

## **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". (1993, c. 419, s. 6.)

##### **§ 93E-1-2: Repealed by Session Laws 1995, c. 482, s. 12.**

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

It is unlawful for any person in this State to act as a real estate appraiser, to directly or indirectly engage or assume to engage in the business of real estate appraisal, or to advertise or hold himself or herself out as engaging in or conducting the business of real estate appraisal without first obtaining a registration, license, or certificate issued by the Appraisal Board under the provisions of this Chapter. It is also unlawful, with regard to any real property where any portion of that property is located within this State, for any person to perform any of the acts listed above without first being registered, licensed, or certified by the Appraisal Board under the provisions of this Chapter. (1995, c. 482, s. 1; 2001-399, s. 1; 2007-506, s. 1.)

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

(a) No trainee registration, license, or certificate shall be issued under the provisions of this Chapter to a partnership, association, corporation, firm, or group. However, nothing herein shall preclude a registered trainee or licensed or certified real estate appraiser from rendering appraisals for or on behalf of a partnership, association, corporation, firm, or group, provided the appraisal report is prepared by a licensed or certified real estate appraiser or by a registered trainee under the immediate personal direction of the certified real estate appraiser and is reviewed and signed by that certified appraiser.

(b) Repealed by Session Laws 2001-399, s. 1, effective October 1, 2001.

(c) Nothing in this Chapter shall preclude a real estate broker licensed under Chapter 93A of the General Statutes from performing a broker price opinion or comparative market analysis as defined in G.S. 93E-1-4, provided the person does not represent himself or herself as being a registered trainee or a licensed or certified real estate appraiser, and provided they follow the standards set forth in Article 6 of Chapter 93A.

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

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

(f) Except as otherwise provided in subsection (g) of this section, a trainee registration, license, or certificate is not required under this Chapter for any of the following:

- (1) Any person, partnership, association, or corporation that performs appraisals of property owned by that person, partnership, association, or corporation for the sole use of that person, partnership, association, or corporation.
- (2) Any court-appointed commissioner who conducts an appraisal pursuant to a judicially ordered evaluation of property.
- (3) Any person to qualify as an expert witness for court or administrative agency testimony, if otherwise qualified.
- (4) A person who appraises standing timber so long as the appraisal does not include a determination of value of any land.
- (5) Any person employed by a lender in the performance of appraisals with respect to which federal regulations do not require a licensed or certified appraiser.
- (6) A person who performs ad valorem tax appraisals and is certified by the Department of Revenue under G.S. 105-294 or G.S. 105-296.
- (7) A person who prepares a Right-of-Way Claim Report pursuant to G.S. 136-19.6.

(g) Notwithstanding any provision of subsection (f) of this section to the contrary, any person who is registered, licensed, or certified under this Chapter and who performs any of the activities set forth in subdivisions (1) through (5) of subsection (f) of this section must comply with all of the provisions of this Chapter. The provisions of this Chapter shall not apply to certified real estate appraisers who perform a broker price opinion or comparative market analysis pursuant to G.S. 93E-1-3(c), as long as the appraiser is licensed as a real estate broker by the North Carolina Real Estate Commission and does not refer to himself or herself as an appraiser in the broker price opinion or comparative market analysis. (1993, c. 419, s. 6; 1995, c. 482, s. 2; 2001-399, s. 1; 2007-506, s. 2; 2012-163, s. 3; 2013-403, s. 1; 2018-74, s. 1(b).)

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

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

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

- (1) In each instance wherein the term is used, the name of the certifying organization or body is prominently and conspicuously displayed immediately adjacent to the term; and
- (2) The use of the term does not create the impression of certification by the State.

This subsection does not entitle any person certified only by a trade organization to conduct an appraisal that requires a State registration, license, or certification.

(c) The term "registered trainee", "licensed real estate appraiser", "certified real estate appraiser", or any similar term shall not be used following or immediately in connection with the name of a partnership, association, corporation, or other firm or group, or in a manner that might create the impression of registration, licensure, or certification as a real estate appraiser under this Chapter. (1995, c. 482, s. 3; 2001-399, s. 1; 2007-506, s. 3.)

#### **§ 93E-1-4. Definitions.**

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

- (1) "Appraisal" or "real estate appraisal" means an analysis, opinion, or conclusion as to the value of identified real estate or specified interests therein performed for compensation or other valuable consideration.
- (2) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased appraisal.
- (3) "Appraisal Board" or "Board" means the North Carolina Appraisal Board established under G.S. 93E-1-5.
- (4) "Appraisal Foundation" or "Foundation" means The Appraisal Foundation established on November 20, 1987, as a not-for-profit corporation under the laws of Illinois.
- (5) "Appraisal report" means any communication, written or oral, of an appraisal.
- (6) "Certificate" means that document issued by the North Carolina Appraisal Board evidencing that the person named therein has satisfied the requirements for certification as a certified real estate appraiser and bearing a certificate number assigned by the Board.
- (7) "Certificate holder" means a person certified by the Board under the provisions of this Chapter.
- (7a) "Certified general real estate appraiser" means a person who holds a current, valid certificate as a certified general real estate appraiser issued under the provisions of this Chapter.
- (7b) "Certified residential real estate appraiser" means a person who holds a current, valid certificate as a certified residential real estate appraiser issued under the provisions of this Chapter.
- (7c) "Comparative market analysis" and "broker price opinion" mean an estimate prepared by a licensed real estate broker that details the probable selling price or leasing price of a particular parcel of or interest in property and provides a varying level of detail about the property's condition, market, and neighborhood, and information on comparable properties, but does not include an automated valuation model.
- (8) "License" means that document issued by the North Carolina Appraisal Board evidencing that the person named therein has satisfied the requirements for licensure as a licensed real estate appraiser and bearing a license number assigned by the Board.

