REAL ESTATE. Provides relative to the Louisiana Real Estate Appraisers Board. (gov sig)

AN ACT

To amend and reenact the introductory paragraph of R.S. 37:3392, 3392(8) and (12) through (14), 3393(A) through (E), (G), the introductory paragraph of 3393(I), 3393(J) through (L), 3394(B)(1)(b) and (c) and (B)(2), 3395(A)(1), (2), (4), (C) and (D), 3396(A), 3397, 3398(A), 3405, 3408(A), (B), the introductory paragraph of 3408(D), and 3408(F), the introductory paragraph of 3409(A), 3409(A)(6), (B)(2) and (3), (C)(2), (D), the introductory paragraph of 3409(E) and 3409(F), 3410, and 3411, to enact R.S. 37:3392 (15) through (27) and 3399, and to repeal R.S. 37:3392(11) and 3397.1, relative to the Louisiana Real Estate Appraisers Board; to provide for definitions; to provide relative to real estate appraisers; to provide relative to real estate appraisers board; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The introductory paragraph of R.S. 37:3392, 3392(8) and (12) through (14), 3393(A) through (E), (G), the introductory paragraph of 3393(I), 3393(J) through (L), 3394(B)(1)(b) and (c) and (B)(2), 3395(A)(1), (2), (4), (C), and (D), 3396(A), 3397, 3398(A), 3405, 3408(A), (B), the introductory paragraph of 3408(D), and 3408(F), the introductory paragraph of 3409(A), 3409(A)(6), (B)(2) and (3), (C)(2), (D), the introductory....
paragraph of 3409(E), and 3409(F), 3410, and 3411, are hereby amended and reenacted and
R.S. 37:3392 (15) through (27) and 3399 are hereby enacted to read as follows:

§3392. Definitions

As used in this Chapter, the following words have the meaning ascribed to
them in this Section unless the context clearly indicates otherwise:

*          *          *

(8) "General certified real estate Certified general appraiser" means a any
person who holds a current, valid license issued to him licensed by the board for
appraisal of to appraise all types of real estate regardless of complexity or
transaction value.

*          *          *

(12) "Real estate appraiser trainee" "Trainee appraiser" means any person
who has been issued a license registered by the board and authorized to appraise
properties under the supervision of a licensed general real estate appraiser or
residential real estate appraiser.

(13) "Real property" or "real estate" means one or more defined interests
in a parcel of real estate, whether an unencumbered fee or a lesser estate immovable
property, as defined by Civil Code Article 462 et seq.

(14)(a) "Residential certified real estate Certified residential appraiser"
means any person who holds a current, valid license issued licensed by the board to
appraise the following: one to four residential units, without regard to transaction
value or complexity, and perform appraisals of other types of real estate having a
transaction value of two hundred fifty thousand dollars or less. This includes the
appraisal of vacant or unimproved land that is utilized for one to four family
residential units:

(i) One to four residential units without regard to value or complexity.

(ii) All other real or immovable property, which is the subject of an
appraisal involving or having a market value of five hundred thousand dollars
or less.

Coding: Words which are struck through are deletions from existing law;
words in boldface type and underscored are additions.
(iii) The authority of a "certified residential appraiser" includes but is
not limited to the authority to appraise vacant or unimproved land utilized for
the purposes of one to four family residential units or for which the highest and
best use is for one to four family residential units; however, such authority shall
not include the authority to appraise any subdivision for which a development
analysis or development appraisal is necessary.

(15) "Licensed residential appraiser" means any person licensed by the
board whose authority to appraise real property is limited to the appraisal of
noncomplex one to four residential units having a transaction value of less than
one million dollars and of complex one to four residential units having a
transaction value of less than four hundred thousand dollars in accordance with
the Real Property Appraiser Qualification Criteria. For the purposes of this
Paragraph, "transaction value" means market value for nonfederally related
transaction appraisals.

(16) "AQB" means the Appraiser Qualifications Board of TAF created
in accordance with Title XI of FIRREA. The AQB develops, interprets, and
amends the Real Property Appraiser Qualification Criteria.

