

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 473
Committee Substitute Favorable 6/14/93
Committee Substitute #2 Favorable 6/21/93

Short Title: North Carolina Appraisal Board.

(Public)

Sponsors:

Referred to:

March 23, 1993

A BILL TO BE ENTITLED

AN ACT TO SEPARATE THE REAL ESTATE APPRAISAL BOARD FROM THE REAL ESTATE COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 93A-73(b) reads as rewritten:

"(b) Each application for State licensure or certification as a real estate appraiser shall be accompanied by a fee fixed by the Commission but not to exceed one hundred fifty dollars ~~(\$150.00)~~ (\$150.00), plus any additional fee as may be necessary to defray the cost of any competency examination administered by a private testing service."

Sec. 2. G.S. 93A-74(a) reads as rewritten:

"(a) Licenses and certificates issued under this Article shall expire on the 30th day of June of every year and shall become invalid after that date unless renewed prior to the expiration date by filing an application with and paying to the Executive Director of the Commission the fee required by the Commission, which may not exceed ~~one hundred dollars (\$100.00)~~ three hundred dollars (\$300.00). Prerequisite to the renewal of a real estate appraiser license or certificate, the licensee or certificate holder must satisfy any continuing education requirements which may be prescribed by the Commission under G.S. 93A-74(b). The Commission may adopt rules establishing a system of license and certificate renewal in which licenses and certificates expire annually with varying expiration dates."

Sec. 3. G.S. 93A-76 is amended by adding a new subsection to read:

"(c) The Commission may by rule establish a procedure for granting temporary licensure or certification and charging fees for granting temporary licensure or certification, but such fees shall not exceed one hundred dollars (\$100.00)."

Sec. 4. G.S. 93A-79(d) reads as rewritten:

"(d) All fees collected by the Commission under this Article shall be deposited into the operating account of the Commission. On April 1, 1994, those fees attributable to the Board's July 1, 1994, through June 30, 1995, fiscal year, including, but not limited to, fees received in connection with appraisal license and certificate applications and renewals, shall be segregated into a separate account for the sole benefit of the Board and made available to the Board at any time thereafter, in its discretion, for fiscal year 1994-95 operating expenses. All other fees collected by the Commission shall be retained by the Commission for its expenses, including expenses relating to the provision of technical, administrative, and financial support to the Board for its 1993-94 fiscal year; said support to be provided by the Commission to the Board until Chapter 93E of the General Statutes becomes effective. None of the expenses incurred by the Commission in administering this Article, or by the Board in implementing Chapter 93E of the General Statutes, including the compensation of expenses of the Real Estate Appraisal Board or any officer or employee of the Commission, may be paid or payable out of the Treasury of the State of North Carolina, and the Real Estate Appraisal Board may not make or incur any expense, debt or other financial obligation binding upon the Commission or the State of North Carolina."

Sec. 5. G.S. 93A-79(e) reads as rewritten:

"(e) In addition to those fees prescribed in this Article for making application for and renewing appraiser licenses and certificates, the Commission may collect from applicants and holders of such licenses and certificates and remit to the appropriate agency or instrumentality of the federal government any additional fees as may be required to render North Carolina State-licensed or State-certified appraisers eligible to perform appraisals in connection with federally related ~~transactions~~ transactions as well as an additional fee of twenty-five dollars (\$25.00) to cover the administrative costs associated therewith."

Sec. 6. The General Statutes are amended by adding the following new Chapter:

"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. Real estate appraiser licensure and certification use.

(a) It shall be unlawful for any person in this State to assume or use the title, 'State-licensed real estate appraiser' or 'State-certified real estate appraiser', or any title, designation, or abbreviation likely to create the impression of licensure or certification by the State of North Carolina as a real estate appraiser, unless the person has first been

1 licensed or certified by the North Carolina Appraisal Board under the provisions of this
2 Chapter. The Board may adopt for the exclusive use of persons certified under the
3 provisions of this Chapter, a seal, symbol, or other mark identifying the user as a State-
4 licensed or State-certified real estate appraiser.

