

CHAPTER 40A

STATE BOARD OF REAL ESTATE APPRAISERS

Authority

N.J.S.A. 45:1-1 et seq. and 45:14F-1 et seq.

Source and Effective Date

R.2007 d.341, effective October 3, 2007.
See: 39 N.J.R. 2205(a), 39 N.J.R. 4849(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 40A, State Board of Real Estate Appraisers, expires on October 3, 2014. See: 43 N.J.R. 1203(a).

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. As part of R.1993 d.125, Subchapter 2, Certification of Real Estate Appraisers, was renamed Certification of General Real Estate Appraisers. 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: 34 N.J.R. 435(a), 34 N.J.R. 2319(a).

Subchapter 1, Purpose and Scope; Definitions, was renamed Purpose and Scope; Definitions; Scope of Practice by R.2007 d.30, effective February 5, 2007. See: 38 N.J.R. 2628(a), 39 N.J.R. 494(a).

Chapter 40A, State Board of Real Estate Appraisers, was readopted as R.2007 d.341, effective October 3, 2007. See: Source and Effective Date. See, also, section annotations.

Subchapter 3, Licensing of Real Estate Appraisers, was renamed Licensing of Residential Real Estate Appraisers by R.2014 d.122, effective August 4, 2014. See: 46 N.J.R. 274(a), 46 N.J.R. 1747(c).

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SUBCHAPTER 1. PURPOSE AND SCOPE; DEFINITIONS; SCOPE OF PRACTICE

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.

(c) Beginning on January 1, 2008, in order to implement the Real Property Appraiser Qualification Criteria (2008 Criteria) that goes into effect on that date, the Board has adopted the segmented approach, with a cut-off date of December 31, 2009. States are required to implement appraiser certification requirements that are no less stringent than those issued by the AQB in the Real Property Appraiser Qualification Criteria (Criteria), pursuant to the Financial Institutions Reform Recovery and Enforcement Act of 1989, 12 U.S.C. §3331 et seq. Certification requirements are broken down into three components: education, examination, and experience. The segmented approach requires an applicant to meet the Criteria in effect at the time he or she completes a particular component. Any component completed prior to January 1, 2008, would satisfy the current Criteria, while any component not completed by January 1, 2008, would have to conform to the 2008 Criteria. Any applicant for a license or certification who has not demonstrated completion of all three components by December 31, 2009 shall conform to the 2008 Criteria with regard to every component.

(d) Beginning on January 1, 2015, in order to implement the Real Property Appraiser Qualification Criteria that go into effect on that date (2015 Criteria), the segmented approach set forth in (c) above will no longer be in effect, and all persons applying for licensure or certification will be required to satisfy the education and experience requirements contained in the 2015 Criteria, which is incorporated herein by reference, as amended and supplemented, and available at

<https://netforum.avectra.com/eweb/StartPage.aspx?Site=taf&WebCode=HomePage>, prior to taking the AQB-approved National Uniform Licensing and Certification Examination.

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".
 Amended by R.2007 d.364, effective December 3, 2007.
 See: 38 N.J.R. 4986(a), 39 N.J.R. 5088(a).

Added (c).
 Amended by R.2014 d.122, effective August 4, 2014.
 See: 46 N.J.R. 274(a), 46 N.J.R. 1747(c).
 Added (d).

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 Institution 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 1155 15th Street, NW Suite 1111, Washington, DC 20005, (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.

"Jurisdiction" means the 50 United States, the District of Columbia, American Samoa, Guam, Mariana Islands, Puerto Rico and the United States Virgin Islands.

"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 com-

(b) Information contained in the application required pursuant to N.J.A.C. 13:45A-17.5 and information contained in the disclosure statement required to be filed pursuant to N.J.A.C. 13:45A-17.6 may be used by the Director as grounds for denying, suspending or revoking a registration. An applicant whose registration is denied or a home improvement contractor whose registration is suspended or revoked based upon information contained in the application or disclosure statement or any amendments thereto shall be afforded an opportunity to be heard pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, upon written request to the Director within 30 days of the notice of denial, suspension or revocation which shall contain the basis for such action. In any matter in which the provisions of the Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq., apply, the Director shall comply with the requirements of that Act.

