

2 **SHB 1860 - H AMD 366 ADOPTED 3/15/95**

3 By Representatives L. Thomas and Wolfe

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 **"Sec. 1.** RCW 18.140.005 and 1993 c 30 s 1 are each amended to read  
8 as follows:

9 It is the intent of the legislature that only individuals who meet  
10 and maintain minimum standards of competence and conduct (~~may~~  
11 provide) established under this chapter for certified or licensed real  
12 estate appraisers may provide real estate appraisal services to the  
13 public.

14 **Sec. 2.** RCW 18.140.010 and 1993 c 30 s 2 are each amended to read  
15 as follows:

16 As used in this chapter, the following terms have the meanings  
17 indicated unless the context clearly requires otherwise.

18 (1) "Appraisal" (~~(or "real estate appraisal")~~) means (~~(an analysis,~~  
19 ~~opinion, or conclusion relating to the nature, quality, value, or~~  
20 ~~utility of specified interests in, or aspects of, identified real~~  
21 ~~estate, for or in expectation of compensation. An appraisal may be~~  
22 ~~classified by subject matter into either a valuation or an analysis.~~  
23 ~~A "valuation" is an estimate of the value of real estate or real~~  
24 ~~property. An "analysis" is a study of real estate or real property~~  
25 ~~other than estimating value)) the act or process of estimating value;  
26 an estimate of value; or of or pertaining to appraising and related  
27 functions.~~

28 (2) "Appraisal report" means any communication, written or oral, of  
29 an appraisal, (~~(except that all appraisal reports in federally related~~  
30 ~~transactions are required to be written reports)) review, or consulting  
31 service in accordance with the standards of professional conduct or  
32 practice, adopted by the director, that is transmitted to the client  
33 upon completion of an assignment.~~

34 (3) "Appraisal assignment" means an engagement for which an  
35 appraiser is employed or retained to act, or would be perceived by

1 third parties or the public as acting, as a disinterested third party  
2 in rendering an unbiased analysis, opinion, or conclusion relating to  
3 the (~~nature, quality,~~) value(~~, or utility~~) of specified interests  
4 in, or aspects of, identified real estate. The term "appraisal  
5 assignment" may apply to valuation work and analysis work.

6 (4) "Brokers price opinion" means an oral or written report of  
7 property value that is prepared by a real estate broker or salesperson  
8 licensed under chapter 18.85 RCW for listing, sale, purchase, or rental  
9 purposes.

10 (5) "Certified appraisal" means an appraisal prepared or signed by  
11 a state-certified real estate appraiser. A certified appraisal  
12 represents to the public that it meets the appraisal standards defined  
13 in this chapter.

14 (~~(5)~~) (6) "Client" means any party for whom an appraiser performs  
15 a service.

16 (7) "Committee" means the real estate appraiser advisory committee  
17 of the state of Washington.

18 (~~(6)~~) (8) "Comparative market analysis" means a brokers price  
19 opinion.

20 (9) "Department" means the department of licensing.

21 (~~(7)~~) (10) "Director" means the director of the department of  
22 licensing.

23 (~~(8)~~) (11) "Expert review appraiser" means a state-certified or  
24 state-licensed real estate appraiser chosen by the director for the  
25 purpose of providing appraisal review assistance to the director.

26 (12) "Federal department" means an executive department of the  
27 United States of America specifically concerned with housing finance  
28 issues, such as the department of housing and urban development, the  
29 department of veterans affairs, or their legal federal successors.

30 (13) "Federal financial institutions regulatory agency" means the  
31 board of governors of the federal reserve system, the federal deposit  
32 insurance corporation, the office of the comptroller of the currency,  
33 the office of thrift supervision, the national credit union  
34 administration, their successors and/or such other agencies as may be  
35 named in future amendments to 12 U.S.C. Sec. 3350(6).

36 (14) "Federal secondary mortgage marketing agency" means the  
37 federal national mortgage association, the government national mortgage  
38 association, the federal home loan mortgage corporation, their  
39 successors and/or such other similarly functioning housing finance

1 agencies as may be federally chartered in the future.

2 (15) "Financial institution" means any person doing business under  
3 the laws of this state or the United States relating to banks, bank  
4 holding companies, savings banks, trust companies, savings and loan  
5 associations, credit unions, consumer loan companies, and the  
6 affiliates, subsidiaries, and service corporations thereof.