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

11 (c) The term 'State-licensed real estate appraiser', 'State-certified real estate
12 appraiser', or any similar term shall not be used following or immediately in connection
13 with the name of a partnership, association, corporation, or other firm or group or in
14 such manner that it might create the impression of licensure or certification by the State
15 of North Carolina as a real estate appraiser.

16 **"§ 93E-1-3. License or certificate not required.**

17 (a) No license or certificate shall be issued under the provisions of this Chapter
18 to a partnership, association, corporation, firm, or group. However, nothing herein shall
19 preclude a State-licensed or State-certified real estate appraiser from rendering
20 appraisals for or on behalf of a partnership, association, corporation, firm, or group,
21 provided the appraisal report is prepared by or under the immediate personal direction
22 of, the State-licensed or State-certified real estate appraiser and is reviewed and signed
23 by such State-licensed or State-certified appraiser.

24 (b) Any person who is not State-licensed or State-certified under this Chapter
25 may assist a State-licensed or State-certified real estate appraiser in the performance of
26 an appraisal provided that he is actively and personally supervised by a State-certified
27 appraiser and provided further that any appraisal report rendered in connection with the
28 appraisal is reviewed and signed by the State-certified real estate appraiser.

29 (c) Nothing in this Chapter shall preclude a real estate broker or salesman
30 licensed under Chapter 93A of the General Statutes or any other person who is not a
31 State-licensed or State-certified real estate appraiser from appraising real estate for
32 compensation, provided such persons do not represent themselves as being State-
33 licensed or State-certified as real estate appraisers.

34 (d) Nothing in this Chapter shall abridge, infringe upon, or otherwise restrict the
35 right to use the term 'certified ad valorem tax appraiser' or any similar term by persons
36 certified by the Department of Revenue to perform ad valorem tax appraisals, provided
37 that such term is not used in a manner that creates the impression of certification by the
38 State of North Carolina to perform real estate appraisals other than ad valorem tax
39 appraisals.

40 (e) Nothing in this Chapter shall entitle a State-licensed or State-certified real
41 estate appraiser to appraise real estate for ad valorem tax purposes unless he has first
42 been certified by the Department of Revenue pursuant to G.S. 105-294.

43 **"§ 93E-1-4. Definitions.**

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

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

- 1 (14) 'State-certified general real estate appraiser' means a person who holds
2 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 a
11 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 **"§ 93E-1-5. Appraisal Board.**

15 (a) There is created an Appraisal Board for the purposes set forth in this Chapter.
16 The Board shall consist of seven members. The Governor shall appoint five members
17 of the Board, and the General Assembly shall appoint two members in accordance with
18 G.S. 120-121, one upon the recommendation of the President Pro Tempore of the
19 Senate and one upon the recommendation of the Speaker of the House of
20 Representatives. Each member appointed by the Governor shall be appointed from a
21 different congressional district. The appointee recommended by the Speaker of the
22 House of Representatives and the appointees of the Governor shall be persons who have
23 been engaged in the business of real estate appraising in this State for at least five years
24 immediately preceding their appointment and are also State-licensed or State-certified
25 real estate appraisers. The appraiser members who hold designations from any
26 professional organization or association may maintain only one such designation during
27 their term on the Board and no two members may hold the same designation. The
28 appointee recommended by the President Pro Tempore of the Senate shall be a person
29 not involved directly or indirectly in the real estate, real estate appraisal, or the real
30 estate lending industry. Members of the Board shall serve three-year terms, so
31 staggered that the terms of three members expire in one year, the terms of two members
32 expire in the next year, and the terms of two members expire in the third year of each
33 three-year period. The members of the Board shall elect one of their members to serve
34 as chairman of the Board for a term of one year. The Governor may remove any
35 member of the Board appointed by the Governor for misconduct, incompetency, or
36 neglect of duty. The General Assembly may remove any member appointed by it for
37 the same reasons. Successors shall be appointed by the appointing authority making the
38 original appointment. All vacancies occurring on the Board shall be filled, for the
39 unexpired term, by the appointing authority making the original appointment.
40 Vacancies in appointments made by the General Assembly shall be filled in accordance
41 with G.S. 120-122. Initial terms of office commence July 1, 1994.

