

COLORADO DEPARTMENT OF REGULATORY AGENCIES  
OFFICE OF POLICY AND RESEARCH

# COLORADO BOARD OF REAL ESTATE APPRAISERS

---

## 1995 SUNSET REVIEW



**Joint Legislative Sunrise/Sunset Review Committee  
1995-1996 Members**

**Senator Richard Mutzebaugh  
Chair**

**Senator Ginette Dennis  
Senator Bob Martinez  
Representative Alice Nichol  
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**Department of Regulatory Agencies Staff**

**Joseph A. Garcia  
Executive Director**

**H. Rene Ramirez  
Director, Office of Policy and Research**

**Bruce Harrelson  
Senior Policy Analyst**

**Polly Nolin  
Authoring Analyst**

June 30, 1995

The Honorable Richard Mutzebaugh, Chair  
Joint Legislative Sunrise/Sunset Review Committee  
State Capitol Building  
Denver, Colorado 80203

Dear Senator Mutzebaugh:

The Colorado Department of Regulatory Agencies has completed the evaluation of the **Board of Real Estate Appraisers**. We are pleased to submit this written report, which will be the basis for my office's oral testimony before the Joint Legislative Sunrise/Sunset Review Committee. The report is submitted pursuant to Section 24-34-104 (8)(a), of the Colorado Revised Statutes, which states in part:

*"The Department of Regulatory Agencies shall conduct an analysis of the performance of each division, board or agency or each function scheduled for termination under this section..."*

*The Department of Regulatory Agencies shall submit a report and such supporting materials as may be requested, to the Sunrise and Sunset Review Committee created by joint rule of the Senate and House of Representatives, no later than July 1 of the year preceding the date established for termination..."*

The report discusses the question of whether there is a need for the regulation provided under article 61 of title 12, C.R.S. The report also discusses the effectiveness of the division and staff in carrying out the intention of the statutes and makes recommendations for statutory and administrative changes in the event this regulatory program is continued by the General Assembly.

Sincerely,

Joseph A. Garcia  
Executive Director

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## *EXECUTIVE SUMMARY*

The Department of Regulatory Agencies has concluded the 1995 Sunset Review of the Board of Real Estate Appraisers and recommends that the Board be continued by the General Assembly.

Both Colorado and federal law mandates the use of certified or licensed real estate appraisers in certain real estate transactions. The General Assembly created the Board of Real Estate Appraisers in order to help regulate those persons wishing to perform real estate appraisals in Colorado. Inaccurate appraisals and incompetent appraisers may cause significant economic harm to Colorado's real estate market in general, and individual consumers in particular.

This review also makes several recommendations to improve the regulatory program by making specific changes in the statute. Primary among these recommendations is amending the definitions for "real estate appraisers", "real estate appraisals", and adding a definition for "evaluations."

This report contains many acronyms and abbreviations. A glossary for these designations may be found in the appendices.

## ***BACKGROUND***

In 1990, the Colorado General Assembly passed a law to govern the practice of real estate appraisal. The Board of Real Estate Appraisers ("Board") administers this statute as a part of the Division of Real Estate within the Department of Regulatory Agencies ("DORA"). The statute was adopted in response to a Sunrise Application and in anticipation of impending federal legislation - the "Financial Institutions Reform, Recovery and Enforcement Act of 1989" ("FIRREA") popularly known as the S & L Bailout Bill. Enactment of Title XI of FIRREA was delayed twice, and became effective on January 1, 1993. The Colorado statute, however, went into effect on January 1, 1992.

To supervise the implementation and administration of the federal statute, FIRREA authorized the establishment of the Appraisal Subcommittee ("Subcommittee") made up from representatives from the Federal Financial Institutions Examination Council ("FFIEC"). The FFIEC members are the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the Comptroller of the Currency, the Federal Reserve System, the National Credit Union Administration, and the Department of Housing and Urban Development.

The Subcommittee is an independent governing body funded by a \$25.00 fee collected from all licensed and certified appraisers. It oversees the Appraisal Foundation ("Foundation") and the two regulatory boards established within the Foundation - the Appraisal Qualification Board ("AQB"), and the Appraisal Standards Board ("ASB").

The Subcommittee has several statutory duties. It is required to, (1) monitor the appraisal regulations adopted by Federal Financial Institutions Regulatory Agencies ("FFIRA") and the Resolution Trust Corporation ("RTC"); (2) monitor and review the practices, procedures, activities, and organizational structure of the Foundation; (3) monitor each state's certification and licensing programs for real estate appraisers; and (4) review each state's compliance with the requirements of FIRREA. The Subcommittee is authorized to take action against non-complying states.

Its enforcement authority is powerful and potentially impacting on real estate transactions within a state. FIRREA mandates that the Federal Reserve Board, OCC, FDIC, OTS, NCUA, RTC, Fannie Mae, and Freddie Mac honor certification and licenses awarded by a state. However, if the Subcommittee determines that a state's licensing and certification program fails to recognize and enforce the standards, requirements, and procedures of FIRREA, the appraisers of that state may not perform appraisals governed by FIRREA.

The AQB establishes education, experience and examination criteria with which real estate appraisers must comply. The ASB establishes industry standards which are entitled the Uniform Standards of Professional Appraisal Practice ("USPAP"). The Colorado Board annually adopts each succeeding edition of the USPAP as the applicable standard of practice for real estate appraisers.

## **Federal Law**

Understanding federal law is essential to understanding Colorado's statute and regulatory program. As stated earlier, Title XI of FIRREA is the federal organic statute that regulates real estate appraisers.

FIRREA sets forth minimum requirements for real estate appraisals and appraisers. Under this law, the states must establish licensing and certification programs consistent with the act. In this context, consistent means that the programs may not be less stringent than FIRREA. Federal banking regulators and secondary market agencies may set appraisal requirements more stringent than those set in FIRREA. Additionally, individual lenders are free to set appraisal requirements more stringent than banking regulators or their secondary markets.

FIRREA governs federally related real estate transactions. A *federally related transaction* is defined as any real estate related financial transaction in which FFIRA or RTC engages, contracts for, or regulates, and which requires the services of an appraiser. A *real estate related financial transaction* includes sales, leases, and purchases of interests in real property, the financing or refinancing such property, and the use of real property as collateral - including mortgage backed securities. Examples of non-federally related transactions could include appraisals done in conjunction with condemnation proceedings, valuations made for tax assessments or divorce settlements.

Federal banking regulations implemented under FIRREA will control which class of appraiser a financial institution may or must use for a particular transaction. Federally sponsored guaranty and secondary market agencies are not included in FIRREA, but they have established their own appraisal regulations.

All states require that real estate appraisers obtain a license or certification to appraise for federally related transactions. Some states offer voluntary real estate appraiser licensing for non-federally regulated transactions. Other states are consistent with Colorado's mandatory licensing and certification statute that requires real estate appraisers be licensed for all real estate transactions. Many of those states that had offered only voluntary licensing are now trying to make it mandatory.



### ***Purpose of an Appraisal***

Most people think of real estate appraisals in terms of obtaining financing in order to buy a home. There are many more situations in which they are needed. For example:

- Arbitration
- Estate Valuations
- Eminent Domain Proceedings
- Expert Witness Testimony
- Litigation Preparation
- Market Analysis
- Market Rent Studies
- Market Trend Studies
- Tax Assessment Review, Advise, and Challenges
- Zoning Testimony
- Financing and credit

## ***SUMMARY OF STATUTE***

### ***Critical Statutory Definitions***

**“Appraisal,” “appraisal report,” or “real estate appraisal”** is a written analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate.”

**“Real estate appraiser” or “appraiser”** is anyone who provides for a fee or a salary an estimate of the nature, quality, value, or utility of any interest in, or aspect of, identified real estate and includes one who estimates value and who possesses the necessary qualifications, ability, and experience to execute or direct the appraisal of real property.

**“Financial institution”** means any bank or savings association, any state or federally chartered credit union, or any company which has direct or indirect control over any such entities.

### ***Board of Real Estate Appraisers***

This Board is cash funded and is functionally located within the Division of Real Estate, but is separate from the Real Estate Commission. It is composed of four licensed or certified real estate appraisers, a county assessor, a banker with extensive mortgage lending experience, and a public member. All members are appointed by the Governor and approved by the Senate.

### ***Powers and duties of the Board***

The Board has the authority to:

1. Promulgate rules and regulations necessary to implement and administer this statute to comply with Title XI of FIRREA;
2. Charge fees for applications, examinations, and licenses and certification renewal fees;

3. Keep all records of proceedings and activities open to the public at the discretion of the Board;
4. Discipline applicants, licensee, registrants, and certified persons;
5. Issue, deny, or refuse to renew a license or certificate;
6. Develop or purchase any exam needed to administer this statute;
  - The exam must be offered at least twice a year, more often if demand warrants it;
  - Establish a passing score which reflects minimum level of competency;
  - Make study materials available for a fee (if study materials are developed).
7. Investigate, subpoena persons and documents, hold hearings, and take evidence;
8. Apply for a federal waiver, where applicable, for licensing or certification of persons doing appraisals;
9. Transmit to the appraisal subcommittee of the FFIEC a roster listing individuals regulated by Colorado;
10. Collect and transmit an annual registry fee from regulated individuals to FFIEC;
11. Conduct its business and promulgate rules and regulations consistent with Title XI of FIRREA.

### **Registration, Licensing, and Certification**

Colorado has established four classifications of real estate appraisers. The categories and qualification requirements for each are as follows:

#### **Registered Appraiser:**

At least 55 hours of appraisal education and training including 15 hours of ethics and standards of practice, and pass an approved exam.

#### **Licensed Appraiser:**

At least 95 hours of appraisal education and training including 15 hours of ethics and standard of practice, 2 years appraisal experience, and pass an approved exam.

