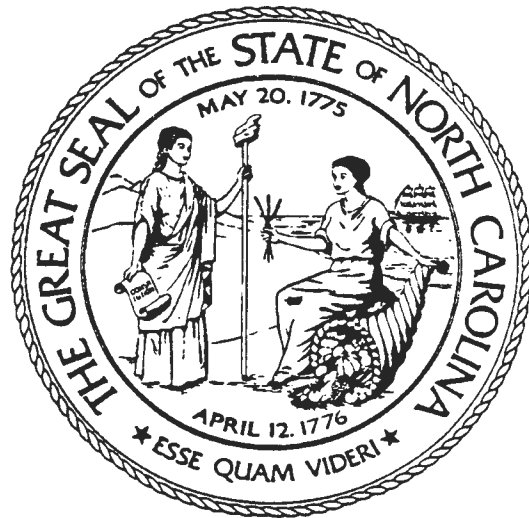


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LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

REAL ESTATE APPRAISERS



ASSESSMENT REPORT
1993

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NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS
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RALEIGH, NC 27611



May 18, 1993

TO THE MEMBERS OF THE GENERAL ASSEMBLY:

The Legislative Committee on New Licensing Boards is pleased to present its assessment report on the licensing of real estate appraisers. This report serves as both the preliminary and final assessment reports.

Representative Mary Jarrell, Chair
Legislative Committee on New Licensing Boards

PREFACE

The Legislative Committee on New Licensing Boards was created by the General Assembly in 1984 to screen bills creating new licensing boards. In 1987, the Committee's jurisdiction was broadened to include reviews of bills that would give existing boards licensing authority over previously unregulated professions or occupations.

The purpose of the review is to determine whether there is a justifiable need for licensure. The criteria under which these bills are evaluated by the Committee are set out in the statutes and include factors such as whether the occupation requires special skills, whether the public on its own can evaluate the competence of the practitioner, and whether the occupation can be effectively regulated by other means.

The Committee's findings and recommendations are released through a preliminary assessment report and a final assessment report. Until the final assessment report is released by the Committee, the bill cannot be debated in any other committee or on the floor of either house. The preliminary report gives the sponsor an opportunity to review and comment on an unfavorable recommendation before the Committee makes a final recommendation. The sponsor has up to 7 days to review the report but can waive this review period. When the preliminary assessment report is favorable, the review period is routinely waived so that the final report can be issued immediately.

The Committee has no jurisdiction over proposals to create voluntary certification boards -- i.e., those boards that require certification as a prerequisite to using a certain title but do not otherwise prohibit practice of the profession. The reason these proposals are not reviewed is that they do not prevent persons from practicing a profession; they merely provide a mechanism whereby members of the profession who want to distinguish themselves as "certified" can do so voluntarily.

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MEMBERSHIP (1993-94)

LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

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REAL ESTATE APPRAISERS

Real estate appraisers appraise the value of land, appurtenances and improvements thereon, and specified interests in the land. For purposes of licensure, real estate appraisal does not include timber appraisals by registered foresters, judicially-ordered appraisals, and comparative market analyses performed by real estate brokers and salesmen.

Currently, real estate appraisers are subject to a voluntary certification process that was established by the General Assembly in 1989. An appraiser wishing to advertise or hold himself out as a certified appraiser is required under the existing law to meet the certification requirements of the Real Estate Commission. These requirements are adopted by the Commission upon the recommendation and advice of the Real Estate Appraisal Board.

Because certification is currently voluntary, neither the Real Estate Appraisal Board nor the Real Estate Commission has any authority to regulate non-certified appraisers. Noncertified appraisers may lack the appropriate training, experience, and other qualifications necessary to properly perform a real estate appraisal in accordance with recognized and established appraisal principles and practices.