- (8a) "Licensed residential real estate appraiser" means a person who holds a current, valid license as a licensed residential real estate appraiser issued under the provisions of this Chapter.
- (9) "Licensee" means a person licensed by the Board under the provisions of this Chapter.
- (10) "Real estate" or "real property" means land, including the air above and ground below and all appurtenances and improvements thereto, as well as any interest or right inherent in the ownership of land.
- (11) "Real estate appraiser" or "appraiser" means a person who for a fee or valuable consideration develops and communicates real estate appraisals or otherwise gives an opinion of the value of real estate or any interest therein.
- (12) "Real estate appraising" means the practice of developing and communicating real estate appraisals.
- (13) "Residential real estate" means any parcel of real estate, improved or unimproved, that is exclusively residential in nature and that includes or is intended to include a residential structure containing not more than four dwelling units and no other improvements except those which are typical residential improvements that support the residential use for the location and property type. A residential unit in a condominium, town house, or cooperative complex, or planned unit development is considered to be residential real estate.
- (14) through (16) Repealed by Session Laws 2007-506, s. 4, effective October 1, 2007.
- (17) "Temporary appraiser licensure or certification" means the issuance of a temporary license or certificate by the Board to a person licensed or certified in another state who enters this State for the purpose of completing a particular appraisal assignment.
- (18) "Trainee", "registered trainee", or "trainee real estate appraiser" means a person who holds a current, valid registration as a trainee real estate appraiser issued under the provisions of this Chapter.
- (19) "Trainee registration" or "registration as a trainee" means the document issued by the North Carolina Appraisal Board evidencing that the person named therein has satisfied the requirements of registration as a trainee real estate appraiser and bearing a registration number assigned by the Board. (1993, c. 419, s. 6; 1995, c. 482, s. 4; 2001-399, s. 1; 2007-506, s. 4; 2012-163, s. 4.)

**§ 93E-1-5. Appraisal Board.**

(a) There is created the North Carolina Appraisal Board for the purposes set forth in this Chapter. The Board shall consist of nine members. The Governor shall appoint five members of the Board, and the General Assembly shall appoint four members in accordance with G.S. 120-121, two upon the recommendation of the President Pro Tempore of the Senate and two upon the recommendation of the Speaker of the House of Representatives. Members appointed by the Governor shall be appointed from geographically diverse areas of the State. The appointees recommended by the Speaker of the House of Representatives and four of the appointees of the Governor shall be persons

who have been engaged in the business of real estate appraising in this State for at least five years immediately preceding their appointment and are also State-licensed or State-certified real estate appraisers. One of the appointees of the Governor shall be a person representing either the real estate appraisal management industry or the banking industry. No more than three of the appointees may be members of the same appraiser trade organization at any one time. The appointees recommended by the President Pro Tempore of the Senate shall be a person not involved directly or indirectly in the real estate, real estate appraisal, or the real estate lending industry. Members of the Board shall serve three-year terms, so staggered that the terms of three members expire in one year, the terms of three members expire in the next year, and the terms of three members expire in the third year of each three-year period. The members of the Board shall elect one of their members to serve as chairman of the Board for a term of one year. The Governor may remove any member of the Board appointed by the Governor for misconduct, incompetency, or neglect of duty. The General Assembly may remove any member appointed by it for the same reasons. Successors shall be appointed by the appointing authority making the original appointment. All vacancies occurring on the Board shall be filled, for the unexpired term, by the appointing authority making the original appointment. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122. Initial terms of office commenced July 1, 1994.

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

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

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

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

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

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

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

(i) The Board may purchase, rent, or lease equipment and supplies and purchase liability insurance or other insurance to cover the activities of the Board, its operations, or its employees. (1993, c. 419, s. 6; 1995, c. 482, s. 5; 1996, 2nd Ex. Sess., c. 15, s. 16; 2001-399, s. 1; 2008-177, s. 6(a); 2010-141, s. 3.)

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

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

- (1), (3) Repealed by Session Laws 2019-146, s. 1, effective October 1, 2019, and applicable to registrations, licensures, and certifications issued after that date.
- (4) Repealed by Session Laws 2001-399, s. 1.
- (5) Obtain a high school diploma or its equivalent.
- (6) Successfully complete education, experience, and examination as required by The Appraisal Foundation's Appraiser Qualifications Board for each level of registration, licensure, or certification.
- (7) Satisfy any additional education or experience requirements that the Board may impose by rule.

(b) Each application for registration as a trainee or for licensure or certification as a real estate appraiser shall be accompanied by a fee of two hundred dollars (\$200.00). The applicant shall pay the fee for the required competency examination directly to the private testing service.

(c) Repealed by Session Laws 2019-146, s. 1, effective October 1, 2019, and applicable to registrations, licensures, and certifications issued after that date.

(c1) The Board shall also make an investigation as it deems necessary into the background of the applicant to determine the applicant's qualifications with due regard to the paramount interest of the public as to the applicant's competency, honesty, truthfulness, and integrity. All applicants shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny an application. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina Department of Public Safety the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal history record check, and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories and any additional information required by the Department of Public Safety in accordance with G.S. 143B-961. The Board shall keep all information obtained

pursuant to this section confidential. The Board shall collect any fees required by the Department of Public Safety and shall remit the fees to the Department of Public Safety for expenses associated with conducting the criminal history record check.

(c2) In addition, the Board may investigate and consider whether the applicant has had any disciplinary action taken against any other professional license in North Carolina or any other state, or if the applicant has committed or done any act which, if committed or done by any real estate trainee or appraiser, would be grounds under the provisions hereinafter set forth for disciplinary action including the suspension or revocation of registration, licensure, or certification, or whether the applicant has been convicted of or pleaded guilty to any criminal act. If the results of the investigation shall be satisfactory to the Board, and the applicant is otherwise qualified, then the Board shall issue to the applicant a registration, license, or certificate authorizing the applicant to act as a registered trainee real estate appraiser or licensed or certified real estate appraiser in this State.

(d) If the applicant has not affirmatively demonstrated that the applicant meets the requirements for registration, licensure, or certification, action on the application will be deferred pending a hearing before the Board. (1993, c. 419, s. 6; 1995, c. 482, s. 6; 2001-399, s. 1; 2007-506, ss. 5, 6; 2013-403, s. 2; 2014-100, s. 17.1(mm); 2019-146, s. 1.)

