

CHAPTER 40A

STATE BOARD OF REAL ESTATE APPRAISERS

Authority

N.J.S.A. 45:14F et seq., specifically 45:14F-8(n), and 45:1 et seq.

Source and Effective Date

R.2002 d.205, effective June 7, 2002.
See: 34 N.J.R. 435(a), 34 N.J.R. 2319(a).

Chapter Expiration Date

Chapter 40A, State Board of Real Estate Appraisers, expires on June 7, 2007.

Chapter Historical Note

Chapter 40A, State Board of Real Estate Appraisers, was adopted as R.1991 d.598, effective December 16, 1991. See: 23 N.J.R. 2628(a), 23 N.J.R. 3763(b).

Subchapter 2A, Certification of Residential Real Estate Appraisers, was adopted as R.1993 d.125, effective March 15, 1993. See: 24 N.J.R. 3489(a), 25 N.J.R. 1222(b).

Subchapter 7, Apprentice Permits, was adopted as R.1993 d.177, effective April 19, 1993. See: 25 N.J.R. 267(a), 25 N.J.R. 1773(a).

Notice of Receipt of Petitions for Rulemaking and Action thereon. See: 25 N.J.R. 3032(b).

Pursuant to Executive Order No. 66(1978), Chapter 40A, State Board of Real Estate Appraisers, was readopted as R.1997 d.23, effective December 13, 1996. See: 28 N.J.R. 4724(a), 29 N.J.R. 369(a). As part of R.1997 d.23, effective January 21, 1997, Subchapter 4, Continuing Professional Education, was recodified to Subchapter 5, and a new Subchapter 4, Apprentice Permits, was recodified from Subchapter 7; Subchapter 5, Standards for Appraisals, was recodified to Subchapter 6, and a new Subchapter 5, Continuing Professional Education, was recodified from Subchapter 4; Subchapter 6, General Provisions, was recodified to Subchapter 7, and a new Subchapter 6, Standards for Appraisals, was recodified from Subchapter 5; Subchapter 7, Apprentice Permits, was recodified to Subchapter 4, and a new Subchapter 7, General Provisions, was recodified from Subchapter 6; and Subchapter 8, Certification or Licensure by Endorsement, was adopted as new rules.

Chapter 40A, State Board of Real Estate Appraisers, was readopted as R.2002 d.205, effective June 7, 2002. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. PURPOSE AND SCOPE; DEFINITIONS

13:40A-1.1 Purpose and scope

(a) The rules in this chapter implement the provisions of P.L. 1991, c.68, N.J.S.A. 45:14F-1 et seq., the "Real Estate Appraisers Act."

(b) This chapter shall apply to all persons applying for licensure as a licensed real estate appraiser or certification as a certified residential real estate appraiser or as a certified general real estate appraiser and to persons licensed or certified by the Board of Real Estate Appraisers in the State of New Jersey.

Amended by R.1993 d.125, effective March 15, 1993.

See: 24 N.J.R. 3489(a), 25 N.J.R. 1222(b).

Revised text.

Repeal and New Rule, R.2002 d.205, effective July 1, 2002.

See: 34 N.J.R. 435(a), 34 N.J.R. 2319(a).

Section was "Purpose and scope".

13:40A-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Appraisal Foundation" means the Appraisal Foundation incorporated in the State of Illinois as a nonprofit corporation on November 30, 1987, as denominated in Title XI of Publ. L. 101-73 (12 U.S.C. section 3331 et seq.).

"Appraisal Qualification Board (AQB)" means the independent board of the Appraisal Foundation which under the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) establishes the minimum education, experience and examination requirements for real property appraisers to obtain a state certification or license. The address and phone number of the AQB is 1029 Vermont Avenue, NW, Suite 900, Washington, DC 20005-3517, (202) 347-7722. The website for the AQB is www.appraisalfoundation.org.

"Board" means the State Real Estate Appraiser Board in the Division of Consumer Affairs.

"State certified general real estate appraiser" ("SCGREA") means an individual who has satisfied the experience and education requirements as set forth in this chapter, has successfully completed the Board approved examination, and holds a current, valid certificate as a certified general real estate appraiser.

"State certified residential real estate appraiser" ("SCRREA") means an individual who has satisfied the experience and education requirements as set forth in this chapter, has successfully completed the Board approved examination, and holds a current, valid certificate as a certified residential real estate appraiser.

