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Short Title: Vol. Real Estate Appraiser Licen. Cert.

(Public)

Sponsors:

Referred to:

March 8, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR VOLUNTARY LICENSURE AND CERTIFICATION
3 OF REAL ESTATE APPRAISERS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 93A-3(a) reads as rewritten:

6 "(a) There is hereby created the North Carolina Real Estate Commission ~~for issuing~~
7 ~~licenses to real estate brokers and real estate salesmen~~, hereinafter called the Commission.
8 The Commission shall consist of seven members to be appointed by the ~~Governor;~~
9 ~~provided, Governor. that at least two~~ At least three members of the Commission shall be
10 licensed real estate ~~brokers, brokers or real estate salesmen, or otherwise directly salesmen,~~
11 one of whom shall have been actively engaged in the business of real estate business;
12 appraising in this State for not less than five years immediately preceding his
13 appointment, and, if appointed to the Commission after January 1, 1991, shall also be a
14 State-licensed or State-certified real estate appraiser. and at ~~At~~ least two members of the
15 Commission ~~must~~ shall be persons who are not involved directly or indirectly in the real
16 estate or real estate appraisal business. Members of the Commission shall serve three-
17 year terms, so staggered that the terms of two members expire in one year, the terms of
18 two members expire in the next year, and the terms of three members expire in the third
19 year of each three-year period. The members of the Commission shall elect one of their
20 members to serve as chairman of the Commission for a term of one year. The Governor
21 may remove any member of the Commission for misconduct, incompetency, or willful

1 neglect of duty. The Governor shall have the power to fill all vacancies occurring on the
2 Commission."

3 Sec. 2. G.S. 93A-6 reads as rewritten:

4 **"§ 93A-6. Disciplinary action by Commission.**

5 (a) The Commission shall have power to take disciplinary action. Upon its own
6 motion, or on the verified complaint of any person, the Commission may investigate the
7 actions of any person or entity licensed under this Chapter, or any other person or entity
8 who shall assume to act in such capacity. If the Commission finds probable cause that a
9 licensee has violated any of the provisions of this Chapter, the Commission may hold a
10 hearing on the allegations of misconduct.

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

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

1 in a real estate transaction; provided, these accounts shall not bear
 2 interest unless the principals authorize in writing the deposit be made
 3 in an interest bearing account and also provide for the disbursement of
 4 the interest accrued;

5 (13) Failing to deliver, within a reasonable time, a completed copy of any
 6 purchase agreement or offer to buy and sell real estate to the buyer
 7 and to the seller;

8 (14) Failing as a broker, at the time the transaction is consummated, to
 9 deliver to the seller in every real estate transaction, a complete detailed
 10 closing statement showing all of the receipts and disbursements
 11 handled by him for the seller or failing to deliver to the buyer a
 12 complete statement showing all money received in the transaction
 13 from the buyer and how and for what it was disbursed; or

14 (15) Violating any rule or regulation promulgated by the 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-licensed or State-certified real estate
 39 appraiser pursuant to Article 5 of this Chapter, has violated any
 40 provisions of Article 5.

41 (c) The Commission may appear in its own name in superior court in actions for
 42 injunctive relief to prevent any person from violating the provisions of this Chapter or
 43 rules promulgated by the Commission. The superior court shall have the power to grant

1 these injunctions even if criminal prosecution has been or may be instituted as a result
2 of the violations, or whether the person is a licensee of the Commission.

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

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

16 Sec. 3. G.S. 93A-32 reads as rewritten:

17 **"§ 93A-32. Definitions.**

18 As used in this Article:

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

20 (2) 'Private real estate school' means any real estate educational ~~institution~~
21 ~~or organization~~ entity which is privately owned and operated ~~for profit~~
22 by an individual, partnership, corporation or association, and which is
23 ~~devoted exclusively to the teaching of real estate courses for which tuition is~~
24 ~~charged, and wherein the purpose of any of such courses is to qualify~~
25 ~~applicants under G.S. 93A-4(a) to sit for the licensing examinations for real~~
26 ~~estate brokers or salesmen.~~ conducts, for a profit or tuition charge, real
27 estate salesman or broker prelicensing courses prescribed by G.S. 93A-
28 4(a) or real estate appraiser prelicensing or precertification courses
29 prescribed by G.S. 93A-63(a), provided that a private business or trade
30 school licensed by the State Board of Community Colleges under G.S.
31 115D-571 to conduct courses other than those real estate courses
32 described herein shall not be considered to be a private real estate
33 school."

