

REFERENCE TITLE: board of appraisal

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

HB 2239

Introduced by
Representative Brophy McGee

AN ACT

AMENDING SECTIONS 32-3605, 32-3607, 32-3608, 32-3611, 32-3619, 32-3631, 32-3632, 32-3635, 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; immunity

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 BOARD
40 MAY NOT CONSIDER A COMPLAINT FOR ADMINISTRATIVE ACTION IF THE COMPLAINT
41 EITHER:**

42 (i) **RELATES TO AN APPRAISAL THAT WAS COMPLETED MORE THAN FIVE YEARS
43 BEFORE THE COMPLAINT WAS SUBMITTED TO THE BOARD OR MORE THAN TWO YEARS AFTER
44 FINAL DISPOSITION OF ANY JUDICIAL PROCEEDING IN WHICH THE APPRAISAL WAS AN
45 ISSUE, WHICHEVER PERIOD OF TIME IS GREATER.**

1 (ii) IS FILED AGAINST A PERSON WHO IS A MEMBER OR STAFF PERSON OF THE
2 BOARD OR A BOARD-APPOINTED COMMITTEE OR THE PERSON IS A LICENSED OR CERTIFIED
3 APPRAISER AND THE COMPLAINT IS AGAINST THE PERSON'S LICENSE OR CERTIFICATE
4 AND RELATES TO THE PERSON'S PERFORMANCE OF BOARD OR COMMITTEE DUTIES. THIS
5 ITEM DOES NOT APPLY TO STAFF INVESTIGATORS OR CONTRACT INVESTIGATORS WHO ARE
6 ENGAGED IN THE PERFORMANCE OF UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL
7 PRACTICE COMPLIANCE REVIEWS.

8 (b) Defining the process and procedures used in investigating the
9 allegations of the complaint. THE BOARD SHALL CONSOLIDATE COMPLAINTS THAT
10 ARE FILED WITHIN A SIX-MONTH PERIOD OF TIME IF THE COMPLAINTS ARE AGAINST THE
11 SAME APPRAISER, RELATE TO THE SAME APPRAISAL AND PROPERTY AND ARE FILED BY AN
12 ENTITY THAT IS SUBJECT TO THE MANDATORY REPORTING PROVISIONS OF THE
13 DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT OF 2010
14 (P.L. 111-203; 124 STAT. 1386). COMPLAINTS THAT ARE CONSOLIDATED PURSUANT TO
15 THIS SUBDIVISION MUST BE CONSIDERED AND ADJUDICATED AS ONE COMPLAINT.

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

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

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

23 12. ISSUE DECREES OF censure, FIX PERIODS AND TERMS OF PROBATION AND
24 suspend and revoke licenses and certificates pursuant to the disciplinary
25 proceedings provided for in section 32-3631.

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

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

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

37 16. Transmit the national registry fee collected pursuant to section
38 32-3607 to the appraisal subcommittee.

39 17. Establish the fees in accordance with ~~the limits established in~~
40 section 32-3607.

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

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

1 D. The executive director shall not change or amend actions of the
2 board.

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

7 F. THE BOARD MAY IMPOSE A CIVIL PENALTY PURSUANT TO SECTION 32-3632.

8 Sec. 2. Section 32-3607, Arizona Revised Statutes, is amended to read:
9 32-3607. Fees; use of credit cards

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

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

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

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

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

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

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

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

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

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

32 B. If the appraisal subcommittee raises the national registry fee
33 during the second year of a biennial license or certificate, state licensed
34 and state certified appraisers shall pay the additional national registry fee
35 on demand by the board. Failure to pay the additional fee within thirty days
36 of notice by the board subjects the license or certificate holder to a
37 penalty of twice the amount owed but not to exceed twenty dollars. The board
38 shall not renew a license or certificate until all outstanding obligations of
39 the license or certificate holder are paid.

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

1 Sec. 3. Section 32-3608, Arizona Revised Statutes, is amended to read:
2 32-3608. Board of appraisal fund

3 A. ~~A~~ THE board of appraisal fund is established. Except as provided
4 in ~~subsection~~ SUBSECTIONS C AND D of this section, pursuant to sections
5 35-146 and 35-147, the board shall deposit ten per cent of the monies in the
6 state general fund and deposit the remaining ninety per cent in the board of
7 appraisal fund.

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

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

14 D. THE BOARD SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
15 ALL CIVIL PENALTIES AND MONIES RECEIVED PURSUANT TO SECTION 32-3632 IN THE
16 BOARD OF APPRAISAL FUND.

17 Sec. 4. Section 32-3611, Arizona Revised Statutes, is amended to read:
18 32-3611. Registration, licensure and certification process

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

22 B. Appropriate fees, as fixed by the board pursuant to section
23 32-3607, shall accompany all applications for original registration,
24 licensure or certification, renewal and examination.

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

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

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

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

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

43 4. State whether or not the applicant has ever been convicted in a
44 court of competent jurisdiction in this or any other state of a felony or of

1 forgery, theft, extortion or conspiracy to defraud or any other crime
2 involving dishonesty or moral turpitude.

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

8 Sec. 5. Section 32-3619, Arizona Revised Statutes, is amended to read:
9 32-3619. Renewal of license or certificate; fees

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

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

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

30 D. An appraiser or registered trainee appraiser shall not engage in,
31 advertise or purport to engage in real estate appraisal activity in this
32 state after a license or certificate has expired and before the renewal of
33 the expired license or certificate **EXCEPT AS PROVIDED IN SECTION 41-1092.11.**

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

36 Sec. 6. Section 32-3631, Arizona Revised Statutes, is amended to read:
37 32-3631. Disciplinary proceedings

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

1 license or certificate holder or otherwise discipline a registered trainee
2 appraiser or a state licensed or state certified appraiser for any of the
3 following acts or omissions:

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

9 2. Failing to meet the minimum qualifications established by this
10 chapter.

