

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 2238

SPONSOR: Appropriations Subcommittee on General Government and Regulated Industries
Committee and Senator Constantine

SUBJECT: Real Estate Appraisers

DATE: April 23, 2003 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Favorable/CS
2.	DeLoach	Hayes	AGG	Favorable/CS
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The committee substitute changes the classification of “registered assistant appraiser” to “registered trainee appraiser.” It provides definitions for the terms “appraisal review assignment,” “appraisal report,” “appraisal review,” “supervisory appraiser,” “valuation services,” and “work file.”

The committee substitute permits a broker, salesperson, or broker-salesperson who is not a certified real estate appraiser or registered trainee appraiser to provide valuation services for compensation.

The committee substitute eliminates a historical reference to the initial composition of the board. It authorizes the board to make rules to establish standards for, and to regulate, supervisory appraisers.

The committee substitute requires the board to recognize completion of a distance learning course as satisfactory completion of the continuing education requirement for certification or renewal of registration. It permits the board to authorize independent certification organizations to certify and approve a method of distance learning courses.

The committee substitute changes the board’s authority to adopt rules establishing a procedure for the renewal of registration, licenses, certifications, and instructor permits every 4 years. It provides that registered trainee licenses may be renewed for two biennial terms only, and further provides that after 6 years a registered trainee appraiser is not eligible for renewal but must qualify as a new applicant.

The committee substitute shifts the responsibility from the registered assistant real estate appraiser to the primary supervisory appraiser for notifying the division of the name and address of any primary and secondary supervisory appraiser for whom the registered trainee will perform appraisal services. The duty also changes to the primary supervisory appraiser to notify the division within 10 days after terminating such relationship. It requires that a registered trainee must be directly supervised by the primary or secondary supervisory appraiser. It also authorizes the division to determine by rule the role and responsibilities of the supervisory appraiser

The committee substitute grants the board the discretion to enter into written agreements with similar licensing or certification authorities of other states, territories, or jurisdictions of the United States to ensure Florida licensees nonresident licensure opportunities comparable to those afforded to nonresidents by Florida law. It provides that licensees of another jurisdiction who apply for nonresident licensure in Florida must meet education, experience, and examination requirements substantially comparable to those required by the other jurisdiction of Florida-certified appraisers who apply for nonresident certification.

The committee substitute requires the board to prescribe post-licensure education requirements for registered trainee appraisers. It provides that the registration of a trainee appraiser becomes void without further administrative action if he or she fails to complete the post licensure requirements before the second renewal following initial registration. The post-licensure requirement would apply to trainee appraisers registered before July 1, 2003, and provides for a six-month extension for registered trainee appraisers with a physical hardship as defined by rule of the board.

The committee substitute requires that nonresident applicants must file an irrevocable consent to suits and actions in this state. Nonresident applicants must also consent to allowing the director of the division to accept service of process on behalf of the applicant in any suit or action filed against the nonresident applicant in this state.

The committee substitute would require any state-certified appraiser who becomes a nonresident to notify the board of a change of residency within 60 days of a change in residency, and to comply with nonresident requirements. It authorizes the board to adopt rules necessary for the regulation of nonresident appraisers and licensees.

The committee substitute would take effect on July 1, 2003.

This bill amends the following sections of the Florida Statutes: 475.01, 475.011, 475.611, 475.612, 475.613, 475.6147, 475.615, 475.617, 475.618, 475.619, 475.620, 475.622, 475.6221, 475.624, 475.626, and 475.627.

This bill creates the following sections of the Florida Statutes: 475.6175, 475.6222, and 475.631.

II. Present Situation:

The regulation of real estate appraisers is established under part II of ch. 475, F.S. The Florida Real Estate Appraisal Board (“the board”) within the Department of Business and Professional Regulation (“the department”) is the agency responsible for implementing and enforcing the

provisions of part II of ch. 475, F.S. The Division of Real Estate (“the division”) within the department provides administrative support to the board. The division is responsible for providing the recordkeeping, examination, legal, and investigative services for the board.

