



*Territory of Guam*  
*Territorio Guam*

OFFICE OF THE GOVERNOR  
UFISINAN I MAGA'LAHI  
AGANA, GUAM 96910 U.S.A.

MAY 17 1991

**REFER TO  
LEGISLATIVE SECRETARY**

A handwritten signature in black ink, appearing to read "Joe T. San Agustin".

The Honorable Joe T. San Agustin  
Speaker, Twenty-First Guam Legislature  
155 Hessler Street  
Agana, Guam 96910



Dear Mr. Speaker:

Transmitted herewith is Bill No. 240, which has been signed into law this date as Public Law No. 21-28.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank F. Blas".

FRANK F. BLAS  
Governor of Guam  
Acting

Attachment

210276

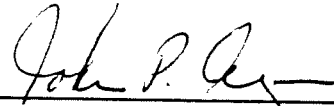


Commonwealth Now!

TWENTY-FIRST GUAM LEGISLATURE  
1991 (FIRST) Regular Session

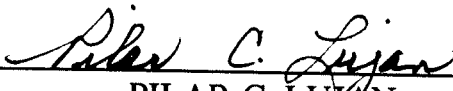
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill 240(COR), "AN ACT RELATING TO REAL ESTATE; ESTABLISHING PROCEDURES FOR DETERMINING MARKET VALUE; ENACTING REAL ESTATE APPRAISER REGISTRATION AND CERTIFICATION ACT; DEFINING UNLAWFUL ACTS; PROVIDING REGISTRATION AND CERTIFICATION STANDARDS AND PROCEDURES FOR RENEWAL, REISSUANCE AND REINSTATEMENT OF REGISTRATION AND CERTIFICATION TO MEET THE MINIMUM REQUIREMENTS OF THE FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989; ENUMERATING GROUNDS AND PROCEDURES FOR DISCIPLINARY ACTION," was on the 2nd day of May, 1991, duly and regularly passed.



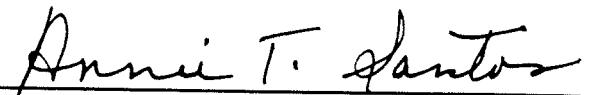
JOHN P. AGUON  
Acting Speaker

Attested:



PILAR C. LUJAN  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 15 day of MAY, 1991, at  
4:44 o'clock P.M. M.



Assistant Staff Officer  
Governor's Office

APPROVED:



FRANK F. BLAS  
Governor of Guam  
Acting

Date: MAY 17 1991

Public Law No. 21-28

TWENTY-FIRST GUAM LEGISLATURE  
1991 (FIRST) REGULAR SESSION

Bill No. 240(COR)  
As substituted by the author  
5/2/91

Introduced by:

A. C. Blaz  
A. R. Unpingco  
T. V. C. Tanaka  
J. G. Bamba  
M. D. A. Manibusan  
M. J. Reidy  
E. R. Duenas  
M. C. Ruth  
E. M. Espaldon  
D. F. Brooks  
J. P. Aguon  
E. P. Arriola  
M. Z. Bordallo  
H. D. Dierking  
C. T. C. Gutierrez  
G. Mailloux  
D. Parkinson  
J. T. San Agustin  
F. R. Santos  
D. L. G. Shimizu

AN ACT RELATING TO REAL ESTATE; ESTABLISHING PROCEDURES FOR DETERMINING MARKET VALUE; ENACTING REAL ESTATE APPRAISER REGISTRATION AND CERTIFICATION ACT; DEFINING UNLAWFUL ACTS; PROVIDING REGISTRATION AND CERTIFICATION STANDARDS AND PROCEDURES FOR RENEWAL, REISSUANCE AND REINSTATEMENT OF REGISTRATION AND CERTIFICATION TO MEET THE MINIMUM REQUIREMENTS OF THE FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989; ENUMERATING GROUNDS AND PROCEDURES FOR DISCIPLINARY ACTION.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. **Legislative intent.** The federal government, as a result of  
3 the massive real estate defaults in "savings and loan" financing, has

1 drastically overhauled the standards for real estate appraisers where  
2 federally insured financing is involved. The provisions of the federal law  
3 (Financial Institution Reform Recovery and Enforcement Act of 1989) go into  
4 effect in July of 1991. Unless Guam has complied with the standards  
5 prescribed therein federally insured loans by banks and savings and loan  
6 associations can no longer be made. Home loans on Guam will thus be  
7 essentially shutdown. To comply with the federal law it is the intent of the  
8 Legislature to empower the Director of Revenue and Taxation as the regulator  
9 of real estate appraisers on Guam, and to assure compliance with the federal  
10 guidelines.

11       Section 2. **Definitions.**

12               (a) "Real Estate Appraiser" means an individual licensed or  
13 certified to engage in the practice of real estate appraising as defined  
14 under "Real Estate Appraisal."

15               (b) "Director" means the Director of Revenue and Taxation.

16               (c) "Real Estate Appraisal" means the act or process of  
17 estimating values, or the giving of opinions concerning the valuation or  
18 evaluation of real estate or any interest therein, for a fee or other  
19 valuable compensation; including any of the following valuation or  
20 evaluation performed or offered to be performed for another for  
21 compensation, or with the expectation of receiving compensation, by a  
22 person who: advises, consults or prepares analyses with respect to real  
23 estate values, uses, sales developments or disposition, including  
24 dispositions through eminent domain, or renders opinions relevant to  
25 the marketability of real estate.

26               (d) "Class Room Hour" is defined as fifty (50) minutes out of  
27 each sixty (60) minute segment.

28               (e) "Person" for purposes of this Act means an individual who  
29 holds the certificate and may not be used following or immediately in  
30 connection with the name or signature of a firm, partnership,  
31 corporation, or group in such a manner that it might be interpreted as  
32 referring to a firm, partnership, corporation, group, or anyone other  
33 than an individual holder of the certificate.

1           Section 3. **License Required.** It shall be unlawful for any individual  
2 to engage in appraisal activity without first obtaining a real estate appraiser  
3 certification or license as provided in this Act. This Act shall not apply to a  
4 real estate broker or salesperson licensed by the government of Guam, or a  
5 government of Guam employee appraiser (so long as federally insured  
6 financing is not involved), who in the ordinary course of his or her business,  
7 gives an opinion of the prices of real estate for the purpose of a prospective  
8 sale. However, in no event may this opinion be referred to or construed as an  
9 appraisal, nor can any compensation fee, or consideration be charged for the  
10 opinion other than the normal commission or fee for services rendered in the  
11 sale of the real property involved.

12           Section 4. **Powers and Duties.** The Director shall:

- 13           (a) Receive applications for certification or license of appraisers;  
14           (b) Establish the procedure for processing applications made  
15 under this Act;  
16           (c) Retain all applications and other records submitted to him;  
17           (d) Maintain a registry of the names and addresses of persons  
18 certified under this Act;  
19           (e) Adopt, amend and repeal rules and regulations to  
20 implement and administer the provision of this Act, including without  
21 limitation such rules and regulations as may be from time to time  
22 appropriate or necessary to insure that the certification and licensing  
23 requirements under this Act conform to such standard as may be  
24 established or approved by the Appraisal Subcommittee of the Federal  
25 Financial Institution Examination Council or by any successor entity  
26 thereto;  
27           (f) Establish and collect fees commensurate with the costs of  
28 certification and licensing;  
29           (g) Establish requirements for education, experience, and  
30 examination commensurate with certification requirements;  
31           (h) Prescribe and administer examinations to qualified  
32 applicants and determine the acceptable level of performance on  
33 examinations;

1 (i) Approve/disapprove applications for certification and  
2 license and issue the same;

3 (j) Review periodically the standards for developments and  
4 communications of appraisals and adopt rules explaining and  
5 interpreting such standards;

6 (k) Establish disciplinary procedures of reprimand, suspension,  
7 or revocation of certification and license;

8 (l) Reprimand, suspend, revoke, or refuse to renew the  
9 certification or license of one who has violated the standards  
10 established for certified or licensed real estate appraisers;

11 (m) Establish continuing education requirements that are  
12 conditions of certification renewal;

13 (n) Perform the other duties necessary to implement this Act;

14 (o) Establish an appropriate apprenticeship program to  
15 encourage and develop qualified appraisers; and

16 (p) Develop rules and regulations on ethics of appraisers in their  
17 dealing with the public.

18 **Section 5. Legal Opinions.**

19 (a) The Attorney General shall render to the Director opinions on  
20 all questions arising in the administration of this Act, and shall act as  
21 attorney for the Director in all actions and proceedings brought by or  
22 against him under or pursuant to any of the provisions of this Act.

23 (b) The Attorney General shall have the power to compel the  
24 attendance of witnesses and the production of books, documents,  
25 records and other papers, to administer oaths, and to take testimony  
26 and receive evidence concerning all matters within his jurisdiction.

27 **Section 6. Application for certification or license.** An individual  
28 who desires to engage in real estate appraisal activity in Guam shall make  
29 application for certification or license, in writing, in such form as the Director  
30 may prescribe. In the event that an applicant is denied certification or  
31 licensing he may obtain judicial review of the decision. The court may  
32 reverse if the findings of facts of the Director are clearly erroneous in view of  
33 the evidence of the whole record. Facts not presented initially to the Director  
34 shall not be considered by the court except for good cause.

