

# Senate Study Bill 1030

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED ATTORNEY  
GENERAL BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act providing for the registration of associate real estate  
2 appraisers, prohibiting improper influence over an appraiser's  
3 evaluation opinion, and imposing a penalty.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 1181DP 82  
6 jr/gg/14

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1 1 Section 1. Section 543D.3, Code 2007, is amended to read  
1 2 as follows:

1 3 543D.3 PURPOSES ~~== VOLUNTARY CERTIFICATION.~~

1 4 The purpose of this chapter is to establish standards for  
1 5 real estate appraisals and a procedure for the voluntary  
1 6 certification of real estate appraisers and the mandatory  
1 7 registration of associate real estate appraisers.

1 8 A person who is not a certified real estate appraiser under  
1 9 this chapter may appraise real estate for compensation if  
1 10 certification is not required by this chapter or by federal or  
1 11 state law, rule, or policy. However, an employee of the state  
1 12 department of transportation whose duties include appraisals  
1 13 of property pursuant to chapter 6B must be a certified real  
1 14 estate appraiser under this chapter or a registered associate  
1 15 real estate appraiser acting under the direct supervision of a  
1 16 certified real estate appraiser.

1 17 Sec. 2. Section 543D.9, Code 2007, is amended to read as  
1 18 follows:

1 19 543D.9 EDUCATION AND EXPERIENCE REQUIREMENT.

1 20 The board shall determine what real estate appraisal or  
1 21 real estate appraisal review experience and what education  
1 22 shall be required to provide appropriate assurance that an  
1 23 applicant for certification is competent to perform the  
1 24 certified appraisal work which is within the scope of practice  
1 25 defined by the board. All experience required for initial  
1 26 certification shall be performed as a registered associate  
1 27 real estate appraiser acting under the direct supervision of a  
1 28 certified real estate appraiser, except as the board may  
1 29 provide by rule. The board shall prescribe a required minimum  
1 30 number of tested hours of education relating to the provisions  
1 31 of this chapter, the uniform appraisal standards, and other  
1 32 rules issued in accordance with this chapter.

1 33 Sec. 3. Section 543D.18, subsection 1, Code 2007, is  
1 34 amended to read as follows:

1 35 1. A certified real estate appraiser shall comply with the  
2 1 uniform appraisal standards adopted under this chapter. The  
2 2 reliance of the public in general and of the financial  
2 3 business community in particular on sound, reliable real  
2 4 estate appraisal practices imposes on persons engaged in the  
2 5 practice of real estate appraising as certified real estate  
2 6 appraisers or as registered associate real estate appraisers  
2 7 certain obligations both to their clients and to the public.  
2 8 These obligations include the obligation to maintain  
2 9 independence in thought and action, to adhere to the uniform  
2 10 appraisal standards adopted under this chapter, and to  
2 11 maintain high standards of personal conduct in all matters  
2 12 impacting one's fitness to practice real estate appraising. A  
2 13 certified real estate appraiser and a registered associate  
2 14 real estate appraiser acting under the direct supervision of a  
2 15 certified real estate appraiser shall perform all appraisal  
2 16 assignments in an honest, disinterested and impartial manner,  
2 17 with objectivity and independence, and without accommodation  
2 18 to the personal interests or objectives of the appraiser, the

2 19 client, or any third person.

2 20 Sec. 4. Section 543D.18, Code 2007, is amended by adding  
2 21 the following new subsection:

2 22 NEW SUBSECTION. 7. A certified real estate appraiser who  
2 23 receives significant real property appraisal assistance in the  
2 24 development or reporting of an appraisal assignment shall  
2 25 disclose such assistance in accordance with the uniform  
2 26 appraisal standards adopted under this chapter.

2 27 Sec. 5. NEW SECTION. 543D.18A PENALTIES FOR IMPROPER  
2 28 INFLUENCE OF AN APPRAISAL ASSIGNMENT.