7 (16) "Licensed appraisal" means an appraisal prepared or signed by  
8 a state-licensed real estate appraiser. A licensed appraisal  
9 represents to the public that it meets the appraisal standards defined  
10 in this chapter.

11 ~~((+9+))~~ (17) "Mortgage broker" for the purpose of this chapter  
12 means a mortgage broker licensed under chapter 19.146 RCW, any mortgage  
13 broker approved and subject to audit by the federal national mortgage  
14 association, the government national mortgage association, or the  
15 federal home loan mortgage corporation as provided in RCW 19.146.020,  
16 any mortgage broker approved by the United States secretary of housing  
17 and urban development for participation in any mortgage insurance under  
18 the national housing Act, 12 U.S.C. Sec. 1201, and the affiliates,  
19 subsidiaries, and service corporations thereof.

20 (18) "Real estate" means an identified parcel or tract of land,  
21 including improvements, if any.

22 ~~((+10+))~~ (19) "Real property" means one or more defined interests,  
23 benefits, or rights inherent in the ownership of real estate.

24 ~~((+11+))~~ (20) "Review" means the act or process of critically  
25 studying an appraisal report prepared by another.

26 (21) "Specialized appraisal services" means all appraisal services  
27 which do not fall within the definition of appraisal assignment. The  
28 term "specialized appraisal service" may apply to valuation work and to  
29 analysis work. Regardless of the intention of the client or employer,  
30 if the appraiser would be perceived by third parties or the public as  
31 acting as a disinterested third party in rendering an unbiased  
32 analysis, opinion, or conclusion, the work is classified as an  
33 appraisal assignment and not a specialized appraisal service.

34 ~~((+12+))~~ (22) "State-certified general real estate appraiser" means  
35 a person certified by the director to develop and communicate real  
36 estate appraisals of all types of property. A state-certified general  
37 real estate appraiser may designate or identify an appraisal rendered  
38 by him or her as a "certified appraisal."

39 ~~((+13+))~~ (23) "State-certified residential real estate appraiser"

1 means a person certified by the director to develop and communicate  
2 real estate appraisals of all types of residential property of one to  
3 four units without regard to transaction value or complexity and  
4 nonresidential property having a transaction value as specified in  
5 rules adopted by the director. A state certified residential real  
6 estate appraiser may designate or identify an appraisal rendered by him  
7 or her as a "certified appraisal."

8 ~~((14))~~ (24) "State-licensed real estate appraiser" means a person  
9 licensed by the director to develop and communicate real estate  
10 appraisals of noncomplex one to four residential units and complex one  
11 to four residential units and nonresidential property having  
12 transaction values as specified in rules adopted by the director.

13 **Sec. 3.** RCW 18.140.020 and 1993 c 30 s 3 are each amended to read  
14 as follows:

15 (1) No person other than a state-certified or state-licensed real  
16 estate appraiser may receive compensation of any form for a real estate  
17 appraisal or an appraisal review.

18 (2) No person, other than a state-certified or state-licensed real  
19 estate appraiser, may assume or use that title or any title,  
20 designation, or abbreviation likely to create the impression of  
21 certification or licensure as a real estate appraiser by this state.

22 (3) A person who is not certified or licensed under this chapter  
23 shall not ~~((describe or refer to))~~ prepare any appraisal of real estate  
24 located in this state ~~((by the term "certified" or "licensed."))~~

25 ~~((2) This section does not preclude a person who is not certified or~~  
26 ~~licensed as a state-certified or state-licensed real estate appraiser~~  
27 ~~from appraising real estate in this state for compensation, except in~~  
28 ~~federally related transactions requiring licensure or certification to~~  
29 ~~perform appraisal services)), except as provided under subsection (1)  
30 of this section.~~

31 (4) This section does not preclude a staff employee of a  
32 governmental entity from performing an appraisal or an appraisal  
33 assignment within the scope of his or her employment insofar as the  
34 performance of official duties for the governmental entity are  
35 concerned. Such an activity for the benefit of the governmental entity  
36 is exempt from the requirements of this chapter.

