



Rep. Angelo Saviano

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1 AMENDMENT TO HOUSE BILL 5868

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5868, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Real Estate Appraiser Licensing Act of 2002  
6 is amended by changing Sections 1-10, 5-5, 10-10, 15-5, 15-15,  
7 and 25-10 and by adding Section 5-20.3 as follows:

8 (225 ILCS 458/1-10)

9 (Section scheduled to be repealed on January 1, 2012)

10 Sec. 1-10. Definitions. As used in this Act, unless the  
11 context otherwise requires:

12 "Accredited college or university, junior college, or  
13 community college" means a college or university, junior  
14 college, or community college that is approved or accredited by  
15 the Board of Higher Education, a regional or national  
16 accreditation association, or by an accrediting agency that is

1 recognized by the U.S. Secretary of Education.

2 "Applicant" means person who applies to the Department for  
3 a license under this Act.

4 "Appraisal" means (noun) the act or process of developing  
5 an opinion of value; an opinion of value (adjective) of or  
6 pertaining to appraising and related functions, such as  
7 appraisal practice or appraisal services.

8 "Appraisal assignment" means a valuation service provided  
9 as a consequence of an agreement between an appraiser and a  
10 client.

11 "Appraisal company" means any individual, corporation,  
12 partnership, sole proprietorship, subsidiary, unit, or other  
13 business entity that (i) administers networks of independent  
14 contractor appraisers to perform real estate appraisal  
15 services for clients; (ii) receives requests for real estate  
16 appraisal services from clients and enters into an agreement  
17 with one or more independent contractor appraisers to perform  
18 the real estate appraisal services contained in the request; or  
19 (iii) otherwise serves as a third-party broker of appraisal  
20 services between clients and appraisers.

21 For the purposes of this definition, "appraisal company"  
22 includes an appraisal management company.

23 "Appraisal consulting" means the act or process of  
24 developing an analysis, recommendation, or opinion to solve a  
25 problem, where an opinion of value is a component of the  
26 analysis leading to the assignment results.

1       "Appraisal management company" means a business entity  
2 that (i) administers a network of certified and licensed  
3 appraisers to fulfill real estate appraisal assignments on  
4 behalf of mortgage lending institutions, as well as other  
5 entities; (ii) recruits, qualifies, verifies the licensing of,  
6 and negotiates fees and service level expectations with a  
7 network of third-party appraisers; (iii) provides  
8 administrative duties including order entry and assignment,  
9 tracking and status updates, pre-delivery quality control, and  
10 preliminary and hard copy report delivery; and (iv) involves  
11 ongoing quality control, accounts payable and receivable,  
12 market value dispute resolution, warranty administration, and  
13 record retention.

14       "Appraisal practice" means valuation services performed by  
15 an individual acting as an appraiser, including, but not  
16 limited to, appraisal, appraisal review, or appraisal  
17 consulting.

18       "Appraisal report" means any communication, written or  
19 oral, of an appraisal, appraisal review, or appraisal  
20 consulting service that is transmitted to a client upon  
21 completion of an assignment.

22       "Appraisal review" means the act or process of developing  
23 and communicating an opinion about the quality of another  
24 appraiser's work that was performed as part of an appraisal,  
25 appraisal review, or appraisal assignment.

26       "Appraisal Subcommittee" means the Appraisal Subcommittee

1 of the Federal Financial Institutions Examination Council as  
2 established by Title XI.

3 "Appraiser" means a person, corporation, limited liability  
4 company, registered limited liability partnership, or  
5 partnership that who performs real estate or real property  
6 appraisals. "Appraiser" does not mean an appraisal company or  
7 appraisal management company.

8 "AOB" means the Appraisal Qualifications Board of the  
9 Appraisal Foundation.

10 "Associate real estate trainee appraiser" means an  
11 entry-level appraiser who holds a license of this  
12 classification under this Act with restrictions as to the scope  
13 of practice in accordance with this Act.

14 "Board" means the Real Estate Appraisal Administration and  
15 Disciplinary Board.

16 "Classroom hour" means 50 minutes of instruction out of  
17 each 60 minute segment of coursework.

18 "Client" means (i) the party or parties who engage an  
19 appraiser or appraisal management company by employment or  
20 contract in a specific assignment or (ii) the person who  
21 utilizes the services of an appraiser or engages an appraiser  
22 for an appraisal by employment or contract ~~in a specific~~  
23 ~~assignment.~~

24 "Coordinator" means the Coordinator of Real Estate  
25 Appraisal of the Division of Professional Regulation of the  
26 Department of Financial and Professional Regulation.

1 "Department" means the Department of Financial and  
2 Professional Regulation.

3 "Due date" means the agreed upon date, based on Central  
4 Standard Time, by which an assignment result is to be received  
5 by the client.

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

11 "Federally related transaction" means any real  
12 estate-related financial transaction in which a federal  
13 financial institutions regulatory agency, the Department of  
14 Housing and Urban Development, Fannie Mae, Freddie Mae, or the  
15 National Credit Union Administration engages in, contracts  
16 for, or regulates and requires the services of an appraiser.