34 Sec. 4. G.S. 93A-34(b) reads as rewritten:

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

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

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

18 Sec. 5. G.S. 93A-35(b) reads as rewritten:

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

29 Sec. 6. Chapter 93A of the General Statutes is amended by adding a new
 30 Article to read:

31 **"ARTICLE 5.**
 32 **"REAL ESTATE APPRAISERS.**

33 **"§ 93A-60. Title.**

34 This Article shall be known and may be cited as the 'North Carolina Real Estate
 35 Appraisers Act'.

36 **"§ 93A-61. Real estate appraiser licensure and certification use.**

37 (a) From and after January 1, 1991, it shall be unlawful for any person in this
 38 State to assume or use the title 'State-licensed real estate appraiser' or 'State-certified
 39 real estate appraiser', or any title, designation or abbreviation likely to create the
 40 impression of licensure or certification by the State of North Carolina as a real estate
 41 appraiser, unless the person has first been licensed or certified by the North Carolina
 42 Real Estate Commission under the provisions of this Article. The Commission may
 43 adopt for the exclusive use of persons certified under the provisions of this Article, a

1 seal, symbol or other mark identifying the user as a State-licensed or State-certified real
2 estate appraiser.

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

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

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

27 (e) Nothing in this Article shall preclude a real estate broker or salesman licensed
28 under Article 1 of this Chapter or any other person who is not a State-licensed or State-
29 certified real estate appraiser from appraising real estate for compensation, provided
30 such persons do not represent themselves as being State-licensed or State-certified as a
31 real estate appraiser.

32 (f) Any person who is not licensed or certified under this Article may assist a
33 State-licensed or State-certified real estate appraiser in the performance of an appraisal,
34 provided that he is actively and personally supervised by the State-licensed or State-
35 certified appraiser and provided further that any appraisal report rendered in connection
36 with the appraisal is reviewed and signed by the State-licensed or State-certified real
37 estate appraiser.

38 (g) It shall be unlawful for any person who performs an appraisal of real estate
39 located in this State to describe or refer to such appraisal by the term 'certified' or any
40 similar term unless the person has first been certified by the Commission under the
41 provisions of this Article. Nothing in this Article shall require a State-certified real
42 estate appraiser to render a 'certified' real estate appraisal when performing an appraisal
43 assignment; however, in the event a State-certified real estate appraiser performs a real
44 estate appraisal which is not represented as being 'certified', then such appraiser must

1 clearly inform the person to whom the appraisal report is given and must prominently
2 disclose on the appraisal report that the appraisal is not a 'certified' real estate appraisal.

