

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1395 Real Estate Appraisers  
**SPONSOR(S):** McInvale  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 2238

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Trades, Professions, & Reg. Business (Sub)	6 Y, 0 N	Livingston	Liepshutz
2) Business Regulation		Livingston	Liepshutz
3) Appropriations			
4)			
5)			

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### SUMMARY ANALYSIS

The Florida Real Estate Appraisal Board (board) under the Division of Real Estate within the Department of Business and Professional Regulation (DBPR) administers regulation of real estate appraisers. The bill addresses several provisions of the real estate statutes, chapter 475, F.S.

The major issues include the following. The bill amends the definition section and various other sections of the statutes to eliminate reference to the regulatory category of "licensed appraiser" and redesignates "registered assistant appraisers" as "registered trainee appraisers."

The bill requires the primary supervisor, rather than the registered trainee, to register the names of the supervisors with the DBPR. It prohibits the registered trainee from receiving compensation from anyone other than the primary supervisor. The bill creates a new section that gives the board rulemaking authority to define the role of the supervisory appraiser in directing the work of a registered trainee.

The bill creates authority for the board to adopt rules for the purpose of entering into agreements with other states, relating to the mutual recognition of education where a person holds a license or certification in a foreign state, provided the foreign state has what the board determines to be similar criteria in licensing and education.

The DBPR estimates a negative fiscal impact of \$100,000 relating to increased administrative expenses and rule making costs associated with the requirements of the bill.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h1395a.br.doc  
**DATE:** April 17, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |  |   |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

1. Reduce government - The state of Florida does not have reciprocity agreements with practitioners in other states. The bill creates a regulatory scheme for out of state practitioners to be licensed and operate in Florida. It provides rulemaking authority to the board relating to the regulation of nonresident appraisers.

3. Expand individual freedom - The bill limits the individual freedom of a registered assistant to collect compensation from anyone other than the primary supervisor. It limits the number of trainees a supervisory appraiser may supervise, as well as, the geographic area in which that supervisor may supervise.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present situation

Regulation of real estate appraisers is established under part II of chapter 475, F.S. The board under the Division of Real Estate of the DBPR administers this program. Regulation is designed to assure the minimal competency of real estate appraisers in order to protect the public from potential financial harm. Applicants for licensure must meet character and educational requirements, submit to a background check, and pass an examination.

An "appraisal report" is "any written or oral analysis, opinion, or conclusion issued by an appraiser relating to the nature, quality, value, or utility of a specific interest in, or aspect of, identified real property...." A person may not issue an appraisal report in connection with certain real estate transactions, unless that person is authorized to perform appraisal services. A report or other appraisal document must contain the appraiser's registration, license or certification number, as appropriate, his or her official title and the work product must be signed by the appraiser.

An appraiser is any person who is a registered assistant real estate appraiser, licensed real estate appraiser, or a certified real estate appraiser. A licensed appraiser is one whom the DBPR has licensed and given authority to develop and communicate appraisal reports on residential real property, provided the property does not exceed four units. Currently, a licensed appraiser may supervise registered assistants.

A registered assistant appraiser is one who registers with DBPR, and is qualified to perform appraisal services, but must work under the supervision of a licensed or certified appraiser. A registered assistant may only have two supervisors, primary and secondary, who must work out of the same business address. Currently, registered assistants are required to register their supervisors with the DBPR. In addition, registered assistants may receive payment from a client if a supervisor agrees to the payment arrangement.

Currently, there is no limit as to the number of registered assistants that a supervisory appraiser(s) may supervise, there is no limit to the geographic area within which a supervisory appraiser may operate while

supervising assistants; and, there is no limit as to how long a person may continue to work as a registered assistant.

The board may impose discipline pursuant to section 475.624, F.S. The board may deny or refuse to renew an application for licensure, registration, or permit. The board may impose probation; suspend a license, registration, or permit; revoke a license, registration, or permit; impose an administrative fine not to exceed \$5,000 for each count or separate offense; or issue a reprimand. Any person who violates any provision of section 475.626, F.S., is guilty of a misdemeanor of the second degree.

