

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 1066
Commerce Committee Substitute Adopted 6/26/01
Finance Committee Substitute Adopted 7/12/01

Short Title: Amend Appraisers Act.

(Public)

Sponsors:

Referred to:

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS REGULATING REAL ESTATE APPRAISERS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 93E of the General Statutes is amended as follows:

"Chapter 93E.

"North Carolina Appraisers Act.

"Article 1.

"Real Estate Appraiser.

"§ 93E-1-1. Title.

This Chapter shall be known and may be cited as the "North Carolina Appraisers Act".

"§ 93E-1-2: Repealed by Session Laws 1995, c. 482, s. 12.

"§ 93E-1-2.1. Registration, license license, or certificate required of real estate appraisers.

Beginning October 1, 1995, it shall be unlawful for any person in this State to act as a real estate appraiser, to directly or indirectly engage or assume to engage in the business of real estate appraisal, or to advertise or hold himself or herself out as engaging in or conducting the business of real estate appraisal without first obtaining a registration, license license, or certificate issued by the Appraisal Board under the provisions of this Chapter. It shall also be unlawful, with regard to any real property where any portion of that property is located within this State, for any person to perform any of the acts listed above without first being registered, licensed, or certified by the Appraisal Board under the provisions of this Chapter.

"§ 93E-1-3. When registration, license license, or certificate not required.

(a) No trainee registration, license 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, State-licensed or

1 State-certified real estate appraiser from rendering appraisals for or on behalf of a
2 partnership, association, corporation, firm, or group, provided the appraisal report is
3 prepared by a State-licensed or State-certified real estate appraiser or by a registered
4 trainee under the immediate personal direction of, the State-licensed or State-certified
5 real estate appraiser and is reviewed and signed by that State-licensed or State-certified
6 appraiser.

7 ~~(b) Any person who is not State licensed or State certified under this Chapter
8 may assist a State licensed or State certified real estate appraiser in the performance of
9 an appraisal provided that the person is registered trainee and is actively and personally
10 supervised by a State certified appraiser and provided further that any appraisal report
11 rendered in connection with the appraisal is reviewed and signed by the State-certified
12 real estate appraiser.~~

13 (c) Nothing in this Chapter shall preclude a real estate broker or salesman
14 licensed under Chapter 93A of the General Statutes from performing a comparative
15 market analysis, ~~analysis as defined in G.S. 93E-1-4,~~ provided the person does not
16 represent himself or herself as being a registered trainee or a State-licensed or
17 State-certified ~~as a~~ real estate appraiser. A real estate broker or salesperson may perform
18 a comparative market analysis for compensation or other valuable consideration only
19 for prospective or actual brokerage clients or for real property involved in an employee
20 relocation program.

21 (d) Nothing in this Chapter shall abridge, infringe upon, or otherwise restrict the
22 right to use the term "certified ad valorem tax appraiser" or any similar term by persons
23 certified by the Department of Revenue to perform ad valorem tax appraisals, provided
24 that the term is not used in a manner that creates the impression of certification by the
25 State to perform real estate appraisals other than ad valorem tax appraisals.

26 (e) Nothing in this Chapter shall entitle a registered trainee or a State-licensed or
27 State-certified real estate appraiser to appraise real estate for ad valorem tax purposes
28 unless the person has first been certified by the Department of Revenue pursuant to G.S.
29 105-294.

30 (f) A trainee registration, license license, or certificate is not required under this
31 Chapter for:

- 32 (1) Any person, partnership, association, or corporation that performs
33 appraisals of property owned by that person, partnership, association,
34 or corporation for the sole use of that person, partnership, association,
35 or corporation;
- 36 (2) Any court-appointed commissioner who conducts an appraisal
37 pursuant to a judicially ordered evaluation of property;
- 38 (3) Any person to qualify as an expert witness for court or administrative
39 agency testimony, if otherwise qualified;
- 40 (4) A person who appraises standing timber so long as the appraisal does
41 not include a determination of value of any land;

1 (5) Any person employed by a lender in the performance of appraisals
2 with respect to which federal regulations do not require a licensed or
3 certified appraiser; and

4 (6) A person who performs ad valorem tax appraisals and is certified by
5 the Department of Revenue under G.S. 105-294 or G.S. 105-296;

6 however, any person who is registered, licensed, or certified under this Chapter and who
7 performs any of the activities set forth in subdivisions (1) through (5) of this subsection
8 must comply with all of the provisions of this Chapter.

