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CHAPTER 60.

 SOUTH CAROLINA REAL ESTATE APPRAISER LICENSE AND CERTIFICATION ACT

**SECTION 40‑60‑5.** Citation and application of chapter; conflict with Article 1, Chapter 1, Title 40.

 (A) This chapter may be cited as the "South Carolina Real Estate Appraiser License and Certification Act".

 (B) Unless otherwise provided for in this chapter, Article 1, Chapter 1 of Title 40 applies to real estate appraisers; however, if there is a conflict between this chapter and Article 1, Chapter 1 of Title 40, the provisions of this chapter control.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑10.** South Carolina Real Estate Appraisers Board.

 (A) There is created the South Carolina Real Estate Appraisers Board under the administration of the Department of Labor, Licensing and Regulation. The purpose of this board is to regulate the real estate appraisal industry so as to protect the public's interest regarding real estate appraisal transactions.

 (B) The South Carolina Real Estate Appraisers Board consists of seven members who must be residents of this State and appointed by the Governor with the advice and consent of the Senate and with consideration given to appropriate geographic representation and to areas of appraisal expertise as follows:

 (1) One member must be a public member who may not be connected in any way with the practice of real estate appraisal, real estate brokerage, or mortgage lending. The member from the general public may be nominated by an individual, group, or association and must be appointed by the Governor in accordance with Section 40‑1‑45.

 (2) One member must be a licensed real estate broker who is not a real estate appraiser.

 (3) One member must be actively engaged in mortgage lending, representing supervised financial institutions, who is not a real estate licensee or a real estate appraiser and who also must not be connected in any way with the brokerage of real estate, the appraisal of real estate, or the review of real estate appraisals.

 (4) Four members must be licensed or certified appraisers, actively engaged in real estate appraisal for at least three years, at least two of whom must be certified general appraisers. In appointing real estate appraisers to the board, the Governor, while not automatically excluding other appraisers, shall give preference to real estate appraisers whose primary source of income is derived from appraising real estate and not real estate brokerage.

 (C) Members shall serve terms of three years and until their successors are appointed and qualified.

 (D) Members of the board are entitled to per diem, subsistence, and mileage as is provided by law for members of state boards, committees, and commissions.

 (E) The board shall meet at least once each calendar quarter, or as often as necessary, and shall remain in session as long as the chairman considers it necessary to give full consideration to the business before the board.

 (F) The board annually shall elect from its total membership a chairman, vice‑chairman, and other officers the board determines necessary. The board may adopt an official seal and shall adopt rules and procedures reasonably necessary for the performance of its duties and the governance of its operations and proceedings.

 (G) A board member is required to attend meetings or to provide proper notice and justification of his or her inability to do so. The Governor may remove a member of the board pursuant to Section 1‑3‑240.

 (H) Vacancies on the board must be filled for the unexpired portion of the term in the manner of the original appointment.

 (I) In addition to the powers and duties provided in Section 40‑1‑70, the board may:

 (1) determine the standards and qualifications for issuance of permits, licenses, and certifications;

 (2) conduct disciplinary hearings on alleged violations of this chapter and regulations promulgated under this chapter and decide disciplinary actions as provided in this chapter for those found to be in violation;

 (3) recommend changes in legislation and promulgate regulations pursuant to this chapter;

 (4) approve and regulate educational courses, providers, and instructors;

 (5) establish standards for real estate appraisals consistent with the standards recognized by the Appraisal Standards Board.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑20.** Definitions.

 In addition to the definitions provided in Section 40‑1‑20, as used in this chapter unless the context requires otherwise:

 (1) "Analysis" means a study of real estate or real property other than one estimating value.

 (2) "Appraisal" as a noun means the act or process of developing an opinion of value for or in expectation of compensation, fee, or other consideration; as an adjective, "appraisal" means of or pertaining to appraising and related functions including, but not limited to, appraisal practice and appraisal services.

 (3) "Appraisal assignment" or "valuation 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 analysis, opinion, or conclusion that estimates the value of real estate.

 (4) "Appraisal Foundation" means the Appraisal Foundation established on November 30, 1987, as a not‑for‑profit corporation under the laws of Illinois, containing the Appraisal Standards Board, Appraiser Qualifications Board, a board of trustees, and other advisory bodies.

