

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

HOUSE BILL 2466

AN ACT

AMENDING SECTIONS 32-3601, 32-3605 AND 32-3609, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 36, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-3641; AMENDING SECTION 32-3654, ARIZONA REVISED STATUTES; REPEALING SECTION 32-3656, ARIZONA REVISED STATUTES; AMENDING SECTION 32-3677, ARIZONA REVISED STATUTES; RELATING TO APPRAISALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 32-3601, Arizona Revised Statutes, is amended to
3 read:
4 32-3601. Definitions
5 In this chapter, unless the context otherwise requires:
6 1. "ALLEGATION" MEANS AN ASSERTION OR ACCUSATION THAT IS MADE
7 WITHOUT PROOF AND THAT MUST BE PROVEN.
8 ~~1.~~ 2. "Appraisal" or "real estate appraisal" means a statement
9 that is independently and impartially prepared by an individual setting
10 forth an opinion as to the market value of real property as of a specific
11 date and supported by the presentation and analysis of relevant market
12 information.
13 ~~2.~~ 3. "Appraisal assignment" means an engagement for which a real
14 estate appraiser is employed or retained to act, or would be perceived by
15 third parties or the public in acting, as a disinterested third party in
16 rendering an unbiased analysis, opinion or conclusion relating to the
17 nature, quality, value or utility of specified interests in or aspects of
18 identified real estate.
19 ~~3.~~ 4. "Appraisal foundation" means the appraisal foundation
20 incorporated as an Illinois not-for-profit corporation on November 30,
21 1987.
22 ~~4.~~ 5. "Appraisal report" means any communication, written or oral,
23 of an appraisal.
24 ~~5.~~ 6. "Appraisal review" means the act of reviewing or the report
25 that follows a review of an appraisal assignment or appraisal report in
26 which a real estate appraiser forms an opinion as to the adequacy and
27 appropriateness of the report being reviewed.
28 ~~6.~~ 7. "Appraisal standards board" means the appraisal standards
29 board appointed by the board of trustees of the appraisal foundation to
30 develop, interpret and amend the uniform standards of professional
31 appraisal practice.
32 ~~7.~~ 8. "Appraisal subcommittee" means the subcommittee of the
33 federal financial institutions examination council created pursuant to 12
34 United States Code section 3310 and chapter 34A, as amended.
35 ~~8.~~ 9. "Appraiser qualifications board" means the appraiser
36 qualifications board that is appointed by the board of trustees of the
37 appraisal foundation to establish the minimum education, experience and
38 examination requirements for real estate appraisers.
39 ~~9.~~ 10. "Complex one to four residential units" means property that
40 is atypical for the marketplace. Atypical factors may include
41 architectural style, age of improvements, size of improvements, size of
42 lot, neighborhood land use, potential environmental hazard liability,
43 leasehold interests, limited readily available comparable sales data or
44 other unusual factors.

1 ~~10.~~ 11. "Course approval" means the act of the superintendent
2 reviewing course materials to form an opinion as to the adequacy and
3 appropriateness of the course for licensing pursuant to section 32-3613,
4 certification pursuant to section 32-3614 and continuing education as
5 prescribed in section 32-3625 in accordance with the appraiser
6 qualifications board and this chapter.

7 ~~11.~~ 12. "Federal financial institutions examination council" means
8 that agency of the federal government created pursuant to 12 United States
9 Code chapters 34 and 34A, as amended.

10 ~~12.~~ 13. "Federally related transaction" means any real estate
11 related financial transaction that a federal financial institution's
12 regulatory agency or the resolution trust corporation engages in,
13 contracts for or regulates and that requires an appraisal.

14 ~~13.~~ 14. "Property tax agent" means an individual who is designated
15 by a person or is an employee of an entity designated as an agent pursuant
16 to section 42-16001, who acts on behalf of a person who owns, controls or
17 possesses property valued by a county assessor and who receives a fee for
18 the analysis of any matter relating to the review of the valuation of the
19 person's property before the assessor. Property tax agent does not
20 include a person who is admitted to practice law in this state, an
21 employee of the person owning, controlling or possessing the property or
22 an employee of an entity designated pursuant to section 42-16001, if the
23 employee is performing a secretarial, clerical or administrative support
24 function.

