

1 IN THE SENATE

BY MILLER

2 SENATE BILL NO. 331

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act providing for the licensing of real estate
7 appraisers."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 08 is amended by adding a new chapter to read:

10 CHAPTER 89. REAL ESTATE APPRAISERS.

11 Sec. 08.89.010. CREATION AND MEMBERSHIP OF COMMISSION. (a) There
12 is created the Real Estate Appraisal Commission consisting of five
13 members appointed by the governor. The members shall be qualified,
14 licensed real estate appraisers who have engaged in the general practice
15 of real estate appraising in the state for not less than five years and
16 who are currently engaged in the general practice of real estate apprais-
17 ing in the state. However, the members of the first commission are not
18 required to be licensed for the first year of their tenure.

19 (b) A member of the commission is appointed for a term of four
20 years and until his successor is appointed and qualified, except that
21 the initial terms of members shall be as follows: one member for one
22 year, one member for two years, one member for three years, and two
23 members for four years. Members serve at the pleasure of the governor.
24 The governor shall fill a vacancy by appointment for the unexpired term.

25 (c) Members of the commission shall elect a chairman and a vice-
26 chairman.

27 (d) A majority of the members of the commission constitute a quorum
28 to do business, but the affirmative vote of three members is required to
29 revoke, suspend or deny a license.

1 Sec. 08.89.020. POWERS AND DUTIES. The commission shall

2 (1) meet at least once annually and more often on the call of
3 the chairman or if the chairman is requested to do so by two or more
4 members;

5 (2) receive applications for and issue licenses to real estate
6 appraisers and prepare and grade the examinations provided for in this
7 chapter or contract with other organizations for the preparation and
8 grading of examinations;

9 (3) keep a record of its proceedings and a roster of all
10 persons licensed by it and entitled to practice real estate appraisal
11 in the state;

12 (4) maintain and keep open to public inspection during office
13 hours a complete indexed report of all applications, licenses issued,
14 licenses renewed, and all revocations, cancellations and suspensions of
15 licenses;

16 (5) investigate violations of the provisions of this chapter
17 or of its regulations issued, and hold hearings and take testimony
18 relating to violations;

19 (6) issue licenses to a real estate appraiser trainee upon
20 application by the licensed real estate appraiser for whom the trainee
21 will work;

22 (7) adopt regulations to govern matters relating to its
23 duties.

24 Sec. 08.89.030. EXECUTIVE SECRETARY TO THE COMMISSION. The commis-
25 sioner of commerce is the executive secretary of the commission.

26 Sec. 08.89.040. APPLICABILITY OF THE ADMINISTRATIVE PROCEDURE ACT.
27 The Administrative Procedure Act (AS 44.62) applies to regulations and
28 proceedings under this chapter.

29 Sec. 08.89.050. LICENSE REQUIRED. Unless he is licensed as a
SB 331

1 real estate appraiser under one of the license classifications provided
2 for in this chapter, no person may engage in the practice of appraising
3 real estate for others for a fee or other remuneration.

4 Sec. 08.89.060. EXEMPTION. The requirements of sec. 50 of this
5 chapter do not apply to real estate appraisers who are salaried employees
6 of the United States, the state, or a political subdivision or munici-
7 pality of the state, or of financial institutions, except those employees
8 who are engaged in appraising for public acquisition. A person so
9 employed who also practices as an independent real estate appraiser for
10 others is subject to this chapter and shall be licensed before engaging
11 in any independent fee appraising. A person so employed who does not
12 practice as an independent real estate appraiser for others but who
13 desires a license may apply for a license if he is qualified in all other
14 respects.

15 Sec. 08.89.070. RESIDENT LICENSE. A person who meets the qualifi-
16 cation requirements of sec. 90 of this chapter and maintains his place
17 of residence in the state is eligible to receive a real estate appraiser
18 license.

19 Sec. 08.89.080. NONRESIDENT LICENSE. (a) A nonresident may be
20 licensed to appraise real estate in the state if he meets the require-
21 ments of sec. 90 of this chapter.

22 (b) To be licensed under this section, the applicant must maintain
23 a regular place of business in the state of his domicile.

