

## CHAPTER 82B

## REAL ESTATE APPRAISERS

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**82B.02 DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of this chapter, the terms in this section have the meanings given them.

Subd. 2. **Analysis.** "Analysis" means a study of real estate or real property other than estimating value.

Subd. 3. **Appraisal or real estate appraisal.** "Appraisal" or "real estate appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of named interests in, or aspects of, identified real estate for purposes of preparing an appraisal report. An appraisal may be classified by subject matter into either a valuation or an analysis.

Subd. 4. **Appraisal assignment.** "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 third party in giving an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of named interests in, or aspects of, identified real estate.

Subd. 5. **Appraisal report.** "Appraisal report" means an oral or written communication of an appraisal for compensation that is not a contingent fee as defined in section 82B.22 given or signed by a licensed real estate appraiser.

Subd. 6. **Board.** "Board" means the real estate appraisal advisory board established under section 82B.05.

Subd. 7. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 8. **Licensed real estate appraiser.** "Licensed real estate appraiser" means a person who develops and communicates real estate appraisals and who holds a current, valid license issued for licensed appraisal level I or II under this chapter, including an appraiser employed by a state agency.

Subd. 9. **Market analysis.** "Market analysis" means a price opinion prepared by a licensed real estate salesperson or broker for marketing purposes.

Subd. 10. **Real estate.** "Real estate" means an identified parcel or tract of land, including improvements, if any.

Subd. 11. **Real property.** "Real property" means one or more defined interests, benefits, and rights inherent in the ownership of real estate.

Subd. 12. **Standards of professional practice.** "Standards of professional practice" means the uniform standards of professional appraisal practice adopted by the Appraisers Standards Board of the Appraisal Foundation as of January 1, 1989, or other version of these standards the commissioner may by order designate.

Subd. 13. **Valuation.** "Valuation" means an estimate of value of real estate or real property.

**History:** 1989 c 341 art 1 s 1

- (6) conduct investigations;
- (7) deny, revoke, and suspend licenses; and
- (8) take other actions necessary to carry out the purposes of this chapter.

**History:** 1989 c 341 art 1 s 7

### 82B.08 LICENSING REQUIREMENTS.

Subdivision 1. **Generally.** The commissioner shall issue a license as a real estate appraiser to a person who qualifies for the license under the terms of this chapter.

Subd. 2. **Qualification of applicants.** An applicant must be at least 18 years of age when making application.

Subd. 3. **Application for license; contents.** (a) An applicant for a license must apply in writing upon forms prescribed by the commissioner. Each application must be signed and sworn to by the applicant and must be accompanied by the license fee required by this chapter.

(b) An application must contain information required by the commissioner consistent with the provisions and purposes of this chapter.

(c) An application must give the applicant's name, age, residence address, and the name and place of business.

(d) The commissioner may require additional information the commissioner considers appropriate to administer this chapter.

(e) When filing an initial application or application for renewal for a license, the applicant shall state that the person agrees to comply with the standards set forth in this chapter and that the person understands the types of misconduct for which disciplinary proceedings may be started against a licensed real estate appraiser.

(f) The application for original licensing, renewal licensing, and examination must specify the classification of licensing being applied for and previously granted.

Subd. 4. **Effective date of license.** A license issued under this chapter expires on the August 31 next following the issuance of the license.

Subd. 5. **Renewals.** (a) Persons whose applications have been properly and timely filed who have not received notice of denial of renewal are considered to have been approved for renewal and may continue to transact business as a real estate appraiser whether or not the renewed license has been received on or before September 1. Application for renewal of a license is considered to have been timely filed if received by the commissioner by, or mailed with proper postage and postmarked by, August 1 in each year. Applications for renewal are considered properly filed if made upon forms duly executed and sworn to, accompanied by fees prescribed by this chapter and containing information the commissioner requires.

(b) Persons who have failed to make a timely application for renewal of a license and who have not received the renewal license as of September 1 are unlicensed until the time the license has been issued by the commissioner and is received.

Subd. 6. **Notice.** Notice in writing must be given to the commissioner by each licensee of any change in personal name, trade name, address or business location not later than ten days after the change. The commissioner shall issue a new license if required for the unexpired period.

Subd. 7. **Nonresidents.** A nonresident of Minnesota may be licensed as a real estate appraiser upon compliance with all provisions of this chapter.

**History:** 1989 c 341 art 1 s 8

### 82B.09 FEES.

Subdivision 1. **Amounts.** The following fees must be paid to the commissioner:

- (1) a fee of \$50 for each initial individual real estate appraiser's license and a fee of \$25 for each annual renewal;
- (2) a fee of \$5 for a change in personal name or trade name or personal address or business location;

(3) a fee of \$10 for a license history; and

(4) a fee of \$20 for a duplicate license.