25 ~~14.~~ 15. "Real estate" means an identified parcel or tract of land,
26 including improvements, if any.

27 ~~15.~~ 16. "Real estate related financial transaction" means any
28 transaction involving the sale of, lease of, purchase of, investment in or
29 exchange of real property, including interests in property or the
30 financing of property, the refinancing of real property or interests in
31 real property and the use of real property or interests in property as
32 security for a loan or investment, including mortgage-backed securities.

33 ~~16.~~ 17. "Real property" means one or more defined interests,
34 benefits and rights inherent in the ownership of real estate.

35 ~~17.~~ 18. "Registered trainee appraiser" means a person who meets
36 both of the following requirements:

37 (a) Is registered with the superintendent and meets the appraiser
38 qualifications board's qualifications for trainee appraisers to perform
39 appraisal services only under the direct supervision of a certified
40 appraiser who has met the minimum criteria to be a supervisory appraiser.

41 (b) Accepts assignments only from the registered trainee
42 appraiser's supervisory appraiser.

1 ~~18.~~ 19. "Review appraiser" means a person who engages in the
2 activity of reviewing and evaluating the appraisal work of others from the
3 perspective of an appraiser, generally for compensation as a separate
4 skill. This includes the function of reviewing an appraisal report or a
5 file memorandum setting forth the results of the review process.

6 ~~19.~~ 20. "Standards of professional appraisal practice" means the
7 uniform standards of professional appraisal practice adopted by the
8 superintendent.

9 ~~20.~~ 21. "~~State-licensed~~ STATE-LICENSED or ~~state-certified~~
10 STATE-CERTIFIED appraiser" means a person who develops and communicates
11 appraisals and who holds a current, valid license or certificate issued
12 under this chapter.

13 ~~21.~~ 22. "Superintendent" means the superintendent of financial
14 institutions.

15 ~~22.~~ 23. "Supervisory appraiser" means a ~~state-certified~~
16 STATE-CERTIFIED appraiser who has a supervisory appraiser designation and
17 who:

18 (a) Has been in good standing for the last three years in the
19 jurisdiction in which the registered trainee appraiser practices.

20 (b) Has not been disciplined in a manner that affects the
21 supervisory appraiser's eligibility to engage in appraisal practice in any
22 jurisdiction in the last three years.

23 (c) Directly supervises registered trainee appraisers by doing the
24 following:

25 (i) Accepting responsibility for an appraisal by signing and
26 certifying that the appraisal complies with the uniform standards of
27 professional appraisal practice.

28 (ii) Reviewing and signing all registered trainee appraiser
29 reports.

30 (iii) Personally inspecting each appraised property with the
31 registered trainee appraiser.

32 ~~23.~~ 24. "Value" means the monetary relationship between properties
33 and those who buy, sell or use those properties.

34 Sec. 2. Section 32-3605, Arizona Revised Statutes, is amended to
35 read:

36 32-3605. Superintendent; duties; powers; immunity

37 A. The superintendent shall adopt rules in aid or in furtherance of
38 this chapter.

39 B. The superintendent shall:

40 1. In prescribing standards of professional appraisal practice,
41 adopt standards that at a minimum are equal to the standards prescribed by
42 the appraisal standards board.

43 2. In prescribing criteria for certification, adopt criteria that
44 at a minimum are equal to the minimum criteria for certification adopted
45 by the appraiser qualifications board.

1 3. In prescribing criteria for licensing and registration, adopt
2 criteria that at a minimum are equal to the minimum criteria for licensing
3 and registration adopted by the appraiser qualifications board.

