



SPONSOR: Rep. Ulbrich & Sen. McBride;
Reps. Hudson, Schwartzkopf, Valihura,
Viola; Sens. Bonini, Copeland, Peterson,
Sokola

HOUSE OF REPRESENTATIVES

142nd GENERAL ASSEMBLY

HOUSE BILL NO. 245
AS AMENDED BY
HOUSE AMENDMENT NO. 3

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO REAL ESTATE APPRAISERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 29, Title 24 of the Delaware Code by striking the current Chapter designation which reads “Real Estate Brokers, Salespersons and Appraisers” in its entirety, and by substituting the designation “Real Estate Brokers and Real Estate Salespersons” in lieu thereof.

Section 2. Amend Subchapter II, Chapter 29, Title 24 of the Delaware Code by striking said subchapter in its entirety and by renaming current Subchapter III as new Subchapter II.

Section 3. Amend Title 24 of the Delaware Code by adding thereto a new Chapter 40, which new Chapter shall read as follows:

“CHAPTER 40. REAL ESTATE APPRAISERS.

Subchapter 1. Council on Real Estate Appraisers.

§4001. Objectives.

The primary objective of the Council on Real Estate Appraisers, to which all other objectives and purposes are secondary, is to protect the general public, specifically those persons who are the direct recipients of services regulated by this Chapter, from unsafe practices and from occupational practices which tend to reduce competition or fix the price of services rendered.

The secondary objectives of the Council are to maintain minimum standards of practitioner competency and to maintain certain standards in the delivery of services to the public. In meeting its objectives, the Council shall develop standards assuring professional competence; shall monitor complaints brought against practitioners regulated

by the Council; shall adjudicate at formal hearings; shall promulgate rules and regulations; and shall impose sanctions where necessary against licensed practitioners.

§4002. Definitions.

The following words, terms and phrases, when used in this Chapter shall have the meanings ascribed to them under this Section, except where the context clearly indicates a different meaning:

(1) 'Appraisal' shall mean 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. A competitive market analysis is not an appraisal.

(2) 'Certified general real property appraiser' shall mean a person, who has met the certification requirements of this Chapter pertaining to the appraisal of residential and nonresidential real property utilized in connection with Federally-related transactions, and who holds a current, valid certificate issued under this Chapter.

(3) 'Certified residential appraiser' shall mean a person, who has met the certification requirements of this Chapter, pertaining solely to the appraisal of residential real property utilized in connection with Federally-related transactions, and who holds a current, valid certificate issued under this Chapter.

(4) 'Classroom hour' shall mean 50 minutes out of each 60-minute hour.

(5) 'Council' shall mean the State Council on Real Estate Appraisers established in this Chapter.

(6) 'Division' shall mean the State Division of Professional Regulation.

(7) 'Excessive use or abuse of drugs' shall mean any use of narcotics, controlled substances, or illegal drugs without a prescription from a licensed practitioner, or the abuse of alcoholic beverage such that it impairs the ability to perform the work of an appraiser.

(8) 'Federally-related transaction' shall mean a real estate-related financial transaction, which a federal financial institution regulatory agency, such as HUD/FHA, Fannie Mae and Freddie Mac, or the Resolution Trust Corporation engages in, contracts for, or regulates, and which requires the services of an appraiser.

- (9) 'FIRREA' shall mean the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the act of August 9, 1989 (Pub. L. 101-73, 103 Stat. 183).
- (10) 'Licensed real property appraiser' shall mean a person, who has met the licensing requirements of this Chapter and who may appraise non-complex one to four residential units having a transaction value less than \$1,000,000 and complex one to four residential units having a transaction value of \$250,000 or less, and who holds a current, valid license issued under this Chapter.
- (11) 'Person' shall mean an individual, firm, partnership, corporation, association, joint stock company, limited partnership, limited liability company, and any other legal entity and includes a legal successor of those entities.
- (12) 'Personal supervision' shall mean the active oversight by the state licensed or certified real estate appraiser of the real property appraiser trainee. The trainee may assist in the completion of an appraisal report, including an opinion of value, and may co-sign an appraisal, provided that he or she has been under the personal supervision of the state certified or licensed real estate appraiser, and provided further that the state certified or licensed real estate appraiser shall review and sign the appraisal report and accept total responsibility for said appraisal report.
- (13) 'Real estate-related financial transaction' shall mean a transaction involving the following:
- (i) sale, lease, purchase, investment in or exchange of real property, including interests in property or the financing thereof.
 - (ii) Refinancing of real property or interests in real property.
 - (iii) use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.
- (14) 'Real property' shall mean one or more defined interests, benefits, and rights inherent in the ownership of real estate.
- (15) 'State' shall mean the State of Delaware.
- (16) 'Trainee' shall mean a person, who has completed a minimum of 75 classroom hours of education on real estate matters satisfactory to the Council, including classroom hours on the topic of Uniform Standards of Appraisal Practice.
- (17) 'Uniform Standards of Professional Appraisal Practice' (USPAP) shall mean the standards of appraisal practice established by The Appraisal Foundation.

