

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 419
HOUSE BILL 473

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 of 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). ~~of two hundred dollars (\$200.00).~~ 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 may charge a fee of fifty dollars (\$50.00) for granting temporary licensure or certification."

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 dollars (\$20.00) 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 licensed or certified by the North Carolina Appraisal Board under the provisions of this Chapter. The Board may adopt for the exclusive use of persons certified under the provisions of this Chapter, a seal, symbol, or other mark identifying the user as a State-licensed or State-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 himself to the public, provided that in each instance wherein such term is used, the name of the certifying organization or body is prominently and conspicuously displayed immediately adjacent to such term, and provided further that the use of such term does not create the impression of certification by the State of North Carolina.

(c) The term 'State-licensed real estate appraiser', 'State-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

such manner that it might create the impression of licensure or certification by the State of North Carolina as a real estate appraiser.

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

(a) No 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 State-licensed or State-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 or under the immediate personal direction of, the State-licensed or State-certified real estate appraiser and is reviewed and signed by such State-licensed or State-certified appraiser.

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

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

(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 such term is not used in a manner that creates the impression of certification by the State of North Carolina to perform real estate appraisals other than ad valorem tax appraisals.

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

"§ 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 State-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.
- (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 State-licensed real estate appraiser and bearing a license number assigned by the Board.
- (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) 'State-certified general real estate appraiser' means a person who holds a current, valid certificate as a State-certified general real estate appraiser issued under the provisions of this Chapter.
- (15) 'State-certified residential real estate appraiser' means a person who holds a current, valid certificate as a State-certified residential real estate appraiser issued under the provisions of this Chapter.
- (16) 'State-licensed residential real estate appraiser' means a person who holds a current, valid license as a State-licensed residential real estate appraiser issued under the provisions of this Chapter.
- (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.

"§ 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 seven members. The Governor shall appoint five members of the Board, and the General Assembly shall appoint two members in accordance with G.S. 120-121, one upon the recommendation of the President Pro Tempore of the Senate and one upon the recommendation of the Speaker of the House of Representatives. Each member appointed by the Governor shall be appointed from a different congressional district. The appointee recommended by the Speaker of the House of Representatives and 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. The appointee 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 two members expire in the next year, and the terms of two 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 commence 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.

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

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

- (1) Each applicant for licensure as a State-licensed residential real estate appraiser shall have demonstrated that he possesses the knowledge and competence necessary to perform appraisals of residential and other real estate as the Board may prescribe by having satisfactorily completed within the five-year period immediately preceding the date application is made, a Board-approved course of instruction in real estate appraisal principles and practices consisting of at least 90 hours of classroom instruction in subjects determined by the Board; shall present evidence satisfactory to the Board of at least 2,000 hours of experience in real estate appraising; and shall satisfy such additional qualifications as may be imposed by the Board by rule, not inconsistent with any requirements imposed by the federal government; or shall possess education or experience which is found by the Board in its discretion to be equivalent to the above requirements.
- (2) Each applicant for certification as a State-certified residential real estate appraiser shall have demonstrated that he possesses the knowledge and competence necessary to perform appraisals of residential and other real estate as the Board may prescribe by having satisfactorily completed, within the five-year period immediately preceding the date the application is made, a Board-approved course of instruction in real estate appraisal principles and practices consisting of at least 120 hours of classroom instruction in subjects determined by the Board; shall present evidence satisfactory to the Board of at least 2,000 hours of experience in real estate appraising within the five-year period immediately preceding the date application is made, and over a period of at least two calendar years; and shall satisfy such additional qualifications criteria as may be imposed by the Board by rule, not inconsistent with any requirements imposed by the federal

government; or shall possess education and experience which is found by the Board in its discretion to be equivalent to the above requirements.

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

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

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

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

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

(a) 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 real estate appraiser license or certificate, the licensee or certificate holder must satisfy any continuing education requirements which may be prescribed by the Board under G.S. 93E-1-7(b); provided, however, that members of the General Assembly are exempt from this requirement during their term of office. The Board may adopt rules establishing a system of license and certificate renewal in which licenses and certificates expire annually with varying expiration dates.

(b) The Board may by rule require, as a prerequisite to 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 such instruction, not inconsistent with any requirements of federal authorities.

(c) All licenses and certificates reinstated after the expiration dates shall be subject to a late filing fee of five dollars (\$5.00) per month for each month or part thereof that such license or certificate is lapsed, not to exceed sixty dollars (\$60.00). Such late filing fee shall be in addition to the required renewal fee. In the event a licensee or certificate holder fails to reinstate his license or certificate within 12 months after the expiration date thereof, the Board may, in its discretion, consider such person as not having been previously licensed or certified, and thereby subject to the provisions of this Chapter relating to the issuance of an original license or certificate, including the examination requirements set forth herein. Applications to reinstate licenses or certificates expired for 12 or more months shall be accompanied by the fee required for an original license or certificate.

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

"§ 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 prelicensing and precertification 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.

(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 prelicensing and precertification courses required by G.S. 93E-1-6(a), or equivalent courses. Such fees shall be forty dollars (\$40.00) per course for approval and twenty dollars (\$20.00) per course for renewal of approval of private school courses, and three hundred dollars (\$300.00) per

course for approval and fifty dollars (\$50.00) per course for renewal of approval for course sponsors, including appraisal trade organizations. No fees shall be charged for the approval or renewal of approval to conduct appraiser prelicensing or precertification 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.