1           Section 7. **Certified appraisers - classifications.**

2           (a) There are two (2) classes of certification for certified or  
3 licensed real estate appraisers;

4           (b) Each application for original certification or for the renewal  
5 of certification shall specify the classification of certification being  
6 applied for and, if applicable, the certification previously granted.

7           (c) Each application for original certification shall provide to the  
8 Director evidence of:

9           (1) Completion of the certification examination with a  
10 satisfactory score. The minimum acceptable score is seventy  
11 percent (70%); and

12           (2) Satisfactory completion of the education required  
13 under this Act.

14           Section 8. **Guam licensed appraiser: classification:**  
15 **qualification criteria.**

16           The Guam Licensed Appraiser classification authorizes the  
17 appraisal of one (1) to four (4) residential units. Notwithstanding  
18 licensing requirements established by the Appraisal Subcommittee and  
19 Appraisal Qualification Board or any successor, the Guam Licensed  
20 Appraiser shall not be disqualified as the result of dollar increases in  
21 the appraised price of residential property. Applicants must meet the  
22 following examination, education, and experience requirements.  
23 Subsequent to being certified, individuals must meet the continuing  
24 education requirement:

25           (a) **Examination.** Successful completion of the Appraiser  
26 Qualification Board of the Appraisal Foundation's endorsed Uniform  
27 Certification Examination or its equivalent.

28           (b) **Education.**

29           (1) **Prerequisites to the examination:** Seventy-five  
30 (75) classroom hours of courses in subjects related to real estate  
31 appraisal which shall include coverage of the Uniform Standards  
32 of Professional Appraisal Practice.

33           (2) Credit toward the classroom hour requirement may  
34 only be granted where the length of the educational offering is at

1 least fifteen (15) hours, and the individual successfully completes  
2 an examination pertinent to that educational offering.

3 (3) Credit for the classroom hour requirement may be  
4 obtained from the following:

- 5 (A) Colleges or universities;  
6 (B) Community or junior colleges;  
7 (C) Real estate appraisal or real estate  
8 related organizations;  
9 (D) State or federal agencies of  
10 commissions; and  
11 (E) Proprietary schools.

12 (4) Various appraisal courses may be credited toward  
13 the seventy-five (75) classroom hour education requirement.  
14 Applicants must demonstrate that their education involved  
15 coverage of all topics listed below in subsection (c)(2) with  
16 particular emphasis on the appraisal of one (1) to four (4) unit  
17 residential properties.

18 **(c) Experience.**

19 Equivalence of two (2) years appraisal experience. If  
20 requested, experience documentation in the form of reports or  
21 file memoranda should be available to support the claim for  
22 experience.

23 (1) A year is defined in terms of hours within a calendar  
24 year. One thousand (1,000) hours constitute one (1) year of  
25 appraisal experience. A minimum of two (2) calendar years is  
26 required. Hours may be treated as cumulative in order to  
27 achieve the necessary two thousand (2,000) hours of appraisal  
28 experience;

29 (2) Acceptable appraisal experience as set forth by the  
30 Director; and

31 (3) The verification for experience credit claimed by an  
32 applicant shall be an affidavit in the form prescribed by the  
33 Director.

34 **(d) Continuing education.**



1 (1) The equivalent of ten (10) classroom hours of  
2 instruction in courses or seminars for each year during the period  
3 preceding the renewal is required. (For example, a two-(2-) year  
4 certification term would require twenty (20) hours. These hours  
5 may be obtained any time during the two-(2-) year term.);

6 (2) Credit toward the classroom hour requirement may be  
7 granted only where the length of the educational offering is at  
8 least two-(2-) hours;

9 (3) Credit for the classroom hour requirement may be  
10 obtained from the following:

11 (A) Colleges or universities;

12 (B) Community or junior colleges;

13 (C) Real estate appraisal or real estate related  
14 organizations;

15 (D) Territorial, state or federal agencies or  
16 commissions;

17 (E) Proprietary schools; and

18 (F) Other providers approved by the Director.

19 (4) Credit may be granted for educational offerings  
20 which cover residential real estate related appraisal topics such as  
21 those listed below and which are consistent with the purpose of  
22 continuing education as stated in subsection (5) below.

23 (A) Ad valorem taxation;

24 (B) Arbitration;

25 (C) Business courses related to practice of real  
26 estate appraisal;

27 (D) Construction estimating;

28 (E) Ethics and standards of professional practices;

29 (F) Land use planning, zoning and taxation;

30 (G) Litigation;

31 (H) Management, leasing, brokerage, timesharing;

32 (I) Property development;

33 (J) Real estate appraisal (valuations/evaluations);

34 (K) Real estate law;

- (L) Real estate financing and investment;
- (M) Real estate appraisal related computer applications;
- (N) Real estate securities and syndication; and
- (O) Real property exchange.

(5) Continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities which are determined by the Director to be equivalent to obtaining continuing education.

**Section 9. Guam certified appraiser - classification: qualification criteria.** The Guam Certified Appraiser classification applies to the appraisal of all types of real property. Applicants must meet the following examination, education, and experience requirements. Subsequent to being licensed or certified, an individual must meet the continuing education requirement.

(a) **Examination.** Successful completion of the Appraiser Qualifications Board of the Appraisal Foundation's endorsed Uniform Certification Examination or its equivalent.

(b) **Education.**

(1) **Prerequisites to the examination:** One hundred sixty-five (165) classroom hours, which may include the seventy-five (75) classroom hours required for the Residential Classification of courses in subjects related to real estate appraisal which shall include coverage of the Uniform Standards of Professional Appraisal Practice.

(2) Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours, and the individual successfully completes an examination pertinent to that educational offering.

(3) Credit for the classroom hour requirement may be obtained from the following:

- (A) Colleges or universities;

- (B) Community or junior colleges;
- (C) Real estate appraisal or real estate related organizations;
- (D) Territorial, state or federal agencies or commissions;
- (E) Proprietary schools; and
- (F) Other providers approved by the Director.

(4) There is no time limit regarding when qualifying education credit must have been obtained.

(5) The Director may grant credit for courses where the applicant obtained credit from the course provider by challenge examination without attending the courses; **provided**, that such credit was granted by the course provider **prior** to July 1, 1990, and **provided**, **further** that the Director is satisfied with the quality of the challenge examination that was administered by the course provider.

(6) Various appraisal courses may be credited toward the one hundred sixty-five (165) classroom hour education requirement. Applicants must demonstrate that their education included coverage of all the topics listed below with particular emphasis on the appraisal of non-residential properties.

- (A) Influences on real estate value;
- (B) Legal considerations in appraisal;
- (C) Type of value;
- (D) Economic principles;
- (E) Real estate markets and analysis;
- (F) Valuation process;
- (G) Property description;
- (H) Highest and best use analysis;
- (I) Appraisal math and statistics;
- (J) Sales comparison approach;
- (K) Site value;
- (L) Cost approach;
- (M) Valuation of partial interest; and

1 (N) Appraisal standards and ethics.

2 (c) **Experience.** Two (2) years appraisal experience are the  
3 required minimum. If requested, experience documentation in  
4 the form of reports or file memoranda should be available to  
5 support the claim for experience.

6 (1) A year is defined in terms of hours within a  
7 calendar year. One thousand (1,000) hours constitute one (1)  
8 year of appraisal experience. A minimum of two (2) calendar  
9 years is required. Hours may be treated as cumulative in order  
10 to achieve the necessary two thousand (2,000) hours of  
11 appraisal experience.

12 (2) The applicant, for two (2) years experience credit  
13 must have accumulated a total of two thousand (2,000) hours  
14 of appraisal experience of which at least fifty percent (50%) or  
15 one thousand (1,000) hours must be in non-residential  
16 appraisal work.

17 (3) Acceptable appraisal experience as set forth by the  
18 Director. This should not be construed as limiting credit to only  
19 those individuals who are Guam certified or Guam licensed.

20 (4) The verification for experience credit claimed by an  
21 applicant shall be an affidavit in the form prescribed by the  
22 Director.

23 (d) **Continuing education.**

24 (1) The equivalent of ten (10) classroom hours of  
25 instruction in courses or seminars for each year during the  
26 period preceding the renewal is required. (For example, a two  
27 (2) year certification term would require twenty ((20) hours.  
28 These hours may be obtained anytime during the two (2) year  
29 term.)

30 (A) Credit for the classroom hour requirement may  
31 be obtained from the following:

- 32 (i) Colleges or universities;  
33 (ii) Community or junior colleges;

- 1 (iii) Real estate appraisal or real estate  
2 related organizations;  
3 (iv) Territorial, state or federal agencies or  
4 commissions;  
5 (v) Proprietary schools; and  
6 (vi) Other providers approved by the Director.

7 (B) Credit may be granted for educational offerings  
8 which cover real estate appraisal related topics such as those  
9 listed below and which are consistent with the purposes of  
10 continuing education stated in subsection (3) below.

