

BY REP. NAVARRE, Swackhammer

1 IN THE HOUSE

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HOUSE BILL NO. 523

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act relating to certification of real estate appraisers; and providing for an effective date."

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

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

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CHAPTER 87. REAL ESTATE APPRAISERS.

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ARTICLE 1. BOARD OF CERTIFIED REAL ESTATE APPRAISERS.

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Sec. 08.87.010. BOARD CREATFL. There is created in the Department of Commerce and Economic Development the Board of Certified Real Estate Appraisers. The board is composed of four members appointed by the governor and of the executive director of the Alaska Housing Finance Corporation or the director's designee. One appointed member shall be a person licensed under this chapter as a general real estate appraiser, one appointed member shall be a person licensed under this chapter as a residential real estate appraiser, one appointed member shall be an executive in a mortgage banking entity, and one appointed member shall represent the public. The board shall elect a chair from among its membership.

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Sec. 08.87.020. POWERS AND DUTIES OF BOARD. In addition to the powers and duties conferred on the board by AS 08.01, the board shall

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(1) establish the examination specifications for certification as a general real estate appraiser and as a residential real estate appraiser; and

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(2) adopt regulations necessary to carry out the purposes of this chapter.

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ARTICLE 2. CERTIFICATION.

Sec. 08.87.100. CERTIFICATE REQUIRED. A person is guilty of a class B misdemeanor who

(1) does not hold a certificate issued by the board, whose certificate is suspended or revoked, or whose certificate has lapsed, and holds out as a certified real estate appraiser in any way, orally or in writing, directly or by implication; or

(2) is certified as a residential real estate appraiser and holds out as certified to appraise real estate other than

(A) residential real property of four or fewer units;

or

(B) residential real property of 12 or fewer units when a net income capitalization analysis is not required by the terms of the appraisal assignment and a secondary mortgage market form is used.

Sec. 08.87.110. REAL ESTATE APPRAISER CERTIFICATE. (a) The board shall issue a general real estate appraiser certificate to a person who presents evidence satisfactory to the board that the person

(1) has successfully completed 150 or more classroom hours of instruction in subjects related to real estate appraisal from an appraisal organization or academic institution approved by the board;

(2) has successfully completed 15 classroom hours of instruction related to standards of professional practice as a real estate appraiser;

(3) has within the seven years immediately preceding the filing of the application for certification four years of experience in real property appraisal or three years of experience as a registered trainee under AS 08.87.320;

(4) successfully completes an examination prescribed by the

1 board;

2 (5) has not been convicted of a crime involving moral
3 turpitude; and

4 (6) has paid the required fees.

5 (b) The board shall issue a residential real estate appraiser
6 certificate to a person who presents evidence satisfactory to the
7 board that the person

8 (1) meets the requirements of (a)(2) and (4) - (6) of this
9 section;

10 (2) has successfully completed 60 hours of classroom in-
11 struction in subjects related to residential real estate appraisal
12 from an appraisal organization or academic institution approved by the
13 board; and

14 (3) has within the five years immediately preceding the
15 filing of the application for certification three years of experience
16 in real property appraisal or two years of experience as a registered
17 trainee under AS 08.87.320.

18 (c) Notwithstanding (a) and (b) of this section, the board
19 shall, without requiring the examination specified in (a)(4) of this
20 section, issue a general real estate appraiser or residential real
21 estate appraiser certificate to a person who can, by evidence
22 satisfactory to the board, show that the person

23 (1) has been certified in another state that has certifica-
24 tion requirements substantially equivalent to the requirements estab-
25 lished by this chapter and by regulations issued by the board under
26 this chapter, and that provides for certification of nonresidents
27 under conditions similar to those set out in this subsection and
28 without discriminatory costs;

29 (2) is not the subject of an unresolved complaint or

1 disciplinary action before an authority regulating real estate
2 appraisers or a professional real estate appraisers' association;

3 (3) has not failed the examination for certification as a
4 real estate appraiser in this state;

5 (4) has not had certification as a real estate appraiser
6 revoked or suspended in this state or in another jurisdiction;

7 (5) has submitted proof of continued competency satisfac-
8 tory to the board;

9 (6) successfully completes an examination that may be
10 prescribed by the board relating to appraisal matters unique to
11 Alaska; and

12 (7) has paid the required fees.

13 (d) A certificate may be issued to a natural person only. A
14 certified real estate appraiser may sign an appraisal report on behalf
15 of a corporation, partnership, firm, or group practice.

