Iowa certified real estate appraiser.

7. "Specialized services" means a hypothetical or other special valuation, or an analysis or an appraisal which does not fall within the definition of an appraisal assignment.

8. A "certified real estate appraiser" means a person who develops and communicates real estate appraisals and who holds a current, valid certificate for appraisals of types of real estate which may include residential, commercial, or rural real estate, as may be established under this chapter.

9. "Associate real estate appraiser" means a person who may not yet fully meet the requirements for certification but who is providing significant input into the appraisal development under the direction of a certified appraiser.

10. "Review appraiser" means a person who is responsible for the administrative approval of the appraised value of real property or assures that appraisal reports conform to the requirements of law and policy, or that the value of real property estimated by appraisers represents adequate security, fair market value, or other defined value.

Sec. 3. NEW SECTION. 117B.3 PURPOSES — VOLUNTARY CERTIFICATION.

The purpose of this chapter is to establish standards for real estate appraisals and a procedure for the voluntary certification of real estate appraisers.

A person who is not a certified real estate appraiser under this chapter may appraise real estate for compensation if certification is not required by this chapter or by federal or state law, rule, or policy.

Sec. 4. NEW SECTION. 117B.4 IOWA REAL ESTATE APPRAISER BOARD.

A real estate appraiser examining board is established within the professional licensing and regulation division of the department of commerce. The board consists of seven members, two of whom shall be public members and five of whom shall be real estate appraisers.

1. The governor shall appoint the members of the board who are subject to confirmation by the senate. The governor may remove a member for cause.
2. Appointees shall possess or maintain at least those standards of ethics, education, and experience required by federal regulations.
3. Each real estate appraiser member of the board appointed after January 1, 1992, must be a certified real estate appraiser. The governor shall attempt to represent each class of certified appraisers in making the appointments.
4. The term of each member is three years; except that, of the members first appointed, two shall be appointed for two years and two shall be appointed for one year.
5. Upon expiration of their terms, members of the board shall continue to hold office until the appointment and qualification of their successors. A person shall not serve as a member of the board for more than two consecutive terms.
6. The public members of the board shall not engage in the practice of real estate appraising.
7. The board shall meet at least once each calendar quarter to conduct its business.
8. The members of the board shall elect a chairperson from among the members to preside at board meetings.
9. A quorum of the board is four members. At least three of the four members shall be appraiser members.

Sec. 5. NEW SECTION. 117B.5 POWERS OF THE BOARD.

1. The board shall adopt rules establishing uniform appraisal standards and appraiser certification requirements and other rules necessary to administer and enforce this chapter and its responsibilities under chapter 258A. The board shall consider and may incorporate any standards recommended by the appraisal foundation, or by a professional appraisal organization, or by a public authority or organization responsible to review appraisals or for the oversight of appraisers.
2. The uniform appraisal standards shall meet all of the following requirements:
 - a. Require compliance with federal law and appraisal standards adopted by federal authorities as they apply to federally covered transactions.
 - b. Develop standards for the scope of practice for certified real estate appraisers.
3. Appraiser certification requirements shall require a demonstration that the applicant has a working knowledge of current appraisal theories, practices, and techniques which will provide a high degree of service and protection to members of the public dealt within a professional relationship under authority of the certification. The board shall establish the examination specifications for each category of certified real estate appraiser, provide or procure appropriate examinations, establish procedures for grading examinations, receive and approve or disapprove applications for certification, and issue certificates.
4. The board shall maintain a registry of the names and addresses of appraisers certified under this chapter and retain records and application materials submitted to the board.

Sec. 6. NEW SECTION. 117B.6 FEES.

1. The board shall establish and collect fees for certification, examination, reexamination, renewal of certification, and delinquency at an amount necessary to pay the administrative costs of sustaining the board and implementing this chapter. The fees shall include, but are not limited to, amounts to cover the costs for the following items:
 - a. Per diem, expenses, and travel expenses for board members, peer review committee persons, or disciplinary panel members.
 - b. Salary, per diem, and expenses of an executive secretary, assistants, and employees.
 - c. Office facilities, supplies, and equipment.
2. Fees collected by the board shall be transmitted to the treasurer of state who shall deposit the fees in the general fund of the state.