(c) Except as provided in (b) above, prior to refusing to issue or renew or suspending or revoking a home improvement contractor registration or assessing a penalty, the Director shall notify the applicant or registrant and provide an opportunity to be heard.

(d) In addition to assessing a monetary penalty for any violation of this subchapter, the Director may revoke a registration or suspend the registration for a period of time dependent upon the seriousness of the violation.

(e) Nothing contained in this subchapter shall limit the Director from imposing any additional fees, fines, penalties, restitution or any other sanctions as permitted under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq.

13:45A-17.10 Reinstatement of suspended registration

A registration that is suspended by the Director may be reinstated upon the contractor satisfying the conditions for reinstatement as determined by the Director and paying all outstanding fees, fines, penalties and restitution, including the payment of the reinstatement fee specified in N.J.A.C. 13:45A-17.14.

13:45A-17.11 Ownership and use of registration number; replacement and duplicate certificates

(a) Each registration number and certificate containing such registration number issued by the Director to a home improvement contractor remain the property of the State of New Jersey. If the Director suspends, fails to renew, or revokes a registration, the home improvement contractor shall immediately return all registration certificates to the Director and shall remove the registration number from all vehicles, advertising and anything else on which the registration number is displayed or otherwise communicated.

(b) The Director shall issue a replacement certificate upon payment of the replacement certificate fee as set forth in N.J.A.C. 13:45A-17.14 and receipt by the Director of an affidavit or certified statement attesting that the original was either lost, destroyed, mutilated or is otherwise no longer in the custody of and cannot be recovered by the certificate holder.

(c) The Director shall issue a duplicate certificate to a registered contractor upon payment of the duplicate certificate fee as set forth in N.J.A.C. 13:45A-17.14 and receipt by the Director of an affidavit or certified statement that the registered contractor has multiple places of business in which the contractor must display a certificate. A registered contractor may not possess more registration certificates than the number of places of business utilized by the contractor.

(d) A registered home improvement contractor shall prominently display:

1. The original registration certificate or a duplicate registration certificate issued by the Division at each place of business; and

2. The contractor's registration number on all advertisements distributed within this State, on business documents, contracts and correspondence with consumers of home improvement services in this State.

(e) All commercial vehicles registered in this State and leased or owned by a registrant and used by the registrant for the purpose of providing home improvements, except for vehicles leased or owned by a registrant to a customer of that registrant, shall be marked on both sides with the following information:

1. The name of the registered home improvement contractor in lettering at least one inch in height; and

2. "HIC reg. #" followed by the registration number of the registrant in lettering at one inch in height.

(f) Any invoice, contract or correspondence given by a registrant to a consumer shall prominently contain the toll-free telephone number provided by the Division pursuant to (b) of N.J.S.A. 56:8-149 and shall be displayed in all caps in at least 10-point boldface type as follows: FOR INFORMATION ABOUT CONTRACTORS AND THE CONTRACTORS' REGISTRATION ACT, CONTACT THE NEW JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY, DIVISION OF CONSUMER AFFAIRS AT 1-888-656-6225.

Amended by R.2008 d.232, effective August 4, 2008.

See: 40 N.J.R. 1611(a), 40 N.J.R. 4598(c).

Rewrote (d)2; added new (e); recodified former (e) as (f); and rewrote (f).

Amended by R.2012 d.016, effective January 17, 2012.

See: 43 N.J.R. 1130(a), 44 N.J.R. 166(b).

In (f), substituted "Any" for "As of November 4, 2008, any" and "boldface" for "bold-face".

13:45A-17.12 Mandatory commercial general liability insurance

(a) Every registered home improvement contractor shall secure and maintain in full force and effect during the entire term of registration a commercial general liability insurance policy and shall file with the Director proof that such insurance is in full force and effect.