Subd. 2. **Forfeiture.** All fees must be kept by the commissioner and are nonreturnable, except that an overpayment of a fee shall be refunded upon proper application.

*History: 1989 c 341 art 1 s 9*

#### 82B.10 EXAMINATIONS.

Subdivision 1. **Generally.** An applicant for a license must pass an examination conducted by the commissioner. The examinations must be of sufficient scope to establish the competency of the applicant to act as a real estate appraiser.

Subd. 2. **Reexaminations.** An examination must be required before renewal of a license that has been suspended, or before the issuance of a license to a person whose license has been ineffective for a period of two years. No reexamination is required of an individual who has failed to renew an existing license because of absence from the state while on active duty with the armed services of the United States of America.

Subd. 3. **Examination frequency.** The commissioner shall hold examinations at times and places the commissioner determines.

Subd. 4. **Period for application.** An applicant who obtains an acceptable score on an examination must file an application and obtain the license within one year of the date of successful completion of the examination or a second examination must be taken to qualify for the license.

Subd. 5. **Renewal; examination.** Except as provided in subdivision 2, no examination is required for the renewal of a license. However, a licensee who has been licensed in the state of Minnesota and who fails to renew the license for a period of two years must be required by the commissioner to again take an examination.

Subd. 6. **Examination eligibility; revocation.** No applicant may take an examination if a license as a real estate appraiser has been revoked in this or another state within two years of the date of the application.

Subd. 7. **Reciprocity.** This section may be waived by the commissioner for individuals of other jurisdictions if: (1) a written reciprocal licensing agreement is in effect between the commissioner and the licensing officials of that jurisdiction, (2) the individual is licensed in that jurisdiction, and (3) the licensing requirements of that jurisdiction are substantially similar to the provisions of this chapter.

Subd. 8. **Fees.** The commissioner may assess an examination fee sufficient to recover the actual direct costs of holding the examination.

*History: 1989 c 341 art 1 s 10*

#### 82B.11 CLASSES OF LICENSE.

Subdivision 1. **Generally.** There are two classes of license for licensed real estate appraisers.

Subd. 2. **Level I.** The licensed level I residential real estate appraiser is a person meeting the requirements for licensing relating to the appraisal of residential real property or agricultural acreage when a net income capitalization analysis is not required by the uniform standards of professional appraisal practice.

Subd. 3. **Level II.** The licensed level II real estate appraiser is a person meeting the requirements for licensing relating to the appraisal of all types of real property.

*History: 1989 c 341 art 1 s 11*

#### 82B.12 EXAMINATION REQUIREMENT.

An original license as a licensed real estate appraiser must be issued to a person who has demonstrated through a written examination process that the appraiser has the following qualifications:

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

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

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

(5) knowledge of other principles and procedures appropriate for the classification of license for which the person is applying;

(6) basic understanding of real estate law; and

(7) understanding the types of misconduct and ethical considerations for which disciplinary proceedings may be started against a licensed real estate appraiser.

**History:** 1989 c 341 art 1 s 12

### 82B.13 EXAMINATION PREREQUISITES.

Subdivision 1. **Level I classification.** As a prerequisite to taking the examination for licensing as a licensed level I real estate appraiser, an applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 75 classroom hours of courses. The courses must consist of 60 hours of general real estate appraisal principles and 15 hours related to standards of professional practice and the provisions of this chapter.

Subd. 2. **Level II classification.** As a prerequisite to taking the examination for licensing as a licensed general real estate appraiser, an applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 150 classroom hours of courses in subjects related to real estate appraisal. All applicants shall complete 15 classroom hours related to standards of professional practice and the provisions of this chapter.

Subd. 3. **Commissioner's approval; rules.** The courses and instruction and procedures of courses must be approved by the commissioner. The commissioner may adopt rules to administer this section. These rules must, to the extent practicable, conform to the rules adopted for real estate and insurance education.

**History:** 1989 c 341 art 1 s 13

### 82B.14 EXPERIENCE REQUIREMENT.

(a) An original license as a level II licensed real estate appraiser may not be issued to a person who does not have the equivalent of two years of experience in real property appraisal supported by adequate written reports or file memoranda. This experience, or the equivalent of this experience, must be acquired within a period of five years immediately preceding the filing of the application for licensing.

(b) Each applicant for license as a level II licensed real estate appraiser shall give under oath a detailed listing of the real estate appraisal reports or file memoranda for each year for which experience is claimed by the applicant. Upon request, the applicant shall make available to the commissioner for examination, a sample of appraisal reports that the applicant has prepared in the course of appraisal practice.

