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Indicates New Matter

AMENDED

April 8, 2014

**H. 4644**

Introduced by Rep. Sandifer

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Read the first time March 5, 2014.

**A** **BILL**

TO AMEND SECTION 40‑60‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, AND SECTIONS 40‑60‑31, 40‑60‑33, 40‑60‑34, 40‑60‑35, AS AMENDED, 40‑60‑36, 40‑60‑37, 40‑60‑38, 40‑60‑80, AND 40‑60‑220, ALL RELATING TO THE SOUTH CAROLINA REAL ESTATE APPRAISERS LICENSE AND CERTIFICATION ACT, SO AS TO CONFORM THE PROVISIONS TO CERTAIN REVISED NATIONAL UNIFORM STANDARDS FOR LICENSING, CERTIFYING, AND RECERTIFYING REAL ESTATE APPRAISERS.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 40‑60‑20 of the 1976 Code is amended to read:

“Section 40‑60‑20. ~~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 (ASB), Appraiser Qualifications Board (AQB), 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~~ individual 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 appraiser’ 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~~ 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~~14) ‘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~~15) ‘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~~16) ‘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~~17) ‘Person’ means an individual, corporation, partnership, or association, foreign and domestic.

(~~19~~18) ‘Real estate’ means an identified parcel or tract of land including improvements, if any.

(~~20~~19) ‘Real estate appraisal activity’ means the act or process of valuing real estate or real property and preparing an ~~appraisal~~ oral or written report.

(~~21~~20) ‘Real property’ means the interests, benefits, and rights inherent in the ownership of real estate.

(~~22~~21) ‘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~~22) ‘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~~23) ‘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~~24) ‘State‑certified general appraiser’ means an appraiser authorized to engage in the appraisal of all types of real property.

(~~26~~25) ‘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~~26) ‘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~~27) ‘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~~28) ‘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~~29) ‘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~~30) ‘Timberland’ means forestland that is producing or is capable of producing timber as a crop.

(~~32~~31) ‘Valuation’ means an estimate of the value of real estate or real property.”

SECTION 2. Section 40‑60‑31 of the 1976 Code is amended to read:

“Section 40‑60‑31. To qualify as an appraiser, an applicant shall:

(1) have attained the age of eighteen years;

(2) ~~have~~ satisfy educational requirements of having:

(a) graduated from high school or hold a certificate of equivalency to become an apprentice ~~or licensed~~ appraiser~~, have~~;

(b) an associate degree or its equivalent as promulgated by the board through regulation to become a ~~certified residential~~ licensed appraiser~~, have~~; or

(c) a bachelor’s degree or its equivalent as promulgated by the board through regulation to become a state-certified residential appraiser or state-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) undergo a criminal background check in compliance with AQB requirements to be submitted by the applicant with his application; and

(~~5~~6) pass an examination, if applicable. Effective July 1, 2014, an applicant who does not become licensed or certified within ~~five~~ two 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.~~”

SECTION 3. Section 40‑60‑33 of the 1976 Code is amended to read:

“Section 40‑60‑33. 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 appraiser, 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; and

(c) attend a trainee/supervisor orientation conducted in compliance with AQB requirements.

(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; and

(c) pass an examination approved by the board. The ~~only prerequisite~~ prerequisites to sit for the examination ~~is~~ are completion of the educational requirements and appraisal experience.

(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; and

(c) pass an examination approved by the board. The ~~only prerequisite~~ prerequisites to sit for the examination ~~is~~ are completion of the educational requirements and appraisal experience.

(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; and

(c) pass an examination approved by the board. The ~~only prerequisite~~ prerequisites to sit for the examination ~~is~~ are completion of the educational requirements~~;~~ and appraisal experience.

(5) To qualify as a licensed mass appraiser, state-certified residential mass appraiser, or state-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, state-certified residential appraiser, and state-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.”

SECTION 4. Section 40‑60‑34 of the 1976 Code is amended to read:

“Section 40‑60‑34. (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 appraiser 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, jointly with the supervising appraiser, a log containing the following for each assignment:

(a) type of property;

(~~a~~b) date of ~~appraisal~~ report;

(~~b~~c) address of appraised property;

(~~c~~d) description of work performed by the trainee and scope of review and supervision of the supervising appraiser;

(~~d~~e) number of ~~points claimed for the assignment~~ actual work hours by the trainee on the assignment; and

~~(e)~~ ~~name and address of the client; and~~

(f) ~~name~~ signature and state certification number of the supervising appraiser with separate appraisal log maintained for each supervising appraiser, if applicable;

(3) sign or be given credit in all appraisal reports for which the ~~appraiser~~ apprentice acts as ~~primary~~ an appraiser;

(4) maintain or have access to complete copies of all appraisals.

(C) The ~~appraiser~~ apprentice appraiser 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~~ or access to final appraisal documents to any participating apprentice;

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

(4) be certified for a minimum of three years and not subject to any disciplinary action within the immediately preceding three years; and

(5) attend a trainee/supervisor orientation conducted in compliance with AQB requirements.

(E) The appraiser supervising an ~~appraiser~~ apprentice appraiser 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~~ thirtieth. 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 appraiser 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.”

SECTION 5. Section 40‑60‑35 of the 1976 Code, as last amended by Act 204 of 2010, is further amended to read:

“Section 40‑60‑35. (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, of which seven hours must be the National USPAP update course current at the time of renewal.

(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~~ An approved instructor may receive up to one‑half of his continuing education credit for the amount of continuing education courses he teaches, subject to board approval.

(F) A nonresident appraiser who successfully satisfies the continuing education requirements of the jurisdiction of their residence must be considered to satisfy the continuing education requirements of this State.”

SECTION 6. Section 40‑60‑36 of the 1976 Code is amended to read:

“Section 40‑60‑36. (A) The board shall establish and publish standards relevant to the approval and conduct of appraiser education required by this chapter.

(B) The ~~department~~ board 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~~ board may deny, reprimand, fine, suspend, or revoke the approval of an education provider or instructor if the ~~department~~ board 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~~ board and accompanied by applicable fees not less than sixty days before a course offering and must be approved by the ~~department~~ board 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~~ board 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.”

SECTION 7. Section 40‑60‑37(A) of the 1976 Code is amended to read:

“(A) The board may ~~enter into~~ accept reciprocal ~~agreements with appraiser regulatory authorities of~~ applications from appraisers from other jurisdictions ~~which provide for~~. These applicants may be given 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.”

SECTION 8. Section 40‑60‑38 of the 1976 Code is amended to read:

“Section 40‑60‑38. 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~~ apprentice appraisers 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.”

SECTION 9. Section 40‑60‑80(A) of the 1976 Code is amended to read:

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

SECTION 10. Section 40‑60‑220 of the 1976 Code is amended to read:

“Section 40‑60‑220. A person who is licensed as a licensed appraiser, licensed mass appraiser, state-certified residential appraiser, state-certified residential mass appraiser, state-certified general appraiser, or state-certified general mass appraiser on December 31, ~~2007~~ 2014, 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~~ the license.”

SECTION 11. This act takes effect upon approval by the Governor.

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