

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
Suite 1000 - International Tower
229 Peachtree Street, N. E.
Atlanta, Georgia 30303-1605

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).

BOARD MEMBERS

Gary L. Bernes, Chair
Marietta

Charles B. Bramlett
Monticello

Charles S. Wood, Vice Chair
St. Simons Island

Franklin S. Horne, Jr.
Macon

Charles Clark, Real Estate Commissioner

Georgia Real Estate Appraisers Board
Suite 1000 - International Tower
229 Peachtree Street, N.E.
Atlanta, Georgia 30303-1605
Telephone (404) 656-3916
Facsimile (404) 656-6650
Web Site: www.greab.state.ga.us

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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;

(2) Fails to respond within 30 days to a written inquiry from the board requesting further information on any application the applicant or appraiser has filed with the board; or

(3) Submits to the board a check that is returned unpaid.

(l) The board is authorized to collect and forward to the Federal Financial Institutions Examination Council the annual registry fee required for appraisers who perform or seek to perform appraisals in federally related transactions as set forth in 12 U.S.C. Section 3338 and to submit to the Appraisal Subcommittee, no less than annually, a roster listing real estate appraisers who have appraiser classifications suitable for inclusion in the federal registry.

(m) Whenever an appraiser who resides in a county designated as a disaster area by state or federal authorities suffers uninsured major damage or loss to such appraiser's residence or place of business, the board may extend such appraiser's renewal period for up to two years without further payment of any fee by the appraiser upon satisfactory proof of the appraiser's uninsured major damage or loss. The board is further authorized to make appropriate adjustments in deadline dates mandated by this chapter for applications filed by applicants and appraisers located in counties designated as disaster areas by state or federal authorities.

43-39A-12. Disposition of fees collected.

Except as provided for in subsection (l) of Code Section 43-39A-11, all fees collected pursuant to this chapter shall be deposited by the board into the state treasury. Out of the funds thus arising shall be paid the expenses contemplated in this chapter for the administration and enforcement of this chapter. All expenditures authorized by the board shall be paid from the funds received pursuant to this chapter. The expenses of the board and its support staff must always be kept within the income collected and deposited in accordance with this chapter; and the expenses thereof shall not be supported or paid from any other state fund or licensing authority.

43-39A-13. Power of board to regulate issuance of appraiser classifications.

The board, through its rules and regulations, shall have the full power to regulate the issuance of appraiser classifications, to discipline appraisers in any manner permitted by this chapter, to establish qualifications for appraiser classifications consistent with this chapter, to regulate approved courses, and to establish standards for real estate appraisals. Except for conducting an investigation as provided in this chapter, the board is authorized to enter into such contracts as are necessary to carry out its duties under this chapter; provided, however, the board may enter into contracts to assist it in the conduct of investigations authorized by this chapter only whenever it needs special legal or appraisal expertise or other extraordinary circumstances exist. Whenever the board contracts to perform such investigative functions, any such contractor working on an investigation authorized by this chapter shall be under the supervision of the board or a duly authorized representative of the board. Any contractor used by the board shall be knowledgeable in the work area for which such contractor is retained. A contractor shall not be empowered to determine the disposition of any investigation nor to make any discretionary decision that the board is authorized by law to make. Notwithstanding any other provision of law, the board is authorized to retain all funds received as collection fees for use in defraying the cost of collection of fees required under this chapter. Any such funds not expended for this purpose in the fiscal year in which they are generated shall be deposited in the state treasury; provided, however, that nothing in this Code section shall be construed so as to allow the board to retain any funds required by the Constitution to be paid into the state treasury; provided, further, that the board comply with all provisions of Part 1 of Article 4 of Chapter 12 of Title 45, the "Budget Act," except Code Section 45-12-92, prior to expending any such funds.

43-39A-14. Required conduct of applicants; refusal of classification; imposition of sanctions; revocation of classification after conviction of certain offenses.

(a) Appraiser classifications shall be granted only to persons who bear a good reputation for honesty, trustworthiness, integrity, and competence to transact real estate appraisal activity in such manner as to safeguard the interests of the public and only after satisfactory proof of such qualifications has been presented to the board.

(b) (1) As used in this subsection, the term:

(A) "Conviction" means a finding or verdict of guilty or a plea of guilty, regardless of whether an appeal of the conviction has been brought; a sentencing to first offender treatment without an adjudication of guilt pursuant to a charge of a felony or any crime involving moral turpitude; or a plea of nolo contendere to a charge of a felony or any crime involving moral turpitude.

(B) "Felony" includes any offense which, if committed in this state, would be deemed a felony, without regard to its designation elsewhere.

(2) Where an applicant for an appraiser classification has been convicted in a court of competent jurisdiction of this or any other state, district, or territory of the United States, or of a foreign country of the offense of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, or conspiracy to defraud or other like offense or offenses or has been convicted of a felony or a crime involving moral turpitude, such conviction in itself may be a sufficient ground for refusal of an appraiser classification. An applicant for an appraiser classification who has been convicted of any offense enumerated in this paragraph may be issued an appraiser classification by the board only if:

(A) At least five years have passed since the applicant was convicted, sentenced, or released from any incarceration, whichever is later;

(B) No criminal charges are pending against the applicant; and

(C) The applicant presents to the board satisfactory proof that the applicant now bears a good reputation for honesty, trustworthiness, integrity, and competence to transact real estate appraisal activity in such a manner as to safeguard the interests of the public.

(c) Where an applicant or an appraiser has been found guilty of a violation of the federal fair housing law or Article 4 of Chapter 3 of Title 8 [the state fair housing law] by an administrative law judge or a court of competent jurisdiction and after any appeal of such conviction is concluded, such conviction may in itself be a sufficient ground for refusal of an appraiser classification or the imposition of any sanction permitted by this chapter.

(d) Where an applicant or an appraiser has made a false statement of material fact on an application or caused to be submitted or been a party to preparing or submitting any falsified application to the board, such action may, in itself, be a sufficient ground for the refusal, suspension, or revocation of the appraiser classification.

(e) Grounds for suspension or revocation of an appraiser classification, as provided for by this chapter, shall also be grounds for refusal to grant an appraiser classification.

(f) The conduct provided for in subsections (a) through (d) and subsection (h) of this Code section which relates to the denial of an appraiser classification to an applicant shall also be grounds for the imposition of any sanction permitted by this chapter when the conduct is that of an appraiser.

(g) Whenever the board initiates an investigation as provided in Code Section 43-39A-22 to determine whether an appraiser has violated any provision of this chapter or the rules and regulations adopted pursuant to this chapter and such appraiser:

(1) Surrendered or surrenders an appraiser classification to the board;

(2) Allowed or allows an appraiser classification to lapse due to failure to meet education requirements provided by law; or

(3) Allowed or allows an appraiser classification to lapse due to failure to pay any required fees,

the board may issue an order revoking such appraiser's classification. The order will be effective ten days after the order is served on the appraiser unless the appraiser makes a written request for a hearing before the board, in which event the board will file a notice of hearing in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." Service shall be accomplished as provided for in Code Section 43-39A-21. If such surrender or lapsing occurs after the board has filed a notice of hearing alleging that such appraiser has violated any provision of this chapter or the rules and regulations adopted pursuant to this chapter but before the board enters a final order in the matter, then upon submission of a new application by such person the matters asserted in the notice of hearing shall be deemed admitted and may be used by the board as grounds for refusal of a new appraiser classification to such person.

(h) Whenever any occupational licensing body of this state, any other state, or any foreign country has sanctioned any license or classification of an applicant for any appraiser classification or whenever such an applicant has allowed a license or classification to lapse or has surrendered a license or classification to any occupational licensing body of this state, any other state, or any foreign country after that occupational licensing body has initiated an investigation or a

disciplinary process regarding such applicant's licensure or classification, such sanction, lapsing, or surrender in itself may be a sufficient ground for refusal of an appraiser classification. Whenever any occupational licensing body of this state, any other state, or any foreign country has revoked the license or classification of an applicant for a classification or whenever such an applicant has allowed a license or classification to lapse or has surrendered a license or classification to any occupational licensing body of this state, any other state, or any foreign country after that body has initiated an investigation or a disciplinary process regarding such applicant's license or classification, the board may issue an appraiser classification only if:

(1) At least five years have passed since the date that the applicant's occupational registration, license, or certification was revoked or surrendered;

(2) No criminal charges are pending against the applicant at the time of application; and

(3) The applicant presents to the board satisfactory proof that the applicant now bears a good reputation for honesty, trustworthiness, integrity, and competence to transact real estate appraisal activity in such a manner as to safeguard the interests of the public.

(i) Whenever any appraiser is convicted of any offense enumerated in subsection (b) of this Code section, such appraiser must immediately notify the board of that conviction. Such appraiser's appraiser classification shall automatically be revoked 60 days after the conviction unless the appraiser makes a written request to the board for a hearing during that 60 day period. Following any such hearing requested pursuant to this subsection, the board in its discretion may impose upon that appraiser any sanction permitted by this chapter.

(j) Where an applicant or licensee has been found not in compliance with an order for child support as provided in Code Section 19-6-28.1 or 19-11-9.3, such action is sufficient grounds for refusal of a license or suspension of a license. For purposes of this subsection, the hearing and appeal procedures provided for in such Code sections shall be the only such procedures required under this article.

(k) Where an applicant or licensee has been found to be a borrower in default who is not in satisfactory repayment status as provided in Code Section 20-3-295, such finding is sufficient grounds for refusal of a license or suspension of a license. For purposes of this subsection, the hearing and appeal procedures provided for in Code Section 20-3-295 shall be the only such procedures required under this article.

(l) Where the board has previously sanctioned any applicant for a classification under Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," such sanction may in itself be a sufficient ground for refusing the classification.

43-39A-15. Hearings in accordance with "Georgia Administrative Procedure Act."

(a) If the board, after an application in proper form has been filed with it, accompanied by the proper fee, shall refuse to issue an appraiser classification to such applicant, the board shall provide an opportunity for a hearing for such applicant in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." Unless otherwise agreed to by the board, all such hearings shall be held in the county of domicile of the board

(b) Any person who has exhausted all administrative remedies available within this chapter and who is aggrieved by a final decision in a contested case is entitled to judicial review in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." Notwithstanding any provision of subsection (b) of Code Section 50-13-19 to the contrary, initial judicial review of a final decision of the board shall be available solely in the superior court of the county of domicile of the board.

43-39A-16. Notification by appraiser of change of address; applicability of Chapter 7 of Title 14.

(a) If an appraiser changes a residence or place of business address, such appraiser shall notify the board, in writing, within 30 days of such change.

(b) Nothing contained in this chapter shall be deemed to prohibit an appraiser from engaging in the practice of real estate appraisal activity as a professional corporation in accordance with the provisions of Chapter 7 of Title 14, the "Georgia Professional Corporation Act."

43-39A-17. Civil actions.

(a) After July 1, 1991, no person engaged in the business of real estate appraisal activity in Georgia or acting in the capacity of an appraiser in Georgia may bring or maintain any action in any court of this state to collect compensation for the performance of real estate appraisal activity for which an appraiser classification is required by this chapter without alleging and proving that such person held a Georgia appraiser classification of the type necessary to perform such appraisal activity at all times during the performance of such services.

(b) The board by and through the commissioner may bring an action for any violation of this chapter.

43-39A-18. Penalties for violations.

(a) In accordance with the hearing procedures established for contested cases by Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," whenever an appraiser, a school approval, or an instructor approval has been obtained by false or fraudulent representation; or whenever an appraiser, an approved school, or an approved instructor has been found guilty of a violation of this chapter, or of the rules and regulations promulgated by the board, or of any unfair trade practices, including, but not limited to, those listed in this Code section; the board shall have the power to take any one or more of the following actions:

- (1) Refuse to grant or renew a classification to an applicant;
- (2) Administer a reprimand;
- (3) Suspend any classification or approval for a definite period of time or for an indefinite period of time in connection with any condition that may be attached to the restoration of the classification or approval;
- (4) Revoke any classification or approval;
- (5) Revoke any classification issued to an appraiser and simultaneously issue such appraiser a classification with more restricted authority to conduct appraisals;
- (6) Impose on an appraiser, applicant, school approval, or instructor approval monetary assessments in an amount necessary to reimburse the board for administrative, investigative, and legal costs and expenses incurred by the board in conducting any proceeding authorized under this chapter or Chapter 13 of Title 50, the "Georgia Administrative Procedure Act";
- (7) Impose a fine not to exceed \$1,000.00 for each violation of this chapter or its rules and regulations with fines for multiple violations limited to \$5,000.00 in any one disciplinary proceeding or such other amount as the parties may agree;
- (8) Require completion of a course of study in real estate appraisal or instruction; or
- (9) Limit or restrict any classification or approval as the board deems necessary for the protection of the public.

