

2 **ESHB 1860** - S COMM AMD
3 By Committee on Ways & Means

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

1 successors and/or such other similarly functioning housing finance
2 agencies as may be federally chartered in the future.

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

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

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

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

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

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

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

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

1 (~~(13)~~) (23) "State-certified residential real estate appraiser"
2 means a person certified by the director to develop and communicate
3 real estate appraisals of all types of residential property of one to
4 four units without regard to transaction value or complexity and
5 nonresidential property having a transaction value as specified in
6 rules adopted by the director. A state certified residential real
7 estate appraiser may designate or identify an appraisal rendered by him
8 or her as a "certified appraisal."

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

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

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

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

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

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

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

1 (5) This section does not preclude an individual person licensed by
2 the state of Washington as a real estate broker or as a real estate
3 salesperson and who performs a brokers price opinion as a service to a
4 prospective seller, buyer, lessor, or lessee as the only intended user,
5 and not for dissemination to a third party, within the scope of his or
6 her employment or agency. Such an activity for the sole benefit of the
7 prospective seller, buyer, lessor, or lessee is exempt from the
8 requirements of this chapter.

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

15 (7) This section does not apply to attorneys admitted to practice
16 law in this state, or to a certified public accountant, as defined in
17 RCW 18.04.025, who evaluates real property in the normal scope of his
18 or her professional services.

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

21 The director shall have the following powers and duties:

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

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

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

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

- 1 (5) To administer or contract for administration of certification
2 or licensure examinations at locations and times as may be required to
3 carry out the responsibilities under this chapter;
- 4 (6) To enter into contracts for professional services determined to
5 be necessary for adequate enforcement of this chapter;
- 6 (7) To consider recommendations by the real estate appraiser
7 advisory committee relating to the experience, education, and
8 examination requirements for each classification of state-certified
9 appraiser and for licensure;
- 10 (8) To impose continuing education requirements as a prerequisite
11 to renewal of certification or licensure;
- 12 (9) To consider recommendations by the real estate appraiser
13 advisory committee relating to standards of professional appraisal
14 practice in the enforcement of this chapter;
- 15 (10) To investigate all complaints or reports of unprofessional
16 conduct as defined in this chapter and to hold hearings as provided in
17 this chapter;
- 18 (11) To establish appropriate administrative procedures for
19 disciplinary proceedings conducted pursuant to the provisions of this
20 chapter;
- 21 (12) To compel the attendance of witnesses and production of books,
22 documents, records, and other papers; to administer oaths; and to take
23 testimony and receive evidence concerning all matters within their
24 jurisdiction. These powers may be exercised directly by the director
25 or the director's authorized representatives acting by authority of
26 law;
- 27 (13) To take emergency action ordering summary suspension of a
28 license or certification pending proceedings by the director;
- 29 (14) To employ such professional, clerical, and technical
30 assistance as may be necessary to properly administer the work of the
31 director;
- 32 (15) To establish forms necessary to administer this chapter;
- 33 (16) To adopt standards of professional conduct or practice;
- 34 ((and))
- 35 (17) To establish an expert review appraiser roster comprised of
36 state-certified or licensed real estate appraisers whose purpose is to
37 assist the director by applying their individual expertise by reviewing
38 real estate appraisals for compliance with this chapter.
39 Qualifications to act as an expert review appraiser shall be

1 established by the director with the advice of the committee. An
2 application to serve as an expert review appraiser shall be submitted
3 to the real estate appraiser program, and the roster of accepted expert
4 review appraisers shall be maintained by the department. An expert
5 review appraiser may be added to or deleted from that roster by the
6 director. The expert review appraiser shall be reimbursed for expenses
7 in the same manner as the department reimburses the committee; and

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

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

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

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

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

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

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

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

1 The director shall cancel the license or certificate of any person
2 whose renewal fee is not received within (~~two years~~) one year from
3 the date of expiration. A person may obtain a new license or
4 certificate by satisfying the procedures and qualifications for initial
5 licensure or certification, including the successful completion of any
6 applicable examinations.

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

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

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

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

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

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

1 corporation, partnership, firm, ~~((or))~~ group practice, or limited
2 liability company.

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

5 The director may deny an application for licensure or certification
6 and may ~~((be denied. The director may))~~ impose any one or more of the
7 following sanctions against a state-licensed or state-certified
8 appraiser~~((s))~~: Suspend, revoke, or levy a fine not to exceed one
9 thousand dollars for each offense and/or otherwise discipline in
10 accordance with the provisions of this chapter, for any of the
11 following acts or omissions:

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

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

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

21 (4) Obtaining a license or certification through the mistake or
22 inadvertence of the director;

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

1 (6) Failure or refusal without good cause to exercise reasonable
2 diligence in developing an appraisal, preparing an appraisal report, or
3 communicating an appraisal;

4 (7) Negligence or incompetence in developing an appraisal,
5 preparing an appraisal report, or communicating an appraisal;

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

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

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

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

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

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

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

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

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

31 The director may investigate the actions of a state-licensed or
32 state-certified real estate appraiser or an applicant for licensure or
33 certification or relicensure or recertification. Upon receipt of
34 information indicating that a state-licensed or state-certified real
35 estate appraiser under this chapter may have violated this chapter, the
36 director shall cause one or more of the staff investigators to make an
37 investigation of the facts to determine whether or not there is
38 admissible evidence of any such violation. If technical assistance is

1 required, a staff investigator may consult with one or more of the
2 members of the committee.

3 In any investigation made by the director's investigative staff,
4 the director shall have the power to compel the attendance of witnesses
5 and the production of books, documents, records, and other papers, to
6 administer oaths, and to take testimony and receive evidence concerning
7 all matters within the director's jurisdiction.

8 If the director determines, upon investigation, that a state-
9 licensed or state-certified real estate appraiser under this chapter
10 has violated this chapter, a statement of charges shall be prepared and
11 served upon the state-licensed or state-certified real estate
12 appraiser. The statement of charges shall be served as follows: The
13 statement of charges shall be sent by certified or registered mail, and
14 if no receipt of service is received, two attempts to personally serve
15 the statement of charges shall be made. This statement of charges
16 shall require the accused party to file an answer to the statement of
17 charges within twenty days of the date of service.

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

28 NEW SECTION. **Sec. 11.** The director may refer a complaint for
29 violation of any section of this chapter before any court of competent
30 jurisdiction.

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

36 Whenever evidence satisfactory to the director suggests that any
37 person has violated any of the provisions of this chapter, or any part
38 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. 12.** 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. 13.** RCW 18.140.085 and 1993 c 30 s 23 are each
17 repealed.

18 NEW SECTION. **Sec. 14.** 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. 15.** Sections 11 and 12 of this act are each
27 added to chapter 18.140 RCW.

28 NEW SECTION. **Sec. 16.** 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 **ESHB 1860** - S COMM AMD
2 By Committee on Ways & Means

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4 On page 1, line 1 of the title, after "appraisers;" strike the
5 remainder of the title and insert "amending RCW 18.140.005, 18.140.010,
6 18.140.020, 18.140.030, 18.140.090, 18.140.130, 18.140.140, 18.140.150,
7 18.140.160, and 18.140.170; adding new sections to chapter 18.140 RCW;
8 adding a new section to chapter 50.04 RCW; repealing RCW 18.140.085;
9 prescribing penalties; providing effective dates; and declaring an
10 emergency."

--- END ---