 (5) "Appraisal report" means any communication, written or oral, of an appraisal. The testimony of an appraiser dealing with the appraiser's analyses, conclusions, or opinions concerning identified real estate or real property is considered to be an oral appraisal report.

 (6) "Appraisal subcommittee" means the designees of the heads of the federal financial institutions regulatory agencies established by the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. Section 3301, et seq.), as amended, as well as the Secretary of the Department of Housing and Urban Development, or his designee, under the Department of Housing and Urban Development Reform Act of 1989 (12 U.S.C. Section 1708(e)).

 (7) "Appraiser" means a person who holds a permit, license, or certification issued by the board that allows the person to appraise real property.

 (8) "Appraiser apprentice" means an individual authorized by permit to assist a state certified appraiser in the performance of an appraisal if the apprentice is actively and personally supervised by the certified appraiser.

 (9) "Board" means the South Carolina Real Estate Appraisers Board established pursuant to the provisions of this chapter.

 (10) "Complex residential property appraisal" means one in which the property to be appraised, the form of ownership, or market conditions are atypical.

 (11) "Evaluation" means an analysis, opinion, or conclusion that relates to the nature, quality, or utility of identified real estate and does not estimate value.

 (12) "Federally‑related transaction" means any real estate‑related financial transaction which a federal financial institution regulatory agency engages in, contracts for, or regulates.

 (13) "Independent 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 analysis, opinion, or conclusion related to the nature, quality, value, or utility of identified real estate or identified real property.

 (14) "Market analysis" means a study of real estate market conditions for a specific type of property.

 (15) "Mass appraisal" means the process of valuing a universe of properties as of a given date using standard methodology, employing common data, and allowing for statistical testing.

 (16) "Mass appraiser" means any appraiser who is employed in the office of a tax assessor to appraise real property for ad valorem tax purposes and who is licensed or certified as a mass appraiser.

 (17) "Noncomplex residential property appraisal" means one in which the property to be appraised, the form of ownership, and market conditions are those which are typically found in the subject market.

 (18) "Person" means an individual, corporation, partnership, or association, foreign and domestic.

 (19) "Real estate" means an identified parcel or tract of land including improvements, if any.

 (20) "Real estate appraisal activity" means the act or process of valuing real estate or real property and preparing an appraisal report.

 (21) "Real property" means the interests, benefits, and rights inherent in the ownership of real estate.

 (22) "Residential appraisal" is an appraisal of a vacant or improved parcel of land that is devoted to or available for use as a one to four family abode including, but not limited to, a single family home, apartment, or rooming house.

 (23) "Specialized services" means services other than independent appraisal assignments which are performed by an appraiser. Specialized services may include marketing studies, financing studies, and feasibility studies, valuations, analyses, opinions, and conclusions given in connection with activities including, but not limited to, real estate brokerage, mortgage banking, real estate counseling, and real estate tax counseling.

 (24) "Standards of professional appraisal practice"or " USPAP" means the National Uniform Standards of Professional Appraisal Practice as adopted by the Appraisal Standards Board of the Appraisal Foundation and adopted by the board.

 (25) "State certified general appraiser" means an appraiser authorized to engage in the appraisal of all types of real property.

 (26) "State certified general mass appraiser" means an appraiser authorized to engage in all types of real estate mass appraisal activity for ad valorem purposes.

 (27) "State certified residential appraiser" means an appraiser authorized to engage in the appraisal of one to four residential units without regard to transaction value or complexity and nonresidential appraisals with a transaction value less than two hundred fifty thousand dollars.

 (28) "State certified residential mass appraiser" means an appraiser authorized to engage in the mass appraisal of one to four residential units without regard to value or complexity and nonresidential appraisals with a transaction value less than two hundred fifty thousand dollars.

 (29) "State licensed appraiser" means an appraiser authorized to engage in the appraisal of noncomplex one to four residential units having a transaction value less than one million dollars and complex one to four residential units and nonresidential appraisals having a transaction value less than two hundred fifty thousand dollars.