**History:** 1989 c 341 art 1 s 14

### 82B.15 NONRESIDENT SERVICE OF PROCESS.

Subdivision 1. **Appointment of commissioner.** A nonresident, before being licensed as a real estate appraiser, shall appoint the commissioner and a successor or successors in office as true and lawful attorney, upon whom may be served all legal process in an action or proceedings against the person, or in which the person may be a party, in rela-

tion to or involving a transaction covered by this chapter or a rule or order under this chapter. The appointment is irrevocable. Service upon the attorney is as valid and binding as if due and personal service had been made upon the person. The appointment is effective upon the issuance of the license in connection with which the appointment was filed.

**Subd. 2. Effect of nonappointment.** The commission of an act constituting a violation of this chapter or rule or order adopted under this chapter by a nonresident person who has not appointed the commissioner as attorney in compliance with subdivision 1, is conclusively considered an irrevocable appointment by the person of the commissioner and a successor or successors in an action or proceedings against the nonresident or in which the nonresident may be a party in relation to or involving the violation. The violation is a signification of agreement that all legal process that is served is as valid and binding upon the nonresident as if due and personal service had been made.

**Subd. 3. Procedure.** Service of process under this section may be made by filing a copy of the process with the commissioner or a representative, but is not effective unless:

(1) the plaintiff, who may be the commissioner in an action or proceeding started by the commissioner, sends notice of the service and a copy of the process by certified mail to the defendant or respondent at the address as shown by the records at the office of the commissioner in the case of service made on the commissioner as attorney by appointment under subdivision 1, and at the defendant's or respondent's last known address in the case of service on the commissioner as attorney by appointment under subdivision 2; and

(2) the plaintiff's affidavit of compliance with this subdivision is filed in the action or proceeding on or before the return day of the process, if any, or within any additional time the court or administrative law judge allows.

*History: 1989 c 341 art 1 s 15*

#### **82B.16 PRINCIPAL PLACE OF BUSINESS AND NOTICE.**

A licensed real estate appraiser shall advise the commissioner of the address of the person's principal place of business and all other addresses at which the person is now engaged in the business of preparing real property appraisal reports.

When a licensed real estate appraiser changes a place of business, the person shall immediately give written notification of the change to the commissioner and apply for an amended license.

A licensed real estate appraiser shall notify the commissioner of the person's current residence address.

*History: 1989 c 341 art 1 s 16*

#### **82B.17 LICENSE DESIGNATION.**

When a licensed real estate appraiser uses the designation real estate appraiser or licensed real estate appraiser in an appraisal report or in a contract or other instrument used by the license holder in conducting real property appraisal activities or in advertisements, the appraiser shall place the person's license number adjacent to or immediately below the designation used and indicate the class of license held.

*History: 1989 c 341 art 1 s 17*

#### **82B.18 USE OF TERM.**

The term "licensed real estate appraiser" may only be used to refer to individuals who hold the license. The term may not be used following or immediately in connection with the name or signature of a firm, partnership, corporation, or group; or in a manner that might cause it to be interpreted as referring to a firm, partnership, corporation, group, or anyone other than an individual holder of the license.

No license may be issued under this chapter to a corporation, partnership, firm,

or group. This does not prevent a licensed real estate appraiser from signing an appraisal report on behalf of a corporation, partnership, firm, or group practice.

*History: 1989 c 341 art 1 s 18*

### 82B.19 CONTINUING EDUCATION.

**Subdivision 1. License renewals.** A licensed real estate appraiser shall present evidence satisfactory to the commissioner of having met the continuing education requirements of this chapter before the commissioner renews a license.

The basic continuing education requirement for renewal of a license is the completion by the applicant either as a student or as an instructor, during the immediately preceding term of licensing, of at least 15 classroom hours per year, of instruction in courses or seminars that have received the approval of the commissioner.

**Subd. 2. Rules.** The commissioner may adopt rules to assure that persons renewing their licenses as licensed real estate appraisers have current knowledge of real property appraisal theories, practices, and techniques that will provide a high degree of service and protection to those members of the public with whom they deal in a professional relationship under authority of their license. The rules must include the following:

- (1) policies and procedures for obtaining approval of courses of instruction;
- (2) standards, monitoring methods, and systems for recording attendance to be employed by course sponsors as a prerequisite to approval of courses for credit; and
- (3) coordination with real estate continuing education requirements so that as the commissioner considers courses or parts of courses appropriate they may be used to satisfy both real estate and appraiser continuing education requirements.