37 (5) This section does not preclude an individual person licensed by  
38 the state of Washington as a real estate broker or as a real estate

1 salesperson and who performs a brokers price opinion as a service to a  
2 prospective seller, buyer, lessor, or lessee as the only intended user,  
3 and not for dissemination to a third party, within the scope of his or  
4 her employment or agency. Such an activity for the sole benefit of the  
5 prospective seller, buyer, lessor, or lessee is exempt from the  
6 requirements of this chapter.

7 (6) This section does not apply to an appraisal or an appraisal  
8 review performed for a financial institution or mortgage broker,  
9 whether conducted by an employee or third party, when such appraisal or  
10 appraisal review is not required to be performed by a state-certified  
11 or state-licensed real estate appraiser by the appropriate federal  
12 financial institutions regulatory agency.

13 (7) This section does not apply to a certified public accountant,  
14 as defined in RCW 18.04.025, who evaluates real property in the normal  
15 scope of his or her professional services.

16 **Sec. 4.** RCW 18.140.030 and 1993 c 30 s 4 are each amended to read  
17 as follows:

18 The director shall have the following powers and duties:

19 (1) To adopt rules in accordance with chapter 34.05 RCW necessary  
20 to implement this chapter;

21 (2) To receive and approve or deny applications for certification  
22 or licensure as a state-certified or state-licensed real estate  
23 appraiser under this chapter; to establish appropriate administrative  
24 procedures for the processing of such applications; to issue  
25 certificates or licenses to qualified applicants pursuant to the  
26 provisions of this chapter; and to maintain a register of the names and  
27 addresses of individuals who are currently certified or licensed under  
28 this chapter;

29 (3) To establish, provide administrative assistance, and appoint  
30 the members for the real estate appraiser advisory committee to enable  
31 the committee to act in an advisory capacity to the director;

32 (4) To solicit bids and enter into contracts with educational  
33 testing services or organizations for the preparation of questions and  
34 answers for certification or licensure examinations;

35 (5) To administer or contract for administration of certification  
36 or licensure examinations at locations and times as may be required to  
37 carry out the responsibilities under this chapter;

38 (6) To enter into contracts for professional services determined to

1 be necessary for adequate enforcement of this chapter;

2 (7) To consider recommendations by the real estate appraiser  
3 advisory committee relating to the experience, education, and  
4 examination requirements for each classification of state-certified  
5 appraiser and for licensure;

6 (8) To impose continuing education requirements as a prerequisite  
7 to renewal of certification or licensure;

8 (9) To consider recommendations by the real estate appraiser  
9 advisory committee relating to standards of professional appraisal  
10 practice in the enforcement of this chapter;

11 (10) To investigate all complaints or reports of unprofessional  
12 conduct as defined in this chapter and to hold hearings as provided in  
13 this chapter;

14 (11) To establish appropriate administrative procedures for  
15 disciplinary proceedings conducted pursuant to the provisions of this  
16 chapter;

17 (12) To compel the attendance of witnesses and production of books,  
18 documents, records, and other papers; to administer oaths; and to take  
19 testimony and receive evidence concerning all matters within their  
20 jurisdiction. These powers may be exercised directly by the director  
21 or the director's authorized representatives acting by authority of  
22 law;

23 (13) To take emergency action ordering summary suspension of a  
24 license or certification pending proceedings by the director;

25 (14) To employ such professional, clerical, and technical  
26 assistance as may be necessary to properly administer the work of the  
27 director;

28 (15) To establish forms necessary to administer this chapter;

29 (16) To adopt standards of professional conduct or practice;  
30 ((and))

31 (17) To establish an expert review appraiser roster comprised of  
32 state-certified or licensed real estate appraisers whose purpose is to  
33 assist the director by applying their individual expertise by reviewing  
34 real estate appraisals for compliance with this chapter.  
35 Qualifications to act as an expert review appraiser shall be  
36 established by the director with the advice of the committee. An  
37 application to serve as an expert review appraiser shall be submitted  
38 to the real estate appraiser program, and the roster of accepted expert  
39 review appraisers shall be maintained by the department. An expert

1 review appraiser may be added to or deleted from that roster by the  
2 director. The expert review appraiser shall be reimbursed for expenses  
3 in the same manner as the department reimburses the committee; and

4 (18) To do all other things necessary to carry out the provisions  
5 of this chapter and minimally meet the requirements of federal  
6 guidelines regarding state certification or licensure of appraisers  
7 that the director determines are appropriate for state-certified and  
8 state-licensed appraisers in this state.