9 **"§ 93E-1-3.1. Prohibited use of title; permissible use of title.**

10 (a) It shall be unlawful for any person to assume or use the title "registered
11 trainee", "State-licensed real estate appraiser", "State-certified real estate appraiser", or
12 any ~~title designation~~ title, designation, or abbreviation likely to create the impression of
13 ~~registration, licensure~~ licensure, or certification as a real estate appraiser, unless the
14 person is ~~registered, licensed~~ licensed, or certified by the Appraisal Board in accordance
15 with the provisions of this Chapter. The Board may adopt for the exclusive use of
16 persons licensed or certified under the provisions of this Chapter, a seal, symbol, or
17 other mark identifying the user as a State-licensed or State-certified real estate
18 appraiser.

19 (b) Any person certified as a real estate appraiser by an appraisal trade
20 organization shall retain the right to use the term "certified" or any similar term in
21 identifying the person to the public, provided that:

22 (1) In each instance wherein the term is used, the name of the certifying
23 organization or body is prominently and conspicuously displayed
24 immediately adjacent to the term; and

25 (2) The use of the term does not create the impression of certification by
26 the State. This subsection does not entitle any person certified only by
27 a trade organization to conduct an appraisal that requires a State
28 registration, license, or certification.

29 (c) The term "registered trainee", "State-licensed real estate appraiser",
30 "State-certified real estate appraiser", or any similar term shall not be used following or
31 immediately in connection with the name of a partnership, association, corporation, or
32 other firm or group, or in a manner that might create the impression of registration,
33 ~~licensure~~ licensure, or certification as a real estate appraiser under this Chapter.

34 **"§ 93E-1-4. Definitions.**

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

36 (1) "Appraisal" or "real estate appraisal" means an analysis, opinion, or
37 conclusion as to the value of identified real estate or specified interests
38 therein performed for compensation or other valuable consideration.

39 (2) "Appraisal assignment" means an engagement for which an appraiser
40 is employed or retained to act, or would be perceived by third parties
41 or the public as acting, as a disinterested third party in rendering an
42 unbiased appraisal.

- 1 (3) "Appraisal Board" or "Board" means the North Carolina Appraisal
2 Board established under G.S. 93E-1-5.
- 3 (4) "Appraisal Foundation" or "Foundation" means The Appraisal
4 Foundation established on November 20, 1987, as a not-for-profit
5 corporation under the laws of Illinois.
- 6 (5) "Appraisal report" means any communication, written or oral, of an
7 appraisal.
- 8 (6) "Certificate" means that document issued by the North Carolina
9 Appraisal Board evidencing that the person named therein has satisfied
10 the requirements for certification as a State-certified real estate
11 appraiser and bearing a certificate number assigned by the Board.
- 12 (7) "Certificate holder" means a person certified by the Board under the
13 provisions of this Chapter.
- 14 (7a) "Comparative market analysis" means the analysis of sales of similar
15 recently sold properties in order to derive an indication of the probable
16 sales price of a particular property by a licensed real estate broker or
17 ~~salesperson for the broker's or salesperson's principal. salesperson.~~
- 18 (8) "License" means that document issued by the North Carolina
19 Appraisal Board evidencing that the person named therein has satisfied
20 the requirements for licensure as a State-licensed real estate appraiser
21 and bearing a license number assigned by the Board.
- 22 (9) "Licensee" means a person licensed by the Board under the provisions
23 of this Chapter.
- 24 (10) "Real estate" or "real property" means land, including the air above
25 and ground below and all appurtenances and improvements thereto, as
26 well as any interest or right inherent in the ownership of land.
- 27 (11) "Real estate appraiser" or "appraiser" means a person who for a fee or
28 valuable consideration develops and communicates real estate
29 appraisals or otherwise gives an opinion of the value of real estate or
30 any interest therein.
- 31 (12) "Real estate appraising" means the practice of developing and
32 communicating real estate appraisals.
- 33 (13) "Residential real estate" means any parcel of real estate, improved or
34 unimproved, that is exclusively residential in nature and that includes
35 or is intended to include a residential structure containing not more
36 than four dwelling units and no other improvements except those
37 which are typical residential improvements that support the residential
38 use for the location and property type. A residential unit in a
39 condominium, town house, or cooperative complex, or planned unit
40 development is considered to be residential real estate.

