

AMENDED IN SENATE JUNE 22, 2015

AMENDED IN ASSEMBLY APRIL 22, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 624

Introduced by Assembly Member Wilk

February 24, 2015

An act to amend Sections 11302 and 11319 of the Business and Professions Code, relating to real estate appraisers.

LEGISLATIVE COUNSEL’S DIGEST

AB 624, as amended, Wilk. Real estate appraisers: standards of conduct.

Existing law, the Real Estate Appraisers’ Licensing and Certification Law, regulates the licensing of real estate appraisers and provides definitions of specified terms that govern the construction of that law. Existing law provides that the Uniform Standards of Professional Appraisal Practice sets forth the minimum standards of conduct and performance for real estate appraisers in any work or service performed that is addressed by those standards.

This bill would instead provide that the Uniform Standards of Professional Appraisal Practice constitutes the minimum standard of conduct and performance for federally related real estate appraisal activity, as defined. The bill would revise existing, and additionally include new, definitions for specified terms for purposes of the Real Estate Appraisers’ Licensing and Certification Law. The bill would also authorize, if a licensee is performing a nonfederally related appraisal activity, a standard of valuation practice, as defined, for a licensee if

that practice is disclosed to, and agreed upon, by the client, and if that practice is described in an appraisal, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11302 of the Business and Professions
2 Code is amended to read:

3 11302. For the purpose of applying this part, the following
4 terms, unless otherwise expressly indicated, shall mean and have
5 the following definitions:

6 (a) “Department” means the Department of Consumer Affairs.

7 (b) “Appraisal” means a written statement independently and
8 impartially prepared by a qualified appraiser setting forth an
9 opinion in a federally related transaction as to the market value of
10 an adequately described property as of a specific date, supported
11 by the presentation and analysis of relevant market information.

12 The term “appraisal” does not include an opinion given by a real
13 estate licensee or engineer or land surveyor in the ordinary course
14 of his or her business in connection with a function for which a
15 license is required under Chapter 7 (commencing with Section
16 6700) or Chapter 15 (commencing with Section 8700) of Division
17 3, or Chapter 3 (commencing with Section 10130) or Chapter 7
18 (commencing with Section 10500) and the opinion shall not be
19 referred to as an appraisal. This part does not apply to a probate
20 referee acting pursuant to Sections 400 to 408, inclusive, of the
21 Probate Code unless the appraised transaction is federally related.

22 (c) “Appraisal Foundation” means the Appraisal Foundation
23 that was incorporated as an Illinois not-for-profit corporation on
24 November 30, 1987.

25 (d) (1) “Appraisal management company” means any person
26 or entity that satisfies all of the following conditions:

27 (A) Maintains an approved list or lists, containing 11 or more
28 independent contractor appraisers licensed or certified pursuant
29 to this part, or employs 11 or more appraisers licensed or certified
30 pursuant to this part.

31 (B) Receives requests for appraisals from one or more clients.

1 (C) For a fee paid by one or more of its clients, delegates
2 appraisal assignments for completion by its independent contractor
3 or employee appraisers.

4 (2) "Appraisal management company" does not include any of
5 the following, when that person or entity directly contracts with
6 an independent appraiser:

7 (A) Any bank, credit union, trust company, savings and loan
8 association, or industrial loan company doing business under the
9 authority of, or in accordance with, a license, certificate, or charter
10 issued by the United States or any state, district, territory, or
11 commonwealth of the United States that is authorized to transact
12 business in this state.

13 (B) Any finance lender or finance broker licensed pursuant to
14 Division 9 (commencing with Section 22000) of the Financial
15 Code, when acting under the authority of that license.

16 (C) Any residential mortgage lender or residential mortgage
17 servicer licensed pursuant to Division 20 (commencing with
18 Section 50000) of the Financial Code, when acting under the
19 authority of that license.

20 (D) Any real estate broker licensed pursuant to Part 1
21 (commencing with Section 10000) of Division 4 of the Business
22 and Professions Code, when acting under the authority of that
23 license.