(b) Appraisers shall not engage in the following unfair trade practices:

- (1) Performing any real estate appraisal activity or specialized services which indicate any preference, limitation, or discrimination based on race, color, religion, sex, disability, familial status, or national origin or an intention to make any such preference, limitation, or discrimination;
- (2) An act or omission involving dishonesty, fraud, or misrepresentation with the intent to benefit substantially an appraiser or another person or with the intent to injure substantially another person;
- (3) Commission of any act of fraud, misrepresentation, or deceit in the making of an appraisal of real estate for which act a final civil or criminal judgment has been rendered;
- (4) Engaging in real estate appraisal activity under an assumed or fictitious name not properly registered in this state;

(5) Paying a finder's fee or a referral fee to a person who is not an appraiser in connection with an appraisal of real estate or real property;

(6) Making a false or misleading statement in that portion of a written appraisal report that deals with professional qualifications or in any testimony concerning professional qualifications;

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

(8) Violation of any of the standards for the development or communication of real estate appraisals as promulgated by the board;

(9) Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(10) Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;

(11) Accepting an independent appraisal assignment when the employment itself is contingent upon the appraiser's reporting a predetermined estimate, analysis, valuation, or opinion or where the fee to be paid is contingent upon the opinion, conclusions, analysis, or valuation reached or upon the consequences resulting from the appraisal assignment;

(12) Failure to retain for a period of five years the original or a true copy of each appraisal report prepared or signed by the appraiser and all supporting data assembled and formulated by the appraiser in preparing each such appraisal report. The five-year period for retention of records is applicable to each engagement of the services of the appraiser and shall commence upon the date of the delivery of each appraisal report to the client unless, within such five-year period, the appraiser is notified that the appraisal or the appraisal report is involved in litigation, in which event the five-year period for the retention of records shall commence upon the date of the final disposition of such litigation;

(13) Failure upon reasonable request of an appraiser to make all records required to be maintained under the provisions of this chapter available to the board for inspection and copying by the board;

(14) Performing any appraisal beyond the scope of authority granted in the appraiser classification held;

(15) Demonstrating incompetency to act as an appraiser in such a manner as to safeguard the interests of the public or any other conduct, whether of the same or a different character than specified in this subsection, which constitutes dishonest dealing;

(16) Performing or attempting to perform any real estate appraisal activity on property located in another state without first having complied fully with that state's laws regarding real estate appraisal activity;

(17) Providing an oral appraisal report in a federally related transaction;

(18) Utilizing the services of any person in other than a ministerial capacity in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal if such person's appraiser classification is suspended or revoked or if such person does not hold an appraiser classification; or

(19) Performing or attempting to perform any real estate appraisal activity in a federally related transaction without complying with the standards required by the federal financial institutions regulatory agency that regulates the financial transaction for which the appraisal assignment is undertaken.

(c) In a disciplinary proceeding based upon a civil judgment, an appraiser shall be afforded an opportunity to present matters in mitigation and extenuation but may not collaterally attack the civil judgment.

(d) When an appraiser has previously been sanctioned by the board or by any other state's real estate appraiser licensing authority, the board may consider such prior sanction in determining the severity of a new sanction which may be imposed upon a finding that an appraiser has violated any provision of this chapter or any of the rules and regulations of the board. The failure of an appraiser to comply with or to obey a final order of the board may be cause for suspension or revocation of the individual's appraiser classification after opportunity for a hearing.

43-39A-18.1. Citations.

(a) It is the intent of the General Assembly to provide the board with a disciplinary tool which is an alternative to the sanctions provided for in subsection (a) of Code Section 43-39A-18. The citation provided for in this Code section shall not be construed as a sanction.

(b) Whenever the evidence gathered in an investigation reveals an apparent violation by an appraiser of this chapter, the rules and regulations promulgated by the board, or a standard of conduct, the board, in its discretion, may (1) initiate the process for the imposition of sanctions, as provided for in subsection (a) of Code Section 43-39A-18 and in accordance with the hearing procedures established for contested cases by Chapter 13 of Title 50, or (2) issue a citation to the appraiser. Such citation, which shall be served personally or by mail, shall give notice to the appraiser of the alleged violation or violations of this chapter, commission rules, or standard or standards of conduct and inform the appraiser of the opportunity to request a contested case hearing to be held in accordance with the procedures established for such hearings by Chapter 13 of Title 50. A citation issued by the board may include an order to complete a course of study in real estate appraisal or instruction or to pay a fine not to exceed \$1,000.00 for each violation of this chapter or its rules and regulations, with fines for multiple violations limited to \$5,000.00 in any one citation, or both. If the appraiser fails to request a hearing within 30 days of the date of service of the citation, the order contained in the citation shall be final. The failure of an appraiser to comply with a final order contained in a citation may be cause for the imposition of a sanction on such person's classification, after notice and opportunity for a hearing.

(c) The board is authorized to promulgate rules and regulations to implement this Code section. Such rules may limit the provisions of this chapter and of its rules and regulations and standards of conduct which may be the basis for the issuance of a citation.

43-39A-19. Use of title or terms denoting appraiser classification.

(a) No appraiser who holds an appraiser classification may use any title, designation, or abbreviation likely to create the impression that such appraiser holds a different appraiser classification. No appraiser shall describe or refer to any appraisal report or any appraisal or other evaluation of real estate by a term or terms which are likely to create the impression that the appraisal was done by an appraiser with a different appraiser classification than that held by the appraiser performing the appraisal.

(b) If an appraiser does not hold an appraiser classification which permits the performance of a particular appraiser assignment for use in a federally related transaction, the appraiser must include in such appraiser's appraisal report a statement that the appraisal report may not be eligible for use in a federally related transaction.

(c) A term or title denoting an appraiser classification may only be used to refer to individuals who hold such appraiser classification and may not be used following or immediately in connection with the name or signature of a firm, partnership, limited liability company, corporation, or group or in such manner that it might be interpreted as referring to a firm, partnership, limited liability company, corporation, group, or anyone other than an individual holder of the appraiser classification.

(d) No appraiser classification shall be issued under the provisions of this chapter to a corporation, partnership, limited liability company, firm, or group.

43-39A-20. Use of appraiser as disinterested third party for rendering unbiased valuation or analysis; "specialized services."

(a) A client or employer may retain or employ an appraiser to act as a disinterested third party in rendering an unbiased valuation or analysis. A client or employer may also retain or employ an appraiser to provide specialized services to facilitate the client's or employer's objectives. In either case, the appraisal and the appraisal report must comply with the provisions of this chapter.

(b) For the purposes of this chapter, the term "specialized services" as defined in Code Section 43-39A-2 means those appraisal services which do not fall within the definition of independent appraisal assignment. The term "specialized services" may include valuation work and analysis work. Regardless of the intention of the client or employer, if the appraiser would be perceived by third parties or the public as acting as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion, the work is classified as an independent appraisal assignment and not "specialized services."

(c) An appraiser may not accept a fee for an independent appraisal assignment that is contingent upon the appraiser's reporting a predetermined estimate, analysis, valuation, or opinion or is contingent upon the opinion, conclusion, analysis, or valuation reached or upon the consequences resulting from the independent appraisal assignment.

(d) An appraiser who enters into an agreement to perform specialized services may be paid a fixed fee or a fee that is contingent on the results achieved by the specialized services.

(e) If an appraiser enters into an agreement to perform specialized services for a contingent fee, this fact shall be clearly stated in each written and oral report. In each written report, this fact shall be clearly stated in a prominent location in such report, in each letter of transmittal, and in the certification statement made by the appraiser in such report.

(f) Any appraiser who performs specialized services for which any other law requires licensure, certification, or registration must first obtain that licensure, certification, or registration before undertaking any such specialized services.

43-39A-21. Hearings on imposition of sanctions against appraisers; judicial review.

(a) Before the board shall impose on any appraiser any sanction permitted by this chapter, it shall provide an opportunity for a hearing for such appraiser in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." Unless otherwise agreed to by the board, all such hearings shall be held in the county of domicile of the board.

(b) If any appraiser or applicant fails to appear at any hearing after reasonable notice, the board may proceed to hear the evidence against such appraiser or applicant and take action as if such appraiser or applicant had been present. A notice of hearing, initial or proposed decision, or final decision of the board in a disciplinary proceeding shall be served upon the appraiser or applicant by personal service or by certified mail, return receipt requested, to the last known address of record with the board. If such material is returned marked "unclaimed" or "refused" or is undeliverable and if the appraiser or applicant cannot, after diligent effort, be located, the real estate commissioner shall be deemed to be the agent for such appraiser or applicant for the purposes of this Code section, and service upon the real estate commissioner shall be deemed service upon the appraiser or applicant.

(c) Any person who has exhausted all administrative remedies available within this chapter and who is aggrieved by a final decision in a contested case is entitled to judicial review in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." Notwithstanding any provision of subsection (b) of Code Section 50-13-19 to the contrary, initial judicial review of a final decision of the board shall be available solely in the superior court of the county of domicile of the board.

43-39A-22. Investigations.

(a) The board may, upon its own motion, and shall, upon the sworn written request of any person, investigate the actions of any appraiser, applicant, or school approved by the board; provided, however, that, whenever a request for investigation involves an appraisal report which varies from a sales, lease, or exchange price by 10 percent or less, the board may in its discretion decline to conduct an investigation. Except for investigations of applicants for appraiser classifications, investigations of allegations of fraudulent conduct, or investigations of possible violations of this chapter which have been litigated in the courts or arise from litigation in the courts, the board shall not initiate an investigation on its own motion or upon a sworn written request for investigation unless the act or acts which may constitute a violation of this chapter occurred within three years of the initiation of the investigation.

(b) Any person authorized to conduct an investigation on behalf of the board shall have access to and may examine any writings, documents, or other material which may be related to an investigation made upon the order of the board.

(c) In the conduct of an authorized investigation, the chairperson of the board or the commissioner may issue subpoenas to compel production of such writings, documents, or material on behalf of the board. After the service of a notice of hearing, the commissioner or chairperson of the board may issue subpoenas to compel production of such writings, documents, or material, either on behalf of the board or at the request of a respondent. The board or the respondent may apply to the superior court of the county in which a person disobeying a subpoena resides for an order requiring compliance. Failure to comply with such an order shall be punishable as for contempt of court.

(d) The results of all investigations shall be reported only to the board or to the commissioner and the records of such investigations shall not be subject to subpoena in civil actions. Records of investigations shall be kept by the board and

no part of any investigative record shall be released for any purpose other than a hearing before the board or its designated hearing officer, review by another law enforcement agency or lawful licensing authority upon issuance of a subpoena from such agency or authority or at the discretion of the board upon an affirmative vote of all members of the board, review by the respondent after the service of a notice of hearing, review by the board's legal counsel, or an appeal of a decision by the board to a court of competent jurisdiction. After service of a notice of hearing, a respondent shall have a right to obtain a copy of the investigative record pertaining to the respondent.

(e) Whenever the board revokes or suspends for more than 60 days an appraiser classification or a school approval or whenever an appraiser or an approved school surrenders an appraiser classification or an approval to the board after the board has filed a notice of hearing, the board shall publish the name of such appraiser or approved school in its official newsletter.

(f) The board shall have the authority to exclude all persons during the board's or the staff of the board's:

(1) Deliberations on disciplinary proceedings;

(2) Meetings with an appraiser or an applicant or the legal counsel of that appraiser or applicant in which the appraiser or applicant seeks to settle a contested case as provided in Chapter 13 of Title 50, the "Georgia Administrative Procedure Act"; and

(3) Review of the results of investigations initiated under this Code section.

43-39A-22.1. Conviction data

(a) As used in this Code section, the term "conviction data" means a record of a finding or verdict of guilty or plea of guilty or plea of nolo contendere with regard to any crime, regardless of whether an appeal of the conviction has been brought, or a record of a sentencing to first offender treatment without an adjudication of guilt.