- 1 (14) "State-certified general real estate appraiser" means a person who
2 holds a current, valid certificate as a State-certified general real estate
3 appraiser issued under the provisions of this Chapter.
- 4 (15) "State-certified residential real estate appraiser" means a person who
5 holds a current, valid certificate as a State-certified residential real
6 estate appraiser issued under the provisions of this Chapter.
- 7 (16) "State-licensed residential real estate appraiser" means a person who
8 holds a current, valid license as a State-licensed residential real estate
9 appraiser issued under the provisions of this Chapter.
- 10 (17) "Temporary appraiser licensure or certification" means the issuance of
11 a temporary license or certificate by the Board to a person licensed or
12 certified in another state who enters this State for the purpose of
13 completing a particular appraisal assignment.
- 14 (18) "Trainee", "registered trainee", or "trainee real estate appraiser" means
15 a person who ~~has satisfied the requirements to be registered as a~~
16 ~~trainee pursuant to G.S. 93E-1-6, but who has not satisfied the~~
17 ~~experience and other requirements set forth in G.S. 93E-1-6 to be~~
18 ~~licensed as a~~ holds a current, valid registration as a trainee real estate
19 ~~appraiser.~~ appraiser issued under the provisions of this Chapter.
- 20 (19) "Trainee registration" or "registration as a trainee" means the
21 document issued by the North Carolina Appraisal Board evidencing
22 that the person named therein has satisfied the requirements of
23 registration as a trainee real estate appraiser and bearing a registration
24 number assigned by the Board.

25 **"§ 93E-1-5. Appraisal Board.**

26 (a) There is created the North Carolina Appraisal Board for the purposes set forth
27 in this Chapter. The Board shall consist of seven members. The Governor shall appoint
28 five members of the Board, and the General Assembly shall appoint two members in
29 accordance with G.S. 120-121, one upon the recommendation of the President Pro
30 Tempore of the Senate and one upon the recommendation of the Speaker of the House
31 of Representatives. ~~Each member~~ Members appointed by the Governor shall be
32 appointed from ~~a different congressional district.~~ geographically diverse areas of the
33 State. The appointee recommended by the Speaker of the House of Representatives and
34 the appointees of the Governor shall be persons who have been engaged in the business
35 of real estate appraising in this State for at least five years immediately preceding their
36 appointment and are also State-licensed or State-certified real estate appraisers. No
37 more than ~~four~~ three of the appointees may be members of the same appraiser trade
38 ~~organization, group, or committee~~ organization at any one time. The appointee
39 recommended by the President Pro Tempore of the Senate shall be a person not
40 involved directly or indirectly in the real estate, real estate appraisal, or the real estate
41 lending industry. Members of the Board shall serve three-year terms, so staggered that
42 the terms of three members expire in one year, the terms of two members expire in the

1 next year, and the terms of two members expire in the third year of each three-year
2 period. The members of the Board shall elect one of their members to serve as chairman
3 of the Board for a term of one year. The Governor may remove any member of the
4 Board appointed by the Governor for misconduct, incompetency, or neglect of duty.
5 The General Assembly may remove any member appointed by it for the same reasons.
6 Successors shall be appointed by the appointing authority making the original
7 appointment. All vacancies occurring on the Board shall be filled, for the unexpired
8 term, by the appointing authority making the original appointment. Vacancies in
9 appointments made by the General Assembly shall be filled in accordance with G.S.
10 120-122. Initial terms of office ~~commence~~ commenced July 1, 1994.

11 (b) The Board is an occupational licensing agency governed by Chapter 150B of
12 the General Statutes; its decisions are final agency decisions subject to judicial review
13 under Article 4 of Chapter 150B of the General Statutes.

14 (c) Members of the Board shall be paid the per diem, subsistence, and travel
15 allowances at the rates set forth in G.S. 93B-5; provided that none of the expenses of the
16 Board or the compensation or expenses of any officer or employee thereof shall be
17 payable out of the treasury of the State of North Carolina; the total expenses of the
18 administration of this Chapter shall not exceed the total income therefrom; and neither
19 the Board nor any officer or employee thereof shall have any power or authority to
20 make or incur any expense, debt, or other financial obligation binding upon the State of
21 North Carolina.

22 (d) The Board shall adopt a seal for its use, which shall bear thereon the words
23 "North Carolina Appraisal Board". Copies of all papers in the office of the Board duly
24 certified and authenticated by the seal of the Board shall be received in evidence in all
25 courts and administrative bodies and with like effect as the originals.

26 (e) The Board may employ an Executive Director and professional and clerical
27 staff as may be necessary to carry out the provisions of this Chapter and to put into
28 effect the rules that the Board may promulgate. The Board shall fix salaries. The Board
29 shall have the authority to issue to its employees credentials or other means of
30 identification.