16 Sec. 08.87.120. CONTINUING EDUCATION REQUIREMENTS FOR RENEWAL OF
17 CERTIFICATE. (a) The board may not renew a certificate issued under
18 this chapter unless the person applying for renewal presents evidence
19 satisfactory to the board that the person has, within the two years
20 preceding the application for renewal, attended 40 classroom hours of
21 instruction in courses or seminars that have received the approval of
22 the board.

23 (b) The board may grant credit toward some or all of the re-
24 quirements of (a) of this section to a person who has

25 (1) successfully completed a program of study determined by
26 the board to be equivalent for continuing education purposes to a
27 course or seminar approved by the board for continuing education
28 credit; or

29 (2) participated, other than as a student, in educational

1 programs that related to real estate analysis or real property ap-
2 praisal theory, practice, or technique, including teaching, program
3 development, and preparation of textbooks, monographs, articles, and
4 other instructional materials.

5 (c) The board shall adopt regulations on continuing education to
6 ensure that persons applying for renewal of certificates have thorough
7 knowledge of current theories, practices, and techniques of real
8 estate analysis and appraisal. The regulations must provide for

9 (1) procedures for the sponsor of a course or seminar to
10 apply for board approval for continuing education credit; the regu-
11 lations must require the sponsor to show that claimed attendance at a
12 course or seminar can be verified; and

13 (2) procedures for evaluating equivalency claims for appli-
14 cants for certificate renewal under (b) of this section.

15 (d) In considering whether to approve courses and seminars under
16 this section, the board shall give special consideration to courses,
17 seminars, and other appraisal education programs developed by or under
18 the auspices of organizations or associations of professional real
19 estate appraisers that are utilized by those organizations or asso-
20 ciations for the purposes of awarding real estate appraisal desig-
21 nations or of indicating compliance with the continuing education
22 requirements of the organizations or associations.

23 (e) An amendment or repeal of a regulation adopted by the board
24 under this section shall not operate to deprive a person holding a
25 certificate under this chapter of credit toward renewal of the per-
26 son's certificate for a course of instruction or seminar that had been
27 completed by the person before the amendment or repeal of the regu-
28 lation.

29 ARTICLE 3. PROHIBITED PRACTICES AND

1 DISCIPLINARY PROCEEDINGS.

2 Sec. 08.87.200. PROHIBITED PRACTICES. A certified real estate
3 appraiser may not

4 (1) act negligently or incompetently or fail without good
5 cause to exercise reasonable diligence in developing an appraisal,
6 preparing an appraisal report, or communicating an appraisal;

7 (2) wilfully disregard or violate a provision of this
8 chapter or of a regulation adopted by the board under this chapter;

9 (3) fail to comply with the Uniform Standards of Profes-
10 sional Appraisal Practice adopted by the Appraisal Standards Board of
11 the Appraisal Foundation;

12 (4) accept a fee for an appraisal assignment that is con-
13 tingent upon the appraiser reporting a predetermined estimate, analy-
14 sis, or opinion or upon the opinion, conclusion, or valuation reached,
15 or upon the consequences resulting from the appraisal assignment;

16 (5) knowingly make a false statement, submit false informa-
17 tion, or fail to provide complete information in response to a ques-
18 tion in an application for certification or for renewal of a certifi-
19 cate; or

20 (6) violate the confidential nature of government records
21 to which the person gains access through retention as an appraiser by
22 the government agency.

23 Sec. 08.87.210. DISCIPLINARY PROCEEDINGS. The board may exer-
24 cise its disciplinary powers under AS 08.01.075 if, after hearing, the
25 board finds a certified real estate appraiser has

26 (1) violated a provision of this chapter or a regulation
27 adopted by the board under this chapter;

28 (2) been convicted of a crime that involves moral turpi-
29 tude; or

1 (3) committed, while acting as a real estate appraiser, an
2 act or omission involving dishonesty, fraud, or misrepresentation with
3 the intent to benefit the appraiser or another person or to injure
4 another person.

5 ARTICLE 4. GENERAL PROVISIONS.

6 Sec. 08.87.300. APPRAISALS BY UNCERTIFIED APPRAISERS PERMITTED.
7 Nothing in this chapter precludes a person who is not certified as a
8 real estate appraiser from appraising real estate for compensation if
9 the person does not hold out to be a certified real estate appraiser.

10 Sec. 08.87.310. RETENTION OF RECORDS. (a) A certified real
11 estate appraiser shall retain for not less than three years copies of
12 all written contracts engaging the appraiser's services for real
13 property appraisal work, and all reports and supporting data assembled
14 and formulated by the appraiser in preparing the reports.

15 (b) The three-year period specified in (a) of this section for
16 retention of records is applicable to each engagement of the services
17 of the appraiser and commences upon the date of the submittal of the
18 appraisal reports to the client unless, within the three-year period,
19 the appraiser is notified that the appraisal report is involved in
20 litigation, in which case the three-year retention period commences
21 upon the date of the final disposition of the litigation.