The proposal to license real estate appraisers would provide for different standards for residential and general real estate appraisers. A residential appraiser license would require 90 hours of real estate appraisal coursework and 2,000 hours experience in real estate appraising. A higher level -- residential real estate certification -- would also be available if the applicant meets additional qualifications. A general real estate appraiser

must have 180 hours of courses and 2,000 hours of appraisal experience, one-half of which must be in nonresidential real estate. Examinations are required for all levels. The Board may accept equivalent educational and experience in lieu of the statutory qualifications. Appraisers currently certified would be grandfathered in without having to take the exam or meet the additional qualifications.

The sponsor estimates that there are approximately 3,500 appraisers who would be affected by this legislation. Of these 3,500 appraisers, 2,500 are already certified or licensed by the State. (Federal law already requires the use of certified or licensed appraisers by most lenders where federal funds or federal guarantees are involved.) The remaining 1,000 persons are not currently certified or licensed.

The Committee finds that the requirements of G.S. 120-149.1 have been met by the proposal to license real estate appraisers and therefore recommends licensure of real estate appraisers:

- (1) The unregulated practice of real estate appraisal can substantially harm or endanger the public health.
- (2) Real estate appraisal possesses qualities that distinguishes it from ordinary labor.
- (3) Real estate appraisal requires specialized skill or training.
- (4) A substantial majority of the public does not have the knowledge or experience to evaluate whether a person practicing as a real estate appraiser is competent.
- (5) The public cannot be protected by means other than licensure.
- (6) Licensure of real estate appraisers would not appear to have a substantial adverse economic impact upon consumers.

*This report serves as both the preliminary and final assessment report on the licensing of real estate appraisers. The report is based on information provided in the response to the Committee's questionnaire, testimony received before the Committee at its May 11, 1993 meeting, and the proposed legislation before the Committee (House Bill 472).

The response to the questionnaire is provided in this report. Attachments referred to in the questionnaire could not be published but are available for review from the Committee Counsel or, after the session, from the Legislative Library.

HOUSE BILL 472

An Act to Require All Real Estate Appraisers

To Be Licensed

and

To Separate the Real Estate Appraisal Board

From the Real Estate Commission

REPORT TO THE LEGISLATIVE COMMITTEE ON

NEW LICENSING BOARDS

April 28, 1993

Prepared by:

North Carolina Real Estate Appraisal Board

and

North Carolina Restate Commission



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Representative Mary L. Jarrell
Chair
Legislative Committee on New Licensing Boards
Room 2219
Legislative Building
Raleigh, NC 27601-1096

Dear Representative Jarrell:

The North Carolina Real Estate Appraisal Board is pleased to submit the following report to the Joint Legislative Committee on New Licensing Boards.

The Appraisal Board, with the assistance of the North Carolina Real Estate Commission, currently licenses and certifies real estate appraisers pursuant to NCGS 93A Article 5. However, licensure and certification is voluntary. Only persons who satisfy the requisite education, examination and experience requirements for licensure or certification are authorized to identify themselves as "state-licensed residential real estate appraisers", "state-certified residential real estate appraisers", or "state-certified general real estate appraisers."

Under the provisions of House Bill 472, appraiser licensure and certification would become mandatory (except for certain specific exemptions). It is the Board's understanding that this would, therefore, bring the bill under the purview of your committee.

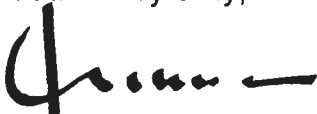
For the reasons cited in the report, the Real Estate Appraisal Board feels that mandatory licensure and certification is in the best interest of appraisal consumers and practitioners. By requiring all appraisers to satisfy the same minimum standards of competency and conduct, consumers will be better assured that the appraisals they receive have been performed according to recognized and established principles and practices. Likewise, conscientious appraisers would no longer be required to compete with persons who are able to perform appraisals at discounted fees by producing a product which does not conform to acceptable standards.