- 11 (i) Ad valorem taxation;  
12 (ii) Arbitration;  
13 (iii) Business courses related to real estate  
14 appraisal;  
15 (iv) Construction estimating;  
16 (v) Ethics and standards of professional  
17 practice;  
18 (vi) Land use planning, zoning and taxation;  
19 (vii) Litigation;  
20 (viii) Management, leasing, brokerage,  
21 timesharing;  
22 (ix) Property development;  
23 (x) Real estate appraisal  
24 (valuations/evaluations);  
25 (xi) Real estate financing and investment;  
26 (xii) Real estate law;  
27 (xiii) Real estate litigation;  
28 (xiv) Real estate appraisal related computer  
29 applications;  
30 (xv) Real estate securities and syndication; and  
31 (xvi) Real property exchanges.

32 (2) Continuing education credit may also be granted for  
33 participation, other than as a student, in appraisal educational  
34 processes and programs. Examples of activities for which credit

1 may be granted are teaching, program development, authorship of  
2 textbooks, or similar activities which are determined to be  
3 equivalent to obtaining continuing education.

4 (3) The purpose of continuing education is to ensure that  
5 the appraiser participates in a program that maintains and  
6 increases his or her skill, knowledge and competency in real  
7 estate appraising.

8 Section 10. **Designation of classification.** An appraiser in appraisal  
9 reports shall designate his or her appraisal classification as provided in this  
10 Act.

11 Section 11. **Appraisal reports requirements.**

12 (a) At a minimum, an appraisal report must conform to Uniform  
13 Standards of Professional Appraisal Practice (USPAP-1990 Revision)  
14 and must be in writing. Future revisions in the Standards shall take  
15 effect immediately.

16 (b) An appraisal reporting an estimated value shall be  
17 supported with written documentation or written memoranda, which  
18 shall include, but are not limited to the following:

19 (1) An adequate and definite description of the property  
20 being appraised, including a legal description.

21 (2) The purpose of the appraisal and a definition of the  
22 value estimated.

23 (3) Highest and best use analysis conclusion.

24 (4) All facts, assumptions and conditions upon which the  
25 appraisal is based, stated clearly and unequivocally.

26 (5) The effective date of the appraisal.

27 (6) The data and reasoning supporting the value  
28 conclusion, which may include the direct sales comparison  
29 approach, the income approach and the cost approach. The  
30 exclusion of any of these three (3) approaches must be explained  
31 and supported.

32 (7) The final estate of value.

33 (8) Special and limiting conditions, if any.

1 (c) **Certification.** Each appraisal report must contain a  
2 certification by the appraiser charged with rendering the  
3 valuation which, at the minimum, must certify that:

4 (1) The appraiser has no present or contemplated future  
5 interest in the real estate that is the subject of the appraisal  
6 report.

7 (2) The appraiser has no personal interest or bias with  
8 respect to the subject matter of the appraisal report or the  
9 parties involved.

10 (3) To the best of the appraiser's knowledge and belief,  
11 the statements of fact contained in the appraisal report, upon  
12 which the analyses, opinions and conclusions expressed therein  
13 are based, are true and correct.

14 (4) The appraiser has set forth in the appraisal report  
15 all of the limiting conditions (imposed by the terms of the  
16 appraiser's assignment or by the appraiser) affecting the  
17 analyses, opinions and conclusions contained in the report.

18 (5) The appraiser has prepared the appraisal report in  
19 conformity with the requirements set by the Appraisal  
20 Qualifications Board of the Appraisal Foundation.

21 (6) The appraiser personally inspected or did not  
22 inspect the subject property.

23 (7) No person other than the appraiser, **except** as  
24 otherwise acknowledged, prepared the analyses, opinions and  
25 conclusions concerning the subject real property described in the  
26 appraisal report.

27 (8) If a client requests that something less than a full  
28 and complete written appraisal report be prepared by the  
29 appraiser, the appraiser may accept such limited assignment:  
30 **provided**, that he or she complies with the following  
31 requirements:

32 (A) Prior to accepting such a limited  
33 assignment, the appraiser must advise the client in  
34 writing that the assignment calls for something less

1 than a full and complete appraisal report and that the  
2 appraisal report will be qualified to reflect the limited  
3 scope of the assignment.

4 (B) The limited scope of the appraisal report  
5 must be set forth and described in the report in a  
6 clear and precise manner.

7 (C) The contents of the appraisal report must  
8 not be so limited that the report cannot possibly be  
9 meaningful, or so limited that the effect would be to  
10 mislead the client or the public.

11 (9) A copy of each appraisal or the data and reasoning  
12 supporting the value conclusion of each appraisal shall be retained  
13 by the appraiser for not less than five (5) years. In the case of  
14 litigation, appraisals must be retained until the case is finally  
15 adjudicated and all appeals exhausted.

16  
17 (10) It is a violation of this Act for a person subject  
18 thereto to omit, without good cause, any of the foregoing  
19 minimum requirements from any appraisal report transmitted to  
20 the client. If, for good cause, any of such minimum requirements  
21 are not included in the appraisal report transmitted to the client,  
22 the appraiser shall clearly set forth within the appraisal report a  
23 statement to the effect that the portion excluded or assumptions  
24 made are included in the appraiser's written appraisal or  
25 memoranda which has been prepared and retained in the  
26 appraiser's file for the assignment, and that the retained written  
27 appraisal or memoranda is incorporated therein by reference and  
28 is an integral part thereof.

29 **Section 12. Non-resident certification.**

30 (a) Based upon the premise that the appraiser's home state's  
31 certification program has been approved by the Appraisal  
32 Subcommittee of the Federal Financial Institutions Examination Council  
33 (FFIEC), a non-resident may be certified as a real estate appraiser upon  
34 compliance with all the provisions and conditions of this Act. Any



1 person who is certified to practice real estate appraising in another  
2 state, or territory of the United States, or in the District of Columbia,  
3 who, in the opinion of the Director, meets the qualifications and  
4 requirements for certification in Guam, shall be entitled to receive a  
5 certificate under this Act, upon submission of a duly certified copy of  
6 his or her certification from such other state, or territory of the United  
7 States, or from the District of Columbia, and any other information the  
8 Director may require, and the payment of the appropriate fee;  
9 **provided**, however, that the laws of such state, or territory of the  
10 United States, or of the District of Columbia accord equal reciprocal  
11 rights to a certified real estate appraiser in good standing in Guam who  
12 desires to practice his or her profession in such state, or territory of the  
13 United States, or in the District of Columbia; **provided**, that no  
14 proceeding is pending against such appraiser under this Act or is  
15 unresolved. In any such application for a certificate, all questions of the  
16 academic and experience requirements of other states, or territories of  
17 the United States, or of the District of Columbia shall be determined by  
18 the Director and at the discretion of the Director, the reciprocal or non-  
19 resident appraisal applicant must comply with additional requirements  
20 specified by the Director in his regulations.

21 (b) A non-resident appraiser shall not be required to maintain a  
22 place of business in Guam if he or she maintains an active place of  
23 business in the state of domicile. Every non-resident appraiser shall file  
24 an irrevocable consent agreeing that in lawsuits and actions arising out  
25 of any appraisal work performed in Guam, the service of legal process  
26 on the Director shall be valid and binding in all courts as if due service  
27 of process had been made directly upon the non-resident appraiser in  
28 Guam. In case any such process is served upon the Director, he shall  
29 forward a copy of the process by registered mail to the main office of  
30 the licensee against which the process is directed.

31 (c) The Director shall issue to any certified real estate appraiser  
32 of Guam who is in good standing in Guam in accordance with regulations  
33 issued by the Director, a Certificate of Good Standing upon payment of a  
34 fee in an amount provided in the regulations.

1           Section 13. **Renewal of certification.**

2           (a) Each application for a real estate appraiser certification or  
3 for the renewal therefor shall be accompanied by the appropriate fee  
4 which shall be prescribed by the Director by rule or regulation, but shall  
5 not be more than One Hundred Dollars (\$100).

6           (b) If the Director determines that an applicant meets the  
7 qualifications and requirements of this Act and is otherwise qualified  
8 for certification, he shall issue a certificate to the applicant. Any  
9 certificate or renewal thereof shall remain in effect for two (2) years  
10 following the date of issuance unless revoked or suspended prior  
11 thereto.

12           (c) Every two (2) years each applicant for renewal of appraisal  
13 certification must demonstrate a minimum of twenty (20) hours of  
14 education related to appraising, such education to be approved by the  
15 Director.

16           (d) Any practicing appraiser who fails or refuses, after thirty  
17 (30) days written notice from the Director, to apply for the renewal and  
18 pay the fee and all penalties imposed, shall be deemed to be practicing  
19 without a certificate and shall be subject to the penalties provided in  
20 this Act and any civil penalties.

21           (e) Any appraiser under this Act who fails to apply for the  
22 renewal of his or her certification and pay the fee therefor on or before  
23 the date of its expiration and who continues to perform or offers to  
24 perform the services of a certified real estate appraiser shall pay in  
25 addition to the renewal fee, Five Hundred Dollars (\$500) for each  
26 month or fraction thereof after the expiration of his or her certification  
27 and before his or her certification shall be reinstated.