17 "Financial institution" means any bank, savings bank,  
18 savings and loan association, credit union, mortgage broker,  
19 mortgage banker, licensee under the Consumer Installment Loan  
20 Act or the Sales Finance Agency Act, or a corporate fiduciary,  
21 subsidiary, affiliate, parent company, or holding company of  
22 any such licensee, or any institution involved in real estate  
23 financing that is regulated by state or federal law.

24 "Managing appraiser" means a certified appraiser who has  
25 supervisory responsibilities for licensees in one or, in the  
26 case of a multi-office company, more than one office and who

1 has been appointed as such by the owning appraiser.

2 "Modular Course" means the Appraisal Qualifying Course  
3 Design conforming to the Sub Topics Course Outline contained in  
4 the AQB Criteria 2008.

5 "Real estate" means an identified parcel or tract of land,  
6 including any improvements.

7 "Real estate related financial transaction" means any  
8 transaction involving:

9 (1) the sale, lease, purchase, investment in, or  
10 exchange of real property, including interests in property  
11 or the financing thereof;

12 (2) the refinancing of real property or interests in  
13 real property; and

14 (3) the use of real property or interest in property as  
15 security for a loan or investment, including mortgage  
16 backed securities.

17 "Real property" means the interests, benefits, and rights  
18 inherent in the ownership of real estate.

19 "Secretary" means the Secretary of Financial and  
20 Professional Regulation.

21 "State certified general real estate appraiser" means an  
22 appraiser who holds a license of this classification under this  
23 Act and such classification applies to the appraisal of all  
24 types of real property without restrictions as to the scope of  
25 practice.

26 "State certified residential real estate appraiser" means

1 an appraiser who holds a license of this classification under  
2 this Act and such classification applies to the appraisal of  
3 one to 4 units of residential real property without regard to  
4 transaction value or complexity, but with restrictions as to  
5 the scope of practice in a federally related transaction in  
6 accordance with Title XI, the provisions of USPAP, criteria  
7 established by the AQB, and further defined by rule.

8 "Supervising appraiser" means either (i) an appraiser who  
9 holds a valid license under this Act as either a State  
10 certified general real estate appraiser or a State certified  
11 residential real estate appraiser, who co-signs an appraisal  
12 report for an associate real estate trainee appraiser or (ii) a  
13 State certified general real estate appraiser who holds a valid  
14 license under this Act who co-signs an appraisal report for a  
15 State certified residential real estate appraiser on  
16 properties other than one to 4 units of residential real  
17 property without regard to transaction value or complexity.

18 "Title XI" means Title XI of the federal Financial  
19 Institutions Reform, Recovery and Enforcement Act of 1989.

20 "Turnaround time" or "turn time" means the period from when  
21 an appraisal assignment is accepted by an appraiser or  
22 appraisal company until it is received by the vendor management  
23 company.

24 "USPAP" means the Uniform Standards of Professional  
25 Appraisal Practice as promulgated by the Appraisal Standards  
26 Board pursuant to Title XI and by rule.

1 "Valuation services" means services pertaining to aspects  
2 of property value.

3 (Source: P.A. 96-844, eff. 12-23-09.)

4 (225 ILCS 458/5-5)

5 (Section scheduled to be repealed on January 1, 2012)

6 Sec. 5-5. Necessity of license; use of title; exemptions.

7 (a) It is unlawful for a person to (i) act, offer services,  
8 or advertise services as a State certified general real estate  
9 appraiser, State certified residential real estate appraiser,  
10 or associate real estate trainee appraiser, (ii) develop a real  
11 estate appraisal, (iii) practice as a real estate appraiser,  
12 (iv) advertise or hold himself or herself out to be a real  
13 estate appraiser, or (v) solicit clients or enter into an  
14 appraisal engagement with clients without a license issued  
15 under this Act. A person who violates this subsection is guilty  
16 of a Class A misdemeanor for a first offense and a Class 4  
17 felony for any subsequent offense.

18 (b) It is unlawful for a person, other than a person who  
19 holds a valid license issued pursuant to this Act as a State  
20 certified general real estate appraiser, a State certified  
21 residential real estate appraiser, or an associate real estate  
22 trainee appraiser to use these titles or any other title,  
23 designation, or abbreviation likely to create the impression  
24 that the person is licensed as a real estate appraiser pursuant  
25 to this Act. A person who violates this subsection is guilty of



1 a Class A misdemeanor for a first offense and a Class 4 felony  
2 for any subsequent offense.

3 (b-1) It is unlawful for any person, corporation, limited  
4 liability company, registered limited liability partnership,  
5 or partnership (i) to act as an appraiser or appraisal company  
6 or to advertise or assume to act as such appraiser or appraisal  
7 company without a properly issued license issued under this Act  
8 by the Department, either directly or through its authorized  
9 designee; (ii) to develop a real estate appraisal; (iii) to  
10 practice as a real estate appraiser; (iv) to advertise or hold  
11 himself, herself, or itself out to be a real estate appraiser  
12 or appraisal company; or (v) to solicit clients or enter into  
13 an appraisal engagement with clients without a real estate  
14 appraiser license or appraisal company license issued under  
15 this Act. A person who violates this subsection (b-1) is guilty  
16 of a Class A misdemeanor for a first offense and a Class 4  
17 felony for any subsequent offense.