24 (c) A nonresident real estate appraiser appraising real estate
25 in the state shall maintain in the state a registered agent upon whom
26 process, notice, or demand required or permitted by law to be served
27 upon the appraiser may be served.

28 Sec. 08.89.090. QUALIFICATIONS FOR LICENSE. (a) The following
29 classifications of license shall be issued under this chapter:

1 (1) residential real estate appraiser;

2 (2) general real estate appraiser.

3 (b) A person is entitled to a license under the appropriate classi-
4 fication after he passes the appropriate examination for that classifica-
5 tion and pays the required license fees.

6 Sec. 08.89.100. CONTENTS OF EXAMINATION. (a) The residential
7 real estate appraiser examination shall be written to demonstrate that
8 the applicant has

9 (1) appropriate knowledge of the English language, including
10 terms commonly used in or related to real property appraisal and the
11 writing of the appraisal reports;

12 (2) adequate knowledge of depreciation theories, cost esti-
13 mating, market data analysis, and real property appraising mathematics;

14 (3) a thorough understanding of the principles of land
15 economics, appraisal processes, and problems encountered in the gather-
16 ing, interpreting and analysis of data involved in the valuation of
17 residential real estate;

18 (4) knowledge of the appraisal of residential properties as
19 demonstrated through residential case study problems;

20 (5) knowledge of the law applicable to real estate in Alaska.

21 (b) The general real estate appraiser examination shall consist
22 of the residential real estate appraiser examination and an additional
23 examination to demonstrate that the applicant has

24 (1) knowledge of the appraisal of various types of real
25 property for various functions and purposes;

26 (2) a thorough knowledge of income property including all
27 methods of capitalization and the use of compound interest tables;

28 (3) a thorough understanding of the principles of appraising
29 for eminent domain proceedings, including the knowledge of appropriate

1 Alaska laws on the subject;

2 (4) knowledge of real estate financing in Alaska, including
3 legal ramifications of legal documents normally used, knowledge of
4 Alaska usury laws, and knowledge of state-created real estate financing
5 agencies, including knowledge of their loan qualifications, limits, and
6 interest rates.

7 Sec. 08.89.110. QUALIFICATION FOR EXAMINATION. (a) A person is
8 entitled to take the residential real estate appraiser examination if
9 he

10 (1) is at least 21 years of age;

11 (2) has three years of acceptable experience in the real
12 estate business, real estate financing, or in a public agency serving
13 the real estate field, of which three-year period at least two years are
14 residential appraisal experience;

15 (3) has not engaged in conduct that demonstrates that he is
16 unfit to be a licensed residential real estate appraiser;

17 (4) has paid the examination fee.

18 (b) A person is entitled to take the general real estate appraiser
19 examination if he

20 (1) is at least 25 years of age;

21 (2) has five years of acceptable real estate appraisal experi-
22 ence of which five-year period at least three years are diversified
23 appraisal experience;

24 (3) has not engaged in conduct that demonstrates that he is
25 unfit to be a licensed real estate appraiser;

26 (4) has paid the examination fee.

27 Sec. 08.89.120. EXCEPTION TO REQUIREMENTS. (a) For six months
28 following the effective date of this Act, the commission shall waive the
29 requirements of examination for a resident applicant for a residential

1 real estate appraiser license who within that period submits satisfactory
2 evidence of at least two years of residential appraisal experience
3 satisfactory to the commission, and has not engaged in conduct that
4 demonstrates that he is unfit to be a licensed real estate appraiser.

5 (b) For six months following the effective date of this Act, the
6 commission shall waive the requirements of examination for a resident
7 applicant for a general appraiser license

8 (1) who, within that period, submits satisfactory evidence of
9 at least five years appraisal experience satisfactory to the commission;

10 (2) who, within that period, submits satisfactory evidence
11 of having passed at least three of the real estate appraisal examinations
12 offered by the American Institute of Real Estate Appraisers or the
13 Society of Real Estate Appraisers of which three examinations at least
14 one must have been on the appraisal of income-producing property and
15 capitalization techniques;

16 (3) has not engaged in conduct that demonstrates that he is
17 unfit to be a licensed general real estate appraiser.