31 (f) The Board shall be entitled to the services of the Attorney General in
32 connection with the affairs of the Board or may, in its discretion, employ an attorney to
33 assist or represent it in the enforcement of this Chapter.

34 (g) The Board may prefer a complaint for violation of this Chapter before any
35 court of competent jurisdiction, and it may take the necessary legal steps through the
36 proper legal offices of the State to enforce the provisions of this Chapter.

37 (h) The Board shall have the power to acquire, hold, rent, encumber, alienate,
38 and otherwise deal with real property in the same manner as a private person or
39 corporation, subject only to the approval of the Governor and the Council of State.
40 Collateral pledged by the Board for an encumbrance is limited to the assets, income, and
41 revenues of the Board.

1 (i) The Board may purchase, rent, or lease equipment and supplies and purchase
2 liability insurance or other insurance to cover the activities of the Board, its operations,
3 or its employees.

4 "**§ 93E-1-6. Qualifications for State registration, licensure licensure, and**
5 **certification; applications; application fees; examinations.**

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

11 (1) ~~Each applicant for licensure as a State-licensed residential real estate~~
12 ~~appraiser shall have demonstrated~~ registration as a trainee must
13 demonstrate to the Board that the applicant possesses the knowledge
14 and competence necessary to perform appraisals of residential and
15 other real estate as the Board may prescribe of real property, by having
16 satisfactorily completed within the five-year period immediately
17 preceding the date application is made, a Board-approved course
18 approved by the Board of instruction in real estate appraisal principles
19 and practices consisting of at least 90 hours or the minimum
20 requirement as imposed by the federal government, whichever is
21 greater, of classroom instruction in subjects determined by the Board;
22 and by satisfying any additional qualification the Board imposes by
23 rule, not inconsistent with any requirements imposed by the federal
24 government.

25 (1a) Each applicant for licensure as a State-licensed residential real estate
26 appraiser shall have demonstrated that the applicant possesses the
27 knowledge and competence necessary to perform appraisals of real
28 property by having satisfactorily completed within the five-year period
29 immediately preceding the date application is made a course approved
30 by the Board of instruction in real estate appraisal principles and
31 practices consisting of at least 90 hours or the minimum requirement
32 as imposed by the federal government, whichever is greater, of
33 classroom instruction in subjects determined by the Board; shall
34 present evidence satisfactory to the Board of at least 2,000 hours or the
35 minimum requirement as imposed by the federal government,
36 whichever is greater, of experience in real estate appraising; and shall
37 satisfy the additional qualifications as may be imposed by the Board
38 by rule, not inconsistent with any requirements imposed by the federal
39 government; or shall possess education or experience which is found
40 by the Board in its discretion to be equivalent to the above
41 requirements.

- 1 (2) Each applicant for certification as a State-certified residential real
2 estate appraiser shall have demonstrated that the applicant possesses
3 the knowledge and competence necessary to perform appraisals of
4 ~~residential and other real estate~~ real property as the Board may
5 prescribe by having satisfactorily completed, within the five-year
6 period immediately preceding the date the application is made, a
7 ~~Board-approved~~ course approved by the Board of instruction in real
8 estate appraisal principles and practices consisting of at least 120 ~~hours~~
9 hours, or the minimum requirement as imposed by the federal
10 government, whichever is greater, of classroom instruction in subjects
11 determined by the Board; shall present evidence satisfactory to the
12 Board of at least ~~2,000~~ 2,500 hours or the minimum requirement as
13 imposed by the federal government, whichever is greater, of
14 experience in real estate appraising within the five-year period
15 immediately preceding the date application is made, and over a period
16 of at least two calendar years; and shall satisfy the additional
17 qualifications criteria as may be imposed by the Board by rule, not
18 inconsistent with any requirements imposed by the federal
19 government; or shall possess education and experience which is found
20 by the Board in its discretion to be equivalent to the above
21 requirements.
- 22 (3) Each applicant for certification as a State-certified general real estate
23 appraiser shall have demonstrated that the applicant possesses the
24 knowledge and competence necessary to perform appraisals of all
25 types of real estate property by having satisfactorily completed, within
26 the five-year period immediately preceding the date application is
27 made, a ~~Board-approved~~ course approved by the Board of instruction
28 in general real estate appraisal practices consisting of at least 180
29 hours or the minimum requirement as imposed by the federal
30 government, whichever is greater, of classroom instruction in subjects
31 determined by the Board; shall present evidence satisfactory to the
32 Board of at least ~~2,000~~ 3,000 hours or the minimum requirement as
33 imposed by the federal government, whichever is greater, of
34 experience in real estate appraising within the five-year period
35 immediately preceding the date application is made, and over a period
36 of at least two and one-half calendar years, fifty percent (50%) of
37 which must be in appraising nonresidential real estate; and shall satisfy
38 the additional qualifications criteria as may be imposed by the Board
39 by rule, not inconsistent with any requirements imposed by the federal
40 government; or the applicant shall possess education or experience
41 which is found by the Board in its discretion to be equivalent to the
42 above requirements.

