

SECOND REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 1885

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BEHNEN.

Read 1st time February 27, 2006 and copies ordered printed.

Read 2nd time February 28, 2006 and referred to the Committee on Professional Registration and Licensing March 9, 2006.

Reported from the Committee on Professional Registration and Licensing April 6, 2006 with recommendation that House Bill No. 1885 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

Reported from the Committee on Rules April 11, 2006 with recommendation that House Bill No. 1885 Do Pass with no time limit for debate.

Taken up for Perfection April 26, 2006. Bill ordered Perfected and printed.

STEPHEN S. DAVIS, Chief Clerk

5305L.01P

AN ACT

To repeal sections 339.507, 339.509, 339.513, 339.519, 339.521, 339.525, and 339.532, RSMo, and to enact in lieu thereof seven new sections relating to real estate appraisers.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 339.507, 339.509, 339.513, 339.519, 339.521, 339.525, and
2 339.532, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as
3 sections 339.507, 339.509, 339.513, 339.519, 339.521, 339.525, and 339.532, to read as follows:

339.507. 1. There is hereby created within the division of professional registration of
2 the department of economic development the "Missouri Real Estate Appraisers Commission",
3 which shall consist of seven members appointed by the governor with the advice and consent of
4 the senate, six of whom shall be appraiser members, and one shall be a public member. Each
5 member shall be a resident of this state and a registered voter for a period of one year prior to the
6 person's appointment. The president of the Missouri Appraiser Advisory Council in office at the
7 time shall, at least ninety days prior to the expiration of the term of the commission member,

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

8 other than the public member, or as soon as feasible after the vacancy on the commission
9 otherwise occurs, submit to the director of the division of professional registration a list of five
10 appraisers qualified and willing to fill the vacancy in question, with the request and
11 recommendation that the governor appoint one of the five persons so listed, and with the list so
12 submitted, the president of the Missouri Appraiser Advisory Council shall include in his or her
13 letter of transmittal a description of the method by which the names were chosen by that
14 association. The public member shall have never been engaged in the businesses of real estate
15 appraisal, real estate sales or making loans secured by real estate. The governor shall designate
16 one of the appraiser appointees to be chairperson.

17 2. The real estate appraiser members appointed by the governor shall be Missouri
18 residents who have real estate appraisal experience in the state of Missouri for not less than five
19 years immediately preceding their appointment. [The real estate appraiser members appointed
20 to the commission shall be designated members in good standing of nationally recognized real
21 estate appraisal organizations that required, as of June 1, 1988, in order to become a designated
22 member, appraisal experience, education and testing, and recertification that is at least equal to
23 that required for certification or licensure pursuant to sections 339.500 to 339.549, provided that
24 not more than one member of the commission shall be a designated member of the same
25 nationally recognized real estate appraisal organization. Successor] Appraiser members of the
26 commission shall be appointed from the registry of state-certified real estate appraisers and
27 state-licensed real estate appraisers and not more than one [successor] appraiser member of the
28 commission shall be a designated member in good standing of the same nationally recognized
29 real estate appraisal organization as provided in this subsection. The governor shall not exclude
30 a state-certified real estate appraiser or a state-licensed real estate appraiser from appointment
31 as a successor appraiser member of the commission by virtue of membership or lack of
32 membership of the state-certified real estate appraiser or state-licensed real estate appraiser in
33 any particular real estate appraisal organization.

34 3. [Of the initial members appointed, two members shall be appointed for one-year
35 terms, two members for two-year terms, and three members for three-year terms, provided that
36 the initial public member shall be appointed for a three-year term.] All [successor] members
37 shall be appointed for three-year terms. All members shall serve until their successors have been
38 appointed and qualified. Vacancies occurring in the membership of the commission for any
39 reason shall be filled by appointment by the governor for the unexpired term. Upon expiration
40 of their terms, members of the commission shall continue to hold office until the appointment
41 and qualification of their successors. No more than four members of the commission shall be
42 members of the same political party. No person shall be appointed for more than two
43 consecutive terms. The governor may remove a member for cause. The executive director of

44 the commission shall be employed by the division of professional registration, subject to
45 approval and confirmation by the commission.