§4003. Council on Real Estate Appraisers; appointments; composition; qualifications; term; vacancies; suspension or removal; unexcused absences; compensation.

(a) There is created a State Council on Real Estate Appraisers, which shall administer and enforce this Chapter.

(b) The Council shall consist of nine members, who are residents of this State, and are appointed by the Governor. Four shall be licensed or certified appraisers engaged primarily in the real estate appraisal business, including at least one member from each of the following categories: certified general appraiser, certified residential appraiser, and licensed real estate appraiser; one shall be a licensed or certified real estate appraiser also engaged in the real estate brokerage business; one shall be from the banking community; and three shall be public members. The public members shall not be, nor ever have been, appraisers nor members of the immediate family of an appraiser; shall not have been employed by an appraiser or a company engaged in the practice of appraising; shall not have a material interest in the providing of goods and services to appraisers; nor have been engaged in an activity directly related to appraising. The public members shall be accessible to inquiries, comments and suggestions from the general public.

(c) Except as provided in Subsection (d) of this Section, each member shall serve a term of three years, and may succeed himself or herself for one additional term; provided, however, that where a member was initially appointed to fill a vacancy, such member may succeed himself or herself for only one additional full term. Any person appointed to fill a vacancy on the Council shall hold office for the remainder of the unexpired term of the former member. Each term of office shall expire on the date specified in the appointment; however, the member shall remain eligible to participate in Council proceedings unless and until replaced by the Governor.

(d) A person, who has never served on the Council, may be appointed to the Council for two consecutive terms; but no such person shall thereafter be eligible for two consecutive appointments. No person, who has been twice appointed to the Council or who has served on the Council for six years within any nine-year period, shall again be appointed to the Council until an interim period of at least one term has expired since such person last served.

(e) Any act or vote by a person appointed in violation of this Section shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of Subsection (d) of this Section, unless such an amendment or revision amends this Section to permit such an appointment.

(f) A member of the Council shall be suspended or removed by the Governor for misfeasance, nonfeasance, malfeasance, misconduct, incompetency, or neglect of duty. A member subject to disciplinary hearing shall be disqualified from Council business until the charge is adjudicated or the matter is otherwise concluded. A member may appeal any suspension or removal to the Superior Court.

(g) No member of the Council, while serving on the Council, shall hold elective office in any professional association of real estate appraisers; this includes a prohibition against serving as head of the professional association's Political Action Committee (PAC).

(h) The provisions set forth in Chapter 58 of Title 29 of the Delaware Code shall apply to all members of the Council.

(i) Any member, who is absent without adequate reason for three consecutive meetings, or who fails to attend at least half of all regular business meetings during any calendar year, shall be guilty of neglect of duty.

(j) Each member of the Council shall be reimbursed for all expenses involved in each meeting, including travel, according to Division policy; and, in addition shall receive not more than \$50 for each meeting attended but not more than \$500 in any calendar year. After 10 meetings have been attended, the member shall not be compensated for any subsequent meetings attended in that year.

§4004. Organization; meetings; officers; quorum.

(a) The Council shall hold regularly scheduled business meetings at least once in each quarter of a calendar year, and at such times as the chair deems necessary, or, at the request of a majority of Council members.

(b) The Council annually shall elect a chair and vice-chair. Each officer shall serve for one year and shall not succeed himself or herself for more than two consecutive terms.

