

REAL ESTATE APPRAISER
CLASSIFICATION AND REGULATION ACT

O.C.G.A. § 43-39A-1 Through § 43-39A-26

And

Rules and Regulations



GEORGIA REAL ESTATE APPRAISERS BOARD
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Appraisal Act and Rules on the Internet

For revisions of the Appraisal Act and the Rules of the Board adopted after the publication date of this manual, you may visit the Board's web page on the Internet at www.greab.state.ga.us for proposed and adopted rule changes.

APPRAISER CLASSIFICATION AND REGULATION ACT

The Georgia Real Estate Appraiser Classification and Regulation Act known as Title 43 Chapter 39A of the Official Code of Georgia Annotated, has the principal purpose of protecting the public interest in real estate appraisal transactions. The scope of the Act covers classification procedures, general regulatory powers, and penalties. The Act empowers the Board to do all things necessary and convenient for carrying into effect the provisions of the Act. In order to effectuate those provisions, the Board takes such actions as formally promulgating necessary rules and distributing to the public and appraisers materials which help to explicate the Act and Board Rules. Authorizing the publication of this manual is one such act. While every effort has been made to print these laws and rules accurately, their official publication appears in the Official Code of Georgia Annotated (the laws) and the Administrative Procedure Office of the Secretary of State (the rules).

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In an effort to make this manual more helpful to appraisers in daily situations, the manual has cross references to help appraisers find additional material related to the particular law or rule they are reading. Whenever there is another law or another rule, just below that law or rule appear the words “Authority” and the number of other related laws or rules where the reader will find other information about that law or rule.

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TITLE 43 CHAPTER 39A

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43-39A-1. Short title.

This chapter shall be known and may be cited as the "Real Estate Appraiser Classification and Regulation Act."

43-39A-2. Definitions.

As used in this chapter, the term:

- (1) "Analysis" means a study of real estate or real property other than one estimating value.
- (2) "Appraisal" or "real estate appraisal" means an analysis, opinion, or conclusion prepared by an 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.
- (3) "Appraisal report" means any communication, written or oral, of an appraisal. For purposes of this chapter, the testimony of an appraiser dealing with the appraiser's analyses, conclusions, or opinions concerning identified real property is deemed to be an oral appraisal report.

(4) "Appraisal Subcommittee" means the designees of the heads of the federal financial institutions regulatory agencies established by the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. Section 3301, et seq.), as amended.

(5) "Appraiser" means any person who, for a valuable consideration or with the intent or expectation of receiving the same from another, engages in real estate appraisal activity on any type of real estate or real property.

(6) "Appraiser classification" means any category of appraiser which the board creates by designating criteria for qualification for such category and by designating the scope of practice permitted for such category.

(7) "Board" means the Georgia Real Estate Appraisers Board established pursuant to the provisions of this chapter.

(8) "Certified appraisal" or "certified appraisal report" means an appraisal or appraisal report given, signed, and certified as such by a certified real estate appraiser. A certified appraisal or appraisal report represents to the public that it meets the appraisal standards defined in this chapter.

(9) "Commission" means the Georgia Real Estate Commission created in Code Section 43-40-2.

(10) "Commissioner" means the real estate commissioner.

(11) "Evaluation assignment" means an engagement for which an appraiser is employed or retained to give an analysis, opinion, or conclusion that relates to the nature, quality, or utility of identified real estate or identified real property.

(12) "Federally related transaction" means any real estate related financial transaction which (A) a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and (B) requires the services of an appraiser.

(13) "Independent 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 rendering an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of identified real estate or identified real property.

(14) "Real estate" means condominiums and leaseholds as well as any other interest or estate in land, whether corporal, incorporeal, freehold, or nonfreehold and whether the real estate is situated in this state or elsewhere. Such term also includes any structure or structures equipped with the necessary service connections and made so as to be readily moveable as a unit or units when such a structure is affixed to land.

(15) "Real estate appraisal activity" means the act or process of valuation of real estate or real property and preparing an appraisal report.

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

(A) The sale, lease, purchase, or exchange of or investment in real estate or real property or the financing thereof;

(B) The refinancing of real estate or real property; and

(C) The use of real estate or real property as security for a loan or investment, including mortgage backed securities.

