

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

1

HOUSE BILL 492

Short Title: Real Estate Appraiser Regulation.

(Public)

---

Sponsors: Representatives Brubaker, Holt; Bowman, Rhodes, and Hege.

---

Referred to: Commerce.

---

March 8, 1989

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FOR STATE REGULATION OF REAL ESTATE  
3 APPRAISERS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 93A-2 reads as rewritten:

6 "**§ 93A-2. Definitions and exceptions.**

7 (a) A real estate broker within the meaning of this Chapter is any person,  
8 partnership, association, or corporation who for a compensation or valuable  
9 consideration or promise thereof lists or offers to list, sells or offers to sell, buys or  
10 offers to buy, auctions or offers to auction (specifically not including a mere crier of  
11 sales), appraises or offers to appraise, or negotiates the purchase or sale or exchange of  
12 real estate, or who leases or offers to lease, or who sells or offers to sell leases of  
13 whatever character, or rents or offers to rent any real estate or the improvement thereon,  
14 for others.

15 (b) The term real estate salesman within the meaning of this Chapter shall mean  
16 and include any person who under the supervision of a real estate broker, for a  
17 compensation or valuable consideration is associated with or engaged by or on behalf of  
18 a licensed real estate broker to do, perform or deal in any act, acts or transactions set out  
19 or comprehended by the foregoing definition of real estate broker.

20 (c) The provisions of this Chapter shall not apply to and shall not include:

21 (1) Any person, partnership, association or corporation who, as owner or  
22 lessor, shall perform any of the acts aforesaid with reference to  
23 property owned or leased by them, where the acts are performed in the

- 1 regular course of or as incident to the management of that property and  
2 the investment therein;
- 3 (2) Any person acting as an attorney-in-fact under a duly executed power  
4 of attorney from the owner authorizing the final consummation of  
5 performance of any contract for the sale, lease or exchange of real  
6 estate;
- 7 (3) The acts or services of an attorney-at-law;
- 8 (4) Any person, while acting as a receiver, trustee in bankruptcy, guardian,  
9 administrator or executor or any person acting under order of any  
10 court;
- 11 (5) Any person, while acting as a trustee under a trust agreement, deed of  
12 trust or will, or his regular salaried employees;
- 13 (6) Any salaried person employed by a licensed real estate broker, for and  
14 on behalf of the owner of any real estate or the improvements thereon,  
15 which the licensed broker has contracted to manage for the owner, if  
16 the salaried employee is limited in his employment to: exhibiting units  
17 on the real estate to prospective tenants; providing the prospective  
18 tenants with information about the lease of the units; accepting  
19 applications for lease of the units; completing and executing preprinted  
20 form leases; and accepting security deposits and rental payments for  
21 the units only when the deposits and rental payments are made payable  
22 to the owner or the broker employed by the owner. The salaried  
23 employee shall not negotiate the amount of security deposits or rental  
24 payments and shall not negotiate leases or any rental agreements on  
25 behalf of the owner or broker; or
- 26 (7) Any owner who personally leases or sells his own property.
- 27 (8) The appraisal of real estate by any county assessor, county  
28 appraiser or private firm appraiser certified by the North Carolina  
29 Department of Revenue when appraising real estate for ad valorem  
30 tax purposes, and the appraisal of real estate by any full-time,  
31 salaried employee of a state or federally chartered bank, savings and  
32 loan association or savings bank, credit union, or the federal or state  
33 government or any political subdivision thereof, when such  
34 appraisals are performed in the regular course or incident to his  
35 employment, provided, however, such persons shall not be exempted  
36 from licensure as a real estate broker or salesman for the purpose of  
37 qualifying for certification as a real estate appraiser under Article 5  
38 of this Chapter."

39 Sec. 2. G.S. 93A-3(a) reads as rewritten:

- 40 "(a) There is hereby created the North Carolina Real Estate Commission for issuing  
41 licenses to real estate brokers and real estate salesmen, hereinafter called the  
42 Commission. The Commission shall consist of seven members to be appointed by the  
43 ~~Governor; provided, Governor, provided that at least two~~ three members of the  
44 Commission shall be licensed real estate ~~brokers, brokers or real estate salesmen, or~~

1 ~~otherwise directly~~ salesmen of whom at least one member shall have been actively  
2 engaged in the practice of real estate business; appraising in this State for not less than  
3 five years immediately preceding his appointment, and if appointed to the Commission  
4 after October 1, 1990, shall also be a State certified general real estate appraiser, and  
5 provided further that at least two members of the Commission ~~must~~ shall be persons  
6 who are not involved directly or indirectly in the real estate business. Members of the  
7 Commission shall serve three-year terms, so staggered that the terms of two members  
8 expire in one year, the terms of two members expire in the next year, and the terms of  
9 three members expire in the third year of each three-year period. The members of the  
10 Commission shall elect one of their members to serve as chairman of the Commission  
11 for a term of one year. The Governor may remove any member of the Commission for  
12 misconduct, incompetency, or willful neglect of duty. The Governor shall have the  
13 power to fill all vacancies occurring on the Commission."