(b) After the board has opened an investigation authorized by Code Section 43-39A-22, the board shall be authorized to obtain conviction data with respect to an applicant or appraiser who is the subject of such investigation. The board may require any applicant or appraiser who is the subject of an investigation conducted pursuant to Code Section 43-39A-22 and who has been convicted of, pled nolo contendere to, or been granted first offender treatment upon being charged with any criminal offense other than a traffic violation or any traffic violation that involved driving under the influence of alcohol or drugs, homicide or feticide by vehicle, fleeing the scene of an accident, attempting to elude a police officer, or impersonating a law enforcement officer to submit to the board two complete sets of classifiable fingerprints of the applicant or appraiser. Upon receipt thereof, the board shall submit both sets of fingerprints to the Georgia Crime Information Center which shall promptly transmit one set of fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report. The Georgia Crime Information Center shall retain the other set of fingerprints and promptly conduct a search of its own records and records to which it has access. The Georgia Crime Information Center shall notify the board in writing of any derogatory finding, including, but not limited to, any conviction data regarding the fingerprint records check or if there is no such finding. All conviction data received by the board shall be used by it for the exclusive purpose of carrying out its responsibilities under this chapter, shall not be a public record, shall be privileged, and shall not be disclosed to any other person or agency except as provided in Code Section 43-39A-22.

43-39A-23. Cease and desist orders.

Whenever, in the judgment of the board, any person has engaged in any acts or practices which constitute or will constitute a violation of this chapter, the Attorney General may maintain an action in the name of the state in the superior court of the county in which such violation occurred to abate and enjoin temporarily or permanently such acts and practices and to enforce compliance with this chapter. The plaintiff shall not be required to give any bond.

43-39A-24. Unlawful to operate without appraiser classification; exceptions.

(a) Except as provided in this Code section, on and after July 1, 1991, it shall be unlawful for anyone to engage in real estate appraisal activity in this state without first obtaining an appraiser classification as provided in this chapter. Nothing in this chapter shall be construed to prohibit any person who is licensed to practice in this state under any other law from engaging in the practice for which such person is licensed.

(b) This chapter shall not apply to:

(1) Individuals:

(A) Who do not render significant professional assistance in arriving at a real estate appraisal analysis, opinion, or conclusion; or

(B) Who assist an appraiser in the preparation of an appraisal report but do not sign that report or make any representations regarding it to any third party;

(2) A real estate licensee licensed in accordance with Chapter 40 of this title who, in the ordinary course of real estate brokerage business, gives a broker's price opinion, competitive market analysis, or any other written or oral opinion to a potential seller, purchaser, landlord, tenant, or third party as to the recommended listing, lease, rental, or purchase price of real estate or real property; provided, however, that this opinion as to the listing, lease, rental, or purchase price shall not be referred to as an appraisal;

(3) A registered forester registered pursuant to the provisions of Code Section 12-6-40 who appraises or evaluates standing or growing timber located in this state and issues a "certified" appraisal or valuation on such timber as permitted by Code Section 12-6-40, except that, when an appraisal or valuation of standing or growing timber is to be used in a federally related loan transaction, such registered forester must obtain the proper appraiser classification under this chapter, if required by federal law and the Appraisal Subcommittee;

(4) Any individual, partnership, limited liability company, or corporation which, as owner, as the spouse of an owner, as general partner of a limited partnership, as officer of a corporation, as lessor, or as prospective purchaser or lessee or its regular employees, expresses an opinion of value on real estate or real property leased or to be acquired by such owner;

(5) Any person who testifies to the value of real estate or real property in the courts of this state;

(6) Any officer or employee of a government agency in the conduct of official duties, except when the appraisal is being used by a government agency exercising its power of eminent domain; or

(7) Unless otherwise required by federal law or regulation, a person appraising real estate or real property exclusively for the use of a bank, a savings and loan association, or a credit union.

(c) The exceptions provided by subsection (b) of this Code section shall not apply to any person who holds an appraiser classification.

43-39A-25. Certain actions relating to appraisal activity as constituting crimes; fine.

(a) Any person who, directly or indirectly, with the intention or upon the promise of receiving any valuable consideration, offers, attempts, or agrees to perform or performs any single act of real estate appraisal activity defined in Code Section 43-39A-2, whether as a part of an appraisal or as an appraisal, shall be deemed an appraiser within the meaning of this chapter. The commission of a single such act by a person who is required to have an appraiser classification under this chapter but who has not obtained such appraiser classification shall constitute a violation of this chapter.

(b) It shall be unlawful for any person, directly or indirectly, to engage in or conduct the business of, or advertise or hold himself or herself out as engaging in or conducting the business of, or act in the capacity of, an appraiser within this state without first obtaining an appraiser classification as provided in this chapter.

(c) Notwithstanding any other provisions of law to the contrary, the board may issue a cease and desist order prohibiting any person from violating the provisions of this chapter by engaging in the practice of an appraiser without proper appraiser classification. Such cease and desist order shall be final ten days after it is issued unless the person to whom such order is issued requests a hearing before the board.

(d) The violation of any cease and desist order of the board issued under subsection (c) of this Code section shall subject the person violating the order to further proceedings before the board, and the board shall be authorized to impose a fine not to exceed \$1,000.00 for each transaction constituting a violation of such order. Each day that a person practices in violation of this chapter shall constitute a separate violation.

(e) Initial judicial review of the decision of the board entered pursuant to this Code section shall be available solely in the superior court of the county of domicile of the board.

(f) Nothing in this Code section shall be construed to prohibit the board from seeking remedies otherwise available by statute without first seeking a cease and desist order in accordance with the provisions of this Code section.

43-39A-26. Penalty.

Any person acting as an appraiser within the meaning of this chapter without an appraiser classification and any person who violates any other provision of this chapter shall be guilty of misdemeanor.

RULES AND REGULATIONS

CHAPTER 539-1

SUBSTANTIVE REGULATIONS

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539-1-.01 Organization. Amended.

(1) The public may obtain information regarding the operation of the Board or make submissions to the Board by addressing inquiries to the Georgia Real Estate Appraisers Board, Suite 1000 - International Tower, 229 Peachtree Street, N. E., Atlanta, Georgia 30303-1605.

(2) At its first regularly scheduled meeting of the calendar year, the Board shall select from its members a chairperson. An election of a chairperson may also occur at such time as the chairperson may vacate that position or at such time as the number of members which constitute a quorum may call for a new election. Only members of the Board who have at least one year's service on the Board shall be eligible to serve as chairperson. Such election shall be by secret ballot with all eligible members listed on the first ballot and balloting continuing until a member obtains a majority of the votes cast.

(3) At its first regularly scheduled meeting of the calendar year, the Board shall select from its members a vice-chairperson. An election of a vice-chairperson may also occur at such times as the vice-chairperson may vacate that position or at such time as the number of members which constitute a quorum may call for a new election. Such election shall be by secret ballot with all members listed on the first ballot and balloting continuing until a member obtains a majority of the votes cast. The vice-chairperson shall preside in the absence of the chairperson and perform such other duties as may be assigned by the chairperson.

(4) Except as may otherwise be provided for in contested cases in Chapter 539-4 Procedural Rules and in the Georgia Administrative Procedure Act, all requests for appearances before the Board shall be governed by the provisions of this paragraph. All requests for scheduled appearances before the Board shall be submitted in writing to the Board at the address listed in paragraph (1) above. The Board shall schedule an appearance at the Board's regularly scheduled quarterly meeting for the first three persons or groups submitting a written request to the Board's offices during regular business hours on or before the first day of the month preceding the quarterly meeting at which such person or group desires to be heard. Any person not scheduled to be heard by the Board who desires to be heard may, at the discretion of the Board, be allowed to appear before the Board at the end of its scheduled business at any scheduled meeting. Except by leave of the Board, all scheduled appearances before the Board shall be limited to fifteen minutes and all unscheduled appearances before the Board shall be limited to five minutes.

(5) Any interested person may petition the Board requesting the promulgation, amendment, or repeal of a Rule. Such petition shall be in writing and the signature of the petitioner notarized. Within thirty (30) days after submission of a petition, the Board either shall deny the petition in writing stating its reasons for denial or shall instigate rule-making procedures in accordance with the Georgia Administrative Procedure Act.

CHAPTER 539-1

SUBSTANTIVE REGULATIONS

(6) The Board shall supply declaratory rulings as to the applicability of any statutory provision or of any of its Rules. Requests for declaratory rulings must be in writing and the signature of the petitioner notarized. The Board shall respond to a request for a declaratory ruling within thirty (30) days of its next scheduled meeting after its receipt of said request except when the Board feels it would be in the best interest of the Board to seek the opinion of the Attorney General. Nothing in this paragraph shall limit or impair the right of the Board to seek the opinion of the Attorney General on any question of law connected with the duties of the Board. The Board shall not render a declaratory ruling on petitions on matters related to investigative hearings pending before it at the time of the petition.

Authority O.C.G.A. §§43-39A-3, & 43-39A-13.

539-1-.01A Definitions.

“Statutory overnight delivery” means delivery of a document through the United States Postal Service or through a commercial firm which is regularly engaged in the business of document delivery or document and package delivery in which the sender:

(a) has directed that delivery be not later than the next business day following the day on which the document is received for delivery by the United States Postal Service or the commercial firm and

(b) receives a receipt acknowledging receipt of the document signed by addressee or an agent of the addressee.

Authority O.C.G.A. §§43-39A-3 & 43-39A-13

539-1-.02 Fees and Renewals. Amended.

(1) Whenever an individual applicant activates an original appraiser classification, that applicant shall pay an activation fee which shall cover all fees due the Board until the last day of the month of the applicant's month of birth in the calendar year following the calendar year in which the applicant first becomes classified.

(2) Unless renewal fees are paid, all classifications issued under the provisions of paragraph (1) of this Rule will lapse at midnight on the last day of the month of the individual's birthday.

(3) Fees for all licenses and services performed by the Board shall be as follows:

(a) The activation fee for an original appraiser classification except state registered real property appraiser shall be \$95.00; the activation fee for an original state registered real property appraiser shall be \$125.00;

(b) The renewal fee for any appraiser classification for a renewal period shall be \$85.00 if submitted and paid in any manner other than through the Board's Internet on-line renewal system and \$60.00 if submitted and paid through that on-line system;

(c) As required by federal law, for all classifications except state registered real property appraiser, the Board shall collect upon activation a federal registry fee to be paid to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council of:

1. \$25.00 if the first renewal date after activation occurs 12 months or less after the date of activation; or

2. \$50.00 if the first renewal date after activation occurs more than 12 months after the date of activation.

As required by federal law, for all classifications except state registered real property appraiser, the Board shall collect at the first and each subsequent renewal of the classification a federal registry fee of \$25.00 to be paid to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council; and

(d) \$50.00, plus renewal fees which would otherwise have been due, for reinstatement of any appraiser classification or approval which lapsed solely for nonpayment of fees.

(4) \$25.00 (1) for failure to notify the Board in writing within fourteen (14) days of a change of address, (2) whenever it is necessary for the Board to return an application to an applicant because of the applicant's failure to file a complete application, and (3) for submitting to the Board a check that is returned unpaid.

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(5) Each applicant for approved school status shall pay an activation fee of \$75.00 which shall cover all fees due the Board until December 31st of the calendar year in which the Board grants approval to the school. To continue an approval thereafter, prior to December 31st for each succeeding year for which it wishes to continue a school approval, the school must pay a renewal fee of \$95.00 if submitted and paid in any manner other than through the Board's Internet on-line renewal system and \$70.00 if submitted and paid through that on-line system.

(6) Each applicant for approved instructor status shall pay an activation fee of \$75.00 which will cover all fees due the Board until December 31 of the calendar year in which the Board grants approval to the instructor. To continue an instructor approval thereafter, prior to December 31 for each succeeding year for which the instructor wishes to continue an approval, the approved instructor must pay a renewal fee of \$95.00 if submitted and paid in any manner other than through the Board's Internet on-line renewal system and \$70.00 if submitted and paid through that on-line system.

Authority O.C.G.A. §§43-39A-3, 43-39A-4, 43-39A-9, 43-39A-11, 43-39A-12, 43-39A-13, & 43-39A-15.

