

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

S

1

SENATE BILL 1353*

Short Title: Appraiser Licensing Changes.

(Public)

Sponsors: Senators Staton, Plyler, Carpenter, Conder; Johnson of Cabarrus, Marvin, and Sands.

Referred to: Judiciary III.

May 23, 1990

A BILL TO BE ENTITLED
AN ACT TO COMPLY WITH TITLE XI OF THE FINANCIAL INSTITUTIONS
REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989 BY GRANTING
CERTAIN REGULATORY AUTHORITY TO THE NORTH CAROLINA REAL
ESTATE COMMISSION REAL ESTATE APPRAISAL COMMITTEE AND TO
ADD A NEW CLASSIFICATION OF VOLUNTARY APPRAISER
CERTIFICATION.

The General Assembly of North Carolina enacts:

PART I.

Section 1. G.S. 93A-72 reads as rewritten:

§ 93A-72. Definitions.

When used in this Article, unless the context otherwise requires, the term:

- (1) 'Appraisal' or 'real estate appraisal' means an analysis, opinion or conclusion as to the value of identified real estate or specified interests therein.
(2) 'Appraisal assignment' means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased appraisal.
(3) 'Appraisal Foundation' or 'Foundation' means the Appraisal Foundation established on November 20, 1987, as a not-for-profit corporation under the laws of Illinois.

- 1 (4) 'Appraisal report' means any communication, written or oral, of an
2 appraisal.
- 3 (5) 'Certificate' means that document issued by the North Carolina Real
4 Estate Commission evidencing that the person named therein has
5 satisfied the requirements for certification as a State-certified real
6 estate appraiser and bearing a certificate number assigned by the
7 Commission.
- 8 (6) 'Certificate holder' means a person certified by the Commission
9 under the provisions of this Article.
- 10 (7) 'Certified appraisal' means any appraisal performed by a State-
11 certified real estate appraiser and represented as being 'certified'.
- 12 (8) 'Certified appraisal report' means any communication, written or
13 oral, of an appraisal by a State-certified real estate appraiser which is
14 represented as being 'certified'.
- 15 (9) 'Commission' means the North Carolina Real Estate Commission.
- 16 (10) 'License' means that document issued by the North Carolina Real
17 Estate Commission evidencing that the person named therein has
18 satisfied the requirements for licensure as a State-licensed real estate
19 appraiser and bearing a license number assigned by the Commission.
- 20 (11) 'Licensee' means a person licensed by the Commission under the
21 provisions of this Article.
- 22 (12) 'Real estate' or 'real property' means land, including the air above
23 and ground below and all appurtenances and improvements thereto,
24 as well as any interest or right inherent in the ownership of land.
- 25 (13) 'Real Estate Appraisal Committee', 'Appraisal Committee' or
26 'Committee' means the body established by the Commission
27 pursuant to the provisions of this Article.
- 28 (14) 'Real estate appraiser' or 'appraiser' means a person who for a fee or
29 valuable consideration develops and communicates real estate
30 appraisals or otherwise gives an opinion of the value of real estate or
31 any interest therein.
- 32 (15) 'Real estate appraising' means the practice of developing and
33 communicating real estate appraisals.
- 34 (16) 'Residential real estate' means any parcel of real estate, improved or
35 unimproved, that is exclusively residential in nature and that
36 includes or is intended to include a residential structure containing
37 not more than four dwelling units and no other improvements except
38 those which are typical residential improvements that support the
39 residential use for the location and property type. A residential unit
40 in a condominium, townhouse, or cooperative complex or a planned
41 unit development is considered to be residential real estate.
- 42 (16a) 'State-certified general real estate appraiser' means a person who
43 holds a current, valid certificate as a State-certified general real
44 estate appraiser issued under the provisions of this Article.

1 (17) 'State-certified residential real estate appraiser' means a person who
2 holds a current, valid certificate as a State-certified residential real
3 estate appraiser issued under the provisions of this Article.

4 (18) 'State-licensed residential real estate appraiser' means a person who
5 holds a current, valid license as a State-licensed residential real
6 estate appraiser issued under the provisions of this Article."