(c) A majority of the members shall constitute a quorum for the purpose of transacting business. No disciplinary action shall be taken without the affirmative vote of at least five members of the Council.

(d) Minutes of all meetings shall be recorded and the Division shall maintain copies. At any hearing where evidence is presented, a record from which a verbatim transcript can be prepared shall be made. The expense of preparing any transcript shall be incurred by the person requesting it.

§4005. Records.

The Division shall keep a register of all approved applications for certified real estate appraiser, certified residential real property appraiser, licensed real property appraiser, and real property appraiser trainee, and complete records relating to meetings of the Council, examinations, rosters, changes and additions to the Council's rules and

regulations, complaints, hearings, and such other matters as the Council shall determine. Such records shall be prima facie evidence of the proceedings of the Council.

§4006. Powers and duties.

- (a) The Council on Real Estate Appraisers shall have authority to:
 - (1) Formulate rules and regulations, with appropriate notice to those affected; all rules and regulations shall be promulgated in accordance with the procedures specified in the Administrative Procedures Act of this State. Each rule or regulation shall implement or clarify a specific Section of this Chapter.
 - (2) Designate the application form to be used by all applicants and process all applications.
 - (3) Designate the written, standardized examination, endorsed by the Appraiser Qualifications Board (AQB), or its successor, and approved by the Council, and graded by the testing service, to be taken by all persons applying for licensure and certification; applicants, who qualify for licensure or certification by reciprocity, shall have achieved a passing score on all parts of the designated examination or a comparable, alternative national or regional examination, if a national examination was not available at the time of the applicant's original licensure.
 - (4) Evaluate the credentials of all persons applying for a license or a certificate as an appraiser in this State, in order to determine whether such persons meet the qualifications for licensing or certification set forth in this Chapter.
 - (5) Grant certificates and licenses to, and renew certificates and licenses of, all persons who meet the qualifications for certification or licensure, including proof of compliance with §4008(a)(8) of this Chapter.
 - (6) Register applicants as real property appraiser trainees.
 - (7) Issue temporary certificates or licenses to persons who qualify.
 - (8) Establish by rule and regulation continuing education standards required for license or certification renewal.
 - (9) Evaluate certified records to determine whether an applicant for certification or licensure, who previously has been licensed, certified, or registered in another jurisdiction as a appraiser, has engaged in any act or offense that would be grounds for disciplinary action under this Chapter and whether there are disciplinary proceedings or unresolved complaints pending against such applicant for such acts or offenses.
 - (10) Refer all complaints from certificate holders, licensees and the public concerning certified or licensed appraisers or concerning practices of the Council or of the profession, to the Division for investigation pursuant to §8807 of Title 29 of the Delaware Code; and assign a member of the Council to assist the Division in an advisory capacity with the investigation of the technical aspects of the complaint.

(11) Conduct hearings and issue orders in accordance with the Administrative Procedures Act, Chapter 101 of Title 29 of the Delaware Code.

(12) Where it has been determined after a hearing, that penalties or sanctions should be imposed, to designate and impose the appropriate sanction or penalty after time for appeal has lapsed.

Subchapter II. Certificate or License.

§4007. Certificate or License required.

(a) No person, partnership, association, or corporation shall hold himself, herself, or itself out to the public in this State as being qualified to act as a real estate appraiser, or advertise, or assume to act as an appraiser, or use in connection with his, her or its name, or otherwise assume or use, any title or description conveying or tending to convey the impression that he, she or it is qualified to act as an appraiser, unless such person has been duly certified or licensed under this Chapter.

(b) Whenever a certificate or license to practice as an appraiser in this State has expired or been suspended or revoked, it shall be unlawful for the person to act as an appraiser in this state.

(c) No person shall act as an appraiser trainee or hold out that such person is an appraiser trainee unless such person has been duly registered by the Council under this Chapter.

§4008. Qualifications of applicant; report to Attorney General; judicial review.

