

FIRST REGULAR SESSION

SENATE BILL NO. 526

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Read 1st time February 19, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

2132S.011

AN ACT

To repeal sections 339.507, 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Section A. Sections 339.507, 339.513, 339.519, 339.521, 339.525, and 339.532, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 339.507, 339.510, 339.513, 339.519, 339.521, 339.525, and 339.532, to read as follows: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 the department of economic development the "Missouri Real Estate Appraisers Commission", which shall consist of seven members appointed by the governor with the advice and consent of the senate, six of whom shall be appraiser members, and one shall be a public member. Each member shall be a resident of this state and a registered voter for a period of one year prior to the person's appointment. The president of the Missouri Appraiser Advisory Council in office at the time shall, at least ninety days prior to the expiration of the term of the commission member, other than the public member, or as soon as feasible after the vacancy on the commission otherwise occurs, submit to the director of the division of professional registration a list of five appraisers qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Appraiser Advisory Council shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association. The public member shall have never been

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 engaged in the businesses of real estate appraisal, real estate sales or making
18 loans secured by real estate. [The governor shall designate one of the appraiser
19 appointees to be chairperson.]

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

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

53 commission shall be employed by the division of professional registration, subject
54 to approval and confirmation by the commission.]

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

63 5. Each member of the commission shall be entitled to a per diem
64 allowance of [fifty] **up to seventy** dollars for each [meeting] **day devoted to**
65 **the affairs** of the commission at which the member is present and shall be
66 entitled to reimbursement of the member's expenses necessarily incurred in the
67 discharge of the member's official duties. [Each member of the commission shall
68 be entitled to reimbursement of travel expenses necessarily incurred in attending
69 meetings of the commission.]

339.510. 1. The chairperson of the commission may administer
2 **oaths, issue subpoenas, and issue subpoenas duces tecum requiring the**
3 **production of documents and records. Subpoenas and subpoenas duces**
4 **tecum shall be served by a person authorized to serve subpoenas of**
5 **courts of record. In lieu of requiring attendance of a person to produce**
6 **original documents in response to a subpoena duces tecum, the**
7 **commission may require sworn copies of such documents to be filed**
8 **with it or delivered to its designated representative.**

9 2. The commission may enforce its subpoenas and subpoenas
10 duces tecum by applying to the circuit court of Cole County, the county
11 of the investigation, hearing or proceeding, or any county where the
12 person subpoenaed resides or may be found, for an order to show cause
13 why such subpoena should not be enforced, such order and a copy of
14 the application therefore to be served upon the person in the same
15 manner as a summons in a civil action, and if the circuit court shall,
16 after a hearing, determine that the subpoena should be sustained and
17 enforced, such court shall proceed to enforce the subpoena in the same
18 manner as though the subpoena had been issued in a civil case in the
19 circuit court.

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

2. Appropriate fees shall accompany all applications for examination, original certification or licensure, and renewal certification or licensure; provided that such fees shall be in amounts set by the commission in order to offset the cost and expense of administering sections 339.500 to 339.549, and in amounts to be determined by the commission with reference to the requirements of Section 1109 of the United States Public Law 101-73, as later codified and as may be amended. All fees collected pursuant to this subsection shall be collected by the commission and deposited with the state treasurer into a fund to be known as the "Missouri Real Estate Appraisers Fund". The provisions of section 33.080, RSMo, relating to the transfer of unexpended balances to the general revenue fund shall not apply to the Missouri real estate appraisers fund. **In any proceeding in which a remedy provided by subsection 1 or 2 of section 339.532 is imposed, the commission may also require the respondent licensee to pay the costs of the proceeding if the commission is a prevailing party or in settlement. The moneys shall be placed in the state treasury to the credit of the Missouri real estate appraisers fund.**

3. At the time of filing an application for certification or licensure, each applicant shall sign a pledge to comply with the standards set forth in sections 339.500 to 339.549 and state that he or she understands the types of misconduct for which disciplinary proceedings may be initiated against a state-certified real estate appraiser or a state-licensed real estate appraiser.

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

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

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

339.525. 1. To obtain a renewal certificate or license, a state certified real
2 estate appraiser or state licensed real estate appraiser shall make application
3 and pay the prescribed fee to the commission not earlier than one hundred twenty
4 days nor later than thirty days prior to the expiration date of the certificate or
5 license then held. With the application for renewal, the state certified real estate
6 appraiser or state licensed real estate appraiser shall present evidence in the
7 form prescribed by the commission of having completed the continuing education
8 requirements for renewal specified in section 339.530.

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

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

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

29 commission may waive the payment of the delinquent fee.

30 [5.] **4. If a person has failed to renew the person's license within [one**
31 **year] two years of its expiration, [the person may renew such expired**
32 **certification or license by completing either the number of hours of continuing**
33 **education equal to fifty percent of the hours required for initial certification or**
34 **licensure or pass the state examination for such classification, submit an**
35 **application for renewal, pay the renewal fee and pay a delinquent renewal fee not**
36 **to exceed an amount as established by the commission. Upon a finding of**
37 **extenuating circumstances, the commission may waive the payment of the**
38 **delinquent fee.**

39 **6. If a state certified real estate appraiser or state licensed real estate**
40 **appraiser renews an expired certification or license pursuant to subsection 5 of**
41 **this section, the beginning date of the new term of certification or licensure shall**
42 **be the day following the expiration of the certification or license term previously**
43 **held by the state certified real estate appraiser or state licensed real estate**
44 **appraiser] the license shall be void.**