9 **Sec. 5.** RCW 18.140.090 and 1993 c 30 s 9 are each amended to read  
10 as follows:

11 (1) As a prerequisite to taking an examination for certification or  
12 licensure, an applicant must meet the experience requirements adopted  
13 by the director.

14 (2) The preexamination experience claimed by an applicant, and  
15 accepted by the department for the purpose of taking the examination,  
16 shall remain subject to postlicensure auditing by the department.

17 **Sec. 6.** RCW 18.140.130 and 1993 c 30 s 13 are each amended to read  
18 as follows:

19 (1) Each original and renewal license or certificate issued under  
20 this chapter shall expire on the applicant's second birthday following  
21 issuance of the license or certificate.

22 (2) To be renewed as a state-licensed or state-certified real  
23 estate appraiser, the holder of a valid license or certificate shall  
24 apply and pay the prescribed fee to the director no earlier than one  
25 hundred twenty days prior to the expiration date of the license or  
26 certificate and shall demonstrate satisfaction of any continuing  
27 education requirements.

28 (3) If a person fails to renew a license or certificate prior to  
29 its expiration and no more than (~~two years have~~) one year has passed  
30 since the person last held a valid license or certificate, the person  
31 may obtain a renewal license or certificate by satisfying all of the  
32 requirements for renewal and paying late renewal fees.

33 The director shall cancel the license or certificate of any person  
34 whose renewal fee is not received within (~~two years~~) one year from  
35 the date of expiration. A person may obtain a new license or  
36 certificate by satisfying the procedures and qualifications for initial  
37 licensure or certification, including the successful completion of any

1 applicable examinations.

2       **Sec. 7.** RCW 18.140.140 and 1993 c 30 s 14 are each amended to read  
3 as follows:

4       (1) A license or certificate issued under this chapter shall bear  
5 the signature or facsimile signature of the director and a license or  
6 certificate number assigned by the director.

7       (2) Each state-licensed or state-certified real estate appraiser  
8 shall place his or her license or certificate number adjacent to or  
9 immediately below the title "state-licensed real estate appraiser,"  
10 "state-certified residential real estate appraiser," or "state-  
11 certified general real estate appraiser" when used in an appraisal  
12 report or in a contract or other instrument used by the licensee or  
13 certificate holder in conducting real property appraisal activities,  
14 except that the license or certificate number shall not be required to  
15 appear when the title is not accompanied by a signature as is typical  
16 on such promotional and stationary items as brochures, business cards,  
17 forms, or letterhead.

18       **Sec. 8.** RCW 18.140.150 and 1993 c 30 s 15 are each amended to read  
19 as follows:

20       (1) The term "state-licensed" or "state-certified real estate  
21 appraiser" may only be used to refer to individuals who hold the  
22 license or certificate and may not be used following or immediately in  
23 connection with the name or signature of a firm, partnership,  
24 corporation, ((or)) group, or limited liability company, or in such  
25 manner that it might be interpreted as referring to a firm,  
26 partnership, corporation, group, limited liability company, or anyone  
27 other than an individual holder of the license or certificate.

28       (2) No license or certificate may be issued under this chapter to  
29 a corporation, partnership, firm, limited liability company, or group.  
30 This shall not be construed to prevent a state-licensed or state-  
31 certified appraiser from signing an appraisal report on behalf of a  
32 corporation, partnership, firm, ((or)) group practice, or limited  
33 liability company.

34       **Sec. 9.** RCW 18.140.160 and 1993 c 30 s 17 are each amended to read  
35 as follows:

36       The director may deny an application for licensure or certification



1 and may (~~be denied. The director may~~) impose any one or more of the  
2 following sanctions against a state-licensed or state-certified  
3 appraiser(~~s~~): Suspend, revoke, or levy a fine not to exceed one  
4 thousand dollars for each offense and/or otherwise discipline in  
5 accordance with the provisions of this chapter, for any of the  
6 following acts or omissions:

7 (1) Failing to meet the minimum qualifications for state licensure  
8 or certification established by or pursuant to this chapter;

