

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

HOUSE BILL

1397

By: Representative Mitchum

For An Act To Be Entitled

"AN ACT TO AMEND TITLE 17, CHAPTER 35, TO REQUIRE LICENSURE  
OF REAL ESTATE APPRAISERS; TO ESTABLISH EDUCATIONAL  
REQUIREMENTS; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code of 1987, Title 17, Chapter 35, is hereby amended by adding a new subchapter to read as follows:

"Subchapter 5.

17-35-601. As used in this subchapter, unless the context otherwise requires:

(1) 'Appraisal' or 'appraisal services' means the services provided by appraisers and includes:

(A) 'Appraisal assignment' means an engagement for which a licensee is employed or retained to act or could be perceived by third parties or the public as acting, as an agent or disinterested third party in rendering an unbiased analysis, opinion, review, or conclusion relating to the nature, quality, value, or utility of specified interests in or aspects of identified real property; and

(B) 'Analysis assignment' means appraisal services that relate to the employer's or client's individual needs or investment objectives and includes specialized marketing, financing and feasibility studies as well as analyses, opinions, and conclusions given in connection with activities such as real estate brokerage, mortgage banking or real estate counseling.

(2) 'Appraisal report' means any written or oral analysis, opinion, or conclusion issued by an appraiser relating to the nature, quality, value or utility of a specified interest in or aspect of, identified real property and includes a report communicating an appraisal analysis, opinion, or conclusion

of value, regardless of title.

(3) 'Certified appraisal report' means any written or oral analysis, opinion, or conclusion issued by an appraiser certified under this subchapter, relating to the nature, quality, value, or utility of a specified interest in, or aspect of, identified real property and includes a report communicating an appraisal analysis, opinion, or conclusion of value, regardless of title.

(4) 'Commission' means the Arkansas Real Estate Commission.

(5) 'State certified appraiser' means:

(A) 'State certified real estate appraiser' means a person who is licensed by the Arkansas Real Estate Commission (AREC) as qualified to issue certified appraisal reports for all types of real property; or

(B) 'State certified residential appraiser' means a person who is licensed by the Arkansas Real Estate Commission as qualified to issue certified appraisal reports for residential real property of one (1) to twenty-four (24) dwelling units.

(6) 'Subcommittee' means the Real Estate Appraisal Subcommittee of the Arkansas Real Estate Commission.

17-35-602. (a) A person may not use the title 'state certified residential appraiser' or 'state certified real estate appraiser' or any abbreviation or words to that effect, or issue a certified appraisal report unless such person is licensed by the commission subchapter. However, the work upon which a certified appraisal report is based may be performed by a licensee who is not a licensed state certified appraiser if the report is approved and signed by a licensed state certified appraiser.

(b) This subchapter does not preclude a broker, salesman, or broker-salesman who is not a licensed state certified residential appraiser or licensed state certified real estate appraiser from appraising real estate for compensation. Such persons may continue to provide appraisals and appraisal services for compensation so long as they do not represent themselves or the appraisal report as certified.

(c) This subchapter shall not apply to a real estate broker or salesman who in the ordinary course of business, gives an opinion of the value of real estate for the purpose of a prospective sale. However, in no event may this opinion be referred to or construed as an appraisal, nor can any compensation, fee, or consideration be charged for the opinion other than the normal commission or fee for services rendered in the sale of the real property

involved.

17-35-603. (a) (1) There is created the Real Estate Appraisal Subcommittee of the Arkansas Real Estate Commission, which shall consist of seven members appointed by the Governor. Five (5) members of the subcommittee shall be active appraisers who have been engaged in the general practice of appraising real property for at least five (5) years immediately preceding appointment. Two (2) members of the subcommittee shall represent organizations that use appraisals for the purpose of eminent domain proceedings, financial transactions, or mortgage insurance.

(2) The members shall be as representative of the entire industry as possible and membership in a nationally or state recognized organization shall not be a prerequisite to membership on the subcommittee.

(3) No more than one (1) member of the subcommittee shall hold an appraiser designation from any one particular national or state appraiser association. No more than one (1) member shall be from the same state senatorial district.

(4) Whenever a vacancy occurs on the subcommittee, any professional organization that represents real estate appraisers, and registers its interest with the commission may recommend to the commission the names of up to twice as many persons as the number of vacancies to be filled.

(5) For initial appointments and future vacancies, the commission may recommend to the Governor from among the names submitted persons to be appointed to the subcommittee. The commission shall recommend appraiser members to the Governor not later than November 1, 1989. The Governor shall appoint members to the subcommittee not later than December 31, 1989. After December 31, 1989, two of the members must be state certified residential appraisers and three of the members must be state certified real estate appraisers who are engaged in the practice of real estate appraising.