(17) "ASB" means the Appraisal Standards Board of TAF created in
accordance with Title XI of FIRREA. The ASB develops, promulgates,
interprets, and amends USPAP.

(18) "ASC" means the Appraisal Subcommittee created in accordance
with Title XI of FIRREA and organized and subject to the Federal Financial
Institutions Examination Council, or its successor, according to the Financial
Institutions Regulatory and Interest Rate Control Act of 1978.

(19) "FIRREA" means the Financial Institution Reform, Recovery and
Enforcement Act of 1989, as enacted under federal law, specifically includes but
is not limited to Title XI, requiring real estate appraisals used in connection
with federally related transactions to comply with uniform standards and to be
prepared by credentialed real property appraisers.
(20) "Market value" means a value stated as an opinion, which presumes
the transfer of real property as of a certain date and subject to specific
conditions set forth in the value definition identified by an appraiser as
applicable to an appraisal.

(21) "PAREA" means or refers to any Practical Applications of Real
Estate Appraisal training program created or implemented in accordance with
the Real Property Appraiser Qualification Criteria developed and approved by
the AQB, to provide an alternate pathway for applicants to obtain licensure as
a licensed residential appraiser or as a certified residential appraiser without
training as a trainee appraiser, subject to the direct control and supervision of
a supervisory appraiser.

(22) "Real Property Appraiser Qualification Criteria" means the
qualifying criteria, regarding the minimum education, experience, and
examination requirements for real estate appraisers, as established by the AQB.

(23) "Supervisory appraiser" means a certified residential appraiser or
certified general appraiser registered by the board to supervise one or more
trainee appraisers and who satisfies the applicable minimum qualifications
required by the the Real Property Appraiser Qualification Criteria, including
but not limited to the following:

(a) The supervisory appraiser shall have been licensed and in good
standing with any competent appraisal licensing jurisdiction for at least three
years.

(b) The supervisory appraiser shall not have been subject to any
disciplinary action within any jurisdiction, that affected the appraiser's legal
eligibility to engage in the appraisal practice, within the last three years.

(c) The supervisory appraiser shall not be registered at any one time to
supervise more than three trainee appraisers.

(d) Prior to his supervision of any trainee appraiser, the supervisory
appraiser shall register on a form and in a manner prescribed by the board for
each trainee appraiser supervised.

(24) "TAF" means The Appraisal Foundation created in accordance with Title XI of FIRREA.

(25) "Transaction value" means the following in accordance with Title XI of FIRREA:

(a) For loans or other extensions of credit, the amount of the loan or extension of credit.

(b) For sales, leases, purchases, and investments in or exchanges of real property, the market value of the real property interest involved.

(c) For the pooling of loans or interests in real property for resale or purchase, the amount of the loan or market value of the real property calculated with respect to each such loan or interest in real property.

(26) "USPAP" means the Uniform Standards of Professional Appraisal Practice, which establishes the minimum requirements applicable to appraisers for the purpose of promoting and maintaining public trust in the appraisal practice, as implemented and periodically amended by the ASB.

(27) "Complex one to four unit residential property appraisal" means an appraisal in which the property to be appraised, the form of ownership, or the market conditions are atypical.

§3393. License required; penalty for unlicensed real estate appraiser activity

A. No person, other than a state licensed real estate appraiser registered or licensed by the board, shall assume or use that title or any title, designation, or abbreviation that may create the impression of being registered or licensed as a real estate appraiser by in this state.

B. No registered or licensed real estate appraiser shall assume or use any title, designation, or abbreviation that may create the impression of being registered or licensed in a class other than that for which his actual registration or license has been issued.

C. It shall be unlawful for any individual, for a fee or other valuable
consideration, or with the intention or expectation of receiving or collecting a fee or
valuable consideration from another, to do any of the following unless the individual
is registered or licensed under in accordance with the provisions of this Chapter:

(1) Be employed to perform or perform an appraisal as defined in this
Chapter where the subject property of the assignment lies within the borders of the
state of Louisiana.

(2) Present himself, or allow himself to be presented, as being able to perform
an appraisal for which a registration or license is required under in accordance
with the provisions of this Chapter.