2 29 1. A mortgage lender, mortgage broker or originator, real  
2 30 estate broker or salesperson, client, party, appraiser, or any  
2 31 other person with an interest in a real estate transaction or  
2 32 the financing or any loan secured by real estate involving an  
2 33 appraisal assignment shall not improperly influence or attempt  
2 34 to improperly influence the development, reporting, result, or  
2 35 review of a real estate appraisal through coercion, extortion,  
3 1 or bribery, or through any other means that impairs or may  
3 2 impair the independent judgment of the appraiser including but  
3 3 not limited to the withholding or threatened withholding of  
3 4 payment for an appraisal fee, or the conditioning of the  
3 5 payment of an appraisal fee upon the opinion, conclusion, or  
3 6 valuation to be reached, or a request that the appraiser  
3 7 report a predetermined opinion, conclusion, or valuation, or  
3 8 the desired valuation of any person.

3 9 2. A violation of this section is an unlawful practice  
3 10 under section 714.16, subsection 2, paragraph "a".

3 11 3. A violation of this section is a ground for discipline  
3 12 against any person holding a certificate or registration under  
3 13 this chapter or another license issued under the laws of the  
3 14 state of Iowa, as license is defined in section 17A.2,  
3 15 subsection 6, if the practice of the profession, occupation,  
3 16 or business regulated by the license relates to real estate  
3 17 transactions or the financing of loans secured by real estate.

3 18 4. A person does not violate this section solely by asking  
3 19 an appraiser to consider additional, appropriate property  
3 20 information, or to provide further detail, substantiation, or  
3 21 explanation for the appraiser's value conclusion, or to  
3 22 correct errors in the appraisal report, or by withholding  
3 23 payment of an appraisal fee based on a bona fide dispute  
3 24 regarding the appraiser's compliance with the appraisal  
3 25 standards adopted by the board under this chapter.

3 26 Sec. 6. NEW SECTION. 543D.20 REGISTRATION OF ASSOCIATE  
3 27 REAL ESTATE APPRAISERS.

3 28 1. A person shall not assist a certified real estate  
3 29 appraiser in the development or reporting of an appraisal  
3 30 assignment that is required by this chapter, or by federal or  
3 31 state law, rule, or policy to be performed by a certified real  
3 32 estate appraiser, unless the person meets one or more of the  
3 33 following conditions:

3 34 a. The person is certified under this chapter.

3 35 b. The person is registered as an associate real estate  
4 1 appraiser and is acting under the direct supervision of a  
4 2 certified real estate appraiser.

4 3 c. The person is solely providing administrative services,  
4 4 such as taking photographs, preparing charts, or typing  
4 5 reports, and is not providing real estate appraisal assistance  
4 6 in developing the analysis, valuation, opinions, or  
4 7 conclusions associated with the appraisal assignment.

4 8 d. The person is providing professional consultation that  
4 9 does not constitute real property appraisal assistance, such  
4 10 as the assistance of a professional engineer or certified  
4 11 public accountant.

4 12 2. The board shall establish by rule the terms and  
4 13 conditions of the registration of associate real estate  
4 14 appraisers, including the educational and other prerequisites  
4 15 to registration, the fees for registration and the renewal of  
4 16 registration, and the continuing education requirements for  
4 17 renewal of registration. The board shall consider and may  
4 18 incorporate any guidelines recommended by the appraisal  
4 19 qualifications board of the appraisal foundation relating to  
4 20 associate real estate appraisers.

4 21 3. The board shall adopt rules governing the manner in  
4 22 which certified real estate appraisers shall directly  
4 23 supervise associate real estate appraisers, the standards of  
4 24 conduct for associate real estate appraisers, and the grounds  
4 25 for imposing discipline against an associate real estate  
4 26 appraiser which shall include all of the grounds provided in  
4 27 section 543D.17.

4 28 4. Associate real estate appraisers shall be bound by the  
4 29 uniform appraisal standards adopted by the board under this

4 30 chapter.

4 31 Sec. 7. NEW SECTION. 543D.21 VIOLATIONS == INJUNCTIONS  
4 32 == CIVIL PENALTIES.