#### **Certified Residential Appraiser:**

At least 165 hours appraisal education and training, including 15 hours of ethics and standards of practice, 2 years appraisal experience and pass a licensing examination.

#### **Certified General Appraiser:**

At least 165 hours of appraisal education and training including 15 hours of ethics and standards of practice, 3 years of appraisal experience, and pass a certification examination.

Under Colorado law, an appraiser may appraise any property provided the appraiser complies with statute and rules. There are no restrictions based on property type, value, or loan amount; however, the law prohibits appraising beyond the level of one's competency and failing to meet generally accepted standards of practice. The Board, by rule, has incorporated the USPAP, thus making them Colorado's standards of practice and competency.

### ***Expiration and Renewal of Licenses, Certifications, and Registrations***

Licensees, certified persons, and registrants must renew every 3 years. If they let their status expire, they may reinstate it up to two years later so long as fees and penalties are paid. If more than 2 years has lapsed, they must make a new application and meet the requirements for new applicants.

### ***License, Certificate, or Registration Denial***

The Board determines whether applicants have the qualification for the position for which they are applying. Included in the qualifications is the applicant's truthfulness, honesty, and good moral character.

If the Board denies an application, it must provide the applicant with a statement in writing setting forth the basis of the board's denial. An applicant may request a hearing on such a determination.

### ***Exemptions***

Certain persons are exempt from regulation under this statute. These persons are:

- Real estate agents or brokers who estimate property value, but do not represent the estimate as an appraisal, and it is not used for any financing purposes;
- Certified public accountants who estimate property values, but do not represent them as appraisals;
- Corporations acting through its employees for its own purchasing purposes;
- Persons who appraise strictly water rights or mineral rights;
- State, county, and city right-of-way agents if they value properties worth \$5,000 or less;

- Officers, directors, or regular salaried employees of a financial institution who make valuations for internal analysis for real estate owned or held as collateral by such financial institution or its affiliates;
- Elected county assessors.  
(By virtue of a Colorado Supreme Court decision)

### ***Scope of article and de minimis exemption***

FIRREA exempts the use of a state certified or license appraiser for real estate-related financial transactions of \$250,000 and under. This exemption is commonly referred to as the *federal de minimis exemption*. Colorado's de minimis exemption is tied to the federal de minimis exemption. Under § 12-61-718, C.R.S., if a real estate related transaction is exempted under federal law, then Colorado financial institutions and their affiliates are exempted from using state certified or licensed appraisers. In order to utilize this exemption, the valuation of property must be performed by an officer, director, or regular salaried employee of the financial institution or its affiliate; or by a real estate broker or salesperson licensed as such with whom the institution has contracted for a valuation.

### ***Temporary Licenses and Certifications***

Under both federal and state law, the Board must recognize, on a temporary basis, the license or certification of an out-of-state appraiser if:

1. The property to be appraised is part of a federally related transaction; and
2. The appraiser's business is of a temporary nature; and
3. The appraiser applies for and is granted a temporary practice permit by the board.

This statute sets the minimum criteria for issuing temporary permits required under FIRREA. Colorado may not enact a law that is more stringent than FIRREA, but it may choose to set criteria that are less stringent.

### ***Endorsement***

The endorsement section of the statute permits appraisers licensed or certified in other states to be licensed or certified in this state without requiring them to demonstrate that they meet the education, examination, and experience requirements of Colorado law. The statute allows the Board to issue a license or certification to any applicant who has a license, registration, or certification in good standing as a real estate appraiser in another state. Applicants must present to the Board proof that they possess credentials and qualifications which are substantially equivalent to Colorado's. The Board has specified in rules what constitutes substantially equivalent credentials and qualifications and the manner in which credentials and qualifications of applicants will be reviewed.

### ***Prohibited activities and grounds for discipline***

Real estate appraisers violate this statute if they have:

1. Been convicted of a felony or has accepted by a court a guilty plea or nolo contendere to a felony if it is related to the ability to act as an appraiser. A certified copy of the court judgment of such a conviction or plea is conclusive evidence of such;
2. Violated, or tried to violate, directly or indirectly this statute, rule or regulation promulgated pursuant to this statute, or any board order established pursuant to this statute;
3. Accepted fees, compensation, or other valuable consideration to influence the outcome of an appraisal;
4. Used misleading, deceptive, or false advertising;
5. Used fraud or misrepresentation in obtaining a license or certificate;
6. Conducted an appraisal in a fraudulent manner or used misrepresentation in any such activity;
7. Acted or failed to act in a manner that does not meet the generally accepted standards of practice as adopted by the board;
8. Performed appraisal service beyond their level of competency;

9. Been disciplined in another state, territory, or country for actions relating to the practice as an appraiser or any related occupation if such violations would have been cause for discipline in Colorado. Such disciplinary action is prima facie evidence of grounds for denial or disciplinary action by this Board.

Disciplinary action by the Board includes:

1. Deny or refuse to renew any registration, license, or certificate;
2. Revoke or suspend or place on probation any registrant, license, or certificate;
  - Revocation means that the registration, license, or certificate must be surrendered immediately to the Board. One must wait at least two years after revocation before one reapplies.
  - The Board may determine the length of any suspension.
  - Probation may include such conditions for continued practice as the Board deems appropriate to ensure that the registrant, licensee, or certified person is otherwise qualified to practice in accordance with generally accepted professional standards. Such conditions may include any or all of the following:
    - ◇ Take training or education courses to correct deficiencies;
    - ◇ Review or supervision of the person's practice;
    - ◇ Impose restrictions on the nature of one's appraisal practice to ensure one does not practice beyond the limits of one's capabilities.
3. Issue a letter of admonition to an applicant, registrant, licensee or certified person.
  - The appraiser has 20 days to make a written request to the Board to institute formal disciplinary proceedings in order to formally adjudicate the conduct or acts on which the letter was based.



Disciplinary proceedings are conducted in accordance with the Colorado Administrative Procedure Act (“APA”). The Board also has authority to impose fines for any violation of this statute or for violation of any rule or regulation. The fine range is \$300 to \$500 per violation for the first administrative proceeding and \$1,000 to \$2,000 for any subsequent administrative proceeding for violations occurring after a final agency action determines that the statute has been violated.

If a person acts as a real estate appraiser without being registered, licensed, or certified, that person commits a class 3 misdemeanor punishable by a minimum penalty of a \$50 fine or a maximum penalty of 6 months imprisonment, or \$750 fine, or both. If there are subsequent violations of this prohibition within 3 years after the first conviction, the violator has committed a class 1 misdemeanor. The minimum sentence is 6 months imprisonment or a \$500 fine, or both, or a maximum sentence of 18 months imprisonment, or a \$5,000 fine, or both.

The Board has discretion to keep complaint records closed to public inspection, except as provided by court order, during the investigatory period and until the complaint is dismissed or until a notice of hearing and charges are served on a licensee. A person, who in good faith, makes a complaint or participates in an investigative or administrative proceeding is immune from civil or criminal liability that might result from the complaint. Registrants, licensee, and certified persons have an affirmative duty to report any violations of this statute or rules to the Board. The Board may reconsider any prior discipline action it has taken when requested to do so or on its own motion. Final Board actions and orders may be judicially reviewed by the court of appeals.

### **Continuing Education**

FIRREA of 1989 requires that appraisers take continuing education classes. Colorado statute takes this requirement a step further and requires that appraisers be tested on the Continuing Education material. Colorado's statute provides that the Board may not implement continuing education requirements more stringent than federal requirements.

No continuing education is required for renewal of an initial license or certificate. However, every appraiser with a 3 year registration, license, or certificate must complete 30 classroom hours of continuing education, 4 of which must include an update on USPAP. Continuing appraisal education courses must be taken from providers approved by the Board.

The Board may require a renewal applicant or licensee to provide documentation to prove completion of continuing education requirements. To this end, the Board randomly audits 20% of all renewals to measure continuing education compliance.

## *PROGRAM DESCRIPTION AND ADMINISTRATION*

the states regarding the organizational structure of the real estate appraiser regulatory agency. The concern was that the regulatory agency be independent from undue influence of "affected industries." Affected industries include entities that have a direct or indirect pecuniary interest in appraisals, such as real estate brokers, financial institutions, and construction companies.

As stated previously, the Board is located within the Division of Real Estate, but it is separate from the Real Estate Commission. The Board is composed of four licensed or certified real estate appraisers, a county assessor, a banker with extensive mortgage lending experience, and a public member. The Board's characteristic and regulatory structure has met with approval from the Subcommittee.

### ***Appraiser numbers in Colorado***

There has been a real estate boom in Colorado in the last few years, and the low interest rates that the mortgage market experienced in the early 1990's contributed to "re-finance fever." As a result, there was a demand created shortage of appraisers in Colorado. Since January 1, 1992, the number of real estate appraisers in Colorado has increased. The following chart shows the number of licenses and certifications issued since the program's inception.

### *LICENSE, CERTIFICATION, REGISTERED INFORMATION*

<u>TYPE</u>	<u>No. as of</u>	<u>1/92</u>	<u>1/93</u>	<u>1/94</u>	<u>4/95</u>
Registered		141	596	889	1089
Licensed		547	447	413	526
Certified Residential		N/A	395	566	649
<u>Certified General</u>		<u>551</u>	<u>847</u>	<u>985</u>	<u>1110</u>
Totals		1239	2285	2853	3374

The Subcommittee issued guidelines to

**TEMPORARY PRACTICE PERMITS**

<b>1992</b>	<b>1993</b>	<b>1994</b>	<b>1995 to date</b>
19	43	31	32

The current requirements for temporary practice permits are too restrictive to allow appraisers from other states to temporarily practice in Colorado. The problem is the requirement that the real estate transaction be federally related. Colorado's law tracks the federal regulations, but it does not function well in its application.

