

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 565
Committee Substitute Favorable 6/12/13
Committee Substitute #2 Favorable 6/27/13
Senate Finance Committee Substitute Adopted 7/17/13

Short Title: Amend Real Estate Appraisers' Laws/Fees. (Public)

Sponsors:

Referred to:

April 4, 2013

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS REGULATING REAL ESTATE APPRAISERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93E-1-3(a) reads as rewritten:

"(a) No trainee registration, license, or certificate shall be issued under the provisions of this Chapter to a partnership, association, corporation, firm, or group. However, nothing herein shall preclude a registered trainee or licensed or certified real estate appraiser from rendering appraisals for or on behalf of a partnership, association, corporation, firm, or group, provided the appraisal report is prepared by a licensed or certified real estate appraiser or by a registered trainee under the immediate personal direction ~~of, of~~ of the ~~licensed or certified~~ real estate appraiser and is reviewed and signed by that ~~licensed or certified~~ appraiser."

SECTION 2. G.S. 93E-1-6 reads as rewritten:

"§ 93E-1-6. Qualifications for ~~registration~~ registration, licensure, and certification; applications; application fees; examinations.

(a) Any person desiring to be registered as a trainee or to obtain licensure as a licensed real estate appraiser or certification as a certified real estate appraiser shall make written application to the Board on the forms as are prescribed by the Board setting forth the applicant's qualifications for registration, licensure, or certification. Each applicant shall satisfy the following qualification requirements:

(1) Each applicant for registration as a trainee shall:

- a. Have obtained a high school diploma or its equivalent; and
- b. Demonstrate to the Board that the applicant possesses the knowledge and competence necessary to perform appraisals of real property, by:
 - (i) having satisfactorily completed within the five-year period immediately preceding the date application is made, a course of instruction, approved by the Board, in real estate appraisal principles and practices consisting of at least 90 hours of classroom instruction in subjects determined by the Board; and
 - (ii) satisfying any additional qualification the Board imposes by rule, not inconsistent with any requirements imposed by the Appraisal Foundation.

(1a) Each applicant for licensure as a licensed real estate appraiser shall:

- a. Hold an associate's degree or higher from an accredited college, community college, or university;



- 1 b. Demonstrate to the Board that the applicant possesses the knowledge
 2 and competence necessary to perform appraisals of real property by
 3 having satisfactorily completed a course of instruction consisting of
 4 at least 150 hours of classroom instruction in subjects determined by
 5 the Board. All instructional courses must be completed on or after
 6 January 1, 2008;
- 7 c. Present evidence satisfactory to the Board of at least 2,500 hours, or
 8 the minimum requirement as imposed by the federal government,
 9 whichever is greater, of experience in real estate appraising within
 10 the eight-year period immediately preceding the date the application
 11 is made and over a period of at least two calendar years; and
- 12 d. Satisfy the additional qualifications criteria as may be imposed by the
 13 Board by rule, not inconsistent with any requirements imposed by the
 14 federal government, or shall possess education and experience which
 15 is found by the Board in its discretion to be equivalent to the above
 16 requirements.
- 17 (2) Each applicant for certification as a certified residential real estate appraiser
 18 shall:
- 19 a. ~~Hold an associate's degree or higher a bachelor's degree from an~~
 20 ~~accredited college, junior college, community college, or university;~~
 21 ~~or have a high school diploma or its equivalent and have successfully~~
 22 ~~completed at least 21 semester credit hours of college courses from~~
 23 ~~an accredited college, junior college, community college, or~~
 24 ~~university in English composition, principles of economics, finance,~~
 25 ~~higher mathematics, such as geometry or algebra, statistics,~~
 26 ~~introduction to computers, and business or real estate law;~~
- 27 b. Demonstrate that the applicant possesses the knowledge and
 28 competence necessary to perform appraisals of real property as the
 29 Board may prescribe by having satisfactorily ~~completed, within the~~
 30 ~~five-year period immediately preceding the date the application is~~
 31 ~~made, completed~~ a course of instruction, approved by the Board, in
 32 real estate appraisal principles and practices consisting of at least 200
 33 ~~hours; hours. All instructional courses shall have been completed on~~
 34 ~~or after January 1, 2008;~~
- 35 c. Present evidence satisfactory to the Board of at least 2,500 hours or
 36 the minimum requirement as imposed by the Appraisal Foundation,
 37 whichever is greater, of experience in real estate appraising within
 38 the ~~five-year~~eight-year period immediately preceding the date
 39 application is made, and over a period of at least two calendar years;
 40 and
- 41 d. Satisfy the additional qualifications criteria as may be imposed by the
 42 Board by rule, not inconsistent with any requirements imposed by the
 43 Appraisal Foundation; or
- 44 e. Possess education and experience which is found by the Board in its
 45 discretion to be equivalent to the above requirements.
- 46 (3) Each applicant for certification as a certified general real estate appraiser
 47 shall:
- 48 a. Hold a bachelor's degree or higher from an accredited college or
 49 university; ~~or have a high school diploma or its equivalent and have~~
 50 ~~successfully completed at least 30 semester credit hours of college~~
 51 ~~courses from an accredited college or university in English~~

