

Article 41 – REAL ESTATE APPRAISERS

58-4101. Short title. This act shall be known and may be cited as the state certified and licensed real property appraisers act.

History: L. 1990, ch. 270, § 1; L. 1991, ch. 164, § 1; May 2.

58-4102. Definitions. As used in this act:

(a) "Appraisal" or "real estate appraisal" means an analysis, opinion or conclusion prepared by a real estate appraiser relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate. An appraisal may be classified by subject matter into either a valuation or an analysis. A valuation is an estimate of the value of real estate or real property. An analysis is a study of real estate or real property other than estimating value.

(b) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested party in rendering an unbiased analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate.

(c) "Broker's price opinion" and "comparative market analysis" means an analysis, opinion or conclusion prepared by an individual licensed as a real estate broker or salesperson pursuant to K.S.A. 58-3034 et seq., and amendments thereto, relating to the price of specified interests in or aspects of identified real estate property that is provided to a potential customer, client or third party in the ordinary course of business.

(d) "Board" means the real estate appraisal board established pursuant to the provisions of this act.

(e) "Federal law" means title XI of the financial institutions reform, recovery and enforcement act of 1989 (12 U.S.C. 3331 et seq.) and any other federal law, and any regulations adopted pursuant thereto.

(f) "Federally related transaction" means any real estate-related financial transaction which:

(1) A federal financial institutions regulatory agency or the resolution trust corporation engages in, contracts for or regulates; and

(2) requires the services of an appraiser.

(g) "Real estate" means an identified parcel or tract of land, including improvements, if any.

(h) "Real estate appraisal organization" means any nationally recognized organization of professional appraisers.

(i) "Real estate-related financial transaction" means any transaction involving:

(1) The sale, lease, purchase, investment in or exchange of real property, including interests in property or the financing thereof;

(2) the refinancing of real property or interests in real property;

(3) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities; or

(4) a federally related transaction.

(j) "Real property" means one or more defined interests, benefits and rights inherent in the ownership of real estate.

(k) "Specialized services" means those appraisal services which do not fall within the definition of appraisal assignment. Specified services may include valuation work and analysis work. Regardless of the intention of the client or employer, if the appraiser would be perceived by third parties or the public as acting as a disinterested party in rendering an unbiased analysis, opinion or conclusion, the work is classified as an appraisal assignment and not specialized services.

(l) A "state certified appraiser" means a person who develops and communicates real estate appraisals and who holds a current, valid certificate issued to such person under the provisions of this act.

(m) A "state licensed appraiser" means a person who develops and communicates real estate appraisals and holds a current, valid license issued to such person under the provisions of this act.

(n) "Written appraisal" means a written statement used in connection with a real estate-related financial transaction that is independently and impartially prepared by a licensed or certified appraiser setting

forth an opinion of defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information.

(o) "Appraiser" means a person who develops and communicates real estate appraisals for real estate-related financial transactions and holds a current valid certification or license issued to such person under the provisions of K.S.A. 58-4101 et seq., and amendments thereto.

History: L. 1990, ch. 270, § 2; L. 1991, ch. 164, § 2; L. 1993, ch. 267, § 1; L. 2008, ch. 153, § 2; July 1.

58-4103. Certification or licensure, when required; temporary certification or licensure; penalty for violations; exemptions. (a) Except as provided in subsection (b), no person, other than a state certified or licensed appraiser, shall:

- (1) Engage in any written appraisal in connection with a real estate-related financial transaction;
 - (2) assume or use the title of state certified or licensed appraiser or any title, designation or abbreviation likely to create the impression of certification or licensure as a real estate appraiser by this state;
- or
- (3) advertise or otherwise represent in any manner that such person is a state certified or licensed appraiser.

(b) The board shall recognize on a temporary basis the certification or license of an appraiser issued by another state if:

- (1) The property to be appraised is part of a real estate-related financial transaction;
 - (2) the appraiser's business in this state is of a temporary nature; and
 - (3) the appraiser registers with the board, as prescribed by the board.
- (c) Violation of subsection (a) is a class A nonperson misdemeanor.
- (d) An individual who is not a state certified or licensed appraiser may assist in the preparation of an appraisal if:

- (1) The assistant is under the direct supervision of an individual who is a state licensed or certified appraiser; and
- (2) the final appraisal document is approved and signed by an individual who is a state certified or licensed appraiser.