7 Sec. 2. G.S. 93A-73 reads as rewritten:

8 **"§ 93A-73. Qualifications for State licensure and certification; applications;**
9 **application fees; examinations.**

10 (a) Any person desiring to obtain licensure as a State-licensed real estate
11 appraiser or certification as a State-certified real estate appraiser shall make written
12 application to the Commission on such forms as are prescribed by the Commission
13 setting forth the applicant's qualifications for licensure or certification. Each applicant
14 shall satisfy the following qualification requirements:

15 (1) Each applicant for licensure as a State-licensed residential real estate
16 appraiser shall have demonstrated to the satisfaction of the
17 Commission that he possesses the knowledge and competence
18 necessary to perform appraisals of residential and other real estate as
19 the Commission may prescribe by having satisfactorily completed,
20 within the five-year period immediately preceding the date application
21 is made, through a school approved by the Commission, a course of
22 instruction in real estate appraisal principles and practices consisting of
23 at least 90 hours of classroom instruction in subjects determined by the
24 Commission, and shall satisfy such additional qualifications as may be
25 required to render North Carolina State-licensed residential real estate
26 appraisers eligible to perform appraisals in connection with federally-
27 related transactions requiring the use of a State-licensed residential real
28 estate appraiser; or the applicant shall possess education or experience
29 which is found by the Commission to be equivalent to the above
30 requirements.

31 (1b) Each applicant for certification as a State-certified residential real
32 estate appraiser shall have demonstrated to the satisfaction of the
33 Commission that he possesses the knowledge and competence
34 necessary to perform appraisals of residential and other real estate as
35 the Commission may prescribe by having satisfied all education
36 requirements for licensure as a State-licensed residential real estate
37 appraiser; shall present evidence satisfactory to the Commission of at
38 least two years of full-time experience in real estate appraising within
39 the five-year period immediately preceding the date application is
40 made; and shall satisfy such additional qualifications criteria as may be
41 promulgated by the Appraiser Qualifications Board of The Appraisal
42 Foundation for residential real estate appraisers.

43 (2) Each applicant for certification as a State-certified general real estate
44 appraiser shall have demonstrated to the satisfaction of the

1 Commission that he possesses the knowledge and competence
2 necessary to perform appraisals of all types of real estate by having
3 satisfactorily completed, within the five-year period immediately
4 preceding the date application is made, through a school approved by
5 the Commission, a course of instruction in general real estate appraisal
6 practices consisting of at least 90 hours of classroom instruction in
7 subjects determined by the Commission, such course of instruction to
8 be in addition to the education required for licensure as a State-
9 licensed residential real estate appraiser, ~~appraiser~~; ~~and~~ shall present
10 evidence satisfactory to the Commission of at least two years of full-
11 time experience in real estate appraising within the five-year period
12 immediately preceding the date application is ~~made~~, made; and shall
13 satisfy such additional qualifications criteria as may be ~~required to~~
14 ~~render North Carolina State-certified real estate appraisers eligible to~~
15 ~~perform appraisals in connection with federally related transactions requiring~~
16 ~~the use of a State-certified real estate appraiser~~; promulgated by the
17 Appraiser Qualifications Board of The Appraisal Foundation for
18 general real estate appraisers; or the applicant shall possess education
19 or experience which is found by the Commission to be equivalent to
20 the above requirements.

21 (b) Each application for State licensure or certification as a real estate appraiser
22 shall be accompanied by a fee fixed by the Commission but not to exceed one hundred
23 fifty dollars (\$150.00).

24 (c) Any person who files with the Commission an application for State licensure
25 or certification as a real estate appraiser shall be required to ~~take pass an oral or written~~
26 examination to demonstrate his competence. The Commission may also make such
27 investigation as it deems necessary into the ethical background of the applicant to
28 determine his qualifications with due regard to the paramount interests of the public as
29 to his honesty, truthfulness and integrity. If the results of the examination and
30 investigation shall be satisfactory to the Commission, then the Commission shall issue
31 to ~~such person the applicant~~ a license or certificate authorizing ~~such person the applicant~~
32 to act as a State-licensed real estate appraiser or a State-certified real estate appraiser in
33 this State."