18 (b-2) No corporation shall be granted a license or engage  
19 in the business or capacity, either directly or indirectly, of  
20 a real estate appraiser or appraisal company, unless every  
21 officer of the corporation who actively participates in the  
22 activities of the corporation holds a license as a certified  
23 general real estate appraiser or a certified residential real  
24 estate appraiser and unless every employee who acts as an  
25 appraiser for the corporation holds a license as a certified  
26 general real estate appraiser, a certified residential real

1 estate appraiser, or an associate real estate appraisal  
2 trainee.

3 (b-3) No partnership shall be granted a license or engage  
4 in the business or serve in the capacity, either directly or  
5 indirectly, of a real estate appraiser or appraisal company  
6 unless every general partner in the partnership holds a license  
7 as a certified general real estate appraiser or as a certified  
8 residential real estate appraiser and unless every employee who  
9 acts as an appraiser holds a license as a certified general  
10 real estate appraiser, a certified residential appraiser, or as  
11 an associate real estate appraisal trainee.

12 In the case of a registered limited liability partnership  
13 (LLP), every partner in the LLP must hold a license as a  
14 certified certified general real estate appraiser or as a  
15 certified residential real estate appraiser and every employee  
16 who acts as an appraiser must hold a license as a certified  
17 general real estate appraiser, a certified residential real  
18 estate appraiser, or an associate real estate appraisal  
19 trainee.

20 (b-4) No limited liability company shall be granted a  
21 license or engage in the business or serve in the capacity,  
22 either directly or indirectly, of a real estate appraiser or  
23 appraisal company unless every member, employee, and  
24 independent contractor of the limited liability company who  
25 acts as an appraiser holds a license as a certified residential  
26 real estate appraiser or an associate real estate appraisal

1 trainee.

2 (b-5) No person, corporation, limited liability company,  
3 registered limited liability partnership, or partnership shall  
4 be licensed to conduct an appraisal business if an individual  
5 or group of individuals who are not licensed as certified  
6 appraisers in this State directly own or indirectly control  
7 more than 49% of the shares of stock or other ownership in the  
8 partnership or corporation.

9 (b-6) Except as provided in this Section, each appraiser  
10 shall maintain a definite office or place of business within  
11 this State for the transaction of appraisal business, and shall  
12 conspicuously display his or her license in his or her office  
13 or place of business. An appraiser who is licensed in this  
14 State pursuant to Sections 5-10, 5-15, and 5-30 of this Act  
15 shall not be required to maintain a definite office or place of  
16 business in this State provided all of the following conditions  
17 are met:

18 (1) the appraiser maintains an active certified  
19 general real estate appraiser license or a certified  
20 residential real estate appraiser license in the  
21 appraiser's state of domicile

22 (2) the appraiser maintains an office in the  
23 appraiser's state of domicile; and

24 (3) the appraiser has filed with the Department written  
25 statements appointing the Secretary to act as the  
26 appraiser's agent upon whom all judicial and other process

1       or legal notices directed to the licensee may be served and  
2       agreeing to abide by all of the provisions of this Act with  
3       respect to his or her appraisal activities within the State  
4       of Illinois and submitting to the jurisdiction of the  
5       Department.

6       (b-7) Except as provided in this Section, each appraisal  
7       company shall maintain a definite office or place of business  
8       within this State for the transaction of appraisal business,  
9       and shall conspicuously display its license in its office or  
10       place of business. An appraisal company that is licensed in  
11       this State pursuant to Section 5-20.3 of this Act shall not be  
12       required to maintain a definite office or place of business in  
13       this State provided all of the following conditions are met:

14               (1) the appraisal company is authorized to conduct  
15               business as an appraisal company in its state of domicile

16               (2) the appraisal company maintains an office in its  
17               state of domicile; and

18               (3) the appraisal company has filed with the Department  
19               written statements appointing the Secretary to act as the  
20               appraisal company's agent upon whom all judicial and other  
21               process or legal notices directed to the licensee may be  
22               served and agreeing to abide by all of the provisions of  
23               this Act with respect to its appraisal activities within  
24               the State of Illinois and submitting to the jurisdiction of  
25               the Department.

26       (b-8) Upon the loss of a managing appraiser who is not

1 replaced or in the event of the death or adjudicated disability  
2 of the sole proprietor of an office, a written request for  
3 authorization allowing the continued operation of the office  
4 may be submitted to the Department within 15 days after the  
5 loss. The Department may issue a written authorization allowing  
6 the continued operation, provided that a certified appraiser,  
7 or in the case of the death or adjudicated disability of a sole  
8 proprietor, the representative of the estate assumes  
9 responsibility, in writing, for the operation of the office and  
10 agrees to personally supervise the operation of the office. No  
11 such written authorization shall be valid for more than 60 days  
12 unless extended by the Department for good cause shown and upon  
13 written request by the appraiser or representative.

