

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

SENATE BILL 394

5 By: Senator Hester
6 By: Representative Dotson
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAWS CONCERNING LICENSING AND
10 CERTIFICATION OF APPRAISERS; TO CREATE A REGISTRATION
11 CLASS FOR A REGISTERED APPRENTICE APPRAISER; AND FOR
12 OTHER PURPOSES.
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Subtitle

15 TO AMEND THE LAWS CONCERNING LICENSING
16 AND CERTIFICATION OF APPRAISERS; AND TO
17 CREATE A REGISTRATION CLASS FOR A
18 REGISTERED APPRENTICE APPRAISER.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code § 17-14-102(a), concerning the necessity for
25 registration, license, or certificate of appraisers, is amended to read as
26 follows:

27 (a)(1) The Arkansas Appraiser Licensing and Certification Act, § 17-
28 14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., is created in
29 response to Title XI of the Financial Institutions Reform, Recovery, and
30 Enforcement Act of 1989 and specifies three (3) classes of appraisers: state-
31 licensed, state-certified residential, and state-certified general appraisers
32 for federally related transactions.

33 (2) A fourth class is created for nonfederally related
34 transactions, which shall be known as “state-registered appraisers”.

35 (3) A fifth class is created for an appraiser who is subject to
36 direct control and supervision by a qualified state-certified appraiser



1 supervisor as part of upgrading his or her classification to state-licensed
2 or state-certified, which shall be known as "registered apprentice
3 appraiser".

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5 SECTION 2. Arkansas Code § 17-14-103 is amended to read as follows:
6 17-14-103. Definitions.

7 As used in the Arkansas Appraiser Licensing and Certification Act, §
8 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.:

9 (1) "Appraisal":

10 (A) As a noun, means the act or process of estimating
11 value or an estimate of value; and

12 (B) As an adjective, means of or pertaining to appraising
13 and related functions, i.e., appraisal practice and appraisal services;

14 (2) "Appraisal Foundation" and "foundation" mean the Appraisal
15 Foundation established on November 30, 1987, as a not-for-profit corporation
16 under the laws of Illinois;

17 (3) "Appraisal practice" and "appraisal services" mean the work
18 or services performed by appraisers for clients;

19 (4) "Appraisal Standards Board" means the board created under
20 Article XI, sections 11.01 – 11.13 inclusive, of the bylaws of the Appraisal
21 Foundation, as amended April 22, 1990;

22 (5) "Appraisal Subcommittee" means the subcommittee of the
23 Federal Financial Institutions Examination Council established under Title
24 XI, the Real Estate Appraisal Reform Amendments of the Financial Institutions
25 Reform, Recovery, and Enforcement Act of 1989, section 1102, by amendment to
26 the Federal Financial Institutions Examination Council Act of 1978, 12 U.S.C.
27 § 3301 et seq., through the addition of new section 1011, "Establishment of
28 Appraisal Subcommittee";

29 (6) "Appraiser" or "real estate fee appraiser" means any person
30 who, for a fee or other consideration, develops and communicates a real
31 estate appraisal or otherwise gives an opinion of the value of real estate or
32 any interest in real estate;

33 (7) "Appraiser Qualifications Board" means the board created
34 under Article XII, sections 12.01 – 12.08 inclusive, of the bylaws of the
35 Appraisal Foundation, as amended April 22, 1990;

36 (8) "Board" means the Arkansas Appraiser Licensing and

1 Certification Board established under the Arkansas Appraiser Licensing and
2 Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301
3 et seq.;

4 (9) "Client" means any person for whom an appraiser performs a
5 service;

6 (10) "Federal financial institutions regulatory agencies" means
7 the Board of Governors of the Federal Reserve System, the Federal Deposit
8 Insurance Corporation, the United States Office of the Comptroller of the
9 Currency, the Office of Thrift Supervision, and the National Credit Union
10 Administration;

11 (11) "Federally related transaction" means any real estate-
12 related financial transaction which:

13 (A) A financial institution, a federal financial
14 institution's regulatory agency, or the Federal Deposit Insurance Corporation
15 engages in, contracts for, or regulates; and

16 (B) In accordance with any federal law, rule, or
17 regulation, as the same may be amended, requires the services of an
18 appraiser;