4 33 1. If, as the result of a complaint or otherwise, the  
4 34 board believes that a person has engaged, or is about to  
4 35 engage, in an act or practice that constitutes or will  
5 1 constitute a violation of this chapter, the board may make  
5 2 application to the district court for an order enjoining such  
5 3 act or practice. Upon a showing by the board that such person  
5 4 has engaged, or is about to engage, in any such act or  
5 5 practice, an injunction, restraining order, or other order as  
5 6 may be appropriate shall be granted by the district court.

5 7 2. The board may investigate complaints or initiate  
5 8 complaints against persons who are not certified or registered  
5 9 under this chapter, and in connection with such complaints or  
5 10 investigations may issue subpoenas to compel witnesses to  
5 11 testify or persons to produce evidence consistent with the  
5 12 provisions of section 272C.6, subsection 3, as needed to  
5 13 determine whether probable cause exists to initiate  
5 14 proceedings under this section or to make application to the  
5 15 district court for an order enjoining violations of this  
5 16 chapter.

5 17 3. In addition to or as an alternative to making  
5 18 application to the district court for an injunction, the board  
5 19 may issue an order to a person who is not certified or  
5 20 registered under this chapter to require compliance with this  
5 21 chapter and may impose a civil penalty against such person for  
5 22 any violation of subsection 4 in an amount up to one thousand  
5 23 dollars for each violation. All civil penalties collected  
5 24 pursuant to this subsection shall be deposited in the housing  
5 25 trust fund created in section 16.181. An order issued  
5 26 pursuant to this section may prohibit a person from applying  
5 27 for certification or registration under this chapter.

5 28 4. The board may impose civil penalties against a person  
5 29 who is not certified or registered under this chapter for any  
5 30 of the following acts:

5 31 a. A violation of section 543D.15.  
5 32 b. A violation of section 543D.18A, subsection 1.  
5 33 c. A violation of section 543D.20, subsection 1.  
5 34 d. Developing or communicating an appraisal assignment in  
5 35 a deceptive or dishonest manner or in a manner inconsistent  
6 1 with a direct or indirect representation to the public that  
6 2 such assignment was completed as a disinterested, unbiased,  
6 3 objective, or independent appraiser.  
6 4 e. Fraud, deceit, or deception, through act or omission,  
6 5 in connection with an application for certification or  
6 6 registration under this chapter.

6 7 5. The board, before issuing an order under this section,  
6 8 shall provide the person written notice and the opportunity to  
6 9 request a hearing. The hearing must be requested within  
6 10 thirty days after receipt of the notice and shall be conducted  
6 11 in the same manner as provided for disciplinary proceedings  
6 12 involving a licensee under this chapter.

6 13 6. A person aggrieved by the imposition of a civil penalty  
6 14 under this section may seek judicial review pursuant to  
6 15 section 17A.19.

6 16 7. If a person fails to pay a civil penalty within thirty  
6 17 days after entry of an order imposing the civil penalty, or if  
6 18 the order is stayed pending an appeal, within ten days after  
6 19 the court enters a final judgment in favor of the board, the  
6 20 board shall notify the attorney general. The attorney general  
6 21 may commence an action to recover the amount of the penalty,  
6 22 including reasonable attorney fees and costs.

6 23 8. An action to enforce an order under this section may be  
6 24 joined with an action for an injunction.

#### 6 25 EXPLANATION

6 26 This bill requires registration of associate real estate  
6 27 appraisers who may appraise real estate under the direct  
6 28 supervision of a certified real estate appraiser. Associate  
6 29 real estate appraisers must also train under the direct  
6 30 supervision of a certified real estate appraiser. The bill  
6 31 requires that when a certified real estate appraiser receives  
6 32 significant assistance in preparing an appraisal, that  
6 33 assistance must be disclosed. The bill establishes a specific  
6 34 standard which requires that appraisals be performed in an  
6 35 honest, disinterested, and impartial manner, with objectivity  
7 1 and independence. Penalties are imposed on persons who  
7 2 attempt to impose improper influence on an appraisal. The  
7 3 bill sets out a variety of penalties that range from judicial  
7 4 action to enjoin an act or a practice to a civil penalty up to  
7 5 \$1,000 for each violation.

7 6 LSB 1181DP 82  
7 7 jr:rj/gg/14.1