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

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

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

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

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

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

24 **"§ 93E-1-6. Qualifications for State licensure and certification; applications;**
25 **application fees; examinations.**

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

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

1 by the Board in its discretion to be equivalent to the above
2 requirements.

3 (2) Each applicant for certification as a State-certified residential real
4 estate appraiser shall have demonstrated that he possesses the
5 knowledge and competence necessary to perform appraisals of
6 residential and other real estate as the Board may prescribe by having
7 satisfactorily completed, within the five-year period immediately
8 preceding the date the application is made, a Board-approved course of
9 instruction in real estate appraisal principles and practices consisting of
10 at least 120 hours of classroom instruction in subjects determined by
11 the Board; shall present evidence satisfactory to the Board of at least
12 2,000 hours of experience in real estate appraising within the five-year
13 period immediately preceding the date application is made, and over a
14 period of at least two calendar years; and shall satisfy such additional
15 qualifications criteria as may be imposed by the Board by rule, not
16 inconsistent with any requirements imposed by the federal
17 government; or shall possess education and experience which is found
18 by the Board in its discretion to be equivalent to the above
19 requirements.

20 (3) Each applicant for certification as a State-certified general real estate
21 appraiser shall have demonstrated that he possesses the knowledge and
22 competence necessary to perform appraisals of all types of real estate
23 by having satisfactorily completed, within the five-year period
24 immediately preceding the date application is made, a Board-approved
25 course of instruction in general real estate appraisal practices
26 consisting of at least 180 hours of classroom instruction in subjects
27 determined by the Board; shall present evidence satisfactory to the
28 Board of at least 2,000 hours of experience in real estate appraising
29 within the five-year period immediately preceding the date application
30 is made, and over a period of at least two calendar years, fifty percent
31 (50%) of which must be in appraising nonresidential real estate; and
32 shall satisfy such additional qualifications criteria as may be imposed
33 by the Board by rule, not inconsistent with any requirements imposed
34 by the federal government; or the applicant shall possess education or
35 experience which is found by the Board to be equivalent to the above
36 requirements.

37 Provided, however, that any persons who, on the effective date of this Chapter, have a
38 State license or certificate to engage in business as a real estate appraiser issued by the
39 predecessor of the Board, shall be entitled to and shall receive the same such license or
40 certificate from the Board as they are then holding without further education,
41 experience, examination, or application fee.

42 (b) Each application for State licensure or certification as a real estate appraiser
43 shall be accompanied by a fee fixed by the Board but not to exceed one hundred fifty

1 dollars (\$150.00), plus such additional fee as may be necessary to defray the cost of any
2 competency examination administered by a private testing service.

3 (c) Any person who files with the Board an application for State licensure or
4 certification as a real estate appraiser shall be required to pass an examination to
5 demonstrate his competence. The Board shall also make such investigation as it deems
6 necessary into the background of the applicant to determine his qualifications with due
7 regard to the paramount interest of the public as to his honesty, truthfulness, and
8 integrity. If the results of the investigation shall be satisfactory to the Board and the
9 applicant is otherwise qualified, then the Board shall issue to the applicant a license or
10 certificate authorizing the applicant to act as a State-licensed real estate appraiser or a
11 State-certified real estate appraiser in this State. If, based upon the results of the
12 investigation, the moral character of the applicant is in question, action on the
13 application will be deferred pending a hearing before the Board.

14 **"§ 93E-1-7. License and certificate renewal; renewal fees; continuing education;**
15 **reinstatement; replacement licenses and certificates; licensure and**
16 **certification history.**

17 (a) Licenses and certificates issued under this Chapter shall expire on the 30th
18 day of June of every year and shall become invalid after that date unless renewed prior
19 to the expiration date by filing an application with and paying to the Executive Director
20 of the Board the fee required by the Board, which may not exceed three hundred dollars
21 (\$300.00). As a prerequisite to the renewal of a real estate appraiser license or
22 certificate, the licensee or certificate holder must satisfy any continuing education
23 requirements which may be prescribed by the Board under G.S. 93E-1-7(b); provided,
24 however, that members of the General Assembly are exempt from this requirement
25 during their term of office. The Board may adopt rules establishing a system of license
26 and certificate renewal in which licenses and certificates expire annually with varying
27 expiration dates.