### Effect of proposed Changes

The bill amends the definition section and various other sections of the statutes to eliminate reference to the regulatory category of "licensed appraiser" and redesignates "registered assistant appraiser" as "registered trainee appraiser."

Additionally, the bill adds "real estate consulting" to the definition of "analysis assignment;" amends the definition section to add the definition of "appraisal review assignment," as an agreement for which an appraiser reviews the quality of another appraiser's work, with or without providing an opinion of value; adds the definition of "supervisory appraiser" to mean a certified, residential or general appraiser who directs the supervision of one or more registered "trainees;" limits the number of trainees whose work a supervisor may oversee; limits the geographic area within which a supervisor may work; adds the definition of "valuation services," to mean services pertaining to aspects of property value; adds the definition of "work file," to mean the documentation necessary to support an appraiser's analysis, opinions, and conclusions.

The bill amends s. 475.622, F.S., to require the primary supervisor, rather than the registered trainee, to register the names of the supervisors with the DBPR. It amends s.475.6221(2), F.S., to prohibit the registered trainee from receiving compensation from anyone other than the primary supervisor. The bill creates a new section that gives the board rulemaking authority to define the role of the supervisory appraiser in directing the work of a registrant.

The bill creates a new s. 475.631, F.S. that authorizes the board to adopt rules for the purpose of entering into agreements with other states where a person holds a license or certification in a foreign state, provided the foreign state has what the board determines to be similar criteria in licensing and education. The bill limits the recognition of education to non-residents of Florida, requiring that an applicant who is not performing the services of appraisal practice as a resident of this state must sign an irrevocable consent to suits, action, and service. In addition, it requires a non-resident appraiser who becomes a resident, to notify the board within 60 days of becoming a Florida resident and provides penalties should the appraiser fail to comply. It provides rulemaking authority to the board relating to the regulation of nonresident appraisers.

### C. SECTION DIRECTORY:

Sections 1, 2, 4, 7, 8, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, and 25, amend s. 475.01, 475.011, 475.612, 475.615, 475.616, 475.619, 475.620, 475.621, 475.622, 475.6221, 475.623, 475.624, 475.626, 475.627, 475.628, 475.629, 475.6295, and 655.60, F.S., to eliminate reference to the regulatory category of "licensed appraiser" and redesignate "registered assistant appraisers" as "registered trainee appraisers" and to correct cross references.

Section 3. Amends s. 475.611, F.S., relating to real estate definitions.

Section 5. Amends s. 475.613, F.S., to provide rule authority to establish standards for supervisory appraisers.

Section 9. Amends s. 475.617, F.S., to address education and experience requirements.

Section 10. Amends s. 475.618, F.S., to address continuing education.

Section 16. Creates s. 475.6222, F.S., to provide rule making authority to the DBPR for supervision of registered trainee appraisers.

Section 24. Creates s. 475.631, F.S., to create a nonresident certification scheme.

Section 26. Effective date - July 1, 2003.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The DBPR estimates that it will experience approximately \$100,000 fiscal impact associated with the rulemaking requirements of the bill during the first fiscal year following passage. The DBPR states, that no additional fiscal impact is anticipated.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The DBPR points out:

The bill would amend section 475.611, F.S., to delete the "state-licensed" appraiser status. The bill does not provide for a transition into another status for those professionals who now possess the licensed status. This action would create a significant hardship on the affected persons, because it takes away their ability to make a living, without warning or time to transition into another status. At minimum, this status should be grandfathered into the statute. Currently, a licensed appraiser may supervise an unlimited number of registered assistants. In addition, the proposed deletion of the licensed appraiser status will generate a hardship to those registered assistants who currently work for licensed appraisers.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

Yes. The board will have to establish a procedure for the supervision of registered trainees and for regulation of foreign licensees. In addition, it will require rulemaking to provide for substantive conforming changes.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**