9 (2) Procuring or attempting to procure state licensure or  
10 certification under this chapter by knowingly making a false statement,  
11 knowingly submitting false information, or knowingly making a material  
12 misrepresentation on any application filed with the director;

13 (3) Paying money other than the fees provided for by this chapter  
14 to any employee of the director or the committee to procure state  
15 licensure or certification under this chapter;

16 (4) Obtaining a license or certification through the mistake or  
17 inadvertence of the director;

18 (5) Conviction of any gross misdemeanor or felony or the commission  
19 of any act involving moral turpitude, dishonesty, or corruption whether  
20 or not the act constitutes a crime. If the act constitutes a crime,  
21 conviction in a criminal proceeding is not a condition precedent to  
22 disciplinary action. Upon such a conviction, however, the judgment and  
23 sentence is conclusive evidence at the ensuing disciplinary hearing of  
24 the guilt of the license or certificate holder or applicant of the  
25 crime described in the indictment or information, and of the person's  
26 violation of the statute on which it is based. For the purposes of  
27 this section, conviction includes all instances in which a plea of  
28 guilty or nolo contendere is the basis for the conviction and all  
29 proceedings in which the sentence has been deferred or suspended.  
30 Nothing in this section abrogates rights guaranteed under chapter 9.96A  
31 RCW;

32 (6) Failure or refusal without good cause to exercise reasonable  
33 diligence in developing an appraisal, preparing an appraisal report, or  
34 communicating an appraisal;

35 (7) Negligence or incompetence in developing an appraisal,  
36 preparing an appraisal report, or communicating an appraisal;

37 (8) Continuing to act as a state-licensed or state-certified real  
38 estate appraiser when his or her license or certificate is on an  
39 expired status;

1 (9) Failing, upon demand, to disclose any information within his or  
2 her knowledge to, or to produce any document, book, or record in his or  
3 her possession for inspection of the director or the director's  
4 authorized representatives acting by authority of law;

5 (10) Violating any provision of this chapter or any lawful rule or  
6 regulation made by the director pursuant thereto;

7 (11) Advertising in a false, fraudulent, or misleading manner;

8 (12) Suspension, revocation, or restriction of the individual's  
9 license or certification to practice the profession by competent  
10 authority in any state, federal, or foreign jurisdiction, with a  
11 certified copy of the order, stipulation, or agreement being conclusive  
12 evidence of the revocation, suspension, or restriction;

13 (13) Failing to comply with an order issued by the director;

14 (14) Committing any act of fraudulent or dishonest dealing or a  
15 crime involving moral turpitude, with a certified copy of the final  
16 holding of any court of competent jurisdiction in such matter being  
17 conclusive evidence in any hearing under this chapter; and

18 (15) Issuing an appraisal report on any real property in which the  
19 appraiser has an interest unless his or her interest is clearly stated  
20 in the appraisal report.

21 **Sec. 10.** RCW 18.140.170 and 1993 c 30 s 18 are each amended to  
22 read as follows:

23 The director may investigate the actions of a state-licensed or  
24 state-certified real estate appraiser or an applicant for licensure or  
25 certification or relicensure or recertification. Upon receipt of  
26 information indicating that a state-licensed or state-certified real  
27 estate appraiser under this chapter may have violated this chapter, the  
28 director shall cause one or more of the staff investigators to make an  
29 investigation of the facts to determine whether or not there is  
30 admissible evidence of any such violation. If technical assistance is  
31 required, a staff investigator may consult with one or more of the  
32 members of the committee.

33 In any investigation made by the director's investigative staff,  
34 the director shall have the power to compel the attendance of witnesses  
35 and the production of books, documents, records, and other papers, to  
36 administer oaths, and to take testimony and receive evidence concerning  
37 all matters within the director's jurisdiction.

38 If the director determines, upon investigation, that a state-

1 licensed or state-certified real estate appraiser under this chapter  
2 has violated this chapter, a statement of charges shall be prepared and  
3 served upon the state-licensed or state-certified real estate  
4 appraiser. The statement of charges shall be served as follows: The  
5 statement of charges shall be sent by certified or registered mail, and  
6 if no receipt of service is received, two attempts to personally serve  
7 the statement of charges shall be made. This statement of charges  
8 shall require the accused party to file an answer to the statement of  
9 charges within twenty days of the date of service.