Sec. 7. NEW SECTION. 117B.7 CERTIFICATION PROCESS.

1. Applications for original certification, renewal certification, and examinations shall be made in writing to the board on forms approved by the board.

2. Until the board has adopted final rules to implement this chapter, the board may issue interim annual certification to qualified applicants. No interim annual certifications may be issued or renewed following the publication of final certification rules by the board.

Sec. 8. NEW SECTION. 117B.8 EXAMINATION REQUIREMENT.

An original certification as a certified real estate appraiser shall not be issued to a person who has not demonstrated through a written examination that the person possesses the following knowledge and understanding:

1. Appropriate knowledge of technical terms commonly used in or related to real estate appraising, appraisal report writing, and economic concepts applicable to real estate.
2. Understanding of the principles of land economics, real estate appraisal processes, and problems likely to be encountered in gathering, interpreting, and processing data in carrying out appraisal assignments.
3. Knowledge of theories of depreciation, cost estimating, methods of capitalization, and the mathematics of real estate appraisal that are appropriate for each classification of certificate applied for.
4. Knowledge of other appropriate principles and procedures for the classifications applied for.
5. Basic understanding of Iowa real estate, property tax, and eminent domain laws.
6. Understanding of the types of misconduct for which disciplinary proceedings may be initiated against a certified real estate appraiser.

Sec. 9. NEW SECTION. 117B.9 EDUCATION AND EXPERIENCE REQUIREMENT.

The board shall determine what real estate appraisal or real estate appraisal review experience and what education shall be required to provide appropriate assurance that an applicant for certification is competent to perform the certified appraisal work which is within the scope of practice defined by the board. The board shall prescribe a required minimum number of tested hours of education relating to the provisions of this chapter, the uniform appraisal standards, and other rules issued in accordance with this chapter.

Sec. 10. NEW SECTION. 117B.10 NONRESIDENT CERTIFICATION.

1. An applicant for certification as a real estate appraiser who is not a resident of Iowa shall submit, with the application for certification, an irrevocable consent that service of process upon the applicant may be made by delivery of the process to the secretary of state if, in an action against the applicant in a court of this state arising out of the applicant's activities as a certified real estate appraiser, the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant.

2. A nonresident of Iowa who has complied with subsection 1 may obtain a certificate as a certified real estate appraiser by complying with the certification requirements in this chapter.

Sec. 11. NEW SECTION. 117B.11 NONRESIDENT CERTIFICATION BY RECIPROCITY.

If, in the determination by the board, another state is deemed to have substantially equivalent certification requirements, an applicant who is certified under the laws of the other state may obtain a certificate as a certified real estate appraiser upon terms and conditions as determined by the board.

Sec. 12. NEW SECTION. 117B.12 BASIS FOR DENIAL.

The board may deny the issuance of a certificate as a certified real estate appraiser to an applicant on any of the grounds listed in this chapter or in chapter 258A.

Sec. 13. NEW SECTION. 117B.13 PRINCIPAL PLACE OF BUSINESS.

1. Each certified real estate appraiser shall advise the board of the address of the appraiser's principal place of business and all other addresses at which the appraiser is currently engaged in the business of preparing real estate appraisal reports.

2. When a certified real estate appraiser changes the appraiser's principal place of business, the appraiser shall immediately give written notification of the change to the board and apply for an amended certificate.

3. Each certified real estate appraiser shall notify the board of the appraiser's current residence address. Residence addresses on file with the board are exempt from disclosure as public records.

Sec. 14. NEW SECTION. 117B.14 CERTIFICATE.

A certificate issued under this chapter shall bear the signatures or facsimile signatures of the members of the board and a certificate number assigned by the board.

Sec. 15. NEW SECTION. 117B.15 USE OF TERM.

1. The term "certified real estate appraiser" shall only be used to refer to individuals who hold the certificate and shall not be used in connection with or as part of the name or signature of a firm, partnership, corporation, or group, or in a manner that it may be interpreted as referring to a firm, partnership, corporation, group, other business entity, or anyone other than an individual holder of the certificate.

2. The term "associate real estate appraiser" shall only be used to refer to individuals who do not yet fully meet the requirements for certification but who provide significant input into the appraisal development under the direction of a certified appraiser.

