



ARIZONA BOARD OF APPRAISAL

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RULES & LEGISLATIVE COMMITTEE AGENDA FOR THE ARIZONA BOARD OF APPRAISAL December 16, 2013 at 2:00 p.m. To be held at 15 S 15th Avenue, Suite 103A, Phoenix, AZ

Agenda

1. Call to order and roll call.
2. Approval of the minutes for the November 14th, 2013 meeting
3. Discussion, consideration and possible action relating to the proposed rough draft of legislation and comments received by stakeholders regarding said proposal (see rough draft attached).
4. Discussion, consideration and possible action concerning future committee meetings and topics for discussion.
5. Adjournment.

Rough Draft
November 25, 2013 01:20 PM
Folder 315, Drafter MARCIA UNELL

REFERENCE TITLE: board of appraisal

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

H. B. _____

Introduced by _____

AN ACT

AMENDING SECTIONS 32-3605, 32-3607, 32-3608, 32-3610, 32-3611, 32-3619, 32-3631, 32-3632, 32-3667 AND 32-3672, ARIZONA REVISED STATUTES; RELATING TO THE BOARD OF APPRAISAL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 32-3605, Arizona Revised Statutes, is amended to
3 read:
4 32-3605. State board of appraisal; duties; powers
5 A. The board shall adopt rules in aid or in furtherance of this
6 chapter.
7 B. The state board of appraisal shall:
8 1. In prescribing standards of professional appraisal practice, adopt
9 standards that at a minimum are equal to the standards prescribed by the
10 appraisal standards board.
11 2. In prescribing criteria for certification, adopt criteria that at a
12 minimum are equal to the minimum criteria for certification adopted by the
13 appraiser qualifications board.
14 3. In prescribing criteria for licensing and registration, adopt
15 criteria that at a minimum are equal to the minimum criteria for licensing
16 and registration adopted by the appraiser qualifications board.
17 4. Further define by rule with respect to state licensed or state
18 certified appraisers appropriate and reasonable educational experience,
19 appraisal experience and equivalent experience that meets the statutory
20 requirement of this chapter.
21 5. Adopt the national examination as approved by the appraiser
22 qualifications board for state certified appraisers.
23 6. Adopt the national examination as approved by the appraiser
24 qualifications board for state licensed appraisers.
25 7. Establish administrative procedures for approving or disapproving
26 applications for registration, licensure and certification and issuing
27 licenses and certificates, including registration certificates.
28 8. Define by rule, with respect to state licensed and certified
29 appraisers, the continuing education requirements for the renewal of licenses
30 or certificates that satisfy the statutory requirements provided in this
31 chapter.
32 9. Periodically review the requirements for the development and
33 communication of appraisals provided in this chapter and adopt rules
34 explaining and interpreting the requirements.
35 10. Define and explain by rule each stage and step associated with the
36 administrative procedures for the disciplinary process pursuant to this
37 chapter, including:
38 (a) Prescribing minimum criteria for accepting a complaint against a
39 registered trainee appraiser or a licensed or certified appraiser. **THE**
40 **MINIMUM CRITERIA SHALL PRESCRIBE THAT THE BOARD NOT CONSIDER A COMPLAINT FOR**
41 **ADMINISTRATIVE ACTION IF THE COMPLAINT RELATES TO AN APPRAISAL THAT WAS**
42 **COMPLETED MORE THAN FIVE YEARS BEFORE THE COMPLAINT WAS SUBMITTED TO THE**
43 **BOARD OR MORE THAN TWO YEARS AFTER FINAL DISPOSITION OF ANY JUDICIAL**
44 **PROCEEDING IN WHICH THE APPRAISAL WAS AN ISSUE, WHICHEVER PERIOD OF TIME IS**
45 **GREATER.**

1 (b) Defining the process and procedures used in investigating the
2 allegations of the complaint.

3 (c) Defining the process and procedures used in hearings on the
4 complaint, including a description of the rights of the board and any person
5 who is alleged to have committed the violation.

6 (d) Establishing criteria to be used in determining the appropriate
7 actions for violations.

