

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HOUSE BILL 2778

AN ACT

AMENDING SECTION 32-3604, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 36, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-3610; AMENDING SECTIONS 32-3625, 32-3628 AND 32-3673, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 36, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-3634.01; AMENDING TITLE 32, CHAPTER 36, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-3681; RELATING TO THE STATE BOARD OF APPRAISAL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-3604, Arizona Revised Statutes, is amended to
3 read:

4 32-3604. State board of appraisal

5 A. A state board of appraisal is established and is composed of nine
6 members who are appointed by the governor pursuant to section 38-211.

7 B. The membership of the board consists of:

8 1. Four members who are state certified or state licensed appraisers
9 under this chapter, one of whom is a state certified general appraiser, one
10 of whom is a state certified residential appraiser, one of whom is a state
11 licensed appraiser and one of whom is any state certified or state licensed
12 appraiser. Membership in a professional appraisal organization or
13 association is not a prerequisite to service on the board.

14 2. Three public members who are not related within the third degree of
15 consanguinity or affinity to any real estate appraiser.

16 3. A registered property tax agent.

17 4. One member, who is not a certified or licensed appraiser, who is
18 employed by a lending institution that purchases or makes use of either
19 commercial or residential appraisals and whose position of employment relates
20 to the use of appraisals by that institution.

21 C. A BOARD MEMBER WHO IS NOT AN APPRAISER MUST HAVE TAKEN, OR ON
22 CONFIRMATION MUST TAKE, A MINIMUM OF A THREE HOUR PRESENTATION OF THE UNIFORM
23 STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE COMPOSED AND PRESENTED BY A
24 CERTIFIED UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE INSTRUCTOR
25 WITHIN THE FIRST SIX MONTHS. THE PRESENTATION MUST OUTLINE THE STANDARDS
26 THAT APPRAISAL REPORTS MUST MEET IN ORDER TO BE IN COMPLIANCE WITH THE
27 UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE.

28 ~~C.~~ D. Members shall serve for staggered terms of three years.

29 ~~D.~~ E. Not more than two persons from the same professional appraisal
30 organization or association may serve on the board concurrently. The
31 governor may remove a member for cause. No person may serve as a member of
32 the board for more than two consecutive terms unless both of the following
33 apply:

34 1. The person is appointed to serve the remainder of some other board
35 member's term of office after that board member's seat is declared vacant.

36 2. The person's service for the remainder of the vacated term does not
37 exceed eighteen months.

38 ~~E.~~ F. The public members of the board shall not be engaged in the
39 practice of appraising or be the owner or employee of any proprietary
40 business involving appraisal education or testing of appraisers.

41 ~~F.~~ G. The board shall meet at least once each calendar quarter to
42 conduct business. Places of future meetings shall be decided by the vote of
43 members at meetings. By order of the chairman and if necessary to meet the
44 requirements of this chapter, the board may hold special meetings or

1 emergency meetings, including meetings using conference telephone or other
2 similar communications equipment in such a manner that the voices of all
3 members participating in the meeting are simultaneously audible to all other
4 members participating in the meeting.

5 ~~G.~~ H. The board shall meet to elect a chairman annually from among
6 its members.

7 ~~H.~~ I. A majority of the members constitutes a quorum.

8 ~~I.~~ J. Each member of the board is eligible to receive compensation
9 not to exceed one hundred fifty dollars for each day or seventy-five dollars
10 for each part of a day consisting of less than four hours actually spent in
11 the conduct of the business of the board, plus reimbursement for all expenses
12 pursuant to title 38, chapter 4, article 2.

13 ~~J.~~ K. The auditor general shall conduct a performance audit or a
14 special audit of the board pursuant to section 41-1279.03 on or before
15 December 31, 2004 and at least once every ten years thereafter. The auditor
16 general shall also conduct performance audits or special audits of the board
17 when directed to do so by the joint legislative audit committee.

