

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H.B. 565
Apr 3, 2013
HOUSE PRINCIPAL CLERK

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HOUSE DRH80167-LUF-90 (03/08)

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

Sponsors: Representatives Szoka, Howard, B. Brown, and Saine (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS REGULATING REAL ESTATE APPRAISERS.

The General Assembly of North Carolina enacts:

SECTION 1. 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, the ~~licensed or certified~~ real estate appraiser and is reviewed and signed by that ~~licensed or certified~~ appraiser."

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

"§ 93E-1-6. Qualifications for registration 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.

(2) Each applicant for certification as a certified residential real estate appraiser shall:

- a. Hold ~~an associate's degree or higher~~ a bachelor's degree from an accredited college, ~~junior college, community college, or university;~~ or have a high school diploma or its equivalent and have successfully completed ~~at least 21 semester credit hours of college courses from~~



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- 1 an accredited college, junior college, community college, or
2 university in English composition, principles of economics, finance,
3 higher mathematics, such as geometry or algebra, statistics,
4 introduction to computers, and business or real estate law;
- 5 b. Demonstrate that the applicant possesses the knowledge and
6 competence necessary to perform appraisals of real property as the
7 Board may prescribe by having satisfactorily ~~completed, within the~~
8 ~~five-year period immediately preceding the date the application is~~
9 ~~made,~~completed a course of instruction, approved by the Board, in
10 real estate appraisal principles and practices consisting of at least 200
11 ~~hours;~~hours. All instructional courses shall have been completed on
12 or after January 1, 2008;
- 13 c. Present evidence satisfactory to the Board of at least 2,500 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 calendar years;
18 and
- 19 d. Satisfy the additional qualifications criteria as may be imposed by the
20 Board by rule, not inconsistent with any requirements imposed by the
21 Appraisal Foundation; or
- 22 e. Possess education and experience which is found by the Board in its
23 discretion to be equivalent to the above requirements.
- 24 (3) Each applicant for certification as a certified general real estate appraiser
25 shall:
- 26 a. Hold a bachelor's degree or higher from an accredited college or
27 university; ~~or have a high school diploma or its equivalent and have~~
28 ~~successfully completed at least 30 semester credit hours of college~~
29 ~~courses from an accredited college or university in English~~
30 ~~composition, macroeconomics and microeconomics, finance, higher~~
31 ~~mathematics, such as geometry or algebra, statistics, introduction to~~
32 ~~computers, and business or real estate law and two elective courses in~~
33 ~~accounting, geography, business management, or real estate;~~
- 34 b. Demonstrate that the applicant possesses the knowledge and
35 competence necessary to perform appraisals of all types of real
36 property by having satisfactorily ~~completed, within the five-year~~
37 ~~period immediately preceding the date application is made,~~completed
38 a course of instruction, approved by the Board, in general real estate
39 appraisal practices consisting of at least 300 ~~hours;~~hours. All
40 instructional courses shall have been completed on or after January 1,
41 2008;
- 42 c. Present evidence satisfactory to the Board of at least 3,000 hours or
43 the minimum requirement as imposed by the Appraisal Foundation,
44 whichever is greater, of experience in real estate appraising within
45 the ~~five-year~~eight-year period immediately preceding the date
46 application is made, and over a period of at least two and one-half
47 calendar years, fifty percent (50%) of which must be in appraising
48 nonresidential real estate; and
- 49 d. Satisfy the additional qualifications criteria as may be imposed by the
50 Board by rule, not inconsistent with any requirements imposed by the
51 Appraisal Foundation; or

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

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

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

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

11 (c1) The Board shall also make an investigation as it deems necessary into the
12 background of the applicant to determine the applicant's qualifications with due regard to the
13 paramount interest of the public as to the applicant's competency, honesty, truthfulness, and
14 integrity. ~~All applicants shall obtain criminal record reports from one or more reporting~~
15 ~~services designated by the Board to provide criminal record reports. Applicants are required to~~
16 ~~pay the designated reporting service for the cost of the reports. All applicants shall consent to a~~
17 ~~criminal history record check. Refusal to consent to a criminal history record check may~~
18 ~~constitute grounds for the Board to deny an application. The Board shall ensure that the State~~
19 ~~and national criminal history of an applicant is checked. The Board shall be responsible for~~
20 ~~providing to the North Carolina Department of Justice the fingerprints of the applicant to be~~
21 ~~checked, a form signed by the applicant consenting to the criminal history record check and the~~
22 ~~use of fingerprints and other identifying information required by the State or National~~
23 ~~Repositories of Criminal Histories, and any additional information required by the Department~~
24 ~~of Justice in accordance with G.S. 114-19.30. The Board shall keep all information obtained~~
25 ~~pursuant to this section confidential. The Board shall collect any fees required by the~~
26 ~~Department of Justice and shall remit the fees to the Department of Justice for expenses~~
27 ~~associated with conducting the criminal history record check.~~