The demand for real estate appraisals has abated somewhat. Interest rates have increased so the residential refinancing rush has ended. The demand for commercial appraisals has declined because the RTC's and FDIC's attempts to resolve the problems created by the savings and loan fiasco are winding down. However, Colorado is still experiencing growth and there is a demand for real estate.

**CURRENT APPLICATION AND INITIAL LICENSURE FEES**

Registered Appraiser	\$ 67.00
Licensed Appraiser	\$101.00
Certified Residential Appraiser	\$109.00
Certified General Appraiser	\$109.00

Initial registrations, licenses, and certificates are valid for the balance of the calendar year of issue. Licensees then enter into a series of three year renewals.

**Endorsement**

It used to be that licensed practitioners moved between states by a process known as reciprocity. In these cases, state boards made agreements that "if you accept licensees from our state, we'll accept licensees from your state." This process often denied one entry into a state's professional market simply because no reciprocal agreement had been established between some states.

Regulatory reform in Colorado ended this type of mobility restriction. The legislature has chosen repeatedly to accept applicants whose skills and qualifications to practice are substantially similar to those requirements needed to obtain a license by examination. The real estate appraiser statute conforms to this standard.

In order for appraisers to be licensed by endorsement, they must be in good standing in another state and possess qualifications substantially equivalent to those imposed by Colorado. The Board has joined the majority of other states in finding that a person licensed or certified in a state which imposes requirements consistent with those in the AQB has met requirements substantially equivalent to those in Colorado.

The Board has not sought out, but has entered into reciprocity licensing agreements with those states that require them. At present, Colorado has agreements with 12 states. However, the Board does not rely solely on reciprocity agreements to issue licenses by endorsement. It examines each application and makes a determination to issue a license on an individual basis.

Most appraisers seeking licensure through endorsement possess educational and experience qualifications far surpassing Colorado's requirements. The typical endorsement applicant is a non-resident appraiser who is a regional or national level expert in some specialized area.

Licensed or Certified through Endorsement

June 1994 - June 1995

Licensed	10
Certified Residential	30
Certified General	<u>70</u>
Total	110

Most of those issued in the Licensed and Certified Residential classifications were appraisers who moved here from other states and went on to become Colorado residents. Most of those issued to the Certified General classification were issued to non-residents who are considered experts in a particular type of property, or are appraising multiple locations for an out-of-state client.

Origins of Endorsement Applicants

Arizona	- 7	Illinois	- 1	Michigan	- 1
Arkansas	- 1	Kansas	- 3	Minnesota	- 5
California	- 27	Maine	- 1	Nebraska	- 1
Florida	- 3	Maryland	- 2	Nevada	- 1
Georgia	- 4	Massachusetts	- 1	New Mexico	- 9
New York	- 6	Utah	- 2		
Ohio	- 1	Virginia	- 4		
Oklahoma	- 5	Washington	- 3		
Pennsylvania	- 3	West Virginia	- 1		
Texas	- 19	Wisconsin	- 2		

**Examinations**

All applicants must pass an examination in order to become a registered, licensed, certified residential, or certified general appraiser. All examinations and testing must comply with FIRREA and be reviewed and approved by the AQB of the Foundation. The Board contracts with a private company, Assessment System Inc., to do all of its testing.

A more focused certified residential appraiser examination developed by the AQB was instituted on January 1, 1995. The exam puts less emphasis on legal considerations in appraisal, types of value, property description, and the sales comparison approach. Greater emphasis is given to appraisal math, appraisal statistics, compound interest functions, the income approach to value and valuation of partial interests.

## **Complaints and Discipline**

During the first year of licensure, most dismissals of complaints were due to lack of jurisdiction. Some complaints were received about actions alleged to have occurred before the advent of licensing.

In general, complaints are dismissed due to a lack of jurisdiction, minor errors which do not affect value, legitimate differences in judgment between professionals and areas of business conduct which are not covered by statute, rules, or USPAP. Some typical situations in which the Board does not have jurisdiction are as follows:

1. Complaints about the appraisal of a mobile home. Mobile homes are personal property unless the title has been surrendered and the unit permanently fixed to a foundation. No license is required to appraise a mobile home.
2. Complaints about an appraisal of other personal or business property.
3. Complaints about real estate brokers who give testimony in court as to the price of real estate. If they do not represent their work product as an appraisal, or themselves as being an appraiser, there is no violation of the statute.

Complaints are dismissed when the alleged misconduct does not appear to be covered by the statute, Board Rules, or USPAP. These include complaints about such matters as the appraiser arriving late for an inspection appointment, being rude, or getting mud on the carpet. The Board has directed the program staff (the program administrator) to administratively dismiss complaints where there is no jurisdiction and when the complaint is about business practices.

Complaints about appraisal judgment are taken to the Board. The Board will dismiss a complaint where the alleged violation is a difference of opinion as to method or procedure.

The period of 1992 through 1993 showed a larger number of dismissals than any of the other years. This can be explained by recognizing that this was the time of “re-finance fever.” Many of those dismissals were of what is termed “wrong number” complaints. These complaints are those where the final value estimate of the property is below what the borrower believed the property was worth. Some of these complaints were submitted by mortgage brokers. The Board and the program staff made brief reviews of the appraisals in question and discovered no problems, or only problems so minor as to not affect the value estimate.

The complaints that the Board receives are different from the type that most other boards receive. For example, whereas the Real Estate Commission receives a lot of complaints about unscrupulous brokers or salespersons who misappropriate funds, the Board receives a lot of complaints about appraiser competency and practice standards. Consequently, the Board must determine whether appraisers used appropriate appraisal methods or whether appraisers are appraising beyond their level of competency. These types of cases require more subjective analysis of the facts surrounding the complaint.

The Board often makes use of their disciplinary authority to require appraisers to successfully complete continuing education courses related to their violation.



### Complaints

The following is a summary of the complaints submitted to the Board and a disposition of such complaints:

<b>BOARD OF REAL ESTATE APPRAISERS SUMMARY OF COMPLAINTS AND DISPOSITIONS</b>															
<b>Total Complaints</b>	<b>Dispositions</b>														
<b>Fiscal Year 90-91</b>															
Examination and licensing application processing began March, 1991. The first licenses were issued with July 1, 1991 effective dates. No complaints were received during the 90-91 fiscal year.															
<b>Fiscal Year 91-92</b>															
31	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>No jurisdiction</td><td style="text-align: right;">8</td></tr> <tr><td>Dismissed by staff</td><td style="text-align: right;">1</td></tr> <tr><td>Dismissed by Board</td><td style="text-align: right;">12</td></tr> <tr><td>Dismissed w/Letter of Concern</td><td style="text-align: right;">5</td></tr> <tr><td>Letter of Admonition</td><td style="text-align: right;">3</td></tr> <tr><td>Disciplined</td><td style="text-align: right;">2</td></tr> <tr><td>Unresolved</td><td></td></tr> </table>	No jurisdiction	8	Dismissed by staff	1	Dismissed by Board	12	Dismissed w/Letter of Concern	5	Letter of Admonition	3	Disciplined	2	Unresolved	
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## *SUNSET ANALYSIS*

In December of 1985, the Commerce Consumer and Monetary Affairs Subcommittee of the U.S. House of Representatives conducted hearings to examine the impact of faulty and fraudulent real estate appraisals on federally insured financial institutions and related federal agencies. Testimony was given about problems within the appraisal industry and their impact on real estate lending, mortgage insurance, and investment in the secondary market.

Such testimony included the fact that (1) a large number of appraisers had not participated in a professional qualification program; (2) the majority of appraisers were not members of a professional appraisal organization that requires them to adhere to well defined standards for the development and communication of an appraisal; (3) the users of appraisal services do not have a basis for evaluating an appraiser's qualifications and work product; and (4) there was a great amount of press generated about fraudulent appraisals and their effect on the thrift and banking industry.

To address these concerns, Congress enacted Title XI of FIRREA. This law requires that only state licensed or certified real estate appraisers perform appraisals on certain federally related transactions. The federally related secondary market also requires all loans that they purchase be performed by a state certified or licensed appraiser. The federal mandates are still in place. Therefore, all such transactions in Colorado must be done by state licensed or certified appraisers whether they are from Colorado or not.

If Colorado were to discontinue its current licensing and certification program, either appraisers would have to go out-of-state to obtain the necessary qualifications to comply with federal requirements, or those seeking appraisals would have to look to out-of-state appraisers to prepare an appraisal. Because 80% of the real estate transactions in Colorado are federally related or go to federally sponsored secondary markets, discontinuing this program would be a burden on real estate appraisers and have a significant impact on the real estate market, related industries, and consumers.

The next question is whether the statute is the least restrictive form of regulation consistent with the public interest. Should Colorado require state licensure and certification for non-FIRREA real estate transactions? In other words, should Colorado change from a mandatory licensing state to a voluntary licensing state?

Changing from a mandatory to a voluntary licensing program would, superficially at least, appear less restrictive. Appraisers would have a choice as to whether they wanted to become regulated by the state, and only appraisals connected to federally related transactions and federally guaranteed secondary real estate markets would be required to be performed by state certified or licensed appraisers. However, having a dual scheme where some appraisers would be state regulated and others would not be, could cause confusion in the appraiser industry, the real estate market, financial institutions, and with consumers.

Before Colorado decides to switch to a voluntary licensing program, the experience that other states have had with voluntary licensing programs should be examined. According to information provided by the Appraisal Institute, as of July 1994, 32 states/territories (60%) had a voluntary licensing program, while 21 states/territories (40%) had mandatory licensing. It is important to note, however, that currently there are 40 bills pending in 21 states to convert their licensing programs from voluntary to mandatory.