18 Sec. 2. Title 32, chapter 36, article 1, Arizona Revised Statutes, is
19 amended by adding section 32-3610, to read:

20 32-3610. Uniform standards of professional appraisal practice;
21 state standards; exception

22 THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE ARE THE
23 STANDARDS FOR THE APPRAISAL PRACTICE IN THIS STATE UNLESS THE BOARD OBJECTS.

24 Sec. 3. Section 32-3625, Arizona Revised Statutes, is amended to read:

25 32-3625. Continuing education

26 A. As a prerequisite to renewal of a license or certificate, a state
27 licensed or state certified appraiser shall present evidence satisfactory to
28 the board of having met the continuing education requirements of either
29 subsection B or C OF THIS SECTION.

30 B. The basic continuing education requirement for renewal of a license
31 or certificate is the completion by the applicant, during the immediately
32 preceding term of the license or certificate, of courses or seminars that are
33 approved by the board.

34 C. An applicant for relicensing or recertification may satisfy all or
35 part of the continuing education requirements by presenting evidence of the
36 following, which shall be approved by the board:

37 1. Completion of an education program of study determined by the board
38 to be equivalent, for continuing education purposes, to courses approved by
39 the board pursuant to subsection B OF THIS SECTION.

40 2. Participation other than as a student in educational processes and
41 programs that are approved by the board and that relate to appropriate
42 appraisal theory, practices or techniques, including teaching, program
43 development and preparation of textbooks, monographs, articles and other
44 instructional materials, not to exceed fifty per cent of an applicant's

1 continuing education requirements and not for the same course in consecutive
2 renewal periods.

3 D. The board shall adopt rules to assure that persons renewing their
4 licenses or certificates as state licensed or state certified appraisers
5 follow practices and techniques that provide a high degree of service and
6 protection to those members of the public with whom they deal in the
7 professional relationship under the authority of the license or certificate.
8 The rules shall include the following:

9 1. Policies and procedures for obtaining board approval of courses and
10 instruction pursuant to subsection B OF THIS SECTION.

11 2. Standards, policies and procedures to be applied by the board in
12 evaluating an applicant's claims of equivalency in accordance with
13 subsection C OF THIS SECTION.

14 3. Standards, monitoring methods and systems for recording attendance
15 to be employed by course sponsors as a prerequisite to board approval of
16 courses for credit.

17 E. In adopting rules pursuant to subsection D, paragraph 1 OF THIS
18 SECTION, the board shall give consideration to courses of instruction,
19 seminars and other appropriate appraisal educational courses or programs
20 previously or hereafter developed by or under the auspices of professional
21 appraisal organizations and utilized by those associations for purposes of
22 designation, or indicating compliance with the continuing education
23 requirements of such organizations. No person who offers these courses may
24 discriminate in the opportunity to participate in these courses on the basis
25 of membership or nonmembership in an appraisal organization.

26 F. No amendment or repeal of a rule adopted by the board pursuant to
27 this section may operate to deprive a state licensed or state certified
28 appraiser of credit toward renewal of a license or certificate for any course
29 of instruction either completed by the applicant or enrolled in by the
30 applicant before the amendment or repeal of the rule that would have
31 qualified for continuing education credit under the rule as it existed before
32 the repeal or amendment.

33 G. A license or certificate as a state licensed or state certified
34 appraiser that has been suspended as a result of disciplinary action by the
35 board shall not be reinstated unless the applicant presents evidence of
36 completion of the continuing education required by this chapter.

37 H. A QUALIFYING CONTINUING EDUCATION CLASS MAY BE APPLIED TO AN
38 APPRAISER'S SUBSEQUENT RENEWAL PERIOD IF THE APPRAISER TAKES THE CLASS AFTER
39 THE APPRAISER DELIVERS A RENEWAL APPLICATION TO THE BOARD WITHIN THE TIME
40 PERIOD SPECIFIED IN SECTION 32-3619, SUBSECTION A OR B UNLESS THE RENEWAL
41 PERIOD IS IN CONFLICT WITH THE APPRAISAL FOUNDATION OR THE APPRAISAL
42 SUBCOMMITTEE.

