

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

**SESSION LAW 2013-403
HOUSE BILL 565**

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 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;
 - b. Demonstrate to the Board that the applicant possesses the knowledge and competence necessary to perform appraisals of real property by having satisfactorily completed a course of instruction consisting of at least 150 hours of classroom instruction in subjects determined by the Board. All instructional courses must be completed on or after January 1, 2008;
 - c. Present evidence satisfactory to the Board of at least 2,500 hours, or the minimum requirement as imposed by the federal government, whichever is greater, of experience in real estate appraising within the eight-year period immediately preceding the date the application is made and over a period of at least two calendar years; and
 - d. Satisfy the additional qualifications criteria as may be imposed by the Board by rule, not inconsistent with any requirements imposed by the federal government, or shall possess education and experience which



is found by the Board in its discretion to be equivalent to the above requirements.

- (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 an accredited college, junior college, community college, or university in English composition, principles of economics, finance, higher mathematics, such as geometry or algebra, statistics, introduction to computers, and business or real estate law;~~
 - b. Demonstrate that the applicant possesses the knowledge and competence necessary to perform appraisals of real property as the Board may prescribe by having satisfactorily ~~completed, within the five-year period immediately preceding the date the application is made,~~ completed a course of instruction, approved by the Board, in real estate appraisal principles and practices consisting of at least 200 ~~hours;~~ hours. All instructional courses shall have been completed on or after January 1, 2008;
 - c. Present evidence satisfactory to the Board of at least 2,500 hours or the minimum requirement as imposed by the Appraisal Foundation, whichever is greater, of experience in real estate appraising within the ~~five-year~~ eight-year period immediately preceding the date application is made, and over a period of at least two calendar years; and
 - d. Satisfy the additional qualifications criteria as may be imposed by the Board by rule, not inconsistent with any requirements imposed by the Appraisal Foundation; or
 - e. Possess education and experience which is found by the Board in its discretion to be equivalent to the above requirements.
- (3) Each applicant for certification as a certified general real estate appraiser shall:
- a. ~~Hold a bachelor's degree or higher from an accredited college or university; or have a high school diploma or its equivalent and have successfully completed at least 30 semester credit hours of college courses from an accredited college or university in English composition, macroeconomics and microeconomics, finance, higher mathematics, such as geometry or algebra, statistics, introduction to computers, and business or real estate law and two elective courses in accounting, geography, business management, or real estate;~~
 - b. Demonstrate that the applicant possesses the knowledge and competence necessary to perform appraisals of all types of real property by having satisfactorily ~~completed, within the five-year period immediately preceding the date application is made,~~ completed a course of instruction, approved by the Board, in general real estate appraisal practices consisting of at least 300 ~~hours;~~ hours. All instructional courses shall have been completed on or after January 1, 2008;
 - c. Present evidence satisfactory to the Board of at least 3,000 hours or the minimum requirement as imposed by the Appraisal Foundation, whichever is greater, of experience in real estate appraising within the ~~five-year~~ eight-year period immediately preceding the date application is made, and over a period of at least two and one-half calendar years, fifty percent (50%) of which must be in appraising nonresidential real estate; and
 - d. Satisfy the additional qualifications criteria as may be imposed by the Board by rule, not inconsistent with any requirements imposed by the Appraisal Foundation; or

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

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

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

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

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

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

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

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

"§ 93E-1-6.1. Trainee supervision.

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

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

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

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

directly to the Appraiser Qualifications Board as required by the Appraiser Qualifications Board for the approval.

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

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

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

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

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

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

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

- (1) Legal name of the entity seeking registration.
- (2) Business address of the entity seeking registration.
- (3) Phone contact information of the entity seeking registration.
- (4) If the entity is not a corporation that is domiciled in this State, the name and contact information for the company's agent for service of process in this State.
- (5) The name, address, and contact information for any individual or any corporation, partnership, or other business entity that owns ten percent (10%) or more of the appraisal management company.
- (6) The name, address, and contact information for the compliance manager.
- (7) A certification that the entity has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a license in good standing in this State pursuant to the North Carolina Appraisers Act if a license or certification is required to perform appraisals.
- (8) A certification that the entity has a system in place to require that appraisers inform the appraisal management company of their areas of geographic

competency, the types of properties the appraiser is competent to appraise, and the methodologies the appraiser is competent to perform.

- (9) A certification that the entity has a system in place to review the work of all independent appraisers that are performing real estate appraisal services for the appraisal management company on a periodic basis to validate that the real estate appraisal services are being conducted in accordance with the Uniform Standards of Professional Appraisal Practice.
- (10) A certification that the entity maintains a detailed record of each service request that it receives and the independent appraiser that performs the residential real estate appraisal services for the appraisal management company.
- (10a) A certification that the entity has obtained a surety bond as required by this Article.
- (11) An irrevocable Uniform Consent to Service of Process.
- (12) Any other information required by the Board pursuant to G.S. 93E-2-3.

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

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

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

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

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

- (1) The bond shall be in a form satisfactory to the Board.
- (2) The bond will accrue to the Board for the benefit of a claimant against the registrant to secure the faithful performance of the registrant's obligations under this Article and to a real estate appraiser who has performed an appraisal for the registrant for which the appraiser has not been paid.
- (3) The aggregate liability of the surety shall not exceed the principal sum of the bond.
- (4) A party having a claim against the registrant may bring suit directly on the surety bond, or the Board may bring suit on behalf of the party having a claim against the registrant, either in one action or in successive actions.
- (5) A claim reducing the face amount of the bond shall be annually restored upon renewal of the registrant's registration.
- (6) The bond shall remain in effect until cancellation, which may occur only after 90 days written notice to the Board. Cancellation shall not affect any liability incurred or accrued during that period.
- (7) The surety bond shall remain in place for no less than two years after the registrant ceases operations in this State. However, notwithstanding this provision, the Board may permit the surety bond to be reduced or eliminated prior to that time to the extent that the amount of the registrant's outstanding obligations to appraisers is reduced."

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

"§ 93E-2-8. Disciplinary authority.

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

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

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

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

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

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

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

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

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

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

- (1) The need for the fund and whether a surety bond is adequate.
- (2) Review any existing recovery funds in other states for efficacy and appropriateness.
- (3) Review other similar consumer protection funds in other regulated settings, and the funds that protect the consumer and the licensee.
- (4) Conduct a cost benefit analysis of the recovery fund.
- (5) Consider the financial impact of the fund on licensees.
- (6) Any other matters the Commission finds relevant to the issue.

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

In the General Assembly read three times and ratified this the 23rd day of July, 2013.

s/ Louis M. Pate, Jr.
Deputy President Pro Tempore of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 10:49 a.m. this 23rd day of August, 2013