"State licensed real estate appraiser" ("SLREA") means an individual who has satisfied the experience and education requirements as set forth in this chapter, has successfully completed the Board approved examination, and holds a current, valid license for real estate appraisal.

"Trainee" means an individual in the process of acquiring the hours of appraisal experience and qualifying education required for certification or licensure under the direct supervision of a licensed or certified appraiser pursuant to this chapter.

"Uniform Standards of Professional Appraisal Practice (USPAP)" means the published standards set forth by the Appraisal Standards Board of the Appraisal Foundation (1029 Vermont Avenue, NW, Suite 900, Washington, D.C. 20005-3517) annually with an effective date of January 1 of the current year. Said standards include the generally accepted standards of appraisal practice; a history of changes to those standards for the prior year; all statements on Appraisal Standards; all Advisory Opinions issued for general distribution; a Glossary and an Index. The Uniform Standards of Professional Appraisal Practice are hereby incorporated by reference in the established rules for the review and interpretation of the competency and practice of appraisers licensed or certified by the Board.

Amended by R.1993 d.125, effective March 15, 1993.

See: 24 N.J.R. 3489(a), 25 N.J.R. 1222(b).

Revised definitions "State certified general real estate appraiser"; added definitions "State certified residential real estate appraiser"; moved definition "Residential".

Amended by R.1997 d.23, effective January 21, 1997.

See: 28 N.J.R. 4724(a), 29 N.J.R. 369(a).

Added "Apprentice" and "Uniform Standards of Professional Appraisal Practice (USPAP)"; and deleted "Market value" and "Residential".

Amended by R.2002 d.205, effective July 1, 2002.

See: 34 N.J.R. 435(a), 34 N.J.R. 2319(a).

Inserted "Appraisal Qualification Board (AQB)" and "Trainee"; deleted "Apprentice" and "Classroom hour"; in "State certified general real estate appraiser (SCGREA)", "State certified residential real estate appraiser (SCRREA)" and "State licensed real estate appraiser (SLREA)", substituted "approved" for "sponsored" following "Board".

SUBCHAPTER 2. CERTIFICATION OF GENERAL REAL ESTATE APPRAISERS

Subchapter Historical Note

"General" added to Subchapter 2 title by R.1993 d.125, effective March 15, 1993. See: 24 N.J.R. 3489(a), 25 N.J.R. 1222(b).

(c) Every holder of a license or certificate, issued or renewed by the Board, who seeks renewal shall submit a renewal application and pay a renewal fee prior to the date of expiration of the license or certificate. If the holder does not renew the license or certificate prior to its expiration date, the holder may renew it within 30 days of its expiration date by submitting a renewal application and paying a renewal fee and a late fee. Any license or certification not renewed within 30 days of its expiration date shall be suspended without a hearing.

(d) Any individual who continues to practice with an expired license or certification after 30 days following its expiration date shall be deemed to be engaged in the unlicensed practice of real estate appraising, even if no notice of suspension has been provided to the individual.

(e) Renewal applications for all licenses or certificates shall provide the applicant with the option of either active or inactive renewal. A renewal applicant electing to renew as inactive shall not engage in real estate appraising within the State.

(f) An applicant who selects the inactive renewal option shall remain on inactive status for the entire renewal period unless, upon application to the Board, the Board permits the inactive applicant to return to active status. As a precondition to return to active status, the applicant shall present satisfactory proof that he or she has maintained proficiency by completing the continuing education hours required for the renewal of an active license or certification.

New Rule, R.2002 d.205, effective July 1, 2002.
See: 34 N.J.R. 435(a), 34 N.J.R. 2319(a).

13:40A-7.7 Reinstatement

Pursuant to the Uniform Enforcement Act, N.J.S.A. 45:1-1 et seq., the Board may reinstate the license or certification of an applicant whose license or certificate has been suspended for failure to renew provided that the applicant otherwise qualifies for licensure or certification.

New Rule, R.2002 d.205, effective July 1, 2002.
See: 34 N.J.R. 435(a), 34 N.J.R. 2319(a).