539-1-.03 Examinations. Amended.

(1) An examinee's supplying to others, or attempting to supply to others, any information concerning the content of any qualifying examination administered by or approved by the Board shall be grounds for denial of an appraiser classification or the imposition of any sanction permitted by O.C.G.A. Section 43-39A-18.

(2) Approved schools and their staff members are prohibited from:

(a) obtaining from examinees or others information concerning the content of any qualifying examination administered by or approved by the Board;

(b) accepting such information except as provided or approved by the Board; and

(c) using such information in non-approved courses operated by or in association with any approved school or their staff members.

Violation of this paragraph may be grounds for denial of approved status, withdrawal of approved status, suspension of approved status, or imposing any sanction permitted by O.C.G.A. Section 43-39A-18 upon an approved school.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-11, 43-39A-13, 43-39A-14, & 43-39A-18.

539-1-.04 Applying for an Appraiser Classification After Passing Examination. Amended.

(1) Any person who has taken an examination for an appraiser classification and successfully passed the examination must make application for an active or inactive appraiser classification within three months from the date of the examination date, or after three months, must pay a fee equal to two times the original application fee. Any person who fails to make application for an appraiser classification within twelve months from the date of the examination taken must retake the examination. In addition to passing the qualifying examination, an applicant who applies for an appraiser classification must submit evidence satisfactory to the Board of successful completion of any required education and experience.

(2) Any person who fulfills the requirements of paragraph (1) of this Rule and whose application for an appraiser classification is then denied may request a formal hearing concerning that denial. The applicant must make that request in writing to the Real Estate Commissioner within sixty (60) days of the Board's mailing notice to the applicant to the address on the application that the Board has reviewed the applicant's application and voted to deny issuance of an appraiser classification. If the applicant does not make written application for a hearing within sixty (60) days, the application shall lapse and the applicant must retake the examination in order to make a new application.

(3) Any person who fulfills the requirements of paragraph (1) of this Rule and who is denied issuance of an appraiser classification after having been granted the opportunity for a formal hearing may not make another application for an appraiser classification without again standing and passing the qualifying examination.

(4) Any person who fulfills the requirements for state registered real property appraiser and whose application for such appraiser classification is denied by the Board may request a formal hearing concerning that denial. The applicant must make that request in writing to the Real Estate Commissioner within sixty (60) days of the Board's mailing to the

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applicant to the address on the application notice that the Board has reviewed the applicant's application and voted to deny that classification.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-11, 43-39A-13, & 43-39A-14.

539-1-.05 Applications. Amended.

(1) Applications for an appraiser classification, for renewal of an appraiser classification, for any change in status of an appraiser classification, and for any change of information required to be filed with the Board, except a name change or a change of address, must be on Board approved forms.

(a) Any such application, change of information, or fee required to be filed with the Board may be filed with the Board by:

1. personal delivery to the Board's offices during regular business hours;
2. mail in a letter postmarked by the United States Postal Service; or
3. private courier or delivery service.

(b) Any application that does not require the payment of a fee may be filed by electronic facsimile (fax) transmission.

(c) The effective date of the filing of the application or fee shall be the United States Postal Service postmarked date, if mailed, or if otherwise filed, the date the Board dates the receipt of the application or fee. In the event that receipt by the Board of an application or fee occurs later than the deadline for the filing of such application or fee, the applicant or appraiser shall bear the burden of proof that the application or fee was timely filed.

(2) If an applicant or an appraiser submits an application on a form which is no longer in use by the Board and pays the correct fee in effect on the date of the application, the Board may require the applicant or appraiser to submit a new application on its latest form at no further cost to the applicant or appraiser.

(3) An applicant for an appraiser classification must supply all information requested on any form which the applicant or appraiser submits to the Board.

(4) The Board shall return any incomplete application, or any obsolete application, or any application on a non-approved form to an applicant or appraiser by mail at either (a) the address listed on the incomplete or incorrect application or (b) the last known business address of record in the Board's files if the incomplete or incorrect application contains no address. The applicant or appraiser must correct any deficiencies noted by the Board on such application within fourteen (14) days of the Board's mailing notice of the deficiency to the applicant or appraiser. If no response is received by the Board within thirty (30) days of the Board's mailing notice of the deficiency, the application shall be viewed as abandoned, any fee paid forfeited, and the applicant or appraiser must submit a new application and fee in order to complete the transaction.

(5) After making an original application for an appraiser classification to the Board, the applicant shall not commence real estate appraisal activities under such appraiser classification until he or she has received a wall certificate of licensure and pocket card from the Board.

(6) Duplicate wall certificates and/or pocket cards shall be issued upon satisfactory proof of loss of the original.

(7) The Board will provide reasonable accommodations to a qualified applicant with a disability in accordance with the Americans With Disabilities Act. The request for an accommodation by an individual with a disability must be made in writing and received in the Board office by the application deadline along with the appropriate documentation, as indicated in the Request for Disability Accommodation Guidelines.

(8) Whenever an applicant submits to the Board an original application on paper for classification as, including but not limited to, a registered, licensed, or certified appraiser or for approval as a school or instructor, the Board shall maintain the paper record for a period of fifteen years and may then destroy the application. Whenever an appraiser submits any other application to the Board on paper, the Board shall maintain the paper record for a period of one year

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and may then destroy the application. The Board shall maintain all electronic licensing records for a period of at least 15 years.

(9) The Board shall maintain investigative files under the following schedules:

- (a) forty years for all investigative files in which the Board imposes a formal disciplinary action; and
- (b) fifteen years for all other investigative files.

(10) No more than 60 days prior to making application, each applicant for an appraiser classification or an instructor approval shall obtain, at the applicant's expense, and attach to the applicant's application for classification a certified criminal history report issued by the Georgia Crime Information Center of the Georgia Bureau of Investigation indicating whether the applicant has any record of a criminal history. If that report indicates that the applicant has a record in another jurisdiction, the applicant must, at the applicant's expense, provide any necessary fingerprints, fees, authorization, or other requirements for the Board to obtain a Federal Crime Information Center report from the Federal Bureau of Investigation.

Authority O.C.G.A. §§ 43-39A-7, 43-39A-8, 43-39A-9, 43-39A-11, 43-39A-13, 43-39A-14, 43-39A-15, 43-39A-16, 43-39A-22, & 43-39A-22.1.

539-1-.06 Certified Copies of Convictions. Amended.

(1) Whenever an applicant reveals, or the Board discovers, that any applicant for classification or renewal of a classification has a criminal conviction, as that term is defined in O.C.G.A. §43-39-14 (b)(1)(A), such applicant must supply to the Board a certified copy of:

- (a) the citation, accusation, information, or indictment that led to the conviction; and
- (b) a certified copy of the sentence.

(2) Whenever an applicant reveals, or the Board discovers, that any applicant for classification or renewal of a classification has been the subject of a disciplinary proceeding before any licensing agency, such applicant must supply the Board with a certified copy of:

- (a) any allegations that preceded the final order; and
- (b) the final order of that licensing agency.

(3) The Board, in its discretion, may elect not to process an application for classification or renewal of a classification unless the requirements of paragraphs (1) and (2) are met.

Authority O.C.G.A. §§43-39A-3, 43-39A-7, 43-39A-13, & 43-39A-18.

539-1-.07 Reactivation of Inactive Appraiser Classification. Amended.

(1) Any appraiser who seeks to activate an appraiser classification which has been on inactive status and who is not current in meeting continuing education requirements shall be required to attend any Board approved course or courses of study necessary to bring such appraiser's continuing education requirements current.

(2) Any nonresident appraiser who seeks to activate an appraiser classification which has been on inactive status and who is current in meeting the continuing education requirements in his or her state of residence shall not be required to attend any additional education courses in order to activate such nonresident's appraiser classification.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, & 43-39A-13.

539-1-.08 Reinstatement of Lapsed Appraiser Classification. Amended.

(1) Any appraiser whose appraiser classification lapses due to nonpayment of fees or failure to complete satisfactorily any of the education requirements of O.C.G.A. Chapter 43-39A shall be prohibited from engaging in real estate appraisal activities as defined in O.C.G.A. Section 43-39A-2 until such time as the appraiser classification is reinstated. Upon the lapsing of an appraiser classification, an appraiser shall forward his or her wall certificate and pocket card to the Board at once.

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(2) Except as provided in paragraph (6) below, any appraiser who fails to pay a renewal fee and allows an active appraiser classification to lapse may reinstate that appraiser classification within two years of the date of its lapsing by paying the total amount of all renewal fees which would have been due while that appraiser classification was lapsed plus a reactivation fee and by successfully completing any required continuing education courses which would have been due while that appraiser classification was lapsed.

(3) Except as provided in paragraph (6) below, any appraiser who allows an appraiser classification to lapse for a period longer than two years but less than ten years due solely to a failure to pay a renewal fee may reinstate that appraiser classification by paying the total amount of all renewal fees which would have been due while that appraiser classification was lapsed plus a reactivation fee and by successfully completing 90 classroom hours of Board approved courses which include at least 15 classroom hours covering the Uniform Standards of Professional Appraisal Practice.

Courses taken to reinstate an appraiser classification under this paragraph must be taken within one year prior to making application for and paying the fees required for reinstatement. Any course taken under this paragraph must be taken at a Board approved school.

(4) Any appraiser whose appraiser classification lapses for failure to complete in a timely manner any continuing education required for renewal of that appraiser classification may reinstate that appraiser classification by (a) furnishing the Board evidence of having completed an approved course or courses of study and (b) paying any required fees. The course or courses of study required by (a) above must have a number of hours of instruction totaling at least 14 classroom hours for each year of the renewal period.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-11, & 43-39A-13.

(5) Except as provided in paragraph (6) below, any real estate appraiser who fails to pay a renewal fee and allows an appraiser classification to lapse and who does not elect to reinstate that appraiser classification under the provisions of paragraph (2) or (3) of this Rule may reinstate that appraiser classification by furnishing proof of completion of any required prelicense education and, if that appraiser classification requires passage of an examination by taking and passing the appropriate qualifying examination for that appraiser classification.

(6) Any nonresident appraiser whose appraiser classification lapses for failure to pay a renewal fee may reactivate that appraiser classification by paying the fee required of an original applicant if such nonresident has maintained an active appraiser classification in his or her state of residence during the period that his or her appraiser classification lapsed and has met that state's continuing education requirements.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-11, & 43-39A-13.

539-1-.09 Notification of Legal Actions. Amended.

Every appraiser shall notify the Board in writing of the final disposition of any administrative, civil, or criminal action filed in any court of competent jurisdiction or any administrative agency whenever that final disposition involves the subject matter of the offenses cited in O.C.G.A. Sections 16-13-111, 43-39A-14 or 43-39A-18. Such notice of any administrative or civil action shall be given to the Board within ten (10) days of the conclusion of the court or administrative proceedings and shall include a copy of any final order entered by the court or agency. Such notice of any criminal action shall be given to the Board within ten days of any conviction and shall include a copy of the indictment, or accusation, and the conviction.

Authority O.C.G.A. §§16-13-111 and 43-39A-3, 43-39A-7, 43-39A-13, & 43-39A-18.

539-1-.10 Certifications of Appraiser Classification History. Amended.

Upon written request the Board shall provide a certification of the history of an appraiser's records with the Board only for the five years immediately preceding the written request. However, regardless of the date of occurrence, the Board shall provide a certification of any records that it maintains of any disciplinary actions taken against the appraiser classification of any appraiser. Whenever the certification is to be utilized in a court of law, the party making the written request for the certification shall also indicate the name of the case, its case number, and the name of the court in which the certification will be used.

Authority O.C.G.A. §§43-39A-3, 43-39A-6, & 43-39A-13.

539-1-.11 Retention of Certificate of Appraiser Classification. Amended.

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Upon making such request in writing to the Board, any appraiser who retires after twenty years of active appraiser classification or the family of any appraiser who is deceased shall be allowed to retain the appraiser's wall certificate of appraiser classification for nonappraisal purposes.

Authority O.C.G.A. §§43-39A-3, 43-39A-10, & 43-39A-13.

539-1-.12 Paying Compensation to an Out of State Appraiser. Amended.

An appraiser classified in this state is hereby permitted to divide or share compensation with an appraiser classified in another state.