 (30) "State licensed mass appraiser" means an appraiser authorized to engage in the mass appraisal of noncomplex one to four residential units having a transaction value less than one million dollars and complex one to four residential units and nonresidential appraisals having a transaction value less than two hundred fifty thousand dollars.

 (31) "Timberland" means forestland that is producing or is capable of producing timber as a crop.

 (32) "Valuation" means an estimate of the value of real estate or real property.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑30.** License requirement; exceptions.

 It is unlawful for an individual to assume or use a title, designation, or abbreviation likely to create the impression that the person is a real estate appraiser or to engage in appraisal activity or advertise as an appraiser without a valid license issued by the department. However, nothing in this chapter may be construed to apply to:

 (1) a real estate licensee licensed in accordance with Chapter 57 of Title 40 who performs a market analysis or gives an opinion as to the price of real estate on the condition that the market analysis or opinion is not referred to as an appraisal. Before performing a market analysis, the real estate licensee must disclose to the requesting party: "This market analysis may not be used for the purposes of obtaining financing in a federally‑related transaction";

 (2) a forester registered pursuant to Chapter 27 of Title 48 who appraises or evaluates standing or growing timber or timberland located in this State and issues an appraisal or evaluation on the timber or timberland; however, when an appraisal or evaluation is to be used in a federally‑related transaction, the registered forester must be licensed or certified under this chapter if required by federal law.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑31.** Qualifications.

 To qualify as an appraiser, an applicant shall:

 (1) have attained the age of eighteen years;

 (2) have graduated from high school or hold a certificate of equivalency to become an apprentice or licensed appraiser, have an associate degree or equivalent as promulgated by the board through regulation to become a certified residential appraiser, have a Bachelor's Degree or equivalent as promulgated by the board through regulation to become a certified general appraiser;

 (3) submit proof of completion of qualifying education and, if applicable, experience requirements as specified in this chapter;

 (4) submit certificates of licensure from all jurisdictions where presently or previously certified;

 (5) pass an examination, if applicable. An applicant who does not become licensed within five years after passing the licensure examination must retake the examination. An applicant who does not become certified within two years after passing the certified residential or certified general examination must retake the examination.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑32.** Application forms.

 An application for examination, permit, licensure, or certification must be completed in writing on a form prescribed by the department.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑33.** Educational and applicable experience requirements.

 In addition to the requirements of Section 40‑60‑31, an applicant for a permit, license, or certification shall provide proof of having met the following educational and applicable experience requirements:

 (1) To qualify as an appraiser apprentice, an applicant shall:

 (a) furnish evidence that the applicant will be supervised by an appraiser who is state certified by the board;

 (b) furnish evidence that the applicant has successfully completed within the past five years at least seventy‑five classroom hours of courses approved by the board.

 (2) To qualify as a state licensed appraiser, an applicant shall:

 (a) furnish evidence that the applicant has successfully completed within the past five years one hundred fifty hours of education required for licensure by the board in approved appraisal courses;

 (b) demonstrate two thousand hours of appraisal experience since January 1, 1992, but in not less than twenty‑four months. Experience may include, but is not limited to, fee and staff appraisal, ad valorem tax appraisal not to exceed forty percent of the total hours claimed, review appraisal, appraisal analysis, highest and best use analysis, and feasibility analysis/ study. The verification for experience credit claimed by an applicant must be by affidavit on forms prescribed by the board;

 (c) pass an examination approved by the board. The only prerequisite to sit for the examination is completion of the educational requirements.

 (3) To qualify as a state certified residential appraiser, an applicant shall:

 (a) furnish evidence that the applicant has successfully completed within the past five years two hundred hours of education required for residential certification by the board in approved appraisal courses;

 (b) demonstrate two thousand five hundred hours of appraisal experience since January 1, 1992, but in not less than twenty‑four months. Experience may include, but is not limited to, fee and staff appraisal, ad valorem tax appraisal not to exceed forty percent of the total hours claimed, review appraisal, appraisal analysis, highest and best use analysis, and feasibility analysis/study. The verification for experience credit claimed by an applicant must be by affidavit on forms prescribed by the board;

 (c) pass an examination approved by the board. The only prerequisite to sit for the examination is completion of the educational requirements.