34 Sec. 3. G.S. 93A-78(b) reads as rewritten:

35 "(b) The Committee shall advise the Commission on the implementation and
36 operation of this Article and any other applicable provisions of this Chapter relating to
37 standards and operations of real estate appraiser education programs. The Committee
38 shall propose to the Commission for its adoption rules to implement, administer, and
39 enforce this Article and any other applicable provisions of this Chapter relating to
40 standards and operations of real estate appraiser education programs. In proposing rules
41 to the Commission regarding the qualification requirements and standards of practice
42 for State-licensed and State-certified real estate appraisers, the Committee shall consider
43 the ~~Minimum Standards of Qualification~~ qualifications criteria issued by the Appraiser
44 Qualification Board of the Appraisal Foundation and the Uniform Standards of

1 Professional Appraisal Practice promulgated by the Appraisal Standards Board of the
2 Appraisal Foundation."

3 Sec. 4. G.S. 93A-71.1 and Chapter 630 of the 1989 Session Laws are
4 repealed.

5 **PART II.**

6 Sec. 5. G.S. 93A-73, as amended by Part I of this act, reads as rewritten:

7 **"§ 93A-73. Qualifications for State licensure and certification; applications;
8 application fees; examinations.**

9 (a) Any person desiring to obtain licensure as a State-licensed real estate
10 appraiser or certification as a State-certified real estate appraiser shall make written
11 application to the Commission on such forms as are prescribed by the Commission
12 setting forth the applicant's qualifications for licensure or certification. Each applicant
13 shall satisfy the following qualification requirements:

14 (1) Each applicant for licensure as a State-licensed residential real estate
15 appraiser shall have demonstrated to the satisfaction of the ~~Commission~~
16 Real Estate Appraisal Committee that he possesses the knowledge and
17 competence necessary to perform appraisals of residential and other
18 real estate as the Commission may prescribe by having satisfactorily
19 completed, within the five-year period immediately preceding the date
20 application is made, through a school approved by the Commission, a
21 course of instruction in real estate appraisal principles and practices
22 consisting of at least 90 hours of classroom instruction in subjects
23 determined by the ~~Commission, Appraisal Committee;~~ and shall satisfy
24 such additional qualifications as may be required to render North
25 Carolina State-licensed residential real estate appraisers eligible to
26 perform appraisals in connection with federally-related transactions
27 requiring the use of a State-licensed residential real estate appraiser; or
28 ~~the applicant~~ shall possess education or experience which is found by
29 the ~~Commission, Appraisal Committee~~ to be equivalent to the above
30 requirements.

31 (1b) Each applicant for certification as a State-certified residential real
32 estate appraiser shall have demonstrated to the satisfaction of the
33 ~~Commission, Real Estate Appraisal Committee~~ that he possesses the
34 knowledge and competence necessary to perform appraisals of
35 residential and other real estate as the Commission may prescribe by
36 having satisfied all education requirements for licensure as a State-
37 licensed residential real estate appraiser; shall present evidence
38 satisfactory to the ~~Commission, Appraisal Committee~~ of at least two
39 years of full-time experience in real estate appraising within the five-
40 year period immediately preceding the date application is made; and
41 shall satisfy such additional qualifications criteria as may be
42 promulgated by the Appraiser Qualifications Board of The Appraisal
43 Foundation for residential real estate appraisers.

1 (2) Each applicant for certification as a State-certified general real estate
2 appraiser shall have demonstrated to the satisfaction of the ~~Commission~~
3 Real Estate Appraisal Committee that he possesses the knowledge and
4 competence necessary to perform appraisals of all types of real estate
5 by having satisfactorily completed, within the five-year period
6 immediately preceding the date application is made, through a school
7 approved by the Commission, a course of instruction in general real
8 estate appraisal practices consisting of at least 90 hours of classroom
9 instruction in subjects determined by the ~~Commission, Appraisal~~
10 Committee, such course of instruction to be in addition to the
11 education required for licensure as a State-licensed residential real
12 estate appraiser; shall present evidence satisfactory to the ~~Commission~~
13 Appraisal Committee of at least two years of full-time experience in
14 real estate appraising within the five-year period immediately
15 preceding the date application is made; and shall satisfy such
16 additional qualifications criteria as may be promulgated by the
17 Appraiser Qualifications Board of The Appraisal Foundation for
18 general real estate appraisers; or the applicant shall possess education
19 or experience which is found by the ~~Commission Appraisal Committee~~
20 to be equivalent to the above requirements.