14 Sec. 3. G.S. 93A-4(a) reads as rewritten:

15 "(a) Any person, partnership, association, or corporation hereafter desiring to enter  
16 into business of and obtain a license as a real estate broker or real estate salesman shall  
17 make written application for such license to the Commission on such forms as are  
18 prescribed by the Commission. Each applicant for a license as a real estate broker or  
19 real estate salesman shall be at least 18 years of age. Each applicant for a license as a  
20 real estate salesman shall, within five years preceding the date application is made, have  
21 satisfactorily completed, at a school approved by the Commission, a real estate  
22 fundamentals course consisting of at least ~~30-60~~ hours of classroom instruction in  
23 subjects determined by the Commission, or possess real estate education or experience  
24 in real estate transactions which the Commission shall find equivalent to the course.  
25 Each applicant for a license as a real estate broker shall, within five years preceding the  
26 date the application is made, either have been actively engaged on a full-time basis as a  
27 licensed real estate salesman for at least two years, or have satisfactorily completed, at a  
28 school approved by the Commission, advanced courses in Real Estate Law, Real Estate  
29 Finance, Real Estate Appraisal, and Real Estate Brokerage Operations, each consisting  
30 of at least ~~30-60~~ hours of classroom instruction, these courses to be in addition to those  
31 required for a real estate salesman license, or possess real estate education or experience  
32 in real estate transactions which the Commission shall find equivalent to the above  
33 requirements. Each application for license as a real estate broker shall be accompanied  
34 by a fee, fixed by the Commission but not to exceed thirty dollars (\$30.00). Each  
35 application for license as a real estate salesman shall be accompanied by a fee, fixed by  
36 the Commission but not to exceed thirty dollars ~~(\$30.00)-(\$30.00)~~, and shall state the name  
37 and address of the real estate broker with whom the applicant is to be associated."

38 Sec. 4. G.S. 93A-6 reads as rewritten:

39 **"§ 93A-6. Disciplinary action by Commission.**

40 (a) The Commission shall have power to take disciplinary action. Upon its own  
41 motion, or on the verified complaint of any person, the Commission may investigate the  
42 actions of any person or entity licensed under this Chapter, or any other person or entity  
43 who shall assume to act in such capacity. If the Commission finds probable cause that a

1 licensee has violated any of the provisions of this Chapter, the Commission may hold a  
2 hearing on the allegations of misconduct.

3 The Commission shall have power to suspend or revoke at any time a license issued  
4 under the provisions of this Chapter, or to reprimand or censure any licensee, if,  
5 following a hearing, the Commission adjudges the licensee to be guilty of:

- 6 (1) Making any willful or negligent misrepresentation or any willful or  
7 negligent omission of material fact;
- 8 (2) Making any false promises of a character likely to influence,  
9 persuade, or induce;
- 10 (3) Pursuing a course of misrepresentation or making of false promises  
11 through agents, salesmen, advertising or otherwise;
- 12 (4) Acting for more than one party in a transaction without the knowledge  
13 of all parties for whom he acts;
- 14 (5) Accepting a commission or valuable consideration as a real estate  
15 salesman for the performance of any of the acts specified in this  
16 Chapter, except the appraisal of real estate by a State certified real  
17 estate appraiser, from any person except the licensed broker by whom  
18 he is employed;
- 19 (6) Representing or attempting to represent a real estate broker other than  
20 the broker by whom he is engaged or associated, without the express  
21 knowledge and consent of the broker with whom he is associated;
- 22 (7) Failing, within a reasonable time, to account for or to remit any  
23 moneys coming into his possession which belong to others;
- 24 (8) Being unworthy or incompetent to act as a real estate broker or  
25 salesman in a manner as to endanger the interest of the public;
- 26 (9) Paying a commission or valuable consideration to any person for acts  
27 or services performed in violation of this Chapter;
- 28 (10) Any other conduct which constitutes improper, fraudulent or dishonest  
29 dealing;
- 30 ~~Performing~~ Performing or undertaking to perform any legal service, as  
31 set forth in G.S. 84-2.1, or any other acts not specifically set forth in  
32 that section;
- 33 (12) Commingling the money or other property of his principals with his  
34 own or failure to maintain and deposit in a trust or escrow account in  
35 an insured bank or savings and loan association in North Carolina all  
36 money received by him as a real estate broker acting in that capacity,  
37 or an escrow agent, or the temporary custodian of the funds of others,  
38 in a real estate transaction; provided, these accounts shall not bear  
39 interest unless the principals authorize in writing the deposit be made  
40 in an interest bearing account and also provide for the disbursement of  
41 the interest accrued;
- 42 (13) Failing to deliver, within a reasonable time, a completed copy of any  
43 purchase agreement or offer to buy and sell real estate to the buyer  
44 and to the seller;