46 4. The commission shall meet at least once each calendar quarter to conduct its business.
47 [The location in Missouri of future meetings shall be decided by a vote of the members present
48 at the current meeting. The executive director shall give written notice by certified mail to each
49 member of the time and place of each meeting of the commission at least ten days before the
50 scheduled date of the meeting, and notice of any special meeting shall state the specific matters
51 to be considered in the special meeting which is not a regular quarterly meeting.] A quorum of
52 the commission shall consist of four members.

53 5. Each member of the commission shall be entitled to a per diem allowance of [fifty]
54 **seventy** dollars for each meeting of the commission at which the member is present and shall be
55 entitled to reimbursement of the member's expenses necessarily incurred in the discharge of the
56 member's official duties. Each member of the commission shall be entitled to reimbursement
57 of travel expenses necessarily incurred in attending meetings of the commission.

339.509. 1. The commission shall have the following powers and duties:

2 (1) To establish educational programs and research projects related to the appraisal of
3 real estate;

4 (2) To establish administrative procedures for processing applications and issuing
5 certificates of state-certified real estate appraisers and licenses of state-licensed real estate
6 appraisers and for conducting disciplinary proceedings pursuant to the provisions of sections
7 339.500 to 339.549; and shall have authority to determine who meets the criteria for certification
8 and licensure, and shall have authority to renew, censure, suspend or revoke certifications and
9 licenses;

10 (3) To further define by regulation, with respect to each category of state-certified real
11 estate appraiser, and for state-licensed real estate appraisers, the type of educational experience,
12 appraisal experience and equivalent experience that will meet the statutory requirements of
13 sections 339.500 to 339.549; provided that such standards shall be equivalent to the minimum
14 criteria for certification and licensure issued by the appraiser qualifications board of the appraisal
15 foundation and the provisions of section 339.517;

16 (4) To further define by regulation, with respect to each category of state-certified real
17 estate appraiser, and for state-licensed real estate appraisers, the continuing education
18 requirements for the renewal of certification and licensure that will meet the statutory
19 requirements provided in section 339.530;

20 (5) To adopt standards for the development and communication of real estate appraisals
21 and to adopt regulations explaining and interpreting the standards; provided that such standards
22 shall meet the standards specified by the appraisal standards board of the appraisal foundation;

23 (6) To establish an examination for each category of state-certified real estate appraiser,
24 and for state-licensed real estate appraisers, to provide or procure appropriate examination
25 questions and answers, and to establish procedures for grading examinations; provided that such
26 standards for examinations for certification shall meet the minimum criteria specified by the
27 appraiser qualifications board of the appraisal foundation;

28 (7) To maintain a registry of the names and addresses of state- certified real estate
29 appraisers and state-licensed real estate appraisers; and

30 (8) To perform such other functions and duties as may be necessary to carry out the
31 provisions of sections 339.500 to 339.549.

32 **2. The chairperson of the commission may administer oaths, issue subpoenas, and**
33 **issue subpoenas duces tecum requiring the production of documents and records.**
34 **Subpoenas and subpoenas duces tecum shall be served by a person authorized to serve**
35 **subpoenas of courts of record. In lieu of requiring attendance of a person to produce**
36 **original documents in response to a subpoena duces tecum, the commission may require**
37 **sworn copies of such documents to be filed with or delivered to its designated**
38 **representative.**

39 **3. The commission may enforce its subpoenas and subpoenas duces tecum by**
40 **applying to the circuit court of Cole County, the county of the investigation, hearing, or**
41 **proceeding, or any county where the person subpoenaed resides or may be found for an**
42 **order to show cause why such subpoena should not be enforced. Such order and a copy**
43 **of the application shall be served upon the person in the same manner as a summons in a**
44 **civil action, and if the circuit court determines after a hearing the subpoena should be**
45 **sustained and enforced, such court shall proceed to enforce the subpoena in the same**
46 **manner as though the subpoena had been issued in a civil case in the circuit court.**

339.513. 1. Applications for examination, original certification and licensure, and
2 renewal certification and licensure shall be made in writing to the commission on forms provided
3 by the commission. The application shall specify the classification of certification, or licensure,
4 for which application is being made.