**Subd. 3. Reinstatements.** On or after September 1, 1991, a license as a real estate appraiser that has been revoked as a result of disciplinary action by the commissioner may not be reinstated unless the applicant presents evidence of completion of the continuing education required by this chapter. This requirement may not be imposed upon an applicant for reinstatement who has been required to successfully complete the examination for licensed real estate appraiser as a condition to reinstatement of a license.

*History: 1989 c 341 art 1 s 19*

### 82B.20 PROHIBITED PRACTICES.

**Subdivision 1. Enforcement.** The license of a licensed real estate appraiser may be denied, revoked, or suspended, or the person may be otherwise disciplined in accordance with this chapter, upon any of the grounds set forth in this section.

**Subd. 2. Conduct prohibited.** No person may:

- (1) obtain or try to obtain a license under this chapter by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for license, or through any form of fraud or misrepresentation;
- (2) fail to meet the minimum qualifications established by this chapter;
- (3) be convicted, including a conviction based upon a plea of guilty or nolo contendere, of a crime that is substantially related to the qualifications, functions, and duties of a person developing real estate appraisals and communicating real estate appraisals to others;
- (4) engage in an act or omission involving dishonesty, fraud, or misrepresentation with the intent to substantially benefit the license holder or another person or with the intent to substantially injure another person;
- (5) engage in a violation of any of the standards for the development or communication of real estate appraisals as provided in this chapter;
- (6) fail or refuse without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

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

(8) willfully disregard or violate any of the provisions of this chapter or the rules of the commissioner for the administration and enforcement of the provisions of this chapter;

(9) accept an appraisal assignment when the employment itself is contingent upon the appraiser reporting a predetermined estimate, analysis, or opinion, or where the fee to be paid is contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment;

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

(11) offer, pay, or give, and no person shall accept, any compensation or other thing of value from a real estate appraiser by way of commission-splitting, rebate, finder's fee, or otherwise in connection with a real estate appraisal. This prohibition does not apply to transactions among persons licensed under this chapter if the transactions involve appraisals for which the license is required;

(12) engage or authorize a person, except a person licensed under this chapter, to act as a real estate appraiser on the appraiser's behalf;

(13) violate standards of professional practice as defined by section 82B.02, subdivision 11;

(14) make an oral appraisal report without also making a written report within a reasonable time after the oral report is made;

(15) represent a market analysis to be an appraisal report;

(16) give an appraisal in any circumstances where the appraiser has a conflict of interest, as determined under rules adopted by the commissioner; or

(17) engage in other acts the commissioner by rule prohibits.

**History:** 1989 c 341 art 1 s 20

#### **82B.21 CLASSIFICATION OF SERVICES.**

A client or employer may retain or employ a licensed real estate appraiser to act as a disinterested third party in giving an unbiased estimate of value or analysis. A client or employer may also retain or employ a licensed real estate appraiser to provide a market analysis to facilitate the client's or employer's objectives. In either case, the appraisal and the appraisal report must comply with the provisions of this chapter.

**History:** 1989 c 341 art 1 s 21

#### **82B.22 CONTINGENT FEES.**

A licensed real estate appraiser may not accept a commission for an appraisal assignment that is contingent upon the appraiser reporting a predetermined estimate, analysis, or opinion, or is contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment.

A licensed real estate appraiser who enters into an agreement to perform a market analysis may be paid a fixed fee or a fee that is contingent on the results achieved by the specialized services.

If a licensed real estate appraiser enters into an agreement to perform a market analysis for a contingent fee, this fact must be clearly stated in each written and oral report. In each written report, this fact must be clearly stated in a prominent location in the report and also in each letter of transmittal and in the licensing statement made by the appraiser in the report.

**History:** 1989 c 341 art 1 s 22

**82B.225 TRANSITIONAL LICENSES.**

Until September 1, 1991, a person already engaged in the business of real estate appraisal may apply to the commissioner of commerce for a license as a real estate appraiser. The application must contain the information listed in section 82B.08. The commissioner shall issue a license to a person who satisfies the requirements of section 82B.08 and who demonstrates at least one year's experience as a real estate appraiser.

An appraiser who is issued a license under this section shall pass an examination conducted by the commissioner of commerce under section 82B.10 or successfully complete sufficient classroom hours of courses under section 82B.13, no later than August 31, 1991. If the appraiser intends to satisfy the requirements of section 82B.13, the appraiser must provide adequate written reports or file memoranda as evidence of compliance. An appraiser who has not met either of those requirements as of that date may not be issued a renewal license and must meet all the requirements for a new licensee.

**History:** 1989 c 341 art 1 s 23

**NOTE:** This section is repealed effective September 1, 1991. See Laws 1989, chapter 341, article 1, section 26.