14 (c) The licensing requirements of this Act do not require a  
15 person who holds a valid license pursuant to the Real Estate  
16 License Act of 2000, to be licensed as a real estate appraiser  
17 under this Act, unless that person is providing or attempting  
18 to provide an appraisal report, as defined in Section 1-10 of  
19 this Act, in connection with a federally-related transaction.  
20 Nothing in this Act shall prohibit a person who holds a valid  
21 license under the Real Estate License Act of 2000 from  
22 performing a comparative market analysis or broker price  
23 opinion for compensation, provided that the person does not  
24 hold himself out as being a licensed real estate appraiser.

25 (d) Nothing in this Act shall preclude a State certified  
26 general real estate appraiser, a State certified residential

1 real estate appraiser, or an associate real estate trainee  
2 appraiser from rendering appraisals for or on behalf of a  
3 partnership, association, corporation, firm, or group.  
4 ~~However, no State appraisal license or certification shall be~~  
5 ~~issued under this Act to a partnership, association,~~  
6 ~~corporation, firm, or group.~~

7 (e) This Act does not apply to a county assessor, township  
8 assessor, multi-township assessor, county supervisor of  
9 assessments, or any deputy or employee of any county assessor,  
10 township assessor, multi-township assessor, or county  
11 supervisor of assessments who is performing his or her  
12 respective duties in accordance with the provisions of the  
13 Property Tax Code.

14 (f) A State real estate appraisal certification or license  
15 is not required under this Act for any of the following:

16 (1) A person, partnership, association, or corporation  
17 that performs appraisals of property owned by that person,  
18 partnership, association, or corporation for the sole use  
19 of that person, partnership, association, or corporation.

20 (2) A court-appointed commissioner who conducts an  
21 appraisal pursuant to a judicially ordered evaluation of  
22 property.

23 However, any person who is certified or licensed under this Act  
24 and who performs any of the activities set forth in this  
25 subsection (f) must comply with the provisions of this Act. A  
26 person who violates this subsection (f) is guilty of a Class A

1 misdemeanor for a first offense and a Class 4 felony for any  
2 subsequent offense.

3 (g) This Act does not apply to an employee, officer,  
4 director, or member of a credit or loan committee of a  
5 financial institution or any other person engaged by a  
6 financial institution when performing an evaluation of real  
7 property for the sole use of the financial institution in a  
8 transaction for which the financial institution would not be  
9 required to use the services of a State licensed or State  
10 certified appraiser pursuant to federal regulations adopted  
11 under Title XI of the federal Financial Institutions Reform,  
12 Recovery, and Enforcement Act of 1989, nor does this Act apply  
13 to the procurement of an automated valuation model.

14 "Automated valuation model" means an automated system that  
15 is used to derive a property value through the use of publicly  
16 available property records and various analytic methodologies  
17 such as comparable sales prices, home characteristics, and  
18 historical home price appreciations.

19 (h) This Act does not apply to a corporate relocation  
20 company whereby the appraisal is not used for mortgage purposes  
21 and the end user client is an employer company.

22 (i) This Section shall not be applicable to appraisers or  
23 appraisal companies that contract with independent appraisers  
24 for the performance of fewer than 10 appraisals in this State  
25 in a calendar year.

26 (Source: P.A. 96-844, eff. 12-23-09.)

1 (225 ILCS 458/5-20.3 new)

2 (Section scheduled to be repealed on January 1, 2012)

3 Sec. 5-20.3. Licensure of appraisal company. The  
4 Department of Financial and Professional Regulation shall  
5 adopt by rule standards for the licensure of appraisal  
6 companies designed to protect the public interest and to ensure  
7 compliance with this Act. The Department shall specify any  
8 qualifications, including education or training, necessary for  
9 licensure. The fee for licensure as an appraisal company  
10 license shall not exceed \$50.

11 (225 ILCS 458/10-10)

12 (Section scheduled to be repealed on January 1, 2012)

13 Sec. 10-10. Standards of practice. All persons licensed  
14 under this Act as certified general real estate appraisers,  
15 certified residential real estate appraisers, or associate  
16 real estate appraisal trainees must comply with standards of  
17 professional appraisal practice adopted by the Department. The  
18 Department must adopt, as part of its rules, the Uniform  
19 Standards of Professional Appraisal Practice (USPAP) as  
20 published from time to time by the Appraisal Standards Board of  
21 the Appraisal Foundation. The Department shall consider  
22 federal laws and regulations regarding the licensure of real  
23 estate appraisers prior to adopting its rules for the  
24 administration of this Act. An appraisal company shall not



1 request that an appraiser in any way violate the standards of  
2 USPAP. An appraisal company shall not redact or otherwise  
3 obscure compensation related disclosures contained within the  
4 body of an appraisal report.