1 (14) Failing as a broker, at the time the transaction is consummated, to  
 2 deliver to the seller in every real estate transaction, a complete detailed  
 3 closing statement showing all of the receipts and disbursements  
 4 handled by him for the seller or failing to deliver to the buyer a  
 5 complete statement showing all money received in the transaction  
 6 from the buyer and how and for what it was disbursed; ~~or~~

7 (14a) Accepting an appraisal assignment when the employment is  
 8 contingent upon the appraiser reporting a predetermined result,  
 9 analysis, or opinion, or when the fee to be paid for the performance  
 10 of the appraisal assignment is contingent upon the opinion,  
 11 conclusion, or valuation reached or upon consequences resulting  
 12 from the appraisal assignment; or

13 (15) Violating any rule or regulation promulgated by the  
 14 Commission.

15 The Executive Director shall transmit a certified copy of all final orders of the  
 16 Commission suspending or revoking licenses issued under this Chapter to the clerk of  
 17 superior court of the county in which the licensee maintains his principal place of  
 18 business. The clerk shall enter these orders upon the judgment docket of the county.

19 (b) Following a hearing, the Commission shall also have power to suspend or revoke  
 20 any license issued under the provisions of this Chapter or to reprimand or censure any  
 21 licensee when:

22 (1) The licensee has obtained a license by false or fraudulent  
 23 representation;

24 (2) The licensee has been convicted or has entered a plea of guilty or no  
 25 contest upon which final judgment is entered by a court of competent  
 26 jurisdiction in this State, or any other state, of the criminal offenses of:  
 27 embezzlement, obtaining money under false pretense, fraud, forgery,  
 28 conspiracy to defraud, or any other offense involving moral turpitude  
 29 which would reasonably affect the licensee's performance in the real  
 30 estate business;

31 (3) The licensee has violated any of the provisions of G.S. 93A-6(a) when  
 32 selling, leasing, or buying his own property; ~~or~~

33 (4) The broker's unlicensed employee, who is exempt from the provisions  
 34 of this Chapter under G.S. 93A-2(c)(6), has committed, in the regular  
 35 course of business, any act which, if committed by the broker, would  
 36 constitute a violation of G.S. 93A-6(a) for which the broker could be  
 37 disciplined; or

38 (5) The licensee, who is also a State certified real estate appraiser pursuant  
 39 to Article 5 of this Chapter, has violated any provisions of Article 5."

40 (c) The Commission may appear in its own name in superior court in actions for  
 41 injunctive relief to prevent any person from violating the provisions of this Chapter or  
 42 rules promulgated by the Commission. The superior court shall have the power to grant  
 43 these injunctions even if criminal prosecution has been or may be instituted as a result  
 44 of the violations, or whether the person is a licensee of the Commission.

1 (d) Each broker shall maintain complete records showing the deposit,  
2 maintenance, and withdrawal of money or other property owned by his principals or  
3 held in escrow or in trust for his principals. The Commission may inspect these records  
4 periodically, without prior notice and may also inspect these records whenever the  
5 Commission determines that they are pertinent to an investigation of any specific  
6 complaint against a licensee.

7 (e) When a person or entity licensed under this Chapter is accused of any act,  
8 omission, or misconduct which would subject the licensee to disciplinary action, the  
9 licensee, with the consent and approval of the Commission, may surrender his or its  
10 license and all the rights and privileges pertaining to it for a period of time established  
11 by the Commission. A person or entity who surrenders his or its license shall not  
12 thereafter be eligible for or submit any application for licensure as a real estate broker or  
13 salesman during the period of license surrender."