Some of the problems that these states have experienced are: (1) confusion on the part of all parties as to whether a state licensed or certified appraiser must be used; (2) consumers confused as to where to file complaints (if the appraiser is not regulated by the state, the state may not take disciplinary action against the appraiser); (3) dispute as to whether the real estate appraiser board has jurisdiction over a state licensed or certified appraiser when the transaction does not require a state licensed or certified appraiser.

One regulatory concern to consider when the state licenses a profession is whether, by imposing minimum qualification requirements on practitioners, the number of people employed in the profession might decrease. If the numbers decrease, the consumer would have less choice and the cost of the service might increase. These concerns have not manifested in the case of the real estate appraiser profession. As the chart on page 15 illustrates, the number of appraisers in Colorado has risen every year since regulation began. The real estate market has generated such an increase. Even though the market has slowed, there are still a large number of real estate appraisers in Colorado. In fact, according to information provided by the Appraisal Institute, Colorado has one the highest ratios of appraisers to population of any state.

Before state regulation, anyone could call themselves a real estate appraiser. There were no minimum requirements for education or training. Only 35-40% of the appraisers practicing in Colorado belonged to any private professional organization. They were the only ones subject to any kind of standards of practice. However, even if an appraiser was expelled from a professional association, the appraiser could still practice in Colorado. Furthermore, any disciplining of their members was done in private and were not subject to public scrutiny.

Because of state licensing and certification, all real estate appraisers must now meet minimum education, experience, and examination qualifications in order to practice. Additionally, all appraisers are now subject to a uniform standard of practice with enforcement of such achieved by a public administrative body. The public is better protected by the state regulating all real estate appraisers rather than by private associations policing only some real estate appraisers.

One argument against state regulation of an occupation is that there is a strong professional organization that adequately protects the public and polices its members. In the case of real estate appraisers, there are at least 8 different associations to which an appraiser MAY belong. Each association has its own set of qualification requirements that its members must meet. The public cannot easily determine the qualifications of an appraiser when there are so many different organizations in existence. Also, there is some rivalry between the associations which prevents them from setting industry-wide qualification requirements and standards of practice.

Another problem connected with relying solely on private associations to set standards and police its membership is in processing complaints and discipline. If consumers have complaints, they must first figure out who to contact to file their complaints. To which of the many private associations does the appraiser belong, if any? If the association takes any action, would it be done behind closed doors and without public scrutiny?

Inaccurate appraisals are a contributing factor in lending institutions entering into loan agreements which are under collateralized. Losses to lending institutions are passed on to the consumer in the form of higher interest rates for loans. In extreme cases, the consumers may lose or have restricted access to their money if the institution fails and is taken over by a federal insurance agency.

An interesting historical perspective of real estate appraiser regulation is that at about the same time this statute was passed, the legislature was considering imposing regulations for tax assessors. The General Assembly felt that there was a significant problem with the qualifications, or lack thereof, of tax assessors and their ability to prepare accurate appraisals. The legislature wanted to impose some standards in the industry. Even without federal oversight or the sunrise application by the industry, the legislature realized the importance of having qualified people do appraisals. In the end, tax assessors were included in the real estate appraiser bill.

**Expand the  
Scope of  
Regulation?**

A Sunset Review must address whether current regulation needs to be expanded in order to protect the public. One issue that has been before the Board is whether persons who represent individuals at tax assessment appeals hearings must be licensed or certified real estate appraisers. Under current state taxation law,

“[a]ny person who is a party in a proceeding before the board [of assessment appeals] may appear on his own behalf or be represented by an attorney admitted to practice law in this state or by any other individual of his choice.” § 39-2-127(4), C.R.S.

Some in the real estate appraiser industry believe that since those representatives testifying before the board of assessment appeals are giving an opinion as to the value of a piece of property, they are giving an appraisal and should have to be licensed or certified. This report cannot support that view. There has not been a showing of significant public harm resulting from non-licensed, non-certified people representing others in assessment appeals.

As previously asserted, individuals may appear on their own behalf and no one is suggesting that they be licensed or certified real estate appraisers. Individuals may present any evidence such as market analyses, evaluations, or comparables in order to convince the board of assessment appeals. It is up to the board to decide whether the evidence presented is persuasive.

It should be up to property owners to determine whether they want to spend more money to get an appraisal prepared, or whether they want to present less in-depth analyses for evidence. If only licensed or certified appraisers are allowed to represent property owners in the assessment appeals process, the choices of property owners would become limited.

The pertinent issue is not whether persons representing property owners are licensed or certified appraisers. The pertinent issue is whether such persons represent their work product as an appraisal. The definition of an appraisal has a statutory definition, denotes a certain level of investigation and analysis, and indicates that specific standards have been met. If one represents a work product to be an appraisal and it does not meet the definition or standards of one, then that is a misrepresentation and should be handled as such by appropriate regulatory agencies. For example, if the misrepresentation is done by a real estate broker/salesperson, the Real Estate Commission should be notified of the statutory violation. The Board of Real Estate Appraisers could also take action against the violator by issuing a cease and desist order.

## RECOMMENDATIONS

### **Should the Board of Real Estate Appraisers be Continued?**

A real estate appraisal is an integral component of the credit underwriting process. Inaccurate appraisals are a contributing factor in lending institutions entering into loan agreements which are under-collateralized. As history has taught us, losses to lending institutions are passed on to the consumer in the form of higher interest rates for loans. In extreme cases, the consumers may lose or have restricted access to their money if the institution fails and is taken over by a federal insurance agency.

For most people, a home is the most important and expensive purchase they will make in their lives. Included in the home buying experience is the requirement that an appraisal be done. The buyer, seller, and lender rely on a fair, independent assessment of the value of the property in question. An inaccurate appraisal may (1) obligate a person buying property to spend more for property than its actual value, (2) may obligate a person selling property to sell it for less than its actual value, or (3) may lead to denial of credit or to excessive financing. An accurate estimation of value helps one to make prudent decisions about the disposition and use of real estate.

Therefore, it is important for appraisers to be knowledgeable and qualified. It is also important that appraisers be held to standards of practice by which their competency can be evaluated, and they may be disciplined should they violate those standards.

Federal law mandates that Colorado have a minimum level of licensure and certification for real estate appraisers. However, it is not an unfunded federal mandate. The state program is cash funded by the persons being regulated.

As stated in the Sunset Analysis section of this report, if Colorado were to discontinue its current licensing and certification program, either appraisers would have to go out-of-state to obtain the necessary qualifications to comply with federal requirements, or those seeking appraisals would have to look to out-of-state appraisers to prepare an appraisal.



There is not duplicative oversight with financial institutions because they are exempt from regulation under this law. Any auditing of standards, or practices and procedures are done by their respective regulators.

***Recommendation 1: The General Assembly should continue the regulation of real estate appraisers by the Board of Real Estate Appraisers.***

## **Definitions**

For the sake of clarification and consumer protection, the definitions of real estate appraiser, and real estate appraisal should be amended; the definition of evaluation should be added; and exempted persons should have a separate subsection.

**Real Estate Appraisal:** Currently, an appraisal is limited to a written analysis, opinion, or conclusion. This limitation excludes any oral appraisal reports given in court testimony or Board of Assessment Appeals. An appraiser may circumvent the requirements of the statute and the authority of the board simply by presenting their appraisal orally. Someone who represents to a client, a court, or any adjudicative body that an opinion of value is an appraisal should have to follow industry standards of practice. One expects an appraisal to have been based on certain standards. Just because the form of communication is verbal rather than written does not mean that an appraisal has not been prepared.

**Real Estate Appraiser:** Real estate brokers/salespersons are specifically exempt from the definition of an appraiser. However, what a broker/salesperson may or may not do should be clarified. A consumer should be clear that what a real estate broker/salesperson is doing is not an appraisal. An appraisal is a much more in-depth analysis of value than what a broker/salesperson does.

*They may:*

1. Prepare a market analysis as part of real estate brokerage practice;
2. Offer an opinion as to the recommended listing price for real estate in a court;
3. Offer an opinion as to the appropriate assessed value for property tax purposes;
4. Prepare “evaluations” as defined.

*They may not:*

1. Represent themselves as appraisers, or as qualified to appraise real estate;
2. Represent their work products as an appraisal or appraisal report;
3. Use the word appraiser or appraisal on business cards, letterhead, or in any advertisement.

The definition for real estate appraiser should be changed to eliminate the following language: “Such term also does not include any person licensed as a broker or salesman pursuant to part 1 of this article who provides an estimate of value which is not represented as an appraisal and is not used for purposes of obtaining financing.” This limitation of the use of an evaluation produced by a broker/salesperson is in conflict with § 12-61-718(1)(a)(II), C.R.S. which allows financial institutions to use broker/salespersons to evaluate real property.

**Evaluation:** A definition for an evaluation should be added. For the sake of consistency, the evaluation standards issued by the three federal bank regulatory agencies could be adopted by reference as Colorado’s standards for preparing evaluations. The definition should specify that they are not appraisals and do not meet the standards required of an appraisal. (Please see Recommendation 2 for a corresponding issue/recommendation).

**Exempted persons:** As currently written, work products exempted from the definition of appraisal, and those persons exempted from the definition of appraiser are included within those definitions. This format is lengthy and confusing. For clarification, exempted persons should be listed in a separate subsection.

***Recommendation 2: The General Assembly should make the above definitional changes.***

## **Evaluations as Work Products**

Federal banking regulators use the term “evaluation” to describe these valuation related work products. They do not need to meet the appraisal standards set forth under USPAP. To avoid confusion in the minds of lenders, appraisers, borrowers, and regulators, the term “real estate appraisal” should not be used when an “evaluation” is what is really being prepared. Banks and other financial institutions are already familiar with the term “evaluation” because federal banking regulations and guidelines already use it. Therefore, the term “evaluation: should be substituted.