(a) An applicant, who is applying for certification or licensure as an appraiser under this Chapter, for the relevant certificate, license or registration, shall submit evidence, verified by oath and satisfactory to the Council, that such person:

- (1) for license as real property appraiser, has completed:
 - a. 90 classroom hours of courses in subjects related to real estate appraisal, 15 hours of which shall include coverage of the Uniform Standards of Professional Appraisal Practice; and
 - b. 2,000 hours of appraisal experience.
- (2) for certification as residential real property appraiser, has completed:
 - a. 120 classroom hours of courses in subjects related to real estate appraisal, 15 hours of which shall include coverage of the Uniform Standards of Professional Appraisal Practice; the 120 hours may include the 90 classroom hours required for the licensed real property appraiser classification; and
 - b. 2,500 hours of appraisal experience gained during no fewer than 24 months.

- (3) for certification as general real property appraiser, has completed:
 - a. 180 classroom hours of courses in subjects related to real estate appraisal, 15 hours of which shall include coverage of the Uniform Standards of Professional Appraisal Practice; the 180 hours may include the 90-classroom hour requirement and/or the 120-hour requirement for the certified residential classification; and
 - b. 3,000 hours of appraisal experience gained during no fewer than 30 months.
- (4) for registration as real property appraiser trainee, has completed:
 - a. a minimum of 75 classroom hours of courses related to real estate appraisal, 15 hours of which shall include coverage of the Uniform Standards of Professional Appraisal Practice.
- (5) for all categories, except the real property appraiser trainee, shall have achieved the passing score on the written, standardized examination for certification or licensure.
- (6) shall not have been the recipient of any administrative penalties regarding his or her practice as an appraiser, including but not limited to fines, formal reprimands, license suspensions or revocation, (except for license revocations for nonpayment of license renewal fees), probationary limitations, and/or has not entered into any 'consent agreements' which contain conditions placed by a Council on his or her professional conduct and practice, including any voluntary surrender of a license. The Council may determine after a hearing whether such administrative penalty is grounds to deny licensure.
- (7) shall not have any impairment related to drugs or alcohol that would limit the applicant's ability to act as an appraiser in a manner consistent with the safety of the public.
- (8) shall not have been convicted of a felony or fraud with the five years preceding the date of his or her application, nor have been convicted of any felony after receiving his or her license or certificate.
- (9) shall not have a criminal conviction record, nor pending criminal charge relating to an offense, the circumstances of which substantially relate to real estate appraising. Applicants, who have criminal conviction records or pending criminal charges, shall request appropriate authorities to provide information about the record or charge directly to the Council in sufficient specificity to enable the Council to make a determination whether the record or charge is substantially related to real estate appraising.
- (10) has no disciplinary proceedings or unresolved complaints pending against him or her in any jurisdiction where the applicant has previously been or currently is licensed, certified, or registered.

(b) Where the Council has found to its satisfaction that an applicant has been intentionally fraudulent, or that false information has been intentionally supplied, it shall report its findings to the Attorney General for further action.

(c) Where the application of a person has been refused or rejected and such applicant feels that the Council has acted without justification, has imposed higher or different standards for him or her than for other applicants, registrants, certificants or licensees, or has in some other manner contributed to or caused the failure of such application, the applicant may appeal to the Superior Court.

§4009. Appraiser trainee; requirements of supervision.

(a) Persons, who are presented to the Council by a supervising appraiser for registration as an appraiser trainee, shall provide statements to the Council and certified by oath that they:

(1) Shall perform only those specific functions, which have been delineated in the supervising appraiser's statement; and

(2) Shall practice only under the direct supervision of a state certified or licensed appraiser; and

(3) shall not represent themselves to the public as a licensed or certified appraiser; and

(4) Shall not have been convicted of a felony or fraud, within the five years preceding the date of application.

(b) An applicant, who has been registered by the Council as an appraiser trainee, may assist in the completion of an appraisal report, including an opinion of value, and may co-sign an appraisal, provided that he or she is actively and personally supervised by a state certified or licensed real estate appraiser.

(c) In addition, the supervising state certified or licensed real estate appraiser shall review and sign all appraisals prepared under his or her supervision by the appraiser trainee and shall accept total responsibility for the appraisal report.

(d) The Council in its regulations shall determine the number of appraiser trainees that a supervising appraiser may supervise and the requirements of their supervision.

§4010. Temporary license.