4 4. Further define by rule with respect to ~~state-licensed~~
5 **STATE-LICENSED** or ~~state-certified~~ **STATE-CERTIFIED** appraisers appropriate
6 and reasonable educational experience, appraisal experience and equivalent
7 experience that meets the statutory requirement of this chapter.

8 5. Adopt the national examination as approved by the appraiser
9 qualifications board for ~~state-certified~~ **STATE-CERTIFIED** appraisers.

10 6. Adopt the national examination as approved by the appraiser
11 qualifications board for ~~state-licensed~~ **STATE-LICENSED** appraisers.

12 7. Establish administrative procedures for approving or
13 disapproving applications for registration, licensure and certification
14 and issuing licenses and certificates, including registration
15 certificates.

16 8. Define by rule, with respect to ~~state-licensed~~ **STATE-LICENSED**
17 and ~~certified~~ **STATE-CERTIFIED** appraisers, the continuing education
18 requirements for the renewal of licenses or certificates that satisfy the
19 statutory requirements provided in this chapter.

20 9. Periodically review the requirements for the development and
21 communication of appraisals provided in this chapter and adopt rules
22 explaining and interpreting the requirements.

23 10. Define and explain by rule each stage and step associated with
24 the administrative procedures for the disciplinary process pursuant to
25 this chapter, including:

26 (a) Prescribing minimum criteria for accepting ~~a-complaint~~ **AN**
27 **ALLEGATION** against a registered trainee appraiser, ~~or~~ a licensed or
28 certified appraiser **OR A PROPERTY TAX AGENT**. The superintendent may not
29 consider ~~a-complaint~~ **AN ALLEGATION** for administrative action if the
30 ~~complaint~~ **ALLEGATION** either:

31 (i) Relates to an appraisal that was completed more than five years
32 before the ~~complaint~~ **ALLEGATION** was submitted to the superintendent or
33 more than two years after final disposition of any judicial proceeding in
34 which the appraisal was an issue, whichever period of time is greater.

35 (ii) Is filed against a person who is a staff person of the
36 department of financial institutions and the person is a licensed or
37 certified appraiser and the ~~complaint~~ **ALLEGATION** is against the person's
38 license or certificate and relates to the person's performance of duties.
39 This item does not apply to a contract investigator who is under contract
40 with the department for the performance of an appraisal review as defined
41 by the uniform standards of professional appraisal practice. This item
42 does not remove the requirement that the staff person ~~is~~ **BE** subject to the
43 ethics rules section of the uniform standards of professional appraisal
44 practice.

1 (b) Defining the process and procedures used in ~~investigating~~ THE
2 SUPERINTENDENT'S INVESTIGATION OF the allegations ~~of the complaint~~. The
3 superintendent shall consolidate ~~complaints~~ ALLEGATIONS that are filed
4 within a six-month period of time if the ~~complaints~~ ALLEGATIONS are
5 against the same appraiser, relate to the same appraisal and property and
6 are filed by an entity that is subject to the mandatory reporting
7 provisions of the Dodd-Frank Wall Street reform and consumer protection
8 act (P.L. 111-203; 124 Stat. 1376). ~~Complaints~~ ALLEGATIONS that are
9 consolidated pursuant to this subdivision must be considered and
10 adjudicated as one ~~complaint~~ ALLEGATION. IF THE SUPERINTENDENT DETERMINES
11 THAT THERE IS A VIOLATION OF THIS CHAPTER, THE ALLEGATION BECOMES A
12 COMPLAINT.

13 (c) Defining the process and procedures used in hearings on ~~the~~ A
14 complaint, including a description of the rights of the superintendent and
15 any person who is alleged to have committed the violation.

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

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

20 12. Issue decrees of censure, fix periods and terms of probation
21 and suspend and revoke licenses and certificates pursuant to the
22 disciplinary proceedings provided for in section 32-3631.

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

26 14. Report on the disposition of any matter referred by the
27 appraisal subcommittee or any other federal agency or instrumentality or
28 federally recognized entity reporting any action of a ~~state-licensed~~
29 STATE-LICENSED or ~~state-certified~~ STATE-CERTIFIED appraiser that is
30 contrary to this chapter.