Representative Jarrell
Page Two
April 28, 1993

In evaluating the rationale for converting the existing *voluntary* licensure and certification to *mandatory* licensure and certification, the Appraisal Board also respectfully requests the committee to consider the current inequitable situation created for North Carolina's real estate appraisers *vis a vis* appraisers in our border states. Presently, all border states and many neighboring states have mandatory licensing and certification programs for appraisers. Consequently, appraisers from these states may freely enter North Carolina to perform appraisals without meeting any competency standards. However, North Carolina's appraisers (even our state-licensed and certified appraisers) must apply for licensure/certification in those states and satisfy their qualification requirements before being permitted to appraise real estate there. This not only subjects North Carolina appraisers to unfair competition, but also exposes our citizenry to potential injury from unlicensed and uncertified appraisers who have not been required to demonstrate any level of competency.

The Real Estate Appraisal Board appreciates the opportunity to offer this report in support of House Bill 472 and remains available to answer any of your committee's further questions.

Yours very truly,



Philip T. Fisher
Executive Director



James E. Poole, Jr.
Director of Appraiser Licensing and Certification

PTF/jh

Enclosures

I. A. In what ways has the marketplace failed to regulate adequately the profession or occupation (under the current voluntary program)?

In 1988 numerous incidents of real estate appraisal abuse were documented by the Congressional Government Operations Committee's Commerce, Consumer and Monetary Affairs Subcommittee in its investigations of failed and failing financial institutions (*See Attachment #1*). In response, Congress enacted the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) in 1989. Title XI of FIRREA required the use of state-licensed or state-certified real estate appraisers in certain Federally related financial transactions (*See Attachment #2*).

In 1989 the North Carolina General Assembly enacted the Real Estate Appraiser Act which created a voluntary appraiser regulatory program that would allow North Carolina's real estate appraisers to perform appraisals in the Federally related transactions identified in Title XI of FIRREA (*See Attachment #3*). Since its inception, the Real Estate Appraisal Committee of the Real Estate Commission (subsequently superseded by the Real Estate Appraisal Board) has licensed or certified approximately 2,500 real estate appraisers.

In September 1988 the Real Estate Commission conducted a survey to

determine the number of real estate appraisers in the state. Approximately 3,500 appraisers were identified. This survey would indicate that approximately 1,000 persons, who identified themselves as appraisers in 1988, have not become either state-licensed or state-certified under the current voluntary program.

There are approximately 30 appraisal trade organizations now in existence, some of which confer appraisal designations on their members without regard to competency; consequently, it is difficult for the public to distinguish the most qualified appraisers from the least qualified. If all appraisers were either state-licensed or state-certified, this public burden would be significantly diminished. It has also been found that certain consumers of real estate appraisals (both individuals and institutions) utilize the services of certain appraisers who agree to report a predetermined result, enabling them to manipulate the marketplace. State-licensed and state-certified appraisers are prohibited from participating in such schemes.

- B. Have there been any complaints about the unregulated profession or occupation (under the current voluntary regulatory program)? Please give specific examples including complainant's names and addresses.**

The Real Estate Appraisal Board has no authority to regulate appraisers who have not voluntarily become state-licensed or state-certified. When complaints are received that do not involve state-licensed or state-certified real estate appraisers, no action can be taken by the Board under the current regulatory scheme. Most of these complaints are by telephone and no file is opened; however, occasionally a complainant will write the Board (*See Attachment #4*).

- II. A. In what ways has the public health, safety, or welfare sustained harm or is in imminent danger of harm because of the lack of (mandatory) state regulation (of real estate appraisers)?**

Faulty, fraudulent, and incompetently performed real estate appraisals adversely impact on both individual and institutional consumers. For example, real estate purchasers may pay more than a reasonable market value (or sellers may receive less) due to incompetently performed appraisals. And lending institutions, which are the primary consumers of real estate appraisals, may lend more for properties than can be supported by the properties' value resulting in a potential substantial loss to the institution and its depositors in the event of borrower default. During the congressional investigation of the massive savings and loan failures, Congress determined that "faulty and fraudulent real estate

appraisals have become an increasingly serious national problem whose effects are widespread, pervasive, and costly. Abusive appraisals have contributed directly to the insolvency of hundreds of the Nation's financial institutions and have helped cause billions of dollars in losses to mortgage lenders, private mortgage insurers, investors in mortgage backed securities, and to numerous Federal agencies, particularly those that administer the Federal Deposit Insurance funds and mortgage guarantee programs." That report was issued in September 1988. Since that time these losses have escalated into the hundreds of billions of dollars. Mandatory regulation would insure that all persons performing real estate appraisals in North Carolina meet minimum qualifications criteria.