28 (c2) In addition, the Board may investigate and consider whether the applicant has had
29 any disciplinary action taken against any other professional license in North Carolina or any
30 other state, or if the applicant has committed or done any act which, if committed or done by
31 any real estate trainee or appraiser, would be grounds under the provisions hereinafter set forth
32 for disciplinary action including the suspension or revocation of registration, licensure, or
33 certification, or whether the applicant has been convicted of or pleaded guilty to any criminal
34 act. If the results of the investigation shall be satisfactory to the Board, and the applicant is
35 otherwise qualified, then the Board shall issue to the applicant a trainee registration or
36 certificate authorizing the applicant to act as a registered trainee real estate appraiser or
37 certified real estate appraiser in this State.

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

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

42 "**§ 93E-1-6.1. Trainee supervision.**

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

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

50 "**§ 93E-1-8. Education program approval and fees.**

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

12 (b) The Board may by rule set nonrefundable fees chargeable to private real estate
13 appraisal schools or course sponsors, including appraisal trade organizations, for the approval
14 and annual renewal of approval of their ~~prelicensing and precertification~~ qualifying courses
15 required by G.S. 93E-1-6(a), or equivalent courses. The fees shall be one hundred dollars
16 (\$100.00) per course for approval and fifty dollars (\$50.00) per course for renewal of approval.
17 No fees shall be charged for the approval or renewal of approval to conduct appraiser
18 ~~prelicensing or precertification~~ qualifying courses where such courses are offered by a North
19 Carolina college, university, junior college, or community or technical college accredited by
20 the Southern Association of Colleges and Schools, or an agency of the federal, State, or local
21 government.

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

28 (d) Nonrefundable fees of one hundred dollars (\$100.00) per course may be charged to
29 schools and course sponsors for the approval to conduct appraiser continuing education courses
30 and fifty dollars (\$50.00) per course for renewal of approval. However, no fees shall be charged
31 for the approval or renewal of approval to conduct appraiser continuing education courses
32 where such courses are offered by a North Carolina college, university, junior college, or
33 community or technical college accredited by the Southern Association of Colleges and
34 Schools, or by an agency of the federal, State, or local government. A nonrefundable fee of
35 fifty dollars (\$50.00) per course may be charged to current or former licensees or certificate
36 holders requesting approval by the Board of a course for continuing education credit when
37 approval of such course has not been previously obtained by the offering school or course
38 sponsor."

39 **SECTION 5.** Article 1 of Chapter 93E of the General Statutes is amended by
40 adding the following new section to read:

41 **"§ 93E-1-15. Payment of fees by electronic means.**

42 The Board may allow any of its fees to be paid through electronic means. The Board may
43 charge a processing fee for electronic payments that does not exceed the actual cost to the
44 Board for processing electronic payments."

45 **SECTION 6.** G.S. 93E-2-4 reads as rewritten:

46 **"§ 93E-2-4. Qualifications for registration; duties of registrants.**

47 (a) Any person or entity desiring to be registered as an appraisal management company
48 in this State shall make written application to the Board on forms prescribed by the Board
49 setting forth the applicant's qualifications for registration. The application shall be accompanied
50 by the applicable fee under G.S. 93E-2-6 and any other information the Board deems necessary
51 pursuant to rules adopted by the Board. Upon receipt of a properly completed application and

1 fee and upon a determination by the Board that the applicant is of good moral character, the
2 Board shall issue to the applicant a certificate of registration authorizing the applicant to act as
3 a real estate appraisal management company in this State.