The revised § 718 could read:

(1) (a) The provisions of this article shall not apply to an evaluation relating to any real estate transaction or loan made or to be made by a financial institution or its affiliate if such real estate related transaction or loan is excepted from appraisal regulations established by the primary federal regulator of said financial institution and the evaluation is performed by:

(I) An officer, director or regular salaried employee of the financial institution or its affiliate; or

(II) A real estate broker or salesperson licensed under this article with whom said financial institution or affiliate has contracted for performance of the evaluation.

(b) Such evaluation shall contain a written notice that the preparer is not registered, licensed, or certified as an appraiser under this part 7.

(2) [Remains unchanged]

***Recommendation 3: The General Assembly should amend § 12-61-718, C.R.S. to use the word “evaluation” to describe the work product generated by bank personnel or their contacted real estate broker or salesperson.***

### **Qualification Criteria for Licensure and Certification**

Title XI of FIRREA requires state appraiser regulatory agencies to be consistent with the criteria set by the AQB in setting requirements for the Certified Residential and Certified General classes of appraisers. While Title XI does not require adherence to the AQB criteria at the Licensed Appraiser level, the Subcommittee has authority to determine whether a state program has requirements consistent with the intent of the act. The AQB has issued recommended criteria for this level. FIRREA does not mention apprentice level licensure, but again the AQB has issued recommended criteria.

These criteria have changed since inception of appraiser licensing in Colorado, and will undergo significant changes with an effective date of January 1, 1998. At present, Colorado's licensure and certification requirements represents a mixed picture in terms of adherence to the required and/or recommended criteria. In 1998, the AQB criteria will change, requiring more education and experience at the licensed and certified levels.

Changing requirements through changes in statute is costly, time consuming, uncertain, and not always timely. Therefore, the Board should have the authority to establish, education and training, experience, and examination qualifications for all levels of licensure and certification. The statute could limit the Board by stating that the qualifications they set may not exceed the qualification requirements set by the AQB, except that all levels must pass an examination.

**Recommendation 3: Amend § 12-61-706, C.R.S. to give the Board the authority to set, by rule, the qualifications for appraiser's license and certification; however, the Board may not establish qualification criteria more stringent than that established by the Appraisal Qualification Board of the Appraisal Foundation. Except all applicants for licensure or certification must pass an examination.**

**Delete  
Subsection (3)  
of §12-61-718,  
C.R.S.**

Subsection (3) reads, "Any savings by a financial institution in using an inside appraiser must be passed on to the consumer." While this is a good idea, and it was probably put into this section because the cost of an evaluation should be lower than that of an appraisal, this subsection is unenforceable.

**Recommendation 4: The General Assembly should delete § 12-61-718(3) , C.R.S..**

## **Good Moral Character**

Delete the requirement that the Board may determine whether an applicant be of “good moral character” before a license or certification is approved and amend it to a consideration of a conviction of a crime involving moral turpitude. § 12-61-709(1), C.R.S..

The statute gives the Board the authority to determine whether an applicant possesses the qualifications required under the law, “including the applicant’s truthfulness, honesty and good moral character.” The phrase “good moral character” is too vague to be useful. The statute already requires the applicants be truthful and honest, which are measurable and provable characteristics. If the question is really whether an applicant has been convicted of a crime involving “moral turpitude,” then that is the requirement that should be in the statute. “Good moral character” is too nebulous to be useful.

***Recommendation 5: The General Assembly should delete the requirement that the Board may determine whether an applicant be of “good moral character” before a license or certification is approved. The language should be amended to “The board is empowered to determine whether an applicant for registration, licensure or certification possesses the necessary qualifications to perform appraisals. The board may consider such qualities as the applicant’s truthfulness, honesty, and whether the applicant has been convicted of a crime involving moral turpitude.”***

## **Letters of Admonition**

Amend the disciplinary section, § 12-61-710, C.R.S to remove the issuance of letters of admonition from the list of possible formal disciplinary actions, and authorize the Board to use public censure as a disciplinary tool. A letter of admonition should be used as an informal disciplinary tool.

**Letters of admonition:** Under the statute that governs real estate brokers and salespersons, the Real Estate Commission has the authority to issue a letter of admonition. It is not a formal disciplinary tool. It is used to counsel licensees that their actions raise concerns, but that the regulatory board does not think formal disciplinary action should be taken. The “letter of admonition” also allows a regulatory board to employ informal action without dismissing the complaint.

The Real Estate Appraiser law places the “issuance of letters of admonition” subsection under the formal disciplinary subsection, thus making it something it was never intended to be. In order to create an *informal action* for those situations that warrant it, the Board has created a “*letter of concern*.” In actuality, this “letter” does what a letter of admonition is suppose to do with one important exception. In order to issue a “letter of concern,” the Board must first dismiss the complaint. The “letter of concern” is an additional layer of discipline that is unnecessary. Its use may be eliminated if the “letters of admonition” subsection is corrected.

A good example of a “letter of admonition” subsection is found in § 12-61-113(6), C.R.S. - the license law for real estate brokers and salespersons.

It reads:

When a complaint or an investigation discloses an instance of misconduct which, in the opinion of the commission, does not warrant formal action by the commission but which should not be dismissed as being without merit, the commission may send a letter of admonition by certified mail, return receipt requested, to the licensee against whom a complaint was made and a copy thereof to the person making the complaint, but the letter shall advise the licensee that the licensee has the right to request in writing, within twenty days after proven receipt, that formal disciplinary proceedings be initiated to adjudicate the propriety of the conduct upon which the letter of admonition is based. If such request is timely made, the letter of admonition shall be deemed vacated, and the matter shall be processed by means of formal disciplinary proceedings.

The current subsection in the appraiser statute does not explain when a letter of admonition may be used. If the statute was changed to mirror the real estate broker/salesperson license law, the Board would be able to admonish an appraiser without instituting formal disciplinary proceedings, and at the same time they would not have to dismiss the complaint to do so.



**Public censure:** Currently, the Board does not have the authority to publicly censure licensed or certified appraisers. Other regulatory boards have found public censure to be an effective disciplinary tool. It usually takes the form of publication of the appraiser's name, the nature of the offense, and the disposition of the case in an industry and/or agency newsletter. Public censure also serves to notify consumers about appraisers who have violated the statute.

**Recommendation 6:** *The General Assembly should amend the disciplinary section, § 12-61-710, C.R.S to remove the issuance of letters of admonition from the list of possible formal disciplinary actions, and authorize the Board to use public censure as a disciplinary tool. A letter of admonition should be an informal disciplinary tool and it should be listed in a separate subsection.*

## **Registered Appraiser**

Under this statute, the title “registered appraiser” is misleading. It does not adequately represent the individual’s qualifications. This classification is entry level. No experience is necessary. Only minimal education and training, and exam passage is required.

A more appropriate name for this classification might be “apprentice.” This term better describes the level of experience of the appraiser. State law does not specifically limit the type of appraisal a registered, licensed, or certified appraiser may perform. Therefore, in order for the consumer to make an informed choice, a title should reflect the qualifications of the appraiser.

**Recommendation 7:** *The General Assembly should change the name of the “Registered Appraiser” to “Apprentice.”*

**Temporary  
Practice  
Permit**

The current criteria to obtain a temporary appraiser practice permit requires that: (1) the property to be appraised is part of a federally related transaction; (2) the appraiser's business is of a temporary nature; and (3) the appraiser applies for and is granted a temporary practice permit by the Board.

The requirement that the property to be appraised is part of a federally related transaction is too restrictive. There are situations when a person or company wants to use an out-of-state appraiser, but the transaction is not federally related. Under current law, the out-of-state appraiser could not obtain a temporary practice permit.

There is no rational relationship between an out-of-state appraiser's qualifications to perform an appraisal and the fact that the transaction is federally related. This limitation does not protect the public from incompetent appraisers, and it unduly restricts a consumer's choice.

The title for this section, "Licensure or certification by endorsement," should be changed to reflect the fact that it also contains the criteria for a temporary practice permit. The section is § 12-61-708, C.R.S..

***Recommendation 8: The General Assembly should amend the qualifying criteria for a Temporary Practice Permit.***

**Elected  
County  
Assessors**

In Reale v. Board of Real Estate Appraisers, 880 P.2d 1205 (Colo. 1994), the Colorado Supreme Court ruled it unconstitutional to require an elected official to a constitutionally created office to acquire any special licenses in order to hold office. Therefore, such requirements should be removed from the statute. The Supreme Court did not find that requiring special licenses for assessors' staff members is unconstitutional. Staff members do property appraisals for tax assessments and their job requires real estate appraisal knowledge. Therefore, it is important to continue the requirements that they be licensed or certified.

***Recommendation 9: The General Assembly should delete all requirements that elected or appointed assessors must be a licensed or certified appraiser. In doing so, the General Assembly should retain the requirement that an assessor's appraisal staff members be required to be licensed or certified.***

**Technical  
Statutory  
Changes**

**Delete § 12-61-706(6), C.R.S.:** This section addresses the initial examination development and process. Because this has already been done, this section is no longer relevant or necessary.

**Delete § 12-61-703(2.5)(a)(i), (ii), and (c), C.R.S.:** The Subcommittee has already approved the current functional structure which places the Board within the Division of Real Estate. Therefore, these subsections are no longer necessary.

**Add to the §§ 12-61-704(b) and (e), C.R.S. the term “registered appraiser” (or the new term “apprentice”).**

These two section address the Board’s power to charge application and renewal fees, and their power to issue, deny, or refuse to renew a license or certificate. These subsections do not include the term “registered appraiser;” therefore, one could question the Board’s authority to collect fees from registered appraisers or their authority to issue or take action against a registered appraiser. This omission was apparently an oversight when the statute was drafted.