5 (Source: P.A. 96-844, eff. 12-23-09.)

6 (225 ILCS 458/15-5)

7 (Section scheduled to be repealed on January 1, 2012)

8 Sec. 15-5. Unlicensed practice; civil penalty; injunctive  
9 relief; unlawful influence.

10 (a) A person who violates Section 5-5 of this Act shall, in  
11 addition to any other penalty provided by law, pay a civil  
12 penalty to the Department in an amount not to exceed \$25,000  
13 for each violation as determined by the Secretary. The civil  
14 penalty shall be assessed by the Secretary after a hearing in  
15 accordance with the provisions of this Act regarding the  
16 provision of a hearing for the discipline of a license.

17 (b) The Department has the authority to investigate any  
18 activity that may violate this Act.

19 (c) A civil penalty imposed pursuant to subsection (a)  
20 shall be paid within 60 days after the effective date of the  
21 order imposing the civil penalty. The order shall constitute a  
22 judgment and may be filed and executed in the same manner as  
23 any judgment from any court of record. Any civil penalty  
24 collected under this Act shall be made payable to the  
25 Department of Financial and Professional Regulation and

1 deposited into the Appraisal Administration Fund. In addition  
2 to or in lieu of the imposition of a civil penalty, the  
3 Department may report a violation of this Act or the failure or  
4 refusal to comply with an order of the Department to the  
5 Attorney General or to the appropriate State's Attorney.

6 (d) Practicing as an appraiser without holding a valid  
7 license as required under this Act is declared to be adverse to  
8 the public welfare, to constitute a public nuisance, and to  
9 cause irreparable harm to the public welfare. The Secretary,  
10 the Attorney General, or the State's Attorney of any county in  
11 the State may maintain an action for injunctive relief in any  
12 circuit court to enjoin any person from engaging in such  
13 practice.

14 Upon the filing of a verified petition in a circuit court,  
15 the court, if satisfied by affidavit or otherwise that a person  
16 has been engaged in the practice of real estate appraisal  
17 without a valid license, may enter a temporary restraining  
18 order without notice or bond enjoining the defendant from  
19 further practice. The showing of non-licensure, by affidavit or  
20 otherwise, is sufficient for the issuance of a temporary  
21 injunction. If it is established that the defendant has been or  
22 is engaged in unlawful practice, the court may enter an order  
23 or judgment perpetually enjoining the defendant from further  
24 unlawful practice. In all proceedings under this Section, the  
25 court, in its discretion, may apportion the costs among the  
26 parties interested in the action, including the cost of filing

1 the complaint, service of process, witness fees and expenses,  
2 court reporter charges, and reasonable attorneys' fees. These  
3 injunction proceedings shall be in addition to, and not in lieu  
4 of, all penalties and other remedies provided in this Act.

5 (e) No person shall influence or attempt to influence  
6 through coercion, extortion, or bribery the independent  
7 judgment of an appraiser licensed or certified under this Act  
8 in the development, reporting, result, or review of a real  
9 estate appraisal. A person who violates this subsection (e) is  
10 guilty of a Class A misdemeanor for the first offense and a  
11 Class 4 felony for any subsequent offense.

12 (f) It shall be unlawful for any employee, director,  
13 officer, or agent of an appraisal company licensed in this  
14 State to influence or attempt to influence the development,  
15 reporting, or review of an appraisal through coercion,  
16 extortion, collusion, compensation, instruction, inducement,  
17 intimidation, bribery, or in any other manner, including, but  
18 not limited to, the following:

19 (1) withholding or threatening to withhold timely  
20 payment for an appraisal;

21 (2) withholding or threatening to withhold future  
22 business for an independent appraiser, or demoting or  
23 terminating or threatening to demote or terminate an  
24 independent appraiser;

25 (3) imposing turnaround time monetary penalties that  
26 are not specified at the time of engagement;

1           (4) requiring an appraiser to submit a notice of  
2 absence when not an employee of the entity;

3           (5) requiring an appraiser to sign a non-compete clause  
4 when not an employee of the entity;

5           (6) requesting the payment of compensation to achieve  
6 higher priority in the assignment of appraisal business;

7           (7) requiring an appraiser to pay or otherwise  
8 compensate the appraisal company for fees to upload or  
9 otherwise deliver an appraisal report, fees for a report  
10 transmitted after a due date, or fees for reviewing the  
11 report;

12           (8) requiring an appraiser or appraisal company to sign  
13 any sort of indemnification agreement that would require  
14 the appraiser to defend and hold harmless the appraisal  
15 company, any software provider that an appraisal company  
16 requires an appraiser to use, or any other entity that the  
17 appraisal company does business with, from any liability,  
18 damage, loss, or claim that does not arise as a result of  
19 the appraiser's performance of the appraisal assignment;  
20 and

21           (9) requiring an appraiser who is not an employee of  
22 the appraisal company to collect the appraisal fee from the  
23 borrower, occupant, or any other person.