28 (b) The Board may by rule require, as a prerequisite to license or certificate
29 renewal, the completion of Board-approved education courses in subject matters
30 determined by the Board, or courses determined by the Board to be equivalent to such
31 instruction, not inconsistent with any requirements of federal authorities.

32 (c) All licenses and certificates reinstated after the expiration dates shall be
33 subject to a late filing fee of twenty dollars (\$20.00) per month for each month or part
34 thereof that such license or certificate is lapsed, not to exceed two hundred forty dollars
35 (\$240.00). Such late filing fee shall be in addition to the required renewal fee. In the
36 event a licensee or certificate holder fails to reinstate his license or certificate within 12
37 months after the expiration date thereof, the Board may, in its discretion, consider such
38 person as not having been previously licensed or certified, and thereby subject to the
39 provisions of this Chapter relating to the issuance of an original license or certificate,
40 including the examination requirements set forth herein. Applications to reinstate
41 licenses or certificates expired for 12 or more months shall be accompanied by the fee
42 required for an original license or certificate and the accrued two hundred forty dollars
43 (\$240.00) late filing fee.

1 (d) Replacement licenses and certificates may be issued by the Board upon
2 payment of ten dollars (\$10.00) by the licensee or certificate holder. Certification by
3 the Board of the licensure or certification history of a person licensed or certified under
4 this Chapter shall be made only after the payment of a fee of twenty-five dollars
5 (\$25.00) to the Board.

6 **"§ 93E-1-8. Education program approval and fees.**

7 (a) The Board may by rule prescribe minimum standards for the approval and
8 renewal of approval of schools and other course sponsors and their instructors to
9 conduct appraiser prelicensing and precertification courses required by G.S. 93E-1-6(a).
10 Such standards may address subject matter, program structuring, instructional materials,
11 requirements for satisfactory course completion, instructors' qualifications, and other
12 related matters relevant to the provision of such courses in a manner that best serves the
13 public interest.

14 (b) The Board may by rule set nonrefundable fees chargeable to private real
15 estate appraisal schools or course sponsors, including appraisal trade organizations, for
16 the approval and annual renewal of approval of their prelicensing and precertification
17 courses required by G.S. 93E-1-6(a), or equivalent courses. Such fees shall not exceed
18 one hundred fifty dollars (\$150.00) per course for approval and one hundred dollars
19 (\$100.00) per course for renewal of approval of private school courses, and shall not
20 exceed three hundred dollars (\$300.00) per course for approval and two hundred dollars
21 (\$200.00) per course for renewal of approval for course sponsors, including appraisal
22 trade organizations. No fees shall be charged for the approval or renewal of approval to
23 conduct appraiser prelicensing or precertification courses where such courses are
24 offered by a North Carolina college, university, junior college, or community or
25 technical college accredited by the Southern Association of Colleges and Schools, or an
26 agency of the federal, State, or local government.

27 (c) The Board may by rule prescribe minimum standards for the approval and
28 annual renewal of approval of schools and other course sponsors and their instructors to
29 conduct appraiser continuing education courses. Such standards may address subject
30 matter, instructional materials, requirements for satisfactory course completion,
31 minimum course length, instructors' qualifications, and other related matters relevant to
32 the provision of such 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 two hundred dollars (\$200.00) per
36 course for approval and one hundred dollars (\$100.00) per course for renewal of
37 approval, and provided further that no fees shall be charged for the approval or renewal
38 of approval to conduct appraiser continuing education courses where such courses are
39 offered by a North Carolina college, university, junior college, or community or
40 technical college accredited by the Southern Association of Colleges and Schools, or by
41 an agency of the federal, State, or local government. A nonrefundable fee not to exceed
42 one hundred dollars (\$100.00) per course may be charged to current or former licensees
43 or certificate holders requesting approval by the Board of a course for continuing

1 education credit when approval of such course has not been previously obtained by the
2 offering school or course sponsor.

3 **"§ 93E-1-9. Nonresident licensure and certification.**

4 (a) An applicant from another state which offers real estate appraiser licensing or
5 certification privileges to residents of North Carolina may become State-licensed or
6 certified by conforming to all of the provisions of this Chapter, and, in the discretion of
7 the Board, such other terms and conditions as are required of North Carolina residents
8 applying for certification or licensure in such other state.