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

(18) "Specialized services" means services, other than independent appraisal assignments which are performed by an appraiser. Specialized services may include marketing, financing, and feasibility studies; valuations; analyses; and opinions and conclusions given in connection with activities such as real estate brokerage, mortgage banking, real estate counseling, and real estate tax counseling.

(19) "State" means any state, district, territory, possession, or province of the United States or Canada and any sovereign nation or any political subdivision of such sovereign nation.

(20) "Valuation" means an estimate of the value of real estate or real property.

(21) "Valuation assignment" means an engagement for which an appraiser is employed or retained to give an analysis, opinion, or conclusion that estimates the value of an identified parcel of real estate or identified real property at a particular point in time.

43-39A-3. Georgia Real Estate Appraisers Board; membership; qualifications; powers and duties; compensation.

(a) There is created the Georgia Real Estate Appraisers Board, which shall consist of five members. All members must be residents of Georgia. One member shall be a public member. The public member of the board shall not be connected in any way with the practice of real estate appraisal, real estate brokerage, or mortgage lending. Four members shall be real estate appraisers who have been actively engaged in the real estate appraisal business for at least three years. In appointing real estate appraisers to the board, while not automatically excluding other appraisers, the Governor shall give preference to real estate appraisers who do not hold an active, occupational license which authorizes their work in real estate brokerage or mortgage lending activities, who do not have a financial interest in any real estate brokerage firm or mortgage lending firm, and who are not employees of real estate brokerage firms or mortgage lending firms.

(b) The Governor shall appoint the members of the board, subject to confirmation by the Senate, with consideration given to appropriate geographic representation and to areas of appraisal expertise. Any such appointments made when the Senate is not in session shall be effective until acted upon by the Senate.

(c) The term of each member of the board shall be five years, except that, one of the successors to the two members first appointed to serve until July 1, 1992, shall be appointed to serve until July 1, 1994, and one of the successors to the two members first appointed to serve until July 1, 1993, shall be appointed to serve until July 1, 1995. In the event of a vacancy, the Governor shall appoint a person to fill such vacancy and the person so appointed shall serve for the remainder of the unexpired term.

(d) Upon expiration of their terms, members of the board shall continue to hold office until the appointment and qualification of their successors. The Governor, after giving notice and opportunity for hearing, may remove from office any member of the board for any of the following:

- (1) Inability to perform or neglecting to perform the duties required of members;
- (2) Incompetence; or
- (3) Dishonest conduct.

(e) The members of the board shall annually elect a chairperson from among the members to preside at board meetings.

(f) The board shall meet at least once each calendar quarter, or as often as is necessary, and remain in session as long as the chairperson shall deem it necessary to give full consideration to the business before the board. A quorum of the board shall be three members. Members of the board or others may be designated by the chairperson of the board, in a spirit of cooperation, to confer with similar boards of other states, attend interstate meetings, and generally do such acts and things as may seem advisable to the board in the advancement of the profession and the standards of real estate appraisal activity.

(g) Each member of the board shall receive as compensation for each day actually spent on his or her official duties at scheduled meetings and for time actually required in traveling to and from its meetings, not to exceed one day's traveling time, the sum of \$25.00 and his or her actual and necessary expenses incurred in the performance of official duties.

(h) The commission shall supply staff support for the board. The commissioner shall serve as executive officer of the board. The commissioner shall be charged with the duties and powers as delegated by the board.

43-39A-4. Fees.

The board is authorized to establish the amount of any fee which it is authorized by this chapter to charge and collect. Each fee so established shall be reasonable and shall be determined in such a manner that the total amount of fees charged and collected by the board shall approximate the total of the direct and indirect costs to the state of the operations of the board.

43-39A-4.1. Reduction of paper forms; electronic signatures.

Notwithstanding any provision of law to the contrary, with respect to any form or application required to be completed by an applicant or an appraiser, or with respect to any document required to be issued by the board, the board is authorized to promulgate rules and regulations setting forth:

- (1) Any procedure that will reduce the use of paper forms, applications, or documents;
- (2) Any procedure that will reduce the necessity for the board to maintain paper documents;
- (3) The procedure for submitting or issuing any such form, application, or document by facsimile or electronic means; and
- (4) The procedure for satisfying any signature requirement on any such form by electronic signature, voice signature, or other means so long as appropriate security measures are implemented that assure security and verification of any required signature.