14 Sec. 5. G.S. 93A-32 reads as rewritten:

15 **"§ 93A-32. Definitions.**

16 As used in this Article:

17 (1) 'Commission' means the North Carolina Real Estate Commission.

18 (2) 'Private real estate school' means any real estate educational ~~institution~~  
19 ~~or organization~~ entity which is privately owned and operated for profit  
20 by an individual, partnership, corporation or association, and which is  
21 ~~devoted exclusively to the teaching of real estate courses for which tuition is~~  
22 ~~charged, and wherein the purpose of any of such courses is to qualify~~  
23 ~~applicants under G.S. 93A-4(a) to sit for the licensing examinations for real~~  
24 ~~estate brokers or salesmen.~~ conducts, for a profit or tuition charge, real  
25 estate salesman or broker precertification courses prescribed by G.S. 93A-  
26 4(a) or real estate appraiser precertification courses prescribed by G.S.  
27 93A-63(c), provided that a private business or trade school licensed by  
28 the State Board of Community Colleges under G.S. 115D-571 to  
29 conduct courses other than those real estate courses described herein  
30 shall not be considered to be a private real estate school."

31 Sec. 6. G.S. 93A-34(b) reads as rewritten:

32 "(b) Application for a license shall be filed in the manner and upon the forms  
33 prescribed by the Commission for that purpose. ~~Such application shall be accompanied by a~~  
34 The Commission may by rule set nonrefundable application fee of fees not to exceed  
35 two hundred fifty dollars (\$250.00) in the form of a certified check or money order payable  
36 to the North Carolina Real Estate Commission, shall be signed by the applicant, for each  
37 school location and fifty dollars (\$50.00) for each real estate salesman or broker  
38 precertification course or real estate appraiser precertification course. The application for a  
39 license shall be accompanied by the appropriate fees and shall contain the following:

40 (1) Name and address of the applicant and the school;

41 (2) Names, biographical data, and qualifications of director, administrators  
42 and instructors;

43 (3) Description of school facilities and equipment;

- 1 (4) Description of course(s) to be offered and instructional materials to be  
2 utilized;
- 3 (5) Information on financial resources available to equip and operate the  
4 school;
- 5 (6) Information on school policies and procedures regarding  
6 administration, record keeping, entrance requirements, registration,  
7 tuition and fees, grades, student progress, attendance, and student  
8 conduct;
- 9 (7) Copies of bulletins, catalogues and other official publications;
- 10 (8) Copy of bond required by G.S. 93A-36;
- 11 (9) Such additional information as the Commission may deem necessary  
12 to enable it to determine the adequacy of the instructional program and  
13 the ability of the applicant to operate a school in such a manner as  
14 would best serve the public interest."

15 Sec. 7. G.S. 93A-35(b) reads as rewritten:

16 "(b) Licenses shall be renewable annually on July 1, provided that a renewal  
17 application accompanied by a certified check or money order for the renewal fee in the  
18 amount of one hundred dollars (\$100.00) payable to the North Carolina Real Estate  
19 Commission the appropriate renewal fees has been filed not later than June 1 in the  
20 form and manner prescribed by the Commission; Commission, and provided further that  
21 the applicant and school are found to be in compliance with the standards established  
22 for issuance of an original license. The Commission may by rule set nonrefundable  
23 renewal fees not to exceed one hundred twenty-five dollars (\$125.00) for each school  
24 location and twenty-five dollars (\$25.00) for each real estate salesman or broker  
25 prelicensing course or real estate appraiser precertification course."

26 Sec. 8. Chapter 93A of the General Statutes is amended by adding a new  
27 Article to read:

28 **"ARTICLE 5.**

29 **"REAL ESTATE APPRAISERS.**

30 **"§ 93A-60. Title.**

31 This Article shall be known and may be cited as the 'North Carolina Certified Real  
32 Estate Appraisers Act'.

33 **"§ 93A-61. Certification Use.**

34 (a) From and after October 1, 1990, it shall be unlawful for any person in this  
35 State to assume or use the title 'State certified residential real estate appraiser' or 'State  
36 certified general real estate appraiser', or any title, designation or abbreviation likely to  
37 create the impression of certification by the State of North Carolina as a real estate  
38 appraiser, or to describe or refer to any appraisal of real estate located in this State by  
39 the term 'certified' or any similar term, unless the person has first been certified by the  
40 North Carolina Real Estate Commission (hereinafter referred to as the Commission)  
41 under the provisions of this Article. The Commission may adopt for the exclusive use  
42 of persons certified under the provisions of this Article, a seal, symbol or other mark  
43 identifying the user as a State certified real estate appraiser.