1 (4) ~~Each applicant for registration as a trainee must demonstrate to the~~
2 ~~Board that the applicant possesses the knowledge and competence~~
3 ~~necessary to perform an appraisal of residential and other real estate,~~
4 ~~as prescribed by the Board, by:~~

5 a. ~~Having satisfactorily completed within the five year period~~
6 ~~immediately preceding the date application is made, a course,~~
7 ~~approved by the Board, of instruction in real estate appraisal~~
8 ~~principles and practices consisting of at least 90 hours of~~
9 ~~classroom instruction in subjects determined by the Board; and~~

10 b. ~~Satisfying any additional qualifications the Board imposes by~~
11 ~~rule, not inconsistent with any requirements imposed by the~~
12 ~~federal government;~~

13 ~~or shall possess education or experience that the Board, in its~~
14 ~~discretion, determines to be equivalent to the requirements set forth in~~
15 ~~sub subdivisions a. and b. of this subdivision. Provided, however, that~~
16 ~~any persons who, on the effective date of this Chapter, have a State~~
17 ~~license or certificate to engage in business as a real estate appraiser~~
18 ~~issued by the predecessor of the Board, shall be entitled to and shall~~
19 ~~receive the same license or certificate from the Board as they are then~~
20 ~~holding without further education, experience, examination, or~~
21 ~~application fee.~~

22 (b) Each application for registration as a trainee or for State licensure or
23 certification as a real estate appraiser shall be accompanied by a fee of one hundred fifty
24 dollars (\$150.00), plus any additional fee as may be necessary to defray the cost of any
25 competency examination administered by a private testing service.

26 (c) Any person who files with the Board an application for State registration,
27 licensure licensure, or certification as a real estate appraiser shall be required to pass an
28 examination to demonstrate the person's competence. The Board shall also make an
29 investigation as it deems necessary into the background of the applicant to determine
30 the applicant's qualifications with due regard to the paramount interest of the public as
31 to the applicant's competency, honesty, truthfulness, and integrity. In addition, the
32 Board may investigate and consider whether the applicant has had any disciplinary
33 action taken against any other professional license in North Carolina or any other state,
34 or if the applicant has committed or done any act which, if committed or done by any
35 real estate trainee or appraiser, would be grounds under the provisions hereinafter set
36 forth for disciplinary action including the suspension or revocation of registration,
37 licensure, or certification, or whether the applicant has been convicted of or pleaded
38 guilty to any criminal act. If the results of the investigation shall be satisfactory to the
39 ~~Board Board,~~ and the applicant is otherwise qualified, then the Board shall issue to the
40 applicant a trainee registration, license or certificate authorizing the applicant to act as a
41 registered trainee real estate appraiser, State-licensed real estate appraiser appraiser, or a
42 State-certified real estate appraiser in this State.

1 ~~(d) If, based upon the results of the investigation, the moral character of the~~
2 ~~applicant is in question, If the applicant has not affirmatively demonstrated that the~~
3 ~~applicant meets the requirements for registration, licensure, or certification, action on~~
4 ~~the application will be deferred pending a hearing before the Board.~~

5 ~~(d) Any person who files with the Board an application for registration as a~~
6 ~~trainee real estate appraiser shall be required to pass an examination to demonstrate the~~
7 ~~person's competence. The Board shall also make an investigation as it deems necessary~~
8 ~~into the background of the applicant to determine the applicant's qualifications with due~~
9 ~~regard to the paramount interest of the public as to the applicant's honesty, truthfulness,~~
10 ~~and integrity. If the results of the investigation shall be satisfactory to the Board and the~~
11 ~~applicant is otherwise qualified, then the Board shall issue to the applicant a registration~~
12 ~~authorizing the applicant to act as a registered trainee real estate appraiser in this State.~~
13 ~~If, based upon the results of the investigation, the moral character of the applicant is in~~
14 ~~question, action on the application will be deferred pending a hearing before the Board.~~

15 **"§ 93E-1-6.1. Trainee supervision.**

16 All trainees shall perform all real estate appraisal-related activities under the
17 immediate, active, and personal supervision of a State-licensed or State-certified real
18 estate appraiser. All appraisal reports must be signed by the State-licensed or State-
19 certified appraiser who supervised the trainee. By signing the appraisal report, the State-
20 licensed or State-certified appraiser accepts shared responsibility, with the trainee, for
21 the content of and conclusions in the report.