18 Sec. 08.89.130. LICENSE FEES. The following fee shall be charged
19 a real estate appraiser, licensee, or applicant when applicable:

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|-------------------------|-------|
| 20 (1) initial license | \$100 |
| 21 (2) biennial renewal | \$100 |
| 22 (3) examination fee | \$100 |

23 Sec. 08.89.140. DENIAL OF EXAMINATION. When the commission deter-
24 mines that an applicant is not entitled to take an examination, it shall
25 notify the applicant in writing the cause for the denial and shall
26 refund the examination fee.

27 Sec. 08.89.150. DUTIES OF LICENSEES. A licensee shall

28 (1) maintain a regular place of business and shall maintain
29 on file with the commission the address of the licensee's place of

1 business;

2 (2) comply with this chapter and with the regulations
3 promulgated by the commission under this chapter.

4 Sec. 08.89.160. DISCIPLINARY ACTION. (a) The commission may,
5 upon its own motion, and shall, upon the written complaint of an
6 aggrieved person, investigate the action of a licensed real estate
7 appraiser, and the commission shall suspend or revoke a license issued
8 under the provisions of this chapter when, after the hearing as provided
9 for in (b) of this section, it finds that the licensee has made a
10 material misrepresentation in his application for a real estate appraiser
11 license, knowingly violated a provision of this chapter or regulations
12 of the commission, or has done any act which constitutes dishonest or
13 fraudulent conduct.

14 (b) If a formal hearing has been requested by an applicant or if
15 information brought to the attention of the commission concerning the
16 activities, character and integrity of a licensee is such that in the
17 commission's discretion it would be proper to suspend or revoke the
18 license of the licensee, the commission shall set the matter for a
19 hearing and at least 30 days before the date set for the hearing shall
20 notify in writing the applicant or licensee of the reasons for the
21 denial or of the charges made and shall afford the applicant or licensee
22 an opportunity to be heard in person or through counsel. The written
23 notice may be served by delivery personally to the applicant or license
24 holder, or by mailing the notice by registered mail to the business
25 address of the applicant or license holder as shown on the commission's
26 records. The hearing on the charges shall be at the time and place
27 that the commission prescribes. In cases involving revocation of the
28 license of a nonresident licensed under this chapter by the real estate
29 commission of the state or district in which the nonresident licensee

1 is a resident, or if there is a conviction by a court of competent juris-
2 diction of a licensee under this chapter of an act which constitutes a
3 violation of this chapter, and the order of the commission or court is
4 certified to the commission, a license may be suspended by the commis-
5 sion without hearing.

6 (c) If the commission determines that a license holder is guilty
7 of a violation of a provision of this chapter, his license may be sus-
8 pended or revoked. When the commission revokes the license of a person
9 and no appeal to the court has been filed within the time specified for
10 the appeal, the commission shall mail a written notice of the revocation
11 to all licensed real estate appraisers under this chapter.

12 (d) When the license of a nonresident is suspended or revoked, the
13 commission shall also send written notice, stating the cause for the
14 revocation or suspension, to the real estate commission or licensing
15 authority in the state or district of which the nonresident licensee is
16 a resident.

17 (e) The commission has the power to administer oaths and to
18 subpoena and bring before the commission any person in the state, or
19 take testimony of any person by deposition in the same manner and with
20 the same fees and mileage as prescribed by law in judicial procedure
21 in courts of the state in civil cases. A party to a hearing before the
22 commission has the right to compel attendance of witnesses in his behalf
23 at the hearing upon making request to the commission and designating the
24 person to be subpoenaed.