As used in this Code section, the term 'electronic signature' shall have the same meaning as provided in Code Section 10-12-3.

43-39A-5. Status of appraiser classification issued by board to employee of commission.

Any appraiser classification issued to an employee of the commission by the board shall be on inactive status during the time of the employee's employment with the commission. Any such employee shall not be required to pay a fee to keep an appraiser classification on an inactive status. Such appraiser classification shall be taken off inactive status and returned to the employee when that person's employment ends.

43-39A-6. Seal; use of records as evidence.

(a) The board shall adopt a seal, which may be either an engraved or ink stamp seal, with the words "Real Estate Appraisers Board, State of Georgia" and such other device as the board may desire included thereon, by which it shall authenticate the acts of the board. Copies of all records and papers in the office of the board, certified by the signature of the real estate commissioner or the commissioner's designee and the seal of the board, shall be received in evidence in all cases equally and with like effect as the originals.

The board shall maintain records so that it may certify the history of appraisers for a period of up to five years preceding the date of certification. The board may certify the classification history of an appraiser based on electronic data that it maintains. When that electronic data is derived from a paper record, upon converting the information on the paper record to electronic form and after verification of the electronic record, the board may:

- (1) Properly destroy the paper record; or
- (2) Retain the paper record for a period of time determined by the board.

43-39A-7. Applications for appraiser classification.

(a) Any person desiring to act as a real estate appraiser must file an application for an appraiser classification with the board. All original and subsequent applications filed with the board shall be in such form and detail as the board shall prescribe, setting forth the following:

- (1) The name and address of the applicant and the name under which the applicant intends to conduct business;
- (2) The place or places, including the city with the street and street number, if any, where the business is to be conducted; and

(3) Such other information as the board shall require.

(b) Notwithstanding any provision of Article 4 of Chapter 18 of Title 50 to the contrary, all applications, including supporting documents and other personal information submitted by applicants and classified appraisers as part of an application filed with the board, shall be confidential. The board shall deem as public records the following information and shall make such information reasonably available for inspection by the general public: an appraiser's name, classification number and status, business name, business address, business telephone number, type of classification held, and term of classification; the fact that an appraiser has or has not received a disciplinary sanction; and such other information pertaining to the classification of an appraiser or approval of a school, course, or instructor as the board may determine by rule.

43-39A-8. Establishment of appraiser classifications complying with federal law; continuing education courses required for renewal of classification; approval of instructors.

(a) The board is authorized to establish through its rules and regulations such appraiser classifications as are necessary to comply with federal law in order to assure that Georgia has appropriate classifications of appraisers authorized to appraise in federally related transactions. The board shall also create a classification of appraiser to appraise in nonfederally related transactions and for which applicants need only to meet education standards established by the board through its rules and regulations.

(b) As a prerequisite to renewal of an appraiser classification, an appraiser shall present evidence satisfactory to the board of having successfully completed or instructed, during the immediately preceding renewal period, a board approved continuing education course or courses of not less than ten hours of in-class instruction for each year of the renewal period. No appraiser whose appraiser classification has been placed on inactive status shall be allowed to reactivate such appraiser classification unless the provisions of this subsection are met in addition to any other requirements of this chapter.

(c) The board, through its rules and regulations, shall establish standards for offering of all education courses required by this Code section.

(d) Failure to complete any of the educational requirements as provided in this Code section shall be grounds for denial of an appraiser classification or denial of renewal of an appraiser classification without further hearing. No fees or portion of fees paid shall be refunded if an appraiser fails to meet the continuing education provisions of this chapter.

(e) An instructor in any education course approved by the board must also be approved by the board and, where the board deems necessary, receive any special instruction that the board may require.

43-39A-9. Requirements for nonresident applicants; temporary permits.

(a) Every applicant for an appraiser classification under this chapter who is not a resident of Georgia shall submit, with the application for an appraiser classification, an irrevocable consent that service of process upon the applicant may be made by delivery of the process to the real estate commissioner, if, in an action against the applicant in a court of Georgia arising out of the applicant's activities as an appraiser, the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant.