(e) (1) The provisions of paragraph (1) of subsection (a) shall not be applicable to financial institutions engaging in real estate-related financial transactions and otherwise subject to K.S.A. 58-4101 et seq., and amendments thereto, when the following conditions are met:

(A) An employee of the financial institution conducts an appraisal as defined in subsection (a) of K.S.A. 58-4102, and amendments thereto, or conducts an evaluation in accordance with state and federal banking regulations; and

(B) when the loan that is the subject of such appraisal is not intended to be sold in the secondary market and is intended to be held by the financial institution for the life of the loan.

(2) If the financial institution disposes of the loan granted under paragraph (1)(B) of this subsection in the secondary market, such financial institution shall be required to obtain an appraisal by a state licensed or certified appraiser as required by paragraph (1) of subsection (a). The employee of the financial institution that conducted the prior appraisal shall not be considered to be an appraiser under the law unless such person is a state certified or licensed appraiser.

(f) The provisions of paragraph (1) of subsection (a) shall not preclude an individual licensed as a real estate broker or salesperson pursuant to K.S.A. 58-3034 et seq., and amendments thereto, from performing and providing a comparative market analysis or broker's price opinion to a customer, client or third party for compensation in the ordinary course of business. In no event shall such comparative market analysis or broker's price opinion be referred to as an appraisal nor shall such individual represent such individual's self as a certified or licensed appraiser under this act unless such person is a state certified or licensed appraiser.

(g) The provisions of paragraph (1) of subsection (a) shall not preclude an individual licensed as a certified public accountant pursuant to K.S.A. 1-301 et seq., and amendments thereto, from performing and providing services as a certified public accountant or as otherwise allowed by law. In no event shall any report by a certified public accountant be referred to as an appraisal nor shall such certified public accountant

represent such individual's self as a state certified or licensed appraiser unless such certified public accountant is a state certified or licensed appraiser.

(h) The provisions of paragraph (1) of subsection (a) shall not preclude an individual licensed as an attorney pursuant to K.S.A. 7-103 et seq., and amendments thereto, from performing and providing services as an attorney or as otherwise allowed by law. In no event shall any report by an attorney be referred to as an appraisal nor shall such attorney represent such individual's self as a state certified or licensed appraiser unless such attorney is a state certified or licensed appraiser.

(i) The provisions of paragraph (1) of subsection (a) shall not be applicable to employees of the Kansas department of transportation performing appraisals for the department for the purpose of real property acquisition or disposal of real property by the department. In no event shall such employee performing such appraisal represent such individual's self as a state certified or licensed appraiser unless such employee is a state certified or licensed appraiser.

(j) The provisions of paragraph (1) of subsection (a) shall not preclude an individual licensed as an insurance agent pursuant to K.S.A. 40-4901 et seq., and amendments thereto, or an individual retained by an insurance company, while acting within the scope of the Kansas insurance code, from performing and providing services as an insurance agent or an individual retained by an insurance company as otherwise allowed by law. In no event shall any report by an insurance agent or an individual retained by an insurance company be referred to as an appraisal nor shall such insurance agent or an individual retained by an insurance company represent such individual's self as a state certified or licensed appraiser unless such employee is a state certified or licensed appraiser.

History: L. 1990, ch. 270, § 3; L. 1991, ch. 164, § 3; L. 2008, ch. 153, § 3; July 1.

58-4104. Real estate appraisal board; establishment. (a) There is hereby established the real estate appraisal board.

(b) The board shall consist of seven members appointed by the governor. At least one member of the board shall represent the general public, at least two shall represent financial institutions and at least three shall be real estate appraisers. Upon expiration of the terms of the first members appointed to the board and thereafter: (1) No real estate appraiser member of the board shall be eligible to serve unless such member is a state certified or licensed appraiser; and (2) at least one appraiser member shall be a certified general real property appraiser. Any member representing the general public shall not be affiliated with any financial institution or in the practice of real estate appraising.

(c) Members of the board shall serve for terms of three years except that, of the members first appointed to the board, two shall serve for terms of two years and two shall serve for terms of one year, as designated by the governor. Upon expiration of a members term, the member shall continue to hold office until the appointment and qualification of a successor. No person shall serve as a member of the board for more than two consecutive terms.