1 Sec. 4. Section 32-3628, Arizona Revised Statutes, is amended to read:
2 32-3628. Inactive license or certificate status during military
3 duty; reactivation application; renewal application
4 and fee; continuing education

5 A. A license or certificate holder who is ordered to active military
6 duty with the United States armed forces may request that the license or
7 certificate be placed on inactive status by filing with the board an
8 application that includes all of the following:

- 9 1. The license or certificate holder's name.
- 10 2. The license or certificate number.
- 11 3. The date that the active military duty begins.
- 12 4. A request for inactive status.

13 B. The license or certificate is deemed to be on inactive status while
14 the license or certificate holder is on active military duty, but the period
15 of inactive status may not exceed three years.

16 C. A license or certificate holder who is on inactive status pursuant
17 to this section shall not do either of the following:

- 18 1. Represent that the holder is an active appraiser licensed or
19 certified in this state.
- 20 2. Perform real estate appraisals or appraisal reviews on real estate
21 in this state.

22 D. A license or certificate holder on inactive status must file with
23 the board an application for reactivation of the license or certificate
24 within ~~thirty~~ ONE HUNDRED EIGHTY days after returning home from active
25 military duty.

26 E. If the holder of an inactive license or certificate timely files an
27 application for reactivation of the license or certificate, the license or
28 certificate is returned to active status on the board's approval of the
29 application for reactivation. The time period for completion of the
30 continuing education requirements that the license or certificate holder
31 would otherwise have been required to meet during the period when the license
32 or certificate was on inactive status is extended for a period not to exceed
33 ninety days after return from active military duty. The license or
34 certificate holder must submit proof of completion of any continuing
35 education requirements to the board no later than ~~thirty~~ ONE HUNDRED TWENTY
36 days after completion.

37 F. If the holder of an inactive license or certificate under this
38 section does not make a timely application for reactivation as required by
39 subsection D of this section, the holder must reapply for licensure or
40 certification meeting all of the requirements of this chapter.

41 G. A license or certificate holder who is on inactive status pursuant
42 to this section remains on inactive status until the board approves the
43 application for reactivation of the license or certificate.

1 H. The holder of an inactive license or certificate applying for
2 reactivation of the license or certificate under this section shall include
3 with the application for reactivation a copy of the documentation from the
4 armed forces showing the period of time that the holder of the inactive
5 license or certificate was on active military duty.

6 I. Any license or certificate holder who places the holder's license
7 or certificate on inactive status under this section must pay the renewal fee
8 prescribed in section 32-3607 and complete an application for renewal
9 pursuant to section 32-3619. A license or certificate holder on inactive
10 status pursuant to this section who files an application for reactivation is
11 required to provide evidence of completion of the continuing education
12 requirements pursuant to subsection E of this section.

13 J. For the purposes of this section, active military duty does not
14 include service persons performing weekend drill and annual training.

15 Sec. 5. Title 32, chapter 36, article 3, Arizona Revised Statutes, is
16 amended by adding section 32-3634.01, to read:

17 32-3634.01. Prohibition; indemnification agreement

18 A. ANY PERSON, PARTY OR ENTITY WHO HIRES, ENGAGES OR COMMUNICATES WITH
19 AN APPRAISER DIRECTLY OR THROUGH AN AGENT SHALL NOT REQUIRE OR ATTEMPT TO
20 REQUIRE THE APPRAISER TO SIGN ANY INDEMNIFICATION AGREEMENT THAT WOULD HOLD
21 HARMLESS THE HIRING PERSON, PARTY OR ENTITY, ITS OWNERS, AGENT'S EMPLOYEES OR
22 INDEPENDENT CONTRACTORS FROM ANY LIABILITY, DAMAGE, LOSS OR CLAIM ARISING
23 FROM THE SERVICES PERFORMED BY THE PERSON, PARTY OR ENTITY, ITS OWNERS,
24 AGENT'S EMPLOYEES OR INDEPENDENT CONTRACTORS.

