

FIRST REGULAR SESSION

# HOUSE BILL NO. 796

## 97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES MCCANN BEATTY (Sponsor), REDMON, NICHOLS,  
DUNN AND ELLINGER (Co-sponsors).

1880L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapter 339, RSMo, by adding thereto one new section relating to real estate appraisers.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 339, RSMo, is amended by adding thereto one new section, to be  
2 known as section 339.548, to read as follows:

339.548. 1. In any disciplinary action brought against a real estate appraiser, the  
2 commission may issue an order imposing a monetary penalty. Such penalty shall not be  
3 imposed until the findings of fact and conclusions of law by the administrative hearing  
4 commission have been delivered to the commission in accordance with section 621.110, or  
5 through and following a settlement executed by the parties. No monetary penalty shall  
6 commence until a formal hearing and vote by the commission has been taken to impose  
7 such a penalty or until the settlement agreement is fully executed by both parties.

8 2. A monetary penalty imposed under this section shall not exceed five thousand  
9 dollars for each violation. Each day of a continued violation constitutes a separate  
10 violation, with a maximum penalty of twenty-five thousand dollars. In determining the  
11 amount of penalty to be imposed, the board may consider any of the following:

- 12 (1) Whether the amount imposed would be a substantial deterrent to the violation;  
13 (2) The circumstances leading to the violation;  
14 (3) The severity of the violation and the risk of harm to the public;  
15 (4) The economic benefits gained by the violator as a result of noncompliance; or  
16 (5) The interest of the public.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

17           **3. Any final order imposing a monetary penalty is subject to judicial review upon**  
18 **the filing of a petition under section 536.100 by any person subject to the penalty.**

19           **4. Payment of a monetary penalty shall be made within sixty days of filing the**  
20 **order, or if the order is stayed pending an appeal within ten days after the court enters a**  
21 **final judgment in favor of the board. If the penalty is not timely paid, the commission shall**  
22 **notify the attorney general. The attorney general may commence an action to recover the**  
23 **amount of the penalty, including reasonable attorney fees and costs and a surcharge of**  
24 **fifteen percent of the penalty plus ten percent per annum on any amounts owed. In such**  
25 **action, the validity and appropriateness of the final order imposing the monetary penalty**  
26 **shall not be subject to review.**

27           **5. An action to enforce an order under this section may be joined with an action for**  
28 **an injunction.**

29           **6. Any offer of settlement to resolve a monetary penalty under this section shall be**  
30 **in writing, state that an action for imposition of a monetary penalty may be initiated by the**  
31 **attorney general representing the commission under this section, and identify any dollar**  
32 **amount as an offer of settlement, which shall be negotiated in good faith through**  
33 **conference, conciliation, and persuasion.**

34           **7. Failure to pay a monetary penalty by any person licensed or certified under this**  
35 **chapter shall be grounds for refusing to renew or denying reinstatement of a license or**  
36 **certificate of authority.**

37           **8. Penalties collected under this section shall be handled in accordance with article**  
38 **IX, section 7, of the Missouri Constitution. Such penalties shall not be considered a**  
39 **charitable contribution for tax purposes.**

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