28           Section 14. **Complaints and investigators.**

29           The Director may, upon his own motion, and shall, upon the written complaint  
30 of any aggrieved person, investigate the activities of any person engaged in  
31 the practice of real estate appraising, and shall have the power to deny,  
32 censure, suspend or revoke certification at any time, after a hearing in  
33 accordance with the provisions of the Administrative Adjudication Law if he  
34 finds an applicant has:

1 (a) Willfully made a material misrepresentation in any  
2 application filed, or obtained certification through fraud or  
3 misrepresentation;

4 (b) Failed to meet the minimum qualifications and requirements  
5 of this Act;

6 (c) Performed any act in the practice of real estate appraising  
7 which constitutes dishonest, fraudulent or improper conduct;

8 (d) Paid money to any person to secure certification other than  
9 the fees provided for in this Act;

10 (e) Engaged in the business of real estate appraiser under an  
11 assumed or fictitious name not properly registered in the place where  
12 he or she received certification; or

13 (f) Been found convicted of a felony or a crime involving moral  
14 turpitude.

15 **Section 15. Willful and knowing violation.** The following conduct  
16 by an appraiser may be considered grounds for disciplinary action by the  
17 Director, namely the appraisers:

18 (a) Permitted his or her signature to be affixed to any appraisal  
19 report if such report was not prepared by the appraiser or under the  
20 appraiser's direct supervision, unless acknowledgement of this is clearly  
21 stated in the report;

22 (b) Accepted an engagement to appraise property where the  
23 employment or fee is contingent upon reporting a predetermined or  
24 specified value, or is otherwise contingent upon a particular finding to  
25 be reported;

26 (c) Made the fee or compensation in any case where the amount  
27 of an award or recovery would be affected by the appraisal, contingent  
28 upon the award or recovery; or establish a fee arrangement based on a  
29 percentage of the final estimate of value;

30 (d) Violated any provision of this Act or any rule or regulation  
31 promulgated hereunder;

32 (e) Made a false or misleading statement in that portion of a  
33 written appraisal report that deals with professional qualification, or in  
34 any testimony concerning professional qualifications;

1 (f) Did not disclose the use of professional assistance that  
2 deviates from the normal data research procedure, in arriving at the  
3 analyses, opinions or conclusions concerning real estate contained in an  
4 appraisal report signed by the appraiser, unless such party specifically  
5 requests that the party's name not be used;

6 (g) Signed or co-signed an appraisal report without accepting  
7 responsibility for the contents of the entire report;

8 (h) Rendered professional real estate appraisal services when  
9 the appraiser knew, or when a reasonable person with the same  
10 experience would have known, that his or her professional experience  
11 with respect to the subject matter of the assignment was insufficient to  
12 permit completion of the assignment: (1) without associating with  
13 another appraiser who has had such previous experience; or (2) unless  
14 the applicant or licensee discloses such lack of experience to the client  
15 prior to accepting the assignment.

16 (i) Contracted or accepted compensation for appraisal services  
17 in the form of a commission, rebate, a division of brokerage  
18 commissions or any other similar forms;

19 (j) Received or paid finder's or referral fees;

20 (k) Made any use of advertising media in connection with the  
21 real estate appraisal practice except in the manner expressly permitted  
22 by the rules of the Director;

23 (l) Failed to comply with the minimum requirements for an  
24 appraisal as set forth in this Act, except as expressly provided for  
25 herein;

26 (m) Disclosed an appraisal report in its entirety or those portions  
27 of a report that contain analyses, opinions or conclusions concerning the  
28 tract or parcel of real estate which is the subject of the report, to  
29 anyone other than:

30 (1) Those persons specifically authorized by the client to  
31 receive such information.

32 (2) Third parties, when and to the extent that the  
33 appraiser is legally required to do so by order of the court.

1 (n) Disclosed confidential factual data which came into the  
2 appraiser's possession in the course of an appraisal assignment when  
3 such confidential factual data are used in the appraisal report, to  
4 anyone other than those persons specifically authorized by the client to  
5 receive such information, or to third parties, when and to the extent  
6 that an individual is legally required to do so by order of the court; or

7 (o) Was grossly negligent or incompetent in the practice of real  
8 estate appraising. The type of error that affect an appraiser's  
9 competence and may place the appraiser in violation of this provision is  
10 as follows: A willful error of omission or commission of an act which  
11 substantially and materially affects the results of an individual  
12 appraisal assignment, and evidence the fact that an appraiser is  
13 repeatedly rendering professional services in a careless and negligent  
14 manner.

15 **Section 16. Professional corporation not prohibited.** Nothing  
16 contained in this Act shall be deemed to prohibit any licensee from engaging  
17 in the practice of real estate appraising as a professional corporation in  
18 accordance with the provisions of the Professional Service Corporation Act of  
19 Guam.

20 **Section 17. Place of business and license display.** Every resident  
21 licensee shall maintain a place of business in Guam and shall conspicuously  
22 display his or her license therein. Notice in writing shall be given to the  
23 Director by each licensee of any change of principal business location,  
24 whereupon the Director shall issue a new license for the unexpired term.

25 **Section 18. Practicing without a license.** Any person required to  
26 be certified by this Act, who engages in the practice of real estate appraising  
27 without obtaining a license, shall be liable for a penalty as prescribed by the  
28 Director. The appraiser shall be ineligible to obtain certification for such  
29 period of time as may be fixed by the Director from date of conviction of such  
30 offense, unless the Director, at his discretion, waives such period of  
31 ineligibility.

32 **Section 19. Penalty.** Any person required by this Act to be certified  
33 who engages in the profession of real estate appraising without obtaining  
34 certification therefor, or who violates any provision of the Act, shall be guilty

1 of a misdemeanor and shall be ineligible to obtain a license for one (1) year  
2 from the date of conviction of such offense, except that the Director, at his  
3 discretion, may grant certification to such person within such one (1) year  
4 period upon application and after a hearing thereon.

5 **Section 20. Record-keeping requirement.**

6 (a) All persons registered or certified under this Act shall retain  
7 for a period of five (5) years the original or true copy of:

8 (1) Each written contract engaging his service for real  
9 estate or real property appraisal work;

10 (2) Each appraisal report prepared or co-signed by him; and

11 (3) All supporting data assembled and formulated by the  
12 appraiser in preparing each appraisal report.

13 (b) The five (5) year period for retention of records is  
14 applicable to each engagement of the services of the appraiser and  
15 begins upon the date of the delivery of each appraisal report to the  
16 client unless, within the five (5) year period, the appraiser is notified  
17 that the appraisal or the appraisal report is involved in litigation, in  
18 which event the five (5) year period of the retention of records begins  
19 upon the date of the final disposition of the litigation.

20 (c) Upon reasonable notice, all persons registered or certified  
21 under this Act shall make all records required to be maintained under  
22 this Act available to the Director for inspection and copying.

23 **Section 21. Severability clause.** If any provision of this Act, or the  
24 application of any provision to any person or circumstance, is held invalid or  
25 determined to be contrary to federal or other laws governing the certification  
26 or licensure of real estate appraisers, the remainder of this Act shall be given  
27 effect without the invalid provision or application.

28 **Section 22. Transitional license.** A practicing appraiser with at least  
29 two (2) years experience who lacks only the educational requirements  
30 required by this Act may upon passage of a certifying examination approved  
31 by the Director receive a transitional license valid for no more than two (2)  
32 years. Within this two (2) year period the recipient of the transitional license  
33 must fulfill this Act's educational requirements in order for his or her license  
34 to be renewed.

# Twenty-First Guam Legislature



155 Hesler Street  
Pacific Arcade  
Agana, Guam 96910  
Telephone: (671) 472-3407  
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Chairman, Committee  
on Ways & Means

Vice-Chairman, Commi  
on Tourism & Transport

**CARL T. C. GUTIERREZ**

Senator

April 30, 1991

Honorable Speaker Joe T. San Agustin  
Speaker, Twenty-First Guam Legislature  
155 Hesler St.  
Agana, Guam 96910

Dear Mr. Speaker:


The Committee on Ways & Means wishes to report out its findings on BILL NO. 240 "AN ACT RELATING TO REAL ESTATE; ESTABLISHING PROCEDURES FOR DETERMINING MARKET VALUE; ENACTING REAL ESTATE APPRAISER REGISTRATION AND CERTIFICATION ACT; PROVIDING FOR ADMINISTRATION OF THE ACT; DEFINING UNLAWFUL ACTS; CREATING A BOARD; PROVIDING REGISTRATION AND CERTIFICATION STANDARDS AND PROCEDURES FOR RENEWAL, REISSUANCE AND REINSTATEMENT OF REGISTRATION AND CERTIFICATION TO MEET THE MINIMUM REQUIREMENTS OF THE FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989; ENUMERATING GROUNDS AND PROCEDURES FOR DISCIPLINARY ACTION", to the full Legislature with the recommendation to do Pass as Substituted by the Author.

The Committee Voting Record is as follows:

|                |           |
|----------------|-----------|
| TO PASS:       | <u>14</u> |
| NOT TO PASS:   | <u>0</u>  |
| ABSTENTIONS:   | <u>0</u>  |
| INACTIVE FILE: | <u>0</u>  |

Copies of the Committee Report and all pertinent documents are attached for your information.