D. All real estate appraiser registrations or licenses issued under the
provisions of this Chapter shall be issued in the individual name of the applicant and
shall not be issued to a partnership, association, corporation, firm, or group. Nothing
shall preclude a licensed real property registered or licensed appraiser from
performing appraisals for or on behalf of a partnership, association, corporation,
firm, or group.

E. Nothing in this Chapter shall preclude a licensed real estate broker or
salesperson from performing a broker price opinion/comparative market analysis in
the ordinary course of the practice of real estate, provided that the broker or
salesperson does not unlawfully represent himself as being a state licensed real
estate a registered or licensed appraiser.

*          *          *

G. It shall be unlawful for any individual, person, partnership, association,
or corporation to perform any type of review or analysis of a real property appraisal,
unless that person is registered or licensed to perform real property appraisals.

*          *          *

I. In addition to any other civil remedy or civil penalty provided in this
Chapter, the board may issue a subpoena to any person based on the probable cause
that he has engaged in real estate appraiser activity without a registration or license.
Subpoenas issued by the board shall:
J. In accordance with the provisions of this Chapter and the Administrative Procedure Act, the board may impose a civil penalty not to exceed five thousand dollars and costs and attorney fees upon any person who is found to have engaged in real estate appraiser appraisal activity without a registration or license issued by the board.

K. An unlicensed person who engages in or offers to engage in, or performs or offers to perform, any of the practices, acts, or operations set forth in R.S. 37:3392 and this Section shall be sufficient evidence to raise a presumption of fact or to establish the fact that he has illegally engaged in or performed real estate appraiser activity.

L. K. A person engaged in real estate appraiser appraisal activity without a registration or license issued by the board shall not have the right to receive any compensation for services so rendered in this state. In addition to any other penalties imposed under authorized by this Chapter, the board may require any person engaged in real estate appraiser appraisal activity without a registration or license to return any fees collected for such activity.

§3394. Louisiana Real Estate Appraisers Board

B.(1)

(a) One member shall have been engaged in the business of appraisal management for at least four years and shall be an employee or representative of a Louisiana licensed appraisal management company. Additionally, this member shall be a citizen and qualified elector of Louisiana and licensed as a in Louisiana certified real estate as either a certified residential appraiser or certified general appraiser immediately preceding the appointment to the board.

(c) The remainder Each of the remaining members shall have been domiciled in Louisiana and licensed as certified real estate appraisers either a
certified residential appraiser or certified general appraiser for not less than five consecutive years immediately preceding the appointment.

(2) At least four of the ten members shall be certified general appraisers and at least two of the ten members shall be certified residential appraisers. All appraiser members shall be state certified.

§3395. Powers, duties

A. The board shall have the following autonomous powers and duties:

(1) To regulate the issuance of real estate appraiser and trainee registrations and licenses.

(2) To establish administrative procedures for processing applications and issuing registrations and licenses to real estate appraisers and trainees.

(4) To require any satisfactory proof it may desire in reference to the honesty, truthfulness, reputation, knowledge, and experience of any applicant for a real estate appraiser registration or license prior to the issuance of any license.

C. The board shall have authority to require any real estate appraiser registrant or licensee to maintain records, as specified in this Chapter, and to inspect and subpoena such records.

D. The board shall have the authority to subpoena any real estate appraiser registrant, licensee, or witness for the purpose of holding any hearing or in furtherance of an investigation. Failure of a licensee to comply with a subpoena duces tecum shall be punishable by the board in accordance with the provisions of R.S. 37:3409.

§3396. Applications

A. Applications for examination, experience review, registration, licensure, and renewal certification shall be made in writing to the board on forms provided on a form prescribed and in a manner required by the board.
§3397. License and registration classifications; criteria

A. (1) There shall be three classes of licenses for real estate appraisers:

(a) Licensed residential appraiser.
(b) Certified residential appraiser.
(c) Certified general appraiser.

(2) The license classes enumerated in Paragraph (1) of this Subsection shall conform in all respects with the Financial Institutions Reform, Recovery and Enforcement Act of 1989, P.L. 101-73, and any subsequent amendments and regulations issued pursuant thereto.

