

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 1860

54th Legislature
1996 Regular Session

Passed by the House March 2, 1996
Yeas 90 Nays 0

Speaker of the
House of Representatives

Passed by the Senate February 27, 1996
Yeas 44 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1860** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

Secretary of State
State of Washington

SECOND SUBSTITUTE HOUSE BILL 1860

AS AMENDED BY THE SENATE

Passed Legislature - 1996 Regular Session

State of Washington 54th Legislature 1996 Regular Session

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives L. Thomas, Goldsmith and Robertson)

Read first time 01/16/96.

1 AN ACT Relating to real estate appraisers; amending RCW 18.140.005,
2 18.140.010, 18.140.020, 18.140.030, 18.140.090, 18.140.130, 18.140.140,
3 18.140.150, 18.140.160, and 18.140.170; adding new sections to chapter
4 18.140 RCW; adding a new section to chapter 50.04 RCW; repealing RCW
5 18.140.085; prescribing penalties; and providing effective dates.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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.

1 (1) ~~"Appraisal" ((or "real estate appraisal")) means ((an analysis,~~
2 ~~opinion, or conclusion relating to the nature, quality, value, or~~
3 ~~utility of specified interests in, or aspects of, identified real~~
4 ~~estate, for or in expectation of compensation. An appraisal may be~~
5 ~~classified by subject matter into either a valuation or an analysis.~~
6 ~~A "valuation" is an estimate of the value of real estate or real~~
7 ~~property. An "analysis" is a study of real estate or real property~~
8 ~~other than estimating value)) the act or process of estimating value;~~
9 ~~an estimate of value; or of or pertaining to appraising and related~~
10 ~~functions.~~

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

17 (3) "Appraisal assignment" means an engagement for which an
18 appraiser is employed or retained to act, or would be perceived by
19 third parties or the public as acting, as a disinterested third party
20 in rendering an unbiased analysis, opinion, or conclusion relating to
21 the ~~((nature, quality,)) value((, or utility)) of specified interests~~
22 ~~in, or aspects of, identified real estate. The term "appraisal~~
23 ~~assignment" may apply to valuation work and analysis work.~~

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

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

32 ~~((+5)) (6) "Client" means any party for whom an appraiser performs~~
33 ~~a service.~~

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

36 ~~((+6)) (8) "Comparative market analysis" means a brokers price~~
37 ~~opinion.~~

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

1 (~~(7)~~) (10) "Director" means the director of the department of
2 licensing.

3 (~~(8)~~) (11) "Expert review appraiser" means a state-certified or
4 state-licensed real estate appraiser chosen by the director for the
5 purpose of providing appraisal review assistance to the director.

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

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

16 (14) "Federal secondary mortgage marketing agency" means the
17 federal national mortgage association, the government national mortgage
18 association, the federal home loan mortgage corporation, their
19 successors and/or such other similarly functioning housing finance
20 agencies as may be federally chartered in the future.

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

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

30 (~~(9)~~) (17) "Mortgage broker" for the purpose of this chapter
31 means a mortgage broker licensed under chapter 19.146 RCW, any mortgage
32 broker approved and subject to audit by the federal national mortgage
33 association, the government national mortgage association, or the
34 federal home loan mortgage corporation as provided in RCW 19.146.020,
35 any mortgage broker approved by the United States secretary of housing
36 and urban development for participation in any mortgage insurance under
37 the national housing act, 12 U.S.C. Sec. 1201, and the affiliates,
38 subsidiaries, and service corporations thereof.

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

3 (~~(10)~~) (19) "Real property" means one or more defined interests,
4 benefits, or rights inherent in the ownership of real estate.

5 (~~(11)~~) (20) "Review" means the act or process of critically
6 studying an appraisal report prepared by another.

7 (21) "Specialized appraisal services" means all appraisal services
8 which do not fall within the definition of appraisal assignment. The
9 term "specialized appraisal service" may apply to valuation work and to
10 analysis work. Regardless of the intention of the client or employer,
11 if the appraiser would be perceived by third parties or the public as
12 acting as a disinterested third party in rendering an unbiased
13 analysis, opinion, or conclusion, the work is classified as an
14 appraisal assignment and not a specialized appraisal service.

15 (~~(12)~~) (22) "State-certified general real estate appraiser" means
16 a person certified by the director to develop and communicate real
17 estate appraisals of all types of property. A state-certified general
18 real estate appraiser may designate or identify an appraisal rendered
19 by him or her as a "certified appraisal."

20 (~~(13)~~) (23) "State-certified residential real estate appraiser"
21 means a person certified by the director to develop and communicate
22 real estate appraisals of all types of residential property of one to
23 four units without regard to transaction value or complexity and
24 nonresidential property having a transaction value as specified in
25 rules adopted by the director. A state certified residential real
26 estate appraiser may designate or identify an appraisal rendered by him
27 or her as a "certified appraisal."