Sincerely,

  
**CARL T. C. GUTIERREZ**  
Chairman, Committee on  
Ways & Means

TWENTY-FIRST GUAM LEGISLATURE  
1991 (FIRST) REGULAR SESSION

Bill No. 240  
As substituted by the author

Introduced by:

A.C. BLAZ *Blaz*  
A.R. UNPINGCO  
T. TANAKA  
J.G. BAMBA *JGB*  
M. MANIBUSAN *Manibusan*  
M. REIDY  
E. DUENAS  
M. RUTH *M. Ruth*  
E. ESPALDON *E. Espaldon*  
D. BROOKS *D. Brooks*

AN ACT RELATING TO REAL ESTATE;  
ESTABLISHING PROCEDURES FOR DETERMINING  
MARKET VALUE; ENACTING REAL ESTATE  
APPRAISER REGISTRATION AND CERTIFICATION  
ACT; PROVIDING FOR ADMINISTRATION OF THE  
ACT; DEFINING UNLAWFUL ACTS; CREATING A  
BOARD; PROVIDING REGISTRATION AND  
CERTIFICATION STANDARDS AND PROCEDURES  
FOR RENEWAL, REISSUANCE AND REINSTATE-  
MENT OF REGISTRATION AND CERTIFICATION  
TO MEET THE MINIMUM REQUIREMENTS OF THE  
FINANCIAL INSTITUTIONS REFORM, RECOVERY  
AND ENFORCEMENT ACT OF 1989; ENUMERATING  
GROUNDS AND PROCEDURES FOR DISCIPLINARY  
ACTION.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. Definitions.

3 (a) "Real Estate Appraiser" means a person who engages  
4 in the practice of real estate appraising such as defined  
5 under "Real Estate Appraisal."

6 (b) "Board" means the Real Estate Appraisal Board under  
7 this Act.

8 (c) "Real Estate Appraisal" means the act or process of  
9 estimating values, or the giving of opinions concerning the  
10 valuation or evaluation of real estate or any interest



1 therein, for a fee or other valuable compensation; including  
2 any of the following valuation or evaluation performed or  
3 offered to be performed for another for compensation, or with  
4 the expectation of receiving compensation, by a person who:  
5 advises, consults or prepares analyses with respect to real  
6 estate values, uses, sales developments or disposition,  
7 including dispositions through eminent domain, or renders  
8 opinions relevant to the marketability of real estate.

9 (d) "Class Room Hour" is defined as fifty (50) minutes  
10 out of each sixty (60) minute segment.

11 Section 2. It shall unlawful for anyone to engage in  
12 appraisal activity without first obtaining a real estate  
13 appraiser certification as provided in this Act.

14 This Act shall not apply to a real estate broker or  
15 salesperson licensed by the Territory, who in the ordinary  
16 course of his or her business, gives an opinion of the prices  
17 of real estate for the purpose of a prospective sale.  
18 However, in no event may this opinion be referred to or  
19 construed as an appraisal, nor can any compensation fee, or  
20 consideration be charged for the opinion other than the normal  
21 commission or fee for services rendered in the sale of the  
22 real property involved.

23 Section 3. Real Estate Appraisal Board.

24 (a) There is hereby created a Real Estate Appraisal  
25 Board whose duty will be to administer and enforce the  
26 provisions of this Act. Said Board shall consist of at least  
27 five (5) members appointed by the Governor who shall be

1 residents of this Territory at least three (3) shall be  
2 qualified real estate appraisers who have engaged in the  
3 general practice of real estate appraising for not less than  
4 five (5) years. No more than one individual from any one  
5 appraisal company can be a member of the board at the same  
6 time.

7 (b) Initially, one member of the Board shall be  
8 appointed for one year (1), two members for two (2) years and  
9 two members for three (3) year terms. All terms shall  
10 commence thirty (30) days, after the appointment, if  
11 confirmed, and all members shall serve until their successors  
12 have been appointed and qualified. Vacancies occurring in the  
13 membership of the Commission for any cause shall be filled by  
14 appointment for the unexpired term. Each member of the Board,  
15 before entering upon his duties, shall take and file with the  
16 Board an oath to discharge faithfully the duties of his  
17 office.

18 (c) The member of the Board shall receive per diem  
19 compensation, plus reimbursement for such actual and necessary  
20 expenses incurred in carrying out the provisions of this Act.  
21 The Governor, after reasonable notice and hearing, may remove  
22 any member of the Board for misconduct, incompetency, or  
23 neglect of duty. After the initial appointments, all  
24 appraisers on the Board should be certified. The members of  
25 the Board

1 shall not be held civilly liable for any action taken in good faith by the  
2 Board in its official capacity pursuant to the law unless such action is  
3 arbitrary and capricious.

4 Section 4. Powers and Duties. The Board shall:

- 5 (a) Receive applications for certification;
- 6 (b) Establish the procedure for processing applications made under  
7 this Act;
- 8 (c) Retain all applications and other records submitted to it;
- 9 (d) Maintain a registry of the names and addresses of persons  
10 certified under this Act;
- 11 (e) Adopt, amend and repeal rules and regulations to implement and  
12 administer the provisions of this Act;
- 13 (f) Establish and collect fees commensurate with the costs of  
14 certification;
- 15 (g) Establish requirements for education, experience, and examination  
16 commensurate with certification requirements;
- 17 (h) Prescribe and administer examinations to qualified applicants and  
18 determine the acceptable level of performance on examinations;
- 19 (i) Approve/disapprove applications for certification and issue same;
- 20 (j) Review periodically the standards for developments and  
21 communication of appraisals and adopt rules explaining and interpreting the  
22 standards;
- 23 (k) Establish disciplinary procedures of reprimand, suspension, or  
24 revocation of certification;
- 25 (l) Reprimand, suspend, revoke, or refuse to renew the certification  
26 of one who has violated the standards established for certified real estate  
27 appraisers;
- 28 (m) Establish continuing education requirements that are conditions of  
29 certification renewal; and
- 30 (n) Perform the other duties necessary to implement this Act.

31 Section 5. Legal Opinions.

- 32 (a) The Attorney General shall render to the Board opinions on all  
33 questions of law or arising in the administration thereof, and shall act as

1 attorney for the Board in all actions and proceedings brought by or against  
2 it under or pursuant to any of the provisions of Act.

3 (b) The Attorney General shall have the power to compel the  
4 attendance of witnesses and the production of books, documents, records  
5 and other papers; to administer oaths and to take testimony and receive  
6 evidence concerning all matters within its jurisdiction.

7 Section 6. Application for Certification. An individual who desires to  
8 engage in real estate appraisal activity in this Territory shall make  
9 application for certification, in writing, in such form as the Board may  
10 prescribe.

11 Section 7. Certified Appraisers - Classifications.

12 (a) There are two classes of certification for certified real estate  
13 appraisers:

- 14 1) Certified residential appraiser; and
- 15 2) Certified general appraisers.

16 (b) Each application for original certification or for the renewal of  
17 certification shall specify the classification of certification being applied for  
18 and, if applicable, the certification previously granted.

19 (c) Each applicant for original certification shall provide to the Board  
20 evidence of:

21 (1) Completion of the certification examination with a satisfactory  
22 score. The minimum acceptable score is seventy percent (70%).

23 (2) Satisfactory completion of the education required under this  
24 Chapter.

25 Section 8. Residential Real Property Appraiser Classification:  
26 Qualification Criteria.

27 The Residential Real Property Appraiser Classification applies to the  
28 appraisal of one to four residential units. Applicants must meet the  
29 following examination, education, and experience requirements. Subsequent  
30 to being certified, individuals must meet the continuing education  
31 requirement:

32 (a) Examination. Successful completion of the Appraiser Qualifications  
33 Board of the Appraisal Foundation's endorsed Uniform Certification  
34 Examination or its equivalent.

1 (b) Education.

2 (1) Prerequisites to the examination: Seventy-five (75)  
3 classroom hours of courses in subjects related to real estate appraisal  
4 which shall include coverage of the Uniform Standards of Professional  
5 Appraisal Practice.

6 (2) Credit toward the classroom hour requirement may only be  
7 granted where the length of the educational offering is at least fifteen  
8 (15) hours, and the individual successfully completes an examination  
9 pertinent to that educational offering.

10 (3) Credit for the classroom hour requirement may be obtained  
11 from the following:

12 (A) Colleges or Universities;

13 (B) Community or Junior Colleges;

14 (C) Real Estate Appraisal or Real Estate Related  
15 Organizations;

16 (D) State or Federal Agencies or Commissions;

17 (E) Proprietary Schools.

18 (4) Various appraisal courses may be credited toward the  
19 seventy-five (75) classroom hour education requirement. Applicants  
20 must demonstrate that their education involved coverage of all topics  
21 listed below in subsection (c)(2) with particular emphasis on the  
22 appraisal of one to four unit residential properties.

23 (c) Experience.

24 Equivalent of two (2) years appraisal experience. If requested,  
25 experience documentation in the form of reports or file memoranda should be  
26 available to support the claim for experience.

27 (1) A year is defined in terms of hours within a calendar year.  
28 One thousand (1,000) hours constitutes a year of appraisal experience.  
29 A minimum of two calendar years is required. Hours may be treated  
30 as cumulative in order to achieve the necessary two thousand (2,000)  
31 hours of appraisal experience.