Authority O.C.G.A. §§43-39A-3, 43-39A-13, 43-39A-18.

539-1-.13 Appraiser's Duties Upon Surrender, Suspension, or Revocation of an Appraiser Classification. Amended.

Upon surrendering an appraiser classification or upon notice of suspension or revocation of an appraiser classification an appraiser shall forward his or her wall certificate and pocket card at once to the Board. No refund of fees will be made upon any appraiser classification when surrendered, suspended, or revoked. Any appraiser who surrenders an appraiser classification to the Board or whose appraiser classification is revoked by the Board and who later seeks reinstatement of that appraiser classification must apply as an original applicant.

Authority O.C.G.A. §§43-39A-3, 43-39A-10, & 43-39A-13.

539-1-.14 Investigations. Amended.

(1) Whenever a request for investigation involves an appraisal report which varies from a sales, lease, or exchange price by 10% or less, the Board may in its discretion decline to conduct an investigation.

(2) Whenever a request for investigation is based on a disagreement with an appraiser's opinion of value, the Board may request that the party requesting the investigation supply it with an appraisal report on the property conducted by another appraiser regulated by the Board before the Board initiates an investigation.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-11, 43-39A-13, 43-39A-14, & 43-39A-18.

539-1-.15 Experience Requirements. Amended.

(1) All applicants for state licensed real property appraiser, state certified residential real property appraiser, or state certified general real property appraiser must have at least two years of experience in real property appraisal activity acquired preceding the filing of an application for state licensed real property appraiser, state certified residential real property appraiser, or state certified general real property appraiser. Real property appraisal activity (a) means both the act or process of valuation of real estate or real property and preparing an appraisal report and (b) include fee and staff appraisals, ad valorem tax appraisals, review appraisals, appraisal analysis, highest and best use analysis, feasibility analysis/study, and market analysis/study. In order to count toward meeting the experience requirements for any classification, appraisal experience obtained after January 1, 1991, must include real property appraisal activity conducted in compliance with the Standards for Appraisals in Chapter 539-3.

(2) Applicants may not count work in the following areas toward meeting the requirement for at least two years of experience:

(a) market value estimates as a real estate licensee in connection with the listing and/or sale of real estate;

(b) mass appraisals of real estate for ad valorem tax purposes (credit will be given for appraisals of individual parcels for such purposes);

(c) appraisals of businesses;

(d) appraisals of personal property; or

(e) a feasibility or market analysis except to the extent that the applicant estimated the market value of a proposed real estate project.

(3) For purposes of this Rule, a year is defined as one thousand hours of real estate appraisal experience.

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(4) Each applicant shall verify his or her experience by executing an affidavit in language and on forms as prescribed by the Board.

(5) The Board may require an applicant to document experience by producing appraisal reports [if release of such report(s) is (are) approved by the applicant's client(s)], and file memoranda. Appraisal reports or file memoranda claimed as evidence to meet experience requirements should at a minimum contain the following:

- (a) identification and description of the property being appraised;
 - (b) identification of the real property interest being appraised;
 - (c) statement of the purpose of the appraisal;
 - (d) definition of the value to be estimated;
 - (e) effective date of the appraisal and date of the report;
 - (f) description of the process of data collection, confirmation, and reporting;
 - (g) assumptions and limiting conditions;
 - h) description of the information considered, appraisal procedures followed and the reasoning supporting the analysis, opinions, and conclusions;
 - (i) the appraiser's opinion of highest and best use;
 - (j) explanation of the exclusion of any usual valuation approaches;
 - (k) explanation of any departures from common standards of appraisal practice in effect at the time of the appraisal; and
 - (l) signed certification.
- (6) The Board, at its option, may elect to accept documentation of experience other than that cited in paragraph (5) above including, but not limited to, the following:
- (a) submission of a detailed log of appraisal activity;
 - (b) employer affidavits or interviews;
 - (c) client affidavits or interviews; and
 - (d) submission of business records.

Authority O.C.G.A. §§43-39A-3, 43-39A-10, & 43-39A-13.

539-1-16 Appraiser Classifications and Their Education, Examination, and Experience Requirements. Amended.

(1) A state registered real property appraiser may perform appraisals on any type of property except when the purpose of the appraisal is for use in a federally related transaction. In order to qualify as a state registered real property appraiser, an applicant must:

- (a) have attained the age of 18 years old;
- (b) be a resident of the state of Georgia, unless that applicant has fully complied with the provisions of Code Section 43-39A-9;
- (c) be a high school graduate or the holder of a general educational developmental equivalency diploma; and

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(d) furnish evidence of having successfully completed at least 90 classroom hours of study in a Board approved course or courses which includes at least 15 classroom hours covering the Uniform Standards of Professional Appraisal Practice.

(2) A state licensed real property appraiser (a) may engage in any appraisal activity permitted a state registered real property appraiser; (b) may appraise properties in federally related transactions of non-complex one to four residential units having a transaction value less than \$1,000,000; (c) may appraise any other real estate having a transaction value less than \$250,000; and (d) such other appraisals in federally related transactions as may be approved by the federal financial institutions regulatory agencies. In federally related transactions, a state licensed real property appraiser may not appraise real estate wherein a development analysis/appraisal is necessary and utilized. In order to qualify as a state licensed real property appraiser, an applicant must:

a) have attained the age of 18 years old;

(b) be a resident of the state of Georgia, unless the applicant has fully complied with the provisions of Code Section 43-39A-9;

(c) be a high school graduate or the holder of a general educational developmental equivalency diploma;

(d) furnish evidence that he or she has successfully completed not less than 90 classroom hours in a Board approved course or courses of study which includes at least 15 classroom hours covering the Uniform Standards of Professional Appraisal Practice;

(e) upon the filing of an application for examination, provide documentation on forms prescribed by the Board of at least 2,000 hours of experience in real estate appraisal activity. Such documentation must include for each appraisal report the type of property, the date of the report, the address of the property, a description of the work performed, and the number of work hours; and

(f) after meeting the requirements of subparagraphs (a) through (e) of this paragraph, take and pass an examination approved by the Board covering generally the matters confronting state licensed real property appraisers.

(3) A state certified residential real property appraiser (a) may perform appraisals on any property which a state registered real property appraiser or state licensed real property appraiser may appraise; (b) may appraise one to four residential units without regard to transaction value or complexity; and (c) such other appraisals in federally related transactions as may from time to time be approved by the federal financial institutions regulatory agencies. In federally related transactions, a state certified residential real property appraiser may not appraise real estate wherein a development analysis/appraisal is necessary and utilized. In order to qualify as a state certified residential real property appraiser, an applicant must:

(a) have attained the age of 18 years old;

(b) be a resident of the state of Georgia, unless that applicant has fully complied with the provisions of O.C.G.A. Section 43-39A-9;

(c) be a high school graduate or the holder of a general educational developmental equivalency diploma;

(d) furnish evidence that he or she has successfully completed not less than 120 classroom hours in a Board approved course or courses of study which includes at least 15 classroom hours covering the Uniform Standards of Professional Appraisal Practice;

(e) upon the filing of an application for examination, provide documentation on forms described by the Board of at least 2,500 hours of experience, gained continuously over a period of at least 24 months, in real estate appraisal activity of which at least twenty-five percent must be in complex one to four unit residential appraisal work. Such documentation must include for each appraisal report the type of property, the date of the report, the address of the property, a description of the work performed, and the number of work hours; and

(f) after meeting the requirements of subparagraphs (a) through (e) of this paragraph, take and pass an examination approved by the Board covering generally the matters confronting state certified residential real property appraisers.

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(4) A state certified general real property appraiser may appraise any type of property for any purpose. In order to qualify as a state certified general real property appraiser, an applicant must:

- (a) have attained the age of 18 years old;
- (b) be a resident of the state of Georgia, unless that applicant has fully complied with the provisions of Code Section 43-39A-9;
- (c) be a high school graduate or the holder of a general educational developmental equivalency diploma;
- (d) furnish evidence that he or she has successfully completed not less than 180 classroom hours in a Board approved course or courses which includes at least 15 classroom hours covering the Uniform Standards of Professional Appraisal Practice;
- (e) upon the filing of an application for examination, provide documentation on forms prescribed by the Board of at least 3,000 hours of experience, gained continuously over a period of at least 30 months, in real estate appraisal activity of which at least fifty percent must be in non-residential appraisal work. Such documentation must include for each appraisal report the type of property, the date of the report, the address of the property, a description of the work performed, and the number of work hours; and
- (f) after meeting the requirements of subparagraphs (a) through (e) of this paragraph, take and pass an examination approved by the Board covering generally the matters confronting state certified general real property appraisers.

(5) An applicant who has taken a college course, the content of which is demonstrated to the satisfaction of the Board to include subject matters authorized by Code Section 43-39A-8(d) and enumerated in Chapter 539-2 of the Rules, may count such college course toward meeting the education requirements of this Rule at a rate of 8 classroom hours per quarter hour or 13.3 classroom hours per semester hour of credit earned.

(6) A classroom hour is at least fifty minutes of each sixty minute segment. The Board will grant credit toward a classroom hour requirement for preclassification education only if the course offering is at least fifteen hours in length and the applicant successfully completes an examination pertinent to the course. The Board will grant credit toward a classroom hour for continuing education only if the course offering is at least two hours in length.

(7) Every appraiser with an active classification must complete fourteen classroom hours of continuing education instruction for each year of the appraiser's renewal period. In every two consecutive renewal periods, every appraiser with an active classification must successfully complete a Board approved course in the Uniform Standards of Professional Appraisal Practice of at least seven hours.

(8) No hours of credit shall be awarded for any education course which an applicant or appraiser completes solely by taking and passing an examination.

(9) State registered real property appraisers classified after March 1, 2004, shall be given credit for their first one thousand hours of appraisal experience only if it is earned in appraisal assignments performed under the direct supervision of a supervising appraiser.

(a) For the purpose of this rule, "supervising appraiser" means a state certified general real property appraiser, a state certified residential real property appraiser, or a state licensed real property appraiser provided that the state licensed real property appraiser has accumulated at least the qualifying appraisal experience defined in paragraph (3)(e) of this rule.

(b) In order for the experience to qualify for credit, the supervising appraiser supervising such state registered real property appraiser shall for each appraisal:

1. accept responsibility for supervising the state registered real property appraiser by signing the appraisal report and certifying that it complies with generally accepted appraisal procedures and is in compliance with the standards required by the federal financial institutions regulatory agency that regulates the financial transaction for which the appraisal assignment was undertaken;

2. review the report before signing it; and

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3. personally inspect along with the state registered real property appraiser each property appraised until such time as the supervising appraiser determines that the state registered real property appraiser is competent in inspecting properties. The Board will deem a registered appraiser to have demonstrated competence in inspecting residential properties after having performed at least twenty inspections of one to four family residential properties in the presence of a supervising appraiser while performing an appraisal assignment.

(c) The supervising appraiser and the supervised state registered real property appraiser shall jointly maintain an appraisal log that shall include at least the following information for each appraisal performed:

1. the address of the property appraised;
2. the type of property appraised;
3. the date of the value estimate;
4. a notation of whether the supervising appraiser inspected the property along with the state registered real property appraiser;
5. a description of the work performed by the state registered real property appraiser and the scope of the review and supervision of the supervising appraiser;
6. the actual number of hours worked on the assignment by the state registered real property appraiser; and
7. the signature and state classification number of each appraiser.

(d) The supervising appraiser and the state registered real property appraiser must each comply with the requirements of 43-39AB18(b)(12) to retain for a period of five years the original or a true copy of each appraisal report prepared or signed by each appraiser and all supporting data assembled and formulated by the appraisers in preparing each such appraisal report.

(e) A state registered real property appraiser may work with more than one supervising appraiser.

(f) At the time of supervising a state registered real property appraiser, the supervising appraiser must be in good standing and must not have received a suspension or revocation of an appraisal classification within the last five years.

(g) Experience credit shall be given only for experience earned while the applicant has a classification in this or another state.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, & 43-39A-13.

539-1-17 Disclosure of Appraiser Classification and Number.

(1) When signing an appraisal report, an appraiser shall, adjacent to his or her signature, print or type his or her name, appraiser classification, and number assigned by the Board.