(d) The governor may remove a member of the board for cause.

(e) The board shall hold meetings and hearings in the city of Topeka or at such times and places as it designates, on call of the chairperson or on request of two or more members.

(f) The members of the board shall select a chairperson from among the members to preside at board meetings.

(g) A quorum of the board shall be four members.

(h) Each member of the board shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto for attendance at any meeting of the board or any subcommittee meeting authorized by the board.

History: L. 1990, ch. 270, § 4; L. 1991, ch. 164, § 4; L. 1992, ch. 12, § 1; L. 1992, ch. 257, § 1; L. 1993, ch. 267, § 2; Oct. 1.

58-4105. Real estate appraisal board; powers; requirements for certification. (a) The board may adopt such rules and regulations as necessary to implement, administer and enforce the provisions of this act.

(b) The board shall:

- (1) Approve courses of instruction to meet requirements of this act and monitor approved courses;
- (2) adopt rules and regulations prescribing policies and procedures for obtaining board approval of courses, monitoring approved courses and withdrawing board approval of courses;
- (3) administer, or designate a testing service to administer, examinations required by this act;
- (4) receive and approve or disapprove applications for certification and licensure and renewal of certificates and licenses and issue certificates and licenses after approval of application;
- (5) receive and approve or disapprove applications to place certificates or licenses on inactive status;
- (6) receive and approve or disapprove applications for reinstatement of active status of certificates or licenses;
- (7) maintain a registry of the names and addresses of persons certified and licensed under this act and transmit the registry to the appraisal subcommittee of the federal financial institutions examination council on an annual basis in accordance with federal law;
- (8) maintain all records submitted to the board;
- (9) collect fees prescribed pursuant to K.S.A. 58-4107, and amendments thereto;
- (10) review from time to time the standards for the development and communication of real estate appraisals provided for in this act and to adopt rules and regulations explaining and interpreting the standards; and
- (11) perform such other functions and duties as necessary to carry out the provisions of this act.

(c) The board shall maintain an office in the city of Topeka. The board shall employ a director, who shall keep a record of all proceedings, hearings, meetings, communications and official acts of the board and perform such other duties as the board requires. The director shall be in the unclassified service under the Kansas civil service act and shall receive compensation fixed by the board. The board may employ such other employees as necessary, who shall be in the classified service under the Kansas civil service act. The board may make such other expenditures as necessary to properly carry out the provisions of this act. The board may enter into such contracts for the services of attorneys and appraisers as necessary to administer and enforce the provisions of this act.

(d) In connection with any investigation, based upon a written complaint or other reasonably reliable written information received by the board, the board or its duly authorized agents or employees may apply to the district court in accordance with the provisions of K.S.A. 60-245 or 60-245a, and amendments thereto, whichever is applicable, for the issuance of subpoenas compelling the attendance and testimony of witnesses or the production for examination or copying of documents or any other physical evidence if such evidence relates to practices which may be grounds for disciplinary action.

History: L. 1990, ch. 270, § 5; L. 1991, ch. 164, § 5; L. 1993, ch. 267, § 4; L. 2007, ch. 96, § 2; July 1.

58-4107. Fees. (a) The board shall adopt rules and regulations prescribing the fees provided for by this act in amounts necessary to administer and enforce this act, subject to the following:

- (1) For application for certification or licensure, a fee not to exceed \$50.
- (2) For any examination required for certification or licensure, a fee in an amount equal to the actual cost of the examination and administration thereof.
- (3) For original or renewal certification or licensure, a fee not to exceed \$300.
- (4) For late renewal of a certificate or license, a late fee not to exceed \$50.
- (5) For certification to another jurisdiction that an individual is certified or licensed, an amount not exceeding \$25.
- (6) For approval of a course of instruction approved pursuant to K.S.A. 58-4105, and amendments thereto, an amount not to exceed \$100.
- (7) For renewal of a course of instruction approved pursuant to K.S.A. 58-4105, and amendments thereto, an amount not to exceed \$25.
- (8) For reinstatement of active status of a certificate or license, a fee not to exceed \$50.

If a certificate or license is issued or renewed for a period other than one year, the fee shall be prorated to the nearest whole month.