28 (~~(14)~~) (24) "State-licensed real estate appraiser" means a person
29 licensed by the director to develop and communicate real estate
30 appraisals of noncomplex one to four residential units and complex one
31 to four residential units and nonresidential property having
32 transaction values as specified in rules adopted by the director.

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

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

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

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

8 ~~(2) This section does not preclude a person who is not certified or
9 licensed as a state-certified or state-licensed real estate appraiser
10 from appraising real estate in this state for compensation, except in
11 federally related transactions requiring licensure or certification to
12 perform appraisal services)),~~ except as provided under subsection (1)
13 of this section.

14 (4) This section does not preclude a staff employee of a
15 governmental entity from performing an appraisal or an appraisal
16 assignment within the scope of his or her employment insofar as the
17 performance of official duties for the governmental entity are
18 concerned. Such an activity for the benefit of the governmental entity
19 is exempt from the requirements of this chapter.

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

28 (6) This section does not apply to an appraisal or an appraisal
29 review performed for a financial institution or mortgage broker,
30 whether conducted by an employee or third party, when such appraisal or
31 appraisal review is not required to be performed by a state-certified
32 or state-licensed real estate appraiser by the appropriate federal
33 financial institutions regulatory agency.

34 (7) This section does not apply to an attorney licensed to practice
35 law in this state or to a certified public accountant, as defined in
36 RCW 18.04.025, who evaluates real property in the normal scope of his
37 or her professional services.

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

3 The director shall have the following powers and duties:

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

6 (2) To receive and approve or deny applications for certification
7 or licensure as a state-certified or state-licensed real estate
8 appraiser under this chapter; to establish appropriate administrative
9 procedures for the processing of such applications; to issue
10 certificates or licenses to qualified applicants pursuant to the
11 provisions of this chapter; and to maintain a register of the names and
12 addresses of individuals who are currently certified or licensed under
13 this chapter;

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

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

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

23 (6) To enter into contracts for professional services determined to
24 be necessary for adequate enforcement of this chapter;

25 (7) To consider recommendations by the real estate appraiser
26 advisory committee relating to the experience, education, and
27 examination requirements for each classification of state-certified
28 appraiser and for licensure;

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

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

34 (10) To investigate all complaints or reports of unprofessional
35 conduct as defined in this chapter and to hold hearings as provided in
36 this chapter;

37 (11) To establish appropriate administrative procedures for
38 disciplinary proceedings conducted pursuant to the provisions of this
39 chapter;

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

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

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

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

13 (16) To adopt standards of professional conduct or practice;
14 ((and))

15 (17) To establish an expert review appraiser roster comprised of
16 state-certified or licensed real estate appraisers whose purpose is to
17 assist the director by applying their individual expertise by reviewing
18 real estate appraisals for compliance with this chapter.
19 Qualifications to act as an expert review appraiser shall be
20 established by the director with the advice of the committee. An
21 application to serve as an expert review appraiser shall be submitted
22 to the real estate appraiser program, and the roster of accepted expert
23 review appraisers shall be maintained by the department. An expert
24 review appraiser may be added to or deleted from that roster by the
25 director. The expert review appraiser shall be reimbursed for expenses
26 in the same manner as the department reimburses the committee; and

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

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

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

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

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

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

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

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

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

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

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

31 (2) Each state-licensed or state-certified real estate appraiser
32 shall place his or her license or certificate number adjacent to or
33 immediately below the title "state-licensed real estate appraiser,"
34 "state-certified residential real estate appraiser," or "state-
35 certified general real estate appraiser" when used in an appraisal
36 report or in a contract or other instrument used by the licensee or
37 certificate holder in conducting real property appraisal activities,

1 except that the license or certificate number shall not be required to
2 appear when the title is not accompanied by a signature as is typical
3 on such promotional and stationery items as brochures, business cards,
4 forms, or letterhead.

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

7 (1) The term "state-licensed" or "state-certified real estate
8 appraiser" may only be used to refer to individuals who hold the
9 license or certificate and may not be used following or immediately in
10 connection with the name or signature of a firm, partnership,
11 corporation, ~~((or))~~ group, or limited liability company, or in such
12 manner that it might be interpreted as referring to a firm,
13 partnership, corporation, group, limited liability company, or anyone
14 other than an individual holder of the license or certificate.

15 (2) No license or certificate may be issued under this chapter to
16 a corporation, partnership, firm, limited liability company, or group.
17 This shall not be construed to prevent a state-licensed or state-
18 certified appraiser from signing an appraisal report on behalf of a
19 corporation, partnership, firm, ~~((or))~~ group practice, or limited
20 liability company.