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

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

37 17. Establish the fees in accordance with section 32-3607.

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

40 C. The superintendent may accept and spend federal monies and
41 grants, gifts, contributions and devises from any public or private source
42 to assist in carrying out the purposes of this chapter. These monies do
43 not revert to the state general fund at the end of the fiscal year.

44 D. The ~~board~~ SUPERINTENDENT may impose a civil penalty pursuant to
45 section 32-3632.

1 Sec. 3. Section 32-3609, Arizona Revised Statutes, is amended to
2 read:

3 32-3609. Confidential records

4 Except as otherwise provided by law, the following records are
5 confidential:

6 1. Questions contained in any examination administered by or for
7 the ~~board~~ SUPERINTENDENT or in any examination submitted to the ~~board~~
8 SUPERINTENDENT for course approval.

9 2. Questions asked and the answers of individual examinees, except
10 that the ~~board~~ SUPERINTENDENT shall provide the grades of each examinee
11 for public inspection and copying.

12 3. Appraisal reports or appraisal reviews and supporting
13 documentation deemed confidential under the uniform standards of
14 professional appraisal practice edition adopted by the ~~board~~
15 SUPERINTENDENT.

16 4. All documents associated with a complaint until the complaint is
17 resolved.

18 5. AN ALLEGATION THAT THE SUPERINTENDENT DISMISSES, AND THE
19 SUPERINTENDENT MAY NOT DO EITHER OF THE FOLLOWING:

- 20 (a) DISCLOSE THE ALLEGATION IN RESPONSE TO A TELEPHONE INQUIRY.
21 (b) PLACE INFORMATION REGARDING THE ALLEGATION ON THE DEPARTMENT'S
22 WEBSITE.

23 Sec. 4. Title 32, chapter 36, article 3, Arizona Revised Statutes,
24 is amended by adding section 32-3641, to read:

25 32-3641. Statute of limitations; actions

26 A. AN ACTION FOR A RECOVERY OF DAMAGES AGAINST A PERSON FOR A
27 VIOLATION OF THIS CHAPTER MUST BE COMMENCED NOT LATER THAN THE EARLIEST OF
28 THE FOLLOWING:

- 29 1. THE EXPIRATION OF THE APPLICABLE STATUTE OF LIMITATIONS FOR THE
30 TYPE OF CLAIM BEING PURSUED.
31 2. FIVE YEARS AFTER THE DATE ON WHICH THE APPRAISAL RESULTING IN
32 THE ACTION WAS COMPLETED OR SHOULD HAVE BEEN COMPLETED.
33 3. FIVE YEARS AFTER THE DATE ON WHICH THE APPRAISAL-RELATED SERVICE
34 RESULTING IN THE ACTION WAS PERFORMED OR SHOULD HAVE BEEN PERFORMED.

35 B. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO AN ACTION
36 ALLEGING THAT A STATE-LICENSED OR STATE-CERTIFIED APPRAISER, A REGISTERED
37 TRAINEE APPRAISER, AN APPRAISAL MANAGEMENT COMPANY AS DEFINED IN SECTION
38 32-3661 OR A MORTGAGE LENDER KNOWINGLY AND INTENTIONALLY DID EITHER OF THE
39 FOLLOWING:

- 40 1. COMMITTED FRAUD.
41 2. MADE MISREPRESENTATIONS WHEN PERFORMING A REAL ESTATE APPRAISAL
42 OR WHEN PROVIDING AN APPRAISAL-RELATED SERVICE.

1 Sec. 5. Section 32-3654, Arizona Revised Statutes, is amended to
2 read:

3 32-3654. Disciplinary actions

4 A. On ~~the complaint of~~ AN ALLEGATION BY any person or on ~~its~~ THE
5 SUPERINTENDENT'S own motion, the ~~board~~ SUPERINTENDENT shall investigate
6 any suspected violation of this article by a property tax agent. If the
7 ~~board~~ SUPERINTENDENT finds a violation, ~~it~~ THE SUPERINTENDENT may issue a
8 letter of concern.