21 (b) Each application for State licensure or certification as a real estate appraiser
22 shall be accompanied by a fee fixed by the Commission but not to exceed one hundred
23 fifty dollars (\$150.00).

24 (c) Any person who files with the Commission an application for State licensure
25 or certification as a real estate appraiser shall be required to pass an examination to
26 demonstrate his competence. The Commission ~~may~~ shall also make such investigation
27 as ~~it deems~~ deemed necessary by the Real Estate Appraisal Committee into the ethical
28 background of the applicant to determine his qualifications with due regard to the
29 paramount interests of the public as to his honesty, truthfulness and integrity. If the
30 results of the ~~examination and~~ investigation shall be satisfactory to the ~~Commission,~~
31 Committee and the applicant is otherwise qualified, then the Commission shall issue to
32 the applicant a license or certificate authorizing the applicant to act as a State-licensed
33 real estate appraiser or a State-certified real estate appraiser in this State. If, based upon
34 the results of the investigation, the moral character of the applicant is in question, action
35 on the application will be deferred pending a hearing before the Appraisal Committee."

36 Sec. 6. G.S. 93A-74(b) reads as rewritten:

37 "(b) The Commission may by rule require, as a prerequisite to license or
38 certificate renewal, the completion of Commission-approved education courses ~~approved~~
39 ~~by the Commission in subject matters determined by the Appraisal Committee~~, or courses
40 determined by the Commission to be equivalent to such instruction, provided that the
41 continuing education requirements do not exceed 24 hours of classroom instruction
42 during any two-year period, except as may be required to maintain State-certified and
43 State-licensed real estate appraisers' eligibility to perform real estate appraisals in
44 connection with federally-related transactions requiring their use."

1 Sec. 7. G.S. 93A-78, as amended by Part I of this act, reads as rewritten:

2 **"§ 93A-78. Real Estate Appraisal Committee.**

3 (a) ~~The Commission shall appoint~~ There is created a Real Estate Appraisal
4 Committee for the purpose of rendering advice and assistance to the ~~Commission.~~
5 Commission and for the other purposes set forth in this Article. To the extent possible,
6 the membership of the Committee shall be representative of the members of the real
7 estate appraisal business. The Committee shall consist of ~~five members,~~ seven members.
8 The Governor shall appoint four members of the Committee. The General Assembly
9 shall appoint three members in accordance with G.S. 120-121, one upon
10 recommendation of the President of the Senate, one upon recommendation of the
11 President Pro Tempore of the Senate, and one upon recommendation of the Speaker of
12 the House of Representatives. ~~three of whom~~ The appointee recommended by the
13 President of the Senate, the appointee recommended by the Speaker of the House of
14 Representatives, and at least two of the appointees of the Governor shall be persons who
15 have been engaged in the business of real estate appraising in this State for ~~not less than~~
16 at least five years immediately preceding their appointment, and, if appointed to the
17 Committee after January 1, 1991, shall also be appointment and are also State-licensed or
18 State-certified real estate appraisers. The appointee recommended by the President Pro
19 Tempore of the Senate and at least one of the appointees of the Governor shall be
20 persons who are not involved directly or indirectly in the real estate, real estate
21 appraisal, or real estate lending industry. Members of the Committee shall serve three-
22 year terms, so staggered that the term of one member expires in one year, the terms of
23 ~~two~~ three members expire in the next year, and the terms of ~~two~~ three members expire in
24 the third year of each three-year period. The members of the Committee shall elect one
25 of their members to serve as chairman of the Committee for a term of one year. The
26 ~~Commission~~ Governor may remove any member of the Committee appointed by him for
27 misconduct, incompetency, or neglect of duty. ~~The Commission shall have the power to~~
28 ~~fill all~~ Successors shall be appointed by the appointing authority making the original
29 ~~appointment.~~ All vacancies occurring on the ~~Committee.~~ Committee shall be filled, for
30 ~~the unexpired term,~~ by the appointing authority making the original appointment.
31 Vacancies in appointments made by the General Assembly shall be filled in accordance
32 with G.S. 120-122.