(b) The board may prescribe a fee not to exceed \$50 for registration of an appraiser pursuant to subsection (b) of K.S.A. 584 103, and amendments thereto.

(c) The board may establish different classes of courses of instruction for the purpose of establishing fees pursuant to subsections (a)(6) and (7) and may establish a different fee for each such class.

(d) In addition to the fees prescribed above, the board shall collect any registry fee required pursuant to federal law. Such registry fees shall be transmitted by the board to the appraisal subcommittee of the federal financial institutions examination council in accordance with federal law.

(e) Except as provided in subsection (f), the board shall collect all fees provided for by this act. No original or renewed certificate or license shall be issued unless all appropriate fees, including any federal registry fee, have been paid.

(f) If a testing service has been designated by the board to administer the examination, each applicant shall pay the examination fee to the testing service.

(g) The director of the board shall remit all moneys, received pursuant to this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Ten percent of each such deposit, other than amounts collected for federal registry fees or for civil fines imposed pursuant to K.S.A. 58-4118, and amendments thereto, shall be credited to the state general fund and the balance shall be credited to the appraiser fee fund, which is hereby created in the state treasury. All expenditures from such fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the board or by a person or persons designated by the chairperson.

(h) All amounts collected for federal registry fees shall be credited totally to the federal registry clearing fund, which is hereby created in the state treasury. All disbursements from the federal registry clearing fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the board or by a person or persons designated by the chairperson. Amounts credited to the federal registry clearing fund under this section shall not be subject to any limitations imposed by any appropriations act of the legislature.

History: L. 1990, ch. 270, § 7; L. 1991, ch. 164, § 7; L. 1992, ch. 12, § 3; L. 1993, ch. 267, § 5; L. 2001, ch. 5, §204; L. 2007, ch. 96, § 3; L. 2011, ch. 53, § 26; July 1.

58-4108. Application for certification, licensure or examination. (a) Applications for original certification and licensure and renewal of certificates and licenses shall be made in writing to the board on forms approved by the board and shall be accompanied by the appropriate fees prescribed pursuant to K.S.A. 58-4107 and amendments thereto.

(b) Applications for examination shall be made in writing to the board on forms approved by the board and shall be accompanied by the appropriate fee prescribed pursuant to K.S.A. 58-4107 and amendments thereto. If a testing service has been designated by the board to administer the examination, applicants for examination shall be made in writing to the testing service on forms approved by the testing service.

(c) At the time of filing an application for certification or licensure, each applicant shall sign a statement agreeing to comply with the standards set forth in this act and stating that the applicant understands the types of misconduct for which disciplinary proceedings may be initiated against a state certified or licensed appraiser, as set forth in this act.

History: L. 1990, ch. 270, § 8; L. 1991, ch. 164, § 8; L. 1993, ch. 267, § 6; Oct. 1.

58-4109. Classes of appraisers. (a) There is hereby established the following classes of real property appraisers:

- (1) State licensed real property appraiser classification;
- (2) certified general real property appraiser classification;
- (3) certified residential real property appraiser classification; and
- (4) state provisional licensed real property appraiser classification.

(b) The board may establish, by rules and regulations, such other classifications as permitted by federal law.

(c) The board shall adopt rules and regulations, consistent with requirements and criteria adopted pursuant to federal law, to:

- (1) Define each classification;
- (2) establish education and experience requirements for each classification;
- (3) establish examination specifications for each classification; and
- (4) establish continuing education requirements for renewal of each classification.

(d) In adopting rules and regulations pursuant to subsection (c), the board shall determine the education, experience and examination requirements necessary to provide appropriate assurance that an applicant for certification or licensure is competent to perform appraisals within the scope of practice of the appraisal work authorized for the classification applied for and that persons renewing their certificates or licenses have current knowledge of real property appraisal theory, practices and techniques which will provide a high degree of service and protection to those members of the public with whom they deal. In making such determination, the board shall take into consideration the following:

(1) Appropriate knowledge of technical terms commonly used in or related to real estate appraising, appraisal report writing and economic concepts applicable to real estate;

(2) understanding of the principles of land economics, real estate appraisal processes and problems likely to be encountered in gathering, interpreting and processing data in carrying out appraisal disciplines;

(3) understanding of the standards for the development and communication of real estate appraisals as provided in this act;

(4) knowledge of theories of depreciation, cost estimating, methods of capitalization and mathematics of real estate appraisal that are appropriate for the classification applied for;

(5) knowledge of such other principles and procedures as may be appropriate for the respective classifications;

(6) basic understanding of real estate law;

(7) understanding of the types of misconduct for which disciplinary proceedings may be initiated against a state certified or licensed appraiser, as set forth in this act;

(8) the requirements of federal law; and

(9) such other matters as the board determines appropriate and relevant.

