

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 827
HOUSE BILL 2050

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, TO REDESIGNATE IT A BOARD, 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.
- (4) 'Appraisal report' means any communication, written or oral, of an appraisal.
- (5) 'Certificate' means that document issued by the North Carolina Real Estate Commission evidencing that the person named therein has satisfied the requirements for certification as a State-certified real estate appraiser and bearing a certificate number assigned by the Commission.
- (6) 'Certificate holder' means a person certified by the Commission under the provisions of this Article.
- (7) 'Certified appraisal' means any appraisal performed by a State-certified real estate appraiser and represented as being 'certified'.
- (8) 'Certified appraisal report' means any communication, written or oral, of an appraisal by a State-certified real estate appraiser which is represented as being 'certified'.

- (9) 'Commission' means the North Carolina Real Estate Commission.
- (10) 'License' means that document issued by the North Carolina Real Estate Commission evidencing that the person named therein has satisfied the requirements for licensure as a State-licensed real estate appraiser and bearing a license number assigned by the Commission.
- (11) 'Licensee' means a person licensed by the Commission under the provisions of this Article.
- (12) 'Real estate' or 'real property' means land, including the air above and ground below and all appurtenances and improvements thereto, as well as any interest or right inherent in the ownership of land.
- (13) 'Real Estate Appraisal Committee', 'Appraisal Committee' or 'Committee' means the body established by the Commission pursuant to the provisions of this Article.
- (14) 'Real estate appraiser' or 'appraiser' means a person who for a fee or valuable consideration develops and communicates real estate appraisals or otherwise gives an opinion of the value of real estate or any interest therein.
- (15) 'Real estate appraising' means the practice of developing and communicating real estate appraisals.
- (16) 'Residential real estate' means any parcel of real estate, improved or unimproved, that is exclusively residential in nature and that includes or is intended to include a residential structure containing not more than four dwelling units and no other improvements except those which are typical residential improvements that support the residential use for the location and property type. A residential unit in a condominium, townhouse, or cooperative complex or a planned unit development is considered to be residential real estate.
- (16a) 'State-certified general real estate appraiser' means a person who holds a current, valid certificate as a State-certified general real estate appraiser issued under the provisions of this Article.
- (17) 'State-certified residential real estate appraiser' means a person who holds a current, valid certificate as a State-certified residential real estate appraiser issued under the provisions of this Article.
- (18) 'State-licensed residential real estate appraiser' means a person who holds a current, valid license as a State-licensed residential real estate appraiser issued under the provisions of this Article."

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

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

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

- (1) Each applicant for licensure as a State-licensed residential real estate appraiser shall have demonstrated to the satisfaction of the Commission that he possesses the knowledge and competence necessary to perform appraisals of residential and other real estate as the Commission may prescribe by having satisfactorily completed, within the five-year period immediately preceding the date application is made, through a school approved by the Commission, a course of instruction in real estate appraisal principles and practices consisting of at least 90 hours of classroom instruction in subjects determined by the Commission, and shall satisfy such additional qualifications as may be required to render North Carolina State-licensed residential real estate appraisers eligible to perform appraisals in connection with federally-related transactions requiring the use of a State-licensed residential real estate appraiser; or the applicant shall possess education or experience which is found by the Commission to be equivalent to the above requirements.
- (1b) Each applicant for certification as a State-certified residential real estate appraiser shall have demonstrated to the satisfaction of the Commission that he possesses the knowledge and competence necessary to perform appraisals of residential and other real estate as the Commission may prescribe by having satisfied all education requirements for licensure as a State-licensed residential real estate appraiser; shall present evidence satisfactory to the Commission of at least two years of full-time experience in real estate appraising within the five-year period immediately preceding the date application is made; and shall satisfy such additional qualifications criteria as may be promulgated by the Appraiser Qualifications Board of The Appraisal Foundation for residential real estate appraisers.
- (2) Each applicant for certification as a State-certified general real estate appraiser shall have demonstrated to the satisfaction of the Commission that he possesses the knowledge and competence necessary to perform appraisals of all types of real estate by having satisfactorily completed, within the five-year period immediately preceding the date application is made, through a school approved by the Commission, a course of instruction in general real estate appraisal practices consisting of at least 90 hours of classroom instruction in subjects determined by the Commission, such course of instruction to be in addition to the education required for licensure as a State-licensed residential real estate ~~appraiser, appraiser, and~~ shall present evidence satisfactory to the Commission of at least two years of full-time experience in real estate appraising within the five-year period immediately preceding the date application is ~~made, made;~~ and shall satisfy such additional qualifications criteria as may be ~~required to render North Carolina State-certified real estate appraisers eligible to~~

