

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 4285**

BY DELEGATES STEELE, FOSTER AND BOOTH

[Passed March 12, 2022; in effect ninety days from passage.]



1 AN ACT to amend and reenact §30-38-10, §30-38-11, and §30-38-17 of the Code of West  
2 Virginia, 1931, as amended, all relating to real estate appraiser licensing board  
3 requirements; prohibiting board members from participating in any decision regarding  
4 disciplinary action concerning real estate appraiser activity in which member has  
5 participated, testified, been engaged to testify, or otherwise has conflict of interest;  
6 requiring board provide applicants written statement when applicant's request for license  
7 is denied; requiring board send written statement within 15 calendar days of its decision  
8 to deny an applicant's license or renewal request; setting forth content and mailing  
9 requirements for board's written statement; requiring board offer guidance on certain  
10 issues relating to nonconformity with Uniform Standards of Professional Appraisal Practice  
11 when submitted to the board; providing 60 days for applicant to cure any nonconformity to  
12 appraisal practice standards; revising process for adoption of uniform standards of  
13 appraisal practice; and making other technical modifications.

*Be it enacted by the Legislature of West Virginia:*

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

**§30-38-10. Civil liability for board members; liability limitations of professionals reporting  
to board; disqualification of board members from disciplinary proceedings or  
actions.**

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

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

7 (c) No member of the board may participate in or vote on a disciplinary proceeding or  
8 action concerning a real estate appraisal activity in which he or she has previously participated or  
9 in which he or she has given testimony or been engaged to give testimony, or in which the board  
10 member has a conflict of interest. In any such instance, the board member shall recuse himself  
11 or herself from the proceeding or action.

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

1 (a) An individual who desires to engage in real estate appraisal activity in this state shall  
2 make application for a license, in writing, on a form as the board may prescribe.

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

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

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

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

19 (f) If the board determines that an applicant for renewal has failed to meet the requirements  
20 for renewal of license or certification through mistake, misunderstanding, or circumstances

21 beyond the control of the applicant, the board may extend the term of the applicant's license or  
22 certification for a period not to exceed six months upon payment by the applicant of a prescribed  
23 fee for the extension. If the applicant for renewal of license or certification satisfies the  
24 requirements for renewal during the extension period, the beginning date of his or her renewal  
25 license or certificate shall be the day following the expiration of the certificate previously held by  
26 the applicant.

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

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

36 (i)(1) If the board denies issuance of a renewal of a license or certification, or denies an  
37 initial license or certification application, the board shall provide a written statement to the  
38 applicant for an initial license or certification, or applicant for a renewal of a license or certification,  
39 clearly describing the deficiencies of the application for his or her license or certificate.

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

44 (3) If the basis for the denial is due to submitted appraisals failing to conform to the Uniform  
45 Standards of Professional Appraisal Practice (USPAP), the board shall provide written guidance  
46 to the applicant describing, in detail, each aspect of each submitted appraisal that does not

47 conform to USPAP and the corrective action necessary to remedy nonconformity. The board shall  
48 provide 60 days to the applicant to remedy any nonconformity. The applicant shall resubmit any  
49 corrected appraisals on or before the 60<sup>th</sup> day and the board shall reevaluate the appraisals only  
50 pertaining to any nonconformity. If the nonconformity or nonconformities are remedied and  
51 resubmitted on or before the 60<sup>th</sup> day, the board shall accept the appraisal for purposes of issuing  
52 a license.

**§30-38-17. Standards of professional appraisal practice.**

1           Each real estate appraiser licensed or certified under this act shall comply with generally  
2 accepted standards of professional appraisal practice and generally accepted ethical rules to be  
3 observed by a real estate appraiser. Generally accepted standards of professional appraisal  
4 practice are currently evidenced by the uniform standards of professional appraisal practice  
5 promulgated by the appraisal foundation.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....  
*Chairman, House Committee*

.....  
*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

.....  
*Clerk of the House of Delegates*

.....  
*Clerk of the Senate*

.....  
*Speaker of the House of Delegates*

.....  
*President of the Senate*

\_\_\_\_\_

The within ..... this the.....  
day of ....., 2022.

.....  
*Governor*