(6) Initially, three members of the subcommittee shall be appointed for three (3) year terms, two members shall be appointed for two (2) year terms and two members appointed for one (1) year terms. Thereafter, all members shall be appointed for three (3) year terms.

(7) Any vacancy occurring in the membership of the subcommittee shall be filled by appointment by the Governor for the unexpired term.

(8) Upon expiration of his term, a member of the subcommittee shall continue to hold office until the appointment and qualification of his

successor.

(9) A member may not be appointed for more than two consecutive terms.

(10) The Governor may remove any member for cause.

(b) The executive director of the Arkansas Real Estate Commission shall serve as executive director of the subcommittee.

(c) The subcommittee shall meet at least once each calendar quarter to conduct its business. The location of meetings shall be the same as the commission.

(d) The members of the subcommittee shall elect a chairperson at the first meeting each year.

(e) Each member of the subcommittee is entitled to a per diem allowance of twenty-five (\$25.00) for each meeting of the subcommittee which he attends and to reimbursement for travel expenses incurred in attending meetings of the subcommittee as provided in Ark. Code 17-35-201.

17-35-604. (a) Appropriate fees, as set by the rules of the commission, must accompany all applications for examination, license and renewal. The fee shall not exceed those for brokers.

(b) At the time of filing an application for licensing, the applicant must sign a pledge to comply with the standards set forth in this subchapter and state that he understands the types of misconduct for which disciplinary proceedings may be initiated against licensed state certified residential appraisers or licensed state certified real estate appraisers.

(c) Applications for examination, licensing and renewal shall be on the form prescribed by the commission and shall indicate the type of certification desired.

17-35-605. Only real estate brokers, broker-salesmen, and salesmen licensed pursuant to this chapter may be licensed by the commission as state certified residential appraisers or state certified real estate appraisers.

17-35-606. (a) To be licensed as a state certified real estate appraiser, the applicant must demonstrate, by passing a written examination, that he possesses:

(1) A knowledge of technical terms commonly used in real estate appraisal;

(2) An understanding of the principles of land economics, real estate appraisal process, reliable sources of appraisal data, and problems

likely to be encountered in the gathering, interpreting, and processing of data in carrying out appraisal disciplines;

(3) An understanding of the standards for development and communication of real estate appraisals as provided in this section;

(4) An understanding of the types of misconduct for which disciplinary proceedings may be initiated against a licensed state certified residential appraisers and licensed real estate appraisers, as set forth in this subchapter; and

(5) Knowledge of theories of depreciation, cost estimating, methods of capitalization, and the mathematics of real estate appraisal that are appropriate for the classification of license applied for.

(b) Any applicant who is not licensed within one (1) year after passing the examination must retake the examination in order to qualify for licensing.

(c) Any applicant who has failed the examination may apply for reexamination by submitting an application with the appropriate examination fee within 90 days after the date of having last taken and failed the examination.

17-35-607. (a) To be licensed as a state certified residential appraiser an applicant must present evidence satisfactory to the subcommittee that he:

(1) Has two (2) years of experience in real property appraisal, acquired within a period of five (5) years immediately preceding the filing of the application for certification or has been licensed two years as a salesperson or broker, and

(2) Has successfully completed ninety (90) classroom hours of courses in subjects related to real estate appraisal from a nationally or state recognized appraisal organization, national or state real estate organization, area vocational-technical center, accredited community college, college, or university, or state or nationally proprietary real estate school approved by the National Association of Real Estate Law Officials (NARELO) or the commission. Prior courses may be approved by the commission and substituted on an hour-for-hour basis. The thirty (30) hour basic real estate course can be applied to the ninety (90) hour requirement.

(b) To be licensed as a state certified real estate appraiser, an applicant must present evidence satisfactory to the subcommittee that he:

(1) Has three (3) years of experience in real property appraisal,

acquired within a period of five (5) years immediately preceding the filing of the application for certification or has been licensed for three (3) years as a salesperson or broker, and

(2) Has successfully completed one hundred eighty (180) classroom hours of academic courses in subjects related to real estate appraisal from a nationally or state recognized appraisal organization, national or state real estate organization, area vocational-technical center, accredited community college, college, or university, or proprietary real estate schools approved by the National Association of Real Estate Law Officials (NARELO) or the commission. Prior courses may be approved by the commission and substituted on an hour-for-hour basis. The ninety (90) hours real estate courses required for two (2) brokers' licenses may be applied to the one hundred eighty (180) hours requirement.