9 (b) The Board, in its discretion, may undertake to license or certify on a
10 reciprocal basis, persons licensed or certified in other states who are deemed by the
11 Board to possess qualifications equivalent to resident North Carolina State-licensed or
12 State-certified real estate appraisers.

13 (c) The Board may by rule establish a procedure for granting temporary licensure
14 or certification and to charge fees for application for temporary licensure or certification
15 provided that such fees shall not exceed one hundred dollars (\$100.00).

16 (d) Every applicant for State licensure or certification under this Chapter who is
17 not a resident of this State shall submit with his application an irrevocable consent that
18 service of process in any action against the applicant arising out of the applicant's
19 activities as a State-licensed or State-certified real estate appraiser may be made by
20 delivery of the process on the Executive Director of the Board.

21 **"§ 93E-1-10. Rule-making authority.**

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

- 26 (1) Prescribe forms and procedures for submitting information to the
27 Board;
28 (2) Prescribe standards of practice for persons licensed or certified under
29 this Chapter; and
30 (3) Prescribe standards for the operation of real estate appraiser education
31 programs.

32 **"§ 93E-1-11. Register of applicants; roster of State-licensed and State-certified**
33 **appraisers; financial report to Secretary of State; administrative**
34 **expenses.**

35 (a) The Executive Director of the Board shall keep a register of all applicants for
36 State licensure or certification as real estate appraisers, showing for each the date of
37 application, name, business or residence address, and whether the license or certificate
38 was granted or refused. Said register shall be **prima facie** evidence of all matters
39 received therein.

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

1 (c) On or before the first day of November of each year, the Board shall file with
2 the Secretary of State a copy of the roster of real estate appraisers licensed or certified
3 by the Board and a report containing a complete statement of income received by the
4 Board in connection with the licensure and certification of real estate appraisers for the
5 preceding fiscal year ending June 30th, attested by the affidavit of the Executive
6 Director of the Board.

7 (d) In addition to those fees prescribed in this Chapter for making application for
8 and renewing appraiser licenses and certificates, the Board may collect from applicants
9 and holders of such licenses and certificates and remit to the appropriate agency or
10 instrumentality of the federal government any additional fees as may be required to
11 render North Carolina State-licensed or State-certified appraisers eligible to perform
12 appraisals in connection with federally related transactions as well as an additional fee
13 of twenty-five dollars (\$25.00) to cover the administrative costs associated therewith.

14 **"§ 93E-1-12. Disciplinary action by Board.**

15 (a) The Board may take disciplinary action against State-licensed or State-
16 certified real estate appraisers. Upon its own motion or the complaint of any person, the
17 Board may investigate the actions of any person licensed or certified under this Chapter,
18 any person who performs appraisals without an appropriate license or certificate, or any
19 person who holds himself out to be licensed or certified when he holds no such license
20 or certificate. If the Board finds probable cause to believe that a person licensed or
21 certified under this Chapter has violated any of the provisions of this Chapter, the Board
22 may hold a hearing on the allegations of misconduct.

23 The Board may suspend or revoke the license or certificate granted to any person
24 under the provisions of this Chapter or reprimand any licensee or certificate holder if,
25 following a hearing, the Board finds the licensee or certificate holder to have:

- 26 (1) Procured licensure or certification pursuant to this Chapter by making
27 a false or fraudulent representation;
- 28 (2) Made any willful or negligent misrepresentation or any willful or
29 negligent omission of material fact;
- 30 (3) Accepted an appraisal assignment when the employment is contingent
31 upon the appraiser reporting a predetermined result, analysis, or
32 opinion, or when the fee to be paid for the performance of the
33 appraisal assignment is contingent upon the opinion, conclusion, or
34 valuation reached or upon consequences resulting from the appraisal
35 assignment;
- 36 (4) Acted or held himself out as a State-licensed or State-certified real
37 estate appraiser when not so licensed or certified;
- 38 (5) Failed as a State-licensed or State-certified real estate appraiser to
39 actively and personally supervise any person not licensed or certified
40 under this Chapter who assists the State-licensed or State-certified real
41 estate appraiser in performing real estate appraisals;
- 42 (6) Failed to make available to the Board for its inspection without prior
43 notice, originals or true copies of all written contracts engaging his

