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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS - REAL ESTATE BROKERS AND SALESPERSONS

Introduced By: Representatives Messier, Nunes, and Ferri

Date Introduced: February 13, 2014

Referred To: House Corporations

(Business Regulation)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 5-20.5-12 of the General Laws in Chapter 5-20.5 entitled "Real
2 Estate Brokers and Salespersons" is hereby amended to read as follows:
3 **5-20.5-12. Commission -- Creation -- Composition -- Appointment, terms, and**
4 **compensation of members -- Officers -- Deputy directors -- Seal. --** (a) (1) Within the
5 department of business regulation there is created the Rhode Island real estate commission,
6 subsequently referred to as "commission", to consist of nine (9) persons at least one from each
7 county to be appointed by the governor, each of whom has been a citizen of this state for at least
8 ten (10) years prior to the date of appointment, three (3) current licensed brokers each of whom
9 have been engaged as a licensed broker or salesperson in this state for at least ~~ten (10)~~ five (5)
10 years prior to the date of appointment, four (4) of whom are members of the general public, at
11 least one of whom has substantial academic experience in real estate and at least one who has
12 been active in citizen groups concerned with real estate practices and activities. Two (2) members
13 appointed for one year; two (2) members shall be appointed for two (2) years; one member for
14 three (3) years; one member for four (4) years; and one member for five (5) years; beginning on
15 December 31, 1973. Successors of all members shall be appointed by the governor for terms of
16 five (5) years each and until their successors are appointed and qualify by subscribing to the
17 constitutional oath of office, which shall be filed with the secretary of state. Members to fill
18 vacancies shall be appointed for the unexpired term. No member shall be appointed to succeed

1 himself or herself for more than one full term. There are two (2) ex-officio members of the
2 commission and they are the attorney general or his or her designee and the director of the
3 department or his or her designee. All ex-officio members have full voting powers and serve
4 without compensation. Upon qualification of the members appointed, the commission shall
5 organize by selecting from its members a chairperson.

6 (2) The commission shall adopt reasonable rules and regulations to carry out its
7 purposes. The department of business regulation with the assistance of the commission shall
8 establish any reasonable rules and regulations that are appropriate for that program to insure that
9 education and practice requirements of license holders meet the public interest.

10 (b) The director shall employ a deputy director and any other employees that he or she
11 deems necessary and proper to discharge the duties imposed by this chapter, and shall determine
12 and prescribe their duties and fix their compensation, subject to the general laws of the state.

13 (c) No member of the commission shall receive compensation for his or her official
14 duties but shall be reimbursed for his or her actual and necessary expenses incurred in the
15 performance of his or her official duties.

16 (d) The commission shall adopt a seal of any design that it prescribes. Copies of all
17 records and papers in the office of the commission, duly certified and authenticated by its seal,
18 shall be received in evidence in all courts with like effect as the original. All records of the
19 commission are open to public inspection under any reasonable rules and regulations that it
20 prescribes.

21 (e) The commission shall have a policy-making role in the preparation and composition
22 of the examinations to be administered by the ~~division of professional regulation~~ [real estate](#)
23 [division within the department of business regulation](#). Subsequent to the administration of the
24 examination, the commission shall review the examinations to evaluate their effectiveness. The
25 commission shall supervise the operations of the [real estate division within the department of](#)
26 [business regulation](#) ~~division~~ in an advisory capacity in promulgating any policy that is necessary
27 to improve the operations of the ~~division~~ [real estate division within the department of business](#)
28 [regulation](#) in their areas of expertise. The promulgation of that policy is subject to the approval of
29 the director ~~of the department of business regulation~~.

30 SECTION 2. Sections 5-20.7-5, 5-20.7-6, 5-20.7-24 and 5-20.7-25 of the General Laws
31 in Chapter 5-20.7 entitled "Real Estate Appraiser Certification Act" are hereby amended to read
32 as follows:

33 **5-20.7-5. Powers of the board.** -- The board shall:

34 (1) Establish criteria, standards, and requirements for the certifying and licensing of real

1 estate appraisers, including, but not limited to, educational criteria, experience criteria, and
2 examination requirements for certifying, licensing, and recertifying.

3 (2) Establish administrative procedures for disciplinary proceedings conducted pursuant
4 to the provisions of this chapter and the board shall censure, suspend, and revoke certificates
5 pursuant to the disciplinary proceedings established by the board.

6 (3) Have a policy-making role in the preparation and composition of the examinations to
7 be administered by the department or its designee. Subsequent to the administration of the
8 examination, the board shall review the examinations to evaluate their effectiveness.