13:40A-7.8 Denial or revocation of license or certification; record of conviction of certain crimes

(a) An applicant for licensure or certification shall not be eligible for licensure or certification and any holder of a license or certification shall have his or her license or certification revoked if the Board determines that criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which would disqualify that individual from being licensed or certified.

(b) An applicant or a holder of a license or certification shall be disqualified from licensure or certification if that

individual's criminal history record check reveals a record of conviction of any of the following crimes and offenses:

1. In New Jersey, any crime or disorderly persons offense:

i. Involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.A. 2C:11-1 et seq., 2C:12-1 et seq., 2C:13-1 et seq., 2C:14-1 et seq., or 2C:15-1 et seq.; or

ii. Involving theft as set forth in Chapter 20 of Title 2C of the New Jersey Statutes; or

iii. Involving any controlled dangerous substances or controlled dangerous substances analog as set forth in Chapter 35 of Title 2C of the New Jersey Statutes except as set forth in paragraph (4) of subsection a of N.J.S.A. 2C:35-10.

2. In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in (b) above. This is deemed to include convictions for bank fraud, wire fraud, or conspiracy to commit bank fraud or wire fraud.

(c) Notwithstanding the provisions of (b) above, no individual shall be disqualified from licensure or certification on the basis of any conviction disclosed by a criminal history record check if the individual has affirmatively demonstrated to the Board clear and convincing evidence of rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

1. The nature and responsibility of the position which the convicted individual would hold;

2. The nature and seriousness of the offense;

3. The circumstances under which the offense occurred;

4. The date of the offense;

5. The age of the individual when the offense was committed;

6. Whether the offense was an isolated or repeated incident;

7. Any social conditions which may have contributed to the offense; and

8. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have had the individual under their supervision.

(d) The Board may refuse to admit a person to an examination or may refuse to issue or may suspend or

revoke any certificate or license issued by the Board upon proof that the applicant or holder of such certificate or license:

1. Has obtained a certificate, license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;
2. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
3. Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person;
4. Has engaged in repeated acts of negligence, malpractice or incompetence;
5. Has engaged in professional or occupational misconduct as may be determined by the Board;
6. Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to real estate appraising. For the purposes of this subsection a judgment of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;
7. Has had the authority to engage in real estate appraising revoked or suspended by any other state, agency, or certifying authority for reasons consistent with this section;
8. Has violated or failed to comply with the provisions of any statute or regulation administered by the Board;
9. Is incapable for medical or any other good cause, of discharging the functions of a licensee or certificate holder in a manner consistent with the public's health, safety and welfare;
10. Has violated any provision of P.L. 1983, c.320 (N.J.S.A. 17:33A-1 et seq.) or any insurance fraud prevention law or act of another jurisdiction or has been adjudicated, in civil or administrative proceedings, of a violation of P.L. 1983, c.320 (N.J.S.A. 17:33A-1 et seq.) or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under that act against the applicant or holder;

11. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term "presently" means at this time or any time within the previous 365 days;

12. Has permitted an unlicensed person or entity to perform an act for which a license or certification is required by the Board, or aided and abetted an unlicensed person or entity in performing such an act; or

13. Advertised fraudulently in any manner.

New Rule, R.2002 d.205, effective July 1, 2002.
See: 34 N.J.R. 435(a), 34 N.J.R. 2319(a).

SUBCHAPTER 8. CERTIFICATION OR LICENSURE BY ENDORSEMENT

13:40A-8.1 Certification or licensure by endorsement

(a) An individual possessing a certification to practice general real estate appraising or residential real estate appraising, or an individual possessing a license to practice residential real estate appraising in any state of the United States other than New Jersey, may apply for, and shall be granted, New Jersey certification by endorsement or licensure by endorsement provided that the individual's certification or license to practice is in good standing in all jurisdictions in which that individual holds a certification or licensure, and:

1. Undergoes a criminal history background check; and
2. The requirements for securing certification or licensure in any one state in which the individual holds a certification or license meet or exceed all minimum standards for certification or licensure set forth by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation.

(b) Appraisers licensed by endorsement shall be required to complete the continuing education requirements set forth in N.J.A.C. 13:40A-5.

Amended by R.2002 d.205, effective July 1, 2002.
See: 34 N.J.R. 435(a), 34 N.J.R. 2319(a).

Rewrote (a)1; in (b), deleted "and through the reciprocal licensing process".