22 (c) All records that a certified appraiser must maintain under
23 (a) of this section shall be made available to the board or department
24 for inspection and copying upon reasonable notice to the appraiser.

25 Sec. 08.87.320. REGISTERED TRAINEES. (a) A person engaged in
26 the practice of real estate appraisal who is employed by or under the
27 direct supervision of a certified real estate appraiser may become a
28 registered trainee by submitting proof to the board that the person
29 has successfully completed at least 30 classroom hours of courses in

1 subjects related to real estate appraisal from an appraisal orga-
2 nization or academic institution approved by the board.

3 (b) A registered trainee may prepare or assist in the prepara-
4 tion of an appraisal report issued by a certified real estate apprais-
5 er if the report is also signed by the certified real estate appraiser
6 and if the certified real estate appraiser accepts full responsibility
7 for the report.

8 Sec. 08.87.330. ACTIONS BY UNCERTIFIED REAL ESTATE APPRAISERS
9 PROHIBITED. A person may not bring an action in a court of this state
10 for compensation for an act done or service rendered as a certified
11 real estate appraiser if the person did not hold a certificate under
12 this chapter at the time that the person performed the act or service
13 or offered to perform the act or service.

14 Sec. 08.87.900. DEFINITIONS. In this chapter

15 (1) "analysis assignment" means an analysis, opinion, or
16 conclusion prepared by a real estate appraiser that relates to the
17 nature, quality, or utility of certified real estate or real property;

18 (2) "appraisal" means an analysis, opinion, or conclusion
19 prepared by a real estate appraiser relating to the nature, quality,
20 value, or utility of specified interests in, or aspects of, identified
21 real estate, and includes a valuation appraisal, an analysis assign-
22 ment, and a review assignment;

23 (3) "appraisal assignment" means an engagement for which an
24 appraiser is employed or retained to act, or would be perceived by
25 third parties or the public as acting, as a disinterested person
26 rendering an unbiased analysis, opinion, or conclusion relating to the
27 nature, quality, value, or utility of specified interests in, or
28 aspects of, identified real estate;

29 (4) "appraisal report" means any communication, written or

1 oral, of an appraisal;

2 (5) "board" means the Board of Certified Real Estate Ap-
3 praisers;

4 (6) "department" means the Department of Commerce and
5 Economic Development;

6 (7) "general real estate appraiser" means a real estate
7 appraiser certified to appraise all types of real property;

8 (8) "real estate" means an identified parcel or tract of
9 land, including improvements;

10 (9) "real property" means one or more defined interests,
11 benefits, and rights inherent in the ownership of real estate;

12 (10) "residential real estate appraiser" means a real estate
13 appraiser certified to appraise residential real property, subject to
14 the limitations of AS 08.87.100(2);

15 (11) "review assignment" means an analysis, opinion, or
16 conclusion prepared by a real estate appraiser that forms an opinion
17 as to the adequacy and appropriateness of a valuation appraisal or an
18 analysis assignment;

19 (12) "valuation appraisal" means an analysis, opinion, or
20 conclusion prepared by a real estate appraiser that estimates the
21 value of an identified parcel of real estate, or identified real
22 property at a particular time.

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

24 (31) Board of Certified Real Estate Appraisers (AS 08.87.-
25 010).

26 * Sec. 3. AS 08.03.010(c) is amended by adding a new paragraph to read:

27 (24) Board of Certified Real Estate Appraisers (AS 08.87.-
28 010) -- June 30, 1994.

29 * Sec. 4. AS 44.62.330(a) is amended by adding a new paragraph to read:

1 (55) Board of Certified Real Estate Appraisers.

2 * Sec. 5. INITIAL APPOINTMENTS TO THE BOARD OF CERTIFIED REAL ESTATE
3 APPRAISERS. Notwithstanding AS 08.87.010, as enacted by sec. 1 of this
4 Act, a person is eligible for an initial appointment as an appraiser member
5 of the Board of Certified Real Estate Appraisers if the person has at least
6 10 years of experience as a real estate appraiser or if the person is a
7 designated member in good standing of a real estate appraisal organization
8 that, as of January 1, 1989, required appraisal experience, appraisal
9 education, and testing to become a member, and required adherence to
10 generally accepted standards of professional practice in order to retain
11 designated membership.

12 * Sec. 6. AS 08.87.100, enacted by sec. 1 of this Act, takes effect
13 July 1, 1991.

14 * Sec. 7. Except for AS 08.87.100, enacted by sec. 1 of this Act, this
15 Act takes effect July 1, 1990.