1 ~~composition, macroeconomics and microeconomics, finance, higher~~
2 ~~mathematics, such as geometry or algebra, statistics, introduction to~~
3 ~~computers, and business or real estate law and two elective courses in~~
4 ~~accounting, geography, business management, or real estate;~~

5 b. Demonstrate that the applicant possesses the knowledge and
6 competence necessary to perform appraisals of all types of real
7 property by having satisfactorily ~~completed, within the five-year~~
8 ~~period immediately preceding the date application is made, completed~~
9 a course of instruction, approved by the Board, in general real estate
10 appraisal practices consisting of at least 300 ~~hours;~~hours. All
11 instructional courses shall have been completed on or after January 1,
12 2008;

13 c. Present evidence satisfactory to the Board of at least 3,000 hours or
14 the minimum requirement as imposed by the Appraisal Foundation,
15 whichever is greater, of experience in real estate appraising within
16 the ~~five-year~~eight-year period immediately preceding the date
17 application is made, and over a period of at least two and one-half
18 calendar years, fifty percent (50%) of which must be in appraising
19 nonresidential real estate; and

20 d. Satisfy the additional qualifications criteria as may be imposed by the
21 Board by rule, not inconsistent with any requirements imposed by the
22 Appraisal Foundation; or

23 e. Possess education or experience which is found by the Board in its
24 discretion to be equivalent to the above requirements.

25 (4) Repealed by Session Laws 2001-399, s. 1.

26 (b) Each application for registration as a trainee or for licensure or certification as a real
27 estate appraiser shall be accompanied by a fee of two hundred dollars (\$200.00), plus any
28 additional fee as may be necessary to defray the cost of any competency examination
29 administered by a private testing service.

30 (c) Any person who files with the Board an application for ~~registration~~licensure or
31 certification as a real estate appraiser shall be required to pass an examination to demonstrate
32 the person's competence.

33 (c1) The Board shall also make an investigation as it deems necessary into the
34 background of the applicant to determine the applicant's qualifications with due regard to the
35 paramount interest of the public as to the applicant's competency, honesty, truthfulness, and
36 integrity. All applicants shall obtain criminal record reports from one or more reporting
37 services designated by the Board to provide criminal record reports. Applicants are required to
38 pay the designated reporting service for the cost of the reports. All applicants shall consent to a
39 criminal history record check. Refusal to consent to a criminal history record check may
40 constitute grounds for the Board to deny an application. The Board shall ensure that the State
41 and national criminal history of an applicant is checked. The Board shall be responsible for
42 providing to the North Carolina Department of Justice the fingerprints of the applicant to be
43 checked, a form signed by the applicant consenting to the criminal history record check, and
44 the use of fingerprints and other identifying information required by the State or National
45 Repositories of Criminal Histories and any additional information required by the Department
46 of Justice in accordance with G.S. 114-19.30. The Board shall keep all information obtained
47 pursuant to this section confidential. The Board shall collect any fees required by the
48 Department of Justice and shall remit the fees to the Department of Justice for expenses
49 associated with conducting the criminal history record check.

50 (c2) In addition, the Board may investigate and consider whether the applicant has had
51 any disciplinary action taken against any other professional license in North Carolina or any

1 other state, or if the applicant has committed or done any act which, if committed or done by
2 any real estate trainee or appraiser, would be grounds under the provisions hereinafter set forth
3 for disciplinary action including the suspension or revocation of registration, licensure, or
4 certification, or whether the applicant has been convicted of or pleaded guilty to any criminal
5 act. If the results of the investigation shall be satisfactory to the Board, and the applicant is
6 otherwise qualified, then the Board shall issue to the applicant a trainee registration or
7 certificate authorizing the applicant to act as a registered trainee real estate appraiser or
8 certified real estate appraiser in this State.

9 (d) If the applicant has not affirmatively demonstrated that the applicant meets the
10 requirements for registration or certification, action on the application will be deferred pending
11 a hearing before the Board."