10 In responding to a statement of charges, the accused party may  
11 admit to the allegations, deny the allegations, or otherwise plead.  
12 Failure to make a timely response shall be deemed an admission of the  
13 allegations contained in the statement of charges and will result in a  
14 default whereupon the director may enter an order under RCW 34.05.440.  
15 If a hearing is requested, the time of the hearing shall be scheduled  
16 but the hearing shall not be held earlier than thirty days after  
17 service of the charges upon the accused. A notice of hearing shall be  
18 issued at least twenty days prior to the hearing, specifying the time,  
19 date, and place of hearing.

20 NEW SECTION. Sec. 11. All fees required under this chapter shall  
21 be set by the director in accordance with RCW 18.140.050 and shall be  
22 paid to the state treasurer. All fees paid under the provisions of  
23 this chapter shall be placed in the real estate appraiser account in  
24 the state treasury. The account is subject to appropriation under  
25 chapter 43.88 RCW. All moneys derived from fines imposed under this  
26 chapter also shall be deposited in the real estate appraiser account.

27 NEW SECTION. Sec. 12. The director may refer a complaint for  
28 violation of any section of this chapter before any court of competent  
29 jurisdiction.

30 Any violation of the provisions of this chapter shall be prosecuted  
31 by the prosecuting attorney of each county in which the violation  
32 occurs, and if the prosecuting attorney fails to act, the director may  
33 request the attorney general to take action in lieu of the prosecuting  
34 attorney.

35 Whenever evidence satisfactory to the director suggests that any  
36 person has violated any of the provisions of this chapter, or any part  
37 or provision thereof, the director may bring an action, in the superior

1 court in the county where the person resides, against the person to  
2 enjoin any person from continuing a violation or engaging or doing any  
3 act or acts in furtherance thereof. In this action an order or  
4 judgment may be entered awarding a preliminary or final injunction as  
5 may be proper.

6 The director may petition the superior court in any county in this  
7 state for the appointment of a receiver to take over, operate, or close  
8 any real estate appraisal activity or practice in this state which is  
9 found upon inspection of its books and records to be operating in  
10 violation of the provisions of this chapter, pending a hearing.

11 NEW SECTION. **Sec. 13.** Any person acting as a state-certified or  
12 state-licensed real estate appraiser without a certificate or license  
13 that is currently valid or who is currently subject to a revocation or  
14 suspension for violating any provision of this chapter is guilty of a  
15 misdemeanor.

16 NEW SECTION. **Sec. 14.** RCW 18.140.085 and 1993 c 30 s 23 are each  
17 repealed.

18 NEW SECTION. **Sec. 15.** A new section is added to chapter 50.04 RCW  
19 to read as follows:

20 The term "employment" does not include services performed by an  
21 appraisal practitioner certified or licensed under chapter 18.140 RCW  
22 in an appraisal business if the use of the business facilities is  
23 contingent upon compensation to the owner of the business facilities  
24 and the person receives no compensation from the owner for the services  
25 performed.

26 NEW SECTION. **Sec. 16.** Sections 11 through 13 of this act are each  
27 added to chapter 18.140 RCW.

28 NEW SECTION. **Sec. 17.** This act is necessary for the immediate  
29 preservation of the public peace, health, or safety, or support of the  
30 state government and its existing public institutions, and shall take  
31 effect July 1, 1995, except section 3 of this act, which shall take  
32 effect July 1, 1996."

1        EFFECT: Eliminates the trainee real property appraiser program  
2 created by the bill. Adds extra notice requirements when the director  
3 takes action against an appraiser. Makes clarifications.

4        **SHB 1860** - H AMD  
5        By Representative L. Thomas

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7        On page 1, line 1 of the title, after "appraisers;" strike the  
8 remainder of the title and insert "amending RCW 18.140.005, 18.140.010,  
9 18.140.020, 18.140.030, 18.140.090, 18.140.130, 18.140.140, 18.140.150,  
10 18.140.160, and 18.140.170; adding new sections to chapter 18.140 RCW;  
11 adding a new section to chapter 50.04 RCW; repealing RCW 18.140.085;  
12 prescribing penalties; providing effective dates; and declaring an  
13 emergency."

--- END ---