#### **§ 93E-1-6.1. Trainee supervision.**

All trainees shall perform all real estate appraisal-related activities under the immediate, active, and personal supervision of a certified real estate appraiser. All appraisal reports must be signed by the appraiser who supervised the trainee. By signing the appraisal report, the appraiser accepts shared responsibility, with the trainee, for the content of and conclusions in the report. All trainees and any appraisers desiring to supervise a trainee shall complete a course in trainee supervision as required in rules adopted by the Board. (2001-399, s. 1; 2007-506, s. 7; 2013-403, s. 3.)

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

(a) Trainee registrations, licenses, and certificates issued under this Chapter 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 Board the fee of two hundred dollars (\$200.00). As a prerequisite to the renewal of a trainee registration or a real estate appraiser license or certificate, the trainee registration holder, the licensee, or the certificate holder must satisfy any continuing education requirements that may be prescribed by the Board under subsection (b) of this section. The members of the General Assembly are exempt from this requirement and any education program regarding trainee supervision during their term of office. The Board may adopt rules establishing a system of trainee registration, license, and certificate renewal in which trainee registrations, licenses, and certificates expire annually with varying expiration dates.

(b) The Board may by rule require, as a prerequisite to trainee registration, license, or certificate renewal, the completion of Board-approved education courses in subject matters

determined by the Board, or courses determined by the Board to be equivalent to the instruction, not inconsistent with any requirements of federal authorities.

(b1) Course sponsors shall pay to the Board a fee of five dollars (\$5.00) for each licensee completing an approved continuing education course conducted by the sponsor.

(b2) The Board shall not charge a course application fee, a course renewal fee, or any other fee for a continuing education course offered by a North Carolina college, university, junior college, or community or technical college accredited by the Southern Association of Colleges and Schools or an agency of the federal, State, or local government.

(c) All trainee registrations, licenses, and certificates reinstated after the expiration dates shall be subject to a late filing fee of ten dollars (\$10.00) per month for each month or part thereof that the trainee registration, license, or certificate is lapsed, not to exceed one hundred twenty dollars (\$120.00). The late filing fee shall be in addition to the required renewal fee. In the event a trainee, licensee, or certificate holder fails to reinstate the trainee registration, license, or certificate within 12 months after the expiration date thereof, the Board may, in its discretion, consider the person as not having been previously registered, licensed, or certified, and thereby subject to the provisions of this Chapter relating to the issuance of an original trainee registration, license, or certificate, including the examination requirements set forth herein. Applications to reinstate trainee registrations, licenses, or certificates expired for 12 or more months shall be accompanied by the fee required for an original trainee registration, license, or certificate.

(d) Replacement trainee registrations, licenses, and certificates may be issued by the Board upon payment of ten dollars (\$10.00) by the trainee, licensee, or certificate holder. Certification by the Board of the trainee registration history or the licensure or certification history of a person registered, licensed, or certified under this Chapter shall be made only after the payment of a fee of ten dollars (\$10.00) to the Board. (1993, c. 419, s. 6; 1995, c. 482, s. 7; 2001-399, s. 1; 2006-259, s. 17; 2007-506, s. 8.)

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

(a) The Board may by rule prescribe minimum standards for the approval and renewal of approval of schools and other course sponsors and their instructors to conduct appraiser qualifying courses required by G.S. 93E-1-6(a). Such standards may address subject matter, program structuring, instructional materials, requirements for satisfactory course completion, instructors' qualifications, and other related matters relevant to the provision of such courses in a manner that best serves the public interest. The standards may require that schools and course sponsors obtain approval for the content of qualifying courses from the Appraiser Qualifications Board of the Appraisal Foundation as part of the application process with the Appraisal Board and pay any fees directly to the Appraiser Qualifications Board as required by the Appraiser Qualifications Board for the approval.

(b) The Board may by rule set nonrefundable fees chargeable to private real estate appraisal schools or course sponsors, including appraisal trade organizations, for the approval and annual renewal of approval of their qualifying courses required by G.S. 93E-1-6(a), or equivalent courses. The fees shall be one hundred dollars (\$100.00) per course for approval and fifty dollars (\$50.00) per course for renewal of approval. No fees shall be charged for the approval or renewal of approval to conduct appraiser qualifying courses where such courses are offered by a North Carolina college, university, junior

college, or community or technical college accredited by the Southern Association of Colleges and Schools, or an agency of the federal, State, or local government.

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

(d) Nonrefundable fees of one hundred dollars (\$100.00) per course may be charged to schools and course sponsors for the approval to conduct appraiser continuing education courses and fifty dollars (\$50.00) per course for renewal of approval. However, no fees shall be charged for the approval or renewal of approval to conduct appraiser continuing education courses where such courses are offered by a North Carolina college, university, junior college, or community or technical college accredited by the Southern Association of Colleges and Schools, or by an agency of the federal, State, or local government. A nonrefundable fee of fifty dollars (\$50.00) per course may be charged to current or former licensees or certificate holders requesting approval by the Board of a course for continuing education credit when approval of such course has not been previously obtained by the offering school or course sponsor. (1993, c. 419, s. 6; 2007-506, s. 9; 2013-403, s. 4.)

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

(a) An applicant from another state may become licensed or certified in North Carolina by conforming to all of the provisions of this Chapter and, in the discretion of the Board, such other terms and conditions as are required of North Carolina residents applying for licensure or certification in such other state.

(b) The Board, in its discretion, may undertake to license or certify on a reciprocal basis, persons licensed or certified in another state if the appraiser licensing and certification program of the other state is in compliance with 12 U.S.C. § 3331, et seq.

(c) The Board may by rule establish a procedure for granting temporary appraiser licensure or certification and may charge an application fee of one hundred fifty dollars (\$150.00) for temporary appraiser licensure or certification.

(d) Every applicant for State licensure, or certification under this Chapter who is not a resident of this State shall submit with his application an irrevocable consent that service of process in any action against the applicant arising out of the applicant's activities as a State-licensed or State-certified real estate appraiser may be made by delivery of the process on the Executive Director of the Board. (1993, c. 419, s. 6; 2001-399, s. 1; 2019-146, s. 2.)