19 (12) "Financial institution" means an insured depository
20 institution as defined in the Federal Deposit Insurance Act, 12 U.S.C. §
21 1813(c)(2), or an insured credit union as defined in section 101 of the
22 Federal Credit Union Act, 12 U.S.C. § 1751 et seq.;

23 (13) "Independent appraisal assignment" means any engagement for
24 which an appraiser is employed or retained to act or to be perceived by third
25 parties or the public as acting as a disinterested third party in rendering
26 an unbiased analysis, opinion, evaluation, or conclusions relating to the
27 nature, quality, value, or utility identified as real estate or real
28 property;

29 (14) "Market analysis" or "broker's price opinion" means a
30 proposed sale price opinion or recommended listing price given by a licensed
31 real estate broker, sales person, or other to a potential seller, purchaser,
32 or third party;

33 (15) "Personal property" means identifiable portable and
34 tangible objects which are considered by the general public as being
35 "personal", e.g., furnishings, artwork, antiques, gems and jewelry,
36 collectibles, machinery and equipment; all property that is not classified as

1 real estate;

2 (16) "Real estate" means an identified parcel or tract of land,
3 including improvements, if any;

4 (17)(A) "Real estate appraisal" means an unbiased estimate of
5 the nature, quality, value, or utility of an interest in, or aspect of,
6 identified real estate and related personalty.

7 (B)(i) A real estate appraisal may be classified by
8 subject matter into either a valuation or an evaluation.

9 (ii) Valuation is the process of estimating the
10 market value, investment value, insurable value, or other properly defined
11 value of an identified interest or interests in a specific parcel or parcels
12 of real estate as of a given date.

13 (iii) Evaluation or analysis is the study of the
14 nature, quality, or utility of a parcel of real estate, or interests in or
15 aspects of real property, in which a value estimate is not necessarily
16 required, i.e., a study of real estate or real property other than estimating
17 value;

18 (18) "Real estate-related financial transaction" means any
19 transaction involving:

20 (A) The sale, lease, purchase, investment in, or exchange
21 of real property, including interests in property, or the financing thereof;

22 (B) The refinancing of real property or interests in real
23 property; and

24 (C) The use of real property or interests in property as
25 security for a loan or investment, including mortgage-backed securities;

26 (19) "Real property" means interest, benefits, and rights
27 inherent in the ownership of real estate;

28 (20)(A) "Registered apprentice appraiser" means an individual
29 who has satisfied the requirements for apprentice appraiser by the Appraiser
30 Qualifications Board and who is subject to direct control and supervision by
31 a qualified state-certified appraiser supervisor as a party of upgrading his
32 or her classification to state-licensed or state-certified.

33 (B) The scope of practice for a registered apprentice
34 appraiser is the appraisal of properties that the state-certified appraiser
35 supervisor is permitted by his or her current credential and competent to
36 appraise;

1 ~~(20)~~(21) “Report” means:

2 (A) Any communication, written or oral, of an appraisal,
3 review, or analysis;

4 (B) The document that is transmitted to the client upon
5 completion of an assignment; or

6 (C) The tangible expression of an appraiser’s service;

7 ~~(21)~~(22) “Review” means the act or process of critically
8 studying a report prepared by another;

9 ~~(22)~~(23) “State-certified general appraiser” means any
10 individual who has satisfied the requirements for state certification in the
11 State of Arkansas and who is qualified to perform appraisals of all real
12 property types of any monetary size and complexity;

13 ~~(23)~~(24) “State-certified residential appraiser” means any
14 individual who has satisfied the requirements for state certification in the
15 State of Arkansas and who is qualified to perform appraisals of all property
16 types up to a monetary size and complexity as prescribed by the Appraiser
17 Qualifications Board and the federal financial institutions regulatory
18 agencies;

19 ~~(24)~~(25) “State-licensed appraiser” means any individual who has
20 satisfied the requirements for state licensing in the State of Arkansas and
21 who is qualified to perform appraisals of all property types up to a monetary
22 size and complexity as prescribed by the Appraiser Qualifications Board and
23 the federal financial institutions regulatory agencies;