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

(a) An applicant from another state which offers real estate appraiser licensing or certification privileges to residents of North Carolina may become State-licensed or certified 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 certification or licensure 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 other states who are deemed by the Board to possess qualifications equivalent to resident North Carolina State-licensed or State-certified real estate appraisers.

(c) The Board may by rule establish a procedure for granting temporary appraiser licensure or certification and may charge an application fee of fifty dollars (\$50.00) 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.

"§ 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 licensed or certified under this Chapter; and
- (3) Prescribe standards for the operation of real estate appraiser education programs.

"§ 93E-1-11. Register of applicants; roster of 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 licensure or certification as real estate appraisers, showing for each the date of application, name, business or residence address, and whether the license or certificate was granted or refused. Said 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 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 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 licensure and certification of real estate 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 appraiser licenses and certificates, the Board 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 as well as an additional fee of twenty dollars (\$20.00) to cover the administrative costs associated therewith.

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

(a) The Board may take disciplinary action against 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 licensed or certified under this Chapter, any person who performs appraisals without an appropriate license or certificate, or any person who holds himself out to be licensed or certified when he holds no such license or certificate. If the Board finds probable cause to believe that a person licensed or certified 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 license or certificate granted to any person under the provisions of this Chapter or reprimand any licensee or certificate holder if, following a hearing, the Board finds the licensee or certificate holder to have:

- (1) Procured 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 out as a State-licensed or State-certified real estate appraiser when not so licensed or certified;
- (5) Failed as a State-licensed or State-certified real estate appraiser to actively and personally supervise any person not licensed or certified under this Chapter who assists the State-licensed or State-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 his 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 such 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 licenses or certificates issued under this Chapter to the clerk of superior court of the county in which the licensee or certificate holder maintains his principal place of business. The clerk shall enter these orders upon the judgment docket of the county.

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

- (1) The 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, in the discretion of the Board, would reasonably affect

the performance of the licensee or certificate holder in the real estate appraisal business;

(2) A final civil judgment has been entered against the licensee or certificate holder on grounds of fraud, misrepresentation, or deceit in the making of any appraisal of real estate; or

(3) The licensee or certificate holder has violated any of the provisions of G.S. 93E-1-13(a) when appraising his own property.

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

(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 such books, records, or documents shall have been introduced in evidence.

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

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

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

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

Whenever any 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, such 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 license or certificate of the licensee or certificate holder be revoked or otherwise subject to disciplinary action."

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

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

- (1) The terms of those two appraiser members of the Appraisal Board appointed by the Governor whose terms were to expire June 30, 1994, under Chapter 93A of the General Statutes, and the appointments made pursuant thereto, shall expire on that date. Thereafter, each Board member shall continue to serve until such time as he is reappointed or replaced by the Governor with another appraiser member.
- (2) The term of the public member of the Appraisal Board appointed by the Governor whose term was to expire June 30, 1994, under Chapter 93A of the General Statutes, and the appointments made pursuant thereto, shall expire on that date. Thereafter, said Board member shall continue to serve until such time as he is reappointed or replaced by the Governor with an appraiser member.
- (3) The terms of those two appraiser members of the Appraisal Board appointed by the Governor whose terms were to expire June 30, 1995, under Chapter 93A of the General Statutes, and the appointments made pursuant thereto, shall expire on that date. Thereafter, each Board member shall continue to serve until such time as he is reappointed or replaced by the Governor with another appraiser member.
- (4) The term of the appraiser member of the Appraisal Board appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives whose term was to expire June 30, 1995, under Chapter 93A of the General Statutes, and the appointments made pursuant thereto, shall instead expire June 30, 1996. Thereafter, said Board member shall continue to serve until such time as he is reappointed or replaced by the General Assembly upon the recommendation of the Speaker of the House of Representatives with another appraiser member.
- (5) The term of the Appraisal Board public member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate whose term was to expire June 30, 1996, under Chapter 93A of the General Statutes, and the appointments made pursuant thereto, shall expire on that date. Thereafter, said Board member shall continue to serve until such time as he is reappointed or replaced by the General Assembly upon the recommendation of the President Pro Tempore of the Senate with another public member.

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

(c) The Board may enter into contracts necessary to implement the provisions of Chapter 93E of the General Statutes, including contracts for private testing services, office supplies, real estate leases, and personnel, provided that such contracts do not require the expenditure of Commission funds. Those fees collected pursuant to G.S. 93A-73(b) as effective October 1, 1993, to defray the cost of any competency

examination administered by a private testing service shall not be considered "Commission funds" within the meaning of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) An attorney-at-law.
- (2) A physician, a veterinarian, a surgeon, an osteopath, a chiropractor, a chiropodist, a dentist, an ophthalmologist, an optician, an optometrist, or another person who practices a professional art of healing.
- (3) A professional engineer, as defined in G.S. 89C-3.
- (4) A registered land surveyor, as defined in G.S. 89C-3.
- (5) An architect.
- (6) A landscape architect.

- (7) A photographer, a canvasser for any photographer, or an agent of a photographer in transmitting photographs to be copied, enlarged, or colored.
- (8) A real estate broker or a real estate salesman, as defined in G.S. 93A-2. A real estate broker or a real estate salesman who is also a real estate appraiser is required to obtain only one license under this section to cover both activities.
- (9) A real estate appraiser, as defined in ~~G.S. 93A-72.~~ G.S. 93E-1-4. A real estate appraiser who is also a real estate broker or a real estate salesman is required to obtain only one license under this section to cover both activities.
- (10) A person who solicits or negotiates loans on real estate as agent for another for a commission, brokerage, or other compensation."

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

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

In the General Assembly read three times and ratified this the 21st day of July, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives