~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 13, 2021

**H. 3255**

Introduced by Reps. West, Kirby, Erickson and Bradley

S. Printed 5/13/21--S.

Read the first time March 3, 2021.

**THE COMMITTEE ON LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (H. 3255) to amend Section 40‑60‑30, Code of Laws of South Carolina, 1976, relating to exceptions from licensure requirements for real estate appraisers, so as to modify, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

THOMAS C. ALEXANDER for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

This bill revises educational and experience requirements for certain categories of licensure for appraisers by the board, revises requirements related to registration issued by the board for appraisal management companies, and revises record-keeping requirements for registration renewal for appraisal management companies. LLR indicates that this bill will have no fiscal impact on the agency as it does not materially impact the operations of the agency or the board.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 40‑60‑30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXCEPTIONS FROM LICENSURE REQUIREMENTS FOR REAL ESTATE APPRAISERS, SO AS TO MODIFY EXEMPTIONS FOR LICENSEES OF THE REAL ESTATE COMMISSION; TO AMEND SECTION 40‑60‑31, RELATING TO REQUIREMENTS FOR LICENSURE BY THE BOARD OF REAL ESTATE APPRAISERS, SO AS TO REVISE AND PROVIDE COLLEGE EDUCATION REQUIREMENTS AND ACCEPTABLE EQUIVALENCIES FOR APPRENTICE APPRAISERS, RESIDENTIAL APPRAISERS, AND GENERAL APPRAISERS, AND TO EXEMPT CERTAIN MASS APPRAISERS FROM COLLEGE EDUCATION REQUIREMENTS; TO AMEND SECTION 40‑60‑33, RELATING TO ADDITIONAL EDUCATIONAL AND APPLICABLE EXPERIENCE REQUIREMENTS FOR LICENSURE BY THE BOARD, SO AS TO REVISE VARIOUS REQUIREMENTS AND REVISE QUALIFICATIONS FOR CERTAIN LICENSED MASS APPRAISERS; TO AMEND SECTION 40‑60‑34, RELATING TO REQUIREMENTS CONCERNING APPRENTICE APPRAISERS AND APPRAISER SUPERVISING APPRENTICES, SO AS TO REVISE VARIOUS REQUIREMENTS; TO AMEND SECTION 40‑60‑35, RELATING TO CONTINUING EDUCATION REQUIREMENTS, SO AS TO IMPOSE CERTAIN REPORTING REQUIREMENTS ON LICENSEES; TO AMEND SECTION 40‑60‑36, RELATING TO CONTINUING EDUCATION PROVIDERS, SO AS TO IMPOSE CERTAIN REPORTING REQUIREMENTS ON PROVIDERS; TO AMEND SECTION 40‑60‑37, RELATING TO QUALIFICATION REQUIREMENT WAIVERS FOR RECIPROCAL APPLICATIONS FOR APPRAISERS FROM OTHER JURISDICTIONS, SO AS TO MAKE A TECHNICAL CORRECTION; TO AMEND SECTION 40‑60‑40, RELATING TO APPRAISER CONTACT INFORMATION THAT MUST BE MAINTAINED ON FILE WITH THE BOARD, SO AS TO INCLUDE EMAIL ADDRESSES OF LICENSEES; TO AMEND SECTION 40‑60‑320, RELATING TO DEFINITIONS IN THE REAL ESTATE APPRAISER LICENSE AND CERTIFICATION ACT, SO AS TO REVISE THE DEFINITION OF AN APPRAISAL PANEL; TO AMEND SECTION 40‑60‑330, AS AMENDED, RELATING TO REGISTRATION REQUIREMENTS, SO AS TO REVISE REQUIREMENTS CONCERNING CERTAIN FINANCIAL INFORMATION; TO AMEND SECTION 40‑60‑360, RELATING TO THE PROMULGATION OF REGULATIONS, SO AS TO SPECIFY CERTAIN REQUIRED REGULATIONS; TO AMEND SECTION 40‑60‑420, RELATING TO RECORD‑KEEPING REQUIREMENTS FOR REGISTRATION RENEWAL, SO AS TO REVISE REQUIREMENTS CONCERNING RECORDS THAT APPRAISAL MANAGEMENT COMPANIES MUST PROVIDE; AND TO AMEND SECTION 40‑60‑450, RELATING TO REQUIREMENTS CONCERNING COMPENSATION OF APPRAISERS BY APPRAISAL MANAGEMENT COMPANIES, SO AS TO CLARIFY THE APPLICABLE GOVERNING FEDERAL REGULATIONS.

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

SECTION 1. Section 40‑60‑30(1) of the 1976 Code is amended to read:

“(1) A real estate licensee licensed in accordance with Chapter 57, 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 price opinion is not referred to as an appraisal. Before performing a market analysis or price opinion, the real estate licensee must disclose to the requesting party: ‘This market analysis or price opinion may not be used for the purposes of obtaining financing in a federally related transaction.’”

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) satisfy educational requirements of having:

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

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

(a) as an apprentice or state‑licensed appraiser:

(i) high school diploma; or

(ii) hold a certificate of equivalency;

(b) as a state‑certified residential appraiser:

(i) a bachelor’s degree; or

(ii) an associate’s degree in a business field of study as provided by the Appraisers Qualification Board of the Appraisal Foundation or the board through regulation; or

(iii) in lieu of a degree, have thirty semester hours of specific college‑level courses as provided by the Appraisers Qualification Board of the Appraisal Foundation or the board through regulation; or

(iv) be a state‑licensed appraiser for five years as provided by the Appraisers Qualification Board of the Appraisal Foundation or the board through regulation;

(c) as a state‑certified general appraiser, a bachelor’s degree;

(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~~

(6) pass an examination, if applicable. Effective July 1, 2014, an applicant who does not become licensed or certified within two years after passing the examination must retake the examination; and

(7) requirements for a college degree do not apply to licensed mass, certified residential mass, or certified general mass appraisers.”

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 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 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 or licensed mass appraiser, an applicant shall:

(a) furnish evidence that the applicant has successfully completed within the past five years ~~one hundred fifty~~ an additional seventy‑five hours of education above the apprenticeship requirements required for licensure by the board in approved appraisal courses;

(b) demonstrate ~~two~~ one thousand hours of appraisal experience since January 1, 1992, but in not less than ~~twenty‑four~~ six months. Experience may include, but is not limited to, fee and staff appraisal, ad valorem tax appraisal not to exceed ~~forty~~ fifty percent of the total hours claimed, review appraisal, appraisal analysis, highest and best use analysis, and feasibility analysis/study. Mass appraiser experience may be one hundred percent ad valorem tax appraisal. 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 prerequisites to sit for the examination are completion of the educational requirements and appraisal experience.

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

(a) furnish evidence that the applicant has successfully completed within the past five years ~~two hundred~~ an additional fifty hours of education above the licensed appraiser requirements required for residential certification by the board in approved appraisal courses;

(b) demonstrate ~~two~~ one thousand five hundred hours of appraisal experience since January 1, 1992, but in not less than ~~twenty‑four~~ twelve months. Experience may include, but is not limited to, fee and staff appraisal, ad valorem tax appraisal not to exceed ~~forty~~ fifty percent of the total hours claimed, review appraisal, appraisal analysis, highest and best use analysis, and feasibility analysis/study. Mass appraiser experience may be one hundred percent ad valorem tax appraisal. 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 prerequisites to sit for the examination 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~~ two hundred and twenty‑five hours of education above the apprenticeship 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~~ eighteen 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~~ fifty percent of the total hours claimed, review appraisal, appraisal analysis, highest and best use analysis, and feasibility analysis/study. Mass appraiser experience may be one hundred percent ad valorem tax appraisal. 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 prerequisites to sit for the examination 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 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;

(b) date of report;

(c) address of appraised property;

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

(e) number of actual work hours by the ~~trainee~~ apprentice on the assignment; and

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

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

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

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

(3) directly supervise no more 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 that affects the supervisory appraisers legal eligibility to engage in appraisal practice; and

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

(E) The appraiser supervising an 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 prior to the expiration of the current temporary permit. 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 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 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. Such a canceled permit, license, or certification may be considered for reinstatement as provided by the board in regulation.

(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~~ An 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 may 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.”

SECTION 5. Section 40‑60‑35(A)(1) of the 1976 Code is amended to read:

“(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 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. Licensees shall report completed continuing education of licensees as required by the board.”

SECTION 6. Section 40‑60‑36 of the 1976 Code is amended by adding a subsection at the end to read:

“( ) Providers shall report completed continuing education of licensees within fourteen days of course completion as required by the board.”

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

“(A) The board may accept reciprocal applications from appraisers from other jurisdictions. These applicants may be given waivers of education, examination, and experience requirements if the board considers the education ~~and~~, examination, and experience requirements of another jurisdiction to be substantially equivalent to the requirements of this chapter.”

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

“(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, or email address.”

SECTION 9. Section 40‑60‑320(3) of the 1976 Code is amended to read:

“(3) ‘Appraiser panel’ means a group of certified or licensed appraisers, who are independent contractors, selected by an appraisal management company to perform real estate appraisal services in connection with a covered transaction for the appraisal management company.”

SECTION 10. Section 40‑60‑330(B)(11) of the 1976 Code, as last amended by Act 197 of 2018, is further amended to read:

“(11) ~~a detailed statement of current financial condition of the entity on a form approved by the board or a surety bond in an amount not to exceed fifty thousand dollars, whichever the registering appraisal management company selects~~ a surety bond in the amount of twenty‑five thousand dollars on a surety bond form approved by the board, provided:

(a) the registration requirement provided in this item does not apply to an individual appraiser or an individual appraiser serving on an appraisal panel of an appraisal management company, and appraisal management companies are responsible for any cost of a surety bond as required by this item;

(b) surety bond claims may be filed by the claimant in accordance with the terms of the surety bond on a bond claim form approved by the board, provided claims are limited to actual damages and do not include attorney’s fees or punitive damages incurred by the claimant; and

(c) all liability on a surety bond is applicable to the surety bond in effect as of the date of occurrence which gave rise to the liability;”

SECTION 11. Section 40‑60‑360(A) of the 1976 Code is amended to read:

“(A) The board shall promulgate regulations to establish fees for registration, renewal, and reinstatement and additional fees as are reasonably necessary for the administration of this chapter and as required in subsections (B) and (C). The fees must be established in consideration of the costs of administering this chapter and the actual cost of the specific service to be provided or performed. The board periodically shall review and adjust the schedule of fees as needed to cover expenses.”

SECTION 12. Section 40‑60‑420 of the 1976 Code is amended to read:

“Section 40‑60‑420. An appraisal management company ~~seeking to be registered shall certify to the board, at each renewal, that it~~ shall:

(1) ~~maintains~~ maintain a detailed record of each service request that it receives for at least the latter of:

(a) five years after the date of service request; or

(b) two years after final disposition of a judicial proceeding in which the appraisal management company provided testimony related to an assignment; and

(2) ~~has~~ have a policy that requires a certified or licensed appraiser who is an independent contractor and who performs a real estate appraisal service for the appraisal management company to maintain those records, including, but not limited to, the work file, for at least the ~~later~~ latter of:

(a) five years after preparation; or

(b) two years after the final disposition of a judicial proceeding in which the appraiser or the appraisal management company provided testimony related to the assignment.”

SECTION 13. Section 40‑60‑450(B) of the 1976 Code is amended to read:

“(B) An appraisal management company shall compensate appraisers at a rate that is customary and reasonable for appraisals being performed in the market area of the property being appraised, consistent with the requirements of 15 U.S.C. Section 1639e and regulations adopted pursuant to it including, but not limited to, 12 C.F.R. 1026.42.”

SECTION 14. This act takes effect upon approval by the Governor.

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