5 2. Appropriate fees shall accompany all applications for examination, original
6 certification or licensure, and renewal certification or licensure; provided that such fees shall be
7 in amounts set by the commission in order to offset the cost and expense of administering
8 sections 339.500 to 339.549, and in amounts to be determined by the commission with reference
9 to the requirements of Section 1109 of the United States Public Law 101-73, as later codified and
10 as may be amended. All fees collected pursuant to this subsection shall be collected by the
11 commission and deposited with the state treasurer into a fund to be known as the "Missouri Real
12 Estate Appraisers Fund". The provisions of section 33.080, RSMo, relating to the transfer of

13 unexpended balances to the general revenue fund shall not apply to the Missouri real estate
14 appraisers fund. **In any proceeding in which a remedy provided by subsection 1 or 2 of**
15 **section 339.532 is imposed, the commission may also require the respondent licensee to pay**
16 **the costs of the proceedings if the commission is a prevailing party or in settlement. The**
17 **moneys shall be placed in the state treasury to the credit of the "Missouri Real Estate**
18 **Appraisers Investigation Fund", which is hereby created to be used solely for**
19 **investigations as provided in this chapter. The provisions of section 33.080, RSMo, relating**
20 **to the transfer of unexpended balances to the general revenue fund shall not apply to the**
21 **Missouri real estate appraisers investigation fund.**

22 3. At the time of filing an application for certification or licensure, each applicant shall
23 sign a pledge to comply with the standards set forth in sections 339.500 to 339.549 and state that
24 he or she understands the types of misconduct for which disciplinary proceedings may be
25 initiated against a state-certified real estate appraiser or a state-licensed real estate appraiser.
26 **Any applicant for a certificate or license under this section shall be a resident of this state.**

 339.519. 1. The term of an original certificate or license issued pursuant to sections
2 339.500 to 339.549 shall be for a period set by the commission. All certificates and licenses
3 shall be subject to renewal on the same date. The expiration date of the certificate or license
4 shall appear on the certificate or license and no other notice of its expiration need be given to its
5 holder.

6 2. The commission shall require every state-certified or state-licensed real estate
7 appraiser to provide satisfactory evidence of the completion of the required continuing education
8 hours as promulgated by the appraiser qualifications board. [The commission may waive the
9 requirements of continuing education for retired or disabled licensed or certified appraisers or
10 for other good cause.]

 339.521. [If, in the determination by the commission, another state is deemed to have
2 substantially equivalent certification or licensure requirements,] An applicant who is certified
3 or licensed under the laws of [such other] **another** state may obtain certification as a state
4 certified real estate appraiser or licensure as a state licensed real estate appraiser in this state
5 upon such terms and conditions as may be determined by the board, provided that such terms and
6 conditions shall comply with the minimum criteria for certification or licensure issued by the
7 appraiser qualifications board of the appraisal foundation.

 339.525. 1. To obtain a renewal certificate or license, a state certified real estate
2 appraiser or state licensed real estate appraiser shall make application and pay the prescribed fee
3 to the commission not earlier than one hundred twenty days nor later than thirty days prior to the
4 expiration date of the certificate or license then held. With the application for renewal, the state
5 certified real estate appraiser or state licensed real estate appraiser shall present evidence in the

6 form prescribed by the commission of having completed the continuing education requirements
7 for renewal specified in section 339.530.

8 2. If the commission determines that a state certified real estate appraiser or state
9 licensed real estate appraiser has failed to meet the requirements for renewal of certification or
10 licensure through mistake, misunderstanding, or circumstances beyond the appraiser's control,
11 the commission may extend the term of the certificate or license for good cause shown for a
12 period not to exceed six months, upon payment of a prescribed fee for the extension.