8 11. Communicate information that is useful to the public and appraisers
9 relating to actions for violations.

10 12. Censure, suspend and revoke licenses and certificates pursuant to
11 the disciplinary proceedings provided for in section 32-3631.

12 13. At least monthly transmit to the appraisal subcommittee a roster
13 listing individuals who have received a state certificate or license in
14 accordance with this chapter.

15 14. Report on the disposition of any matter referred by the appraisal
16 subcommittee or any other federal agency or instrumentality or federally
17 recognized entity reporting any action of a state licensed or state certified
18 appraiser that is contrary to this chapter.

19 15. Make a determination and finding if there exists a scarcity of
20 state certified or state licensed appraisers to perform appraisals in
21 connection with federally related transactions in this state and issue
22 resident temporary licenses and certificates pursuant to section 32-3626.

23 16. Transmit the national registry fee collected pursuant to section
24 32-3607 to the appraisal subcommittee.

25 17. Establish the fees in accordance with ~~the limits established in~~ 26
section 32-3607.

27 18. Perform such other functions and duties as may be necessary to
28 carry out this chapter.

29 C. Subject to title 41, chapter 4, article 4, the board may employ an
30 executive director and other personnel and designate their duties. The
31 executive director shall serve at the pleasure of the board.

32 D. The executive director shall not change or amend actions of the
33 board.

34 E. The board may accept and spend federal monies and grants, gifts,
35 contributions and devises from any public or private source to assist in
36 carrying out the purposes of this chapter. These monies do not revert to the
37 state general fund at the end of the fiscal year.

38 **F. THE BOARD MAY IMPOSE A CIVIL PENALTY PURSUANT TO SECTION 32-3632.**
39 Sec. 2. Section 32-3607, Arizona Revised Statutes, is amended to read:
40 **32-3607. Fees; use of credit cards**

41 A. The board shall charge and collect fees that are sufficient to fund
42 the activities necessary to carry out this chapter. These include:

43 1. An application fee for licensure or certification ~~of not more than~~
44 ~~four hundred dollars~~ **IN AN AMOUNT TO BE DETERMINED BY THE BOARD.**

1 2. An application fee for a resident temporary license or certificate
2 ~~of not more than four hundred dollars~~ IN AN AMOUNT TO BE DETERMINED BY THE
3 BOARD.

4 3. An examination fee in an amount to be determined by the board.

5 4. A fee for renewal of a license, certificate or resident temporary
6 license or certificate ~~of not more than four hundred twenty-five dollars~~ IN
7 AN AMOUNT TO BE DETERMINED BY THE BOARD.

8 5. A delinquent renewal fee in addition to the renewal fee ~~of not more~~
9 ~~than twenty-five dollars~~ IN AN AMOUNT TO BE DETERMINED BY THE BOARD.

10 6. A two-year national registry fee ~~of not to exceed the actual cost~~
11 ~~of twice the current annual national registry fee~~ IN AN AMOUNT TO BE
12 DETERMINED BY THE BOARD.

13 7. A nonresident temporary licensure or certification fee ~~of not more~~
14 ~~than one hundred fifty dollars~~ IN AN AMOUNT TO BE DETERMINED BY THE BOARD.

15 8. A course approval fee ~~of not more than five hundred dollars~~ IN AN
16 AMOUNT TO BE DETERMINED BY THE BOARD.

17 9. An application fee to be a registered trainee appraiser in an
18 amount to be determined by the board.

19 B. If the appraisal subcommittee raises the national registry fee
20 during the second year of a biennial license or certificate, state licensed
21 and state certified appraisers shall pay the additional national registry fee
22 on demand by the board. Failure to pay the additional fee within thirty days
23 of notice by the board subjects the license or certificate holder to a
24 penalty of twice the amount owed but not to exceed twenty dollars. The board
25 shall not renew a license or certificate until all outstanding obligations of
26 the license or certificate holder are paid.

27 C. Pursuant to section 35-142, subsection I, the board may accept a
28 credit card or debit card for the payment of fees established by this
29 section. The board may impose a convenience fee for payment made pursuant to
30 this subsection in an amount to be determined by the board.