1       (b) Any person certified as a real estate appraiser by an appraisal trade  
2 organization shall retain the right to use the term 'certified' or any similar term in  
3 identifying himself to the public, provided that in each instance wherein such term is  
4 used, the name of the certifying organization or body is prominently and conspicuously  
5 displayed immediately adjacent to such term, and provided further that the use of such  
6 term does not create the impression of certification by the State of North Carolina.

7       (c) Nothing in this Article shall abridge, infringe upon or otherwise restrict the  
8 right to use the term 'certified county appraiser' or any similar term by persons certified  
9 by the North Carolina Department of Revenue to perform ad valorem tax appraisals,  
10 provided that such term is not used in a manner that creates the impression of  
11 certification by the State of North Carolina to perform real estate appraisals other than  
12 ad valorem tax appraisals.

13       (d) No certification shall be issued under the provisions of this Article to a  
14 partnership, association, corporation, firm or group, nor shall the term 'State certified  
15 real estate appraiser' or any similar term be used following or immediately in connection  
16 with the name of a partnership, association, corporation or other firm or group or in  
17 such manner that it might create the impression of certification by the State of North  
18 Carolina as a real estate appraiser. However, nothing herein shall preclude a State  
19 certified real estate appraiser from rendering appraisals for or on behalf of a partnership,  
20 association, corporation, firm or group, provided that the appraisal report is prepared by,  
21 or under the immediate personal direction of, the State certified real estate appraiser and  
22 is reviewed and signed by such State certified appraiser.

23       (e) Nothing in this Article shall preclude a real estate broker or salesman licensed  
24 under Article 1 of this Chapter who is not a State certified real estate appraiser from  
25 appraising real estate for compensation, provided such persons do not represent  
26 themselves as being State certified or their appraisal reports as being certified.

27       (f) Nothing in this Article shall require a State certified real estate appraiser to  
28 render a certified real estate appraisal when performing an appraisal assignment;  
29 however, in the event a State certified real estate appraiser performs a real estate  
30 appraisal which is not represented as being 'certified', then such appraiser must clearly  
31 inform the person to whom the appraisal report is given and must prominently disclose  
32 on the appraisal report that the appraisal is not a certified real estate appraisal.

33       (g) Nothing in this Article shall entitle a State certified real estate appraiser to  
34 appraise real estate for ad valorem tax purposes unless he has first been certified by the  
35 North Carolina Department of Revenue pursuant to G.S. 105-294.

36 **"§ 93A-62. Definitions.**

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

38       (1) 'Appraisal' or 'real estate appraisal' means an analysis, opinion or  
39 conclusion as to the value of identified real estate or specified interests  
40 therein.

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



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

1 "§ 93A-63. Classifications of State certification; qualifications for State  
2 certification; applications; application fees; examinations.

3 (a) There shall be two classifications of certification for State certified real estate  
4 appraisers:

5 (1) 'State certified residential real estate appraiser', consisting of persons  
6 authorized to independently perform certified appraisals of residential  
7 real estate as defined in G.S. 93A-62, provided that such appraisals do  
8 not involve the use of a net income capitalization analysis; and

9 (2) 'State certified general real estate appraiser', consisting of persons  
10 authorized to perform certified appraisals of all types of real estate.

11 (b) A licensed real estate broker or salesman who is not certified under this  
12 Article may assist a State certified real estate appraiser in the performance of a certified  
13 appraisal, provided that he is actively and personally supervised by the State certified  
14 appraiser and provided further that any appraisal report rendered in connection with the  
15 certified appraisal is reviewed and signed by the State certified real estate appraiser.

16 (c) Any person desiring to obtain certification as a State certified residential real  
17 estate appraiser or a State certified general real estate appraiser shall make written  
18 application for such certification to the Commission on such forms as are prescribed by  
19 the Commission setting forth the applicant's qualifications for certification. Each  
20 applicant for State certification shall hold a current real estate broker or salesman's  
21 license in this State and satisfy the following qualification requirements:

22 (1) Each applicant for certification as a State certified residential real  
23 estate appraiser shall have satisfactorily completed, within the five-  
24 year period immediately preceding the date application is made,  
25 through a school approved by the Commission, a real estate appraisal  
26 fundamentals course consisting of at least 30 hours of classroom  
27 instruction and a residential real estate appraisal principles and  
28 practices course consisting of at least 45 hours of classroom  
29 instruction, in subjects determined by the Commission, and shall  
30 present evidence satisfactory to the Commission of at least two years  
31 of full-time experience in real estate appraising within the five-year  
32 period immediately preceding the date application is made; or the  
33 applicant shall possess education or experience which is found by the  
34 Commission to be equivalent to such courses and experience.