(b) A nonresident of Georgia who has complied with the provisions of subsection (a) of this Code section may obtain an appraiser classification by conforming to all of the provisions of this chapter relating to the license or certification sought.

(c) An applicant who has an appraiser classification in another state under such state's laws which are designed to comply with 12 U.S.C. Section 3301, et seq., may obtain a similar appraiser classification as an appraiser in Georgia upon, at the time of filing an application:

1) Meeting the requirements of subsection (a) of this Code section;

(2) Paying any required fees;

(3) Providing any documentation required by the board of the applicant's classification in any other state and copies of the records of any disciplinary actions taken against the applicant's appraiser classification in that or other states. The imposition of a disciplinary action by any other lawful licensing authority may be grounds for denial of

an appraiser classification to a nonresident or for suspension or revocation of the appraiser classification issued to a nonresident;

(4) Agreeing in writing to cooperate with any investigation initiated under this chapter by promptly supplying any documents any authorized investigator of the board may request and by personally appearing in the board's offices or other location in Georgia as the board's investigator may request. If the board sends by certified mail to the last known business address of a nonresident appraiser a notice to produce documents or to appear for an interview with an authorized investigator or the board and the nonresident appraiser fails to comply with that request, the board may impose on the nonresident appraiser any disciplinary sanction permitted by this chapter; and

(5) Signing a statement that the applicant has read this chapter and its rules and regulations and agrees to abide by its provisions in all real estate appraisal activity in Georgia.

(d) The board is authorized to promulgate rules consistent with guidelines established by the Appraisal Subcommittee for the granting of a temporary practice permit to an appraiser classified in another state in order to allow such appraiser to perform an appraisal for a single federally related transaction on property located in this state.

(e) The board in its discretion may enter into written agreements with similar regulatory authorities of other states as may be necessitated by those states' laws to assure for Georgia appraisers nonresident classification opportunities comparable to those afforded to nonresidents by this Code section. Whenever the board determines that another state does not offer nonresident classification to Georgia appraisers with requirements substantially comparable to those afforded to appraisers of that state by this Code section, the board shall require appraisers of such state who apply for nonresident classification to meet education, experience, and examination requirements substantially comparable to those required by that state with respect to Georgia appraisers who seek nonresident classification.

(f) Notwithstanding any other provision of this Code section, the board in its discretion may enter into written agreements with similar regulatory authorities of other states to permit appraisers classified in those states to conduct real property appraisal activities in Georgia without obtaining a classification in Georgia, provided that such other states afford the same opportunities to Georgia appraisers.

43-39A-10. Wall certificates and pocket cards; disclosure of classification and number.

(a) The board shall prescribe the form of a wall certificate to denote an individual's appraiser classification. The board shall mail the wall certificate to the appraiser whose duty it shall be to display the wall certificate conspicuously in the appraiser's place of business. The board shall also prepare and deliver a pocket card indicating the appraiser classification of the person whose name appears thereon.

(b) An appraiser classification issued under authority of this chapter shall bear a number assigned by the board. The board through its rules and regulations shall establish standards which require appraisers to disclose their appraiser classification and number assigned by the board in all appraisal reports and in all statements of qualifications, contracts, or other instruments used by the appraiser when reference is made to his or her appraiser classification status.

(c) Wall certificates and pocket cards shall remain the property of the board and, upon any suspension or revocation of an appraiser classification pursuant to this chapter, the individual holding the related wall certificate or pocket card shall immediately return such wall certificate or pocket card to the board.

43-39A-11. Fees for examination, activation, and renewal; reactivation of lapsed or inactive appraiser classification; fees for schools offering approved courses; penalty fees; federal registry fees; extensions for appraisers suffering uninsured losses in disaster areas.

(a) To pay its share of the expense of the maintenance and operation of the office of the commission and the enforcement of this chapter, the board shall establish reasonable fees in accordance with Code Section 43-39A-4 and in accordance with its rule-making authority. No fee or portion of a fee required under this chapter which is paid to the board shall be refunded. Each appraiser shall be responsible for paying his or her own fees.