B. There are two classes of registrations for real estate appraisers:

(1)(a) Trainee appraiser. Applicants for a real estate appraiser trainee license shall be subject to training and direct supervision by a certified appraiser who meets all of the following qualifications:

(i) Has been licensed as a certified real estate appraiser in Louisiana for at least three years prior to becoming a supervising appraiser;

(ii) Is in good standing as a certified residential or certified general real estate appraiser in Louisiana;

(b) Both the trainee applicant and the supervising appraiser shall complete a course that complies, at minimum, with the specifications for course content established by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation. The course shall be oriented toward the requirements and responsibilities of supervising appraisers and expectations for trainee appraisers. The course shall be completed by the trainee appraiser prior to obtaining a trainee appraiser license and by the supervising appraiser prior to supervising a trainee appraiser. The supervising appraiser shall not have been subject to any disciplinary...
action in any jurisdiction within the last three years that affects the supervisor's legal
eligibility to engage in appraiser practice. The appraiser trainee is permitted to have
more than one supervising appraiser. The scope of work for the appraiser trainee is
limited to the appraisal of those properties that the supervising appraiser is licensed
to appraise.

(2) **Supervisory appraiser.** There are no additional examination or
experience requirements other than those listed in this Subsection for the real estate
appraiser trainee license.

(3)(1) An supervisory appraiser and a trainee appraiser shall each
maintain an appraisal experience log shall be maintained jointly by the supervising
apraiser and the trainee appraiser. It is the responsibility of both the supervisory
apraiser and the trainee appraiser and shall be independently obligated to ensure
the appraisal experience log is accurate, current, and complies with the requirements
of the trainee appraiser's credentialing jurisdiction the provisions of this Chapter.

At a minimum, the appraisal log shall include the following:

(a) Type of property.

(b) Date of report.

(c) Address of appraised property.

(d) Description of work performed by the trainee appraiser and scope of the
review and supervision of the supervisory appraiser.

(e) Number of actual work hours by the trainee appraiser on the assignment.

(f) The signature and state certification number of the supervisory appraiser.

Separate appraisal logs shall be maintained for each supervisory appraiser if
applicable.

(2) Prior to applying for registration with the board, a trainee appraiser
or supervisory appraiser shall meet the minimum qualifications required under
this Chapter and the Real Property Appraiser Qualification Criteria, including
but not limited to satisfactory completion or submission of the following:

(a) A course that complies, at a minimum, with the specifications of
course content established by the AQB, including submission of an official
course completion certificate to the board. The course shall be oriented toward
the requirements and responsibilities of supervisory and trainee appraisers.

(b) The registration form that is prescribed by the board.

(4) As a prerequisite to license renewal, all appraiser trainees shall be
required to obtain the equivalent of fourteen hours of continuing education per
calendar year.

(3) The appraiser trainee appraiser shall be entitled to obtain copies of
appraisal reports that he prepared in full or in part by the trainee. The supervising
supervisory appraiser shall keep copies of the trainee appraisal reports prepared by
the trainee appraiser for a period of at least five years or at least two years after
final disposition of any judicial proceeding in which testimony is given, whichever
period expires last.

§3398. Examination

A. A license as a real estate appraiser shall not be issued in any class, other
than real estate appraiser trainee unless the applicant has passed a qualifying
examination approved by the Appraiser Qualifications Board (AQB) of the Appraisal
Foundation for such license.

§3399. Practical Applications of Real Estate Appraisal (PAREA); legislative
intent; licensure

A.(1) The legislature hereby recognizes the present shortage and
decaling number of registered and licensed appraisers in Louisiana and hereby
declares its intent to reduce any unnecessary barriers to licensure as a real
property appraiser, including but not limited to the practical barriers caused
by the related shortage of supervisory appraisers in the state.

(2) Further, the legislature recognizes that the AQB has created and
authorized implementation of Practical Applications of Real Estate Appraisal
(PAREA) training programs, which shall utilize simulated experience training

to provide an alternative path to licensure as a real property appraiser without

the necessity of obtaining experience or supervision directly from a supervisory

appraiser.