22 **"§ 93E-1-7. Registration, license and certificate renewal; renewal fees; continuing**
23 **education; reinstatement; replacement registrations, licenses and**
24 **certificates; registration, licensure licensure, and certification history-**
25 **history; address changes.**

26 ...

27 **"§ 93E-1-8. Education program approval and fees.**

28 ...

29 **"§ 93E-1-9. Nonresident registration, licensure licensure, and certification.**

30 (a) An applicant from another state which offers real estate trainee registration or
31 the equivalent, appraiser licensing or certification privileges to residents of North
32 Carolina may become registered, licensed, or certified in North Carolina by conforming
33 to all of the provisions of this Chapter and, in the discretion of the Board, such other
34 terms and conditions as are required of North Carolina may become State-licensed or
35 certified by conforming to all of the provisions of this Chapter, and, in the discretion of
36 the Board, such other terms and conditions as are required of residents applying for
37 certification or licensure trainee registration, licensure, and certification in such other
38 state.

39 (b) The Board, in its discretion, may undertake to register, license license, or
40 certify on a reciprocal basis, persons registered, licensed licensed, or certified in other
41 states who are deemed by the Board to possess qualifications equivalent to resident
42 North Carolina trainees or State-licensed or State-certified real estate appraisers.

1 (c) The Board may by rule establish a procedure for granting temporary trainee
2 registration, appraiser licensure or certification and may charge an application fee of
3 ~~fifty dollars (\$50.00)~~ one hundred fifty dollars (\$150.00) for temporary trainee
4 registration, appraiser ~~licensure~~ licensure, or certification.

5 (d) Every applicant for trainee registration, State ~~licensure~~ licensure, or
6 certification under this Chapter who is not a resident of this State shall submit with his
7 application an irrevocable consent that service of process in any action against the
8 applicant arising out of the applicant's activities as a registered trainee or State-licensed
9 or State-certified real estate appraiser may be made by delivery of the process on the
10 Executive Director of the Board.

11 **"§ 93E-1-10. Rule-making authority.**

12 The Board may adopt rules not inconsistent with the provisions of this Chapter and
13 the General Statutes of North Carolina which may be reasonably necessary to
14 implement, administer, and enforce the provisions of this Chapter, including, but not
15 limited to, the authority to:

- 16 (1) Prescribe forms and procedures for submitting information to the
17 Board;
- 18 (2) Prescribe standards of practice for persons registered as a trainee,
19 licensed or certified under this Chapter; and
- 20 (3) Prescribe standards for the operation of real estate appraiser education
21 programs.

22 **"§ 93E-1-11. Register of applicants; roster of trainees, State-licensed and
23 State-certified appraisers; financial report to Secretary of State;
24 administrative expenses.**

25 (a) The Executive Director of the Board shall keep a register of all applicants for
26 State trainee registration or for State licensure or certification as real estate appraisers,
27 showing for each the date of application, name, business or residence address, and
28 whether the registration, license or certificate was granted or refused. The register shall
29 be prima facie evidence of all matters received therein.

30 (b) The Executive Director of the Board shall also keep a current roster showing
31 the names and places of business of all registered trainees and State-licensed and
32 State-certified real estate appraisers, which roster shall be kept on file in the office of
33 the Board and be open to public inspection.

34 (c) On or before the first day of November of each year, the Board shall file with
35 the Secretary of State a copy of the roster of registered trainees and real estate
36 appraisers licensed or certified by the Board and a report containing a complete
37 statement of income received by the Board in connection with the trainee registration
38 and the licensure and certification of real estate trainees and appraisers for the preceding
39 fiscal year ending June 30th, attested by the affidavit of the Executive Director of the
40 Board.

41 (d) In addition to those fees prescribed in this Chapter for making application for
42 and renewing trainee registrations, appraiser ~~licenses~~ licenses, and certificates, the

1 Board may collect from applicants and holders of the licenses and certificates and remit
2 to the appropriate agency or instrumentality of the federal government any additional
3 fees as may be required to render North Carolina State-licensed or State-certified
4 appraisers eligible to perform appraisals in connection with federally related
5 transactions as well as an additional fee of twenty dollars (\$20.00) to cover the
6 administrative costs associated therewith.