 (4) To qualify as a state certified general appraiser an applicant shall:

 (a) furnish evidence that the applicant has successfully completed within the past five years three hundred hours of education required for general certification by the board in approved appraisal courses;

 (b) demonstrate three thousand hours of appraisal experience since January 1, 1992, but in not less than thirty months and of which at least fifty percent must be in nonresidential appraisal work. Experience may include, but is not limited to, fee and staff appraisal, ad valorem tax appraisal not to exceed forty percent of the total hours claimed, review appraisal, appraisal analysis, highest and best use analysis, and feasibility analysis/study. The verification for experience credit claimed by an applicant must be by affidavit on forms prescribed by the board;

 (c) pass an examination approved by the board. The only prerequisite to sit for the examination is completion of the educational requirements;

 (5) To qualify as a licensed mass appraiser, certified mass appraiser, or certified general mass appraiser, the applicant shall satisfy the requirements enumerated in this section, and any other applicable provisions of this chapter to qualify, respectively, as a licensed appraiser, certified residential appraiser, and certified general appraiser, with the exception that one hundred percent of the required experience hours for the mass appraiser designations may be in the area of mass appraisals.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑34.** Identification numbers; requirements relating to appraiser apprentice and appraiser supervising apprentice; temporary permits for appraisers licensed in another state; retaining copies of appraisals; issuance of license following revocation.

 (A) The board shall prescribe the form of a permit, license, and certificate containing an identification number that the appraiser shall use when signing appraisal reports. When an appraiser advertises or executes contracts or other instruments, the appraiser's name, appraiser classification, and number assigned by the board must be printed or typed adjacent to the appraiser's signature.

 (B) The appraiser apprentice performing fee appraisal work or seeking to establish experience for a state licensed or state certified designation shall:

 (1) perform appraisal assignments only under the direct supervision of a state certified appraiser;

 (2) maintain a log containing the following for each assignment:

 (a) date of appraisal;

 (b) address of appraised property;

 (c) description of work performed;

 (d) number of points claimed for the assignment;

 (e) name and address of the client; and

 (f) name and certification number of supervising appraiser;

 (3) sign all appraisal reports for which the appraiser acts as primary appraiser;

 (4) maintain complete copies of all appraisals.

 (C) The appraiser apprentice performing mass appraisal work seeking to establish credit for a licensed or certified mass appraiser designation shall:

 (1) perform appraisal assignments only under the direct supervision of a state certified residential or state certified general real estate appraiser, mass or otherwise;

 (2) maintain a log on a form provided by the board.

 (D) The appraiser supervising an apprentice fee appraiser shall:

 (1) personally review appraisal reports prepared by the apprentice and sign and certify the report as being independently and impartially prepared in compliance with the National USPAP and applicable statutory requirements;

 (2) provide a copy of final appraisal documents to any participating apprentice;

 (3) directly supervise no more that three apprentice appraisers at any one given time.

 (E) The appraiser supervising an appraiser apprentice performing mass appraisal work shall personally review and approve all work performed by the apprentice to ensure that the work is prepared in compliance with the National USPAP and applicable statutory requirements.

 (F) The board may issue to an appraiser who is licensed or certified in another state a temporary permit, which is only effective for one specific appraisal assignment. If the appraisal is not completed within six months from the date of the permit, the board may grant an extension upon request from the appraiser. The appraiser shall place the following notation on all statements of qualification, contracts, or other instruments: "Practicing in the State of South Carolina under Temporary Permit No.".

 (G) Licenses, certifications, and apprentice permits expire biennially on June 30. As a condition of renewal, an appraiser shall provide evidence satisfactory to the board of having met the continuing education requirements established by this chapter. An appraiser apprentice may maintain the permit for five years provided continuing education requirements are satisfied.

 (H) Permits, licenses, or certifications not renewed by date of expiration are no longer valid but may be reinstated within twelve months after expiration upon proper application, payment of renewal fee, a late penalty, as established in the fee schedule, and proof of having met continuing education requirements as prescribed.