(c) Upon request, the applicant shall furnish to the subcommittee, for its examination, copies of appraisal reports that the applicant has prepared in the course of his appraisal practice.

17-35-608. The term of a license for certification issued under this subchapter shall be the same as the period prescribed by the commission for licensure as a real estate broker, broker-salesman, or salesman.

17-35-609. (a) An appraiser who is licensed and certified under this subchapter must apply for recertification each time he applies for license renewal as a broker, broker-salesman, or salesman. The failure to obtain a license as a broker, broker-salesman, salesman or license for recertification under this subchapter automatically suspends an appraiser's certification.

(b) Any appraiser licensed under this subchapter who fails to apply for recertification may thereafter apply only upon payment of a delinquent fee, and only within the four (4) year period immediately following the last date on which the appraiser held valid certification. At the end of such 4 year period, an appraiser must reapply and meet all requirements for initial applicant to obtain certification.

17-35-610. (a) A license may not be issued to a corporation, partnership, firm or group. However, an appraiser licensed under this subchapter may provide a certified appraisal report for or on behalf of a corporation, partnership, firm, or group if the report is prepared by or under the personal direction of, such appraiser and is reviewed and signed by him.

(b) The term 'state certified residential appraiser' or 'state certified

real estate appraiser' shall not be used following or immediately in connection with the name or signature of a corporation, partnership, firm or group or in such manner that it could be interpreted as implying certification under this subchapter of a corporation, partnership, firm or group or anyone other than an individual licensed state certified appraiser. Corporations, partnerships, firms, or groups which employ licensed state certified appraisers who provide certified appraisal reports as defined by this subchapter may represent to the public and advertise that they offer state certified appraisals.

75-35-611. (a) A license for certification issued under this subchapter shall bear the signature or facsimile signature of the executive secretary and the chairman of the commission and must include a certification number.

(b) Each appraiser licensed and certified under this subchapter shall place his certification number adjacent to or immediately beneath the designation 'state certified residential appraiser' or 'state certified real estate appraiser' as applicable, when such term is used in a certified appraisal report or in a contract or other instrument used by the appraiser in conducting real property appraisal activities and shall include the certification number in any newspaper, telephone directory, or other advertising medium used by the appraiser.

75-35-612. As a prerequisite for recertification, a state certified appraiser must present evidence satisfactory to the commission of having met the continuing education requirements established by commission rule. In addition, licensed and certified real estate appraisers shall complete six (6) hours per year of continuing education in strictly appraisal courses.

75-35-613. (a) The commission may investigate the actions of any appraiser certified under this subchapter and may reprimand, fine, revoke, or suspend the license or certification of or place on probation any such appraiser for any of the acts set forth by the commission.

(b) A licensed state certified appraiser may also be disciplined by the commission for any of the following actions:

(1) Procuring or attempting to procure licensing and certification under this subchapter by knowingly making false statements, submitting false information, or refusing to provide complete information in response to a question in an application for license and certification or through any form of fraud or misrepresentation.

(2) Paying money or other valuable consideration, except as required by this subchapter, to any member or employee of the commission to procure license and certification under this subchapter.

(3) Committing an act of dishonesty, fraud or misrepresentation in the practice of real estate appraising.

(4) Violating any standard for the development or communication of a real estate appraisal provided in this subchapter.

(5) Failing or refusing to exercise reasonable diligence in developing an appraisal or preparing an appraisal report.

(6) Failing to communicate an appraisal without good cause.

(7) Willfully disregarding or violating any of the provisions of this subchapter or the rules of the commission for the administration or enforcement of this subchapter.

(8) Accepting an appraisal assignment if the employment itself is contingent upon the appraiser's reporting a predetermined result, analysis, or opinion or if the fee to be paid for the performance of the appraisal assignment is contingent upon the opinion, conclusion, or valuation reached or upon the consequences resulting from the appraisal assignment.

17-35-614. An appraiser certified under this subchapter shall retain for at least five (5) years original or true copies of any contracts engaging the appraiser's services for real property work, certified appraisal reports, and supporting data assembled and formulated by the appraiser in preparing certified reports. The period for retention of the records applicable to each engagement of the services of the appraiser runs from the date of the submission of the certified appraisal report to the client. These records must be made available by the appraiser for inspection and copying by the subcommittee on reasonable notice to the appraiser. If an appraiser has been the subject of or has served as evidence for litigation, reports and records must be retained for at least two (2) years after the trial."

SECTION 2. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 3. All laws and parts of laws in conflict with this act are hereby repealed.