(e) The application for original certification or licensure and examination shall specify the classification being applied for.

History: L. 1990, ch. 270, § 9; L. 1991, ch. 164, § 9; L. 1993, ch. 267, § 7; L. 1994, ch. 241, § 1; L. 2005, ch. 179, § 20; July 1.

58-4110. Expiration of certificates and licenses. Certificates and licenses issued pursuant to this act shall expire annually on June 30. The expiration date of the certificate or license shall appear on the certificate and no other notice of its expiration need be given to its holder.

History: L. 1990, ch. 270, § 10; L. 1991, ch. 164, § 10; May 2.

58-4111. Reciprocal certification and licensure. If, in the determination of the board, another state has certification and licensure requirements substantially equivalent to those of this state, an applicant who is certified or licensed under the laws of the other state may obtain certification or licensure under this act upon such terms and conditions as prescribed by the board.

History: L. 1990, ch. 270, § 11; L. 1991, ch. 164, § 11; May 2.

58-4112. Real estate appraisers; renewal of certificate or license. (a) To obtain renewal of a certificate or license, the holder of a current, valid certificate or license shall make application for renewal on a form provided by the board and pay the fee prescribed pursuant to K.S.A. 58-4107, and amendments thereto, to the board not earlier than 120 days nor later than 30 days prior to the expiration date of the certificate or license then held. With the application for renewal, the applicant shall present evidence in the form prescribed by the board of having completed the continuing education requirements for renewal specified in this act.

(b) If a person fails to apply for renewal prior to the date provided by subsection (a), the person may obtain renewal of a certificate or license if the person, not later than three months after expiration of the certificate or license, satisfies all of the requirements for renewal and pays the renewal and late fees prescribed pursuant to K.S.A. 58-4107, and amendments thereto.

History: L. 1990, ch. 270, § 12; L. 1991, ch. 164, § 12; L. 1993, ch. 267, § 8; L. 1996, ch. 75, § 1; L. 2007, ch. 96, § 4; July 1.

58-4112a. Real estate appraisers; inactive status. (a) Except as provided by subsection (f), the holder of a certificate or license may request that such certificate or license be placed on inactive status for a period not to exceed two years. Such request shall be submitted to the board on an application form prescribed by the board.

(b) The holder of a certificate or license that has been placed on inactive status shall pay the renewal fee required by K.S.A. 58-4107, and amendments thereto, while such certificate or license is on inactive status.

(c) The holder of a certificate or license which has been placed on inactive status shall not:

(1) Assume or use any title designation or abbreviation likely to create the impression that such person holds an active certificate or license issued by the board;

(2) describe or refer to any appraisal or evaluation of real estate by the term state certified or state licensed or words of substantially similar meaning; or

(3) prepare real estate appraisals for federally related transactions which, under title XI of the financial institutions reform, recovery and enforcement act of 1989 require the services of a state certified or licensed appraiser.

(d) The holder of a certificate or license that has been placed on inactive status may request that such certificate or license be reinstated to active status. The request shall be submitted to the board on an application form prescribed by the board and shall be accompanied by the reinstatement fee required by K.S.A. 58-4107, and amendments thereto, and the federal registry fee. An applicant for reinstatement shall provide evidence of completion of continuing education hours required by the board.

(e) The holder of any certificate or license which has been placed on inactive status for more than two years shall be required to meet all the requirements for original issuance of a certificate or license.

(f) A certificate or license issued to a person as trainee appraiser shall not be eligible to be placed on inactive status.

History: L. 2007, ch. 96, § 1; July 1.

58-4113. Denial of certificate or license. (a) The board may refuse to issue or renew a certificate or license on any applicable grounds enumerated in K.S.A. 58-4118 and amendments thereto.