 (I) A permit, license, or certification that has expired and has not been reinstated by the last day of the twelfth month following expiration must be canceled. All qualifications and conditions that apply to individuals applying for a permit, license, or certification who have not been previously licensed must be met.

 (J) A license or certification may be placed on inactive status by informing the board in writing and must be renewed in the same manner as provided for active renewal.

 (K) A fee appraiser must retain for five years the original or exact copy of each appraisal report prepared or signed by the appraiser and all supporting data assembled and formulated by the appraiser in preparing each appraisal report. The five‑year period for retention of records is applicable to each engagement of the services of the appraiser and commences on the date of delivery of each appraisal report to the client. The appraiser must retain the work file for a period of at least two years after final disposition of appeals of all judicial proceedings in which the appraiser provided testimony related to the assignment, whichever period expires last.

 (L) An appraiser who has had a permit, license, or certification revoked by the board must not be issued a new permit, license, or certification within two years after the date of the revocation or at any time thereafter except upon an affirmative vote of a majority of the board. A person seeking a permit, license, or certification after revocation shall meet all qualifications and conditions that apply to individuals applying for a permit, license, or certification who have not been previously permitted, licensed, or certified.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑35.** Continuing education requirements; exceptions.

 (A)(1) For renewal of an active permit, license, or certification, an appraiser shall present evidence biennially of satisfactory completion by the applicant of twenty‑eight classroom hours of instruction in courses or seminars that have been approved by the board.

 (2) For renewal of an active license or certification, assessors and other staff responsible for the assessment of property for ad valorem taxation purposes shall receive seven hours of instruction each year in the laws applicable to assessment for ad valorem taxation, methods of valuing property, administration of the assessor's office and records of the assessor's office, and other functions related to the assessor's office. This instruction shall be received from the Department of Revenue or other providers or courses approved by the Department of Labor, Licensing and Regulation. This instruction shall satisfy fourteen of the twenty‑eight classroom hours required for renewal.

 (B) A permit, license, or certification of an appraiser that has been suspended may not be reissued until the applicant presents evidence of completion of the continuing education required by this section.

 (C) An appraiser who fails to complete the continuing education requirements by the date of license renewal may renew by submitting applicable fees but must immediately be placed on inactive status and may not engage in appraising while on inactive status. The appraiser seeking to activate shall pay the applicable fee and meet the continuing education required by this section.

 (D) Appraisers may request to receive credit for continuing education for a course that has not been preapproved by the board. However, credit may be granted only if the appraiser provides satisfactory proof of course qualification, and the board finds that the course meets the criteria set for continuing education courses with regard to subject matter, course length, instructor qualification, and student attendance.

 (E) The following are exempt from the continuing education requirements:

 (1) instructors of approved courses if they request in writing continuing education credit for time spent teaching or developing approved continuing education courses;

 (2) nonresident appraisers who have successfully satisfied the continuing education requirements of the jurisdiction of residence.

HISTORY: 2006 Act No. 257, Section 1; 2010 Act No. 204, Section 1, eff June 7, 2010.

**SECTION 40‑60‑36.** Approval of courses, educational providers and instructors; instructor workshops.

 (A) The board shall establish and publish standards relevant to the approval and conduct of appraiser education required by this chapter.

 (B) The department shall review, approve, and regulate educational courses required by this chapter and providers and instructors of these courses including, but not limited to, accredited colleges, universities, private business entities, organizations, schools, associations, individuals, and institutions.

 (C) The department may deny, reprimand, fine, suspend, or revoke the approval of an education provider or instructor if the department finds that the education provider or instructor has violated or failed to satisfy the provisions of this chapter or the regulations and standards promulgated pursuant to this chapter.

 (D) Application by providers seeking approval to offer and conduct educational instruction or application by instructors must be made on a form prescribed by the department and accompanied by applicable fees not less than sixty days before a course offering and must be approved by the department before the commencement of any instruction.

 (E) If an application for provider, instructor, or course is not approved, the reason must be detailed, and the applicant must be given thirty days to respond.

 (F) Upon approval, certificates must be issued to providers, courses, and instructors to be renewed biennially.

 (G) Approved courses must be taught by approved instructors who are qualified and have demonstrated knowledge of the subject matter to be taught as well as the ability to teach.