24 ~~(25)~~(26) “State-registered appraiser” means any person who has
25 satisfied the requirements for ~~registering a state-registered appraiser~~
26 credential as set forth in § 17-14-307 or requirements as may have been
27 determined by the board and who may perform appraisals on any type of
28 property except when the purpose of the appraisal is for use in federally
29 related transactions;

30 ~~(26)~~(27) “Uniform Standards of Professional Appraisal Practice”
31 means the entire body of rules, definitions, binding requirements,
32 guidelines, explanatory comments, and ethical conduct provisions, as
33 promulgated by the Appraisal Standards Board of the Appraisal Foundation,
34 which provide the basis for an individual to conduct the practice of
35 professional appraisal with integrity, objectivity, and independent judgment
36 and in an ethical manner; and

1 17-14-202. Powers and duties – Reporting standards – Qualification
 2 standards.

3 (a) The Arkansas Appraiser Licensing and Certification Board may
 4 establish, maintain, report, and periodically update meaningful qualification
 5 standards for state-licensed, registered apprentice, and state-certified
 6 appraisers practicing in the State of Arkansas, including testing,
 7 experience, and educational requirements that:

8 (1) Are adequate to demonstrate knowledge and competency; and

9 (2) Will further demonstrate the continued compliance with:

10 (A) All applicable federal law and regulations, including
 11 Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act
 12 of 1989, and related requirements of the federal financial institutions
 13 regulatory agencies; and

14 (B) The minimum standards and qualifications as
 15 promulgated by the Appraisal Standards Board and the Appraiser Qualifications
 16 Board of the Appraisal Foundation ~~and as approved by the Appraisal~~
 17 ~~Subcommittee.~~

18 (b) The Arkansas Appraiser Licensing and Certification Board may
 19 adopt, maintain, report, and periodically update minimum reporting standards
 20 for state-registered, state-licensed, registered apprentice, and state-
 21 certified appraisers practicing in the State of Arkansas. The reporting
 22 standards shall:

23 (1) Be equivalent to the “Uniform Standards of Professional
 24 Appraisal Practice” as promulgated by the Appraisal Standards Board of the
 25 Appraisal Foundation; and

26 (2) At all times seek compliance with:

27 (A) All applicable federal law and regulations, including
 28 Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act
 29 of 1989, and related requirements of the federal financial institutions
 30 regulatory agencies; and

31 (B) The minimum standards as promulgated by the Appraisal
 32 Standards Board of the Appraisal Foundation ~~and as approved by the Appraisal~~
 33 ~~Subcommittee.~~

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 35 SECTION 6. Arkansas Code § 17-14-203(5) and (6), concerning the powers
 36 and duties of the Arkansas Appraiser Licensing and Certification Board, are

1 amended to read as follows:

2 (5)(A) Maintain a roster of the names, addresses, email
3 addresses, and telephone numbers of all persons licensed and certified under
4 the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq.,
5 § 17-14-201 et seq., and § 17-14-301 et seq., and, in accordance with
6 sections 1103(a)(3) and 1109(a)(1) of Title XI of the Financial Institutions
7 Reform, Recovery, and Enforcement Act of 1989, shall submit this roster
8 ~~annually~~ monthly to the Appraisal Subcommittee.

9 (B) This roster may be published and periodically updated
10 and provided to all interested parties at cost;

11 (6)(A) Establish by rule the minimum examination, education,
12 experience, and continuing education requirements for state-registered,
13 state-licensed, registered apprentice, and state-certified appraisers.

14 (B)(i) The criteria for a state-registered appraiser shall
15 be less rigorous than the criteria for a state-licensed appraiser.

16 (ii) The criteria for a state-licensed appraiser
17 shall be less rigorous than the criteria for a state-certified appraiser.
18 However, the criteria will ensure that licensed appraisers have sufficient
19 experience and training to perform appraisals for transactions within and in
20 compliance with Title XI of the Financial Institutions Reform, Recovery, and
21 Enforcement Act of 1989.

22 (C) These rules shall at all times be equivalent to the
23 minimum appraiser-qualification criteria as promulgated by the Appraiser
24 Qualifications Board of the Appraisal Foundation for state-licensed,
25 registered apprentice, and state-certified appraisers performing federally
26 related transactions.