3. A certificate shall not be issued under this chapter to a firm, corporation, partnership, group, or other business entity.

Sec. 16. NEW SECTION. 117B.16 CONTINUING EDUCATION.

1. As a prerequisite to renewal of a certification, a certified real estate appraiser shall present evidence satisfactory to the board of having met continuing education requirements.

2. The basic continuing education requirement for renewal of certification shall be the completion, during the immediately preceding term, of the number of classroom hours of instruction required by the board in courses or seminars which have received the approval of the board.

Sec. 17. NEW SECTION. 117B.17 DISCIPLINARY PROCEEDINGS.

1. The rights of a holder of a certificate as a certified real estate appraiser may be revoked or suspended, or the holder may be otherwise disciplined in accordance with this chapter. The board may investigate the actions of a certified real estate appraiser and may revoke or suspend the rights of a holder or otherwise discipline a holder for violation of a provision of this chapter, or chapter 258A, or of a rule adopted under this chapter or commission of any of the following acts or omissions:

a. Procurement or attempt to procure a certificate under this chapter by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for certification, or participating in any form of fraud or misrepresentation.

b. Failure to meet the minimum qualifications established by this chapter.

c. A conviction, including a conviction based upon a plea of guilty or nolo contendere, of a crime which is substantially related to the qualifications, functions, and duties of a person developing real estate appraisals and communicating real estate appraisals to others.

d. Violation of any of the standards for the development or communication of real estate appraisals as provided in this chapter.

e. Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal.

f. Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal.

g. Willful disregard or violation of a provision of this chapter or a rule of the board of the administration and enforcement of this chapter.

2. In a disciplinary proceeding based upon a civil judgment a certified real estate appraiser shall be given an opportunity to present matters in mitigation and extenuation, but not to collaterally attack the civil judgment.

3. Notwithstanding the limitations of section 258A.3, subsection 2, paragraph "e", the board shall adopt a rule providing for civil penalties in amounts and for the reasons authorized by federal law where federal law requires the board to have the authority to impose the civil penalties in order to obtain or to retain the board's designation as a qualified state appraiser certifying agency.

Sec. 18. NEW SECTION. 117B.18 STANDARDS OF PRACTICE.

1. A certified real estate appraiser shall comply with the uniform appraisal standards adopted under this chapter.

2. A certified real estate appraiser shall not accept an appraisal assignment or a fee for an appraisal assignment if the employment itself is contingent upon the appraiser reporting a predetermined estimate, analysis, or opinion or if the fee to be paid is contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment.

3. A certified real estate appraiser may provide specialized services to facilitate the client's or employer's objectives. Specialized services shall not be communicated as a certified appraisal or as a certified appraisal report. 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 or opinion or conclusion, the work is an appraisal assignment rather than an assignment for specialized services. Communication of a valuation under oath is an appraisal assignment.

4. A certified real estate appraiser who enters into an agreement to perform specialized services may be paid a fixed fee or a fee that is contingent on the results achieved by the specialized services.

5. If a certified real estate appraiser enters into an agreement to perform specialized services for a contingent fee, this fact shall be clearly stated in each written and oral report. In each written report, this fact shall be clearly stated in a prominent location in the report, each letter of transmittal, and the certification statement made by the appraiser in the report.

6. A certified real estate appraiser making a significant contribution to the valuation or analysis process in completing an appraisal assignment shall sign the final written report or acknowledge the appraiser's contribution in a verbal report.

Sec. 19. NEW SECTION. 117B.19 RETENTION OF RECORDS.

1. A certified real estate appraiser shall retain for three years, originals or true copies of all written contracts engaging the appraiser's services for real estate appraisal work and all reports and supporting data assembled and formulated for use by the appraiser or the associate appraiser in preparing the reports.

2. The three-year period for retention of records is applicable to each engagement of the services of a certified real estate appraiser and shall commence upon the date of the submission of the appraisal to the client unless, within the three-year period, the appraiser is notified that the appraisal or report is involved in litigation, in which event the three-year period for the retention of records shall commence upon the date of the final disposition of the litigation.

3. All records required to be maintained under this chapter shall be made available by a certified real estate appraiser for inspection and copying by the board on reasonable notice to the appraiser.

Approved June 2, 1989