32 (2) Acceptable appraisal experience includes, but is not limited  
33 to the following:

1 Fee and staff appraisal, ad valorem tax appraisal, review  
2 appraisal, appraisal analysis, real estate counseling, highest  
3 and best use analysis, feasibility analysis/study and teaching  
4 of appraisal courses. This should not be construed as  
5 limiting experience credit to only those individuals who are  
6 state certified or state licensed.

7 (3) The verification for experience credit claimed by an applicant  
8 shall be in the form of affidavit prescribed by the Board.

9 (d) Continuing Education.

10 (1) The equivalent of ten (10) classroom hours of instruction in  
11 courses or seminars for each year during the period preceding the  
12 renewal is required. (For example, a two-year certification term would  
13 require twenty (20) hours. These hours may be obtained any time  
14 during the two-year term.)

15 (2) Credit toward the classroom hour requirement may be  
16 granted only where the length of the educational offering is at least  
17 two (2) hours.

18 (3) Credit for the classroom hour requirement may be obtained  
19 from the following:

20 (A) Colleges or Universities;

21 (B) Community or Junior Colleges;

22 (C) Real Estate Appraisal or Real Estate Related  
23 Organization

24 (D) State or Federal Agencies or Commissions;

25 (E) Proprietary Schools;

26 (F) Other providers approved by the state certification/  
27 licensing agency.

28 (4) Credit may be granted for educational offerings which cover  
29 residential real estate related appraisal topics such as those listed  
30 below and which are consistent with the purpose of continuing  
31 education as stated in subsection (6) below.

32 (A) Ad Valorem Taxation;

33 (B) Arbitrations;

- 1 (C) Business courses related to practice of real estate
- 2 appraisal;
- 3 (D) Construction estimating;
- 4 (E) Ethics and standards of professional practices;
- 5 (F) Land use planning, zoning and taxation;
- 6 (G) Litigation;
- 7 (H) Management, leasing, brokerage, timesharing;
- 8 (I) Property development;
- 9 (J) Real estate appraisal (valuations/evaluations);
- 10 (K) Real estate law;
- 11 (L) Real estate financing and investment;
- 12 (M) Real estate appraisal related computer applications;
- 13 (N) Real estate securities and syndication;
- 14 (O) Real property exchange.

15 (5) Continuing education credit may also be granted for  
16 participation, other than as a student, in appraisal educational  
17 processes and programs. Examples of activities for which credit may  
18 be granted are teaching, program development, authorship of  
19 textbooks, or similar activities which are determined to be equivalent  
20 to obtaining continuing education.

21 (6) The purpose of continuing education is to ensure that the  
22 appraiser participates in a program that maintains and increases his or  
23 her skill, knowledge and competency in real estate appraising.

24 Section 9. General Real Property Appraiser Classification:

25 Qualification Criteria. The General Real Property Appraiser Classification  
26 applies to the appraisal of all types of real property. Applicants must meet  
27 the following examination, education, and experience requirements.  
28 Subsequent to being licensed or certified, an individual must meet the  
29 continuing education requirement.

30 (a) Examination. Successful completion of the Appraiser Qualifications  
31 Board of the Appraisal Foundation's endorsed Uniform Certification  
32 Examination or its equivalent.

33 (b) Education.

1 (1) Prerequisites to the examination: One hundred sixty-five  
2 (165) classroom hours, which may include the seventy-five classroom  
3 hours required for the Residential Classification, of courses in subjects  
4 related to real estate appraisal which shall include coverage of the  
5 Uniform Standards of Professional Appraisal Practice.

6 (2) Credit toward the classroom hour requirement may only be  
7 granted where the length of the educational offering is at least fifteen  
8 (15) hours, and the individual successfully completes an examination  
9 pertinent to that educational offering.

10 (3) Credit for the classroom hour requirement may be obtained  
11 from the following:

- 12 (A) Colleges or Universities;
- 13 (B) Community or Junior Colleges;
- 14 (C) Real Estate Appraisal or Real Estate Related  
15 Organizations;
- 16 (D) State or Federal Agencies or Commissions;
- 17 (E) Proprietary Schools;
- 18 (F) Other providers approved by the territorial certification  
19 agency.

20 (4) There is no time limit regarding when qualifying education  
21 credit must have been obtained.

22 (5) The Board may grant credit for courses where the applicant  
23 obtained credit from the course provider by challenge examination  
24 without attending the courses; provided that such credit was granted  
25 by the course provider prior to July 1, 1990, and provided further  
26 that the Board is satisfied with the quality of the challenge  
27 examination that was administered by the course provider.

28 (6) Various appraisal courses may be credited toward the one  
29 hundred sixty-five (165) classroom hour education requirement.  
30 Applicants must demonstrate that their education included coverage of  
31 all the topics listed below with particular emphasis on the appraisal of  
32 non-residential properties. Residential is defined as one to four  
33 residential units.



- 1 (A) Influences on Real Estate Value;
- 2 (B) Legal Considerations in Appraisal;
- 3 (C) Type of Value;
- 4 (D) Economic Principles;
- 5 (E) Real Estate Markets and Analysis;
- 6 (F) Valuation Process;
- 7 (G) Property Description;
- 8 (H) Highest and Best Use Analysis;
- 9 (I) Appraisal Math and Statistics;
- 10 (J) Sales Comparison Approach;
- 11 (K) Site Value;
- 12 (L) Cost Approach;
- 13 (M) Income Approach;
- 14 (N) Valuation of Partial Interests;
- 15 (O) Appraisal Standards and Ethics.

16 (c) Experience. Two years appraisal experience is the required  
17 minimum. If requested, experience documentation in the form of reports or  
18 file memoranda should be available to support the claim for experience.

19 (1) A year is defined in terms of hours within a calendar year.  
20 One thousand hours constitutes a year of appraisal experience.  
21 A minimum of two calendar years is required. Hours may be treated  
22 as cumulative in order to achieve the necessary two thousand (2,000)  
23 hours of appraisal experience.

24 (2) The applicant, for two years experience credit must have  
25 accumulated a total of two thousand hours of appraisal experience of  
26 which at least fifty percent (50%) (one thousand hours) must be in  
27 non-residential appraisal work. Residential is defined as one to four  
28 residential units.

29 (3) Acceptable appraisal experience includes but is not limited to  
30 the following:

31 Fee and staff appraisal, ad valorem tax  
32 appraisal, review appraisal, appraisal  
33 analysis, real estate counseling, highest and

1 best use analysis, feasibility analysis/study,  
2 and teaching of appraisal courses.

3 This should not be construed as limiting credit to only those  
4 individuals who are state certified or state licensed.

5 (4) The verification for experience credit claimed by an applicant  
6 shall be in the form of affidavit prescribed by the Board.

7 (d) Continuing Education.

8 (1) The equivalent of ten (10) classroom hours of instruction in  
9 courses or seminars for each year during the period preceding the  
10 renewal is required. (For example, a two-year certification term would  
11 require twenty hours. These hours may be obtained anytime during  
12 the two-year term.)

13 (A) Credit for the classroom hour requirement may be  
14 obtained from the following:

- 15 (i) Colleges or Universities;
- 16 (ii) Community or Junior Colleges;
- 17 (iii) Real Estate Appraisal or Real Estate Related  
18 Organizations;
- 19 (iv) State or Federal Agencies or Commissions;
- 20 (v) Proprietary Schools;
- 21 (vi) Other providers approved by the state  
22 certification/licensing agency.

23 (B) Credit may be granted for educational offerings which  
24 cover real estate appraisal related topics such as those listed  
25 below and which are consistent with the purposes of continuing  
26 education stated in subsection (3) below.

- 27 (i) Ad Valorem Taxation
- 28 (ii) Arbitrations
- 29 (iii) Business courses related to real estate  
30 appraisal
- 31 (iv) Construction estimating
- 32 (v) Ethics and standards of professional practice
- 33 (vi) Land use planning, zoning and taxation
- 34 (vii) Litigation

- 1 (viii) Management, leasing, brokerage, timesharing
- 2 (ix) Property development
- 3 (x) Real estate appraisal (valuations/evaluations)
- 4 (xi) Real estate financing and investment
- 5 (xii) Real estate law
- 6 (xiii) Real estate litigation
- 7 (xiv) Real estate appraisal related computer
- 8 applications
- 9 (xv) Real estate securities and syndication
- 10 (xvi) Real property exchange

11 (2) Continuing education credit may also be granted for  
12 participation, other than as a student, in appraisal educational  
13 processes and programs. Examples of activities for which credit may  
14 be granted are teaching, program development, authorship of  
15 textbooks, or similar activities which are determined to be equivalent  
16 to obtained continuing education.

17 (3) The purpose of continuing education is to ensure that the  
18 appraiser participates in a program that maintains and increases his or  
19 her skill, knowledge and competency in real estate appraising.

20 Section 10. Designation of Classification. An appraiser in appraisal  
21 reports shall designate his or her appraisal classification as herein  
22 provided.

23 Section 11. Appraisal Reports Requirements.

24 (a) At a minimum, an appraisal must conform to Uniform Standards of  
25 Professional Appraisal practice (USPAP-1990 revision) and must be in  
26 writing. Future revisions become effective immediately.