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

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

19 5. An act or omission involving dishonesty, fraud or misrepresentation
20 with the intent to substantially benefit the license or certificate holder or
21 another person or with the intent to substantially injure another person.

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

24 7. Negligence or incompetence by the state licensed or state certified
25 appraiser in developing an appraisal, in preparing an appraisal report or in
26 communicating an appraisal.

27 8. Wilfully disregarding or violating any of the provisions of this
28 chapter or the rules of the board for the administration and enforcement of
29 this chapter.

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

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

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

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

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

4 D. The lapsing or suspension of a license or certificate by operation
5 of law or by order or decision of the board or a court of law, or the
6 voluntary surrender of a license or certificate by a license or certificate
7 holder, shall not deprive the board of jurisdiction to do any of the
8 following within twenty-four months after the expiration of the license or
9 certificate pursuant to section 32-3616:

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

12 2. Render a decision suspending or revoking the license or certificate
13 or denying the renewal or right of renewal of the license or certificate.

14 Sec. 7. Section 32-3632, Arizona Revised Statutes, is amended to read:
15 32-3632. Hearing and judicial review; civil penalties

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

18 B. If the board determines that a state licensed or state certified
19 appraiser is ~~guilty of a~~ IN violation of this chapter, it shall prepare a
20 finding of fact and take disciplinary or remedial action AND MAY IMPOSE A
21 CIVIL PENALTY NOT TO EXCEED FIFTEEN THOUSAND DOLLARS PER COMPLAINT FILED WITH
22 THE BOARD PURSUANT TO THIS CHAPTER. ALL CIVIL PENALTIES COLLECTED PURSUANT
23 TO THIS SUBSECTION SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND
24 35-147, IN THE BOARD OF APPRAISAL FUND ESTABLISHED BY SECTION 32-3608.
25 NOTWITHSTANDING SECTION 35-143.01, THESE MONIES MAY BE SPENT WITHOUT
26 LEGISLATIVE APPROPRIATION.

27 C. IF A CASE PROCEEDS TO A FORMAL HEARING BEFORE EITHER THE BOARD OR
28 THE OFFICE OF ADMINISTRATIVE HEARINGS AND THE BOARD SUSTAINS ITS BURDEN OF
29 PROOF AND PREVAILS ON THE MERITS OF THE CASE, THE BOARD MAY COLLECT FROM THE
30 RESPONDENT APPLICANT, APPRAISER OR PROPERTY TAX AGENT THE BOARD'S COSTS AND
31 EXPENSES ASSOCIATED WITH THE FORMAL HEARING, INCLUDING REASONABLE ATTORNEY
32 FEES, EXPERT TESTIMONY AND PREPARATION FEES, INVESTIGATIVE COSTS AND EXPENSES
33 AND COSTS INCURRED RELATING TO THE OFFICE OF ADMINISTRATIVE HEARINGS AND
34 COURT REPORTERS. ALL MONIES COLLECTED PURSUANT TO THIS SUBSECTION SHALL BE
35 DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE BOARD OF APPRAISAL
36 FUND ESTABLISHED BY SECTION 32-3608. NOTWITHSTANDING SECTION 35-143.01,
37 THESE MONIES MAY BE SPENT WITHOUT LEGISLATIVE APPROPRIATION.

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

41 Sec. 8. Section 32-3635, Arizona Revised Statutes, is amended to read:
42 32-3635. Standards of practice; unprofessional conduct

43 A. A registered trainee appraiser or a state licensed or state
44 certified appraiser shall comply with the standards of professional appraisal
45 practice adopted by the board.

1 B. An appraisal or appraisal report shall not be issued by a real
2 estate appraiser unless it meets the appraisal standards established by this
3 chapter and rules adopted pursuant to this chapter.

4 C. An appraisal review report shall clearly indicate the nature of the
5 review process undertaken and shall separate the review function from any
6 other functions.

7 D. All federally related appraisals shall be in writing.

8 E. FAILURE TO PAY BOARD-IMPOSED FEES AND EXPENSES AUTHORIZED BY
9 SECTION 32-3632, SUBSECTION C IS UNPROFESSIONAL CONDUCT.

10 Sec. 9. Section 32-3667, Arizona Revised Statutes, is amended to read:
11 32-3667. Fee; bond

12 A. The board shall establish the fee for appraisal management company
13 registration by rule.

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

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

19 32-3672. Certification on renewal

20 A. Each appraisal management company seeking to be registered in this
21 state shall certify to the board on ~~an annual basis~~ RENEWAL on a form
22 prescribed by the board that the appraisal management company has a system
23 and process in place to verify that a person being added to the appraiser
24 panel of the appraisal management company holds a license or certificate in
25 good standing in this state pursuant to the board.

26 B. Each appraisal management company seeking to be registered in this
27 state shall certify to the board on ~~an annual basis~~ RENEWAL that it has a
28 system in place to review the quality of appraisals of all independent
29 appraisers that are performing real property appraisal services for the
30 appraisal management company on a periodic basis to confirm that the real
31 property appraisal services are being conducted in accordance with uniform
32 standards of professional appraisal practice.

33 C. Each appraisal management company seeking to be registered shall
34 certify to the board on ~~an annual basis~~ RENEWAL that it maintains a detailed
35 record of each service request that it receives and the name of the
36 independent appraiser that performs the real property appraisal services for
37 the appraisal management company. An appraisal management company shall
38 maintain a detailed record for the same time period that an appraiser is
39 required to maintain an appraisal record for the same real property appraisal
40 activity.

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