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

- 6 (1) Legal name of the entity seeking registration.
- 7 (2) Business address of the entity seeking registration.
- 8 (3) Phone contact information of the entity seeking registration.
- 9 (4) If the entity is not a corporation that is domiciled in this State, the name and
10 contact information for the company's agent for service of process in this
11 State.
- 12 (5) The name, address, and contact information for any individual or any
13 corporation, partnership, or other business entity that owns ten percent
14 (10%) or more of the appraisal management company.
- 15 (6) The name, address, and contact information for the compliance manager.
- 16 (7) A certification that the entity has a system and process in place to verify that
17 a person being added to the appraiser panel of the appraisal management
18 company holds a license in good standing in this State pursuant to the North
19 Carolina Appraisers Act if a license or certification is required to perform
20 appraisals.
- 21 (8) A certification that the entity has a system in place to require that appraisers
22 inform the appraisal management company of their areas of geographic
23 competency, the types of properties the appraiser is competent to appraise,
24 and the methodologies the appraiser is competent to perform.
- 25 (9) A certification that the entity has a system in place to review the work of all
26 independent appraisers that are performing real estate appraisal services for
27 the appraisal management company on a periodic basis to validate that the
28 real estate appraisal services are being conducted in accordance with the
29 Uniform Standards of Professional Appraisal Practice.
- 30 (10) A certification that the entity maintains a detailed record of each service
31 request that it receives and the independent appraiser that performs the
32 residential real estate appraisal services for the appraisal management
33 company.
- 34 (10a) A certification that the entity has established a trust or escrow account in
35 which the portion of all receipts from the entity's clients that are to be paid to
36 appraisers are deposited into the account when the fees are received from the
37 entity's client. The certification shall include the name of the financial
38 institution in which the account is established.
- 39 (11) An irrevocable Uniform Consent to Service of Process.
- 40 (12) Any other information required by the Board pursuant to G.S. 93E-2-3.

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

44 (d) Registered appraisal management companies shall ~~pay fees to an appraiser within~~
45 ~~30 days~~ ensure that appraisers receive fees within 45 days of the date the appraisal is transmitted
46 by the real estate appraiser to the registrant, except in cases of noncompliance with the
47 conditions of the engagement. In such cases, the registrant shall notify the real estate appraiser
48 in writing that the fees will not be paid.

49 (e) To qualify to be registered as an appraisal management company, each individual
50 who owns, directly or indirectly, more than ten percent (10%) of the appraisal management
51 company shall be of good moral character, as determined by the Board, and shall submit all

1 information the Board deems necessary pursuant to the rules adopted by the Board.
2 Additionally, each owner shall certify that he or she has never had a license to act as an
3 appraiser refused, denied, cancelled, or revoked by the State of North Carolina or any other
4 state.

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

9 (g) A registered appraisal management company's trust or escrow account shall be a
10 demand deposit account in a federally insured depository institution lawfully doing business in
11 this State that agrees to make the institution's records of the appraisal management company's
12 trust or escrow account available for inspection by the Commission's representatives."

13 **SECTION 7.** G.S. 93E-2-6 is amended by adding the following new subsection to
14 read:

15 "(d) The Board may allow any of its fees to be paid through electronic means. The Board
16 may charge a processing fee for electronic payments that does not exceed the actual cost to the
17 Board for processing electronic payments."

18 **SECTION 8.** G.S. 93E-2-8 reads as rewritten:

19 "**§ 93E-2-8. Disciplinary authority.**

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

- 27 (1) Filed an application for registration that, as of its effective date or as of any
28 date after filing, contained any statement that, in light of the circumstances
29 under which it was made, is false or misleading with respect to any material
30 fact.
- 31 (2) Violated or failed to comply with any provision of this Article or any rules
32 adopted by the Board.
- 33 (3) Been convicted of any felony or, within the past 10 years, been convicted of
34 any misdemeanor involving mortgage lending or real estate appraisal or any
35 offense involving breach of trust, moral turpitude, or fraudulent or dishonest
36 dealing.
- 37 (4) Been permanently or temporarily enjoined by any court of competent
38 jurisdiction from engaging in or continuing any conduct or practice
39 involving any aspect of the real estate appraisal management business.
- 40 (5) Been the subject of an order of the Board or any other state appraiser
41 regulatory agency denying, suspending, or revoking the person's license as a
42 real estate appraiser.
- 43 (6) Acted as an appraisal management company while not properly licensed by
44 the Board.
- 45 (7) Failed to pay the proper filing or renewal fee under this Article.
- 46 (8) Commingled the appraisal fees owed to appraisers with the appraisal
47 management company's operating or other funds or failed to maintain and
48 deposit in a trust or escrow account in a bank as provided by subsection (g)
49 of this section all fees for appraisers received by the appraisal management
50 company. The trust or escrow account shall not bear interest unless the

1 appraisers authorize in writing the deposit be made in an interest-bearing
2 account and also provide for the disbursement of the interest accrued.

3 (b) The Board may, by order, summarily postpone or suspend the registration of an
4 appraisal management company pending final determination of any proceeding under this
5 section. Upon entering the order, the Board shall promptly notify the registrant that the order
6 has been entered and the reasons for the order. The Board shall calendar a hearing within 15
7 days after the Board receives a written request for a hearing. If a registrant does not request a
8 hearing, the order shall remain in effect until the order is modified or vacated by the Board. If a
9 hearing is requested, after notice of and opportunity for hearing, the Board may modify or
10 vacate the order or extend the order until the Board makes its final determination.