(b) If the board administers an examination, at the time an application for examination is submitted, the board shall collect from the applicant a fee for the examination and an investigation fee if necessary. If an applicant fails to pass an examination, upon filing a new application and paying an additional fee, the applicant may take another examination as soon as scheduling permits.

(c) Prior to the issuance of an original appraiser classification, each applicant shall pay an activation fee in advance as established by the board.

(d) All appraiser classifications shall be renewed periodically as determined by the board in its rules and regulations, and the board shall charge a fee for any such appraiser classification renewed. The time for renewal of an appraiser classification and the number of years for which it may be renewed shall be in the discretion of the board. All fees shall be deposited into the state treasury for the expenses of the board. This Code section shall not obviate any other fees or conditions required to maintain such appraiser classification in accordance with this chapter. An appraiser classification not renewed in accordance with this subsection shall be lapsed.

(e) Applications and fees must be filed personally in the board's offices during regular business hours or may be mailed to the board's offices in a letter postmarked by the United States Postal Service. The board, through its rules and regulations, may establish standards for the filing of applications and fees by electronic means or by courier services.

(f) Any resident appraiser whose appraiser classification lapses for failure to pay a renewal fee may reactivate that appraiser classification within two years of the date of its lapsing by paying the total amount of all renewal fees and late charges which would have been due during the period when the appraiser classification was lapsed plus a reactivation fee. If any resident appraiser allows an appraiser classification to lapse for a period longer than two years due solely to a failure to pay a renewal fee, the resident appraiser may have that appraiser classification reinstated by paying the total amount of all renewal fees and late charges which would have been due during the period when the appraiser classification was lapsed plus a reactivation fee and by successfully completing any educational course or courses which the board may require. Any resident appraiser whose appraiser classification has lapsed for longer than ten years and who seeks to have that appraiser classification reinstated must requalify as an original applicant as set forth in Code Section 43-39A-8. Any nonresident appraiser whose appraiser classification lapses for failure to pay a renewal may reactivate that appraiser classification by paying the fee required of an original applicant if such nonresident appraiser has maintained an active classification in his or her state of residence during the period that his or her classification lapsed. The board may refuse to renew an appraiser classification if the appraiser has continued to perform real estate appraisal activities following the lapsing of that appraiser classification.

(g) Any appraiser who does not wish to be actively engaged in real estate appraisal activity may continue an appraiser classification by making a written request within 30 days of ceasing work that the appraiser classification be placed on inactive status. Any appraiser whose appraiser classification has been placed on an inactive status may not engage in real estate appraisal activity. To reactivate an appraiser classification held on inactive status, an appraiser must make application to the board prior to resuming real estate appraisal activity. Any appraiser who seeks to reactivate an appraiser classification which has been placed on inactive status shall be required to meet any continuing education requirement which the appraiser might have otherwise been required to meet during the period when the appraiser's appraiser classification was placed on inactive status. The education requirement for activating an appraiser classification on inactive status shall not apply to an appraiser who meets the continuing education requirement of subsection (b) of Code Section 43-39A-8 in each renewal period that such appraiser is on inactive status nor to an appraiser who has maintained an active appraiser classification in another state that has continuing education requirements while such appraiser's classification was on inactive status in Georgia.

(h) Any appraiser who places an appraiser classification on inactive status shall be required to pay the renewal fee provided for in subsection (d) of this Code section. Whenever any appraiser on inactive status fails to pay the required fee, the appraiser classification shall be lapsed. If an appraiser on inactive status changes address, the appraiser shall notify the board of the new address, in writing, within 30 days.

(i) Any check which is presented to the board as payment for any fee which the board is permitted to charge under this chapter and which is returned unpaid may be cause for denial of an appraiser classification or for imposing any sanction permitted by this chapter.

(j) Any school approved to offer required education courses under this chapter, except units of the University System of Georgia, and any instructor approved to teach any of such courses shall pay an original application fee and renewal fee as established by the board. If such an approval lapses, the school may reinstate the approval by paying the total amount of all renewal fees and late charges which would have been due during the period the approval was lapsed plus a reactivation fee.

(k) A reasonable fee, not to exceed the renewal fee charged for an appraiser classification, may be imposed by the board on any applicant or appraiser who:

- (1) Fails to notify the board in writing within 30 days of a change of address;