27 (b) An appraisal, reporting an estimated value, shall be supported  
28 with written documentation or written memoranda, which shall include, but  
29 is not limited to the following:

30 (1) An adequate and definite description of the property being  
31 appraised, including a legal description.

32 (2) The purpose of the appraisal and a definition of the value  
33 estimated.

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- (3) Highest and best use analysis conclusion.
  - (4) All facts, assumptions and conditions upon which the appraisal is based, stated clearly and unequivocally.
  - (5) The effective date of the appraisal.
  - (6) The data and reasoning supporting the value conclusion, which may include the direct sales comparison approach, the income approach and the cost approach. The exclusion of any of the usual three approaches must be explained and supported.
  - (7) The final estate of value.
  - (8) Special and limiting conditions, if any.
- (c) Certification. Each appraisal report must contain a certification by the appraiser charged with rendering the valuation which, at the minimum, must certify that:
- (1) The Appraiser has no present or contemplated future interest in the real estate that is the subject of the appraisal report.
  - (2) The appraiser has no personal interest or bias with respect to the subject matter of the appraisal report or the parties involved. (However, if a statement, as required herein and in item 1 above, cannot be made, then such appraisal report must contain a clear statement disclosing all such personal interest or bias.)
  - (3) To the best of the appraiser's knowledge and belief, the statements of fact contained in the appraisal report, upon which the analysis, opinions and conclusions expressed therein are based, are true and correct.
  - (4) The appraiser has set forth in the appraisal report all of the limiting conditions (imposed by the terms of the appraiser's assignment or by the appraiser) affecting the analysis, opinions and conclusions contained in the report.
  - (5) The appraiser has prepared the appraisal report in conformity with the requirements set by the Appraisal Qualifications Board of the Appraisal Foundation.
  - (6) The appraiser personally inspected or did not inspect the subject property.

1 (7) No person other than the undersigned therein, except as  
2 otherwise acknowledged, prepared the analysis, opinions and  
3 conclusions concerning the subject real property described in the  
4 appraisal report.

5 (8) If a client requests that something less than a full and  
6 complete written appraisal report be prepared by the appraiser, the  
7 appraiser may accept such limited assignment, provided that he or she  
8 complies with the following requirements:

9 (A) Prior to accepting such limited assignments, the  
10 appraiser must advise the client in writing that the assignment  
11 calls for something less than a full and complete appraisal report  
12 and that the appraisal report will be qualified to reflect the  
13 limited scope of the assignment.

14 (B) The limited scope of the appraisal report must be set  
15 forth and described in the report in a clear and precise manner.

16 (C) The contents of the appraisal report must not be so  
17 limited that the report cannot possibly be meaningful, or so  
18 limited that the effect would be to mislead the client or the  
19 public.

20 (9) A copy of each appraisal or the data and reasoning  
21 supporting the value conclusion of each appraisal shall be retained by  
22 the appraiser for not less than five (5) years. In the case of  
23 litigation, appraisals must be retained until the case is finally  
24 adjudicated and all means of appeal exhausted.

25 (10) It is a violation of this Act for a person subject hereto to  
26 omit, without good cause, any of the above minimum requirements from  
27 any appraisal report transmitted to the client. If, with good cause,  
28 any of the above minimum requirements are not included in the  
29 appraisal report transmitted to the client, the appraiser shall clearly  
30 set forth within the appraisal report a statement to the effect that the  
31 portion excluded or assumptions made are included in the appraiser's  
32 written appraisal or memoranda which has been prepared and retained  
33 in the appraiser's file for said assignment, and that said retained

1 written appraisal or memoranda is incorporated thereon by reference  
2 and is an integral part thereof.

3 Section 12. Non-Resident Certification.

4 (a) Based upon the promise that the appraiser's home state's  
5 certification program has been approved by the Appraisal Subcommittee of  
6 the Federal Financial Institutions Examination Council (FFIEC), a  
7 non-resident may be certified as a real estate appraiser upon complying  
8 with all the provisions and conditions of this Act. Any person who is  
9 certified to practice real estate appraising in another state, territory of the  
10 United States or the District of Columbia, who, in the opinion of the Board,  
11 meets the qualifications and requirements for certification in this Territory,  
12 shall be entitled to receive a certificate hereunder, upon submission of a  
13 duly certified copy of their certification from such other state, territory of  
14 the United States or the District of Columbia, and any other information the  
15 Board may require, and the payment of the appropriate fee; provided,  
16 however, that the laws of such state, territory or the District of Columbia  
17 accords equal reciprocal rights to a certified real estate appraiser in good  
18 standing in this Territory who desires to practice his or her profession in  
19 such state, territory or the District of Columbia, provided that no  
20 proceeding is pending against such appraiser under this Act or is  
21 unresolved. In any such application for a certificate, all questions of the  
22 academic and experience requirements of other states, territories or the  
23 District of Columbia shall be determined by the Board and at the discretion  
24 of the Board, the reciprocal or non-resident appraisal applicant must comply  
25 with additional requirements specified by the Board in its regulations.

26 (b) A non-resident appraiser shall not be required to maintain a place  
27 of business in this Territory if he or she maintains an active place of  
28 business in the state of domicile. Every non-resident appraiser shall file  
29 an irrevocable consent agreeing that in regard to suits and actions arising  
30 out of any appraisal work performed in this Territory, the service of legal  
31 process on the chairman of the Board shall be valid and binding in all  
32 courts as if due service of process had been made directly upon the  
33 non-resident appraiser of this Territory. In case any process herein  
34 mentioned is served upon the Chairman, it shall be his duty to forward a

1 copy of the process by registered mail to the main office of the licensee  
2 against which the process is directed.

3 (c) The Board shall issue to any certified real estate appraiser of  
4 this Territory who is in good standing in this Territory in accordance with  
5 Regulations issued by the Board, a Certificate of Good Standing upon  
6 payment of a fee in an amount provided in the Regulations.

7 Section 13. Renewal of Certification.

8 (a) Each application for a real estate appraiser certification or for the  
9 renewal therefore shall be accompanied by the appropriate fee which shall  
10 be prescribed by the Board by rule or regulation, but shall not be more  
11 than One Hundred Dollars (\$100.00).

12 (b) If the Board determines that an applicant meets the qualifications  
13 and requirements of this Act and is otherwise qualified for certification, it  
14 shall issue a certificate to the applicant. Any certificate or renewal thereof  
15 shall remain in effect for two years following the date of issuance unless  
16 revoked or suspended prior thereto.

17 (c) Every two years each applicant for renewal of appraisal  
18 certification must demonstrate a minimum of twenty (20) hours of education  
19 related to appraising, such education to be approved by the Board.

20 (d) Any practicing appraiser who fails or refuses, after thirty (30)  
21 days' written notice from the Board, to apply for the renewal and pay the  
22 fee and all penalties imposed, shall be deemed to be practicing without a  
23 certificate and shall be subject to the penalties provided in this Act and  
24 any civil penalties.

25 (e) Any appraiser under this Act who fails to apply for the renewal  
26 of his or her certification and pay the fee therefore on or before the date  
27 of its expiration and who continues to perform or offers to perform the  
28 services of a certified real estate appraiser shall pay in addition to the  
29 renewal fee, the sum of Five Hundred Dollars (\$500.00) for each month or a  
30 fractional part thereof after the expiration of his or her certification and  
31 before his or her certification shall be reinstated.

32 Section 14. Complaints and Investigators.

33 The Board may, upon its own motion, and shall, upon the written  
34 complaint of any aggrieved person, investigate the activities of any person

1 engaged in the practice of real estate appraising, and shall have the power  
2 to deny, censure, suspend or revoke certification at any time, after a  
3 hearing in accordance with the provisions of the Territory of Guam statutes  
4 applicable to administrative proceedings if it finds an applicant has:

5 (a) Willfully made a material misrepresentation in an application filed,  
6 or obtained certification through fraud or misrepresentation;

7 (b) Failed to meet the minimum qualifications and requirements of this  
8 Act;

9 (c) Performed any act in the practice of real estate appraising which  
10 constitutes dishonest, fraudulent or improper conduct;

11 (d) Paid money to any person to secure certification other than the  
12 fees provided for in this Act;

13 (e) Engaged in the business of real estate appraiser under an  
14 assumed or fictitious name not properly registered in the state where he or  
15 she received certification; or

16 (f) Been convicted of a felony or a crime involving moral turpitude.