35 (2) Each applicant for certification as a State certified general real estate  
36 appraiser shall have satisfactorily completed, within the five-year  
37 period immediately preceding the date application is made, through a  
38 school approved by the Commission, a course of instruction in general  
39 real estate appraisal practices consisting of at least 90 hours of  
40 classroom instruction in subjects determined by the Commission, such  
41 course of instruction to be in addition to the education required for  
42 certification as a State certified residential real estate appraiser, and  
43 shall present evidence satisfactory to the Commission of at least two  
44 years of full-time experience in real estate appraising within the five-

1                   year period immediately preceding the date application is made; or the  
2                   applicant shall possess education or experience which is found by the  
3                   Commission to be equivalent to the above requirements.

4       (d)   Each applicant for certification as a State certified general real estate  
5       appraiser who is certified as a State certified residential real estate appraiser shall, at the  
6       time application is made, have satisfied any continuing education requirements which  
7       may be prescribed by the Commission under G.S. 93A-64(b) of this Article.

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

11       (f)   Any person who files with the Commission an application for certification as  
12       a State certified real estate appraiser shall be required to take an oral or written  
13       examination to determine his qualifications for certification. The Commission may also  
14       make such investigation as it deems necessary into the ethical background of the  
15       applicant to determine his qualifications with due regard to the paramount interests of  
16       the public as to his honesty, truthfulness and integrity. If the results of the examination  
17       and investigation shall be satisfactory to the Commission, then the Commission shall  
18       issue to such person a certificate, authorizing such person to act as a State certified  
19       residential real estate appraiser or a State certified general real estate appraiser in this  
20       State.

21       **"§ 93A-64. Certificate renewal; renewal fees; continuing education; reinstatement;**  
22       **replacement certificates; certification history.**

23       (a)   Certificates issued under this Article shall expire on the 30th day of June of  
24       every year and shall become invalid after that date unless renewed prior to the  
25       expiration date by filing an application with and paying to the Executive Director of the  
26       Commission the fee required by the Commission, which may not exceed one hundred  
27       dollars (\$100.00). Prerequisite to the renewal of a real estate appraiser certificate, the  
28       certificate holder must satisfy any continuing education requirements which may be  
29       prescribed by the Commission under G.S. 93A-64(b), and shall have previously  
30       renewed or concurrently applied for the renewal of his real estate broker or salesman  
31       license. The Commission may adopt rules establishing a system of certificate renewal  
32       in which certificates expire annually with varying expiration dates.

33       (b)   The Commission may by rule require, as a prerequisite to certificate renewal,  
34       the completion of education courses approved by the Commission or courses  
35       determined by the Commission to be equivalent to such instruction, provided that such  
36       continuing education requirements do not exceed 24 hours of classroom instruction  
37       during any two-year period.

38       (c)   All certificates reinstated after the expiration date shall be subject to a late  
39       filing fee of ten dollars (\$10.00) per month for each month or part thereof that such  
40       license is lapsed, not to exceed one hundred twenty dollars (\$120.00). Such late filing  
41       fee shall be in addition to the required renewal fee. In the event a certificate holder fails  
42       to reinstate his certificate within 12 months after the expiration date thereof, the  
43       Commission may, in its discretion, consider such person as not having been previously  
44       certified, and thereby subject to the provisions of this Article relating to the issuance of

1 an original certificate, including the examination requirements set forth herein.  
2 Applications to reinstate certificates expired for 12 or more months shall be  
3 accompanied by the fee required for an original certificate and the accrued one hundred  
4 twenty dollar (\$120.00) late filing fee.

5 (d) Replacement certificates may be issued by the Commission upon payment of  
6 five dollars (\$5.00) by the certificate holder. Certification by the Commission of the  
7 certification history of a person certified under this Article shall be made only after the  
8 payment of a fee of ten dollars (\$10.00) to the Commission.

9 **"§ 93A-65. Education program approval and fees.**

10 (a) The Commission may by rule prescribe minimum standards for the approval  
11 and renewal of approval of schools to conduct appraiser precertification courses  
12 required by G.S. 93A-63(c). Such standards may address subject matter, program  
13 structuring, instructional materials, requirements for satisfactory course completion,  
14 instructors, and other related matters relevant to the provision of such courses in a  
15 manner that best serves the public interest.