13 3. If a state certified real estate appraiser or state licensed real estate appraiser satisfies
14 the requirements for renewal during the extended term of certification or licensure, the beginning
15 date of the new renewal certificate or license shall be the day following the expiration of the
16 certificate or license previously held by the state certified real estate appraiser or state licensed
17 real estate appraiser.

18 4. If a person is otherwise eligible to renew the person's certification or license, the
19 person may renew an expired certification or license within one year from the date of expiration.
20 To renew such expired certification or license, the person shall submit an application for
21 renewal, pay the renewal fee [and], pay a delinquent renewal fee as established by the
22 commission, **and present evidence in the form prescribed by the commission of having**
23 **completed the continuing education requirements for renewal specified in section 339.530.**
24 Upon a finding of extenuating circumstances, the commission may waive the payment of the
25 delinquent fee.

26 5. If a person has failed to renew the person's license within one year of its expiration,
27 the person may renew such expired certification or license by completing either the number of
28 hours of continuing education equal to fifty percent of the hours required for initial certification
29 or licensure or pass the state examination for such classification, submit an application for
30 renewal, pay the renewal fee and pay a delinquent renewal fee not to exceed an amount as
31 established by the commission. Upon a finding of extenuating circumstances, the commission
32 may waive the payment of the delinquent fee.

33 6. [If a state certified real estate appraiser or state licensed real estate appraiser renews
34 an expired certification or license pursuant to subsection 5 of this section, the beginning date of
35 the new term of certification or licensure shall be the day following the expiration of the
36 certification or license term previously held by the state certified real estate appraiser or state
37 licensed real estate appraiser.] **The commission shall be authorized to issue an inactive**
38 **certificate or license to any licensee who makes written application for such on a form**
39 **provided by the commission and remits the fee for an inactive certificate or license**
40 **established by the commission. An inactive certificate or license shall be issued only to a**
41 **person who has previously been issued a certificate or license to practice as a real estate**

42 **appraiser in this state, who is no longer regularly engaged in such practice, and who does**
43 **not hold himself or herself out to the public as being professionally engaged in such**
44 **practice in this state. Each inactive certificate or license shall be subject to all provisions**
45 **of this chapter, except as otherwise specifically provided. Each inactive certificate or**
46 **license may be renewed by the commission subject to all provisions of this section and all**
47 **other provisions of this chapter. An inactive licensee may apply for a certificate or license**
48 **to regularly engage in the practice of real estate appraising upon filing a written**
49 **application on a form provided by the commission, submitting the reactivation fee**
50 **established by the commission, and submitting satisfactory proof of current competency,**
51 **as established by the commission.**

339.532. 1. The commission may refuse to issue or renew any certificate or license
2 issued pursuant to sections 339.500 to 339.549 for one or any combination of causes stated in
3 subsection 2 of this section. The commission shall notify the applicant in writing of the reasons
4 for the refusal and shall advise the applicant of the right to file a complaint with the
5 administrative hearing commission as provided by chapter 621, RSMo.

2. The commission may cause a complaint to be filed with the administrative hearing
7 commission as provided by chapter 621, RSMo, against any state-certified real estate appraiser,
8 state-licensed real estate appraiser, or any person who has failed to renew or has surrendered his
9 or her certificate or license for any one or any combination of the following causes:

(1) Procuring or attempting to procure a certificate or license pursuant to section 339.513
11 by knowingly making a false statement, submitting false information, refusing to provide
12 complete information in response to a question in an application for certification or licensure,
13 or through any form of fraud or misrepresentation;

(2) Failing to meet the minimum qualifications for certification or licensure or renewal
15 established by sections 339.500 to 339.549;

(3) Paying money or other valuable consideration, other than as provided for by section
17 339.513, to any member or employee of the commission to procure a certificate or license
18 pursuant to sections 339.500 to 339.549;