#### **§ 93E-1-10. Rule-making authority.**

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

- (1) Prescribe forms and procedures for submitting information to the Board;

- (2) Prescribe standards of practice for persons registered as a trainee, licensed or certified under this Chapter; and
- (3) Prescribe standards for the operation of real estate appraiser education programs. (1993, c. 419, s. 6; 2001-399, s. 1.)

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

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

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

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

(d) In addition to those fees prescribed in this Chapter for making application for and renewing trainee registrations, appraiser licenses, and certificates, the Board may collect from applicants and holders of the 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 as well as an additional fee of twenty dollars (\$20.00) to cover the administrative costs associated therewith. (1993, c. 419, s. 6; 1995, c. 482, s. 8; 2001-399, s. 1.)

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

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

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

- (1) Procured registration, licensure, or certification pursuant to this Chapter by making a false or fraudulent representation;
- (2) Made any willful or negligent misrepresentation or any willful or negligent omission of material fact;
- (3) Accepted an appraisal assignment when the employment is contingent upon the appraiser reporting a predetermined result, analysis, or opinion, or when the fee to be paid for the performance of the appraisal assignment is contingent upon the opinion, conclusion, or valuation reached or upon consequences resulting from the appraisal assignment;
- (4) Acted or held himself or herself out as a registered trainee or a licensed or certified real estate appraiser when not so registered, licensed, or certified;
- (5) Failed as a licensed or certified real estate appraiser to actively and personally supervise any person not licensed or certified under this Chapter who assists the licensed or certified real estate appraiser in performing real estate appraisals;
- (6) Failed to make available to the Board for its inspection without prior notice, originals or true copies of all written contracts engaging the person's services to appraise real property, and all reports and supporting data assembled and formulated by the appraiser in preparing the reports;
- (7) Paid a fee or valuable consideration to any person for acts or services performed in violation of this Chapter;
- (8) Acted as a real estate appraiser in an unworthy or incompetent manner as to endanger the interest of the public;
- (9) Violated any of the standards of practice for real estate appraisers or any other rule promulgated by the Board;
- (10) Performed any other act which constitutes improper, fraudulent, or other dishonest conduct; or
- (11) Violated any of the provisions of this Chapter.

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

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

- (1) The registered trainee, licensee, or certificate holder has been convicted of or has entered a plea of guilty or no contest upon which final judgment is entered by a court of competent jurisdiction in this State, or any other state, to an offense which involves moral turpitude, in which an essential element is dishonesty, fraud, or deceit, or which, in the discretion of the Board, would reasonably

- affect the performance of the registered trainee, licensee, or certificate holder in the real estate appraisal business;
- (2) A final civil judgment has been entered against the registered trainee, licensee, or certificate holder on grounds of fraud, misrepresentation, or deceit in the making of any appraisal of real estate;
  - (3) The trainee, licensee, or certificate holder has violated any of the provisions of G.S. 93E-1-13(a) when appraising his own property;
  - (4) The trainee, licensee, or certificate holder has had a real estate trainee registration or its equivalent, real estate appraiser license, or real estate appraiser certification suspended, revoked, or denied by a real estate licensing board in another state;
  - (5) The trainee, licensee, or certificate holder has had any disciplinary action taken against any other professional license in North Carolina or any other state;
  - (6) The trainee, licensee, or certificate holder has been adjudged mentally incompetent by a court; or
  - (7) The trainee, licensee, or certificate holder performs any of the duties of a real estate appraiser, including, but not limited to, site inspection and public records checks, while impaired by alcohol or drugs.

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

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

(c1) During the course of an investigation of a person registered as a trainee or licensed or certified as a real estate appraiser under this Chapter, the Board may send to the trainee or licensed or certified real estate appraiser a letter of inquiry asking the trainee or licensed or certified real estate appraiser to respond to the inquiry. The letter of inquiry shall state the subject matter being investigated. Upon receipt of the letter of inquiry, the trainee or licensed or certified real estate appraiser shall respond to the Board within 30 calendar days. A trainee or licensed or certified real estate appraiser shall include in the written response copies of all documents requested by the Board in the letter of inquiry.

(d) The Board shall have the power to issue subpoenas requiring the attendance of persons and the production of papers and records before the Board in any hearing, investigation, inquiry, or other proceeding conducted by it. Upon the production of any papers, records, or documents, the Board shall have the power to authorize true copies

thereof to be substituted in the permanent record of the matter in which the books, records, or documents shall have been introduced in evidence.

(e) No appraiser shall be disciplined for completing an appraisal that includes a reduced scope of work or reporting level as long as it is appropriate for the intended use and is performed in accordance with the Uniform Standards of Professional Appraisal Practice. (1993, c. 419, s. 6; 1995, c. 482, s. 9; 2001-399, s. 1; 2007-447, ss. 1, 2; 2007-506, ss. 10, 11; 2012-163, s. 5.)

#### **§ 93E-1-12.1. Investigations and complaints.**

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

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

(c) The Board may inspect records maintained pursuant to this Chapter periodically, without prior notice, and may also inspect these records whenever the Board determines that they are pertinent to an investigation of any specific complaint against a person registered, licensed, or certified by the Board. (2001-399, s. 1.)

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

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

(b) The Board may appear in its own name in superior court in actions for injunctive relief to prevent any person from violating the provisions of this Chapter or the rules promulgated by the Board. The superior court shall have the power to grant these injunctions whether or not criminal prosecution has been or may be instituted as a result of the violations, and whether or not the person is the holder of a registration, license, or certificate issued by the Board under this Chapter. (1993, c. 419, s. 6; 1994, Ex. Sess., c. 14, s. 49; 1995, c. 482, s. 10; 2001-399, s. 1.)

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

Whenever any registered trainee, licensee, or certificate holder is adjudged by a civil or criminal court to have injured or damaged any person, partnership, association, or corporation through gross negligence, incompetency, fraud, dishonesty, or other civil or criminal misconduct, the court may, as part of its judgment or decree, order a written copy of the transcript of the record in said case to be forwarded by the clerk of court to the Board with a recommendation that the registration, license, or certificate of the registered trainee, licensee, or certificate holder be revoked or otherwise subject to disciplinary action. (1993, c. 419, s. 6; 1995, c. 482, s. 11.)