Section 457.611(1)(a), F.S., defines an appraisal as:

[T]he services provided by certified or licensed appraisers or registered assistant appraisers, and includes:

1. "Appraisal assignment" denotes an engagement for which a person is employed or retained to act, or could be perceived by third parties or the public as acting, as an agent or a disinterested third party in rendering an unbiased analysis, opinion, review, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real property.
2. "Analysis assignment" denotes appraisal services that relate to the employer's or client's individual needs or investment objectives and includes specialized marketing, financing, and feasibility studies as well as analyses, opinions, and conclusions given in connection with activities such as real estate brokerage, mortgage banking, or real estate counseling.

Section 475.611(1)(e), F.S., defines an appraiser as:

[A]ny person who is a registered assistant real estate appraiser, licensed real estate appraiser, or a certified real estate appraiser. An appraiser renders a professional service and is a professional within the meaning of s. 95.11(4)(a).

Licensure, certification or registration is required by ss. 475.612 and 475.615, F.S., before acting as a registered assistant appraiser or as a licensed or certified appraiser.

There are three distinct real estate appraiser classifications under part II of ch. 475, F.S. These are: registered assistant appraisers, licensed appraisers, certified residential appraisers, and certified general appraisers. Section 475.617, F.S., delineates the experience and education requirements for each classification.

A registered assistant appraiser is defined in s. 475.611(1)(l), F.S., as a person who can only perform appraisal services under the supervision of a licensed or certified appraiser. Pursuant to s. 475.6221, F.S., a registered assistant appraiser may not receive payment directly from the recipient of an appraisal report, unless the primary supervising licensed or certified appraiser agrees to the payment arrangement

A “certified general appraiser” is defined in s. 475.611(1)(g), F.S., as meaning:

[A] person who is certified by the department as qualified to issue appraisal reports for any type of real property.

A "certified residential appraiser" is defined in s. 475.611(1)(h), F.S., as meaning:

[A] person who is certified by the department as qualified to issue appraisal reports for residential real property of one to four residential units, without regard to transaction value or complexity, or real property as may be authorized by federal regulation.

A “licensed appraiser” is defined in s. 475.611(1)(k), F.S., as meaning:

[A] person who is licensed by the department as qualified to issue appraisal reports for residential real property of one to four residential units or on such real estate or real property as may be authorized by federal regulation.

Section 475.612(2), F.S., permits a broker, salesperson, or broker-salesperson who is not a certified or licensed real estate appraiser or registered assistant appraiser to appraise real estate for compensation. A real estate broker or salesperson may also, in the regular course of business, perform a comparative analysis, give a broker price opinion, or give an opinion on the value of real estate.

Section 475.618, F.S., requires the board to approve a distance learning course or courses. Completion of a distance learning course requires the completion of a timed distance learning course examination, which is not required to be monitored or given at a centralized location.

Section 475.618, F.S., also requires the board to adopt rules establishing a procedure for the renewal of registration, licenses, certifications, and instructor permits every 4 years.

III. Effect of Proposed Changes:

Section 1. Definitions.

This section amends s. 475.01, F.S., to substitute the term “registered assistant appraiser” with the term “registered trainee appraiser.” The bill makes this change throughout part II of ch. 475, F.S.

Section 2. Exemptions.

The bill amends s. 475.011, F.S., to substitute the term “registered assistant appraiser” with the term “registered trainee appraiser.”

Section 3. Definitions.

The bill amends s. 475.611, F.S., to change the classification of “registered assistant appraiser” to “registered trainee appraiser.” The bill adds a provision to the definition of “registered assistant appraiser” that provides that registered trainee appraisers may accept appraisal assignments only from their primary or secondary supervisory appraiser.

The bill provides a definition for the new term “appraisal review assignment,” which is defined as an engagement to develop and communicate an opinion about the quality of another appraiser’s appraisal, appraisal report, or work. The appraisal review may or may not include the reviewing appraiser’s opinion of value.