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

6 **"§ 93A-62. Definitions.**

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

- 8 (1) 'Appraisal' or 'real estate appraisal' means an analysis, opinion or
9 conclusion as to the value of identified real estate or specified interests
10 therein.
- 11 (2) 'Appraisal assignment' means an engagement for which an appraiser is
12 employed or retained to act, or would be perceived by third parties or
13 the public as acting, as a disinterested third party in rendering an
14 unbiased appraisal.
- 15 (3) 'Appraisal Foundation' or 'Foundation' means the Appraisal
16 Foundation established on November 20, 1987, as a not-for-profit
17 corporation under the laws of Illinois.
- 18 (4) 'Appraisal report' means any communication, written or oral, of an
19 appraisal.
- 20 (5) 'Certificate' means that document issued by the North Carolina Real
21 Estate Commission evidencing that the person named therein has
22 satisfied the requirements for certification as a State-certified real
23 estate appraiser and bearing a certificate number assigned by the
24 Commission.
- 25 (6) 'Certificate holder' means a person certified by the Commission under
26 the provisions of this Article.
- 27 (7) 'Certified appraisal' means any appraisal performed by a State-
28 certified real estate appraiser and represented as being 'certified'.
- 29 (8) 'Certified appraisal report' means any communication, written or oral,
30 of an appraisal by a State-certified real estate appraiser which is
31 represented as being 'certified'.
- 32 (9) 'Commission' means the North Carolina Real Estate Commission.
- 33 (10) 'License' means that document issued by the North Carolina Real
34 Estate Commission evidencing that the person named therein has
35 satisfied the requirements for licensure as a State-licensed real estate
36 appraiser and bearing a license number assigned by the Commission.
- 37 (11) 'Licensee' means a person licensed by the Commission under the
38 provisions of this Article.
- 39 (12) 'Real estate' or 'real property' means land, including the air above and
40 ground below and all appurtenances and improvements thereto, as well
41 as any interest or right inherent in the ownership of land.
- 42 (13) 'Real Estate Appraisal Committee', 'Appraisal Committee' or
43 'Committee' means the body established by the Commission pursuant
44 to the provisions of this Article.

- 1 (14) 'Real estate appraiser' or 'appraiser' means a person who for a fee or
2 valuable consideration develops and communicates real estate
3 appraisals or otherwise gives an opinion of the value of real estate or
4 any interest therein.
- 5 (15) 'Real estate appraising' means the practice of developing and
6 communicating real estate appraisals.
- 7 (16) 'Residential real estate' means any parcel of real estate, improved or
8 unimproved, that is exclusively residential in nature and that includes
9 or is intended to include a residential structure containing not more
10 than four dwelling units and no other improvements except those
11 which are typical residential improvements that support the residential
12 use for the location and property type. A residential unit in a
13 condominium, townhouse, or cooperative complex or a planned unit
14 development is considered to be residential real estate.
- 15 (17) 'State-certified real estate appraiser' means a person who holds a
16 current, valid certificate as a State-certified real estate appraiser issued
17 under the provisions of this Article.
- 18 (18) 'State-licensed real estate appraiser' means a person who holds a
19 current, valid license as a State-licensed real estate appraiser issued
20 under the provisions of this Article.

21 **§ 93A-63. Qualifications for State licensure and certification; applications;**
22 **application fees; examinations.**

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

- 28 (1) Each applicant for licensure as a State-licensed real estate appraiser
29 shall have demonstrated to the satisfaction of the Commission that he
30 possesses the knowledge and competence necessary to perform
31 appraisals of residential and other real estate as the Commission may
32 prescribe by having satisfactorily completed, within the five-year
33 period immediately preceding the date application is made, through a
34 school approved by the Commission, a course of instruction in real
35 estate appraisal principles and practices consisting of at least 90 hours
36 of classroom instruction in subjects determined by the Commission,
37 and shall satisfy such additional qualifications as may be required to
38 render North Carolina State-licensed real estate appraisers eligible to
39 perform appraisals in connection with federally-related transactions
40 requiring the use of a State-licensed real estate appraiser; or the
41 applicant shall possess education or experience which is found by the
42 Commission to be equivalent to the above requirements.
- 43 (2) Each applicant for certification as a State-certified real estate appraiser
44 shall have demonstrated to the satisfaction of the Commission that he

1 possesses the knowledge and competence necessary to perform
2 appraisals of all types of real estate by having satisfactorily completed,
3 within the five-year period immediately preceding the date application
4 is made, through a school approved by the Commission, a course of
5 instruction in general real estate appraisal practices consisting of at
6 least 90 hours of classroom instruction in subjects determined by the
7 Commission, such course of instruction to be in addition to the
8 education required for licensure as a State-licensed real estate
9 appraiser, and shall present evidence satisfactory to the Commission of
10 at least two years of full-time experience in real estate appraising
11 within the five-year period immediately preceding the date application
12 is made, and shall satisfy such additional qualifications as may be
13 required to render North Carolina State-certified real estate appraisers
14 eligible to perform appraisals in connection with federally related
15 transactions requiring the use of a State-certified real estate appraiser;
16 or the applicant shall possess education or experience which is found
17 by the Commission to be equivalent to the above requirements.