(b) If the board, after an application for certification or licensure or renewal of a certificate or license has been filed with the proper form, accompanied by the proper fee, denies the application, the board shall give notice to the applicant setting forth the reasons for such refusal. Such notice and an opportunity to be heard shall be given in accordance with the provisions of the Kansas administrative procedure act, unless the application is denied solely because of the applicants failure to pass a required examination.

History: L. 1990, ch. 270, § 13; L. 1991, ch. 164, § 13; May 2.

58-4114. Appraisers address; notice to commission. (a) Each state certified or licensed appraiser shall advise the board of the address of the appraisers principal place of business and all other addresses at which the appraiser is currently engaged in the business of preparing real property appraisal reports.

(b) When a state certified or licensed appraiser changes a place of business, the appraiser shall immediately give written notice of the change to the board.

(c) Each state certified or licensed appraiser shall notify the board of the appraisers current residence address. Residence addresses on file with the board are exempt from disclosure as public records.

History: L. 1990, ch. 270, § 14; L. 1991, ch. 164, § 14; L. 1993, ch. 267, § 9; Oct. 1.

58-4115. Certificate or license; number required, when. (a) Each certificate and license issued under authority of this act shall include the classification for which the appraiser has qualified and shall bear the signature or facsimile signature of the chairperson of the board and a certificate or license number assigned by the board.

(b) Each state certified or licensed appraiser shall designate the appraisers classification on any appraisal report or in any contract or other instrument used by the appraiser in conducting real property appraisal activities and shall place the appraisers certificate or license number adjacent to or immediately below the classification.

History: L. 1990, ch. 270, § 15; L. 1991, ch. 164, § 15; L. 1993, ch. 267, § 10; Oct. 1.

58-4116. Certification and licensure limited to individuals. (a) The term “state certified appraiser” or “state licensed appraiser” may be used only to refer to individuals who hold a certificate or license issued pursuant to this act and may not be used following or immediately in connection with the name or signature of a firm, partnership, corporation or group, or in such manner that it might be interpreted as referring to a firm, partnership, corporation, group or anyone other than an individual holder of the certificate or license.

(b) No certificate or license shall be issued under the provisions of this act to a corporation, partnership, firm or group. This shall not be construed to prevent a state certified or licensed appraiser from signing an appraisal report on behalf of a corporation, partnership, firm or group practice.

History: L. 1990, ch. 270, § 16; L. 1991, ch. 164, § 16; May 2.

58-4117. Continuing education. (a) As a prerequisite to renewal of a certificate or license, the appraiser shall present evidence satisfactory to the board of having met the continuing education requirements.

(b) The basic continuing education requirement for renewal of a certificate or license shall be the completion by the applicant, during the immediately preceding term of certification or licensure, of the number of hours of classroom instruction which have been established pursuant to K.S.A. 58-4109 and amendments thereto and which have received the approval of the board.

(c) No amendment or repeal of a rule and regulation adopted by the board shall operate to deprive an applicant of credit toward renewal of a certificate or license for any course of instruction completed by the applicant prior to the amendment or repeal of the rule and regulation which would have qualified for continuing education credit under the rule and regulation as it existed prior to the repeal or amendment.

(d) A certificate or license that has been revoked as a result of disciplinary action by the board shall not be reinstated unless the applicant presents evidence of completion of the continuing education required pursuant to this act.

History: L. 1990, ch. 270, § 17; L. 1991, ch. 164, § 17; L. 2008, ch. 153, § 4; July 1.

58-4118. Revocation, condition, limitation or suspension of certificate or license or other disciplinary action; non- licensed persons; civil fine; cease and desist order. (a) The board may investigate the actions of a state certified or licensed appraiser and may revoke, condition, limit or suspend the certificate or license of the appraiser, or censure the appraiser, for any of the following acts or omissions:

(1) Procuring or attempting to procure a certificate or license pursuant to this act by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for certification or licensure or any form of fraud or misrepresentation;

(2) failing to meet the minimum qualifications established by this act;

(3) paying money, other than provided for by this act, to any member or employee of the board to procure a certificate or license under this act;

(4) a plea of guilty or nolo contendere to, or conviction of:

(A) Forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any other similar offense;

(B) a crime involving moral turpitude; or

(C) any felony charge;

(5) an act or omission involving dishonesty, fraud or misrepresentation, with the intent to substantially benefit the appraiser or another person or with the intent to substantially injure another person;