(2) When an appraiser makes reference to his or her appraiser classification status in any advertisement, statement of qualifications, contract, or other instrument used by the appraiser, the appraiser shall print or type his or her name, appraiser classification, and number assigned by the Board. If the appraiser signs such document or advertisement, the appraiser shall, adjacent to his or her signature, print or type his or her name, appraiser classification and number assigned by the Board. Such disclosure is usually most clearly accomplished by spelling out the name of the key words in classification name; e.g. “Registered,” “Licensed,” “Certified Residential,” or “Certified General.”

(3) A State Registered Real Property Appraiser must clearly disclose such Registered appraiser’s classification type on any appraisal report form that calls for inserting a classification number beside the names of such non-Registered classification types as licensed or certified. Thus, a State Registered Real Property Appraiser who draws a line through the name of the non-Registered classification type and enters the word “Registered” followed by such Registered appraiser’s number issued by the Board shall be deemed to have complied with the requirements of this rule.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, & 43-39A-13.

539-1-18 Preliminary Decisions Regarding Prior Criminal Convictions or Disciplinary Sanctions.

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(1) The Official Code of Georgia Annotated Section 43-39A-14 provides in part that the Board may deny a classification to an applicant who has a prior criminal conviction(s) or a disciplinary sanction(s) imposed by any occupational licensing body. An applicant for classification is a person who has met all experience, education, and examination requirements for the classification sought.

(2) Because of the time and expense involved in becoming an applicant for classification, the Board affords an individual who has not yet become an applicant the opportunity to request that the Board make a preliminary decision on the conviction(s) or the prior disciplinary sanction(s) before the individual takes the required education and examination for classification. The purpose of a preliminary decision is merely to provide advisory guidance. Preliminary decisions are not binding. However, the Board may elect to allow a favorable preliminary decision to become its final decision without further investigation or hearing when the individual becomes an applicant for classification.

(3) An individual seeking a preliminary decision must submit to the Board a certified copy of any indictment and conviction or a disciplinary sanction imposed by another licensing regulatory authority. An individual seeking a preliminary decision may also provide the Board with any additional information that the individual believes may assist the Board in rendering a preliminary decision.

(4) A preliminary decision by the Board that is unfavorable to the individual shall not prevent the individual from becoming an applicant for classification by successfully completing all education, experience, and examination requirements for the classification. Whenever the Board denies a classification based on a prior conviction or prior disciplinary action, it must provide the applicant the opportunity for notice and a hearing.

Authority O.C.G.A. §§43-39A-3, 43-39A-13, & 43-39A-14.

539-1-.19 Significant Professional Assistance.

(1) Whenever an appraiser utilizes the assistance of an unclassified person in the development or reporting of an appraisal assignment, the appraiser is responsible for the acts of the unclassified person and therefore subject to disciplinary action by the Board if the acts of the unclassified person violate any of the provisions of this Chapter. Unclassified persons may perform only duties and tasks that are ministerial in nature and that do not require discretion or the exercise of judgment independent of the appraiser's specific instructions. Unclassified persons may not render significant professional assistance in arriving at a real estate appraisal analysis, opinion, or conclusion.

(2) In order to provide reasonable guidelines for appraisers and those persons who assist appraisers but without defining every permitted or prohibited activity, the Board has identified the following tasks that unclassified persons assisting an appraiser can and cannot perform.

(a) Permitted activities (those which do not involve significant professional assistance) for unclassified persons assisting appraisers and under the supervision of the appraiser include:

1. typing an appraiser's research notes;
2. typing an appraisal report;
3. accompanying an appraiser on an inspection visit to a property;
4. assisting an appraiser in measuring a property;
5. taking photographs of specific areas and views of specific properties selected by the appraiser;
6. performing routine calculations;
7. obtaining copies of tax cards, deeds, maps, and data from real property data bases relating to properties selected by the appraiser;
8. checking for accuracy data selected by the appraiser;

(b) Prohibited activities (those which involve significant professional assistance) for unclassified persons assisting appraisers and under the direct supervision of the appraiser include:

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1. signing an appraisal report;
2. discussing an appraisal assignment with anyone other than the appraiser responsible for the assignment;
3. selecting comparables for an appraisal assignment;
4. making adjustments to comparables;
5. drafting an appraisal report;
6. except when working in the presence of a classified appraiser:
 - i. inspecting a property that is the subject of an appraisal or that may be used as a comparable in an appraisal; or
 - ii. measuring a property.

Authority O.C.G.A. §§43-39A-3, 43-39A-13, & 43-39A-24.

539-1-.20 Property Tax Consultants.

(1) A property tax consultant is an appraiser employed or retained to act in an advocacy capacity in a property tax appeal matter in which the appraiser acts as an advocate, not as a disinterested third party, in rendering an analysis, opinion, or conclusion relating the nature, quality, value, or utility of identified real estate or identified real property and in which any final determination of value is to be made by an authorized governmental entity or statutory process.

(2) A property tax consulting assignment is one in which the appraiser provides specialized services and is therefore subject to the requirements of the Official Code of Georgia Annotated §43-39A-20 (3).

(3) In performing property tax consulting assignments, an appraiser must:

- (a) obtain any occupational or professional license required to perform such specialized services;
- (b) be aware of, understand, and correctly employ those recognized consulting methods and techniques that are necessary to produce credible results;
- (c) not commit a substantial error of omission or commission that significantly affects the results of a property tax consulting assignment; and
- (d) not render property tax consulting assignments in a careless or negligent manner, such as a series of errors that, considered individually, may not significantly affect the results, but which, when considered in the aggregate, would be misleading.

Departure from the requirements of this paragraph is not permitted in property tax consulting assignments.

(4) In performing property tax consulting assignments, an appraiser must observe the following specific guidelines:

- (a) clearly identify the client's objective;
- (b) define the problem to be considered, define the purpose and intended use of the property tax consulting assignment, consider the extent of the data collection process, adequately identify the real estate and/or property under consideration (if any), describe any special limiting conditions, and identify the effective date of the property tax consulting assignment;
- (c) collect, verify, and reconcile such data as may be required to complete the property tax consulting assignment. If an independent appraisal assignment is pertinent to the property tax consulting assignment, an appraisal in conformance with Rule 539-3-.07 must be included in the data collection. All pertinent information shall be included;

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- (d) apply the appropriate consulting tools and techniques to the data collected; and
- (e) base all projections on reasonably clear and appropriate evidence.

(5) In reporting the results of a property tax consulting assignment, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading. Each written or oral consulting report must:

- (a) clearly and accurately set forth the property tax consulting assignment in a manner that will not be misleading;
- (b) contain sufficient information to enable the person(s) who receive or rely on the report to understand it properly; and
- (c) clearly and accurately disclose any extraordinary assumption or limiting condition that directly affects the property tax consulting assignment and indicate its impact on the final conclusion or recommendation (if any).

Departure from the requirements of this paragraph is not permitted in property tax consulting assignments.

(6) Each written property tax consulting assignment must comply with the following specific reporting guidelines:

- (a) define the problem to be considered;
- (b) state the purpose of the property tax consulting assignment;
- (c) identify and describe the real estate and/or property under consideration;
- (d) set forth the effective date of the property tax consulting assignment and the date of the report;
- (e) describe the overall range of work and the extent of the data collection process;
- (f) set forth all assumptions and limiting conditions that affect the analyses, opinions, and conclusions;
- (g) set forth the information considered, the consulting procedures followed, and the reasoning that supports the analyses, opinions, and conclusions;
- (h) set forth the appraiser's final conclusions or recommendations (if any);
- (i) set forth any additional information that may be appropriate to show compliance with, or clearly identify and explain permitted departures from, the requirements of paragraphs (3) and (4) of this Rule; and
- (j) include a signed certification in accordance with paragraph (7) of this Rule.

(7) Each written property tax consulting assignment report must contain a certification that is similar in content to the following form:

I certify that, to the best of my knowledge and belief:

- that this report has been prepared in my capacity as an advocate in a property tax appeal matter and not as a disinterested third party.
- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, professional analyses, opinions, and conclusions.

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- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the relevant appraisal standards adopted by the Georgia Real Estate Appraisers Board.

- I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs the report, this certification must clearly specify which individuals did and which individuals did not make a personal inspection of the property.)

- no one provided significant professional assistance to the person signing this report. (If there are exceptions, the name of each individual providing significant professional assistance must be stated.)

Departure from the requirements of this paragraph is not permitted in property tax consulting assignments.

(8) To the extent that it is both possible and appropriate, any oral report (including expert testimony) of a property tax consulting assignment must address the substantive matters set forth in paragraph (6) of this Rule.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, & 43-39A-13.

539-1-.21 Citations.

(1) Whenever the Board determines from the evidence gathered in an investigation that an appraiser has violated one or more of the provisions of O.C.G.A. Chapter 43-39A or the rules and regulations adopted by the Board or a standard of conduct, the Board may issue a citation to the appraiser in lieu of initiating the process for the imposition of sanctions in accordance with the hearing procedures established for contested cases by Chapter 13 of Title 50. A citation issued by the board may include an order to complete a course of study in real estate appraisal or instruction or to pay a fine not to exceed \$1,000.00 for each violation with fines for multiple violations limited to \$5,000.00 in any one citation.

(2) The Board may elect to require successful completion of approved continuing education courses in addition to or in lieu of the financial penalties cited in paragraph (3) below.

(3) Violation of the following rules, regulations, and standards of conduct may become the basis for the issuance of a citation. While the Board may determine that circumstances warrant the imposition of a lesser penalty, the monetary penalty prescribed is the maximum penalty for a single violation of that rule, regulation, or standard of conduct. In the event of any conflict between the description of a violation in the schedule below and the language in the code section or rule, the language in the code section or rule shall control.

(a) Where an examination of an approved school reveals a violation of requirements set forth in 539-2-.03; 520-3-.03; 539-2-.04; 539-2-.06(1) & (2); 539-2-.08; 539-2-.09; 539-2-.11; 539-2-.12; 539-2-.14; or 539-5-.04. Fine of \$100.00.

(b) Where an appraiser commits an error or omission in the development or reporting of an appraisal which violates one or more of the standards contained in Chapter 539-3 but which does not materially affect the validity of the appraisal or the appraisal report. Fine of \$200.00.

(c) Failure of an appraiser to print or type the appraiser's name, classification, and number assigned by the Board on any advertisement, document or instrument used by the appraiser which bears reference to the appraiser's classification. 43-39A-10 & 539-1-.17. Fine of \$200.00.

(d) Paying a finder's fee or a referral fee to a person who is not an appraiser in connection with a real estate appraisal. 43-39A-18(a)(5). Fine of \$200.00.

(e) Where an approved school violates one or more of the requirements set forth in 539-2-.14 in the development or offering of independent study courses. Fine of \$200.00.

(f) Engaging in real estate appraisal activity under an assumed or fictitious name not properly registered with the Secretary of State or with a political subdivision of this state as a name or trade name. 43-39A-18(a)(4). Fine of \$200.00.

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(g) Where an appraiser utilizes in other than a ministerial capacity, the services of a person who does not hold a current, active appraisal classification in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal. 43-39A-18(a)(18). Fine of \$200.00.

(h) Failure of an appraiser to print or type adjacent to his or her signature on an appraisal report or any other document or instrument used by the appraiser which bears reference to the appraiser's classification status and his or her signature, the appraiser's name, classification, and number assigned by the Board. 43-39A-10 & 539-1-.17. Fine of \$200.00.

(i) Failure of an appraiser to retain for five years an original or copy of each appraisal report prepared by or signed by the appraiser along with all supporting data upon which the appraiser relied in developing the appraisal and preparing the report. 43-39A-18(a)(12). Fine of \$200.00 per appraisal.

(j) Where an approved school offers a course without the Board's prior approval if such prior approval is required. 43-39A-8(c), 539-2-.02(2), 539-2-.03, & 539-2-.05. Fine of \$200.00 per student enrolled.

(k) Where an appraiser engages in real estate appraisal activities in violation of 539-1-.08 beyond the month in which an appraisal classification lapses for non-payment of renewal fees. Fine of \$200.00 per appraisal transaction.

(l) Where an approved school fails to have a student complete the required number of hours in any course or to complete all exercises and/or examinations required by the school. 539-2-.07. Fine of \$500.00 or \$100.00 per student, whichever is greater.