12 **SECTION 3.** G.S. 93E-1-6.1 reads as rewritten:

13 **"§ 93E-1-6.1. Trainee supervision.**

14 All trainees shall perform all real estate appraisal-related activities under the immediate,
15 active, and personal supervision of a ~~licensed or~~ certified real estate appraiser. All appraisal
16 reports must be signed by the appraiser who supervised the trainee. By signing the appraisal
17 report, the appraiser accepts shared responsibility, with the trainee, for the content of and
18 conclusions in the report. All trainees and any appraisers desiring to supervise a trainee shall
19 complete a course in trainee supervision as required in rules adopted by the Board."

20 **SECTION 4.** G.S. 93E-1-8 reads as rewritten:

21 **"§ 93E-1-8. Education program approval and fees.**

22 (a) The Board may by rule prescribe minimum standards for the approval and renewal
23 of approval of schools and other course sponsors and their instructors to conduct appraiser
24 ~~prelicensing and precertification~~ qualifying courses required by G.S. 93E-1-6(a). Such standards
25 may address subject matter, program structuring, instructional materials, requirements for
26 satisfactory course completion, instructors' qualifications, and other related matters relevant to
27 the provision of such courses in a manner that best serves the public interest. The standards
28 may require that schools and course sponsors obtain approval for the content of ~~prelicensing~~
29 ~~and precertification~~ qualifying courses from the Appraiser Qualifications Board of the Appraisal
30 Foundation as part of the application process with the Appraisal Board and pay any fees
31 directly to the Appraiser Qualifications Board as required by the Appraiser Qualifications
32 Board for the approval.

33 (b) The Board may by rule set nonrefundable fees chargeable to private real estate
34 appraisal schools or course sponsors, including appraisal trade organizations, for the approval
35 and annual renewal of approval of their ~~prelicensing and precertification~~ qualifying courses
36 required by G.S. 93E-1-6(a), or equivalent courses. The fees shall be one hundred dollars
37 (\$100.00) per course for approval and fifty dollars (\$50.00) per course for renewal of approval.
38 No fees shall be charged for the approval or renewal of approval to conduct appraiser
39 ~~prelicensing or precertification~~ qualifying courses where such courses are offered by a North
40 Carolina college, university, junior college, or community or technical college accredited by
41 the Southern Association of Colleges and Schools, or an agency of the federal, State, or local
42 government.

43 (c) The Board may by rule prescribe minimum standards for the approval and annual
44 renewal of approval of schools and other course sponsors and their instructors to conduct
45 appraiser continuing education courses. Such standards may address subject matter,
46 instructional materials, requirements for satisfactory course completion, minimum course
47 length, instructors' qualifications, and other related matters relevant to the provision of such
48 courses in a manner that best serves the public interest.

49 (d) Nonrefundable fees of one hundred dollars (\$100.00) per course may be charged to
50 schools and course sponsors for the approval to conduct appraiser continuing education courses
51 and fifty dollars (\$50.00) per course for renewal of approval. However, no fees shall be charged

1 for the approval or renewal of approval to conduct appraiser continuing education courses
2 where such courses are offered by a North Carolina college, university, junior college, or
3 community or technical college accredited by the Southern Association of Colleges and
4 Schools, or by an agency of the federal, State, or local government. A nonrefundable fee of
5 fifty dollars (\$50.00) per course may be charged to current or former licensees or certificate
6 holders requesting approval by the Board of a course for continuing education credit when
7 approval of such course has not been previously obtained by the offering school or course
8 sponsor."

9 **SECTION 5.** G.S. 93E-2-4 reads as rewritten:

10 **"§ 93E-2-4. Qualifications for registration; duties of registrants.**

11 (a) Any person or entity desiring to be registered as an appraisal management company
12 in this State shall make written application to the Board on forms prescribed by the Board
13 setting forth the applicant's qualifications for registration. The application shall be accompanied
14 by the applicable fee under G.S. 93E-2-6 and any other information the Board deems necessary
15 pursuant to rules adopted by the Board. Upon receipt of a properly completed application and
16 fee and upon a determination by the Board that the applicant is of good moral character, the
17 Board shall issue to the applicant a certificate of registration authorizing the applicant to act as
18 a real estate appraisal management company in this State.