31 Sec. 3. Section 32-3608, Arizona Revised Statutes, is amended to read:
32 32-3608. Board of appraisal fund

33 A. ~~A~~ THE board of appraisal fund is established. Except as provided
34 in ~~subsection~~ SUBSECTIONS C AND D of this section, pursuant to sections
35 35-146 and 35-147, the board shall deposit ten per cent of the monies in the
36 state general fund and deposit the remaining ninety per cent in the board of
37 appraisal fund.

38 B. Except as provided in subsection C of this section, all monies
39 deposited in the board of appraisal fund are subject to section 35-143.01.

40 C. The national registry fee collected pursuant to section 32-3607,
41 subsection A, paragraph 6 shall be deposited in the board of appraisal fund
42 pending transmittal to the appraisal subcommittee. These monies are not
43 subject to section 35-143.01.

1 D. THE BOARD SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
2 ALL CIVIL PENALTIES RECEIVED PURSUANT TO SECTION 32-3632 IN THE BOARD OF
3 APPRAISAL FUND.

4 Sec. 4. Section 32-3610, Arizona Revised Statutes, is amended to read:

5 32-3610. Uniform standards of professional appraisal practice;
6 state standards; exception

7 A. The uniform standards of professional appraisal practice as
8 published by the appraisal standards board are the standards for the
9 appraisal practice in this state unless the board objects.

10 B. WHILE PERFORMING AN INVESTIGATION, AUDIT OR EXAMINATION, ALL
11 INVESTIGATORS, COORDINATORS, AUDITORS AND EXAMINERS WHO ARE EMPLOYED OR
12 CONTRACTED BY THE BOARD ARE EXEMPT FROM THE REQUIREMENTS OF THE UNIFORM
13 STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE STANDARD 3 AS PUBLISHED BY THE
14 APPRAISAL STANDARDS BOARD.

15 Sec. 5. Section 32-3611, Arizona Revised Statutes, is amended to read:

16 32-3611. Registration, licensure and certification process

17 A. Applications for original registration, licensure or certification,
18 renewals and examinations shall be made in writing to the executive director
19 on forms approved by the board.

20 B. Appropriate fees, as fixed by the board pursuant to section
21 32-3607, shall accompany all applications for original registration,
22 licensure or certification, renewal and examination.

23 C. At the time of filing an application for registration, licensure or
24 certification, each applicant shall sign a pledge to comply with the
25 standards set forth in this chapter and shall state that the applicant
26 understands the types of misconduct for which disciplinary proceedings may be
27 initiated against a registered trainee appraiser or a state licensed or state
28 certified appraiser, as set forth in this chapter.

29 D. Except as otherwise provided in this chapter, the executive
30 director shall require such other proof and request such documents, through
31 the application or otherwise, as the board deems necessary for the interests
32 of the public and to verify the honesty, truthfulness, reputation and
33 competency of the applicant and shall require that the applicant for
34 registration, licensure or certification:

35 1. Be at least eighteen years of age and a citizen of the United
36 States or a qualified alien as defined in 8 United States Code section 1641.

37 2. Not have had a license or certificate denied pursuant to this
38 chapter within one year immediately preceding the application.

39 3. Not have had a license or certificate revoked pursuant to this
40 chapter within ~~two~~-FIVE years immediately preceding the application.

41 4. State whether or not the applicant has ever been convicted in a
42 court of competent jurisdiction in this or any other state of a felony or of
43 forgery, theft, extortion or conspiracy to defraud or any other crime
44 involving dishonesty or moral turpitude.

1 E. Applications for registration, licensure or certification by
2 persons who are charged or under indictment for fraud involving appraisal of
3 real property may be denied pending final disposition of the charge or
4 indictment. On final disposition, the board shall review the proceedings and
5 act on the application.