~~perform appraisals in connection with federally related transactions requiring the use of a State certified real estate appraiser; promulgated by the Appraiser Qualifications Board of The Appraisal Foundation for general real estate appraisers; or the applicant shall possess education or experience which is found by the Commission to be equivalent to the above requirements.~~

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

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

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

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

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

PART II.

Sec. 5. G.S. 93A-72(13) reads as rewritten:

"§ 93A-72. Definitions.

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

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- (13) 'Real Estate Appraisal ~~Committee Board~~', 'Appraisal ~~Committee Board~~' or '~~Committee Board~~' means the body established by ~~the Commission pursuant to the provisions of this Article.~~ G.S. 93A-78.
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Sec. 6. G.S. 93A-73, as amended by Part I of this act, reads as rewritten:

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

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

- (1) Each applicant for licensure as a State-licensed residential real estate appraiser shall have demonstrated to the satisfaction of the ~~Commission~~ Real Estate Appraisal Board that he possesses the knowledge and competence necessary to perform appraisals of residential and other real estate as the Commission may prescribe by having satisfactorily completed, within the five-year period immediately preceding the date application is made, through a school approved by the Commission, a course of instruction in real estate appraisal principles and practices consisting of at least 90 hours of classroom instruction in subjects determined by the ~~Commission~~ Appraisal Board; and shall satisfy such additional qualifications as may be required to render North Carolina State-licensed residential real estate appraisers eligible to perform appraisals in connection with federally-related transactions requiring the use of a State-licensed residential real estate appraiser; or ~~the applicant~~ shall possess education or experience which is found by the ~~Commission~~ Appraisal Board to be equivalent to the above requirements.
- (1b) Each applicant for certification as a State-certified residential real estate appraiser shall have demonstrated to the satisfaction of the ~~Commission~~ Real Estate Appraisal Board that he possesses the knowledge and competence necessary to perform appraisals of residential and other real estate as the Commission may prescribe by having satisfied all education requirements for licensure as a State-licensed residential real estate appraiser; shall present evidence satisfactory to the ~~Commission~~ Appraisal Board of at least two years of full-time experience in real estate appraising within the five-year period immediately preceding the date application is made; and shall satisfy such additional qualifications criteria as may be promulgated by the Appraiser Qualifications Board of The Appraisal Foundation for residential real estate appraisers.
- (2) Each applicant for certification as a State-certified general real estate appraiser shall have demonstrated to the satisfaction of the ~~Commission~~ Real Estate Appraisal Board that he possesses the knowledge and competence necessary to perform appraisals of all types of real estate by having satisfactorily completed, within the five-year period immediately preceding the date application is made, through a school approved by the Commission, a course of instruction

in general real estate appraisal practices consisting of at least 90 hours of classroom instruction in subjects determined by the ~~Commission, Appraisal Board,~~ such course of instruction to be in addition to the education required for licensure as a State-licensed residential real estate appraiser; shall present evidence satisfactory to the ~~Commission Appraisal Board~~ of at least two years of full-time experience in real estate appraising within the five-year period immediately preceding the date application is made; and shall satisfy such additional qualifications criteria as may be promulgated by the Appraiser Qualifications Board of The Appraisal Foundation for general real estate appraisers; or the applicant shall possess education or experience which is found by the ~~Commission Appraisal Board~~ to be equivalent to the above requirements.

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

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

Sec. 7. G.S. 93A-74(b) reads as rewritten:

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

Sec. 8. G.S. 93A-78, as amended by Part I of this act, reads as rewritten:

"§ 93A-78. Real Estate Appraisal ~~Committee~~ Board.

