

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 497

BY SENATOR AZINGER

[Introduced January 31, 2019; Referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §30-38-1 of the Code of West Virginia, 1931, as amended, relating
 2 to expanding exceptions to the applicability of the Real Estate Appraiser Licensing and
 3 Certification Act.

Be it enacted by the Legislature of West Virginia:

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

§30-38-1. Real estate appraiser license required; exceptions.

1 (a) It is unlawful for any person, for compensation or valuable consideration, to prepare a
 2 valuation appraisal or a valuation appraisal report relating to real estate or real property in this
 3 state without first being licensed or certified as provided in this article. This section shall not be
 4 construed to apply to persons who do not render significant professional assistance in arriving at
 5 a real estate appraisal analysis, opinion or conclusion. Nothing in this article may be construed to
 6 prohibit any person who is licensed to practice in this state under any other law from engaging in
 7 the practice for which he or she is licensed.

8 (b) No person other than a person licensed or certified under this article may use the title
 9 of licensed appraiser or certified appraiser or any title, designation or abbreviation likely to create
 10 the impression that the person is licensed or certified by the state.

11 (c) This article does not apply to:

12 (1) A real estate broker or salesperson licensed by this state who, in the ordinary course
 13 of his or her business, gives an opinion to a potential seller or third party as to the recommended
 14 listing price of real estate or an opinion to a potential purchaser or third party as to the
 15 recommended purchase price of real estate, or an opinion to an existing or potential lienholder or
 16 other third party for any purpose other than as the primary basis to determine the value of a
 17 consumer's principal dwelling for the purpose of a mortgage loan origination in conjunction with
 18 the purchase of such property, when this opinion ~~as to the listing price or the purchase price is~~

19 not to be referred to as an appraisal, includes a statement indicating that the opinion is not an
20 appraisal, and no opinion is rendered as to the value of the real estate; and no fee is charged

21 (2) ~~A casual or drive-by~~ An inspection of real estate in connection with a consumer loan
22 secured by the real estate, when the inspection is not referred to as an appraisal, no opinion is
23 rendered as to the value of the real estate; ~~and no fee is charged for the inspection~~

24 (3) An employee who renders an opinion as to the value of real estate for his or her full-
25 time employer, for the employer's internal use only and performed in the regular course of the
26 employee's position, when the opinion is not referred to as an appraisal and no fee is charged;

27 (4) Appraisals of personal property, including, but not limited to, jewelry, household
28 furnishings, vehicles and manufactured homes not attached to real estate;

29 (5) Any officer or employee of the United States, or of the State of West Virginia or a
30 political subdivision thereof, when the employee or officer is performing his or her official duties:

31 *Provided*, That such individual does not furnish advisory service for compensation to the public
32 or act as an independent contracting party in West Virginia or any subdivision thereof in
33 connection with the appraisal of real estate or real property: *Provided, however*, That this
34 exception shall not apply with respect to federally related transactions as defined in Title XI of the
35 United States Code, entitled "Financial Institutions Reform, Recovery, and Enforcement Act of
36 1989"; or

37 (6) Any evaluation of the value of real estate serving as collateral for a loan made by a
38 financial institution insured by the federal deposit insurance corporation: *Provided*, That: (A) The
39 ~~amount of the loan is equal to or less than \$250,000~~ evaluation is used as permitted under federal
40 law, including monetary real estate appraisal thresholds; (B) the evaluation is used solely by the
41 lender in its records to document the collateral value; (C) the evaluation clearly indicates on its
42 face that it is for the lender's internal use only; and (D) the evaluation is not labeled an appraisal;
43 ~~and (E) the evaluation is on a form approved by the board~~ and includes a statement indicating
44 that the evaluation is not an appraisal. Individuals performing these evaluations may be

45 compensated for their services. ~~The lender shall notify its customer if it intends to use an~~
46 ~~unlicensed evaluator and give the customer the opportunity to elect an evaluation, by a certified~~
47 ~~or licensed appraiser, the cost of which will be paid as agreed between the lender and the~~
48 customer

NOTE: The purpose of this bill is to allow more individuals who are not licensed or certified as real estate appraisers to obtain payment when rendering an opinion, which is not an appraisal, for various purposes.

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