9 (4) Supervise the operations in the department in an advisory capacity and promulgate
10 any policy, procedures, and rules that are necessary to improve the operations of the department
11 in their areas of expertise and to implement this chapter. The promulgation of those policies is
12 subject to the approval of the director of the department.

13 (5) Provide any advisory opinions to the department that are necessary for the
14 implementation of this chapter, [title XI of the Federal Financial Institutions Reform, Recovery
15 and Enforcement Act of 1989, 12 U.S.C. 3331 et seq., as may be amended from time to time and
16 with the federal regulatory standards promulgated thereunder](#), as well as any other standards of
17 expertise and certification deemed appropriate by the board.

18 ~~(6) Establish administrative procedures for disciplinary proceedings conducted pursuant
19 to the provisions of this chapter and censure, suspend, and revoke certificates pursuant to the
20 disciplinary proceedings provided.~~

21 **5-20.7-6. Powers of the department.** -- (a) The department shall have the following
22 powers and duties:

23 (1) Establish within the department an independent section named the real estate
24 appraisers section, which shall operate independent of the real estate section;

25 (2) Establish the examination specifications for certification and licensing of each
26 category of state certified and licensed real estate appraiser consistent with the advice of the
27 board and establish procedures for grading examinations;

28 (3) Administer the standards for education and experience as established by the board as
29 a prerequisite to examination and recertification as specified in this chapter;

30 (4) Administer the approval or disapproval of applications for certification and licensing
31 and to issue certificates;

32 (5) Administer the approval or disapproval of applications for the renewal of certificates;

33 (6) Establish any rules and regulations that are necessary for the implementation of this
34 chapter, [title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of](#)

1 [1989, 12 U.S.C. 3331 et seq., as may be amended from time to time, and with the federal](#)
2 [regulatory standards promulgated thereunder;](#)

3 (7) Receive applications for state certification and licensing and establish administrative
4 procedures for the processing of those applications;

5 (8) Maintain a registry of names and addresses of individuals certified and licensed
6 under this chapter and retain all records and all application materials submitted to the department
7 pursuant to the certification and licensing process established by the department; and

8 (9) Assist the board, from time to time, in any other manner that the board requests.

9 (b) The department, pursuant to the provisions of this chapter, shall employ any
10 administrative personnel and employees that are necessary and proper to discharge the duties
11 imposed by this chapter and to determine and prescribe their duties and fix their compensation
12 subject to the general laws of this state.

13 **5-20.7-24. Mortgage loan appraisers -- Relationship with lending institution. --** (a)

14 Every bank, trust company, loan investment company, mortgage company, and credit union or
15 any other lending institution, which accepts an application for any residential mortgage loan or
16 any commercial mortgage loan which requires an appraisal in order to process the loan is not
17 permitted to use an appraisal company that is either owned by or has directors, stockholders, or
18 employees of that bank, trust company, loan investment company, mortgage company, and credit
19 union or any other lending institution.

20 (b) All appraisal companies doing business in the state are required to disclose with the
21 Rhode Island department of business regulation those lending institutions that may have an
22 ownership interest in the appraisal company. If an ownership relationship exists between the
23 lending institution and an appraisal company, then the appraisal company is prohibited from
24 conducting any appraisals for that lending institution.

25 (c) Any appraisal companies doing business within the state ~~are prohibited from doing~~
26 ~~business within the state if a violation of this chapter is discovered~~ [shall comply with the](#)
27 [provisions of this chapter, title XI of the Federal Financial Institutions Reform, Recovery and](#)
28 [Environment Act of 1989, 12 U.S.C. 3331 et seq., as may be amended from time to time, and](#)
29 [with the federal and state regulatory standards promulgated thereunder.](#)

30 (d) Any lending institution which maintains Federal Deposit Insurance Corporation
31 (FDIC) or National Credit Union Association (NCUA) insurance protection for its deposits at a
32 lending institution is exempt from this provision.

33 (e) A violation of this section shall also be held to be a violation of chapter 13.1 of title
34 6.

1 **5-20.7-25. Effect of federal law.** -- Notwithstanding any provision in this chapter to the
2 contrary, [any applicable provisions of title XI of](#) the "Federal Financial Institutions Reform,
3 Recovery & Enforcement Act of 1989 (FIRREA)," 12 U.S.C. section 3331 et seq., [as may be](#)
4 [amended from time to time, and any federal regulatory standards promulgated thereunder shall](#)
5 supersede [any inconsistent](#) provisions of this chapter ~~when applicable~~.

6 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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SALESPERSONS

1 This act would provide for the implementation of Title XI of the "Federal Financial
2 Institutions Reform, Recovery and Enforcement Act of 1989" and would further provide that the
3 real estate division with the department of business regulation administer examinations pursuant
4 to this chapter.

5 This act would take effect upon passage.

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