## Article 2.

### Real Estate Appraisal Management Companies.

#### **§ 93E-2-1. Registration required of real estate appraisal management companies; exceptions.**

Beginning January 1, 2011, it shall be unlawful for any person, corporation, partnership, sole proprietorship, subsidiary, unit, or any other business entity in this State to do any of the following without first registering with the Board under the provisions of this Article:

- (1) Directly or indirectly engage or attempt to engage in business as an appraisal management company.
- (2) Advertise or make a representation that the person or entity is engaging in or conducting business as an appraisal management company.
- (3) In any way act as or provide the services of an appraisal management company. (2010-141, s. 1.)

#### **§ 93E-2-2. Definitions.**

(a) The following definitions apply in this Article:

- (1) Appraisal management company. – A corporation, partnership, sole proprietorship, subsidiary, unit, or other business entity that utilizes an appraisal panel or fee panel and performs, directly or indirectly, appraisal management services.

The following entities are exempt from registration with the Board:

- a. Any agency of the federal government or any State or municipal government.
- b. An appraiser who enters into an agreement, whether written or otherwise, with another appraiser for the performance of an appraisal, and upon completion of the appraisal, the appraisal report is signed both by the appraiser who completed the appraisal and the appraiser who requested the completion of the appraisal, except that an appraisal management company may not avoid the requirements of this Article by requiring that an employee of the appraisal management company who is an appraiser sign an appraisal report that is completed by an appraiser who is a member of the appraisal panel of the appraisal management company.
- c. Any state or federally chartered bank, farm credit system, savings institution, or credit union.
- d. Any licensed real estate broker performing only activities in accordance with Article 1 of this Chapter.
- e. Any officer or employee of an exempt entity described in this subdivision when acting in the scope of employment for the exempt entity.
- f. Any person licensed to practice law in this State, a court-appointed personal representative or trustee who orders an appraisal in connection

- with a bona fide client relationship in which the person directly contracts with an independent appraiser.
- g. An appraisal management company that is a subsidiary owned and controlled by a financial institution regulated by a federal financial institution regulatory agency, pursuant to 12 U.S.C. § 3353.
- (2) Appraisal management services. – Direct or indirect performance of any of the following functions on behalf of a lender, financial institution, client, or any other person:
- a. Administer an appraiser panel.
  - b. Recruit, qualify, and/or verify licensing or certification of appraisers who are or may become part of an appraiser panel.
  - c. Negotiate fees and service level expectations with appraisers who are part of an appraiser panel.
  - d. Receive an order for an appraisal from one person and deliver the order for the appraisal to an appraiser that is part of an appraiser panel for completion.
  - e. Take and determine the status of orders for appraisals.
  - f. Conduct quality control of a completed appraisal performed by an appraiser who is part of an appraiser panel prior to the delivery of the appraisal to the person that ordered the appraisal.
  - g. Provide a completed appraisal performed by an appraiser who is part of an appraiser panel to one or more persons who have ordered an appraisal.
- (3) Appraisal review. – The act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment, except that an examination of an appraisal for grammatical, typographical, or other similar errors shall not be an appraisal review.
- (4) Appraiser panel or fee panel. – A network of licensed or certified appraisers who are independent contractors to the appraisal management company that have:
- a. Responded to an invitation, request, or solicitation from an appraisal management company, in any form, to perform appraisals for persons that have ordered appraisals through the appraisal management company or to perform appraisals for the appraisal management company directly, on a periodic basis, as requested and assigned by the appraisal management company; and
  - b. Been selected and approved by an appraisal management company to perform appraisals for any client or the appraisal management company that has ordered an appraisal through the appraisal management company or to perform appraisals for the appraisal management company directly, on a periodic basis, as assigned by the appraisal management company.
- (5) Board. – The North Carolina Appraisal Board under Article 1 of this Chapter.

- (6) Employee. – An individual who has an employment relationship acknowledged by both the individual and the company and is treated as an employee for purposes of compliance with federal income tax laws.
- (7) Registrant. – A real estate appraisal management company registered pursuant to this Article.

(b) The definitions contained in G.S. 93E-1-4 also apply in this Article. (2010-141, s. 1; 2019-146, s. 5.)

### **§ 93E-2-3. Rule-making authority.**

The Board shall have the authority to adopt rules that are reasonably necessary to implement, administer, and enforce the provisions of this Article. (2010-141, s. 1.)

### **§ 93E-2-4. Qualifications for registration; duties of registrants.**

(a) Any person or entity desiring to be registered as an appraisal management company in this State shall make written application to the Board on forms prescribed by the Board setting forth the applicant's qualifications for registration. The application shall be accompanied by the applicable fee under G.S. 93E-2-6 and any other information the Board deems necessary pursuant to rules adopted by the Board. Upon receipt of a properly completed application and fee and upon a determination by the Board that the applicant is of good moral character, the Board shall issue to the applicant a certificate of registration authorizing the applicant to act as a real estate appraisal management company in this State.

(b) The registration required by subsection (a) of this section shall include the following information:

- (1) Legal name of the entity seeking registration.
- (2) Business address of the entity seeking registration.
- (3) Phone contact information of the entity seeking registration.
- (4) If the entity is not a corporation that is domiciled in this State, the name and contact information for the company's agent for service of process in this State.
- (5) The name, address, and contact information for any individual or any corporation, partnership, or other business entity that owns ten percent (10%) or more of the appraisal management company.
- (6) The name, address, and contact information for the compliance manager.
- (7) A certification that the entity has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a license in good standing in this State pursuant to the North Carolina Appraisers Act if a license or certification is required to perform appraisals.
- (8) A certification that the entity has a system in place to require that appraisers inform the appraisal management company of their areas of geographic competency, the types of properties the appraiser is competent to appraise, and the methodologies the appraiser is competent to perform.
- (9) A certification that the entity has a system in place to review the work of all independent appraisers that are performing real estate appraisal services for the appraisal management company on a periodic basis to validate that the real

estate appraisal services are being conducted in accordance with the Uniform Standards of Professional Appraisal Practice.