(a) A real estate appraiser from another state, who is licensed or certified by the appraiser licensing or certifying agency in such state, may apply for registration to receive temporary licensing or certification privileges in this State by paying all required fees and filing with the Council a notarized application, on a form prescribed by the Council for such purpose, which shall set forth and include:

(1) The applicant's name, address, social security number, and such other information as may be necessary to identify the applicant; and

(2) A statement, under seal, issued by the appraiser licensing or certifying agency in the applicant's resident state, which sets forth:

- a. The applicant's name, business name and address;
- b. The type of license or certificate held by the applicant and the license or certificate number;
- c. The dates of licensure or certification and the expiration date of the applicant's current license or certificate;
- d. Whether the license or certificate was issued as a result of passing a licensure or certification examination, by reciprocity, or by some other means; and
- e. Evidence verified by oath and satisfactory to the Council that the person has met the requirements of §4008(a), (6), (7), (8), (9) and (10) of this Chapter.

(3) A statement that the applicant:

- a. Has read and agrees to abide by all appraiser laws and rules of this State; and
- b. Agrees to cooperate with any investigation initiated by the Council, including supplying relevant documents and personally appearing before the Council or its investigators; and

(4) Such other information as may be necessary to determine the applicant's eligibility for temporary appraiser licensing or certification privileges in this State; and

(5) Identification of the property to be appraised and the anticipated duration of the assignment.

(b) Licensing and certification privileges granted under the provisions of this Section shall expire upon completion of the specific appraisal assignment for which the Council has issued the temporary license or certificate.

(c) The Division is empowered to issue a temporary license or certificate to an appraiser from another state, who has documented compliance with the requirements of this Section.

§4011. Reciprocity.

(a) Upon payment of the appropriate fee and submission and acceptance of a written application on forms provided by the Council, the Council shall grant a license to each applicant, who shall present proof of compliance with the mandates of §4008 of this Chapter, and proof of current licensure in 'good standing' in another state, the District of Columbia, or territory of the United States, whose standards for licensure are substantially similar to those of this State. A license in 'good standing' is defined in §4008 (a), (7), (8), (9), and (10) of this Chapter.

(b) An applicant, who is licensed in a state whose standards are not substantially similar to those of this state, shall have practiced for a minimum of five years after licensure; provided however, that he or she meets all other qualifications for reciprocity in this Section.

(c) An applicant, who is a graduate of a foreign college or university, and who is not licensed in another state, the District of Columbia, or territory of the United States, shall submit a certified copy of his or her college or university record for evaluation by the Council, in addition to fulfilling the applicable requirements for licensure of Sections 4008 and 4009 of this Chapter.

§4012. Fees.

The amount to be charged for each fee imposed under this Chapter shall approximate and reasonably reflect all costs necessary to defray the expenses of the Council, as well as the proportional expenses incurred by the Division in its service on behalf of the Council. There shall be a separate fee charged for each service or activity, but no fee shall be charged for a purpose not specified in this Chapter. The application fee shall not be combined with any other fee or charge. At the beginning of each licensure biennium, the Division, or any other state agency acting in its behalf, shall compute, for each separate service or activity, the appropriate fees for the licensure biennium. The Division shall charge a biennial fee to licensees and certificate holders for enrollment in the federal roster or registry.

§4013. Issuance and renewal of licenses and certification.

(a) The Council shall issue a license to each applicant, who meets all of the requirements of this Chapter for licensure or certification as an appraiser and who pays the fee established under §4012 of this Chapter.

(b) Each license or certificate shall be renewed biennially, in such manner as is determined by the Division, and upon payment of the appropriate fee and submission of a renewal form provided by the Division, and proof that the licensee has met the continuing education requirements established by the Council, and shall meet the requirements of §4008(a)(7), (8), (9) and (10).

(c) Licensees and certificate holders are required to be enrolled in the Federal roster or registry of State licensed and state certified real property appraisers in order to perform appraisals in Federally-related transactions. The licensee or certificate holder shall pay the fee established for that purpose biennially to the State.

(d) The Council, in its rules and regulations, shall determine the period of time within which a licensed or certified appraiser may still renew his or her license, notwithstanding the fact that such licensee or certificate holder has failed to renew on or before the renewal date.