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

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

30 **"§ 93A-64. License and certificate renewal; renewal fees; continuing education;**
31 **reinstatement; replacement licenses and certificates; licensure and**
32 **certification history.**

33 (a) Licenses and certificates issued under this Article shall expire on the 30th day
34 of June of every year and shall become invalid after that date unless renewed prior to
35 the expiration date by filing an application with and paying to the Executive Director of
36 the Commission the fee required by the Commission, which may not exceed one
37 hundred dollars (\$100.00). Prerequisite to the renewal of a real estate appraiser license
38 or certificate, the licensee or certificate holder must satisfy any continuing education
39 requirements which may be prescribed by the Commission under G.S. 93A-64(b). The
40 Commission may adopt rules establishing a system of license and certificate renewal in
41 which licenses and certificates expire annually with varying expiration dates.

42 (b) The Commission may by rule require, as a prerequisite to license or
43 certificate renewal, the completion of education courses approved by the Commission or
44 courses determined by the Commission to be equivalent to such instruction, provided

1 that such continuing education requirements do not exceed 24 hours of classroom
2 instruction during any two-year period, except as may be required to maintain State-
3 certified and State-licensed real estate appraisers' eligibility to perform real estate
4 appraisals in connection with federally-related transactions requiring their use.

5 (c) All licenses and certificates reinstated after the expiration date shall be
6 subject to a late filing fee of ten dollars (\$10.00) per month for each month or part
7 thereof that such license or certificate is lapsed, not to exceed one hundred twenty
8 dollars (\$120.00). Such late filing fee shall be in addition to the required renewal fee.
9 In the event a licensee or certificate holder fails to reinstate his license or certificate
10 within 12 months after the expiration date thereof, the Commission may, in its
11 discretion, consider such person as not having been previously licensed or certified, and
12 thereby subject to the provisions of this Article relating to the issuance of an original
13 license or certificate, including the examination requirements set forth herein.
14 Applications to reinstate licenses or certificates expired for 12 or more months shall be
15 accompanied by the fee required for an original license or certificate and the accrued
16 one hundred twenty dollar (\$120.00) late filing fee.

17 (d) Replacement licenses and certificates may be issued by the Commission upon
18 payment of five dollars (\$5.00) by the licensee or certificate holder. Certification by the
19 Commission of the licensure or certification history of a person licensed or certified
20 under this Article shall be made only after the payment of a fee of ten dollars (\$10.00)
21 to the Commission.

22 **"§ 93A-65. Education program approval and fees.**

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

29 (b) The Commission may by rule set nonrefundable fees chargeable to appraisal
30 trade organizations for the approval and annual renewal of approval of their education
31 programs as equivalent to the prelicensing and precertification courses required by G.S.
32 93A-63(a), provided that such fees shall not exceed three hundred dollars (\$300.00) per
33 course for approval and one hundred fifty dollars (\$150.00) per course for renewal of
34 approval. Fees chargeable to licensed private real estate schools to conduct appraiser
35 prelicensing and precertification courses are established by Article 3 of this Chapter.
36 No fees shall be charged for the approval or renewal of approval to conduct appraiser
37 prelicensing or precertification courses where such courses are offered by an accredited
38 North Carolina college, university, junior college, or community or technical college, or
39 by a licensed North Carolina private business school.

40 (c) The Commission may by rule prescribe minimum standards for the approval
41 and annual renewal of approval of schools and other course sponsors to conduct
42 appraiser continuing education courses. Such standards may address subject matter,
43 instructional materials, requirements for satisfactory course completion, minimum

1 course length, instructors, and other related matters relevant to the provision of such
2 courses in a manner that best serves the public interest.