7 **"§ 93E-1-12. Disciplinary action by Board.**

8 (a) The Board may take disciplinary action against registered trainees and
9 State-licensed or State-certified real estate appraisers. Upon its own motion or the
10 complaint of any person, the Board may investigate the actions of any person registered
11 as a trainee or licensed or certified as a real estate appraiser under this Chapter, any
12 person who performs appraisals without an appropriate registration, license, or
13 certificate, or any person who holds himself or herself out to be registered as a trainee or
14 licensed or certified as a real estate appraiser when the person holds no registration,
15 license, or certificate. If the Board finds probable cause to believe that a person
16 registered as a trainee or licensed or certified as a real estate appraiser under this
17 Chapter has violated any of the provisions of this Chapter, the Board may hold a hearing
18 on the allegations of misconduct.

19 The Board may suspend or revoke the registration, license, or certificate granted to
20 any person under the provisions of this Chapter or reprimand any registered trainee,
21 licensee, or certificate holder if, following a ~~hearing~~, hearing or by consent, the Board
22 finds the registered trainee, licensee, or certificate holder to have:

- 23 (1) Procured registration, licensure, or certification pursuant to this
24 Chapter by making a 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 himself or herself out as a registered trainee or a
34 State-licensed or State-certified real estate appraiser when not so
35 registered, licensed, or certified;
- 36 (5) Failed as a State-licensed or State-certified real estate appraiser to
37 actively and personally supervise any person not licensed or certified
38 under this Chapter who assists the State-licensed or State-certified real
39 estate appraiser in performing real estate appraisals;
- 40 (6) Failed to make available to the Board for its inspection without prior
41 notice, originals or true copies of all written contracts engaging the
42 person's services to appraise real property, and all reports and

- 1 supporting data assembled and formulated by the appraiser in
2 preparing the reports;
- 3 (7) Paid a fee or valuable consideration to any person for acts or services
4 performed in violation of this Chapter;
- 5 (8) Acted as a real estate appraiser in an unworthy or incompetent manner
6 as to endanger the interest of the public;
- 7 (9) Violated any of the standards of practice for real estate appraisers or
8 any other rule promulgated by the Board;
- 9 (10) Performed any other act which constitutes improper, fraudulent, or
10 other dishonest conduct; or
- 11 (11) Violated any of the provisions of this Chapter.

12 The Executive Director of the Board shall transmit a certified copy of all final orders
13 of the Board suspending or revoking ~~registrations, licenses~~ licenses, or certificates
14 issued under this Chapter to the clerk of superior court of the county in which the
15 licensee or certificate holder maintains the person's principal place of business. The
16 clerk shall enter these orders upon the judgment docket of the county.

17 (b) Following a hearing, or by consent, the Appraisal Board may also suspend or
18 revoke any registration, license, or certificate issued under the provisions of this Chapter
19 or reprimand any registered trainee, licensee, or certificate holder when:

- 20 (1) The registered trainee, licensee, or certificate holder has been
21 convicted of or has entered a plea of guilty or no contest upon which
22 final judgment is entered by a court of competent jurisdiction in this
23 State, or any other state, to an offense ~~which~~, which involves moral
24 turpitude, in which an essential element is dishonesty, fraud, or deceit,
25 or which, in the discretion of the Board, would reasonably affect the
26 performance of the registered trainee, licensee, or certificate holder in
27 the real estate appraisal business;
- 28 (2) A final civil judgment has been entered against the registered trainee,
29 licensee, or certificate holder on grounds of fraud, misrepresentation,
30 or deceit in the making of any appraisal of real estate; ~~or~~
- 31 (3) The ~~registered~~ trainee, licensee, or certificate holder has violated any
32 of the provisions of G.S. 93E-1-13(a) when appraising his own
33 ~~property~~; property;
- 34 (4) The trainee, licensee, or certificate holder has had a real estate trainee
35 registration or its equivalent, real estate appraiser license, or real estate
36 appraiser certification suspended, revoked, or denied by a real estate
37 licensing board in another state;
- 38 (5) The trainee, licensee, or certificate holder has had any disciplinary
39 action taken against any other professional license in North Carolina or
40 any other state;
- 41 (6) The trainee, licensee, or certificate holder has been adjudged mentally
42 incompetent by a court; or

1 (7) The trainee, licensee, or certificate holder performs any of the duties of
2 a real estate appraiser, including, but not limited to, site inspection and
3 public records checks, while impaired by alcohol or drugs.