33 (b) The Committee shall advise the Commission on the implementation and
34 operation of this Article and any other applicable provisions of this Chapter relating to
35 standards and operations of real estate appraiser education programs. The Committee
36 shall propose to the Commission for its adoption rules to implement, administer, and
37 enforce this Article and any other applicable provisions of this Chapter relating to
38 standards and operations of real estate appraiser education programs. In proposing rules
39 to the Commission regarding the qualification requirements and standards of practice
40 for State-licensed and State-certified real estate appraisers, the Committee shall consider
41 the qualifications criteria issued by the Appraiser Qualification Board of the Appraisal
42 Foundation and the Uniform Standards of Professional Appraisal Practice promulgated
43 by the Appraisal Standards Board of the Appraisal Foundation.

1 (b1) The Committee is an occupational licensing agency governed by Chapter
2 150B; its decisions are final agency decisions subject to judicial review under Article 4
3 of Chapter 150B.

4 (c) Members of the Committee shall be paid ~~the~~ per diem allowances at the rates
5 set forth in G.S. 93B-5; provided that none of the expenses of the Committee shall be
6 payable out of the Treasury of the State of North Carolina."

7 Sec. 8. G.S. 93A-80 reads as rewritten:

8 **"§ 93A-80. Disciplinary action by Commission.**

9 (a) The Commission ~~may~~ shall take disciplinary action against State-licensed or
10 State-certified real estate ~~appraisers.~~ appraisers, only as directed by the Real Estate
11 Appraisal Committee. Upon its own motion, the motion of the Appraisal Committee, or
12 ~~on~~ the verified complaint of any person, the Commission may investigate the actions of
13 any person licensed or certified under this Article or any other person who shall assume
14 to act in such capacity. If the ~~Commission~~ Appraisal Committee finds probable cause
15 that a person licensed or certified under this Article has violated any of the provisions of
16 this Chapter, the ~~Commission~~ Appraisal Committee may hold a hearing on the
17 allegations of misconduct.

18 The ~~Commission~~ Appraisal Committee shall have the power to direct the
19 Commission to suspend or revoke at any time the licensure license or certification
20 privileges granted to any person under the provisions of this Article or to reprimand or
21 censure any licensee or certificate holder if, following a hearing, the ~~Commission~~
22 Appraisal Committee finds the licensee or certificate holder to have:

- 23 (1) Procured licensure or certification pursuant to this Article by making a
24 false or fraudulent representation;
- 25 (2) Made any willful or negligent misrepresentation or any willful or
26 negligent omission of material fact;
- 27 (3) Accepted an appraisal assignment when the employment is contingent
28 upon the appraiser reporting a predetermined result, analysis, or
29 opinion, or when the fee to be paid for the performance of the
30 appraisal assignment is contingent upon the opinion, conclusion, or
31 valuation reached or upon consequences resulting from the appraisal
32 assignment;
- 33 (4) Acted or held oneself out as a State-licensed or State-certified real
34 estate appraiser when not so licensed or certified;
- 35 (5) Failed as a State-licensed or State-certified real estate appraiser to
36 actively and personally supervise any person not licensed or certified
37 under this Article who assists the State-licensed or State-certified real
38 estate appraiser in performing real estate appraisals;
- 39 (6) Failed to retain for three years and to make available to the
40 Commission for its inspection without prior notice, originals or true
41 copies of all written contracts engaging his services to appraise real
42 property, and all reports and supporting data assembled and formulated
43 by the appraiser in preparing the reports;

- 1 (7) Paid a fee or valuable consideration to any person for acts or services
 2 performed in violation of this Article;
 3 (8) Acted as a real estate appraiser in such an unworthy or incompetent
 4 manner as to endanger the interest of the public;
 5 (9) Violated any of the standards for the development or communication
 6 of real estate appraisals or any other rule promulgated by the
 7 Commission;
 8 (10) Performed any other act which constitutes improper, fraudulent, or
 9 dishonest conduct; or
 10 (11) Violated any of the provisions of this Chapter.