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

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

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

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

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

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

6 (5) Conviction of any gross misdemeanor or felony or the commission
7 of any act involving moral turpitude, dishonesty, or corruption whether
8 or not the act constitutes a crime. If the act constitutes a crime,
9 conviction in a criminal proceeding is not a condition precedent to
10 disciplinary action. Upon such a conviction, however, the judgment and
11 sentence is conclusive evidence at the ensuing disciplinary hearing of
12 the guilt of the license or certificate holder or applicant of the
13 crime described in the indictment or information, and of the person's
14 violation of the statute on which it is based. For the purposes of
15 this section, conviction includes all instances in which a plea of
16 guilty or nolo contendere is the basis for the conviction and all
17 proceedings in which the sentence has been deferred or suspended.
18 Nothing in this section abrogates rights guaranteed under chapter 9.96A
19 RCW;

20 (6) Failure or refusal without good cause to exercise reasonable
21 diligence in developing an appraisal, preparing an appraisal report, or
22 communicating an appraisal;

23 (7) Negligence or incompetence in developing an appraisal,
24 preparing an appraisal report, or communicating an appraisal;

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

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

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

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

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

- 1 (13) Failing to comply with an order issued by the director;
- 2 (14) Committing any act of fraudulent or dishonest dealing or a
3 crime involving moral turpitude, with a certified copy of the final
4 holding of any court of competent jurisdiction in such matter being
5 conclusive evidence in any hearing under this chapter; and
- 6 (15) Issuing an appraisal report on any real property in which the
7 appraiser has an interest unless his or her interest is clearly stated
8 in the appraisal report.

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

11 The director may investigate the actions of a state-licensed or
12 state-certified real estate appraiser or an applicant for licensure or
13 certification or relicensure or recertification. Upon receipt of
14 information indicating that a state-licensed or state-certified real
15 estate appraiser under this chapter may have violated this chapter, the
16 director shall cause one or more of the staff investigators to make an
17 investigation of the facts to determine whether or not there is
18 admissible evidence of any such violation. If technical assistance is
19 required, a staff investigator may consult with one or more of the
20 members of the committee.

21 In any investigation made by the director's investigative staff,
22 the director shall have the power to compel the attendance of witnesses
23 and the production of books, documents, records, and other papers, to
24 administer oaths, and to take testimony and receive evidence concerning
25 all matters within the director's jurisdiction.

26 If the director determines, upon investigation, that a state-
27 licensed or state-certified real estate appraiser under this chapter
28 has violated this chapter, a statement of charges shall be prepared and
29 served upon the state-licensed or state-certified real estate
30 appraiser. The statement of charges shall be served as follows: The
31 statement of charges shall be sent by certified or registered mail, and
32 if no receipt of service is received, two attempts to personally serve
33 the statement of charges shall be made. This statement of charges
34 shall require the accused party to file an answer to the statement of
35 charges within twenty days of the date of service.

36 In responding to a statement of charges, the accused party may
37 admit to the allegations, deny the allegations, or otherwise plead.
38 Failure to make a timely response shall be deemed an admission of the

1 allegations contained in the statement of charges and will result in a
2 default whereupon the director may enter an order under RCW 34.05.440.
3 If a hearing is requested, the time of the hearing shall be scheduled
4 but the hearing shall not be held earlier than thirty days after
5 service of the charges upon the accused. A notice of hearing shall be
6 issued at least twenty days prior to the hearing, specifying the time,
7 date, and place of hearing.

8 NEW SECTION. **Sec. 11.** The director may refer a complaint for
9 violation of any section of this chapter before any court of competent
10 jurisdiction.

11 Any violation of the provisions of this chapter shall be prosecuted
12 by the prosecuting attorney of each county in which the violation
13 occurs, and if the prosecuting attorney fails to act, the director may
14 request the attorney general to take action in lieu of the prosecuting
15 attorney.

16 Whenever evidence satisfactory to the director suggests that any
17 person has violated any of the provisions of this chapter, or any part
18 or provision thereof, the director may bring an action, in the superior
19 court in the county where the person resides, against the person to
20 enjoin any person from continuing a violation or engaging or doing any
21 act or acts in furtherance thereof. In this action an order or
22 judgment may be entered awarding a preliminary or final injunction as
23 may be proper.

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

29 NEW SECTION. **Sec. 12.** Any person acting as a state-certified or
30 state-licensed real estate appraiser without a certificate or license
31 that is currently valid is guilty of a misdemeanor.

32 NEW SECTION. **Sec. 13.** RCW 18.140.085 and 1993 c 30 s 23 are each
33 repealed.

34 NEW SECTION. **Sec. 14.** A new section is added to chapter 50.04 RCW
35 to read as follows:

1 The term "employment" does not include services performed by an
2 appraisal practitioner certified or licensed under chapter 18.140 RCW
3 in an appraisal business if the use of the business facilities is
4 contingent upon compensation to the owner of the business facilities
5 and the person receives no compensation from the owner for the services
6 performed. This exemption does not include services performed by an
7 appraisal practitioner certified or licensed under chapter 18.140 RCW
8 for an employer under chapter 50.44 RCW.

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

11 NEW SECTION. **Sec. 16.** This act shall take effect July 1, 1996,
12 except section 3 of this act, which shall take effect July 1, 1997.

--- END ---