B.(1) Accordingly, nothing in this Chapter shall be construed to prohibit

an applicant from submitting an official PAREA program completion

certificate to evidence satisfactory completion of all experience necessary for

licensure as either a licensed residential appraiser or as a certified residential

appraiser in accordance with the qualifications required by the Real Property

Appraiser Qualification Criteria.

(2) An applicant, who has fully completed an authorized PAREA

program, shall apply for licensure either as a licensed residential appraiser or

as a certified residential appraiser on a form prescribed by the board and

obtain board approval of the application prior to conducting appraisal activity

in this state.

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§3405. Principal place of business for appraiser; contact information

A. Each registered or licensed real estate appraiser shall advise notify the

board of any change in the information required for registration, licensure, or

renewal, including but not limited to the following:

(1) the The address of his or her principal place of business and all other

addresses at which he is currently engaged in the business of preparing real property

appraisal reports.

(2) The address of his domicile.

(3) Primary telephone number.

(4) Primary electronic mail address.

B. Each registered or licensed appraiser required by Subsection A of this

Section shall report any changes in the address or telephone number of his business

or residence to notify the board shall provide such notice, in writing within ten days
§3408. Continuing education requirements

A. As a prerequisite to renewal of a real estate appraiser registration or license, all registrants and licensees shall present evidence satisfactory to the board of having met the continuing education requirements set forth in this Chapter.

B. (1) The basic continuing education requirements for Prior to renewal of a registration or a license, regardless of classification, the renewal applicant shall obtain shall be the completion of not less than twenty-eight hours of continuing education credit, or its equivalent, in courses that have received the approval of the board. As part of this requirement, the applicant shall complete a minimum of seven classroom hours of instruction covering the Uniform Standards of Professional Appraisal Practice every renewal period.

(2) All appraisers regardless of registration or license class shall obtain a minimum of seven continuing education credit hours regarding the Uniform Standards of Professional Appraisal Practice (USPAP) each renewal period, which shall be credited towards the total continuing education required by Paragraph (1) of this Subsection.

D. The board shall adopt regulations for implementation of the provisions of this Section to provide registrants and licensees with current knowledge of real property appraisal theories, practices, and techniques. Such regulations shall prescribe the following:

F. No amendment or repeal of a regulation adopted by the board pursuant to this Section shall operate to deprive a registered or licensed real estate appraiser of credit toward renewal of certification for any course of instruction completed by the applicant prior to the amendment or repeal of the regulation, if the course would have qualified for continuing education credit under the regulation as it existed prior
§3409. Disciplinary proceedings

A. The board may censure a registered or licensed real estate appraiser, conditionally or unconditionally suspend or revoke any registration or license issued under in accordance with the provisions of this Chapter, levy fines or impose civil penalties not to exceed five thousand dollars, or impose continuing education requirements on registrants and licensees if, in the opinion of the board, a registrant or licensee is performing, is attempting to perform, has performed, or has attempted to perform any of the following acts:

(6) Procuring a registration or license for himself or anyone else by fraud, misrepresentation, or deceit.

B.(1) * * *

(2) Before censuring any registrant or licensee, or suspending or revoking any license, the board shall notify the registrant or licensee in writing of any charges made at least twenty days prior to the date set for the hearing and shall afford him an opportunity to be heard in person or by counsel.

(3) The written notice shall be satisfied by personal service on the respondent, or by sending the notice by certified mail to the registrant's or licensee's address on file with the board, or by hand delivery from board personnel.

C.(1) * * *

(2) The board may make findings of fact and shall deliver or mail such findings to the registrant or licensee charged with an offense under this Chapter. Any finding of fact by the board pursuant to this Subsection shall be conclusive.

D. The board may also suspend or revoke the registration or license of a real estate appraiser based upon a final civil judgment against the appraiser on grounds
of fraud, misrepresentation, or deceit in the making of an appraisal of real property.

In a disciplinary proceeding based upon such judgment, the registered or licensed real estate appraiser shall be afforded notice and the opportunity to present matters in mitigation and extenuation but shall not collaterally attack the civil judgment.