3 (d) Nonrefundable fees may be charged to schools and course sponsors for the
4 approval and annual renewal of approval to conduct appraiser continuing education
5 courses, provided that such fees shall not exceed one hundred dollars (\$100.00) per
6 course for approval and fifty dollars (\$50.00) per course for renewal of approval, and
7 provided further that no fees shall be charged for the approval or renewal of approval to
8 conduct appraiser continuing education courses where such courses are offered by an
9 accredited North Carolina college, university, junior college, or community or technical
10 college, or by an agency of the federal, State or local government. A nonrefundable fee
11 not to exceed fifty dollars (\$50.00) per course may be charged to current or former
12 licensees or certificate holders requesting approval by the Commission of a course for
13 continuing education credit when approval of such course has not been previously
14 obtained by the offering school or course sponsor.

15 **"§ 93A-66. Nonresident licensure and certification.**

16 (a) An applicant from another state which offers real estate appraiser certification
17 or licensing privileges to residents of North Carolina may become State-certified or
18 licensed by conforming to all of the provisions of this Article, and, in the discretion of
19 the Commission, such other terms and conditions as are required of North Carolina
20 residents applying for certification or licensure in such other state; provided that the
21 Commission may exempt from the examination prescribed in G.S. 93A-63(c) a real
22 estate appraiser duly certified or licensed in another state if a similar exemption is
23 extended to State-certified or licensed real estate appraisers from North Carolina.

24 (b) Every applicant for State licensure or certification under this Article who is
25 not a resident of this State shall submit with his application an irrevocable consent that
26 service of process in any action against the applicant arising out of the applicant's
27 activities as a State-licensed or State-certified real estate appraiser may be made by
28 delivery of the process on the Executive Director of the Commission.

29 **"§ 93A-67. Rule-making authority.**

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

- 34 (1) Prescribe forms and procedures for submitting information to the
35 Commission;
36 (2) Prescribe standards for the development and communication of real
37 estate appraisals by persons licensed or certified under this Article.

38 **"§ 93A-68. Real Estate Appraisal Committee.**

39 (a) The Commission shall appoint a Real Estate Appraisal Committee for the
40 purpose of rendering advice and assistance to the Commission. To the extent possible,
41 the membership of the Committee shall be representative of the members of the real
42 estate appraisal business. The Committee shall consist of five members, three of whom
43 shall have been engaged in the business of real estate appraising in this State for not less
44 than five years immediately preceding their appointment, and, if appointed to the

1 Committee after January 1, 1991, shall also be State-licensed or State-certified real
2 estate appraisers. Members of the Committee shall serve three-year terms, so staggered
3 that the term of one member expires in one year, the terms of two members expire in the
4 next year, and the terms of two members expire in the third year of each three-year
5 period. The members of the Committee shall elect one of their members to serve as
6 chairman of the Committee for a term of one year. The Commission may remove any
7 member of the Committee for misconduct, incompetency, or neglect of duty. The
8 Commission shall have the power to fill all vacancies occurring on the Committee.

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

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

23 **"§ 93A-69. Register of applicants; roster of State-licensed and certified appraisers;**
24 **financial report to Secretary of State; administrative expenses.**

25 (a) The Executive Director of the Commission shall keep a register of all
26 applicants for State licensure or certification as real estate appraisers, showing for each
27 the date of application, name, business or residence address, and whether the license or
28 certificate was granted or refused.

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

33 (c) On or before the first day of September of each year, the Commission shall
34 file with the Secretary of State a copy of the roster of real estate appraisers licensed or
35 certified by the Commission and a report containing a complete statement of income
36 received by the Commission in connection with the licensure and certification of real
37 estate appraisers for the preceding fiscal year ending June 30th, attested by the affidavit
38 of the Executive Director of the Commission. The report shall be made a part of those
39 annual reports required under the provisions of G.S. 93A-5 and G.S. 93A-53.