***Recommendation 10: The General Assembly should make the preceding technical statutory changes.***

*APPENDICES*

## Sunset Statutory Evaluation Criteria

- (I) Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;
- (II) If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;
- (III) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices of the Department of Regulatory Agencies and any other circumstances, including budgetary, resource and personnel matters;
- (IV) Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- (V) Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
- (VI) The economic impact of regulation and, if national economic information is available, whether the agency stimulates or restricts competition;
- (VII) Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
- (VIII) Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;
- (IX) Whether administrative and statutory changes are necessary to improve agency operations to enhance public interest.

## Board of Real Estate Appraisers Statute

**12-61-701. Legislative declaration.** The general assembly finds, determines, and declares that this part 7 is enacted pursuant to the requirements of the federal "Real Estate Appraisal Reform Amendments", Title XI of the federal "Financial Institutions Reform, Recovery, and Enforcement Act of 1989". The general assembly further finds, determines, and declares that this part 7 is intended to implement the minimum requirements of federal law in the least burdensome manner to real estate appraisers while providing the protection to the public and users of appraisals mandated by federal law.

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

(1) "Appraisal", "appraisal report", or "real estate appraisal" means a written analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate. Such terms include a valuation, which is an estimate of the value of real estate, and an analysis, which is a general study of real estate not specifically performed only to determine value; except that such terms include any valuation completed by a county assessor as defined in section 39-1-102 (2), C.R.S., or any appraiser employee of any such assessor. Such terms do not include an analysis, valuation, opinion, conclusion, notation, or compilation of data by an officer, director, or regular salaried employee of a financial institution or its affiliate, made for internal use only by the said financial institution or affiliate, concerning an interest in real estate that is owned or held as collateral by the said financial institution or affiliate which is not represented or deemed to be an appraisal except to the said financial institution, the agencies regulating the said financial institution, and any secondary markets that purchase real estate secured loans. Any such appraisal prepared by an officer, director, or regular salaried employee of said financial institution who is not registered, licensed, or certified under this part 7 shall contain a written notice that the preparer is not registered, licensed, or certified as an appraiser under this part 7.

(2) "Board" means the board of real estate appraisers created in section 12-61-703.

(3) "Director" means the director of the division of real estate.

(4) "Division" means the division of real estate.

(5) "Real estate appraiser" or "appraiser" means any person who provides for a fee or a salary an estimate of the nature, quality, value, or utility of an interest in, or aspect of, identified real estate and includes one who estimates value and who possesses the necessary qualifications, ability, and experience to execute or direct the appraisal of real property. "Real estate appraiser" does not include any person who conducts appraisals strictly of personal property. Such term also does not include any person licensed as a broker or salesman pursuant to part 1 of this article who provides an estimate of value which is not represented as an appraisal and is not used for purposes of obtaining financing. Such term also does not include any person licensed as a certified public accountant pursuant to article 2 of this title, and otherwise regulated, provided such estimates of value for real estate are not represented as an appraisal. "Real estate appraiser" does not include any corporation, which is acting through its officers or regular salaried employees, when conducting a valuation of real estate property rights owned, to be purchased, or sold by the corporation. "Real estate appraiser" also does not include any person who conducts appraisals strictly of water rights or of mineral rights. Such term also does not include any right-of-way acquisition agent employed by a public entity who provides an estimate of value which is not represented as an appraisal when the property being valued is five thousand

dollars or less; and the term does not include any officer, director, or regular salaried employee of a financial institution or its affiliate who makes, for internal use only by the said financial institution or affiliate, an analysis, evaluation, opinion, conclusion, notation, or compilation of data with respect to an appraisal so long as such person does not make a written adjustment of the appraisal's conclusion as to the value of the subject real property. Such term also does not include any officer, director, or regular salaried employee of a financial institution or its affiliate who makes such an internal analysis, valuation, opinion, conclusion, notation, or compilation of data concerning an interest in real estate that is owned or held as collateral by the financial institution or its affiliate.

(6) "Financial institution" means any "bank" or "savings association" as such terms are defined in 12 U.S.C. 1813, any state or industrial bank incorporated under title 11, C.R.S., any state or federally chartered credit union, or any company which has direct or indirect control over any of such entities.

**12-61-703. Board of real estate appraisers - creation - compensation - immunity - repeal of part.** (1) There is hereby created in the division a board of real estate appraisers consisting of seven members appointed by the governor with the consent of the senate. Of such members, four shall be licensed or certified appraisers, one of whom shall have expertise in eminent domain matters, one shall be a county assessor in office, one shall be an officer or employee of a commercial bank experienced in real estate lending, and one shall be a member of the public at large not engaged in any of the businesses represented by the other members of the board. Of the members of the board appointed for terms beginning July 1, 1990, the commercial bank member, the county assessor member, and two of the appraiser members shall be appointed for terms of three years, and the public member and the remaining appraiser members shall be appointed for terms of one year. Of such members appointed for terms beginning July 1, 1990, the appraiser members and the assessor member need not be licensed appraisers, but, unless a federal extension is granted pursuant to section 12-61-704 (1) (j), shall be licensed by July 1, 1991, or shall be ineligible to remain as members of the board and shall be removed by the governor. Members of the board appointed after July 1, 1990, shall hold office for a term of three years. In the event of a vacancy by death, resignation, removal, or otherwise, the governor shall appoint a member to fill the unexpired term. The governor shall have the authority to remove any member for misconduct, neglect of duty, or incompetence.

(2) The board shall exercise its powers and perform its duties and functions under the division as if transferred thereto by a type 1 transfer as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(2.5) (a) The general assembly finds, determines, and declares that the organization of the board under the division as a type 1 agency will provide the autonomy necessary to avoid potential conflicts of interest between the responsibility of the board in the regulation of real estate appraisers and the responsibility of the division in the regulation of real estate brokers and salesmen. The general assembly further finds, determines, and declares that the placement of the board as a type 1 agency under the division is consistent with the organizational structure of state government.

(b) (I) In the event that this organizational structure is disapproved by the appraisal subcommittee established pursuant to Title XI of the federal "Financial Institutions Reform, Recovery, and Enforcement Act of 1989", the governor is directed, notwithstanding any other provision of this article or the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S., to the contrary, to transfer the board by executive order to an agency which meets the approval of the appraisal subcommittee.



(II) The governor shall notify in writing the joint sunrise and sunset review committee of the general assembly of any action taken pursuant to this subsection (2.5) and shall provide such committee with a copy of the disapproval action issued by the appraisal subcommittee.

(III) The responsibility and authority of the governor is limited to the sole issue of the transfer of the board, and nothing in this subsection (2.5) shall be construed to authorize the governor to modify any other statutory provisions that govern the board and its activities.

(c) The governor's authority under this subsection (2.5) shall terminate on the date the appraisal subcommittee grants approval of the organizational structure of the board.

(3) Each member of the board shall receive the same compensation and reimbursement of expenses as those provided for members of boards and commissions in the division of registrations pursuant to section 24-34-102 (13), C.R.S. Payment for all such per diem compensation and expenses shall be made out of annual appropriations from the division of real estate cash fund provided for in section 12-61-705.

(4) Members of the board, consultants, and expert witnesses shall be immune from suit in any civil action based upon any disciplinary proceedings or other official acts they performed in good faith pursuant to this part 7.

(5) A majority of the board shall constitute a quorum for the transaction of all business, and actions of the board shall require a vote of a majority of such members present in favor of the action taken.

(6) This part 7 is repealed, effective July 1, 1996. Prior to such repeal, the board of real estate appraisers shall be reviewed as provided for in section 24-34-104, C.R.S.

**12-61-704. Powers and duties of the board.** (1) In addition to all other powers and duties imposed upon it by law, the board has the following powers and duties:

(a) To promulgate and amend, as necessary, rules and regulations pursuant to article 4 of title 24, C.R.S., for the implementation and administration of this part 7 and as required to comply with Title XI of the federal "Financial Institutions Reform, Recovery, and Enforcement Act of 1989";

(b) To charge application, examination, and license and certificate renewal fees established pursuant to section 12-61-111.5 to all applicants for licensure, certification, examination, and renewal under this part 7. No fees received from applicants seeking licensure, certification, examination, or renewal shall be refunded.

(c) (I) To keep all records of proceedings and activities of the board conducted under authority of this part 7, which records shall be open to public inspection at such time and in such manner as may be prescribed by rules and regulations formulated by the board.

(II) The board shall not be required to maintain or preserve licensing history records of any person licensed or certified under the provisions of this part 7 for any period of time longer than seven years.

(d) Through the department of regulatory agencies and subject to appropriations made to the department of regulatory agencies, to employ administrative law judges on a full-time or part-time basis to conduct any hearings required by this part 7. Such administrative law judges shall be appointed pursuant to part 10 of article 30 of title 24, C.R.S.

(e) To issue, deny, or refuse to renew a license or certificate pursuant to this part 7;

(f) To take disciplinary actions in conformity with this part 7;

(g) To delegate to the director the administration and enforcement of this part 7 and the authority to act on behalf of the board on such occasions and in such circumstances as the board directs;

(h) (I) Except as provided in section 12-61-706 (6), to develop or purchase any examination required for the administration of this part 7, to offer each such examination at least twice a year or, if demand warrants, at more frequent intervals, and to establish a passing score for each examination which reflects a minimum level of competency;

(II) If study materials are developed by a testing company or other entity, the board shall make such materials available to persons desiring to take examinations pursuant to this part 7. The board may charge fees for such materials to defray any costs associated with making such materials available.