E. It shall be the duty of each registered or licensed real estate appraiser to notify the board within ten days by registered or certified mail or by hand delivery of the following actions:

  * * *

F. A registered or licensed real estate appraiser shall not participate in the preparation of federally related real estate appraisals during any period in which his registration or license has been suspended by the board pursuant to adjudicatory proceedings.

§3410. Standards for the development and communication of real estate appraisals

A.(1) A registered or licensed real estate appraiser shall comply with generally accepted standards of professional practice in the development and communication of appraisals of real estate located in this state and with generally accepted ethical rules of conduct as contained in the "Uniform Standards of Professional Appraisal Practice" (USPAP), or its successor, as approved and periodically amended by the Appraisal Standards Board of the Appraisal Foundation or its successor.

(2) Nothing in this Chapter shall prohibit a registered or licensed real estate appraiser from performing an evaluation of real property for a federally insured depository institution if the evaluation is permitted by either federal law, regulation, or the guidelines for evaluations established by the federal financial institutions regulatory agency of the depository institution, or a mortgage servicer approved to service any federally related mortgage loans.

B. The registered or licensed real estate appraiser shall include within the body of the appraisal report the amount of the appraiser's fee for appraisal services.

§3411. Documents to be retained Recordkeeping requirements

Coding: Words which are struck through are deletions from existing law; words in boldface type and underscored are additions.
A registered or licensed real estate appraiser shall retain for five years originals or true copies of contracts engaging the appraiser's services for real property appraisal work, appraisal reports, and supporting data assembled and formulated by the appraiser in preparing reports. The period for retention of the records applicable to each engagement of the services of the appraiser shall run from the date of the submission of the appraisal report to the client. These records shall be made available by the appraiser for inspection and copying by the board on reasonable notice to the appraiser. When litigation is contemplated at any time, reports and records shall be retained for two years from final disposition.

Section 2. R.S. 37:3392(11) and 3397.1 are repealed in their entity.

Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

The original instrument was prepared by Xavier Alexander. The following digest, which does not constitute a part of the legislative instrument, was prepared by Ann S. Brown.
qualifications required by the Real Property Appraiser Qualification Criteria. Present law provides that an applicant, who has fully completed an authorized PAREA program, can apply for licensure either as a licensed residential appraiser or as a certified residential appraiser on a form prescribed by the board and obtain board approval of the application prior to conducting appraisal activity in this state.

Present law provides standards for licensure and penalties for persons engaged in real estate appraisal activity without a license. Provides for the Louisiana Real Estate Appraisers Board’s authority over licensees, receipt of applications and renewals for licensing, examination, continuing education requirements, disciplinary proceedings, standards for communication, and recordkeeping.

Proposed law retains present law, but makes it also applicable to registrations.

Present law provides that as a prerequisite to license renewal, all certified residential and certified general appraisers shall complete the equivalent of 14 hours of continuing education instruction per calendar year.

Proposed law repeals present law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 37:3392(intro para), (8), (12) - (14), 3393(A) - (E), (G), (I)(intro para), (J) - (L), 3394(B)(1)(b) and (c) and (B)(2), 3395(A)(1), (2) and (4), (C) and (D), 3396(A), 3397, 3398(A), 3405, 3408(A), (B), (D)(intro para) and (F), 3409(A)(intro para), (A)(6), (B)(2) and (3), (C)(2), (D), (E)(intro para), and (F), 3410 and 3411; adds R.S. 37:3392(15) - (27) and 3399; repeals R.S. 37:3392(11) and 3397.1)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Makes technical changes.
2. Authorizes a "certified residential appraiser" to appraise vacant or unimproved land that is utilized for one to four family residential unit purposes but not for subdivisions for which a development appraisal is necessary.
3. Defines "transactional value" and "complex one to four unit residential property appraisal".
4. Provides that a trainee appraiser shall be entitled to obtain copies of appraisal reports he prepared in full or in part.
5. Provides that a supervisory appraiser shall keep copies of trainee appraisal reports for at least five years.

Senate Floor Amendments to engrossed bill

2. Removes the provision stating that if any person who is not registered or licensed as an appraiser offers or engages in such activities, will establish sufficient evidence to raise a presumption of fact that he has engaged in illegal activity.