B. Please give specific examples including names and addresses.

See II. A.

III. A. Is there potential for substantial harm or danger by the profession or occupation to the public health safety or welfare (under the current voluntary regulatory program)? How can this potential for substantial harm or danger be recognized?

See I. A.

- B. Has this potential harm or danger to the public been recognized by other states or the federal government through the licensing or certification process? Please list the other states and give the relevant statutory citations.**

In 1989 Congress enacted into law the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) Realizing the serious need to regulate real estate appraisers, Title XI of FIRREA requires the use of state-licensed or state-certified real estate appraisers in certain Federally related transactions. This requirement became effective January 1, 1993. All fifty states and the District of Columbia have enacted laws to regulate real estate appraisers. The appraisal programs in thirty states (including all North Carolina border states) are in some way mandatory and the trend appears to be towards mandatory regulation (*See Attachment 5*).

- IV. A. What will be the economic advantages of (mandatory) licensing (and certification) to the public?**

Individual consumers will benefit from the services of more competent appraisers if all appraisers are required to meet the minimum licensing and certification requirements (education, experience, and examination), thus better assuring that they are purchasing/selling real estate at its fair

market value. Institutions (banks, savings & loan associations, savings banks, credit unions, etc.) will be assured that all persons appraising property in North Carolina meet the Federal appraiser requirements, and they will be better assured that their mortgage loans are adequately collateralized. Governmental agencies that guarantee, insure, and purchase mortgage loans will likewise be better assured that the value of mortgaged properties supports the loans.

B. What will be the economic disadvantages of (mandatory) licensing (and certification) to the public?

Mandatory licensure and certification could result in increased appraisal fees as a result of appraisals which are more thoroughly performed by more competent and knowledgeable appraisers.

C. What will be the economic advantages of (mandatory) licensing (and certification) to the practitioners?

Mandatory licensing and certification will require all persons performing real estate appraisals in North Carolina to adhere to the Uniform Standards of Professional Appraisal Practice and Code of Ethics (*See Attachment #6*). Legitimate real estate appraisers will no longer have to compete with

unscrupulous and less competent individuals who do not operate within accepted parameters of appraisal practice .

North Carolina's appraisers would also be put on equal footing with appraisers in bordering and neighboring states. All of our border states (Virginia, South Carolina, Georgia, and Tennessee) have mandatory programs; consequently, their appraisers can perform real estate appraisals in North Carolina and even open and operate appraisal offices with no regulation, while North Carolina appraisers must meet all of the regulatory requirements in their states in order to perform appraisals there. Other neighboring states (Alabama, Arkansas, Florida, Maryland, and Mississippi) also have mandatory programs. In fact, nationwide, sixty percent of the states have some form of mandatory licensing and certification, and the current trend appears to be towards mandatory programs.

The regulatory plan proposed also provides increased educational opportunities for appraisers as well as a mechanism to identify these more knowledgeable appraisers to the public.

D. What will be the economic disadvantages of (mandatory) licensing (and certification) to the practitioners?

Practitioners would be required to complete appraisal education, examination, and continuing education requirements necessitating an expenditure of their time and money.

E. Please give other potential benefits to the public of (mandatory) licensing (and certification) that would outweigh the potential harmful effects of licensure such as a decrease in the availability of practitioners and higher cost to the public.