(e) A licensee or certificate holder, upon written request, may be placed in an inactive status in accordance with the Council's rules and regulations. The renewal fee of such person shall be prorated according to the amount of time such person was inactive. Such person may reenter practice upon written notification to the Council of the intent to do so and completion of continuing education as required in the Council's rules and regulations.

§4014. Grounds for discipline.

(a) A practitioner licensed or certified under this Chapter shall be subject to disciplinary actions set forth in §4016 of this Chapter, if, after a hearing, the Council finds that the appraiser:

(1) has employed or knowingly cooperated in fraud or material deception in order to acquire a license or certificate as an appraiser; has impersonated another person holding a license or certificate, or allowed another person to use his or her license or certificate, or aided or abetted a person not licensed or certified as an appraiser to represent himself or herself as an appraiser.

(2) has illegally, incompetently or negligently practiced appraising.

(3) has been convicted of a felony, substance abuse, or fraud, within the five years preceding the date of application.

(4) has been convicted of any offense, the circumstances of which substantially relate to the practice of appraising. A copy of the record of conviction certified by the clerk of the court entering the conviction shall be conclusive evidence therefor.

(5) has excessively used or abused drugs either in the past two years or currently; excessive use or abuse of drugs shall mean any use of narcotics, controlled substances, or illegal drugs without a prescription from a licensed practitioner, or the abuse of alcoholic beverage such that it impairs the practitioner's ability to perform the work of an appraiser.

(6) has violated a lawful provision of this Chapter, or any lawful regulation established thereunder.

(7) has had his or her license or certificate as an appraiser suspended or revoked, or other disciplinary action taken by the appropriate licensing authority in another jurisdiction; provided, however, that the underlying grounds for such action in another jurisdiction have been presented to the Council by certified record; and the Council has determined that the facts found by the appropriate authority in the other jurisdiction constitute one or more of the acts defined in this Chapter. Every person licensed or certified as an appraiser in this State shall be deemed to have given consent to the release of this information by the Council or other comparable agencies in another jurisdiction, and have waived all objections to the admissibility of previously adjudicated evidence of such acts or offenses.

(8) has failed to notify the Council that his or her license or certificate as an appraiser in another state has been subject to discipline, or has been surrendered, suspended, or revoked. A certified copy of the record of disciplinary action, surrender, suspension or revocation shall be conclusive evidence thereof.

(b) Where a practitioner fails to comply with the Council's request that he or she attend a hearing, the Council may petition the Superior Court to order such attendance, and the said Court or any judge assigned thereto shall have the jurisdiction to issue such order.

(c) Subject to the provisions of Subchapter IV of Chapter 101 of Title 29 of the Delaware Code, no license or certificate shall be restricted, suspended, or revoked by the Council, and no practitioner's right to practice appraising shall be limited by the Council until such practitioner has been given notice, and an opportunity to be heard, in accordance with the Administrative Procedures Act.

§4015. Complaints.

(a) All complaints shall be received and investigated by the Division in accordance with §8807 of Title 29 of the Delaware Code, and the Division shall be responsible for issuing a final written report at the conclusion of its investigation.

(b) When it is determined that an individual is engaging, or has engaged, in the practice of appraising, or is using the title 'appraiser' or other title implying that he or she is competent to act as an 'appraiser' and is not licensed or certified under the laws of this State, the Council shall apply to the Office of the Attorney General to issue a cease and desist order.

§4016. Disciplinary sanctions.

(a) The Council may impose any of the following sanctions, singly or in combination, when it finds that one of the conditions or violations set forth in §4014 of this Chapter applies to a practitioner regulated by this Chapter:

(1) issue a letter of reprimand.

- (2) censure a practitioner.
- (3) place a practitioner on probationary status, and require the practitioner to:
 - a. report regularly to the Council on the matters, which are the basis of the probation.
 - b. limit all practice and professional activities to those areas prescribed by the Council.
- (4) suspend any practitioner's license or certificate.
- (5) revoke any practitioner's license or certificate.
- (6) impose a monetary penalty not to exceed \$500 for each violation.

(b) The Council may withdraw or reduce conditions of probation when it finds that the deficiencies, which required such action, have been remedied.

(c) The Council may temporarily suspend a practitioner's license or certificate in advance of a final adjudication, during the appeals process, but only in cases where there is clear and immediate danger to the health, safety and welfare of the public if the licensee or certificate holder is allowed to continue to practice. Such suspension may be appealed to Superior Court.