16 (b) The Commission may by rule set nonrefundable fees chargeable to appraisal  
17 trade organizations for the approval and annual renewal of approval of their education  
18 programs as equivalent to the precertification courses required by G.S. 93A-63(c),  
19 provided that such fees shall not exceed three hundred dollars (\$300.00) per course for  
20 approval and one hundred fifty dollars (\$150.00) per course for renewal of approval.  
21 Fees chargeable to licensed private real estate schools to conduct appraiser  
22 precertification courses are established by Article 3 of this Chapter. No fees shall be  
23 charged for the approval or renewal of approval to conduct appraiser precertification  
24 courses where such courses are offered by an accredited North Carolina college,  
25 university, junior college, or community or technical college, or by a licensed North  
26 Carolina private business school.

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

33 (d) Nonrefundable fees may be charged to schools and course sponsors for the  
34 approval and annual renewal of approval to conduct appraiser continuing education  
35 courses, provided that such fees shall not exceed one hundred dollars (\$100.00) per  
36 course for approval and fifty dollars (\$50.00) per course for renewal of approval, and  
37 provided further that no fees shall be charged for the approval or renewal of approval to  
38 conduct appraiser continuing education courses where such courses are offered by an  
39 accredited North Carolina college, university, junior college, or community or technical  
40 college, or by an agency of the federal, State or local government. A nonrefundable fee  
41 not to exceed fifty dollars (\$50.00) per course may be charged to current or former  
42 certificate holders requesting approval by the Commission of a course for continuing  
43 education credit when approval of such course has not been previously obtained by the  
44 offering school or course sponsor.

1 **"§ 93A-66. Nonresident certification.**

2 (a) An applicant from another state which offers real estate appraiser certification  
3 or licensing privileges to residents of North Carolina may become State certified by  
4 conforming to all of the provisions of this Article, and, in the discretion of the  
5 Commission, such other terms and conditions as are required of North Carolina  
6 residents applying for certification or licensure in such other state; provided that the  
7 Commission may exempt from the examination prescribed in G.S. 93A-63(f) a real  
8 estate appraiser duly certified or licensed in another state if a similar exemption is  
9 extended to State certified real estate appraisers from North Carolina.

10 (b) Every applicant for State certification under this Article who is not a resident  
11 of this State shall submit with his application for certification an irrevocable consent  
12 that service of process in any action against the applicant arising out of the applicant's  
13 activities as a State certified real estate appraiser may be made by delivery of the  
14 process on the Executive Director of the Commission.

15 **"§ 93A-67. Rule-making authority.**

16 The Commission shall have the authority to adopt rules and regulations not  
17 inconsistent with the provisions of this Article and the General Statutes of North  
18 Carolina which may be reasonably necessary to implement, administer and enforce the  
19 provisions of this Article, including, but not limited to, the authority to:

- 20 (1) Prescribe forms and procedures for submitting information to the  
21 Commission;  
22 (2) Prescribe standards for the development and communication of real  
23 estate appraisals by persons certified under this Article.

24 **"§ 93A-68. Real Estate Appraisal Advisory Committee.**

25 The Commission shall appoint a Real Estate Appraisal Advisory Committee for the  
26 purpose of rendering technical advice and assistance to the Commission. To the extent  
27 possible, the membership of the committee shall be representative of the members of the  
28 real estate appraisal business and its various organizations and associations. Members  
29 of the Advisory Committee shall be paid the per diem allowances at the rates set forth in  
30 G.S. 93B-5; provided that none of the expenses of the committee shall be payable out of  
31 the Treasury of the State of North Carolina.

32 **"§ 93A-69. Register of applicants; roster of State certified appraisers; financial**  
33 **report to Secretary of State; administrative expenses.**

34 (a) The Executive Director of the Commission shall keep a register of all  
35 applicants for State certification as real estate appraisers, showing for each the date of  
36 application, name, business or residence address, and whether the certificate was  
37 granted or refused.

38 (b) The Executive Director of the Commission shall also keep a current roster  
39 showing the names and places of business of all State certified real estate appraisers,  
40 which roster shall be kept on file in the office of the Commission and be opened to  
41 public inspection.