4 (b1) If any of the actions taken in subdivision (1), (2), or (4) through (6) of
5 subsection (b) of this section are taken against a trainee, licensee, or certificate holder,
6 the trainee, licensee, or certificate holder must report such actions within 60 days of the
7 final judgment or final order in the case.

8 (c) When a person registered as a trainee or licensed or certified as a real estate
9 appraiser under this Chapter is accused of any act, omission, or misconduct which
10 would subject the person to disciplinary action, the registered trainee, licensee, or
11 certificate holder, with the consent and approval of the Board, may surrender his or her
12 registration, license, or certificate and all the rights and privileges pertaining to it for a
13 period of time established by the Board. A person who surrenders his or her registration,
14 license, or certificate shall not thereafter be eligible for or submit any application for
15 registration, licensure, or certification as a real estate appraiser during the period that the
16 registration, license, or certificate is surrendered.

17 (d) The Board shall have the power to issue subpoenas requiring the attendance
18 of persons and the production of papers and records before the Board in any hearing,
19 investigation, inquiry, or other proceeding conducted by it. Upon the production of any
20 papers, records, or documents, the Board shall have the power to authorize true copies
21 thereof to be substituted in the permanent record of the matter in which the books,
22 records, or documents shall have been introduced in evidence.

23 **"§ 93E-1-12.1. Investigations and complaints.**

24 (a) The Board may dismiss a complaint, accept a consent order, or hold a
25 hearing, or may accept a voluntary surrender of a registration, license, or certificate or
26 of approval as a course sponsor.

27 (b) Records, papers, and other documents containing information received,
28 collected, or compiled by the Board, its members, or its employees, as a result of a
29 complaint or investigation, shall not be considered public records within the meaning of
30 Chapter 132 of the General Statutes. Any statement of charges contained within a notice
31 of a hearing to be held by the Board is a public record, even though it may contain
32 information collected and compiled as a result of a complaint or investigation against a
33 trainee, licensee, or certificate holder or an applicant. Any record, paper, or other
34 document admitted into evidence in a hearing held by the Board, and any final decisions
35 and orders by the Board, including consent orders, shall be public records within the
36 meaning of Chapter 132 of the General Statutes.

37 (c) The Board may inspect records maintained pursuant to this Chapter
38 periodically, without prior notice, and may also inspect these records whenever the
39 Board determines that they are pertinent to an investigation of any specific complaint
40 against a person registered, licensed, or certified by the Board.

41 **"§ 93E-1-13. Penalty for violation of this Chapter.**

1 (a) Any person who acts as, or holds himself or herself out to be, a registered
2 trainee or a State-licensed or State-certified real estate appraiser without first obtaining a
3 registration, license, or certificate as provided in this Chapter, or who willfully performs
4 the acts specified in ~~G.S. 93E-1-12(a)(1) through (10)~~, G.S. 93E-1-12(a) shall be guilty
5 of a Class 1 misdemeanor.

6 (b) The Board may appear in its own name in superior court in actions for
7 injunctive relief to prevent any person from violating the provisions of this Chapter or
8 the rules promulgated by the Board. The superior court shall have the power to grant
9 these injunctions whether or not criminal prosecution has been or may be instituted as a
10 result of the violations, and whether or not the person is the holder of a registration,
11 license license, or certificate issued by the Board under this Chapter."

12 **SECTION 2.** G.S. 53-238 is amended by adding the following new
13 subdivisions to read:

14 "(7) Influencing or attempting to influence through coercion, extortion, or
15 bribery, the development, reporting, result, or review of a real estate
16 appraisal sought in connection with a mortgage loan. Nothing in this
17 subdivision shall be construed to prohibit a mortgage broker or
18 mortgage banker from asking the appraiser to:

19 a. Consider additional appropriate property information;

20 b. Provide further detail, substantiation, or explanation for the
21 appraiser's value conclusion; or

22 c. Correct errors in the appraisal report.

23 (8) Failing to promptly pay when due according to the normal and
24 customary business practices between the lender and appraiser
25 reasonable fees to a real estate appraiser for appraisal services that are:

26 a. Requested from the appraiser in writing by the mortgage broker
27 or mortgage banker or an employee of the mortgage broker or
28 mortgage banker; and

29 b. Performed by the appraiser in connection with the origination or
30 closing of a mortgage loan for a customer or the mortgage
31 broker or mortgage banker."

32 **SECTION 3.** This act becomes effective October 1, 2001, except that the
33 amendments made to G.S. 93E-1-5 by Section 1 of this act are effective with respect to
34 appointments for terms beginning July 1, 2001, and after.