(b) The insurance policy required to be filed with the Director shall be a commercial general liability insurance policy, occurrence form, and shall provide a minimum coverage in the amount of \$500,000 per occurrence. Every registered contractor engaged in home improvements whose commercial general liability insurance policy is canceled or nonrenewed shall submit to the Director a copy of the certificate of commercial general liability insurance for a new or replacement policy, which meets the requirements of (a) above before the former policy is no longer effective.

(c) The proof of insurance required by (a) above shall be a certificate provided by the insurer containing the insured's name, business street address, policy number, term of the insurance, and information assuring that the policy conforms with (b) above.

(d) A home improvement contractor who either does not renew or otherwise changes the contractor's commercial general liability policy shall submit a copy of the certificate of commercial general liability insurance for the new policy before the former policy is no longer effective.

Administrative change.
See: 37 N.J.R. 2212(a).
Amended by R.2012 d.016, effective January 17, 2012.
See: 43 N.J.R. 1130(a), 44 N.J.R. 166(b).

In (a), substituted "Every" for "On or after December 31, 2005 every"; in (b), substituted "Every" for "On or after December 31, 2005, every" and "Director" for "director", and inserted a comma following "replacement policy".

13:45A-17.13 Requirements of certain home improvement contracts

In addition to the requirements of a home improvement contract pursuant to N.J.A.C. 13:45A-16.2, every home improvement contract in which a person required to be registered as a home improvement contractor is a party shall comply with the provisions of N.J.S.A. 56:8-151.

13:45A-17.14 Fees

(a) The Division shall charge the following non-refundable home improvement contractor registration fees:

- 1. Initial registration fee \$90.00;
- 2. Renewal registration fee \$75.00;
- 3. Late fee \$25.00;
- 4. Reinstatement fee \$50.00;
- 5. Replacement or duplicate certificate fee \$20.00.

SUBCHAPTER 18. PLAIN LANGUAGE REVIEW

13:45A-18.1 Fee for contract review

Any creditor, seller, insurer, lessor, or any person in the business of preparing and selling forms of consumer contracts, requesting a review of a consumer contract, or writing required to complete the consumer transaction, to determine its compliance with the Plain Language Act, N.J.S.A. 56:12-1 et seq., shall pay to the Director of the Division of Consumer Affairs a fee in the amount of \$50.00.

R.1982 d.221, effective July 19, 1982.
See: 14 N.J.R. 464(a), 14 N.J.R. 767(b).

SUBCHAPTER 19. PETITION FOR RULEMAKING

13:45A-19.1 Petition for promulgating, amending or repealing rules

(a) Any interested person may file a petition with the Director of the Division of Consumer Affairs or with any board, bureau, committee or other agency located within the Division to promulgate, amend or repeal a rule.

(b) With respect to a petition for a new rule or an amended rule, the petitioner shall include his or her name and address, the substance or nature of the request, the problem or purpose which is the subject of the request, the petitioner's interest in the request, the proposed text of the new rule or amended rule and the statutory authority under which the requested action may be taken.

(c) With respect to a petition for an amended rule, the petitioner shall indicate any existing text to be deleted and include any new text to be added.

(d) Within 15 days of receiving the petition, the Director shall file with the Office of Administrative Law for publication in the New Jersey Register a notice of petition pursuant to N.J.A.C. 1:30-3.6(a).

(e) Within 60 days of receiving the petition, the Director or the board, bureau or other agency located within the Division shall, pursuant to N.J.S.A. 52:14B-4(f):

- 1. Deny the petition and provide a written statement of its reasons to the petitioner;
- 2. Grant the petition and initiate a rulemaking proceeding within 90 days of the granting of the petition; or
- 3. Refer the matter for further deliberations, which shall conclude within 90 days of referral, and either grant or deny the petition under (e)1 or 2 above.

(f) A specific period of more than 90 days for further deliberations under (e)3 above and/or to initiate a rulemaking proceeding under (e)2 above may be agreed upon, in writing, by the petitioner and the Director or the board, bureau or