24 (3) "Appraisal management company" does not include any
25 person licensed to practice law in this state who is working with
26 or on behalf of a client of that person in connection with one or
27 more appraisals for that client.

28 (e) "Appraisal Subcommittee" means the Appraisal
29 Subcommittee of the Federal Financial Institutions Examination
30 Council.

31 (f) "Controlling person" means one or more of the following:

32 (1) An officer or director of an appraisal management company,
33 or an individual who holds a 10 percent or greater ownership
34 interest in an appraisal management company.

35 (2) An individual employed, appointed, or authorized by an
36 appraisal management company that has the authority to enter into
37 a contractual relationship with clients for the performance of
38 appraisal services and that has the authority to enter into
39 agreements with independent appraisers for the completion of
40 appraisals.

(3) An individual who possesses the power to direct or cause the direction of the management or policies of an appraisal management company.

(g) “Director” or “chief” means the Chief of the Bureau of Real Estate Appraisers.

(h) “Federal financial institutions regulatory agency” means the Federal Reserve Board, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Federal Home Loan Bank System, National Credit Union Administration, Consumer Financial Protection Bureau, and any other agency determined by the director to have jurisdiction over transactions subject to this part.

(i) “Federally related real estate appraisal activity” means the act or process of making or performing an appraisal on real estate or real property in a federally related transaction and preparing an appraisal as a result of that activity.

(j) “Federally related transaction” means any real estate-related financial transaction which a federal financial institutions regulatory agency engages in, contracts for or regulates and which requires the services of a state licensed real estate appraiser regulated by this part. This term also includes any transaction identified as such by a federal financial institutions regulatory agency.

(k) “License” means any license, certificate, permit, registration, or other means issued by the bureau authorizing the person to whom it is issued to act pursuant to this part within this state.

(l) “Licensure” means the procedures and requirements a person shall comply with in order to qualify for issuance of a license and includes the issuance of the license.

(m) “Office” or “bureau” means the Bureau of Real Estate Appraisers.

(n) “Registration” means the procedures and requirements with which a person or entity shall comply in order to qualify to conduct business as an appraisal management company.

(o) “State licensed real estate appraiser” is a person who is issued and holds a current valid license under this part.

(p) “Uniform Standards of Professional Appraisal Practice” are the standards of professional appraisal practice established by the Appraisal Foundation for use in a federally related transaction.

1 (q) “Course provider” means a person or entity that provides
2 educational courses related to professional appraisal practice.

3 (r) “Nonfederally related real estate appraisal activity” means
4 the act or process of making or performing an appraisal on real
5 estate or real property for any purpose other than a federally related
6 transaction.

7 (s) “Standard of valuation practice” means any nationally or
8 internationally recognized valuation standard—~~addressing the~~
9 ~~credibility of an appraisal or an appraisal review.~~ *approved by the*
10 *bureau.*

11 SEC. 2. Section 11319 of the Business and Professions Code
12 is amended to read:

13 11319. Notwithstanding any other provision of this code, the
14 following shall apply:

15 (a) The Uniform Standards of Professional Appraisal Practice
16 constitute the minimum standard of conduct and performance for
17 federally related real estate appraisal activity.

18 (b) If a licensee also is certified by the Board of Equalization,
19 the licensee shall follow the standards established by the Board of
20 Equalization when fulfilling the licensee’s responsibilities for
21 assessment purposes.

22 (c) If a licensee is performing a nonfederally related appraisal
23 activity, a standard of valuation practice may be utilized if that
24 practice is disclosed to, and agreed upon, by the client, and if that
25 practice is described in the appraisal. If a licensee utilizes a
26 standard of valuation practice other than the Uniform Standards
27 of Professional Appraisal Practice pursuant to this subdivision,
28 the licensee shall comply with the Ethics, Record Keeping,
29 Competency, and Scope of Work rules of the Uniform Standards
30 of Professional Appraisal Practice contained in the ~~2014–2015~~
31 ~~2014–15~~ edition of the Uniform Standards of Professional
32 Appraisal Practice.