

SENATE BILL No. 229

By Committee on Federal and State Affairs

2-14

AN ACT concerning the real estate appraisal board; relating to the powers and duties thereof; amending K.S.A. 58-4105 and K.S.A. 2002 Supp. 58-4118 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 58-4105 is hereby amended to read as follows: 58-4105. (a) The board may adopt such rules and regulations as necessary to implement, administer and enforce the provisions of this act.

(b) The board shall:

(1) Approve courses of instruction to meet requirements of this act and monitor approved courses;

(2) adopt rules and regulations prescribing policies and procedures for obtaining board approval of courses, monitoring approved courses and withdrawing board approval of courses;

(3) administer, or designate a testing service to administer, examinations required by this act;

(4) receive and approve or disapprove applications for certification and licensure and renewal of certificates and licenses and issue certificates and licenses after approval of application;

(5) maintain a registry of the names and addresses of persons certified and licensed under this act and transmit the registry to the appraisal subcommittee of the federal financial institutions examination council on an annual basis in accordance with federal law;

(6) maintain all records submitted to the board;

(7) collect fees prescribed pursuant to K.S.A. 58-4107 and amendments thereto;

(8) review from time to time the standards for the development and communication of real estate appraisals provided for in this act and to adopt rules and regulations explaining and interpreting the standards; ~~and~~

(9) *issue subpoenas and subpoenas duces tecum as provided by K.S.A. 58-4118, and amendments thereto; and*

~~(10)~~ perform such other functions and duties as necessary to carry out the provisions of this act.

(c) The board shall maintain an office in the city of Topeka. The board shall employ a director, who shall keep a record of all proceedings, hear-

1 ings, meetings, communications and official acts of the board and perform
2 such other duties as the board requires. The director shall be in the
3 unclassified service under the Kansas civil service act and shall receive
4 compensation fixed by the board. The board may employ such other em-
5 ployees as necessary, who shall be in the classified service under the
6 Kansas civil service act. The board may make such other expenditures as
7 necessary to properly carry out the provisions of this act. The board may
8 enter into such contracts for the services of attorneys and appraisers as
9 necessary to administer and enforce the provisions of this act.

10 Sec. 2. K.S.A. 2002 Supp. 58-4118 is hereby amended to read as
11 follows: 58-4118. (a) The board may investigate the actions of a state
12 certified or licensed appraiser and may revoke, condition, limit or suspend
13 the certificate or license of the appraiser, or censure the appraiser, for
14 any of the following acts or omissions:

15 (1) Procuring or attempting to procure a certificate or license pur-
16 suant to this act by knowingly making a false statement, submitting false
17 information, refusing to provide complete information in response to a
18 question in an application for certification or licensure or any form of
19 fraud or misrepresentation;

20 (2) failing to meet the minimum qualifications established by this act;

21 (3) paying money, other than provided for by this act, to any member
22 or employee of the board to procure a certificate or license under this
23 act;

24 (4) a plea of guilty or nolo contendere to, or conviction of: (A) For-
25 gery, embezzlement, obtaining money under false pretenses, larceny, ex-
26 tortion, conspiracy to defraud or any other similar offense; (B) a crime
27 involving moral turpitude; or (C) any felony charge;

28 (5) an act or omission involving dishonesty, fraud or misrepresenta-
29 tion, with the intent to substantially benefit the appraiser or another per-
30 son or with the intent to substantially injure another person;

31 (6) violation of any of the standards for the development or com-
32 munication of real estate appraisals as provided in this act;

33 (7) failure or refusal without good cause to exercise reasonable dili-
34 gence in developing an appraisal, preparing an appraisal report or com-
35 municating an appraisal;

36 (8) negligence or incompetence in developing an appraisal, preparing
37 an appraisal report or communicating an appraisal;

38 (9) willfully disregarding or violating any provision of this act or rules
39 and regulations of the board for the administration and enforcement of
40 the provisions of this act;

41 (10) accepting an appraisal assignment, described in K.S.A. 58-4122,
42 and amendments thereto, when the employment itself is contingent upon
43 the appraiser reporting a predetermined estimate, analysis or opinion, or

1 when the fee to be paid is contingent upon the opinion, conclusion or
2 valuation reached, or upon the consequences resulting from the appraisal
3 assignment;

4 (11) violating the confidential nature of governmental records to
5 which the appraiser gained access through employment or engagement
6 as an appraiser by a governmental agency;

7 (12) entry of a final civil judgment against the person on grounds of
8 fraud, misrepresentation or deceit in the making of any appraisal of real
9 property;

10 (13) disciplinary action in relation to appraisal work, including, but
11 not limited to, denial, revocation or suspension of a license or certificate
12 by another state, district or territory of the United States or another coun-
13 try; or

14 (14) receipt of an order of prohibition in relation to appraisal work,
15 by consent or otherwise, issued by an agency of the federal government.

16 (b) In addition to or in lieu of any other administrative, civil or crim-
17 inal remedy provided by law, the board upon a finding that a state cer-
18 tified or licensed appraiser has violated any provision of this act or of any
19 rules and regulations adopted hereunder, may impose upon such ap-
20 praiser a civil fine not exceeding \$1,000 for each violation. All moneys
21 collected by the board from such fines shall be remitted to the state
22 treasurer in accordance with the provisions of K.S.A. 75-4215, and
23 amendments thereto. Upon receipt of each such remittance, the state
24 treasurer shall deposit the entire amount in the state treasury to the credit
25 of the state general fund.

26 (c) In a disciplinary proceeding based upon a civil judgment, the ap-
27 praiser shall be afforded an opportunity to present matters in mitigation
28 and extenuation but may not collaterally attack the civil judgment.

29 (d) (1) *In connection with any investigation, based upon a complaint*
30 *or other reasonably reliable information received by the board, the board*
31 *or a duly authorized agent or employee of the board may issue subpoenas*
32 *and subpoenas duces tecum compelling the attendance and testimony of*
33 *witnesses or the production for examination or copying of documents or*
34 *any other physical evidence if such evidence relates to practices which*
35 *may be grounds for disciplinary action.*

36 (2) *Within five days after the service of the subpoena or subpoena*
37 *duces tecum on any person requiring the production of any evidence in*
38 *the person's possession or under the person's control, such person may*
39 *petition the board to revoke, limit or modify such subpoena. The board*
40 *shall revoke, limit or modify such subpoena if in its opinion the evidence*
41 *required does not relate to practices which may be grounds for discipli-*
42 *nary action, is not relevant to the charge which is the subject matter of*
43 *the proceeding or investigation, or does not describe with sufficient par-*

1 *ticularity the physical evidence which is required to be produced.*

2 *(3) Upon application by the board or by the person subpoenaed, the*
3 *district court shall have jurisdiction to issue an order:*

4 *(A) Requiring such person to appear before the board or a duly au-*
5 *thorized agent of the board to produce evidence relating to the matter*
6 *under investigation; or*

7 *(B) revoking, limiting or modifying the subpoena if in the court's*
8 *opinion the evidence demanded does not relate to practices which may be*
9 *grounds for disciplinary action, is not relevant to the charge which is the*
10 *subject matter of the hearing or investigation or does not describe with*
11 *sufficient particularity the evidence which is required to be produced.*

12 ~~(d)~~ *(e) All administrative proceedings pursuant to this section shall*
13 *be conducted in accordance with the Kansas administrative procedure*
14 *act.*

15 *Sec. 3. K.S.A. 58-4105 and K.S.A. 2002 Supp. 58-4118 are hereby*
16 *repealed.*

17 *Sec. 4. This act shall take effect and be in force from and after its*
18 *publication in the statute book.*

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