(4) The person has been finally adjudicated and found guilty, or entered a plea of guilty
20 or nolo contendere, in a criminal prosecution under the laws of any state or the United States, for
21 any offense reasonably related to the qualifications, functions or duties of any profession licensed
22 or regulated pursuant to sections 339.500 to 339.549, for any offense of which an essential
23 element is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude,
24 whether or not sentence is imposed;

- 25 (5) Incompetency, misconduct, gross negligence, dishonesty, fraud, or misrepresentation
26 in the performance of the functions or duties of any profession licensed or regulated by sections
27 339.500 to 339.549;
- 28 (6) Violation of any of the standards for the development or communication of real estate
29 appraisals as provided in or pursuant to sections 339.500 to 339.549;
- 30 (7) Failure to comply with the Uniform Standards of Professional Appraisal Practice
31 promulgated by the appraisal standards board of the appraisal foundation;
- 32 (8) Failure or refusal without good cause to exercise reasonable diligence in developing
33 an appraisal, preparing an appraisal report, or communicating an appraisal;
- 34 (9) Negligence or incompetence in developing an appraisal, in preparing an appraisal
35 report, or in communicating an appraisal;
- 36 (10) Violating, assisting or enabling any person to willfully disregard any of the
37 provisions of sections 339.500 to 339.549 or the regulations of the commission for the
38 administration and enforcement of the provisions of sections 339.500 to 339.549;
- 39 (11) Accepting an appraisal assignment when the employment itself is contingent upon
40 the appraiser's reporting a predetermined analysis or opinion or where the fee to be paid for the
41 performance of the appraisal assignment is contingent upon the opinion, conclusion, or valuation
42 reached or upon the consequences resulting from the appraisal assignment;
- 43 (12) Violating the confidential nature of governmental records to which the person
44 gained access through employment or engagement to perform an appraisal assignment or
45 specialized appraisal services for a governmental agency;
- 46 (13) Violating any term or condition of a certificate or license issued by the commission
47 pursuant to the authority of sections 339.500 to 339.549;
- 48 (14) Violation of any professional trust or confidence;
- 49 (15) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by
50 fraud, deception or misrepresentation;
- 51 (16) Assisting or enabling any person to practice or offer to practice any profession
52 licensed or regulated by sections 339.500 to 339.549 who is not licensed or certified and
53 currently eligible to practice pursuant to sections 339.500 to 339.549;
- 54 (17) Use of any advertisement or solicitation which is false, misleading or deceptive to
55 the general public or persons to whom the advertisement or solicitation is primarily directed;
- 56 (18) Disciplinary action against the holder of a license, certificate or other right to
57 practice any profession regulated pursuant to sections 339.500 to 339.549, imposed by another
58 state, territory, federal agency or country upon grounds for which revocation or suspension is
59 authorized in this state.

60 3. After the filing of such complaint, the proceedings shall be conducted in accordance
61 with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing
62 commission that the grounds, provided in subsection 2 of this section, for disciplinary action are
63 met, the commission may, singly or in combination, publicly censure or place the person named
64 in the complaint on probation on such terms and conditions as the commission deems
65 appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three
66 years, or revoke, the certificate or license. The holder of a certificate or license revoked pursuant
67 to this section may not obtain certification as a state-certified real estate appraiser or licensure
68 as a state-licensed real estate appraiser for at least five years after the date of revocation.

69 4. A certification of a state-certified real estate appraiser or a license of a state-licensed
70 real estate appraiser that has been suspended as a result of disciplinary action by the commission
71 shall not be reinstated, and a person may not obtain certification as a state-certified real estate
72 appraiser or licensure as a state-licensed real estate appraiser subsequent to revocation, unless
73 the applicant presents evidence of completion of the continuing education required by section
74 339.530 during the period of suspension or revocation as well as fulfillment of any other
75 conditions imposed by the commission. Applicants for recertification, relicensure or
76 reinstatement also shall be required to successfully complete the examination for original
77 certification or licensure required by section 339.515 as a condition to reinstatement of
78 certification or licensure, or recertification or relicensure subsequent to revocation.

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