24           (g) It shall be unlawful for any licensed appraiser or  
25 appraisal company to alter, modify, or otherwise change a  
26 completed appraisal report submitted by an independent

1 appraiser, including, without limitation, by doing any of the  
2 following:

3 (1) permanently removing the appraiser's signature or  
4 seal;

5 (2) adding information to, or removing information  
6 from, the appraisal report with an intent to change the  
7 value conclusion;

8 (3) expressly or impliedly promising future business,  
9 promotions, or increased compensation for an independent  
10 appraiser;

11 (4) conditioning the request for an appraisal service  
12 or the payment of an appraisal fee or salary or bonus on  
13 the opinion, conclusion, or valuation to be reached, or on  
14 a preliminary estimate or opinion requested from an  
15 independent appraiser;

16 (5) requesting that an independent appraiser provide  
17 an estimated, predetermined, or desired valuation in an  
18 appraisal report, or provide estimated values or  
19 comparable sales at any time prior to the independent  
20 appraiser's completion of an appraisal service;

21 (6) providing to an independent appraiser an  
22 anticipated, estimated, encouraged, or desired value for a  
23 subject property or a proposed or target amount to be  
24 loaned to the borrower, except that a copy of the sales  
25 contract for purchase transactions may be provided;

26 (7) providing to an independent appraiser, or any

1 entity or person related to the appraiser, stock or other  
2 financial or non-financial benefits;

3 (8) allowing the removal of an independent appraiser  
4 from an appraiser panel, without prior written notice to  
5 such appraiser;

6 (9) obtaining, using, or paying for a second or  
7 subsequent appraisal or ordering an automated valuation  
8 model in connection with a mortgage financing transaction  
9 unless there is a reasonable basis to believe that the  
10 initial appraisal was flawed or tainted and such basis is  
11 clearly and appropriately noted in the loan file, or unless  
12 such appraisal or automated valuation model is done  
13 pursuant to a bona fide pre- or post-funding appraisal  
14 review or quality control process; or

15 (10) any other act or practice that impairs or attempts  
16 to impair an appraiser's independence, objectivity, or  
17 impartiality.

18 (Source: P.A. 96-844, eff. 12-23-09.)

19 (225 ILCS 458/15-15)

20 (Section scheduled to be repealed on January 1, 2012)

21 Sec. 15-15. Investigation; notice; hearing.

22 (a) Upon the motion of the Department or the Board or upon  
23 a complaint in writing of a person setting forth facts that, if  
24 proven, would constitute grounds for suspension, revocation,  
25 or other disciplinary action against a licensee or applicant

1 for licensure, the Department or the Board shall investigate  
2 the actions of the licensee or applicant. If, upon  
3 investigation, the Department believes that there may be cause  
4 for suspension, revocation, or other disciplinary action, the  
5 Department shall use the services of a State certified general  
6 real estate appraiser, a State certified residential real  
7 estate appraiser, or the Real Estate Coordinator to assist in  
8 determining whether grounds for disciplinary action exist  
9 prior to commencing formal disciplinary proceedings.

10 (b) Formal disciplinary proceedings shall commence upon  
11 the issuance of a written complaint describing the charges that  
12 are the basis of the disciplinary action and delivery of the  
13 detailed complaint to the address of record of the licensee or  
14 applicant. The Department shall notify the licensee or  
15 applicant to file a verified written answer within 20 days  
16 after the service of the notice and complaint. The notification  
17 shall inform the licensee or applicant of his or her right to  
18 be heard in person or by legal counsel; that the hearing will  
19 be afforded not sooner than 30 days after service of the  
20 complaint; that failure to file an answer will result in a  
21 default being entered against the licensee or applicant; that  
22 the license may be suspended, revoked, or placed on  
23 probationary status; and that other disciplinary action may be  
24 taken pursuant to this Act, including limiting the scope,  
25 nature, or extent of the licensee's practice. If the licensee  
26 or applicant fails to file an answer after service of notice,

1 his or her license may, at the discretion of the Department, be  
2 suspended, revoked, or placed on probationary status and the  
3 Department may take whatever disciplinary action it deems  
4 proper, including limiting the scope, nature, or extent of the  
5 person's practice, without a hearing.

6 (c) At the time and place fixed in the notice, the Board  
7 shall conduct hearing of the charges, providing both the  
8 accused person and the complainant ample opportunity to present  
9 in person or by counsel such statements, testimony, evidence,  
10 and argument as may be pertinent to the charges or to a defense  
11 thereto.