11 (b) Following a hearing, the ~~Commission~~ Appraisal Committee shall also have
 12 power to direct the Commission to suspend or revoke any license or certificate issued
 13 under the provisions of this Article or to reprimand or censure any licensee or certificate
 14 holder when:

- 15 (1) The licensee or certificate holder has been convicted of, or has entered
 16 a plea of guilty or no contest upon which final judgment is entered by
 17 a court of competent jurisdiction in this State, or any other state, to an
 18 offense involving moral turpitude which would reasonably affect the
 19 performance of the licensee or certificate holder in the real estate
 20 appraisal business; or
 21 (2) A final civil judgment has been entered against the licensee or
 22 certificate holder on grounds of fraud, misrepresentation or deceit in
 23 the making of any appraisal of real estate.

24 (c) When a person licensed or certified under this Article is accused of any act,
 25 omission, or misconduct which would subject him to disciplinary action, the licensee or
 26 certificate holder, with the consent and approval of the ~~Commission~~, Appraisal
 27 Committee, may surrender his license or certificate and all the rights and privileges
 28 pertaining to it for a period of time established by the ~~Commission~~, Appraisal
 29 Committee. A person who surrenders his license or certificate shall not thereafter be
 30 eligible for or submit any application for licensure or certification as a real estate
 31 appraiser during the period that the license or certificate is surrendered."

32 Sec. 9. G.S. 93A-81(b) reads as rewritten:

33 "(b) The Commission ~~may~~ may, on its own motion or at the request of the Real
 34 Estate Appraisal Committee, appear in its own name in superior court in actions for
 35 injunctive relief to prevent any person from violating the provisions of this Article or
 36 rules promulgated by the Commission. The superior court shall have the power to grant
 37 these injunctions whether or not criminal prosecution has been or may be instituted as a
 38 result of the violations, and whether or not the person is the holder of a license or
 39 certificate issued by the Commission under this Article."

40 Sec. 10. Article 6 of Chapter 146 of the General Statutes is amended by
 41 adding a new section to read:

42 "**§ 146-22.2. Appraisal of property to be acquired by State.**

43 Where an appraisal of real estate or an interest in real estate is required by law to be
 44 made before acquisition of the property by the State or an agency of the State, the

1 appraisal shall be made by a real estate appraiser licensed or certified by the State under
2 Article 5 of Chapter 93A of the General Statutes."

3 Sec. 11. Notwithstanding the provisions of G.S. 93A-78, on July 1, 1991, the
4 terms of all members of the Real Estate Appraisal Committee shall expire. Effective for
5 terms to begin July 1, 1991, the new members of the Committee shall be appointed as
6 provided in G.S. 93A-78, as amended by this act. Notwithstanding the provisions of
7 G.S. 93A-78, the terms beginning July 1, 1991, shall be staggered as follows: the
8 appointee recommended by the President Pro Tempore shall serve for two years; the
9 appointee recommended by the President of the Senate and two of the appointees of the
10 Governor shall serve for three years; and the appointee recommended by the Speaker of
11 the House of Representatives and the remaining appointees of the Governor shall serve
12 for four years. When the term of a member beginning July 1, 1991, expires, the next
13 term of that member shall be a three-year term as provided in G.S. 93A-78, as amended
14 by this act.

15 Sec. 12. G.S. 120-123 is amended by adding at the end a new subdivision to
16 read:

17 "(58) The Real Estate Appraisal Committee of the Real Estate Commission created
18 in G.S. 93A-78."

19 Sec. 13. Part I and Section 11 of this act are effective upon ratification. The
20 remainder of this act shall become effective July 1, 1991.