25 Sec. 08.89.170. GROUND FOR SUSPENSION, REVOCATION, OR DENIAL.

26 Grounds for suspension, revocation or denial are as follows:

- 27 (1) the holder of a license is in violation of this chapter;
28 (2) the license has been obtained or the holder of the
29 license has obtained the license by fraud or misrepresentation;

1 (3) money was paid to secure the license except fees pre-
2 scribed by this chapter;

3 (4) the holder of a license has been found guilty of a
4 felony;

5 (5) the holder of a license is guilty of perjury, fraud,
6 deceit, or of gross negligence, incompetency or misconduct in the
7 practice of real property appraising;

8 (6) the holder of a license permitted his signature to be
9 affixed to an appraisal report that was not prepared by him or under his
10 personal supervision;

11 (7) the holder of a license accepted an engagement to appraise
12 a property if his employment or fee is contingent upon his reporting a
13 predetermined or specified value, or is otherwise contingent upon a
14 finding to be reported;

15 (8) if monetary damages are involved, the holder of a license
16 has made his compensation contingent upon the amount of, or fixed his
17 compensation as a percentage of, the damages which may be agreed upon
18 or finally decreed;

19 (9) a trainee under this chapter signing in his own name a
20 real estate appraisal without having a cosignature of an appraiser
21 licensed to appraise the type of real estate which is the subject of the
22 report;

23 (10) a licensed residential real estate appraiser appraising
24 other than a residential property without having the appraisal report
25 cosigned by a licensed general real estate appraiser.

26 Sec. 08.89.180. ACTION TO COLLECT COMPENSATION. No person engaged
27 in the business or acting in the capacity of a real estate appraiser may
28 bring or maintain an action in a court of the state for the collection
29 of compensation for the performance of an act or contract for which a

1 license is required by this chapter without alleging and proving that
2 he was a legally licensed real estate appraiser at all times during the
3 performance of the act or contract.

4 Sec. 08.89.190. PRACTICE WITHOUT LICENSE. A person required by
5 this chapter to be licensed who engages in the profession of real estate
6 appraising without obtaining a license as provided in this chapter, upon
7 conviction, is guilty of a misdemeanor and is punishable by a fine of
8 not more than \$1,000. He is ineligible to obtain a license for one year
9 from the date of conviction of the offense, except that the commission,
10 at its discretion, may grant a license to the person within the one-year
11 period upon application and after hearing on the application.

12 Sec. 08.89.200. LICENSE EXPIRATION AND RENEWAL. (a) All licenses
13 are renewed biennially on the dates set by the department with the
14 approval of the commission.

15 (b) A license must be renewed on or before the dates set by the
16 department or it will lapse. A penalty of \$10 shall be charged in addi-
17 tion to all delinquent renewal fees for reinstatement of a license which
18 remains lapsed for more than 60 days.

19 (c) A licensee who fails or refuses, after 30 days written notice
20 from the commission, to apply and pay the fee and all penalties imposed
21 by this section may be found to be practicing without a license and
22 subject to the penalties provided for in this chapter.

23 (d) On March 1 of each year or as soon thereafter as is practical,
24 the commission shall publish and mail to every licensed real estate
25 appraiser a printed list of real estate appraisers legally licensed
26 under this section.

27 Sec. 08.89.220. DEFINITIONS. In this chapter

- 28 (1) "commission" means the Real Estate Appraisal Commission;
29 (2) "general real estate appraiser" means a person who is

1 licensed by this chapter and therefore permitted to appraise any type
2 of real property and any interest in real property;

3 (3) "real estate appraisal" means an estimate or opinion of
4 the value of real estate or any interest in it, which is the work product
5 of a real estate appraiser;

6 (4) "real estate appraising" means the act or process of
7 estimating values of real estate or any interest in it for a fee or other
8 remuneration;

9 (5) "real estate appraiser" means a person who is engaged in
10 the business of estimating real estate values, or who advertises or
11 holds himself out to the general public for these services for a fee
12 or other remuneration;

13 (6) "real estate appraiser trainee" means a person who is
14 employed by a licensed real estate appraiser, and who is assisting a
15 licensed real estate appraiser in one or more of the professional phases
16 of real estate appraising; a trainee can prepare and sign appraisals
17 but only when cosigned by a licensed appraiser;

18 (7) "residential real estate appraiser" means a person
19 licensed by this chapter and who is therefore permitted to appraise

20 (A) the fee interest in existing residential properties
21 up to and including four units;

22 (B) the fee interest in residential land.

23 * Sec. 2. AS 08.01.010 is amended by adding a new paragraph to read:

24 (20) Real Estate Appraisal Commission
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