25 B. THIS SECTION DOES NOT LIMIT LIABILITY FOR SERVICES PERFORMED BY THE
26 APPRAISER.

27 Sec. 6. Section 32-3673, Arizona Revised Statutes, is amended to read:

28 32-3673. Disclosure of fees

29 A. The appraisal management company shall not prohibit the appraiser
30 from reporting in the appraisal report the fee paid to the appraiser.

31 B. THE APPRAISER SHALL DISCLOSE THE FEE PAID FOR AN APPRAISAL REPORT
32 ORDERED BY AN APPRAISAL MANAGEMENT COMPANY IN THE SCOPE OF WORK SECTION IN
33 THE APPRAISAL REPORT.

34 Sec. 7. Title 32, chapter 36, article 5, Arizona Revised Statutes, is
35 amended by adding section 32-3681, to read:

36 32-3681. Prohibited practices

37 AN APPRAISAL MANAGEMENT COMPANY OR AN EMPLOYEE, DIRECTOR, OFFICER OR
38 AGENT OF AN APPRAISAL MANAGEMENT COMPANY MAY NOT REQUIRE AN APPRAISER TO
39 INDEMNIFY OR HOLD HARMLESS THE APPRAISAL MANAGEMENT COMPANY AGAINST ANY
40 LIABILITY EXCEPT FOR LIABILITY THAT RESULTS FROM ERRORS OR OMISSIONS BY THE
41 APPRAISER.

1 Sec. 8. Appraisal management company investigative committee

2 A. The appraisal management company investigative committee is
3 established consisting of the following members:

4 1. Three members of the senate who are appointed by the president of
5 the senate, not more than two of whom are members of the same political
6 party. The president of the senate shall designate one of these members to
7 serve as cochairperson of the committee.

8 2. Three members of the house of representatives who are appointed by
9 the speaker of the house of representatives, not more than two of whom are
10 members of the same political party. The speaker of the house of
11 representatives shall designate one of these members to serve as
12 cochairperson of the committee.

13 3. One realtor who is licensed under title 32, chapter 20, Arizona
14 Revised Statutes. The governor shall appoint this member.

15 4. One appraiser who is licensed or certified under title 32, chapter
16 36, Arizona Revised Statutes. The governor shall appoint this member.

17 5. One person who represents a title company. The governor shall
18 appoint this member.

19 6. One person who represents a lender. The governor shall appoint
20 this member.

21 7. One person who represents an appraisal management company as
22 defined in section 32-3661, Arizona Revised Statutes. The governor shall
23 appoint this member.

24 8. One contractor who is licensed under title 32, chapter 10, Arizona
25 Revised Statutes. The governor shall appoint this member.

26 9. One mortgage broker who is licensed under title 6, chapter 9,
27 Arizona Revised Statutes. The governor shall appoint this member.

28 B. Appointed members serve at the pleasure of the person who made the
29 appointment.

30 C. The appraisal management company investigative committee members
31 are not eligible to receive compensation, but members appointed by the
32 governor are eligible for reimbursement of expenses under title 38, chapter
33 4, article 2, Arizona Revised Statutes.

34 D. The appraisal management company investigative committee shall
35 investigate the impact of appraisal management companies on the real estate
36 industry in this state.

37 E. The appraisal management company investigative committee shall
38 submit a report regarding the committee's activities and recommendations for
39 administrative or legislative action on or before November 15, 2012 to the
40 governor, the president of the senate and the speaker of the house of
41 representatives and shall provide a copy of this report to the secretary of
42 state.

43 F. This section is repealed from and after September 30, 2013.