The bill clarifies the definition of “appraisal report” as including an appraisal, appraisal review, or appraisal consulting service. The bill adds and defines the term “appraisal review,” which it defines as the act or process of developing and communicating an opinion about the quality of another appraiser’s appraisal, appraisal report, or work.

The bill provides that after July 1, 2003, the department shall not issue licenses for the category of licensed appraiser.

The bill adds and defines the term “supervisory appraiser.” The bill authorizes the board to by rule determine the responsibilities of a supervisory appraiser, the geographic proximity required, and the maximum number of registered trainee appraisers that can be supervised by a supervisory appraiser.

The bill adds the term “valuation services,” which means:

[S]ervices pertaining to aspects of property value and include such services performed by certified appraisers, registered trainee appraisers, and others.

The bill adds a definition for the term “work file,” which means “the documentation necessary to support an appraiser’s analysis, opinions, and conclusions.”

Section 4. Certification, or registration required.

The bill amends s. 475.612, F.S., to replace the term “registered assistant real estate appraiser” with the term “registered trainee real estate appraiser.”

The bill permits a broker, salesperson, or broker-salesperson who is not a certified real estate appraiser or registered trainee appraiser to provide valuation services for compensation. This amendment substitutes the term “providing valuation services,” for the term “appraising real estate.”

Section 5. Florida Real Estate Appraisal Board.

The bill amends s. 475.613, F.S., to eliminate a historical reference to the initial composition of the board. The bill also authorizes the board to make rules to establish standards for, and to regulate, supervisory appraisers.

Section 6. Fees.

The bill amends s. 475.6147, F.S., which concerns the board’s authority to establish fees by rule. The bill makes a technical amendment to this section to include fees related to certification and registration.

Section 7. Qualifications for registration.

The bill amends s. 475.615, F.S., to replace the term “registered assistant real estate appraiser” with the term “registered trainee appraiser.”

Section 8. Qualifications for registration.

The bill amends s. 475.617, F.S., to replace the term “assistant appraiser” with the term “trainee appraiser.”

Section 9. Registered trainee appraiser; post licensure required.

The bill creates s. 475.6175, F.S., to require the board to prescribe post-licensure education requirements for registered trainee appraisers. The post-licensure education requirement would be no more than the total required to qualify as a state certified residential appraiser. Section 475.617, F.S., requires a minimum of 120 classroom hours to qualify for certification as a state

certified residential appraiser. The bill provides that the registration of a trainee appraiser becomes void without further administrative action if he or she fails to complete the post licensure requirements before the second renewal following initial registration. Any trainee appraiser registered before July 1, 2003, must satisfy this requirement within the two biennial renewal cycles following July 1, 2003. An additional six-month period after the second renewal following initial licensure may be allowed by the board for registered trainee appraisers with a physical hardship as defined by rule of the board.

Section 10.

Renewal of registration, certification, or instructor permit; continuing education.

The bill amends s. 475.618, F.S., to include satisfactory completion of a distance learning course as one of the options for certification or renewal of registration. The bill eliminates the requirement that completion of a distance learning course requires the completion of a timed distance learning course examination. It permits the board to authorize independent certification organizations to certify and approve a method of distance learning courses. It also replaces the term “registered assistant” with the term “registered trainee.”

Section 11. Inactive status.

The bill amends s. 475.619, F.S., to replace the term “registered assistant” with the term “registered trainee.”

Section 12. Corporations and partnerships eligible for certification.

The bill amends s. 475.620, F.S., to eliminate the references to replace the term “registered assistant appraisers” with the term “registered trainee appraisers.”

Section 13. Display or disclosure of certification or registration.

The bill amends s. 475.622, F.S., to replace the term “state-registered assistant real estate appraiser” with the term “registered trainee real estate appraiser,” and the term “secondary licensed or certified appraiser” with the term “secondary supervisory appraiser.”

Section 14. Employment of registered trainee real estate appraisers.

The bill amends s. 475.6221, F.S., to change the responsibility from a registered assistant appraiser to the supervisory appraiser for notifying the division of the name and address of any primary and secondary supervisor for whom the registered trainee will perform appraisal services. The duty would shift to the primary supervisory appraiser to notify the division within 10 days after terminating such relationship. The bill also limits a registered trainee to receiving compensation only through or from the primary supervisory appraiser.