(a) ~~The Commission shall appoint~~ There is created a Real Estate Appraisal ~~Committee Board~~ Board for the purpose of rendering advice and assistance to the ~~Commission.~~ Commission and for the other purposes set forth in this Article. To the extent possible, the membership of the ~~Committee Board~~ Board shall be representative of the members of the real estate appraisal business. The ~~Committee Board~~ Board shall consist of

~~five members, seven members. The Governor shall appoint five members of the Board. The General Assembly shall appoint two members in accordance with G.S. 120-121, one upon recommendation of the President Pro Tempore of the Senate, and one upon recommendation of the Speaker of the House of Representatives. three of whom The appointee recommended by the Speaker of the House of Representatives, and at least four of the appointees of the Governor shall be persons who have been engaged in the business of real estate appraising in this State for not less than at least five years immediately preceding their appointment, and, if appointed to the Committee after January 1, 1991, shall also be appointment and are also State-licensed or State-certified real estate appraisers. The appointee recommended by the President Pro Tempore of the Senate and at least one of the appointees of the Governor shall be persons who are not involved directly or indirectly in the real estate, real estate appraisal, or real estate lending industry. Members of the Committee Board shall serve three-year terms, so staggered that the term of one member expires in one year, the terms of two members expire in the next year, and the terms of two members expire in the third year of each three year period. The members of the Committee Board shall elect one of their members to serve as chairman of the Committee for a term of one year. The Commission Governor may remove any member of the Committee Board appointed by him for misconduct, incompetency, or neglect of duty. The Commission shall have the power to fill all Successors shall be appointed by the appointing authority making the original appointment. All vacancies occurring on the Committee Board shall be filled, for the unexpired term, by the appointing authority making the original appointment. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.~~

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

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

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

Sec. 9. G.S. 93A-79(d) reads as rewritten:

"(d) All fees collected by the Commission under this Article shall be deposited into the operating account of the Commission. None of the expenses incurred by the Commission in administering this Article, including the compensation of expenses of the Real Estate Appraisal ~~Committee~~ Board or any officer or employee of the Commission, may be paid or payable out of the Treasury of the State of North Carolina, and the Real Estate Appraisal ~~Committee~~ Board may not make or incur any expense, debt or other financial obligation binding upon the Commission or the State of North Carolina."

Sec. 10. G.S. 93A-80 reads as rewritten:

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

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

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

- (1) Procured licensure or certification pursuant to this Article by making a false or fraudulent representation;
- (2) Made any willful or negligent misrepresentation or any willful or negligent omission of material fact;
- (3) Accepted an appraisal assignment when the employment is contingent upon the appraiser reporting a predetermined result, analysis, or opinion, or when the fee to be paid for the performance of the appraisal assignment is contingent upon the opinion, conclusion, or valuation reached or upon consequences resulting from the appraisal assignment;
- (4) Acted or held oneself out as a State-licensed or State-certified real estate appraiser when not so licensed or certified;
- (5) Failed as a State-licensed or State-certified real estate appraiser to actively and personally supervise any person not licensed or certified under this Article who assists the State-licensed or State-certified real estate appraiser in performing real estate appraisals;
- (6) Failed to retain for three years and to make available to the Commission for its inspection without prior notice, originals or true copies of all written contracts engaging his services to appraise real

property, and all reports and supporting data assembled and formulated by the appraiser in preparing the reports;

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

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

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

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

Sec. 11. G.S. 93A-81(b) reads as rewritten:

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

Sec. 12. Article 6 of Chapter 146 of the General Statutes is amended by adding a new section to read:

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

Where an appraisal of real estate or an interest in real estate is required by law to be made before acquisition of the property by the State or an agency of the State, the appraisal shall be made by a real estate appraiser licensed or certified by the State under Article 5 of Chapter 93A of the General Statutes."

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

Sec. 14. G.S. 120-123 is amended by adding at the end a new subdivision to read:

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

Sec. 15. Part I and Sections 13 and 15 of this act are effective upon ratification. The remainder of this act shall become effective July 1, 1991.

In the General Assembly read three times and ratified this the 3rd day of July, 1990.