- (10) A certification that the entity maintains a detailed record of each service request that it receives and the independent appraiser that performs the residential real estate appraisal services for the appraisal management company.
- (10a) A certification that the entity has obtained a surety bond as required by this Article.
- (11) An irrevocable Uniform Consent to Service of Process.
- (12) Any other information required by the Board pursuant to G.S. 93E-2-3.

(c) Any registrant having a good faith belief that a real estate appraiser licensed or certified in this State has violated applicable law or the Uniform Standards of Professional Appraisal Practice or engaged in unethical conduct shall promptly file a complaint with the Board.

(d) Registered appraisal management companies shall pay fees to an appraiser within 30 days of the date the appraisal is transmitted by the real estate appraiser to the registrant, except in cases of noncompliance with the conditions of the engagement. In such cases, the registrant shall notify the real estate appraiser in writing that the fees will not be paid.

(e) To qualify to be registered as an appraisal management company, each individual who owns, directly or indirectly, more than ten percent (10%) of the appraisal management company shall be of good moral character, as determined by the Board, and shall submit all information the Board deems necessary pursuant to the rules adopted by the Board. Additionally, each owner shall certify that he or she has never had a license to act as an appraiser refused, denied, cancelled, or revoked by the State of North Carolina or any other state.

(f) A registered appraisal management company shall not enter into any contracts or agreements with an independent appraiser for the performance of residential real estate appraisal services for properties located in this State unless the independent appraiser is licensed or certified in good standing pursuant to the North Carolina Appraisers Act.

(g) Each applicant for registration or for a renewal of a registration shall post with the Board and maintain a surety bond in the amount of twenty-five thousand dollars (\$25,000):

- (1) The bond shall be in a form satisfactory to the Board.
- (2) The bond will accrue to the Board for the benefit of a claimant against the registrant to secure the faithful performance of the registrant's obligations under this Article and to a real estate appraiser who has performed an appraisal for the registrant for which the appraiser has not been paid.
- (3) The aggregate liability of the surety shall not exceed the principal sum of the bond.
- (4) A party having a claim against the registrant may bring suit directly on the surety bond, or the Board may bring suit on behalf of the party having a claim against the registrant, either in one action or in successive actions.
- (5) A claim reducing the face amount of the bond shall be annually restored upon renewal of the registrant's registration.

- (6) The bond shall remain in effect until cancellation, which may occur only after 90 days written notice to the Board. Cancellation shall not affect any liability incurred or accrued during that period.
- (7) The surety bond shall remain in place for no less than two years after the registrant ceases operations in this State. However, notwithstanding this provision, the Board may permit the surety bond to be reduced or eliminated prior to that time to the extent that the amount of the registrant's outstanding obligations to appraisers is reduced.

(h) A registered appraisal management company that requires a real estate appraiser to submit to a criminal background check as a condition of employment, contractual relationship, or access to an appraisal portal shall accept a criminal background check that has been performed within the preceding 12 months and that substantially conforms to the criminal history record check required under G.S. 93E-1-6(c1).

(i) For appraisal assignments of property secured by the principal dwelling of the consumer, an appraisal management company shall compensate appraisers in compliance with section 129E(i) of the federal Truth in Lending Act (15 U.S.C. § 1601 et seq.) and regulations promulgated thereunder. The Board shall adopt rules necessary to enforce this subsection. Rules establishing customary and reasonable rates shall be based on objective third-party information, such as academic studies and independent private sector surveys. (2010-141, s. 1; 2013-403, s. 5; 2015-200, s. 2; 2016-61, s. 1(a).)

#### **§ 93E-2-5. Compliance manager.**

Each appraisal management company registered under this Article shall designate a compliance manager who is responsible for ensuring the company operates in compliance with this Article. The compliance manager shall be a certified real estate appraiser on active status and in good standing, certified under Article 1 of this Chapter or under the comparable laws of another state. The appraisal management company shall file a form with the Board indicating the appraisal management company's designation of compliance manager and the individual's acceptance of the responsibility. An appraisal management company shall notify the Board of any change in the appraisal management company's compliance manager. Any appraisal management company that does not comply with this section shall have the appraisal management company's registration suspended pursuant to G.S. 93E-2-8 until the appraisal management company complies with this section. An individual operating an appraisal management company as a sole proprietorship shall be considered the compliance manager for purposes of this Article. (2010-141, s. 1.)

#### **§ 93E-2-6. Fees and renewals.**

(a) Each application for registration as an appraisal management company under this Article shall be accompanied by a registration fee in an amount set by the Board not to exceed three thousand five hundred dollars (\$3,500). Registration issued under this Article shall expire on June 30, 2012, and on June 30 of each year thereafter. The registration shall become invalid after that date unless renewed before the expiration date by filing an

application with and paying to the Board a fee in an amount set by the Board not to exceed two thousand dollars (\$2,000).

(b) All registrations reinstated after the expiration date are subject to a late filing fee of twenty dollars (\$20.00) for each month or part thereof that the registration is lapsed, not to exceed one hundred twenty dollars (\$120.00). The late filing fee shall be in addition to the required renewal fee. In the event a registrant fails to reinstate the registration within six months after the expiration date, the registration shall expire and the registrant shall be required to file a new application for registration. Reinstatement of a registration shall not be retroactive.

(c) The Board may issue a replacement registration to the registrant upon payment of fifty dollars (\$50.00) to the Board. The Board may certify the registration history of an appraisal management company registered under this Article upon payment of a fee of one hundred dollars (\$100.00) to the Board.

(d) In addition to those fees prescribed for renewal, the Board shall collect from registrants any additional fees as may be required pursuant to 12 U.S.C. § 3338 to render North Carolina registered appraisal management companies and federally regulated appraisal management companies eligible to perform services in connection with federally related transactions and shall remit those fees to the Appraisal Management Company National Registry ("AMC National Registry") of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(e) The Board may also collect a fee from an appraisal management company that is a subsidiary wholly owned and controlled by a financial institution in order to be eligible to be placed on the AMC National Registry. (2010-141, s. 1; 2019-146, s. 3.)