(m) Failure of an appraiser to notify the Board of a conviction or violation within ten days of the conclusion of court or administrative proceedings. 539-1-.09. Fine of \$200.00.

(n) Where an approved school allows a person who has not been approved by the Board as an instructor to instruct an approved course. 539-2-.06(3). Fine of \$300.00 per course.

(o) Where an appraiser has made a false statement of material fact on his or her application or caused to be submitted or been a party to preparing or submitting any falsified application to the Board on paper, electronically, or by any other means or media. 43-39A-14(d), 539-2-.13(1), & 539-5-.05. Fine of \$400.00.

(p) Where the annual percentage of students passing the state appraisal examination from an approved school falls ten percentage points or more below the percentage of all examinees passing a state examination in any two consecutive calendar years. 539-2-.13(2). Fine of \$500.00.

And such other violations and fines as the Board and the respondent parties agree upon.

(4) In lieu of imposing a citation upon an appraiser, the Board in its discretion may offer the appraiser the opportunity to consent to completing a course of study, to paying a fine, or some combination of these or other penalties.

(5) When the Board issues a citation on its own motion, the order in the citation shall become final when 30 days have passed since the date of service of the citation upon the appraiser either personally or by certified mail or statutory overnight delivery unless prior to that time

(a) the appraiser and the Board have reached agreement on alternative terms; or

(b) the Board has requested a contested case hearing.

When a citation becomes final, the appraiser named in the citation must meet any requirements contained in the order in the citation within 30 days of the effective date of that order unless the order prescribes a different timetable for completion of the requirements.

(6) Service of the final order in a citation shall be by personal delivery or by certified mail or statutory overnight delivery to the last address provided to the Board by the appraiser. Service upon an appraiser's attorney shall be deemed service upon the appraiser.

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(7) After initiating a contested case action, the Board, in its discretion and with the consent of the appraiser, may elect to dismiss the contested case action and issue a citation.

(8) The Board may impose sanctions on the classification of an appraiser who fails to comply with the terms of a final order in a citation after giving notice to the appraiser and the opportunity for a hearing.

(9) In imposing sanctions on an appraiser's classification in a contested case, the Board shall not consider prior citations if the appraiser has fully complied with the terms of those citations.

Authority O.C.G.A. §§43-39A-8, 43-39A-10,43-39A-13,43-39A-14(d), 43-39A-18, 43-39A-18.1

539-1-.22 Maintenance of Records

Copies of appraisals and other records which appraisers are required by law and the Board's rules to maintain may be maintained in any records storage system that utilizes paper, film, electronic, or other media provided that:

(a) the appraiser can produce true and correct copies of such documents and records and

(b) copies of such documents and records can be made available to an authorized representative of the Board upon reasonable request and at reasonable cost to the Board.

Authority O.C.G.A. §§43-39A-3, 43-39A-13, & 43-39A-18.

CHAPTER 539-2**STANDARDS FOR APPRAISAL COURSES**

- 539-2-.01 College and Equivalent Courses
- 539-2-.02 Procedures for Approval of Schools and Courses
- 539-2-.03 Courses
- 539-2-.04 Course Examinations
- 539-2-.05 Continuing Education Courses
- 539-2-.06 Facilities and Instructors
- 539-2-.07 Minimum Standards for Students
- 539-2-.08 Maintenance of Records
- 539-2-.09 Notice To Students of Approval
- 539-2-.10 Renewal of Approval
- 539-2-.11 Changes and Exceptions
- 539-2-.12 Advertising
- 539-2-.13 Violations
- 539-2-.14 Computer-Based Courses
- 539-2-.15 Instruction in Standards.
- 539-2-.16 Distance Education Courses.

539-2-.01 College and Equivalent Courses. Amended.

(1) An applicant for state licensed real property appraiser who has successfully completed any course or courses of at least ninety (90) hours of precense appraiser education which was approved by another appraiser licensing and certification agency in any state, district, territory, possession, or province of the United States or Canada may submit with the applicant's application for examination evidence of that completion from such agency in order to meet the education requirement to sit for a licensing examination and to apply for state licensed real property appraiser. An applicant for a state certified residential real property appraiser who has successfully completed any course or courses of at least one hundred twenty (120) hours of precense appraiser education which was approved by another licensing and certification agency in any state, district, territory, possession, or province of the United States or Canada may submit with the applicant's application for examination evidence of that completion from such agency in order to meet the education requirement to sit for a certification examination and to apply for state certified residential real property appraiser. An applicant for state certified general real property appraiser who has successfully completed any course or courses of at least one hundred eighty (180) hours of precense appraiser education approved by another appraiser licensing and certification agency in any state, district, territory, possession, or province of the United States or Canada may submit with the applicant's application for examination evidence of that completion from such agency in order to meet the education requirement to sit for the certification examination and to apply for state certified general real property appraiser.

(2) The Board shall deem the education requirements for an appraiser classification as met by any applicant who submits satisfactory written proof that he or she has taught any of the equivalent courses approved under this Rule or any courses approved under Rule 539-2-.03 provided such course or courses total at least the number of hours the applicant is required to complete for the appraiser classification for which the applicant is applying.

(3) In order to be accepted by the Board as approved to meet educational requirements for classification or for continuing education, courses approved by licensing agencies in other states, districts, territories, possessions, or provinces of the United States or Canada must be courses offered through classroom instruction or through computer-based instruction that is consistent with the standards of Rule 539-2-.14 of these regulations.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-9, 43-39A-11, 43-39A-13, 43-39A-18, & 43-39A-22.

539-2-.02 Procedures for Approval of Schools and Courses. Amended.

(1) The Board shall approve, disapprove, or request additional data on any application for a school approval within sixty (60) days of the submission of a completed application containing the data required by this Rule. The application, in addition to the name and address of the school or person offering appraisal course(s) as well as any other identifying criteria which the Board may require, must set forth in terms acceptable to the Board the following:

(a) a detailed proposal of records management for retaining for at least five years records which will reflect the scores earned by a student on all graded exercises and examinations;

(b) if subject to the Nonpublic Postsecondary Educational Institutions Act of 1990, O.C.G.A. Section 20-3-250.1 et. seq., a current certificate issued by the Nonpublic Postsecondary Education Commission;

CHAPTER 539-2**STANDARDS FOR APPRAISAL COURSES**

- (c) all directors and owners of the school including their names and addresses. If the owner or owners are a partnership or corporation then a list of all directors and owners of the parent entity;
 - (d) if the school wishes to adopt a makeup policy regarding attendance, a detailed statement of that policy;
 - (e) a statement of entrance qualifications for students;
 - (f) a statement that it can make available to its students materials which the Board may require for use in a particular course or courses and that it has video or audio equipment available to present Board required material;
 - (g) a statement that it will conduct approved courses in classroom style facilities;
 - (h) a statement that the school will comply with all related provisions of the Americans with Disabilities Act (ADA) and that the school will not discriminate in its fees, enrollment, or completion policies on the basis of race, color, sex, religion, national origin, familial status, or handicap;
 - (i) a detailed outline(s) of course(s) to be offered in the first year of the school's approval with hours to be spent on each subject area to be covered in the course(s) and all planned classroom and homework exercises;
 - (j) a bibliography of all texts and reference materials for use in the course(s);
 - (k) a comprehensive description of the measures and standards it will employ to evaluate student performance in order to determine whether a student successfully completes a course;
 - (l) a description of the learning objectives for each instructional hour of the course(s) (what the student should know or be able to do upon mastery of the content of each hour of study);
 - (m) copies of all final examinations together with proposed answers for any course(s) requiring an examination;
 - (n) a list of all instructors and applications for approval of classification course instructors not yet approved by the Board under the standards of Chapter 539-5;
 - (o) a schedule of planned offerings of the course(s) for the first calendar year for which the school seeks approval including the date, time, and place of any offering;
 - (p) the fee schedule planned for the course offering(s) during the first year;
 - (q) a copy of the Notice to Students required by Rule 539-2-.09; and
 - (r) the name of a school director and/or coordinator who shall be responsible for certifying student completion of all courses covered under this Rule.
- (2) An approved course is one for which an approved school maintains and will make readily available to an authorized representative of the Board the following data:
- (a) a detailed course outline with hours to be spent on each subject area to be covered in the course and classroom and homework exercises;
 - (b) detailed learning objectives for each instructional hour of the course (i.e. what the student should know or be able to do upon mastery of the content of each hour of study);
 - (c) text materials utilized in the course;
 - (d) daily tests, final examinations, or other materials used to evaluate student performance;
 - (e) records that identify each student and the student's attendance record and final grade for any course;

- (f) a list of the instructors for the course; and
- (g) summaries of student evaluations of the courses.

(3) An applicant for school approval may not hold any course out as approved by the Board until the Board posts the school approval in its offices or the offeror receives a certificate of school approval from the Board.

(4) Any continuing education course addressing a topic or topics other than those listed in Rule 539-2-.05 (1)(b) must have the prior written authorization of the Board.

(5) An approved school shall provide the Board in writing no later than 14 days prior to offering a new course the following information:

- (a) the title of the course;
- (b) the number of credit hours for the course;
- (c) whether the school intends the course for registration, licensure, certified residential, certified general, and/or continuing education credit; and
- (d) if the course is a computer-based course, written verification that the course meets the requirements of 539-2-.01 (3) or 539-2-.01 (4).

The Board shall provide the school with a course code to be included by the school on the educational certificate issued to students and on the course roster filed with the Board as required by 539-2-.08 (3).

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-9, 43-39A-11, 43-39A-13, 43-39A-18, & 43-39A-22.

539-2-.03 Courses. Amended.

(1) The Board intends that all approved courses be educational in nature. Schools should not specifically orient approved courses to the passing of state examinations or other examinations. The courses should introduce students to the language of the profession and basic theory underlying the duties and responsibilities of a real estate appraiser. Approved courses shall require practice in the skills being taught and provide a significant number of exercises for practice of those skills. All courses should make students aware of the need for further study and the perfection of practical skills.

(2) The curriculum of courses approved under this Rule should include at a minimum the following:

(a) for courses approved to meet the education requirement for state registered real property appraiser and state licensed real property appraiser:

1. influences on real estate value including physical and environmental, economic, governmental and legal, and social;
2. legal considerations in appraisal including real estate vs. real property, real property vs. personal property, limitations on real estate ownership, legal rights and interests, forms of property ownership, legal descriptions, and transfer of title;
3. types of value including market value or value in exchange, price, cost, investment value, value in use, assessed value, and insurable value;
4. economic principles including anticipation, balance, change, competition, conformity, contribution, increasing and decreasing returns, substitution, supply and demand, and surplus productivity;
5. real estate markets and analysis including characteristics of real estate markets, absorption analysis, role of money and capital markets, and real estate financing;
6. valuation process including definition of the problem, collection and analysis of data, analysis of highest and best use, application and limitations of each approach to value, reconciliation and final value estimate, and the appraisal report;

7. property description including site description, improvement description, and basic construction and design;
8. highest and best use analysis including four tests, vacant site or as if vacant, as improved, and interim use;
9. appraisal statistical concepts including mean, median, mode, range, and standard deviation;
10. sales comparison approach including research and selection of comparables, elements of comparison, adjustment process, and application of sales comparison approach;
11. site value including sales comparison, land residual, allocation, extraction, and plottage and assemblage;
12. most approach including steps in cost approach and application of the cost approach;
13. income approach including estimation of income and expenses, operating expense ratios, and gross rent multiplier;
14. valuation of partial interests including life estates, undivided interest in commonly held property, easements, timeshares, cooperatives, leased fee estate, and leasehold estate;
15. appraisal standards and ethics;
16. the provisions of the Appraisal Act and its Rules and Regulations; and
17. such other subject matter as the Board may require or approve.

(b) for courses approved to meet the education requirements for state certified residential real property appraiser, the subject matter cited in subparagraph (a) above and compound interest concepts, direct capitalization, as well as narrative report writing;

(c) for courses approved to meet the education requirements for state certified general real property appraisers, the subject matter cited in subparagraphs (a) and (b) above as well as going concern value, opportunity cost, ground rent capitalization, subdivision analysis, direct capitalization, cash flow estimates (before tax only), measures of cash flow, discounted cash flow analysis, interests created by a lease, lease provisions, value considerations, and other partial interests.