11 (c) The Board may, by order, impose a civil penalty upon a registrant or any partner,
12 officer, director, compliance manager, or other person occupying a similar status or performing
13 similar functions on behalf of a registrant for any violation of this Article. The civil penalty
14 shall not exceed ten thousand dollars (\$10,000) for each violation of this Article.

15 (d) In addition to other powers under this Article, upon finding that any action of a
16 person is in violation of this Article, the Board may order the person to cease from the
17 prohibited action. If the person subject to the order fails to appeal the order of the Board or the
18 person appeals the order and the appeal is denied or dismissed and the person continues to
19 engage in the prohibited action in violation of the Board's order, the person shall be subject to a
20 civil penalty of up to twenty-five thousand dollars (\$25,000) for each violation of the order.
21 The penalty provision of this section shall be in addition to and not in lieu of any other
22 provision of law applicable to a registrant for the registrant's failure to comply with an order of
23 the Board.

24 (e) Unless otherwise provided, all actions and hearings under this Article shall be
25 governed by Article 3A of Chapter 150B of the General Statutes.

26 (f) When a registrant is accused of any act, omission, or misconduct that would subject
27 the registrant to disciplinary action, the registrant, with the consent and approval of the Board,
28 may surrender the registrant's registration and all the rights and privileges pertaining to the
29 registrant for a minimum period of five years. A person who surrenders a registration shall not
30 be eligible for or submit any application for registration during the period the registration is
31 surrendered.

32 (g) If the Board has reasonable grounds to believe that an appraisal management
33 company has violated the provisions of this Article or that facts exist that would be the basis for
34 an order against an appraisal management company, the Board may at any time, either
35 personally or by a person duly designated by the Board, investigate or examine the books,
36 accounts, records, and files of any registrant or other person relating to the complaint or matter
37 under investigation. All financial records related to the trust or escrow account required by
38 subdivision (a)(8) of this section shall be subject to audit for cause and to random audit at the
39 discretion of and by the Board. The Board may inspect these records periodically without prior
40 notice. The appraisal management company shall provide written authorization to the bank that
41 holds the escrow or trust account to release any and all requested information relative to the
42 account to the parties authorized under this section to inspect those records.

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

48 (h) The Board shall have the power to issue subpoenas requiring the attendance of
49 persons and the production of papers and records before the Board in any hearing,
50 investigation, inquiry, or other proceeding conducted by the Board. Upon the production of any
51 papers, records, or documents, the Board shall have the power to authorize true copies of the

1 papers, records, or documents to be substituted in the permanent record of the matter in which
2 the books, records, or documents shall have been introduced in evidence. The Board shall be
3 exempt from the requirements of Chapter 53B of the General Statutes with regard to subpoenas
4 issued to compel the production of a licensee's trust account records held by an appraisal
5 management company.

6 (i) Upon a request by the Board and with reasonable notice, an appraisal management
7 company shall produce within this State all books and records related to real estate appraisal
8 management services provided for properties located in North Carolina."

9 **SECTION 9.** G.S. 93E-2-9 is amended by adding the following new subsection to
10 read:

11 "(c1) Every appraisal management company shall maintain complete records showing the
12 deposit, maintenance, and withdrawal of appraisal fees held in escrow or in trust for appraisers.
13 The Board may require the appraisal management company to send copies of these records to
14 the Board. The chief executive or financial officer of the appraisal management company shall
15 certify under oath that the copies are true and accurate copies of the appraisal management
16 company's records. The appraisal management company shall pay all expenses associated with
17 the provision of these records to the Board."

18 **SECTION 10.** G.S. 114-19.30 reads as rewritten:

19 "**§ 114-19.30. Criminal history record checks of applicants for trainee registration,**
20 **appraiser certification, or registrants for registration as real estate appraisal**
21 **management companies.**

22 The Department of Justice may provide to the North Carolina Appraisal Board from the
23 State and National Repositories of Criminal Histories the criminal history of any applicant or
24 registrant for registration under Article 1 and Article 2 of Chapter 93E of the General Statutes.
25 Along with the request, the Board shall provide to the Department of Justice the fingerprints of
26 the applicant or registrant, a form signed by the applicant or registrant consenting to the
27 criminal history record check and use of fingerprints and other identifying information required
28 by the State and National Repositories, and any additional information required by the
29 Department of Justice. The applicant's or registrant's fingerprints shall be forwarded to the State
30 Bureau of Investigation for a search of the State's criminal history record file, and the State
31 Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of
32 Investigation for a national criminal history record check. The Board shall keep all information
33 obtained pursuant to this section confidential. The Department of Justice may charge a fee to
34 offset the cost incurred by the Department to conduct a criminal history record check under this
35 section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving
36 the information."

37 **SECTION 11.** This act becomes effective July 1, 2014.