- 1 services to appraise real property, and all reports and supporting data
2 assembled and formulated by the appraiser in 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 such an unworthy or incompetent
6 manner 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 licenses or certificates issued under this Chapter to
14 the clerk of superior court of the county in which the licensee or certificate holder
15 maintains his principal place of business. The clerk shall enter these orders upon the
16 judgment docket of the county.

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

- 20 (1) The licensee or certificate holder has been convicted of or has entered
21 a plea of guilty or no contest upon which final judgment is entered by
22 a court of competent jurisdiction in this State, or any other state, to an
23 offense which, in the discretion of the Board, would reasonably affect
24 the performance of the licensee or certificate holder in the real estate
25 appraisal business;
26 (2) A final civil judgment has been entered against the licensee or
27 certificate holder on grounds of fraud, misrepresentation, or deceit in
28 the making of any appraisal of real estate; or
29 (3) The licensee or certificate holder has violated any of the provisions of
30 G.S. 93E-1-13(a) when appraising his own property.

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

38 (d) The Board shall have the power to issue subpoenas requiring the attendance
39 of persons and the production of papers and records before the Board in any hearing,
40 investigation, inquiry, or other proceeding conducted by it. Upon the production of any
41 papers, records, or documents, the Board shall have the power to authorize true copies
42 thereof to be substituted in the permanent record of the matter in which such books,
43 records, or documents shall have been introduced in evidence.

44 "§ 93E-1-13. Penalty for violation of this Chapter.

1 (a) Any person who acts as, or holds himself out to be, a State-licensed or State-
2 certified real estate appraiser without first obtaining a license or certificate as provided
3 in this Chapter, or who willfully performs the acts specified in G.S. 93E-1-12(a)(1)
4 through (10), shall be guilty of a misdemeanor and shall be punished by a fine or
5 imprisonment, or by both, in the discretion of the court.

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 license or
11 certificate issued by the Board under this Chapter.

12 **"§ 93E-1-14. Referral of cases by courts.**

13 Whenever any licensee or certificate holder is adjudged by a civil or criminal court
14 to have injured or damaged any person, partnership, association, or corporation through
15 gross negligence, incompetency, fraud, dishonesty, or other civil or criminal
16 misconduct, such court may, as part of its judgment or decree, order a written copy of
17 the transcript of the record in said case to be forwarded by the clerk of court to the
18 Board with a recommendation that the license or certificate of the licensee or certificate
19 holder be revoked or otherwise subject to disciplinary action."

20 Sec. 7. Effective July 1, 1994, Article 5 of Chapter 93A of the General
21 Statutes is repealed.

22 Sec. 8. (a) The members of the Appraisal Board as described in G.S. 93E-1-5 shall
23 serve terms according to the following schedule:

24 (1) The terms of those two appraiser members of the Appraisal Board
25 appointed by the Governor whose terms were to expire June 30, 1994,
26 under Chapter 93A of the General Statutes, and the appointments made
27 pursuant thereto, shall expire on that date. Thereafter, each Board
28 member shall continue to serve until such time as he is reappointed or
29 replaced by the Governor with another appraiser member.

30 (2) The term of the public member of the Appraisal Board appointed by
31 the Governor whose term was to expire June 30, 1994, under Chapter
32 93A of the General Statutes, and the appointments made pursuant
33 thereto, shall expire on that date. Thereafter, said Board member shall
34 continue to serve until such time as he is reappointed or replaced by
35 the Governor with an appraiser member.

36 (3) The terms of those two appraiser members of the Appraisal Board
37 appointed by the Governor whose terms were to expire June 30, 1995,
38 under Chapter 93A of the General Statutes, and the appointments made
39 pursuant thereto, shall expire on that date. Thereafter, each Board
40 member shall continue to serve until such time as he is reappointed or
41 replaced by the Governor with another appraiser member.