 (H) Approved instructors shall attend biennial instructor development workshops sponsored by the department whenever possible or provide evidence of equivalent hours of continuing education that increases their knowledge of either the subject content in their area of expertise or their teaching techniques.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑37.** Reciprocal agreements with appraiser regulatory authorities; consent of nonresident appraiser to South Carolina court jurisdiction.

 (A) The board may enter into reciprocal agreements with appraiser regulatory authorities of other jurisdictions which provide for waivers of education, examination, and experience requirements if the board considers the education and examination requirements of another jurisdiction to be substantially equivalent to the requirements of this chapter.

 (B) A nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against the applicant in the proper court in a judicial circuit of the State in which a cause of action may arise or in which the plaintiff may reside by the service of process or pleading, authorized by the laws of the State, on the Director of the Department of Labor, Licensing and Regulation. The consent must stipulate that the service of process or pleading must be taken and held in all courts to be as valid and binding as if service had been made upon the applicant in South Carolina. If the process or pleadings mentioned in this chapter are served upon the Director of the Department of Labor, Licensing and Regulation, it must be by duplicate copies, one of which must be filed in the office of the board and the other immediately forwarded by the board by registered or certified mail to the applicant against whom the process or pleadings are directed, at the last known address of the applicant as shown by the records of the board.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑38.** Adoption of and conformity to national standards of professional appraiser practice.

 The board shall adopt the standards and amendments to these standards of professional appraisal practice, as promulgated by the Appraisal Standards Board of the Appraisal Foundation. All appraiser apprentices and state licensed and certified appraisers shall conform their professional conduct to the National USPAP and its amendments, as promulgated by the Appraisal Standards Board.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑39.** Conformity of education and other requirements to those established by federal statutes and regulations.

 The board is authorized to waive or to modify any experience, examination, or education requirements established for appraisers in this chapter in order to bring those requirements into conformity with any requirements established by federal statutes and regulations relating to state licensure of appraisers as established by federal financial institutions regulatory agencies, as defined in Title XI of the U.S. Code, or the Department of Housing and Urban Development, or other similar agencies.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑40.** Appraiser contact information; notification of change of address or telephone number; service of notice.

 (A) Each licensee and apprentice must maintain on file with the board a current street address at which they may be found.

 (B) Each licensee and apprentice must notify the board in writing within fifteen days of any change in residential address, office address, or office telephone number.

 (C) Service of any notice upon a licensee who cannot be found at the last known address provided by the licensee may be made by leaving with the director, or designee, a copy of the notice and any accompanying documents along with proof of attempted service at the last known address. The board may set aside and reopen a proceeding upon satisfactory showing by the licensee of good cause as to why the licensee did not receive service of the notice.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑50.** Administrative support; lists of licensed and certified real estate appraisers; fees.

 (A) The Department of Labor, Licensing and Regulation shall provide all administrative, fiscal, investigative, inspection, clerical, secretarial, and license renewal operations and activities of the board in accordance with Section 40‑1‑50.

 (B) The board periodically shall transmit to the appraisal subcommittee as defined in Section 40‑60‑20(6), a roster of individuals who have become state licensed real estate appraisers and state certified real estate appraisers and shall collect and transmit any information or fees established under Public Law 101‑73, Title XI, Real Estate Appraisal Reform Amendments. The board may collect a processing fee necessary to carry out its duties under this subsection.

 (C) Initial fees must be established by the board in statute or regulation and shall serve as the basis for necessary adjustments in accordance with Section 40‑1‑50 to ensure that they are sufficient, but not excessive, to cover expenses, including the total of the direct and indirect costs to the State for the operations of the board.

 (D) Application and license fees are payable to the department in advance and must accompany an examination application or a license application. Initial fees for exam, permit, license, or certificate must be paid by certified funds. Fees are nonrefundable.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑70.** Code of ethics.

 Appraisers shall conduct themselves in accordance with a code of ethics adopted by the board.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑80.** Investigation of complaints and violations; stays; appeal.

 (A) The department shall investigate complaints and violations of this chapter as provided in Section 40‑1‑80.