12 (d) The Board shall present to the Secretary a written  
13 report of its findings and recommendations. A copy of the  
14 report shall be served upon the licensee or applicant, either  
15 personally or by certified mail. Within 20 days after the  
16 service, the licensee or applicant may present the Secretary  
17 with a motion in writing for either a rehearing, a proposed  
18 finding of fact, a conclusion of law, or an alternative  
19 sanction, and shall specify the particular grounds for the  
20 request. If the accused orders a transcript of the record as  
21 provided in this Act, the time elapsing thereafter and before  
22 the transcript is ready for delivery to the accused shall not  
23 be counted as part of the 20 days. If the Secretary is not  
24 satisfied that substantial justice has been done, the Secretary  
25 may order a rehearing by the Board or other special committee  
26 appointed by the Secretary, may remand the matter to the Board



1 for its reconsideration of the matter based on the pleadings  
2 and evidence presented to the Board, or may enter a final order  
3 in contravention of the Board's recommendation. In all  
4 instances under this Act in which the Board has rendered a  
5 recommendation to the Secretary with respect to a particular  
6 licensee or applicant, the Secretary, if he or she disagrees  
7 with the recommendation of the Board, shall file with the Board  
8 and provide to the licensee or applicant a copy of the  
9 Secretary's specific written reasons for disagreement with the  
10 Board. The reasons shall be filed within 60 days of the Board's  
11 recommendation to the Secretary and prior to any contrary  
12 action. Notwithstanding a licensee's or applicant's failure to  
13 file a motion for rehearing, the Secretary shall have the right  
14 to take any of the actions specified in this subsection (d).  
15 Upon the suspension or revocation of a license, the licensee  
16 shall be required to surrender his or her license to the  
17 Department, and upon failure or refusal to do so, the  
18 Department shall have the right to seize the license.

19 (e) The Department has the power to issue subpoenas and  
20 subpoenas duces tecum to bring before it any person in this  
21 State, to take testimony, or to require production of any  
22 records relevant to an inquiry or hearing by the Board in the  
23 same manner as prescribed by law in judicial proceedings in the  
24 courts of this State. In a case of refusal of a witness to  
25 attend, testify, or to produce books or papers concerning a  
26 matter upon which he or she might be lawfully examined, the

1 circuit court of the county where the hearing is held, upon  
2 application of the Department or any party to the proceeding,  
3 may compel obedience by proceedings as for contempt.

4 (f) Any license that is suspended indefinitely or revoked  
5 may not be restored for a minimum period of 2 years, or as  
6 otherwise ordered by the Secretary.

7 (g) In addition to the provisions of this Section  
8 concerning the conduct of hearings and the recommendations for  
9 discipline, the Department has the authority to negotiate  
10 disciplinary and non-disciplinary settlement agreements  
11 concerning any license issued under this Act. All such  
12 agreements shall be recorded as Consent Orders or Consent to  
13 Administrative Supervision Orders.

14 (h) The Secretary shall have the authority to appoint an  
15 attorney duly licensed to practice law in the State of Illinois  
16 to serve as the hearing officer in any action to suspend,  
17 revoke, or otherwise discipline any license issued by the  
18 Department. The Hearing Officer shall have full authority to  
19 conduct the hearing.

20 (i) The Department, at its expense, shall preserve a record  
21 of all formal hearings of any contested case involving the  
22 discipline of a license. At all hearings or pre-hearing  
23 conferences, the Department and the licensee shall be entitled  
24 to have the proceedings transcribed by a certified shorthand  
25 reporter. A copy of the transcribed proceedings shall be made  
26 available to the licensee by the certified shorthand reporter

1 upon payment of the prevailing contract copy rate.

2 (Source: P.A. 96-844, eff. 12-23-09.)

3 (225 ILCS 458/25-10)

4 (Section scheduled to be repealed on January 1, 2012)

5 Sec. 25-10. Real Estate Appraisal Administration and  
6 Disciplinary Board; appointment.

7 (a) There is hereby created the Real Estate Appraisal  
8 Administration and Disciplinary Board. The Board shall be  
9 composed of 11 ~~10~~ persons appointed by the Governor, plus the  
10 Coordinator of the Real Estate Appraisal Division. Members  
11 shall be appointed to the Board subject to the following  
12 conditions:

13 (1) All appointed members shall have been residents and  
14 citizens of this State for at least 5 years prior to the  
15 date of appointment.

16 (2) The appointed membership of the Board should  
17 reasonably reflect the geographic distribution of the  
18 population of the State.

19 (3) Four appointed members shall have been actively  
20 engaged and currently licensed as State certified general  
21 real estate appraisers for a period of not less than 5  
22 years.

23 (4) Two appointed members shall have been actively  
24 engaged and currently licensed as State certified  
25 residential real estate appraisers for a period of not less

1 than 5 years.

2 (5) Two appointed members shall hold a valid license as  
3 a real estate broker for at least 10 years prior to the  
4 date of the appointment, one of whom shall hold a valid  
5 State certified general real estate appraiser license  
6 issued under this Act or a predecessor Act for a period of  
7 at least 5 years prior to the appointment and one of whom  
8 shall hold a valid State certified residential real estate  
9 appraiser license issued under this Act or a predecessor  
10 Act for a period of at least 5 years prior to the  
11 appointment.

12 (6) One appointed member shall be a representative of a  
13 financial institution, as evidenced by his or her  
14 employment with a financial institution.

15 (7) One appointed member shall represent the interests  
16 of the general public. This member or his or her spouse  
17 shall not be licensed under this Act nor be employed by or  
18 have any interest in an appraisal business, real estate  
19 brokerage business, or a financial institution.