Section 15. Supervision of registered trainee appraisers.

The bill creates s. 475.6222, F.S., to require that a registered trainee appraiser must be directly supervised by the primary or secondary supervisory appraiser. This section also authorizes the division to determine by rule the role and responsibilities of the supervisory appraiser.

Section 16. Discipline.

The bill amends s. 475.624(1), F.S., which authorizes discipline for violations of s. 455.227(1), F.S., which provides several grounds for discipline. The bill exempts certificateholders and registrants from discipline for violations of s. 455.227(1)(i), F.S., which authorizes discipline for

failing to report to the department any person who the licensee knows is in violation of ch. 455, F.S., the chapter regulating the alleged violator, or the rules of the department or the board. Under currently law only licensed appraisers are exempted.

Section 17. Violations and penalties.

The bill amends s. 475.626, F.S., to replace the term “registered assistant appraiser” with the term “registered trainee appraiser.”

Section 18. Appraisal course instructors.

The bill amends s. 475.627, F.S., to replace the term “registered assistant appraiser” with the term “registered trainee appraiser.”

Section 19. Authority to inspect.

The bill amends s. 475.6295, F.S., to include the terms “certified” and “registered.” This section pertains to the department’s power to inspect an appraiser or appraisal office licensed under ch. 475, F.S. This is a technical amendment that would clarify that the department’s power to inspect would apply to an appraiser or appraisal office certified, registered, or licensed under ch. 475, F.S.

Section 20. Nonresident licenses and certifications.

The bill creates section 475.631, F.S. The bill grants the board the discretion to enter into written agreements with similar licensing or certification authorities of other states, territories, or jurisdictions of the United States to ensure Florida licensees nonresident licensure opportunities comparable to those afforded to nonresidents by Florida law. Whenever the board determines that another jurisdiction does not offer nonresident licensure to Florida licensees substantially comparable to those afforded to licensees of that jurisdiction by this section, those jurisdiction’s licensees who apply for nonresident licensure in Florida must meet education, experience, and examination requirements substantially comparable to those required by the other jurisdiction of Florida-certified appraisers who apply for nonresident certification.

The bill requires that nonresident applicants must file an irrevocable consent to suits and actions in this state. Nonresident applicants must also consent to allowing the director of the division to accept service of process on behalf of the applicant in any suit or action filed against the nonresident applicant in this state.

The bill would require any state-certified appraiser who becomes a nonresident to notify the board of a change of residency within 60 days of a change in residency, and to comply with nonresident requirements. The bill authorizes the board to adopt rules necessary for the regulation of nonresident appraisers and licensees.

Section 19.

This bill would take effect on July 1, 2003.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Registered assistant real estate appraiser would be reclassified as registered trainee real estate appraisers. Licensees who take a distance learning course would no longer be required to complete a timed distance learning course examination. Licensees would have to renew their licenses every 4 years instead of the current every 2 years. However, registered trainee licenses could renew their licenses for two biennial terms only, and would not be eligible for renewal after 6 years; after which time they would have to qualify as a new applicant.

The primary supervisor appraiser would be responsible for notifying the division of the name and address of any primary and secondary supervisor for whom a registered trainee will perform appraisal services. The primary supervisor appraiser would be responsible for notifying the division within 10 days after terminating a trainee appraiser relationship. Nonresident applicants and licensee would also have to comply with the requirement established by the committee substitute.

C. Government Sector Impact:

The board will now be required to recognize completion of a distance learning course as an option for certification or renewal of registration. The board would be authorized to certify and approve a method of distance learning courses offered by independent certification organizations. The board would have to adopt rules establishing a procedure for the renewal of registration, licenses, certifications, and instructor permits every 4 years.

This committee substitute provides the Department with additional rule-making authority. The Department has estimated a \$100,000 impact to implement these provisions, but will be able to absorb this within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