(i) In compliance with the provisions of article 4 of title 24, C.R.S., to make investigations, subpoena persons and documents, which subpoenas may be enforced by a court of competent jurisdiction if not obeyed, hold hearings, and take evidence in all matters relating to the exercise of the board's power under this part 7;

(j) Pursuant to sec. 1119 (b) of Title XI of the federal "Financial Institutions Reform, Recovery, and Enforcement Act of 1989", to apply, if necessary, for a federal waiver of the requirement relating to certification or licensing of a person to perform appraisals and to make the necessary written determinations specified in said section for purposes of making such application.

**12-61-705. Fees, penalties, and fines collected under part 7.** All fees, penalties, and fines collected pursuant to this part 7 shall be transmitted to the state treasurer, who shall credit the same to the division of real estate cash fund, created in section 12-61-111.5.

**12-61-706. Qualifications for registration, licensing, and certification of appraisers - continuing education.** (1) A person applying for registration as an appraiser shall apply in such form and manner as prescribed by the board. Applicants shall have had at least fifty-five classroom hours of appraisal education and training or the substantial equivalent thereof as approved by the board, and shall pass an examination developed or purchased by the board, except as otherwise provided in subsection (6) of this section for the initial examination pursuant to this section. Such person shall be known as a Colorado registered appraiser.

(2) A person applying for a residential appraiser's license shall apply in such form and manner as prescribed by the board. Applicants shall have had at least ninety-five classroom hours of appraisal education and training, or the substantial equivalent thereof as approved by the board. Additionally, an applicant shall have had at least two years of appraisal experience as approved by the board, and shall pass an examination developed or purchased by the board, except as otherwise provided in subsection (6) of this section for the initial examination pursuant to this section. Such person shall be known as a Colorado licensed appraiser.

(3) A person applying for a residential appraiser's certification shall apply in such form and manner as prescribed by the board. On and before December 31, 1993, applicants shall have had at least one hundred five classroom hours of appraisal education and training or the substantial equivalent thereof as approved by the board. On and after January 1, 1994, applicants shall have had at least one hundred sixty-five classroom hours of appraisal education and training or the substantial equivalent thereof as approved by the board. In addition to the appraisal education and training set forth in this subsection (3), an applicant shall have had at least two years of appraisal experience as approved by the board, and shall pass an examination developed or purchased by the board, except as otherwise provided in subsection (6) of this section for the initial examination pursuant to this section. Such person shall be known as a Colorado certified residential appraiser.

(4) A person applying for a general appraiser's certification shall apply in such form and manner as prescribed by the board. Applicants shall have had at least one hundred sixty-five classroom hours of appraisal education and training, or the substantial equivalent thereof, as approved by the board. Additionally, an applicant shall have had at least three years of appraisal experience as approved by the board, and shall pass an examination developed or purchased by the board, except as otherwise provided in subsection (6) of this section for the initial examination pursuant to this section. Such person shall be known as a Colorado certified general appraiser.

(5) (a) Subject to the provisions of section 12-61-714 (2), all county assessors and appraiser employees of county assessors shall be registered, licensed, or certified as provided in subsection (1), (2), (3), or (4) of this section. Obtaining and maintaining a license or certificate under any one of said subsection (1), (2), (3), or (4) shall entitle a county assessor or appraiser employee of a county assessor to perform all real estate appraisals required to fulfill such person's official duties.

(b) County assessors and appraiser employees of county assessors shall be subject to all provisions of this part 7; except that county assessors and appraiser employees of county assessors shall not be subject to disciplinary actions by the board on the ground that they have performed appraisals beyond their level of competency when appraising real estate in fulfillment of their official duties.

(c) All reasonable costs incurred by a county assessor or appraiser employee of a county assessor to obtain and maintain a registration, license, or certificate pursuant to this section shall be paid by the county.

(6) (a) For purposes of the initial examination pursuant to this part 7 only, the director shall have the following powers and duties:

(I) To follow the requirements for application for registration, licensure, or certification pursuant to this subsection (6) and subsections (1) to (5) of this section;

(II) To designate in advance a place of examination;

(III) To follow the requirements of the board for determining a passing score.

(b) Initial appointees to the board are prohibited from participation in the development of the initial examinations given under this section. Any other person who participates in the development of an examination pursuant to this subsection (6) shall be prohibited from taking such examination for a period of two years from the date the examination is first given.

(7) The board shall prescribe continuing education requirements for persons registered, licensed, or certified under this part 7 as needed to meet the requirements of the federal "Real Estate Appraisal Reform Amendments", Title XI of the federal "Financial Institutions Reform, Recovery, and Enforcement Act of 1989" and shall require tests to measure the information obtained by persons attending such continuing education courses. The board shall not establish any continuing education requirements which are more stringent than the requirements of federal law.

(8) Any provision of this section to the contrary notwithstanding, the criteria established by the board for the registration, licensing, or certification of appraisers pursuant to this part 7 shall not include membership or lack of membership in any appraisal organization.

**12-61-707. Expiration of licenses - renewal.** (1) Any registration, license, or certificate issued by the board shall expire on January 1 of the third year following issuance if not timely renewed; except that the initial registration, license, or certificate issued to a person shall expire January 1 of the year following issuance and shall be renewed as provided in this section. Upon compliance with this section and any applicable rules and regulations of the board regarding renewal, including the payment of a renewal fee plus a late payment penalty fee established pursuant to section 12-61-705, the expired registration, license, or certificate shall be reinstated. No real estate appraiser's registration, license, or certificate which has not been renewed for a period of time greater than two years shall be reinstated, and such person shall be required to make new application for registration, licensure, or certification.

(2) In the event the federal registry fee to be collected by the board and transmitted to the federal financial institutions examination council is adjusted during the period prior to expiration of a license or certificate, the board shall collect the amount of the increase in such fee from the holder of the license or certificate and shall forward such amount to the said council on an annual basis.

**12-61-708. Licensure or certification by endorsement - temporary practice.** (1) The board may issue a license or certification to an appraiser by endorsement to engage in the occupation of real estate appraisal to any applicant who has a license, registration, or certification in good standing as a real estate appraiser under the laws of another jurisdiction if the applicant presents proof satisfactory to the board that, at the time of application for a Colorado registration, license, or certificate by endorsement, the applicant possesses credentials and qualifications which are substantially equivalent to the requirements of this part 7. The board may specify by rules and regulations what shall constitute substantially equivalent credentials and qualifications and the manner in which credentials and qualifications of an applicant will be reviewed by the board.

(2) Pursuant to section 1122 (a) of Title XI of the federal "Financial Institutions Reform, Recovery, and Enforcement Act of 1989", the board shall recognize, on a temporary basis, the license or certification of an appraiser issued by another state if:

(a) The property to be appraised is part of a federally related transaction as defined in section 1121 (4) of Title XI of the federal "Financial Institutions Reform, Recovery, and Enforcement Act of 1989"; and

(b) The appraiser's business is of a temporary nature; and

(c) The appraiser applies for and is granted a temporary practice permit by the board.

**12-61-709. Denial of registration, license, or certificate - renewal. (1)**

The board is empowered to determine whether an applicant for registration, licensure, or certification possesses the qualifications for registration, licensure, or certification required by this part 7, including the applicant's truthfulness, honesty, and good moral character.

(2) If the board determines that an applicant does not possess the applicable qualifications required by this part 7, or such applicant has violated any provision of this part 7 or the rules and regulations promulgated by the board or any board order, the board may deny the applicant a registration, license, or certificate or deny the renewal or reinstatement of a registration, license, or certificate pursuant to section 12-61-707; and, in such instance, the board shall provide such applicant with a statement in writing setting forth the basis of the board's determination that the applicant does not possess the qualifications or professional competence required by this part 7. Such applicant may request a hearing on such determination as provided in section 24-4-104 (9), C.R.S.

**12-61-710. Prohibited activities - grounds for disciplinary actions - procedures. (1)** A real estate appraiser is in violation of this part 7 if the appraiser:

(a) Has been convicted of a felony or has had accepted by a court a plea of guilty or nolo contendere to a felony if the felony is related to the ability to act as a real property appraiser. A certified copy of the judgment of a court of competent jurisdiction of such conviction or plea shall be conclusive evidence of such conviction or plea. In considering the disciplinary action, the board shall be governed by the provisions of section 24-5-101, C.R.S.

(b) Has violated, or attempted to violate, directly or indirectly, or assisted in or abetted the violation of, or conspired to violate any provision or term of this part 7 or rule or regulation promulgated pursuant to this part 7 or any order of the board established pursuant to this part 7;

(c) Has accepted any fees, compensation, or other valuable consideration to influence the outcome of an appraisal;

(d) Has used advertising which is misleading, deceptive, or false;

(e) Has used fraud or misrepresentation in obtaining a license or certificate under this part 7;

(f) Has conducted an appraisal in a fraudulent manner or used misrepresentation in any such activity;

(g) Has acted or failed to act in a manner which does not meet the generally accepted standards of professional appraisal practice as adopted by the board by rule and regulation. A certified copy of a malpractice judgment of a court of competent jurisdiction shall be conclusive evidence of such act or omission, but evidence of such act or omission shall not be limited to a malpractice judgment.

(h) Has performed appraisal services beyond his level of competency;

(i) Has been subject to an adverse or disciplinary action in another state, territory, or country relating to a license, certificate, registration, or other authorization to practice as an appraiser. A disciplinary action relating to a registration, license, or certificate as an appraiser registered, licensed, or certified under this part 7 or any related occupation in any other state, territory, or country for disciplinary reasons shall be deemed to be prima facie evidence of grounds for disciplinary action or denial of licensure or certification by the board. This paragraph (i) shall apply only to violations based upon acts or omissions in such other state, territory, or country that are also violations of this part 7.