6 Sec. 6. Section 32-3619, Arizona Revised Statutes, is amended to read:
7 32-3619. Renewal of license or certificate; fees

8 A. Except as otherwise provided in this section and in section
9 32-4301, to renew a registration certificate as a registered trainee
10 appraiser or a license or certificate as a state licensed or state certified
11 appraiser, the holder of a current, valid license or certificate shall make
12 an application and pay the prescribed fee to the board not earlier than
13 ninety days nor later than thirty days before the expiration date of the
14 license or certificate then held. With the application for renewal, the
15 registered trainee appraiser or the state licensed or state certified
16 appraiser shall present evidence in the form prescribed by the board of
17 having completed the continuing education requirements for renewal specified
18 in section 32-3625. The renewal application shall be mailed to the last
19 known address of record not more than ninety days nor less than sixty days
20 before the renewal date.

21 B. The board may accept a renewal application after the expiration
22 date and within ninety days of the date of expiration but shall assess a
23 delinquent renewal fee in addition to the renewal fee.

24 C. An appraiser or registered trainee appraiser who fails to seek
25 renewal within the time period specified in subsection A or B of this section
26 must reapply for licensure or certification and meet all of the requirements
27 of this chapter.

28 D. An appraiser or registered trainee appraiser shall not engage in,
29 advertise or purport to engage in real estate appraisal activity in this
30 state after a license or certificate has expired and before the renewal of
31 the expired license or certificate.

32 ~~E. Notwithstanding section 41-1092.11, a license or certificate~~
33 ~~expires on its expiration date.~~

34 Sec. 7. Section 32-3631, Arizona Revised Statutes, is amended to read:
35 32-3631. Disciplinary proceedings

36 A. The rights of an applicant or holder under a license or certificate
37 as a registered trainee appraiser or a state licensed or state certified
38 appraiser may be revoked or suspended, or the holder of the license or
39 certificate may otherwise be disciplined, **INCLUDING BEING PLACED ON PROBATION**
40 **AS PRESCRIBED BY RULE**, in accordance with this chapter on any of the grounds
41 set forth in this section. The board may investigate the actions of a
42 registered trainee appraiser or a state licensed or state certified appraiser
43 and may revoke or suspend the rights of a license or certificate holder or
44 otherwise discipline a registered trainee appraiser or a state licensed or
45 state certified appraiser for any of the following acts or omissions:

1 1. Procuring or attempting to procure a license or certificate
2 pursuant to this chapter by knowingly making a false statement, submitting
3 false information, refusing to provide complete information in response to a
4 question in an application for a license or certificate or committing any
5 form of fraud or misrepresentation.

6 2. Failing to meet the minimum qualifications established by this
7 chapter.

8 3. Paying or offering to pay money or other considerations other than
9 as provided by this chapter to any member or employee of the board to procure
10 a license or certificate under this chapter.

11 4. A conviction, including a conviction based on a plea of guilty, of
12 a crime that is substantially related to the qualifications, functions and
13 duties of a person developing appraisals and communicating appraisals to
14 others, or a conviction for any felony or any crime involving moral
15 turpitude.

16 5. An act or omission involving dishonesty, fraud or misrepresentation
17 with the intent to substantially benefit the license or certificate holder or
18 another person or with the intent to substantially injure another person.

19 6. Violation of any of the standards of the development or
20 communication of appraisals as provided in this chapter.

21 7. Negligence or incompetence by the state licensed or state certified
22 appraiser in developing an appraisal, in preparing an appraisal report or in
23 communicating an appraisal.

24 8. Wilfully disregarding or violating any of the provisions of this
25 chapter or the rules of the board for the administration and enforcement of
26 this chapter.

27 9. Accepting an appraisal assignment if the employment itself is
28 contingent on the appraiser reporting a predetermined estimate, analysis or
29 opinion or if the fee to be paid is contingent on the opinion, conclusion or
30 value reached or on the consequences resulting from the appraisal assignment.

31 10. Violating the confidential nature of any records to which the
32 registered trainee appraiser or the state licensed or state certified
33 appraiser gains access through employment or engagement as a registered
34 trainee appraiser or an appraiser.

35 11. Entry of a final civil judgment against the person on grounds of
36 fraud, misrepresentation or deceit in the making of any appraisal.