A mandatory licensing program would greatly benefit the public by requiring all persons performing real estate appraisal services to comply with the Uniform Standards of Professional Appraisal Practice and Code of Ethics. A mandatory licensing program would also insure that all members of the public utilizing appraisal services would be afforded the same protection as lenders who are required to utilize state-licensed or state-certified appraisers in certain Federally related financial transactions. It would also protect the public from appraisers coming into North Carolina from other jurisdictions and performing unregulated appraisal services.

- V. A. Please detail the specific specialized skills or training that distinguish the occupation or profession from ordinary labor. How is each justified?**

Appraising real estate requires special knowledge of appraisal principles and practices including a thorough understanding of property ownership and interests, land use controls, property descriptions, real estate transactions, lending practices, basic housing construction, and many related topics.

- B. What are the other qualities of the profession or occupation that distinguish it from ordinary labor?**

In addition to the ability to grasp abstract concepts and comprehend and apply technical data, real estate appraisers must possess the ability to pay close attention to detail, perform mathematical computations and complete thorough and comprehensive narrative reports by compiling and analyzing information obtained from numerous sources.

- VI. A. Will licensing (and certification) requirements cover all practicing members of the occupation or profession? If any practitioners of the profession or occupation will be exempt, what is the rationale for the exemption?**

While no practitioners of the profession or occupation of real estate appraising will be exempt, real estate brokers and salesmen who perform Certified Market Analyses (CMAs) for the purpose of listing and selling real estate, persons who appraise their own real estate, and ad valorem tax appraisers will not be required to be licensed or certified real estate appraisers. These exemptions would be granted because the performance of CMAs is not recognized to be a real estate appraisal; persons should not be restricted from valuing their own property, and ad valorem tax appraisers are regulated by the North Carolina Department of Revenue.

B. What is the approximate number of persons who will be regulated and the number of persons who are likely to utilize the services of the occupation or profession?

Based on a 1988 study conducted by the Real Estate Commission there were approximately 3,500 persons who indicated that they may apply for licensure or certification. To date the Appraisal Board has licensed or certified approximately 2,500 real estate appraisers. Although no figures are available on the number of appraisals performed in our state, the North Carolina Association of REALTORS reports that approximately 35,357 existing homes were sold in the 16 major North Carolina markets during 1992 totaling approximately four billion dollars. This does not, of course,

include any new homes or non-residential property for which appraisals are also required.

VII. What kind of knowledge or experience does the public need to be able to evaluate the services offered by the occupation or profession?

The public must be able to identify qualified practitioners by a recognizable title or designation, evidencing that the practitioner has satisfied meaningful competency requirements and subscribes to an acceptable standard of practice. Identifying qualified practitioners is often difficult due to the emergence of various private appraisal organizations which confer appraisal designations on persons with little or no appraisal training or experience. Mandatory licensing or certification would insure that all persons offering real estate appraisal services in North Carolina would meet minimum competency requirements.

VIII. Does the occupational or professional group have an established code of ethics, a voluntary certification program, or other measures to ensure a minimum quality of service? Please document.

Appraisers who have voluntarily become state-licensed or state-certified subscribe to the Uniform Standards of Professional Appraisal Practice and Code of Ethics (See Attachment #6) as promulgated by the Appraisal

Standards Board of The Appraisal Foundation (a nonprofit corporation established in 1987 under the laws of Illinois). Unless a member of a private appraiser trade organization that has a binding code of ethics, appraisers who are not state-licensed or state-certified are not required to adhere to any standards or ethics.

IX. Please cite and document the extent, if any, other licensing boards in North Carolina regulate similar or parallel functions to the profession or occupation.

The Real Estate Appraisal Board has licensed or certified and currently regulates approximately 2,500 real estate appraisers pursuant to GS 93A *Article 5*. (See *Attachment #3*). The North Carolina Department of Revenue certifies ad valorem tax appraisers pursuant to GS 105-294 (See *Attachment #7*). No other licensing board or governmental agency in North Carolina regulates general real estate appraisers.