42 (4) The term of the appraiser member of the Appraisal Board appointed by
43 the General Assembly upon the recommendation of the Speaker of the
44 House of Representatives whose term was to expire June 30, 1995,

1 under Chapter 93A of the General Statutes, and the appointments made
2 pursuant thereto, shall instead expire June 30, 1996. Thereafter, said
3 Board member shall continue to serve until such time as he is
4 reappointed or replaced by the General Assembly upon the
5 recommendation of the Speaker of the House of Representatives with
6 another appraiser member.

7 (5) The term of the Appraisal Board public member appointed by the
8 General Assembly upon the recommendation of the President Pro
9 Tempore of the Senate whose term was to expire June 30, 1996, under
10 Chapter 93A of the General Statutes, and the appointments made
11 pursuant thereto, shall expire on that date. Thereafter, said Board
12 member shall continue to serve until such time as he is reappointed or
13 replaced by the General Assembly upon the recommendation of the
14 President Pro Tempore of the Senate with another public member.

15 (b) The Board may adopt rules not inconsistent with the provisions of Chapter
16 93E of the General Statutes, which may be reasonably necessary to implement,
17 administer, and enforce the provisions of Chapter 93E of the General Statutes, provided
18 the rules adopted do not require the expenditure of Commission funds.

19 (c) The Board may enter into contracts necessary to implement the provisions of
20 Chapter 93E of the General Statutes, including contracts for private testing services,
21 office supplies, real estate leases, and personnel, provided that such contracts do not
22 require the expenditure of Commission funds. Those fees collected pursuant to G.S.
23 93A-73(b) as effective October 1, 1993, to defray the cost of any competency
24 examination administered by a private testing service shall not be considered
25 "Commission funds" within the meaning of this section.

26 Sec. 9. G.S. 93A-3(a) reads as rewritten:

27 "(a) There is hereby created the North Carolina Real Estate Commission, hereinafter
28 called the Commission. The Commission shall consist of seven members to be
29 appointed by the Governor. At least three members of the Commission shall be licensed
30 real estate brokers or real estate salesmen, ~~one of whom shall have been actively engaged in~~
31 ~~the business of real estate appraising in this State for not less than five years immediately~~
32 ~~preceding his appointment, and, if appointed to the Commission after January 1, 1991, shall~~
33 ~~also be a State licensed or State certified real estate appraiser.~~ salesmen. At least two
34 members of the Commission shall be persons who are not involved directly or indirectly
35 in the real estate or real estate appraisal business. Members of the Commission shall
36 serve three-year terms, so staggered that the terms of two members expire in one year,
37 the terms of two members expire in the next year, and the terms of three members
38 expire in the third year of each three-year period. The members of the Commission shall
39 elect one of their members to serve as chairman of the Commission for a term of one
40 year. The Governor may remove any member of the Commission for misconduct,
41 incompetency, or willful neglect of duty. The Governor shall have the power to fill all
42 vacancies occurring on the Commission."

43 Sec. 10. G.S. 93A-6(b)(5) reads as rewritten:

1 "(5) The licensee, who is also a State-licensed or State-certified real estate
2 appraiser pursuant to ~~Article 5 of this Chapter, Chapter 93E of the~~
3 General Statutes, has violated any provisions of ~~Article 5, Chapter 93E~~
4 of the General Statutes and has been reprimanded or has had his
5 appraiser license or certificate suspended or revoked by the Appraisal
6 Board."

7 Sec. 11. G.S. 93A-32(2) reads as rewritten:

8 "(2) 'Private real estate school' means any real estate educational entity
9 which is privately owned and operated by an individual, partnership,
10 corporation or association, and which conducts, for a profit or tuition
11 charge, real estate salesman or broker prelicensing courses prescribed
12 by G.S. ~~93A-4(a) or real estate appraiser prelicensing or precertification~~
13 ~~courses prescribed by G.S. 93A-73(a), 93A-4(a),~~ provided that a private
14 business or trade school licensed by the State Board of Community
15 Colleges under G.S. ~~445D-571-115D-90~~ to conduct courses other than
16 those real estate courses described herein shall not be considered to be
17 a private real estate school."