37 B. In a disciplinary proceeding based on a civil judgment, a
38 registered trainee appraiser or state licensed or state certified appraiser
39 shall be afforded an opportunity to present matters in mitigation and
40 extenuation.

41 C. The board may issue subpoenas for the attendance of witnesses and
42 the production of books, records, documents and other evidence necessary and
43 relevant to an investigation or hearing.

44 D. The lapsing or suspension of a license or certificate by operation
45 of law or by order or decision of the board or a court of law, or the

1 voluntary surrender of a license or certificate by a license or certificate
2 holder, shall not deprive the board of jurisdiction to do any of the
3 following within twenty-four months after the expiration of the license or
4 certificate pursuant to section 32-3616:

5 1. Proceed with any investigation of or action or disciplinary
6 proceeding against the license or certificate holder.

7 2. Render a decision suspending or revoking the license or certificate
8 or denying the renewal or right of renewal of the license or certificate.

9 Sec. 8. Section 32-3632, Arizona Revised Statutes, is amended to read:

10 32-3632. Hearing and judicial review; civil penalties

11 A. The hearing on the charges shall be at a time and place prescribed
12 by the board and shall be in accordance with title 41, chapter 6, article 10.

13 B. If the board determines that a state licensed or state certified
14 appraiser is guilty of a violation of this chapter, it shall prepare a
15 finding of fact and take disciplinary or remedial action **AND MAY IMPOSE A**
16 **CIVIL PENALTY NOT TO EXCEED THREE THOUSAND DOLLARS PER VIOLATION. ALL CIVIL**
17 **PENALTIES COLLECTED PURSUANT TO THIS SUBSECTION SHALL BE DEPOSITED IN THE**
18 **BOARD OF APPRAISAL FUND ESTABLISHED BY SECTION 32-3608.**

19 C. Except as provided in section 41-1092.08, subsection H, any final
20 decision or order of the board may be appealed to the superior court pursuant
21 to title 12, chapter 7, article 6.

22 Sec. 9. Section 32-3667, Arizona Revised Statutes, is amended to read:

23 32-3667. Fee; bond

24 A. The board shall establish the fee for appraisal management company
25 registration by rule.

26 B. The appraisal management company is required to show proof of a
27 surety bond of ~~twenty~~ **AT LEAST FIFTY** thousand dollars **BUT NOT MORE THAN ONE**
28 **HUNDRED THOUSAND DOLLARS.**

29 Sec. 10. Section 32-3672, Arizona Revised Statutes, is amended to
30 read:

31 32-3672. Certification on renewal

32 A. Each appraisal management company seeking to be registered in this
33 state shall certify to the board on ~~an annual basis~~ **RENEWAL** on a form
34 prescribed by the board that the appraisal management company has a system
35 and process in place to verify that a person being added to the appraiser
36 panel of the appraisal management company holds a license or certificate in
37 good standing in this state pursuant to the board.

38 B. Each appraisal management company seeking to be registered in this
39 state shall certify to the board on ~~an annual basis~~ **RENEWAL** that it has a
40 system in place to review the quality of appraisals of all independent
41 appraisers that are performing real property appraisal services for the
42 appraisal management company on a periodic basis to confirm that the real
43 property appraisal services are being conducted in accordance with uniform
44 standards of professional appraisal practice.

1 C. Each appraisal management company seeking to be registered shall
2 certify to the board on ~~an annual basis~~ RENEWAL that it maintains a detailed
3 record of each service request that it receives and the name of the
4 independent appraiser that performs the real property appraisal services for
5 the appraisal management company. An appraisal management company shall
6 maintain a detailed record for the same time period that an appraiser is
7 required to maintain an appraisal record for the same real property appraisal
8 activity.

9 D. Each appraisal management company seeking to be registered shall
10 certify to the board on ~~an annual basis~~ RENEWAL that it has a system in place
11 to train those who select individual appraisers for real property APPRAISAL
12 services in this state, to ensure that the selectors have appropriate
13 training in placing appraisal assignments.