27 (D) With respect to examinations, these rules shall at all
28 times require minimum examination contents that are equivalent to the
29 national uniform examination content as promulgated by the Appraiser
30 Qualifications Board of the Appraisal Foundation and shall provide for the
31 selection and utilization of a testing service acceptable to the Appraiser
32 Qualifications Board of the Appraisal Foundation.

33 (E)(i) Every application for registering, licensing, and
34 ~~certification~~ certifying shall be accompanied by an application ~~and~~
35 ~~examination fee, as applicable,~~ and a criminal background check fee that the
36 Arkansas Appraiser Licensing and Certification Board may establish by rule.

(ii) However, the Arkansas Appraiser Licensing and Certification Board, at its discretion, may direct each applicant to pay the actual cost of the examination fee directly to a testing service engaged by the Arkansas Appraiser Licensing and Certification Board to administer the examination.

(F)(i) ~~The examination application fee for registering, licensing, or certification to upgrade a credential from registered apprentice to state-licensed or to state-certified~~ shall not exceed one hundred dollars (\$100).

(ii) The application fee to upgrade a credential from state-licensed or state-certified to state-registered shall not exceed fifty dollars (\$50.00).

(G) The total annual resident registering, licensing, certification, and application fees established by the Arkansas Appraiser Licensing and Certification Board shall not exceed three hundred dollars (\$300), excluding fees for:

- (i) Applicable examination and federal pass-through fees; and
- (ii) Criminal background check fees.

(H) Courses, schools, seminars, and any other educational programs must be recognized by the Arkansas Appraiser Licensing and Certification Board as acceptable to satisfy registration, licensing, and certification standards and continuing education requirements under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.;

SECTION 7. Arkansas Code § 17-14-203(12)(A)(ii), concerning the powers and duties of the Arkansas Appraiser Licensing and Certification Board, is amended to read as follows:

(ii) Subdivision (12)(A)(i) of this section applies to an application for a state-registered appraiser credential, an application for a registered apprentice appraiser credential, an application to upgrade an existing appraiser credential, an application to reinstate an appraiser credential that has been inactive for more than twelve (12) months, and an application for a new reciprocal appraiser credential.

1 SECTION 8. Arkansas Code § 17-14-205(b), concerning hearings, review,
2 and access to records of the Arkansas Appraisal Licensing and Certification
3 Board, is amended to read as follows:

4 (b) Disciplinary hearings conducted by the board for the purpose of
5 determining whether to levy civil penalties under the Arkansas Appraiser
6 Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq.,
7 and § 17-14-301 et seq., and for the purpose of determining whether to revoke
8 or suspend any registration, license, or certificate issued under the
9 Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., §
10 17-14-201 et seq., and § 17-14-301 et seq., shall not be deemed open public
11 meetings but shall be executive sessions conducted as provided for in the
12 Freedom of Information Act of 1967, § 25-19-101 et seq.

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14 SECTION 9. Arkansas Code § 17-14-206, concerning complaints and
15 disciplinary procedures of the Arkansas Appraiser Licensing and Certification
16 Board, is amended to add an additional subsection to read as follows:

17 (c)(1) An action in tort or contract, whether oral or written, to
18 recover damages for malpractice, negligence, error, mistake, omission, or
19 breach shall not be brought against a registered apprentice appraiser, a
20 state-registered appraiser, a state-licensed appraiser, or a state-certified
21 appraiser, including any agent, firm, employee, or employer thereof, after
22 three (3) years from the date on which the appraisal or appraisal-related
23 service giving rise to the action was completed or should have been
24 completed.

25 (2) The time for commencement of an action contained in
26 subdivision (c)(1) of this section does not apply to any claim alleging that
27 a state-registered appraiser, state-licensed appraiser, registered apprentice
28 appraiser, or state-certified appraiser knowingly and intentionally:

29 (A) Committed fraud; or

30 (B) Made misrepresentations when performing a real estate
31 appraisal or when providing an appraisal-related service.