(2) If an applicant, a registrant, a licensee, or a certified person has violated any of the provisions of this section, the board may deny or refuse to renew any license or certificate, or, as specified in subsection (5) of this section, revoke or suspend any license or certificate, issue a letter of admonition to a licensee or certified person, or place a licensee or certified person on probation.

(3) A proceeding for discipline of a registrant, licensee, or certified person may be commenced when the board has reasonable grounds to believe that a licensee or certified person has committed any act or failed to act pursuant to the grounds established in subsection (1) of this section.

(4) Disciplinary proceedings shall be conducted in the manner prescribed by the "State Administrative Procedure Act", article 4 of title 24, C.R.S.

(5) As authorized in subsection (2) of this section, disciplinary actions by the board may consist of the following:

(a) Revocation of a registration, license, or certificate. (I) Revocation of a registration, license, or certificate by the board shall mean that the registered, licensed, or certified person shall surrender his or her registration, license, or certificate immediately to the board.

(II) Any person whose registration, license, or certificate to practice is revoked is rendered ineligible to apply for any registration, license, or certificate issued under this part 7 until more than two years have elapsed from the date of surrender of the registration, license, or certificate. Any reapplication after such two-year period shall be treated as a new application.

(b) Suspension of a license. Suspension of a license or certificate by the board shall be for a period to be determined by the board.

(c) Probationary status. Probationary status may be imposed by the board. If the board places a licensee or certified person on probation, it may include such conditions for continued practice as the board deems appropriate to assure that the licensee or certified person is otherwise qualified to practice in accordance with generally accepted professional standards of professional appraisal practice as adopted by rule and regulation of the board, including any or all of the following:

(I) The taking by him of such courses of training or education as may be needed to correct deficiencies found in the hearing;

(II) Such review or supervision of his practice as may be necessary to determine the quality of his practice and to correct deficiencies therein; and

(III) The imposition of restrictions upon the nature of his appraisal practice to assure that he does not practice beyond the limits of his capabilities.

(d) Issuance of letters of admonition. Letters of admonition shall be sent by certified mail to the registrant, licensee, or certified person against whom a complaint was made. The letter shall advise the person that he or she may, within twenty days after receipt of the letter, make a written request to the board to institute formal disciplinary proceedings in order to formally adjudicate the conduct or acts on which the letter was based.

(6) In addition to any other discipline imposed pursuant to this section, any person who violates the provisions of this part 7 or the rules and regulations of the board promulgated pursuant to this article may be penalized by the board upon a finding of a violation pursuant to article 4 of title 24, C.R.S., as follows:

(a) In the first administrative proceeding against any person, a fine of not less than three hundred dollars but not more than five hundred dollars per violation;

(b) In any subsequent administrative proceeding against any person for transactions occurring after a final agency action determining that a violation of this part 7 has occurred, a fine of not less than one thousand dollars but not more than two thousand dollars.

(7) Complaints of record in the office of the board and the results of staff investigations may, in the discretion of the board, be closed to public inspection, except as provided by court order, during the investigatory period and until dismissed or until notice of hearing and charges are served on a licensee.

(8) Any person participating in good faith in the making of a complaint or report or participating in any investigative or administrative proceeding before the board pursuant to this article shall be immune from any liability, civil or criminal, that otherwise might result by reason of such action.

(9) Any board member having an immediate personal, private, or financial interest in any matter pending before the board shall disclose the fact to the board and shall not vote upon such matter.

(10) Any registrant, licensee, or certified person having direct knowledge that any person has violated any of the provisions of this part 7 shall report such knowledge to the board.

(11) The board, on its own motion or upon application, at any time after the imposition of any discipline as provided in this section may reconsider its prior action and reinstate or restore such registration, license, or certificate or terminate probation or reduce the severity of its prior disciplinary action. The taking of any such further action or the holding of a hearing with respect thereto shall rest in the sole discretion of the board.

**12-61-711. Judicial review of final board actions and orders.** Final actions and orders of the board under sections 12-61-709 and 12-61-710 appropriate for judicial review shall be judicially reviewed in the court of appeals, in accordance with section 24-4-106 (11), C.R.S.

**12-61-712. Unlawful acts - real estate appraiser license required.** (1) It is unlawful for any person to violate any provision of this part 7 or, on and after July 1, 1991, to act as a real estate appraiser in this state without first having obtained a registration, license, or certificate from the board pursuant to this part 7.

(2) Any person who violates any provision of subsection (1) of this section commits a class 3 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S. Any person who subsequently violates any provision of subsection (1) of this section within three years after the date of a conviction for a violation of subsection (1) of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

**12-61-713. Injunctive proceedings.** (1) The board may, in the name of the people of the state of Colorado, through the attorney general of the state of Colorado, apply for an injunction in any court of competent jurisdiction to perpetually enjoin any person from committing any act prohibited by the provisions of this part 7.

(2) Such injunctive proceedings shall be in addition to and not in lieu of all penalties and other remedies provided in this part 7.

(3) When seeking an injunction under this section, the board shall not be required to allege or prove either that an adequate remedy at law does not exist or that substantial or irreparable damage would result from a continued violation.

**12-61-714. Requirement for appraisers to be licensed - special provisions for certain public employees.** (1) Except as provided in subsection (2) of this section, unless a federal waiver is applied for and granted pursuant to section 12-61-704 (1) (j), on and after July 1, 1991, any person acting as a real estate appraiser in this state shall be licensed as provided in this part 7, and, on and after said date, no person shall practice without such a license or certificate or hold himself out to the public as a real estate appraiser unless licensed or certified pursuant to this part 7.

(2) Notwithstanding the provisions of subsection (1) of this section, any county assessor holding office on or before July 1, 1990, appraiser employee of any such assessor so employed on or before July 1, 1990, or any other public employee so employed on or before July 1, 1990, shall comply with the provisions of this part 7 by July 1, 1992. Thereafter, any county assessor or appraiser employee of any such assessor shall have one year from the date of taking office or the beginning of employment to comply with the provisions of this part 7.

**12-61-715. Duties of board under federal law.** (1) The board shall:

(a) Transmit to the appraisal subcommittee of the federal financial institutions examinations council, no less than annually, a roster listing individuals who have received a certificate or license as provided in this part 7;

(b) Collect from individuals who have received a certificate or license as provided in this part 7 an annual registry fee of not more than twenty-five dollars, unless the appraisal subcommittee of the federal financial institutions examinations council adjusts the fee up to a maximum of fifty dollars, and transmit such fee to the federal financial institutions examinations council on an annual basis; and

(c) Conduct its business and promulgate rules and regulations in a manner not inconsistent with Title XI of the federal "Financial Institutions Reform, Recovery, and Enforcement Act of 1989", as amended.

**12-61-716. Business entities.** (1) A corporation, partnership, bank, savings and loan association, savings bank, credit union, or other business entity may provide appraisal services if such appraisal is prepared by individuals registered, certified, or licensed in accordance with this part 7. An individual who is not a registered, certified, or licensed appraiser may assist in the preparation of an appraisal if:

(a) The assistant is under the direct supervision of a registered, certified, or licensed appraiser; and

(b) The final appraisal document is approved and signed by an individual who is a registered, certified, or licensed appraiser.

**12-61-717. Provisions found not to comply with federal law null and void - severability.** If any provision of this part 7 is found by a court of competent jurisdiction or by the appropriate federal agency not to comply with any provision of the federal "Financial Institutions Reform, Recovery, and Enforcement Act of 1989", such provision shall be null and void, but the remaining provisions of this part 7 shall be valid unless such remaining provisions alone are incomplete and are incapable of being executed in accordance with the legislative intent of this part 7.



**12-61-718. Scope of article - regulated financial institutions - de minimis exemption.** (1) (a) The provisions of this article shall not apply to an appraisal relating to any real estate-related transaction or loan made or to be made by a financial institution or its affiliate if such real estate-related transaction or loan is excepted from appraisal regulations established by the primary federal regulator of said financial institution and the appraisal is performed by:

(I) An officer, director, or regular salaried employee of the financial institution or its affiliate; or

(II) A real estate broker or salesperson licensed under this article with whom said institution or affiliate has contracted for performance of the appraisal.

(b) Such appraisal shall not be represented or deemed to be an appraisal except to the said financial institution, the agencies regulating the said financial institution, and any secondary markets that purchase real estate secured loans. Such appraisal shall contain a written notice that the preparer is not registered, licensed, or certified as an appraiser under this part 7. Nothing in this subsection (1) shall be construed to exempt a person registered, licensed, or certified as an appraiser under this part 7 from regulation as provided in this part 7.

(2) Nothing in this article shall be construed to limit the ability of any federal or state regulator of a financial institution to require the financial institution to obtain appraisals as specified by the regulator.

(3) Any savings by a financial institution in using an inside appraiser must be passed on to the consumer.

## **Glossary of Acronyms and Abbreviations**

<b>Board</b>	The Colorado Board of Real Estate Appraisers
<b>DORA</b>	Colorado Department of Regulatory Agencies
<b>FIRREA</b>	Financial Institutions Reform, Recovery and Enforcement Act of 1989
<b>Subcommittee</b>	The Appraisal Subcommittee
<b>FFIEC</b>	Federal Financial Institutions Examination Council
<b>Foundation</b>	The Appraisal Foundation
<b>AQB</b>	The Appraisal Qualification Board
<b>ASB</b>	The Appraisal Standards Board
<b>FFIRA</b>	Federal Financial Institutions Regulatory Agencies
<b>RTC</b>	Resolution Trust Corporation
<b>OCC</b>	Office of Comptroller of the Currency
<b>FDIC</b>	Federal Deposit Insurance Corporation
<b>OTS</b>	Office of Thrift Supervision
<b>NCUA</b>	National Credit Union Administration