9 B. If the ~~board~~ SUPERINTENDENT finds that the property tax agent
10 committed any of the following violations, ~~it~~ THE SUPERINTENDENT shall
11 revoke or suspend the agent's registration:

12 1. Secured registration by fraud or deceit.

13 2. Committed an act or is responsible for an omission involving
14 fraud or knowing misrepresentation with the intent to obtain a benefit.

15 3. Knowingly violated section 32-3653.

16 C. The ~~board~~ SUPERINTENDENT shall:

17 1. Suspend the agent's registration for not less than six months on
18 the first finding of a violation pursuant to subsection B of this section.

19 2. Suspend the agent's registration for not less than twelve months
20 on the second finding of a violation pursuant to subsection B of this
21 section.

22 3. Revoke the agent's registration on a third or subsequent finding
23 of a violation pursuant to subsection B of this section.

24 D. The ~~board~~ SUPERINTENDENT shall not impose discipline until the
25 agent has been provided an opportunity for a hearing ~~before the board~~
26 pursuant to title 41, chapter 6, article 10. The ~~board~~ SUPERINTENDENT
27 shall notify the agent of the charges and the date and time of the
28 hearing. The notice may be personally served or sent by certified mail to
29 the agent's last known address. Except as provided in section 41-1092.08,
30 subsection H, the final decision of the ~~board~~ SUPERINTENDENT is subject to
31 judicial review pursuant to title 12, chapter 7, article 6.

32 E. The ~~board~~ SUPERINTENDENT shall not renew an agent's registration
33 during the time the registration is suspended or revoked.

34 Sec. 6. Repeal

35 Section 32-3656, Arizona Revised Statutes, is repealed.

36 Sec. 7. Section 32-3677, Arizona Revised Statutes, is amended to
37 read:

38 32-3677. Adjudication of disputes

39 A. Except within the first sixty days after an independent
40 appraiser is first added to the appraiser panel of an appraisal management
41 company, an appraisal management company shall not remove an appraiser
42 from its appraiser panel, or otherwise refuse to assign requests for real
43 property appraisal services to an independent appraiser, without notifying
44 the appraiser in writing of the reasons for the appraiser being removed
45 from the appraiser panel of the appraisal management company.

1 B. An independent appraiser that is removed from the appraiser
2 panel of an appraisal management company for alleged illegal conduct, A
3 violation of the uniform standards of professional appraisal practice or A
4 violation of state licensing standards may file ~~a complaint~~ AN ALLEGATION
5 with the ~~board~~ SUPERINTENDENT for a review of the decision of the
6 appraisal management company, except that ~~in no case shall~~ the ~~board~~
7 SUPERINTENDENT MAY NOT make any determination regarding the nature of the
8 business relationship between the appraiser and the appraisal management
9 company that is unrelated to the actions specified in subsection A OF THIS
10 SECTION.

11 C. If an independent appraiser files ~~a complaint~~ AN ALLEGATION
12 against an appraisal management company pursuant to subsection B OF THIS
13 SECTION, the ~~board~~ SUPERINTENDENT shall ~~adjudicate~~ INVESTIGATE the
14 ~~complaint~~ ALLEGATION within a reasonable time.

15 D. If, after AN opportunity for a hearing and review, the ~~board~~
16 SUPERINTENDENT determines that an independent appraiser did not commit a
17 violation of law, a violation of the uniform standards of professional
18 appraisal practice or a violation of state licensing standards, the ~~board~~
19 SUPERINTENDENT shall order that the appraiser be added to the appraiser
20 panel of the appraisal management company that was the subject of the
21 ~~complaint~~ ALLEGATION without prejudice. The ~~board~~ SUPERINTENDENT shall
22 furnish the appraisal management company with all written documentation
23 and investigation records that support the ~~board's~~ SUPERINTENDENT'S
24 findings.