17 Section 15. Willful and knowing violation by an appraiser of the  
18 following standards of conduct may be considered grounds for disciplinary  
19 action by the Board:

20 (a) Permitted his or her signature to be affixed to any appraisal  
21 report if such report was not prepared by applicant or licensee or under  
22 the licensee's direct supervision, unless acknowledgment of this is clearly  
23 stated in the report;

24 (b) Accepted an engagement to appraise a property where employment  
25 or fee is contingent upon reporting a predetermined or specified value, or  
26 is otherwise contingent upon a particular finding to be reported;

27 (c) Made the fee or compensation in any case where the amount of an  
28 award or recovery would be affected by the appraisal, contingent upon the  
29 award or recovery; or establish a fee arrangement based on a percentage of  
30 the final estimate of value;

31 (d) Violated any provision of this Act or any rule or regulation  
32 promulgated hereunder;



- 1 (e) Made a false or misleading statement in that portion of a written  
2 appraisal report that deals with professional qualification, or in any  
3 testimony concerning professional qualifications;
- 4 (f) Did not disclose the use of professional assistance that deviates  
5 from the normal data research procedure, in arriving at the analysis,  
6 opinions or conclusions concerning real estate contained in an appraisal  
7 report signed by the appraiser, unless such party specifically requests that  
8 the party's name not be used;
- 9 (g) Signed or co-signed an appraisal report without accepting  
10 responsibility for the contents of the entire report;
- 11 (h) Rendered professional real estate appraisal services when the  
12 applicant or licensee knew, or when a reasonable person with the same  
13 experience would have known, that his or her professional experience with  
14 respect to the subject matter of the assignment was insufficient to permit  
15 completion of the assignment: (1) without associating with another  
16 appraiser who has had such previous experience; or (2) unless applicant or  
17 licensee discloses such lack of experience to the client prior to accepting  
18 the assignment.
- 19 (i) Contracted for accepted compensation for appraisal services in the  
20 form of commission, rebate, division of brokerage commissions or any other  
21 similar forms;
- 22 (j) Received or paid finder's or referral fees;
- 23 (k) Made any use of advertising media in connection with the real  
24 estate appraisal practice except in the manner expressly permitted by the  
25 rules of the Board.
- 26 (l) Failed to comply with the minimum requirements for an appraisal  
27 as set forth in this Act, except as expressly provided for herein;
- 28 (m) Disclosed an appraisal report in its entirety or those portions of a  
29 report that contain analyses, opinions or conclusions concerning the tract  
30 or parcel of real estate which is the subject of the report, to anyone other  
31 than:
- 32 (1) Those persons specifically authorized by the client to  
33 received such information.

1           (2) Third parties, when and to the extent that the appraiser is  
2           legally required to do so by order of the court.

3           (n) Disclosed confidential factual data which came into the  
4           appraiser's possession in the course of an appraisal assignment when such  
5           confidential factual data is used in the appraisal report, to anyone other  
6           than those persons specifically authorized by the client to receive such  
7           information, or to third parties, when and to the extent that an individual  
8           is legally required to do so by order of the court; or

9           (o) Was grossly negligent or incompetent in the practice of real estate  
10          appraising. The types of error that affect an appraiser's competence and  
11          may place the appraiser in violation of this provision may be classified as  
12          follows:

13                 A willful error of omission or commission of an act which  
14                 substantially and materially affects the results of individual appraisal  
15                 assignments but, nevertheless, evidence the fact that an appraiser is  
16                 repeatedly rendering professional services in a careless and negligent  
17                 manner.

18          Section 16. Nothing contained in this Act shall be deemed to prohibit  
19          any licensee from engaging in the practice of real estate appraising as a  
20          professional corporation in accordance with the provisions of the  
21          Professional Service Corporation Act of this Territory.

22          Section 17. Every resident licensee shall maintain a place of business  
23          in this Territory and shall conspicuously display his or her license therein.  
24          Notice in writing shall be given to the Board by early licensee of any  
25          change of principal business location, whereupon the Board shall issue a  
26          new license for the unexpired term.

27          Section 18. (a) No person shall testify as an appraiser before any  
28          court, tribunal, judge, referee or judicial committee without being certified  
29          under the provisions of this Act.

30          (b) No person engaged in the business or acting in the capacity of a  
31          real estate appraiser may bring or maintain any action in any court of this  
32          Territory for the collection of compensation for the performance of any act  
33          or contract for which certification is required by this Act without alleging

1 and proving that the appraiser at all times during the performance of the  
2 act or contract was certified in this Territory as an appraiser.

3 Section 19. Any person required to be certified by this Act, who  
4 engages in the practice of real estate appraising without obtaining a  
5 license, shall be liable for a penalty as prescribed by the Board. The  
6 appraiser shall be ineligible to obtain certification for such period of time as  
7 may be fixed by the Board from date of conviction of such offense, unless  
8 the Board, at its discretion, waives such period of ineligibility.

9 Section 20. Penalty. Any person required by this Act to be certified  
10 who engages in the profession of real estate appraising without obtaining  
11 certification therefor, or who violates any provision of the Act, shall be  
12 guilty of a misdemeanor and shall be ineligible to obtain a license for one  
13 year from the date of conviction of such offense, except that the Board, at  
14 its discretion, may grant certification to such person within such one-year  
15 period upon application and after a hearing thereon.

16 Section 21. Recordingkeeping Requirement.

17 (a) All persons registered or certified under this Chapter shall retain  
18 for a period of five (5) years the original or true copy of:

19 (1) Each written contract engaging his services for real estate  
20 or real property appraisal work;

21 (2) Each appraisal report prepared or co-signed by him; and

22 (3) All supporting data assembled and formulated by the  
23 appraiser in preparing each appraisal report.

24 (b) The five-year period for retention of records is applicable to each  
25 engagement of the services of the appraiser and begins upon the date of  
26 the delivery of each appraisal report to the client unless, within the  
27 five-year (5) period, the appraiser is notified that the appraisal or the  
28 appraisal report is involved in litigation, in which event the five-year (5)  
29 of the retention of records begins upon the date of the final disposition of  
30 the litigation.

31 (c) Upon reasonable notice, all persons registered or certified under  
32 this Act shall make all records required to be maintained under this Act  
33 available to the Board for inspection and copying.

1           Section 22. Severability Clause. If any provision of  
2 this Act, or the application of any provision to any provision  
3 to any person or circumstance, is held invalid or determined  
4 to be contrary to federal laws governing the certification or  
5 licensure of real estate appraisers, the remainder of this Act  
6 is given effect without the invalid provision or application.


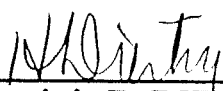

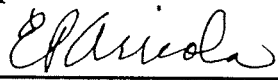
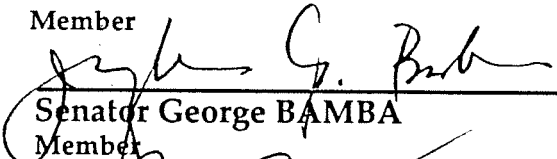
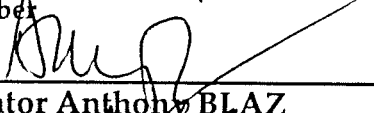

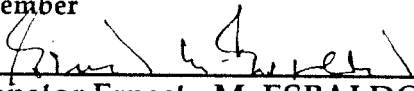



7           Section 23. A practicing appraiser with at least five  
8 (5) years experience who lacks only the educational  
9 requirements as stipulated by this act may upon passage of a  
10 certifying examination receive a transitional license valid  
11 for no more than two (2) years. Within this two year period  
12 recipient of transitional license must fulfill educational  
13 requirements in order to become certified.

Twenty-First Guam Legislature  
Committee on Ways & Means  
**VOTING SHEET**

BILL NO.

240

AN ACT RELATING TO REAL ESTATE; ESTABLISHING PROCEDURES FOR DETERMINING MARKET VALUE; ENACTING REAL ESTATE APPRAISER REGISTRATION AND CERTIFICATION ACT; PROVIDING FOR ADMINISTRATION OF THE ACT; DEFINING UNLAWFUL ACTS; CREATING A BOARD; PROVIDING REGISTRATION AND CERTIFICATION STANDARDS AND PROCEDURES FOR RENEWAL, REISSUANCE AND REINSTATEMENT OF REGISTRATION AND CERTIFICATION TO MEET THE MINIMUM REQUIREMENTS OF THE FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989; ENUMERATING GROUNDS AND PROCEDURES FOR DISCIPLINARY ACTION.

|  | <u>TO<br/>PASS</u>  | <u>NOT<br/>TO PASS</u> | <u>ABSTAIN</u> | <u>TO PLACE IN<br/>INACTIVE FILE</u> |
|--|---------------------|------------------------|----------------|--------------------------------------|
| <br>_____<br>Senator Carl T. C. GUTIERREZ<br>Chairman       | ✓                   |                        |                |                                      |
| <br>_____<br>Senator Herminia D. DIERKING<br>Vice-Chairman | ✓                   |                        |                |                                      |
| <br>_____<br>Senator John P. AGUON<br>Member               | ✓                   |                        |                |                                      |
| <br>_____<br>Senator Elizabeth P. ARRIOLA<br>Member       | ✓                   |                        |                |                                      |
| <br>_____<br>Senator George BAMBA<br>Member                | ✓                   |                        |                |                                      |
| <br>_____<br>Senator Anthony BLAZ<br>Member               | ✓<br>4/30/91        |                        |                |                                      |
| <br>_____<br>Senator Doris F. BROOKS<br>Member            | ✓                   |                        |                |                                      |
| <br>_____<br>Senator Ernesto M. ESPALDON<br>Member         | ✓                   |                        |                |                                      |
| <br>_____<br>Senator Marilyn MANIBUSAN<br>Member           | ✓<br>4/30/91<br>mdm |                        |                |                                      |
| <br>_____<br>Senator Don PARKINSON<br>Member              | ✓                   |                        |                |                                      |
| <br>_____<br>Senator Don PARKINSON<br>Member              | ✓                   |                        |                |                                      |