19 (b) The registration required by subsection (a) of this section shall include the following
20 information:

- 21 (1) Legal name of the entity seeking registration.
- 22 (2) Business address of the entity seeking registration.
- 23 (3) Phone contact information of the entity seeking registration.
- 24 (4) If the entity is not a corporation that is domiciled in this State, the name and
25 contact information for the company's agent for service of process in this
26 State.
- 27 (5) The name, address, and contact information for any individual or any
28 corporation, partnership, or other business entity that owns ten percent
29 (10%) or more of the appraisal management company.
- 30 (6) The name, address, and contact information for the compliance manager.
- 31 (7) A certification that the entity has a system and process in place to verify that
32 a person being added to the appraiser panel of the appraisal management
33 company holds a license in good standing in this State pursuant to the North
34 Carolina Appraisers Act if a license or certification is required to perform
35 appraisals.
- 36 (8) A certification that the entity has a system in place to require that appraisers
37 inform the appraisal management company of their areas of geographic
38 competency, the types of properties the appraiser is competent to appraise,
39 and the methodologies the appraiser is competent to perform.
- 40 (9) A certification that the entity has a system in place to review the work of all
41 independent appraisers that are performing real estate appraisal services for
42 the appraisal management company on a periodic basis to validate that the
43 real estate appraisal services are being conducted in accordance with the
44 Uniform Standards of Professional Appraisal Practice.
- 45 (10) A certification that the entity maintains a detailed record of each service
46 request that it receives and the independent appraiser that performs the
47 residential real estate appraisal services for the appraisal management
48 company.
- 49 (10a) A certification that the entity has obtained a surety bond as required by this
50 Article.
- 51 (11) An irrevocable Uniform Consent to Service of Process.

1 (12) Any other information required by the Board pursuant to G.S. 93E-2-3.

2 (c) Any registrant having a good faith belief that a real estate appraiser licensed or
3 certified in this State has violated applicable law or the Uniform Standards of Professional
4 Appraisal Practice or engaged in unethical conduct shall promptly file a complaint with the
5 Board.

6 (d) Registered appraisal management companies shall pay fees to an appraiser within
7 30 days of the date the appraisal is transmitted by the real estate appraiser to the registrant,
8 except in cases of noncompliance with the conditions of the engagement. In such cases, the
9 registrant shall notify the real estate appraiser in writing that the fees will not be paid.

10 (e) To qualify to be registered as an appraisal management company, each individual
11 who owns, directly or indirectly, more than ten percent (10%) of the appraisal management
12 company shall be of good moral character, as determined by the Board, and shall submit all
13 information the Board deems necessary pursuant to the rules adopted by the Board.
14 Additionally, each owner shall certify that he or she has never had a license to act as an
15 appraiser refused, denied, cancelled, or revoked by the State of North Carolina or any other
16 state.

17 (f) A registered appraisal management company shall not enter into any contracts or
18 agreements with an independent appraiser for the performance of residential real estate
19 appraisal services for properties located in this State unless the independent appraiser is
20 licensed or certified in good standing pursuant to the North Carolina Appraisers Act.

21 (g) Each applicant for registration or for a renewal of a registration shall post with the
22 Board and maintain a surety bond in the amount of twenty-five thousand dollars (\$25,000).

23 (1) The bond shall be in a form satisfactory to the Board.

24 (2) The bond will accrue to the Board for the benefit of a claimant against the
25 registrant to secure the faithful performance of the registrant's obligations
26 under this Article and to a real estate appraiser who has performed an
27 appraisal for the registrant for which the appraiser has not been paid.

28 (3) The aggregate liability of the surety shall not exceed the principal sum of the
29 bond.

30 (4) A party having a claim against the registrant may bring suit directly on the
31 surety bond, or the Board may bring suit on behalf of the party having a
32 claim against the registrant, either in one action or in successive actions.

33 (5) A claim reducing the face amount of the bond shall be annually restored
34 upon renewal of the registrant's registration.

35 (6) The bond shall remain in effect until cancellation, which may occur only
36 after 90 days written notice to the Board. Cancellation shall not affect any
37 liability incurred or accrued during that period.

38 (7) The surety bond shall remain in place for no less than two years after the
39 registrant ceases operations in this State. However, notwithstanding this
40 provision, the Board may permit the surety bond to be reduced or eliminated
41 prior to that time to the extent that the amount of the registrant's outstanding
42 obligations to appraisers is reduced."