§4017. Hearing procedures.

(a) If a complaint is filed with the Council pursuant to §8807 of Title 29 of the Delaware Code, alleging violation of §4016 of this Chapter, the Council shall set a time and place to conduct a hearing on the complaint. Notice of the hearing shall be given and the hearing shall be conducted in accordance with the Administrative Procedures Act, Chapter 101 of Title 29 of the Delaware Code.

(b) All hearings shall be informal without use of rules of evidence. If the Council finds, by a majority vote of all members, that the complaint has merit, the Council shall take such action permitted under this Chapter, as it deems necessary. The Council's decision shall be in writing and shall include its reasons for such decision. The Council's decision shall be mailed immediately to the practitioner.

(c) Where the practitioner is in disagreement with the action of the Council, he or she may appeal the Council's decision to the Superior Court within 30 days of service, or of the postmarked date of the copy of the decision mailed to him or her. Upon such appeal the Court shall hear the evidence on the record. Stays shall be granted in accordance with §10144 of Title 29 of the Delaware Code.

§4018. Reinstatement of a suspended license; removal from probationary status; replacement of license.

(a) As a condition to reinstatement of a suspended license, or removal from probationary status, the Council may reinstate such license if, after a hearing, the Council is satisfied that the licensee has taken the prescribed corrective actions and otherwise satisfied all of the conditions of the suspension and/or the probation.

(b) Applicants for reinstatement shall pay the appropriate fees and submit documentation required by the Council as evidence that all the conditions of a suspension and/or probation have been met. Proof that the applicant has met the continuing education requirements of this Chapter may also be required, as appropriate.

(c) A new license to replace any license lost, destroyed or mutilated may be issued subject to the rules of the Council. A charge shall be made for such issuance.

Subchapter III. Other Provisions

§4019. Exception.

(a) This chapter shall not apply to any Delaware licensed real estate salesperson or broker, who prepares a competitive market analysis survey used only for the purpose of listing a property for sale or lease, nor to any individual, who prepares real estate appraisals for the licensee's full-time employer for the employer's internal use only, and which is performed in the regular course of employee's position.

(b) Nothing in this Chapter shall require a geologist licensed under Chapter 36 of this Title to meet the requirements for either certification or licensure, provided that the geologist's written estimate of value is not the sole determinant of a property's value and that any such estimate of value is not used as an appraisal in Federally-related transactions.

(c) Nothing in the Chapter shall require an auctioneer to meet the requirement for either certification or licensure under this chapter, provided that the auctioneer provides only a verbal estimate of sale and not a written appraisal of the value of any real property.

(d) This Chapter shall not invalidate appraisals done for municipal or county governments for real estate tax assessments or reassessments for tax years commencing prior to August 1, 2004.

(e) This Chapter shall apply to appraisals done after August 1, 2004, for municipal or county governments for real estate tax assessments or reassessments.

§4020. Penalty.

A person, not currently licensed as a appraiser under this Chapter, when guilty of engaging in the practice of appraising, or using in connection with his or her name, or otherwise assuming or using any title or description conveying, or tending to convey the impression that he or she is qualified to act as an appraiser, such offender shall be guilty of a misdemeanor. Upon the first offense, he or she shall be fined not less than \$500.00 or more than \$1,000.00 for each offense. For a second or subsequent conviction, the fine shall be not less than \$1,000.00 or more than \$2,000.00 for each offense. Justice of the Peace Court shall have jurisdiction over all violations of this Chapter.”.

Section 4. Rules and Regulations.

Rules and regulations in effect on the date of enactment of this Act shall remain valid to the extent they are not inconsistent with this Act.

Section 5. Current members.

Members who are currently serving on the Council shall complete their terms of office.

Section 6. Administrative Procedures Act.

Amend Subsection (a), §10161, Title 29 of the Delaware Code, by renumbering current paragraph (45) as new paragraph (46) and by renumbering each succeeding paragraph accordingly.

Section 7. Amend Subsection (a), §10161, Title 29 of the Delaware Code by adding a new paragraph (45), which new paragraph shall read as follows:

“(45) Council on Real Estate Appraisers.”.