 (B) If a complaint filed with the board involves an appraisal report that varies from a sales, lease, or exchange price, the board may decline to conduct an investigation.

 (C) The board is prohibited from conducting an investigation based solely on a dispute over the value of property for ad valorem tax purposes.

 (D) No stay or supersedeas may be granted for more than six months pending appeal from a decision by the board to revoke, suspend, or otherwise restrict a permit, license, or certification.

 (E) A person aggrieved by a final action of the board may seek review of the decision in accordance with Section 40‑1‑160.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑90.** Power to administer oaths.

 In addition to the powers and duties enumerated in Section 40‑1‑90, the presiding officer of the board may administer oaths when taking testimony upon any and all matters pertaining to the business or duties of the board.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑100.** Restraining orders and cease and desist orders.

 Restraining orders and cease and desist orders may be issued in accordance with Section 40‑1‑100.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑110.** Grounds for denying license or taking disciplinary action.

 In addition to the grounds provided in Section 40‑1‑110, the board may deny licensure to an applicant or may take disciplinary action against an appraiser who:

 (1) fails to meet the minimum qualifications for a permit, license, or certification established by or pursuant to this chapter;

 (2) procures or attempts to procure a permit, license, or certification by knowingly making a false statement, submitting false information, or making a material misrepresentation in an application filed with the board, or procures or attempts to procure a permit, license, or certification through fraud or misrepresentation;

 (3) performs an act in the practice of real estate appraising that constitutes dishonest, fraudulent, or improper conduct;

 (4) engages in the business of real estate appraising under an assumed or fictitious name;

 (5) pays a finder's fee or a referral fee in connection with an appraisal of real estate or real property in this State;

 (6) makes a false or misleading statement in that portion of a written appraisal report that deals with professional qualifications or in any testimony concerning professional qualifications;

 (7) violates the confidential nature of governmental records to which an appraiser gained access through employment or engagement as an appraiser by a governmental agency;

 (8) violates any of the standards for the development or communication of real estate appraisals as promulgated by the board in regulation;

 (9) fails or refuses without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

 (10) exhibits negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;

 (11) accepts an independent appraisal assignment or valuation assignment when the employment itself or fee to be paid was contingent upon the appraiser's reporting a predetermined estimate, analysis, valuation, opinion, or conclusion or upon the award, recovery, or consequences resulting from the appraisal assignment;

 (12) fails to retain records in accordance with this chapter or regulations promulgated pursuant to this chapter;

 (13) fails upon reasonable request of an investigator of the board to make all records required to be maintained under this chapter available to the board for inspection and copying by the board or fails to appear upon reasonable request for an interview with an investigator of the board;

 (14) demonstrates bad faith, dishonesty, untrustworthiness, or incompetency to act as an appraiser in a manner so as to endanger the interests of the public;

 (15) performs or attempts to perform any real estate appraisal activity on property located in another state without first having complied with that state's laws regarding real estate appraisal activity;

 (16) performs or attempts to perform, if licensed or certified as a mass appraiser, any appraisal other than those for ad valorem tax purposes and directly related to the assessor office employment duties of the mass appraiser;

 (17) has been convicted of a felony or a crime involving moral turpitude or pleaded guilty or nolo contendere to any such offense;

 (18) fails to report to the department in writing by certified mail, within ten days, notice of conviction of a crime provided for in item (17);

 (19) has had a license to practice a regulated profession or occupation in this State, another state or jurisdiction canceled, revoked, suspended, or otherwise disciplined;

 (20) issues a check to the board that is returned for insufficient funds or closed account;

 (21) fails to comply with or obey a final order of the board or has failed to comply with an order, subpoena, or directive of the board or department;

 (22) violates any provision of this chapter or any regulation promulgated under this chapter;

 (23) has knowingly performed an act that in any way assists an unlicensed person to practice;

 (24) has failed to cooperate with an investigation or other proceeding of the board;

 (25) has failed to appear before the board after receiving a formal notice to appear.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑115.** Board jurisdiction.

 The board has jurisdiction over the actions committed or omitted by current and former licensees as provided in Section 40‑1‑115.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑120.** Fines and penalties; delivery of notice of revocation or suspension; consent orders.