#### **§ 93E-2-7. Prohibited acts.**

(a) No employee, director, officer, or agent of a registered appraisal management company or any other third party acting as joint venture partner or independent contractor shall influence or attempt to influence the development, reporting, result, or review of a real estate appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, bribery, or in any other manner, including:

- (1) Withholding or threatening to withhold timely payment for a real estate appraisal report.
- (2) Withholding or threatening to withhold future business from a real estate appraiser or demoting or terminating or threatening to demote or terminate a real estate appraiser.
- (3) Expressly or impliedly promising future business, promotions, or increased compensation for a real estate appraiser.
- (4) Conditioning the ordering of a real estate appraisal report or the payment of a real estate appraisal fee, salary, or bonus on the opinion, conclusion, or valuation to be reached or on a preliminary estimate requested from a real estate appraiser.
- (5) Requesting that a real estate appraiser provide an estimated, predetermined, or desired valuation in a real estate appraisal report or provide estimated values or

comparable sales at any time before the appraiser's completion of the appraisal report.

- (6) Providing to a real estate appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or targeted amount to be loaned to the borrower. However, a real estate appraiser may be provided with a copy of the sales contract for purchase transactions.
  - (7) Providing to a real estate appraiser, or any entity or person related to the appraiser, stock or other financial or nonfinancial benefits.
  - (8) Allowing the removal of a real estate appraiser from a list of qualified appraisers used by any entity without prior written notice to the appraiser. The notice shall include written evidence of the appraiser's illegal conduct, substandard performance, or otherwise improper or unprofessional behavior or any violation of the Uniform Standards of Professional Appraisal Practice or State licensing standards.
  - (9) Any other act or practice that impairs or attempts to impair a real estate appraiser's independence, objectivity, or impartiality.
  - (10) Requesting or requiring a real estate appraiser to collect a fee from the borrower, homeowner, or any other person in the provision of real estate appraisal services.
  - (11) Altering, modifying, or otherwise changing a completed appraisal report submitted by an independent appraiser without the appraiser's written knowledge and consent.
  - (12) Using an appraisal report submitted by an independent appraiser for any other transaction.
  - (13) Requiring an appraiser to indemnify an appraisal management company or hold an appraisal management company harmless for any liability, damage, losses, or claims arising out of the services performed by the appraisal management company, and not the services performed by the appraiser.
  - (14) Requiring an appraiser to provide the company with the appraiser's digital signature or seal.
  - (15) Requiring or attempting to require an appraiser to prepare an appraisal if the appraiser, in the appraiser's own independent professional judgment, believes the appraiser does not have the necessary expertise for the assignment or for the specific geographic area and has notified the appraisal management company and declined the assignment.
  - (16) Requiring or attempting to require an appraiser to prepare an appraisal under a time frame that the appraiser, in the appraiser's own professional judgment, believes does not afford the appraiser the ability to meet all the relevant legal and professional obligations if the appraiser has notified the appraisal management company and declined the assignment.
- (b) Nothing in this section shall be construed as prohibiting an appraisal management company from requesting that a real estate appraiser:
- (1) Consider additional appropriate property information.
  - (2) Provide further detail, substantiation, or explanation for the real estate appraiser's value conclusion, through the registrant's established dispute process.

(3) Correct errors in the real estate appraisal report.

(c) An appraisal management company shall not require or attempt to require an appraiser to prepare an appraisal if the appraiser may have a direct or indirect interest, financial or otherwise, in the property or transaction involving the appraisal.

(d) No appraisal management company procuring or facilitating an appraisal in connection with a consumer credit transaction secured by the principal dwelling of a consumer may have a direct or indirect interest, financial or otherwise, in the property or transaction involving the appraisal. (2010-141, s. 1; 2019-146, s. 4.)

**§ 93E-2-8. Disciplinary authority.**

(a) The Board may, by order, deny, suspend, revoke, or refuse to issue or renew a registration of an appraisal management company under this Article or may restrict or limit activities of a person who owns an interest in or participates in the business of an appraisal management company if the Board determines that an applicant, registrant, or any partner, member, manager, officer, director, compliance manager, or person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant or registrant has done any of the following:

- (1) Filed an application for registration that, as of its effective date or as of any date after filing, contained any statement that, in light of the circumstances under which it was made, is false or misleading with respect to any material fact.
- (2) Violated or failed to comply with any provision of this Article or any rules adopted by the Board.
- (3) Been convicted of any felony or, within the past 10 years, been convicted of any misdemeanor involving mortgage lending or real estate appraisal or any offense involving breach of trust, moral turpitude, or fraudulent or dishonest dealing.
- (4) Been permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the real estate appraisal management business.
- (5) Been the subject of an order of the Board or any other state appraiser regulatory agency denying, suspending, or revoking the person's license as a real estate appraiser.
- (6) Acted as an appraisal management company while not properly licensed by the Board.
- (7) Failed to pay the proper filing or renewal fee under this Article.
- (8) Failed to maintain the bond required by G.S. 93E-2-4.
- (9) Failed to compensate appraisers in compliance with G.S. 93E-2-4(i).

(b) The Board may, by order, summarily postpone or suspend the registration of an appraisal management company pending final determination of any proceeding under this section. Upon entering the order, the Board shall promptly notify the registrant that the order has been entered and the reasons for the order. The Board shall calendar a hearing within 15 days after the Board receives a written request for a hearing. If a registrant does not request a hearing, the order shall remain in effect until the order is modified or vacated by the Board. If a hearing is requested, after notice of and opportunity for hearing, the

Board may modify or vacate the order or extend the order until the Board makes its final determination.

(c) The Board may, by order, impose a civil penalty upon a registrant or any partner, officer, director, compliance manager, or other person occupying a similar status or performing similar functions on behalf of a registrant for any violation of this Article. The civil penalty shall not exceed ten thousand dollars (\$10,000) for each violation of this Article.