20 (8) One appointed member shall be a representative of  
21 an appraisal management company, as evidenced by his or her  
22 being an officer or employee of an appraisal management  
23 company which employs or contracts with, in the aggregate,  
24 at least 10 licensed appraisers.

25 In making appointments as provided in paragraphs (3) and  
26 (4) of this subsection, the Governor shall give due

1 consideration to recommendations by members and organizations  
2 representing the profession.

3 In making the appointments as provided in paragraph (5) of  
4 this subsection, the Governor shall give due consideration to  
5 the recommendations by members and organizations representing  
6 the real estate industry.

7 In making the appointment as provided in paragraph (6) of  
8 this subsection, the Governor shall give due consideration to  
9 the recommendations by members and organizations representing  
10 financial institutions.

11 (b) The term for members of the Board shall be 4 years, and  
12 each member shall serve until his or her successor is appointed  
13 and qualified. No member shall serve more than 10 years in a  
14 lifetime.

15 (c) The Governor may terminate the appointment of a member  
16 for cause that, in the opinion of the Governor, reasonably  
17 justifies the termination. Cause for termination may include,  
18 without limitation, misconduct, incapacity, neglect of duty,  
19 or missing 4 Board meetings during any one calendar year.

20 (d) A majority of the Board members shall constitute a  
21 quorum. A vacancy in the membership of the Board shall not  
22 impair the right of a quorum to exercise all of the rights and  
23 perform all of the duties of the Board.

24 (e) The Board shall meet at least quarterly and may be  
25 convened by the Chairperson, Vice-Chairperson, or 3 members of  
26 the Board upon 10 days written notice.

1           (f) The Board shall, annually at the first meeting of the  
2 fiscal year, elect a Chairperson and Vice-Chairperson from its  
3 members. The Chairperson shall preside over the meetings and  
4 shall coordinate with the Coordinator in developing and  
5 distributing an agenda for each meeting. In the absence of the  
6 Chairperson, the Vice-Chairperson shall preside over the  
7 meeting.

8           (g) The Coordinator of the Real Estate Appraisal Division  
9 shall serve as a member of the Board without vote.

10          (h) The Board shall advise and make recommendations to the  
11 Department on the education and experience qualifications of  
12 any applicant for initial licensure as a State certified  
13 general real estate appraiser or a State certified residential  
14 real estate appraiser. The Department shall not make any  
15 decisions concerning education or experience qualifications of  
16 an applicant for initial licensure as a State certified general  
17 real estate appraiser or a State certified residential real  
18 estate appraiser without having first received the advice and  
19 recommendation of the Board and shall give due consideration to  
20 all such advice and recommendations; however, if the Board does  
21 not render advice or make a recommendation within a reasonable  
22 amount of time, then the Department may render a decision.

23          (h-5) The Board shall issue educational findings, as it  
24 deems appropriate.

25          (i) Except as provided in Section 15-17 of this Act, the  
26 Board shall hear and make recommendations to the Secretary on

1 disciplinary matters that require a formal evidentiary  
2 hearing. The Secretary shall give due consideration to the  
3 recommendations of the Board involving discipline and  
4 questions involving standards of professional conduct of  
5 licensees.

6 (j) The Department shall seek and the Board shall provide  
7 recommendations to the Department consistent with the  
8 provisions of this Act and for the administration and  
9 enforcement of all rules adopted pursuant to this Act. The  
10 Department shall give due consideration to such  
11 recommendations prior to adopting rules.

12 (k) The Department shall seek and the Board shall provide  
13 recommendations to the Department on the approval of all  
14 courses submitted to the Department pursuant to this Act and  
15 the rules adopted pursuant to this Act. The Department shall  
16 not approve any courses without having first received the  
17 recommendation of the Board and shall give due consideration to  
18 such recommendations prior to approving and licensing courses;  
19 however, if the Board does not make a recommendation within a  
20 reasonable amount of time, then the Department may approve  
21 courses.

22 (l) Each voting member of the Board shall receive a per  
23 diem stipend in an amount to be determined by the Secretary.  
24 Each member shall be paid his or her necessary expenses while  
25 engaged in the performance of his or her duties.

26 (m) Members of the Board shall be immune from suit in an

1 action based upon any disciplinary proceedings or other acts  
2 performed in good faith as members of the Board.

3 (n) If the Department disagrees with any advice or  
4 recommendation provided by the Board under this Section to the  
5 Secretary or the Department, then notice of such disagreement  
6 must be provided to the Board by the Department.

7 (o) Upon resolution adopted at any Board meeting, the  
8 exercise of any Board function, power, or duty enumerated in  
9 this Section or in subsection (d) of Section 15-10 of this Act  
10 may be suspended. The exercise of any suspended function,  
11 power, or duty of the Board may be reinstated by a resolution  
12 adopted at a subsequent Board meeting. Any resolution adopted  
13 pursuant to this Section shall take effect immediately.

14 (Source: P.A. 96-844, eff. 12-23-09.)".