(6) violation of any of the standards for the development or communication of real estate appraisals as provided in this act;

(7) failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal;

(8) negligence or incompetence in developing an appraisal, preparing an appraisal report or communicating an appraisal;

(9) willfully disregarding or violating any provision of this act or rules and regulations of the board for the administration and enforcement of the provisions of this act;

(10) accepting an appraisal assignment, described in K.S.A. 58-4122, and amendments thereto, when the employment itself is contingent upon the appraiser reporting a predetermined estimate, analysis or opinion, or when the fee to be paid is contingent upon the opinion, conclusion or valuation reached, or upon the consequences resulting from the appraisal assignment;

(11) violating the confidential nature of governmental records to which the appraiser gained access through employment or engagement as an appraiser by a governmental agency;

(12) entry of a final civil judgment against the person on grounds of fraud, misrepresentation or deceit in the making of any appraisal of real property;

(13) disciplinary action in relation to appraisal work, including, but not limited to, denial, revocation or suspension of a license or certificate by another state, district or territory of the United States or another country; or

(14) receipt of an order of prohibition in relation to appraisal work, by consent or otherwise, issued by an agency of the federal government.

(b) In addition to or in lieu of any other administrative, civil or criminal remedy provided by law, the board upon a finding that a state certified or licensed appraiser has violated any provision of this act or of any rules and regulations adopted hereunder or upon a finding that a person who is not a state certified or licensed appraiser has violated any provision of subsection (a) of K.S.A. 58-4103, and amendments thereto, may impose upon such appraiser or such person a civil fine not exceeding \$1,000 for each violation. All moneys collected by the board from such fines shall be remitted to the state treasurer in accordance with the

provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(c) In a disciplinary proceeding based upon a civil judgment, the appraiser shall be afforded an opportunity to present matters in mitigation and extenuation but may not collaterally attack the civil judgment.

(d) If the board determines that a person has violated any provision of subsection (a) of K.S.A. 58-4103, and amendments thereto, in addition to any other penalties imposed by law, the board may issue a cease and desist order against such person.

(e) All administrative proceedings pursuant to this section shall be conducted in accordance with the Kansas administrative procedure act.

History: L. 1990, ch. 270, § 18; L. 1991, ch. 164, § 18; L. 1993, ch. 267, § 11; L. 1997, ch. 48, § 1; L. 2001, ch. 5 § 205; L. 2008, ch. 153, § 5; July 1.

58-4119. Hearings, costs. (a) The costs incurred by the board in conducting any proceeding under the Kansas administrative procedure act may be assessed against the appraiser or applicant if the order of the board is adverse to the appraiser or applicant in such proportion as the board determines upon consideration of all relevant circumstances including the nature of the proceeding and the level of participation by the parties. The board may reduce any such assessment to judgment by filing a petition in the district court of Shawnee county. No certificate or license shall be reinstated, renewed or issued if an assessment for costs has not been paid by the applicant or appraiser. If the board is the unsuccessful party, the costs shall be paid from the real estate appraisal board fee fund.

(b) For purposes of this section "costs" means the fees and expenses of the presiding officer, costs of making and preparing the record, witness fees and expenses, mileage, travel allowances and subsistence expenses of board employees and fees and expenses of agents of the board who provide services to the board. "Costs" shall not mean fees and expenses or costs of making and preparing the record unless the board has designated or retained the services of the office of administrative hearings to perform such functions.

(c) The board shall make any assessment of costs incurred as part of the final order rendered in the proceeding. Such order shall include findings and conclusions in support of the assessment of costs.

History: L. 1990, ch. 270, § 19; L. 1991, ch. 164, § 19; L. 2007, ch. 96, § 5; July 1.

58-4120. Judicial review of board action. Any person aggrieved by an order of the board may appeal the order in accordance with the provisions of the Kansas judicial review act.

. **History:** L. 1990, ch. 270, § 20; L. 2010, ch. 17, § 108; July 1.

58-4121. Appraisal practice standards. A state certified or licensed appraiser shall comply with the 2014-2015 edition of the uniform standards of professional appraisal practice promulgated pursuant to federal law or later versions as established in rules and regulations adopted by the board.