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33 SECTION 10. Arkansas Code § 17-14-303(a), concerning unlicensed
34 persons and federally and nonfederally related transactions relating to
35 appraisers, is amended to read as follows:

36 (a) It is a Class B misdemeanor for any person who is not licensed,

1 registered, or certified under the Arkansas Appraiser Licensing and
 2 Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301
 3 et seq., to perform appraisal services as defined in the Arkansas Appraiser
 4 Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq.,
 5 and § 17-14-301 et seq., in connection with a federally related transaction.
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7 SECTION 11. Arkansas Code § 17-14-304(d) and (e), concerning the use
 8 of terms related to appraisers and appraisals, are amended to read as
 9 follows:

10 (d) A person other than a state-registered appraiser, state-licensed
 11 appraiser, registered apprentice appraiser, or state-certified appraiser
 12 shall not assume or use that title or any title, designation, or abbreviation
 13 likely to create the impression of registration, licensing, or certification
 14 as an appraiser by this state.

15 (e) A person who is not registered, licensed, or certified under the
 16 Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., §
 17 17-14-201 et seq., and § 17-14-301 et seq., shall not describe or refer to
 18 any appraisal report, written or oral, or other evaluation of real estate
 19 covered under the activities of appraisers by the term “registered”,
 20 “licensed”, “certified”, or any other similar term that may be construed to
 21 imply qualification or competency recognized by the state.
 22

23 SECTION 12. Arkansas Code §§ 17-14-305 and 17-14-306 are amended to
 24 read as follows:

25 17-14-305. Compliance with uniform standards and code of ethics –
 26 Seals – Licensing and certification documents.

27 (a)(1) Each state-registered appraiser, each state-licensed appraiser,
 28 each registered apprentice appraiser, and each state-certified appraiser
 29 shall comply with the Uniform Standards of Professional Appraisal Practice
 30 and Code of Ethics adopted by the Arkansas Appraiser Licensing and
 31 Certification Board and shall authenticate all written appraisal reports with
 32 a seal that shall indicate the registration, license, or certification
 33 number.

34 (2) The seal and number shall also be used in all statements of
 35 qualifications, contracts, or other instruments used by the registration,
 36 license, or certificate holder when reference is made to his or her status as

1 a state-registered appraiser, state-licensed appraiser, registered apprentice
2 appraiser, or a state-certified appraiser.

3 (b) Registration, license, and certificate documents, licenses,
4 certificates, seals, and pocket cards shall remain the property of the state,
5 and, upon any suspension, revocation, or other termination of a registration,
6 license, or certification under the Arkansas Appraiser Licensing and
7 Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301
8 et seq., the individual holding the related documents shall immediately
9 return the documents to the board.

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11 17-14-306. Additional licenses – Nonresidents.

12 (a)(1) Every applicant for registration, licensure, or certification
13 under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et
14 seq., § 17-14-201 et seq., and § 17-14-301 et seq., who is not a resident of
15 this state shall submit with the application for registration, licensure, or
16 certification an irrevocable consent that service of process upon him or her
17 may be made by delivery of the process to the Secretary of State if, in an
18 action against the applicant in a court of this state arising out of the
19 applicant’s activities as a state-registered appraiser, state-licensed
20 appraiser, registered apprentice appraiser, or state-certified appraiser, the
21 plaintiff cannot effect personal service upon the applicant.

22 (2) A nonresident of this state who has complied with this
23 provision may obtain a license or certification as a state-licensed appraiser
24 or a state-certified appraiser by complying with the Arkansas Appraiser
25 Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq.,
26 and § 17-14-301 et seq., relating to state-registered appraisers, state-
27 licensed appraisers, or state-certified appraisers, including the payment of
28 a fee.

29 (b)(1) If, in the determination by the Arkansas Appraiser Licensing
30 and Certification Board, another state is deemed to have substantially
31 equivalent licensing and certification requirements, an applicant who is
32 licensed or certified under the laws of the other state may obtain a
33 ~~temporary or~~ nonresident license or certificate as a state-licensed appraiser
34 or a state-certified appraiser in this state upon such terms and conditions
35 as may be determined by the board.

36 (2) An appropriate fee is to be charged.

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SECTION 13. Arkansas Code § 17-14-308(b)(2), concerning the violation of law and civil penalties, injunctions, and venue related to appraisers, is amended to read as follows:

(2) Any person cosigning an appraisal with a state-registered, state-licensed, registered apprentice, or state-certified appraiser becomes subject to the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.