

CHAPTER 148

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 97-1056

BY REPRESENTATIVES Piffner, George, Mace, McElhany, Paschall, and Tool;
also SENATOR Bishop.

AN ACT

CONCERNING FEES PAID TO REAL ESTATE APPRAISERS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 12-61-702, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

12-61-702. Definitions. As used in this part 7, unless the context otherwise requires:

(2.5) "CONSULTING SERVICES" MEANS SERVICES PERFORMED BY AN APPRAISER THAT DO NOT FALL WITHIN THE DEFINITION OF AN "INDEPENDENT APPRAISAL" IN SUBSECTION (4.5) OF THIS SECTION. "CONSULTING SERVICES" INCLUDES, BUT IS NOT LIMITED TO, MARKETING, FINANCING AND FEASIBILITY STUDIES, VALUATIONS, ANALYSES, AND OPINIONS AND CONCLUSIONS GIVEN IN CONNECTION WITH REAL ESTATE BROKERAGE, MORTGAGE BANKING, AND COUNSELING AND ADVOCACY IN REGARD TO PROPERTY TAX ASSESSMENTS AND APPEALS THEREOF; EXCEPT THAT, IF IN RENDERING SUCH SERVICES THE APPRAISER ACTS AS A DISINTERESTED THIRD PARTY, THE WORK SHALL BE DEEMED AN INDEPENDENT APPRAISAL AND NOT A CONSULTING SERVICE. NOTHING IN THIS SUBSECTION (2.5) SHALL BE CONSTRUED TO PRECLUDE A PERSON FROM ACTING AS AN EXPERT WITNESS IN VALUATION APPEALS.

(4.5) "INDEPENDENT APPRAISAL" MEANS AN ENGAGEMENT FOR WHICH AN APPRAISER IS EMPLOYED OR RETAINED TO ACT AS A DISINTERESTED THIRD PARTY IN RENDERING AN UNBIASED ANALYSIS, OPINION, OR CONCLUSION RELATING TO THE NATURE, QUALITY, VALUE, OR UTILITY OF SPECIFIED INTERESTS IN OR ASPECTS OF IDENTIFIED REAL ESTATE.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 2. 12-61-712 (1) and (3), Colorado Revised Statutes, 1991 Repl. Vol., as amended, are amended to read:

12-61-712. Unlawful acts. (1) It is unlawful for any person to:

(a) Violate any provision of this part 7 or, on and after July 1, 1996, to perform a real estate appraisal in conjunction with a debt instrument that is federally guaranteed or in the federal secondary market and regulated pursuant to title 12, U.S.C., without first having obtained a registration, license, or certificate from the board pursuant to this part 7;

(b) ~~Act as an appraiser or expert witness and receive a contingency fee; except that a person may act as an agent and receive a contingency fee if such person is not involved as an appraiser or expert witness in the same case.~~ ACCEPT A FEE FOR AN INDEPENDENT APPRAISAL ASSIGNMENT THAT IS CONTINGENT UPON:

(I) THE REPORTING OF A PREDETERMINED ANALYSIS, OPINION, OR CONCLUSION; OR

(II) THE ANALYSIS, OPINION, OR CONCLUSION REACHED; OR

(III) THE CONSEQUENCES RESULTING FROM THE ANALYSIS, OPINION, OR CONCLUSION;

(c) MISREPRESENT A CONSULTING SERVICE AS AN INDEPENDENT APPRAISAL;

(d) FAIL TO DISCLOSE, IN CONNECTION WITH A CONSULTING SERVICE FOR WHICH A CONTINGENT FEE IS OR WILL BE PAID, THE FACT THAT A CONTINGENT FEE IS OR WILL BE PAID.

(3) A person who represents property owners as an advocate in tax or valuation protests and appeals pursuant to title 39, C.R.S., shall be exempt from the licensing requirements of this part 7. ~~but when such person represents property owners as an advocate and witness in tax or valuation protests and appeals, such person shall disclose his or her remuneration to the parties and to the arbitrator, the board of assessment appeals, or the district court prior to the arbitration or appeal.~~

SECTION 3. Effective date - applicability. This act shall take effect upon passage, and shall apply to acts occurring on or after said date.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Became Law: April 29, 1997