 (A) In addition to the powers and duties enumerated in Section 40‑1‑120, the board may impose a fine of up to two thousand dollars to be paid for each violation of the provisions of this chapter or of the regulations promulgated by the board, but the total penalty or fine for violations may not exceed ten thousand dollars, and may require payment of the costs of the disciplinary action. Fines are payable immediately upon the effective date of discipline unless otherwise provided by the board. Interest accrues after fines are due at the maximum rate allowed by law. No licensee against whom a fine is levied is eligible for reinstatement until the fine has been paid in full.

 (B) A decision by the board to revoke, suspend, or otherwise restrict a license or to limit or otherwise discipline a licensee becomes effective upon delivery of a copy of the decision to the licensee and a petition for review does not operate as a supersedeas or stay.

 (C) Nothing in this section prevents a licensee from voluntarily entering into a consent order with the board wherein violations are not contested and sanctions are accepted.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑130.** Grounds for denial of license or discipline.

 As provided in Section 40‑1‑130, the board may deny licensure to an applicant based on the same grounds for which the board may take disciplinary action against a licensee.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑140.** License denial based on prior criminal record.

 A license may be denied based on a person's prior criminal record, only as provided for in Section 40‑1‑140.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑150.** Voluntary surrender of license.

 A licensee under investigation for a violation of this chapter or a regulation promulgated under this chapter may voluntarily surrender the license to practice in accordance with and subject to the provisions of Section 40‑1‑150. A person whose license is voluntarily surrendered may not practice or represent himself or herself to be authorized to practice until the board takes final action in the pending disciplinary matter. The voluntary surrender of a license is subject to public disclosure in accordance with Chapter 4 of Title 30. The time that an authorization has been surrendered may be credited, in the board's discretion, toward any period of suspension or other restriction of practice.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑160.** Appeal.

 A respondent aggrieved by a final decision of the board may seek review of the decision to the Administrative Law Court in accordance with Section 40‑1‑160. Motions for continuance and for other interlocutory relief are not subject to review by the Administrative Law Court until a final decision has been issued by the board.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑170.** Investigation and prosecution costs.

 A person found in violation of this chapter or regulations promulgated under this chapter may be required to pay costs associated with the investigation and prosecution of the case, including appeals, in accordance with Section 40‑1‑170.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑180.** Collection of costs and fines.

 Costs and fines imposed pursuant to this chapter must be paid in accordance with and are subject to the collection and enforcement provisions of Section 40‑1‑180.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑190.** Confidentiality of investigations and proceedings; privileged communications.

 Investigations and proceedings conducted under this chapter are confidential, and all communications are privileged as provided for in Section 40‑1‑190.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑200.** Advertising or engaging in business of appraising without license; penalties.

 (A) It is unlawful for a person, directly or indirectly, to engage in or conduct the business of or to advertise or hold himself out as engaging in or conducting the business of or to act in the capacity of, an appraiser within this State without first obtaining a permit, license, or certification as provided in this chapter.

 (B) A person acting as an appraiser within the meaning of this chapter without a permit, license, or certification is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than six months, or both.

 (C) An appraiser who fails to renew a license or certification and who continues to engage in appraisal activities or business is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than six months, or both.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑210.** Injunctive relief; fine.

 The department, in addition to instituting a criminal proceeding, may institute a civil action through the Administrative Law Court, in the name of the State, for injunctive relief against a person or entity violating this chapter, a regulation promulgated under this chapter, or an order of the board. For each violation the administrative law judge may impose a fine of not more than ten thousand dollars.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑220.** Continuation of existing licenses.

 A person who is licensed as a licensed appraiser, licensed mass appraiser, state certified residential appraiser, certified mass appraiser, state certified general appraiser, or certified general mass appraiser on December 31, 2007, may continue licensure in that category without meeting the requirements of Section 40‑60‑31 and Section 40‑60‑33, so long as the person is otherwise authorized to hold such license.

HISTORY: 2006 Act No. 257, Section 1.

**SECTION 40‑60‑230.** Severability.

 If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this section, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

HISTORY: 2006 Act No. 257, Section 1.