43 **SECTION 6.** G.S. 93E-2-8(a) reads as rewritten:

44 **"§ 93E-2-8. Disciplinary authority.**

45 (a) The Board may, by order, deny, suspend, revoke, or refuse to issue or renew a
46 registration of an appraisal management company under this Article or may restrict or limit
47 activities of a person who owns an interest in or participates in the business of an appraisal
48 management company if the Board determines that an applicant, registrant, or any partner,
49 member, manager, officer, director, compliance manager, or person occupying a similar status,
50 performing similar functions, or directly or indirectly controlling the applicant or registrant has
51 done any of the following:

- 1 (1) Filed an application for registration that, as of its effective date or as of any
2 date after filing, contained any statement that, in light of the circumstances
3 under which it was made, is false or misleading with respect to any material
4 fact.
- 5 (2) Violated or failed to comply with any provision of this Article or any rules
6 adopted by the Board.
- 7 (3) Been convicted of any felony or, within the past 10 years, been convicted of
8 any misdemeanor involving mortgage lending or real estate appraisal or any
9 offense involving breach of trust, moral turpitude, or fraudulent or dishonest
10 dealing.
- 11 (4) Been permanently or temporarily enjoined by any court of competent
12 jurisdiction from engaging in or continuing any conduct or practice
13 involving any aspect of the real estate appraisal management business.
- 14 (5) Been the subject of an order of the Board or any other state appraiser
15 regulatory agency denying, suspending, or revoking the person's license as a
16 real estate appraiser.
- 17 (6) Acted as an appraisal management company while not properly licensed by
18 the Board.
- 19 (7) Failed to pay the proper filing or renewal fee under this Article.
- 20 (8) Failed to maintain the bond required by G.S. 93E-2-4."

21 **SECTION 7.** G.S. 93E-2-8(g) reads as rewritten:

22 "(g) If the Board has reasonable grounds to believe that an appraisal management
23 company has violated the provisions of this Article or that facts exist that would be the basis for
24 an order against an appraisal management company, the Board may at any time, either
25 personally or by a person duly designated by the Board, investigate or examine the books,
26 accounts, records, and files of any registrant or other person relating to the complaint or matter
27 under investigation.

28 (g1) The Board may require any registrant or other person to submit a criminal history
29 record check and a set of that person's fingerprints in connection with any examination or
30 investigation. Refusal to submit the requested criminal history record check or a set of
31 fingerprints shall be grounds for disciplinary action. The reasonable cost of the investigation or
32 examination shall be charged against the registrant."

33 **SECTION 8.** G.S. 114-19.30 reads as rewritten:

34 "**§ 114-19.30. Criminal history record checks of applicants for trainee registration,**
35 **appraiser licensure, appraiser certification, or registrants for registration as**
36 **real estate appraisal management companies.**

37 The Department of Justice may provide to the North Carolina Appraisal Board from the
38 State and National Repositories of Criminal Histories the criminal history of any applicant or
39 registrant for registration under Article 1 and Article 2 of Chapter 93E of the General Statutes.
40 Along with the request, the Board shall provide to the Department of Justice the fingerprints of
41 the applicant or registrant, a form signed by the applicant or registrant consenting to the
42 criminal history record check and use of fingerprints and other identifying information required
43 by the State and National Repositories, and any additional information required by the
44 Department of Justice. The applicant's or registrant's fingerprints shall be forwarded to the State
45 Bureau of Investigation for a search of the State's criminal history record file, and the State
46 Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of
47 Investigation for a national criminal history record check. The Board shall keep all information
48 obtained pursuant to this section confidential. The Department of Justice may charge a fee to
49 offset the cost incurred by the Department to conduct a criminal history record check under this
50 section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving
51 the information."

1 **SECTION 9.** Any person who has been licensed or certified by the Board as a
2 residential or general real estate appraiser on or before the effective date of this act shall be
3 deemed to have complied with the requirements of G.S. 93E-1-6, as enacted in Section 2 of this
4 act.

5 **SECTION 10.** The Legislative Research Commission is authorized to study issues
6 relating the North Carolina Appraisal Board limited to the advisability of establishing a
7 recovery fund to provide restitution to appraisers. In conducting the study, the Commission
8 may study the following:

9 (1) The need for the fund and whether a surety bond is adequate.

10 (2) Review any existing recovery funds in other states for efficacy and
11 appropriateness.

12 (3) Review other similar consumer protection funds in other regulated settings,
13 and the funds that protect the consumer and the licensee.

14 (4) Conduct a cost benefit analysis of the recovery fund.

15 (5) Consider the financial impact of the fund on licensees.

16 (6) Any other matters the Commission finds relevant to the issue.

17 **SECTION 11.** Sections 10 and 11 are effective when this act becomes law. The
18 remainder of this act becomes effective January 1, 2014.