18 Sec. 12. G.S. 93A-34(b) reads as rewritten:

19 "(b) Application for a license shall be filed in the manner and upon the forms
20 prescribed by the Commission for that purpose. The Commission may by rule set
21 nonrefundable application fees not to exceed two hundred fifty dollars (\$250.00) for
22 each school location and fifty dollars (\$50.00) for each real estate salesman or broker
23 ~~prelicensing course or real estate appraiser prelicensing or precertification~~ course. The
24 application for a license shall be accompanied by the appropriate fees and shall contain
25 the following:

- 26 (1) Name and address of the applicant and the school;
- 27 (2) Names, biographical data, and qualifications of director, administrators
28 and instructors;
- 29 (3) Description of school facilities and equipment;
- 30 (4) Description of course(s) to be offered and instructional materials to be
31 utilized;
- 32 (5) Information on financial resources available to equip and operate the
33 school;
- 34 (6) Information on school policies and procedures regarding
35 administration, record keeping, entrance requirements, registration,
36 tuition and fees, grades, student progress, attendance, and student
37 conduct;
- 38 (7) Copies of bulletins, catalogues and other official publications;
- 39 (8) Copy of bond required by G.S. 93A-36;
- 40 (9) Such additional information as the Commission may deem necessary
41 to enable it to determine the adequacy of the instructional program and
42 the ability of the applicant to operate a school in such a manner as
43 would best serve the public interest."

44 Sec. 13. G.S. 93A-35(b) reads as rewritten:

1 "(b) Licenses shall be renewable annually on July 1, provided that a renewal
2 application accompanied by the appropriate renewal fees has been filed not later than
3 June 1 in the form and manner prescribed by the Commission, and provided further that
4 the applicant and school are found to be in compliance with the standards established
5 for issuance of an original license. The Commission may by rule set nonrefundable
6 renewal fees not to exceed one hundred twenty-five dollars (\$125.00) for each school
7 location and twenty-five dollars (\$25.00) for each real estate salesman or broker
8 prelicensing course or real estate appraiser prelicensing or precertification course."

9 Sec. 13.1. G.S. 120-123(58) reads as rewritten:

10 "~~(58) The Real Estate Appraisal Board of the Real Estate Commission created~~
11 ~~in G.S. 93A-78. G.S. 93E-1-5."~~

12 Sec. 13.2. G.S. 105-41(a) reads as rewritten:

13 "(a) Every individual in this State who practices a profession or engages in a
14 business and is included in the list below must obtain from the Secretary a statewide
15 license for the privilege of practicing the profession or engaging in the business. The tax
16 for each license is fifty dollars (\$50.00); the tax does not apply to an individual who is
17 at least 75 years old.

18 (1) An attorney-at-law.

19 (2) A physician, a veterinarian, a surgeon, an osteopath, a chiropractor, a
20 chiroprapist, a dentist, an ophthalmologist, an optician, an optometrist,
21 or another person who practices a professional art of healing.

22 (3) A professional engineer, as defined in G.S. 89C-3.

23 (4) A registered land surveyor, as defined in G.S. 89C-3.

24 (5) An architect.

25 (6) A landscape architect.

26 (7) A photographer, a canvasser for any photographer, or an agent of a
27 photographer in transmitting photographs to be copied, enlarged, or
28 colored.

29 (8) A real estate broker or a real estate salesman, as defined in G.S. 93A-2.
30 A real estate broker or a real estate salesman who is also a real estate
31 appraiser is required to obtain only one license under this section to
32 cover both activities.

33 (9) A real estate appraiser, as defined in ~~G.S. 93A-72. G.S. 93E-1-4.~~ A real
34 estate appraiser who is also a real estate broker or a real estate
35 salesman is required to obtain only one license under this section to
36 cover both activities.

37 (10) A person who solicits or negotiates loans on real estate as agent for
38 another for a commission, brokerage, or other compensation."

39 Sec. 14. The rules set forth in Title 21 of the North Carolina Administrative
40 Code, Subchapter 58D, are repealed.

41 Sec. 15. Sections 1 through 5 and Section 8 of this act become effective
42 October 1, 1993. Sections 6, 7, and 9 through 14 of this act become effective July 1,
43 1994.