History: L. 1990, ch. 270, § 21; L. 1991, ch. 164, § 20; L. 2014, ch. 108, § 2; July 1.

58-4122. Employment of certified or licensed appraiser, purpose. A client or employer may retain or employ a state certified or licensed appraiser to act as a disinterested third party in rendering an unbiased estimate of value or analysis. A client or employer may also retain or employ a state certified or licensed appraiser to provide specialized services to facilitate the clients or employers objectives. In either case, the appraisal and the appraisal report must comply with the provisions of this act.

History: L. 1990, ch. 270, § 22; L. 1991, ch. 164, § 21; May 2.

58-4123. Appraisers records, retention and board access; consent to inspection.

(a) A state certified or licensed appraiser shall retain for five years originals or true copies of all written contracts engaging the appraisers services for real property appraisal work and all reports and supporting data assembled and formulated by the appraiser in preparing the reports.

(b) The five-year period for retention of records is applicable to each engagement of the services of the appraiser and shall commence upon the date of the submittal of the appraisal to the client unless, within such five-year period, the appraiser is notified that the appraisal or report is involved in litigation, in which event the five-year period for the retention of records shall commence upon the date of the final disposition of such litigation.

(c) All records required to be maintained under the provisions of this act shall be made available by the appraiser for inspection and copying by the board on reasonable notice to the appraiser.

(d) The application for or acceptance of a license or certificate shall be deemed conclusively to be the consent of the applicant, licensee or certificate holder to the right of inspection of appraisal records, reports and supporting data by the board or the boards authorized representative, upon prior notice which shall not be less than three days, during normal business hours unless otherwise agreed. Each applicant or appraiser shall grant full access to all appraisal records, reports and supporting data which pertain to the application process or to a complaint investigation. Such inspection may be conducted by the board or the boards representative. Refusal of such inspection shall be grounds for denial, suspension or revocation of the license or certificate.

History: L. 1990, ch. 270, § 23; L. 1991, ch. 164, § 22; L. 1997, ch. 48, § 2; July 1.

58-4124. Mandatory licensure or certification, study and recommendations by board. Not more than two years after the effective date of this act, the board shall hold public hearings to address the question of implementation of mandatory licensing or certification of appraisers. Such hearings shall be held at such reasonable times and places as to provide adequate opportunity for input by all interested parties. At the end of the two-year period, the board will present evidence of the hearings and make a recommendation to the legislature, based upon the results of the hearings, as to whether mandatory licensing or certification should be implemented. If the board determines that the hearings show the need for mandatory licensing or certification of appraisers, the board shall draft such legislation and request its introduction by an appropriate committee of the legislature.

History: L. 1990, ch. 270, § 24; April 19.

58-4125. Severability. If any provision of this act or its application to any person or in any circumstance is declared by a court of competent jurisdiction to be invalid or unenforceable, provisions constituting the remainder of the act and the application of those provisions to other persons and in other circumstances shall not be affected.

History: L. 1990, ch. 270, § 25; April 19.

58-4127. Fingerprints; criminal history record check. (a) The real estate appraisal board may require the following individuals to be fingerprinted and submit to a state and national criminal history record check:

(1) An individual applying for: (A) An original license or certification; (B) licensure by reciprocity or endorsement; or (C) renewal of a license or certification; or

(2) a currently licensed or certified individual, if necessary, to investigate a complaint or if required by the appraisal subcommittee.

(b) The fingerprints shall be used to identify the individual and to determine whether the individual has a record of criminal history in this state or other jurisdiction. The board is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The board may use the information obtained from the fingerprinting and the individual's criminal history for purposes of verifying the identification of any individual and in the official determination of the qualifications and fitness of the individual to be issued, to maintain or to renew a license or certification.

(c) Local and state law enforcement officers and agencies shall assist the board in taking and processing fingerprints of individuals as required by this section and shall release all records of adult convictions to the board. Local law enforcement officers and agencies may charge a fee as reimbursement for expenses incurred in taking and processing fingerprints under this section.

(d) The board may fix and collect a fee in an amount necessary to reimburse the board for the cost of fingerprinting and the criminal history record check. The board is hereby authorized to adopt rules and regulations pertaining to such fee.

(e) This section shall be part of and supplemental to the state certified and licensed real property appraisers act.

History: L. 2014, ch. 108, § 1; July 1.