45 **5. The commission is authorized to issue an inactive certificate**
46 **or license to any licensee who makes written application for such on a**
47 **form provided by the commission and remits the fee for an inactive**
48 **certificate or license established by the commission. An inactive**
49 **certificate or license may be issued only to a person who has previously**
50 **been issued a certificate or license to practice as a real estate appraiser**
51 **in this state, who is no longer regularly engaged in such practice, and**
52 **who does not hold himself or herself out to the public as being**
53 **professionally engaged in such practice in this state. Each inactive**
54 **certificate or license shall be subject to all provisions of this chapter,**
55 **except as otherwise specifically provided. Each inactive certificate or**
56 **license may be renewed by the commission subject to all provisions of**
57 **this section and all other provisions of this chapter. An inactive**
58 **licensee may apply for a certificate or license to regularly engage in**
59 **the practice of real estate appraising upon filing a written application**
60 **on a form provided by the commission, submitting the reactivation fee**
61 **established by the commission, and submitting satisfactory proof of**
62 **current competency as established by the commission.**

339.532. 1. The commission may refuse to issue or renew any certificate
2 or license issued pursuant to sections 339.500 to 339.549 for one or any

3 combination of causes stated in subsection 2 of this section. The commission
4 shall notify the applicant in writing of the reasons for the refusal and shall advise
5 the applicant of the right to file a complaint with the administrative hearing
6 commission as provided by chapter 621, RSMo.

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

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

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

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

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

29 (5) Incompetency, misconduct, gross negligence, dishonesty, fraud, or
30 misrepresentation in the performance of the functions or duties of any profession
31 licensed or regulated by sections 339.500 to 339.549;

32 (6) Violation of any of the standards for the development or
33 communication of real estate appraisals as provided in or pursuant to sections
34 339.500 to 339.549;

35 (7) Failure to comply with the Uniform Standards of Professional
36 Appraisal Practice promulgated by the appraisal standards board of the appraisal
37 foundation;

38 (8) Failure or refusal without good cause to exercise reasonable diligence

39 in developing an appraisal, preparing an appraisal report, or communicating an
40 appraisal;

41 (9) Negligence or incompetence in developing an appraisal, in preparing
42 an appraisal report, or in communicating an appraisal;

43 (10) Violating, assisting or enabling any person to willfully disregard any
44 of the provisions of sections 339.500 to 339.549 or the regulations of the
45 commission for the administration and enforcement of the provisions of sections
46 339.500 to 339.549;

47 (11) Accepting an appraisal assignment when the employment itself is
48 contingent upon the appraiser's reporting a predetermined analysis or opinion or
49 where the fee to be paid for the performance of the appraisal assignment is
50 contingent upon the opinion, conclusion, or valuation reached or upon the
51 consequences resulting from the appraisal assignment;

52 (12) Violating the confidential nature of governmental records to which
53 the person gained access through employment or engagement to perform an
54 appraisal assignment or specialized appraisal services for a governmental agency;

55 (13) Violating any term or condition of a certificate or license issued by
56 the commission pursuant to the authority of sections 339.500 to 339.549;

57 (14) Violation of any professional trust or confidence;

58 (15) Obtaining or attempting to obtain any fee, charge, tuition or other
59 compensation by fraud, deception or misrepresentation;

60 (16) Assisting or enabling any person to practice or offer to practice any
61 profession licensed or regulated by sections 339.500 to 339.549 who is not licensed
62 or certified and currently eligible to practice pursuant to sections 339.500 to
63 339.549;

64 (17) Use of any advertisement or solicitation which is false, misleading or
65 deceptive to the general public or persons to whom the advertisement or
66 solicitation is primarily directed;

67 (18) Disciplinary action against the holder of a license, certificate or other
68 right to practice any profession regulated pursuant to sections 339.500 to 339.549,
69 imposed by another state, territory, federal agency or country upon grounds for
70 which revocation or suspension is authorized in this state.

71 3. After the filing of such complaint, the proceedings shall be conducted
72 in accordance with the provisions of chapter 621, RSMo. Upon a finding by the
73 administrative hearing commission that the grounds, provided in subsection 2 of
74 this section, for disciplinary action are met, the commission may, singly or in

75 combination, publicly censure or place the person named in the complaint on
76 probation on such terms and conditions as the commission deems appropriate for
77 a period not to exceed five years, or may suspend, for a period not to exceed three
78 years, or revoke, the certificate or license. The holder of a certificate or license
79 revoked pursuant to this section may not obtain certification as a state-certified
80 real estate appraiser or licensure as a state-licensed real estate appraiser for at
81 least five years after the date of revocation.

82 4. A certification of a state-certified real estate appraiser or a license of
83 a state-licensed real estate appraiser that has been suspended as a result of
84 disciplinary action by the commission shall not be reinstated, and a person may
85 not obtain certification as a state-certified real estate appraiser or licensure as
86 a state-licensed real estate appraiser subsequent to revocation, unless the
87 applicant presents evidence of completion of the continuing education required
88 by section 339.530 during the period of suspension or revocation as well as
89 fulfillment of any other conditions imposed by the commission. Applicants for
90 recertification, relicensure or reinstatement also shall be required to successfully
91 complete the examination for original certification or licensure required by section
92 339.515 as a condition to reinstatement of certification or licensure, or
93 recertification or relicensure subsequent to revocation.

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