40 (d) All fees collected by the Commission under this Article shall be deposited
41 into the operating account of the Commission. None of the expenses incurred by the
42 Commission in administering this Article, including the compensation of expenses of
43 the Real Estate Appraisal Committee or any officer or employee of the Commission,
44 may be paid or payable out of the Treasury of the State of North Carolina, and the Real

1 Estate Appraisal Committee may not make or incur any expense, debt or other financial
2 obligation binding upon the Commission or the State of North Carolina.

3 (e) In addition to those fees prescribed in this Article for making application for
4 and renewing appraiser licenses and certificates, the Commission may collect from
5 applicants and holders of such licenses and certificates and remit to the appropriate
6 agency or instrumentality of the federal government any additional fees as may be
7 required to render North Carolina State-licensed or State-certified appraisers eligible to
8 perform appraisals in connection with federally related transactions.

9 **"§ 93A-70. Disciplinary action by Commission.**

10 (a) The Commission may take disciplinary action against State-licensed or State-
11 certified real estate appraisers. Upon its own motion, or on the verified complaint of
12 any person, the Commission may investigate the actions of any person licensed or
13 certified under this Article or any other person who shall assume to act in such capacity.
14 If the Commission finds probable cause that a person licensed or certified under this
15 Article has violated any of the provisions of this Chapter, the Commission may hold a
16 hearing on the allegations of misconduct.

17 The Commission shall have power to suspend or revoke at any time licensure or
18 certification privileges granted under the provisions of this Article or to reprimand or
19 censure any licensee or certificate holder if, following a hearing, the Commission finds
20 the licensee or certificate holder to have:

- 21 (1) Procured licensure or certification pursuant to this Article by making a
22 false or fraudulent representation;
- 23 (2) Made any willful or negligent misrepresentation or any willful or
24 negligent omission of material fact;
- 25 (3) Accepted an appraisal assignment when the employment is contingent
26 upon the appraiser reporting a predetermined result, analysis, or
27 opinion, or when the fee to be paid for the performance of the
28 appraisal assignment is contingent upon the opinion, conclusion, or
29 valuation reached or upon consequences resulting from the appraisal
30 assignment;
- 31 (4) Acted or held oneself out as a State-licensed or State-certified real
32 estate appraiser when not so licensed or certified;
- 33 (5) Failed as a State-licensed or State-certified real estate appraiser to
34 actively and personally supervise any person not licensed or certified
35 under this Article who assists the State-licensed or State-certified real
36 estate appraiser in performing real estate appraisals;
- 37 (6) Failed to retain for three years and to make available to the
38 Commission for its inspection without prior notice, originals or true
39 copies of all written contracts engaging his services to appraise real
40 property, and all reports and supporting data assembled and formulated
41 by the appraiser in preparing the reports;
- 42 (7) Paid a fee or valuable consideration to any person for acts or services
43 performed in violation of this Article;

- 1 (8) Acted as a real estate appraiser in such an unworthy or incompetent
2 manner as to endanger the interest of the public;
3 (9) Violated any of the standards for the development or communication
4 of real estate appraisals or any other rule promulgated by the
5 Commission;
6 (10) Performed any other act which constitutes improper, fraudulent, or
7 dishonest conduct; or
8 (11) Violated any of the provisions of this Chapter.

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

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

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

28 **"§ 93A-71. Penalty for violation of this Article.**

29 (a) Any person who acts as, or holds himself out to be, a State-licensed or State-
30 certified real estate appraiser without first obtaining a license or certificate as provided
31 in this Article, or who willfully performs the acts specified in G.S. 93A-70(a)(1)
32 through (10), shall be guilty of a misdemeanor and shall be punished by a fine or
33 imprisonment, or by both, in the discretion of the court.

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

40 Sec. 7. This act is effective upon ratification except for Sections 3 through 5
41 which shall become effective July 1, 1990. The North Carolina Real Estate
42 Commission shall have the authority upon ratification of this act to adopt rules not
43 inconsistent with the provisions of this act and the General Statutes of North Carolina
44 which are reasonably necessary to implement this act.