42 (c) On or before the first day of September of each year, the Commission shall  
43 file with the Secretary of State a copy of the roster of real estate appraisers certified by  
44 the Commission and a report containing a complete statement of income received by the

1 Commission in connection with the certification of real estate appraisers for the  
2 preceding fiscal year ending June 30th, attested by the affidavit of the Executive  
3 Director of the Commission. The report shall be made a part of those annual reports  
4 required under the provisions of G.S. 93A-5 and G.S. 93A-53.

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

13 **"§ 93A-70. Disciplinary action by Commission.**

14 (a) The Commission may take disciplinary action. Upon its own motion, or on  
15 the verified complaint of any person, the Commission may investigate the actions of any  
16 person certified under this Article or any other person who shall assume to act in such  
17 capacity. If the Commission finds probable cause that a person certified under this  
18 Article has violated any of the provisions of this Article or G.S. 93A-6 of this Chapter,  
19 the Commission may hold a hearing on the allegations of misconduct.

20 The Commission shall have power to suspend or revoke at any time certification  
21 privileges granted under the provisions of this Article or to reprimand any certificate  
22 holder if, following a hearing, the Commission adjudges the certificate holder to be  
23 guilty of any of the following:

- 24 (1) Procuring or attempting to procure certification pursuant to this Article  
25 by making a false or fraudulent representation.
- 26 (2) Conviction, including a conviction based upon a plea of **nolo**  
27 **contendere** or no contest, of any criminal offense involving moral  
28 turpitude which would reasonably affect the performance of the  
29 certificate holder in the real estate appraisal business, or entry of a  
30 final civil judgment against the certificate holder on grounds of fraud,  
31 misrepresentation or deceit in the making of any appraisal of real  
32 estate;
- 33 (3) Making any willful or negligent misrepresentation or any willful or  
34 negligent omission of material fact;
- 35 (4) Accepting an appraisal assignment when the employment is contingent  
36 upon the appraiser reporting a predetermined result, analysis, or  
37 opinion, or when the fee to be paid for the performance of the  
38 appraisal assignment is contingent upon the opinion, conclusion, or  
39 valuation reached or upon consequences resulting from the appraisal  
40 assignment;
- 41 (5) Acting or holding oneself out as a State certified general real estate  
42 appraiser when certified as only a State certified residential real estate  
43 appraiser;

- 1           (6) Failing as a State certified real estate appraiser to actively and  
2 personally supervise a licensed real estate broker or salesman not  
3 certified under this Article who assists the State certified real estate  
4 appraiser in performing certified real estate appraisals;  
5           (7) Failing to retain for three years and to make available to the  
6 Commission for its inspection without prior notice, originals or true  
7 copies of all written contracts engaging his services to appraise real  
8 property, and all reports and supporting data assembled and formulated  
9 by the appraiser in preparing the reports;  
10          (8) Paying a fee or valuable consideration to any person for acts or  
11 services performed in violation of this Article;  
12          (9) Acting as a real estate appraiser in such an unworthy or incompetent  
13 manner as to endanger the interest of the public;  
14          (10) Violating any of the standards for the development or communication  
15 of real estate appraisals or any other rule promulgated by the  
16 Commission;  
17          (11) Performing any other act which constitutes improper, fraudulent, or  
18 dishonest conduct; or  
19          (12) Violating any of the provisions of this Chapter.

20          (b) When a person certified under this Article is accused of any act, omission, or  
21 misconduct which would subject him to disciplinary action, the certificate holder, with  
22 the consent and approval of the Commission, may surrender his certificate and all the  
23 rights and privileges pertaining to it for a period of time established by the Commission.  
24 A person who surrenders his certificate shall not thereafter be eligible for or submit any  
25 application for certification as a real estate appraiser during the period that the  
26 certificate is surrendered.

27 **"§ 93A-71. Penalty for violation of this Article.**

28          (a) Any person violating the provisions of this Article shall, upon conviction  
29 thereof, be deemed guilty of a misdemeanor and shall be punished by a fine or  
30 imprisonment, or by both fine and imprisonment, in the discretion of the court.

31          (b) The Commission may appear in its own name in superior court in actions for  
32 injunctive relief to prevent any person from violating the provisions of this Article or  
33 rules promulgated by the Commission. The superior court shall have the power to grant  
34 these injunctions even if criminal prosecution has been or may be instituted as a result  
35 of the violations, or whether the person is the holder of a certificate issued by the  
36 Commission under this Article."

37                 Sec. 9. This act shall become effective upon ratification except for Sections 1  
38 through 7 which shall become effective July 1, 1990.