(d) In addition to other powers under this Article, upon finding that any action of a person is in violation of this Article, the Board may order the person to cease from the prohibited action. If the person subject to the order fails to appeal the order of the Board or the person appeals the order and the appeal is denied or dismissed and the person continues to engage in the prohibited action in violation of the Board's order, the person shall be subject to a civil penalty of up to twenty-five thousand dollars (\$25,000) for each violation of the order. The penalty provision of this section shall be in addition to and not in lieu of any other provision of law applicable to a registrant for the registrant's failure to comply with an order of the Board.

(e) Unless otherwise provided, all actions and hearings under this Article shall be governed by Article 3A of Chapter 150B of the General Statutes.

(f) When a registrant is accused of any act, omission, or misconduct that would subject the registrant to disciplinary action, the registrant, with the consent and approval of the Board, may surrender the registrant's registration and all the rights and privileges pertaining to the registrant for a minimum period of five years. A person who surrenders a registration shall not be eligible for or submit any application for registration during the period the registration is surrendered.

(g) If the Board has reasonable grounds to believe that an appraisal management company has violated the provisions of this Article or that facts exist that would be the basis for an order against an appraisal management company, the Board may at any time, either personally or by a person duly designated by the Board, investigate or examine the books, accounts, records, and files of any registrant or other person relating to the complaint or matter under investigation.

(g1) The Board may require any registrant or other person to submit a criminal history record check and a set of that person's fingerprints in connection with any examination or investigation. Refusal to submit the requested criminal history record check or a set of fingerprints shall be grounds for disciplinary action. The reasonable cost of the investigation or examination shall be charged against the registrant.

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

(i) Upon a request by the Board and with reasonable notice, an appraisal management company shall produce within this State all books and records related to real

estate appraisal management services provided for properties located in North Carolina. (2010-141, s. 1; 2013-403, ss. 6, 7; 2016-61, s. 1(b).)

**§ 93E-2-9. Records.**

(a) The Board shall maintain a list of all applicants for registration under this Article that includes for each applicant the date of application, the name and primary business location of the applicant, and whether the registration was granted or refused.

(b) The Board shall maintain a current roster showing the names and places of business of all registered appraisal management companies that lists the appraisal management companies' respective officers and directors. The rosters shall: (i) be kept on file in the office of the Board; (ii) contain information regarding all orders or other action taken against the company, its officers, and other persons; and (iii) be open to public inspection.

(b1) The Board shall report annually by December 31 to the Department of Revenue the following information about registered appraisal management companies:

- (1) Name and name used to do business in the State.
- (2) Main address of company.
- (3) Name and address of agent for service of process in the State if not domiciled in the State.
- (4) Legal structure, such as domestic corporation, foreign corporation, domestic partnership, or foreign partnership.
- (5) Employer identification number or social security number.
- (6) Secretary of State identification number if required.

(c) Every registered appraisal management company shall maintain the accounts, correspondence, memoranda, papers, books, and other records related to services provided by the appraisal management company as prescribed in rules adopted by the Board, including in electronic form. All records shall be preserved for five years unless the Board, by rule, prescribes otherwise for particular types of records.

(d) If the information contained in any document filed with the Board is or becomes inaccurate or incomplete in any material respect, the appraisal management company shall promptly file a correcting amendment to the information contained in the document. (2010-141, s. 1; 2012-65, s. 1.)

**§ 93E-2-10. Penalty; injunctive relief.**

(a) Any person violating the provisions of this Article shall be guilty of a Class 1 misdemeanor.

(b) The Board may appear in its own name in superior court in actions for injunctive relief to prevent any person from violating the provisions of this Article or rules adopted by the Board. The superior court shall have the power to grant these injunctions whether criminal prosecution has been or may be instituted as a result of the violations or whether the person is the holder of a registration issued by the Board under this Article. (2010-141, s. 1.)

**§ 93E-2-11. Criminal history record checks of applicants or registrants for registration as appraisal management companies.**

(a) Definitions. – The following definitions shall apply in this section:

- (1) Applicant. – A person applying for registration as an appraisal management company pursuant to G.S. 93E-2-4.
- (2) Criminal history. – A history of conviction of a state or federal crime, whether a misdemeanor or felony, that bears on an applicant's fitness for registration to act as a real estate appraisal management company. The crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act in Article 5 of Chapter 90 of the General Statutes and alcohol-related offenses, including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.

(b) The Board may require that an applicant for registration as an appraisal management company or a registrant consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny registration to an applicant or registrant. The Board shall ensure that the State and national criminal history of an applicant or registrant is checked. The Board shall be responsible for providing to the North Carolina Department of Public Safety the fingerprints of the applicant or registrant to be checked, a form signed by the applicant or registrant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the Department of Public Safety in accordance with G.S. 143B-961. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the Department of Public Safety

and shall remit the fees to the Department of Public Safety for expenses associated with conducting the criminal history record check.

(c) If an applicant's or registrant's criminal history record check reveals one or more convictions listed under subdivision (a)(2) of this section, the conviction shall not automatically bar registration. The Board shall consider all of the following factors regarding the conviction:

- (1) The level of seriousness of the crime.
- (2) The date of the crime.
- (3) The age of the person at the time of the conviction.
- (4) The circumstances surrounding the commission of the crime, if known.
- (5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
- (6) The person's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.
- (7) The subsequent commission by the person of a crime listed in subdivision (a)(2) of this section.

If, after reviewing these factors, the Board determines that the applicant's or registrant's criminal history disqualifies the applicant or registrant for registration, the Board may deny registration of the applicant or registrant. The Board may disclose to the applicant or registrant information contained in the criminal history record check that is relevant to the denial. The Board shall not provide a copy of the criminal history record check to the applicant or registrant. The applicant or registrant shall have the right to appear before the Board to appeal the Board's decision. However, an appearance before the full Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(d) Limited Immunity. – The Board, its officers, and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for denying registration to an applicant or registrant based on information provided in the applicant's or registrant's criminal history record check. (2010-141, s. 1; 2012-12, s. 2(mm); 2014-100, s. 17.1(nn); 2015-181, s. 47.)