

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4285

BY DELEGATES STEELE, FOSTER AND BOOTH

[Introduced January 19, 2022; Referred to the
Committee on Government Organization then the
Judiciary]

1 A BILL to amend and reenact §30-38-10, and §30-38-11 of the Code of West Virginia, 1931, as
 2 amended, all relating to real estate appraiser licensing board requirements; prohibiting
 3 persons serving as expert witnesses from participating in any decision regarding
 4 disciplinary action; requiring the board provide applicants a written statement when the
 5 applicant's request for a license is denied; requiring the board send a written statement in
 6 15 calendar days of its decision to deny an applicant's license or renewal request; setting
 7 forth content and mailing requirements for the board's written statement; requiring the
 8 board offer guidance on certain issues relating to nonconformity of Uniform Standards of
 9 Professional Appraisal Practice when submitted to the board; providing for 60 days for an
 10 applicant to cure any nonconformity to the standards; and other technical modifications.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 38. THE REAL ESTATE APPRAISER LICENSING AND CERTIFICATION
 ACT.**

**§30-38-10. Civil liability for board members; liability limitations of professionals reporting
 to board.**

1 (a) Members of the board will be immune from individual civil liability for actions taken in
 2 good faith and without malice, within the scope of their duties as board members.

3 (b) Any person licensed or certified by this board who reports or otherwise provides
 4 evidence of violations of this article or the board's rules by another person engaging in real estate
 5 appraisal activity to the board, is not liable for making the report if it is made without malice and
 6 in the reasonable belief that the report is warranted by the facts known to him or her at the time.

7 (c) Any person may serve as an expert witness; however, a person serving as an expert
 8 witness cannot participate in, vote on, or otherwise make any decisions regarding disciplinary
 9 proceedings or actions against an appraiser licensed by the board.

§30-38-11. Applications for license or certification; renewals.

1 (a) An individual who desires to engage in real estate appraisal activity in this state shall
2 make application for a license, in writing, in a form as the board may prescribe. ~~In addition to any~~
3 ~~other information required, the applicant's Social Security number will be recorded on the~~
4 application

5 (b) To assist the board in determining whether grounds exist to deny the issuance of a
6 license to an applicant, the board may require the fingerprinting of every applicant for an original
7 license.

8 (c) The payment of the appropriate fee must accompany all applications for original
9 certification and renewal of certification and all applications to take an examination.

10 (d) At the time of filing an application for original certification or for renewal of certification,
11 each applicant shall sign a pledge to comply with the standards of professional appraisal practice
12 and the ethical rules to be observed by an appraiser. Each applicant shall also certify that he or
13 she understands the types of misconduct, as set forth in this article, for which disciplinary
14 proceedings may be initiated.

15 (e) To obtain a renewal of license or certification under this article, the holder of a current
16 license or certification shall make application and pay the prescribed fee to the board no earlier
17 than 120 days nor later than 30 days prior to the expiration date of the current license or
18 certification. Each application for renewal must be accompanied by evidence in the form
19 prescribed by the board that the applicant has completed the continuing education requirements
20 for renewal specified in this article and the board's rules.

21 (f) If the board determines that an applicant for renewal has failed to meet the requirements
22 for renewal of license or certification through mistake, misunderstanding, or circumstances
23 beyond the control of the applicant, the board may extend the term of the applicant's license or
24 certification for a period not to exceed six months upon payment by the applicant of a prescribed
25 fee for the extension. If the applicant for renewal of license or certification satisfies the
26 requirements for renewal during the extension period, the beginning date of his or her renewal

27 license or certificate shall be the day following the expiration of the certificate previously held by
28 the applicant.

29 (g) If a state licensed or certified real estate appraiser under this article fails to renew his
30 or her license or certification prior to its expiration or within any period of extension granted by the
31 board pursuant to this article, the applicant may obtain a renewal of his or her license or
32 certification by satisfying all of the requirements for renewal and filing an application for renewal,
33 accompanied by a late renewal fee, within two years of the date that his or her license or
34 certification expired.

35 (h) The board may deny the issuance or renewal of a license or certification for any reason
36 enumerated in this article or in the rules of the board, or for any reason for which it may refuse an
37 initial license or certification.

38 (i)(1) If the board denies issuance of a renewal of a license or certification or denies an
39 initial license or certification application the board must provide a written statement to the
40 applicant for an initial license or certification or applicant for a renewal of a license or certification,
41 clearly describing what qualifications or requirements the applicant or renewal applicant failed to
42 meet for his or her license or certificate.

43 (2) The board must provide this statement to an initial applicant or a renewal applicant
44 within 15 calendar days of its decision to deny licensure or certification. The board may send its
45 statement through United States mail service, electronic mail service, or both to ensure it reaches
46 the applicant or renewal applicant.

47 (3) If the basis for the denial is due to submitted appraisals failing to conform to the Uniform
48 Standards of Professional Appraisal Practice (USPAP), the board must provide written guidance
49 to the applicant describing, in detail, each aspect of each submitted appraisal that does not
50 conform to USPAP and the corrective action necessary to remedy nonconformity. The board shall
51 provide 60 days to the applicant to remedy any nonconformity. The applicant must resubmit any
52 corrected appraisals on or before the 60th day and the board shall reevaluate the appraisals only

- 53 pertaining to any nonconformity. If the nonconformity or nonconformities are remedied and
54 resubmitted on or before the 60th day, the board shall accept the appraisal for purposes of issuing
55 a license.

NOTE: The purpose of this bill is to clarify certain issues within the Real Estate Appraiser Licensing Board like clearly prohibiting persons from serving as an expert witness and making decisions on disciplinary proceedings and requiring the board be more transparent with its applicants and licensees when denying a license or renewal.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.