(3) Course fees, entrance standards, and standards for successful completion shall not be based on the student's race, color, sex, religion, national origin, familial status, or handicap.

(4) Unless it has prior approval of the Board, no school may schedule a student for more than seven and one-half (7½) hours per day of classroom instruction and testing. A classroom hour is fifty minutes out of each sixty minute segment. The school shall hold all classroom instruction between the hours of 8:00 a.m. and 10:00 p.m. with breaks totaling at least fifteen minutes every two hours. The schedule shall allow reasonable time for preparation for each classroom session.

(5) The school coordinator/director shall notify the Board when any individual class has less than six (6) or more than forty (40) students. The coordinator/director shall give this notice to the Board within twenty-four hours after the first session of the class.

(6) Each course shall begin and end with the playing of any audio or video tape message the Board may require.

(7) For all courses schools shall include with each instructional unit appropriate reading assignments for completion out of class. The school shall also require that students complete out of class extensive written exercises which the Board approves. Each written assignment a student submits for grading shall include the following:

I certify that I have personally completed this assignment.

(DATE) (STUDENT'S SIGNATURE)

The school shall refuse to grade any written assignment on which the student does not sign this statement.

(8) Schools may offer units of instruction on subjects other than those required by the Board only with prior written approval from the Board.

(9) While instructors may use such teaching methods as lecture, discussion, questions and answers, etc. in in-class sessions, instruction should also include role play, simulations, or other similar instructional techniques designed to assist students in mastering the skills required to act as a real estate appraiser.

(10) The school coordinator/director shall be responsible for consistent and regular evaluation of the school's instructors. The coordinator/director shall provide each student with an opportunity to make unsigned, written evaluations of instructors. Schools shall maintain summaries of these evaluation forms for a period of five years or until the instructor is no longer used by the school, whichever is earlier.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-9, 43-39A-11, 43-39A-13, 43-39A-18, & 43-39A-22.

539-2-.04 Course Examinations. Amended.

(1) Every approved course offered to meet preclassification education shall conclude with an examination prepared and administered by the approved school.

(2) Schools must require that students achieve a passing score (a score consistent with the passing score required on state classification examinations) on final examinations administered for approved courses. Schools may elect to allow any student who fails to achieve a passing score to take another examination on another day without repeating in-class instruction. If a student fails to achieve a passing score on a second final examination, the student must repeat all in-class instruction of that course before taking another examination.

(3) Schools shall maintain at least four forms of a final examination for each course and shall provide the Board with reasonable assurances that Board approved examinations are secure from distribution to students except upon administration of an examination and that the school will follow such instructions as the Board may prescribe covering the administration, storage, and disposition of any Board approved examinations that it receives. The Board may impose any sanction permitted by law on the approval of any school which fails to provide proper security for Board approved examinations.

(4) Final examinations for an approved course should attempt to measure the student's competence in the knowledge or skills taught in the approved course. A school shall not be required to submit a course final examination to the Board if the examination:

(a) consists of multiple-choice questions with a minimum of four choices for each question; and

(b) includes no fewer than two multiple-choice questions for each credit hour of the course.

A school must submit to the Board for approval any course final examination that does not meet the above criteria prior to the examination's being administered for the approved course.

(5) Whenever a school selects someone other than the school director, school coordinator, or approved instructor as a proctor to administer a course final examination, that person may not be personally related to the student taking the examination or associated with the student in any real estate or appraisal practice. A school must require that any proctor for final examinations sign and date a statement indicating that the proctor personally administered the course final examination and that the proctor administered the examination according to the requirements of this chapter.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-9, 43-39A-11, 43-39A-13, 43-39A-18, & 43-39A-22.

539-2-.05 Continuing Education Courses. Amended.

(1) The Board shall deem an appraiser who completes the seven hour course on the Uniform Standards of Professional Appraisal Practice as required in Rule 539-1-.16 (7) to have met the continuing education requirement of O.C.G.A. Section 43-39A-8(b) for a renewal period if the appraiser also successfully completes in a renewal period any of the following courses which have at least the total number of hours of instruction that the appraiser is required to complete:

(a) any course of at least 3 semester hours or 5 quarter hours at an accredited college or university which deals with principles, fundamentals, or essentials of valuation. College correspondence courses and courses which qualify for continuing education units may not be used to qualify under this Rule; or

(b) any other course which the Board approves prior to an appraiser's taking the course and which includes coverage of real estate appraisal related topics such as:

1. ad valorem taxation;
2. arbitrations;
3. business courses related to practice of real estate appraisal;
4. development cost estimating;
5. ethics and standards of professional practice;
6. land use planning, zoning, and taxation;
7. management, leasing, brokerage, and timesharing;
8. property development;
9. real estate appraisal;
10. real estate law;
11. real estate litigation;
12. real estate financing and investment;
13. real estate appraisal related computer applications;
14. real estate securities and syndication;
15. real property exchange;
16. any other topics to which the Board may give prior approval.

(c) Any course approved by another appraiser regulatory licensing and certification agency in any state, district, territory, possession, or providence of the United States or Canada which meets the requirements of paragraph (1)(b) of this Rule.

(2) Appraisers completing continuing education requirements must submit transcripts or other verification of completion which the Board deems necessary and adequate.

(3) The Board shall deem the continuing education requirement for a renewal period as met by any appraiser who submits satisfactory written proof that he or she has taught any of the courses approved under this Rule totaling at least the number of continuing education hours that the appraiser is required to complete, provided that the appraiser complies with the requirements of Rule 539-1-.16 (7).

CHAPTER 539-2**STANDARDS FOR APPRAISAL COURSES**

(4) A course approved for continuing education credit may not be used by an appraiser to meet the education requirements for a different classification than that which the appraiser holds, unless such course is also approved by the Board to meet the education requirements for certification.

(5) The Board, in its discretion, may require the completion of an examination at the end of any continuing education course.

(6) An appraiser who has successfully completed an approved course to meet any part of such appraiser's continuing education requirement may not repeat that course unless at least one full year has passed since the completion of that course.

(7) Any nonresident appraiser shall have met the continuing education requirements required to maintain an appraiser classification in Georgia if such nonresident appraiser has met the continuing education requirements in such nonresident's state of residence and if the appraisal regulatory program in such nonresident's state of residence is not disapproved by the Appraisal Subcommittee.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-9, 43-39A-11, 43-39A-13, 43-39A-18, & 43-39A-22.

539-2-.06 Facilities and Instructors. Amended.

(1) Schools shall conduct all in-class instruction for courses approved under this Chapter in classroom style facilities.

(2) Each school approved by the Board shall conspicuously post the notification of its school approval in its classroom or in its administration area.

(3) Only instructors approved by the Board under the standards of Chapter 539-5 may instruct courses offered to meet the preclassification education requirements. Only instructors with appropriate experience and knowledge of the content areas of continuing education course may teach continuing education courses. Schools must maintain resumes or other biographical information documenting such knowledge and experience for all continuing education instructors who have not qualified as approved instructors under the standards of Chapter 539-5.

(4) Instructors may utilize no more than thirty (30) minutes for every seven and one-half (7½) hours of instruction of audio or video material toward meeting any required classroom (or make-up) hours unless the Board grants written authorization for such material prior to its use.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-9, 43-39A-11, 43-39A-13, 43-39A-18, & 43-39A-22.

539-2-.07 Minimum Standards for Students. Amended.

(1) In order for a school to certify a student as passing an approved course, the student must attend the required number of hours of classroom instruction provided for in this Chapter.

(2) In order for a school to certify a student as passing an approved course, the student must complete all exercises and/or examinations required by the school.

(3) Except with the prior approval of the Board, students transferring from one course to another may not count any portion of their attendance or work in the former course toward passing the new course.

(4) In order for a school to certify a student as passing an approved course, the student must meet the minimum grading standards established by this Chapter and the school. On graded exercises and examinations for which this Chapter sets specific requirements, the school's policy shall at least equal those requirements. Other grading standards shall be in accordance with generally accepted educational standards. Schools shall publish these standards and give them to the students on a written form at the beginning of the course.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-9, 43-39A-11, 43-39A-13, 43-39A-18, & 43-39A-22.

539-2-.08 Maintenance of Records.

(1) All approved schools shall maintain, and upon reasonable request make available to any authorized representative of the Board, copies of all examinations with answer keys and copies of all texts or other instructional materials. Schools shall maintain these for a period of at least five years after use.

(2) Each school shall maintain for at least five years, in a form which the Board approves, records which reflect the attendance and scores earned by each student on all graded material and examinations used to determine whether the student passed a course. For all computer-based courses, each school shall maintain for at least five years, in a form that the Board authorizes, records which reflect the following:

(a) the student's name, the course title, the number of hours for the course, the particular software version of the course, and the course serial number;

(b) a Board authorized system of verification of the completion of each module of instruction within the computer-based course and the date of completion of the course;

(c) the scores for each student for all final examinations for those courses requiring such examinations; and

(d) verification of the above data by the school director/coordinator.

3) Every school offering an approved course shall issue to the passing student an educational certificate provided by the Board. No later than 14 days after completion of each course, the school coordinator/director shall sign and file with the Board a student roster-letter which includes a certification that each student listed thereon has successfully passed the course, a statement of the number of hours the student attended the course along with the student's overall course grade, and any other data which the Board may require.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-9, 43-39A-11, 43-39A-13, 43-39A-18, & 43-39A-22.

539-2-.09 Notice To Students. Amended.

(1) At the time a student enrolls in an approved course, the school shall provide that student with the following information in writing:

(a) a statement of the Board's current approval of the course;

(b) whether the Board has approved the course to meet registration, licensure, certified residential, or certified general appraiser educational requirements and how many hours toward meeting those requirements the course contains;

(c) the approved instructors who will teach the course and detailed information on their qualifications to instruct in that course;

(d) the school's grading policies for all graded work including, but not limited to, homework, examinations, oral or written practice appraisals;

(e) the school's attendance requirements and how students may make-up absences (if allowed);

(f) for computer based courses, the notice to students must also include:

1. the name and address of the approved school;
2. the order in which the student must submit any homework assignments;
3. that the student must personally complete all instructional modules required to demonstrate mastery of the material and sign the certification statement required by Rule 539-2-.14 (8);
4. that the student must successfully complete all assignments before receiving credit for the course or before attending any required in-class instruction; and
5. when and where to complete any required in-class instruction; and

(g) any other information which the Board may require.

(2) Since a copy of the school's notice to students is a part of the original application for school approval, schools must report in writing no later than 14 days prior to a course offering any change in the school's grading policies for courses, the school's attendance requirements, and/or the school's make-up policy.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-9, 43-39A-11, 43-39A-13, 43-39A-18, & 43-39A-22.

539-2-.10 Renewal of Approval.

In order to renew the approval for any school, the Board must receive an application from the school requesting renewal prior to the expiration of the current approval of the course. The application requesting renewal must be on a form approved by the Board and accompanied by the required renewal fee established in Rule 539-1-.02.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-9, 43-39A-11, 43-39A-13, 43-39A-18, & 43-39A-22.

539-2-.11 Changes and Exceptions.

(1) Schools shall notify the Board in writing immediately of any changes in its director/ coordinator, its name, its phone number, or its location or mailing address. The school shall notify the Board in writing immediately if it terminates its relationship with an instructor because of the instructor's violation of any provision of this Chapter.

(2) Schools may request exceptions, modifications, or exemptions to the requirement of this Chapter whenever sound educational reasons exist for such a request. Schools must submit such requests in writing with supporting rationales and may implement them only after receiving written approval from the Board.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-9, 43-39A-11, 43-39A-13, 43-39A-18, & 43-39A-22.

539-2-.12 Advertising. Amended.

(1) If a school, after approval, wishes to use the name of the Georgia Real Estate Appraisers Board in its advertising, it should indicate that the Georgia Real Estate Appraisers Board approves the course(s) as meeting the requirements of Georgia laws. Advertising includes any type of solicitation, and advertisements may not indicate in any fashion that the Board has any interest in the school other than insuring that it complies with the standards imposed by Georgia law. In no event can the phrase "Georgia Real Estate Appraisers Board" appear anywhere in the advertisement in larger type than the words and phrases preceding or following the phrase "Georgia Real Estate Appraisers Board."

(2) An approved school shall not advertise courses approved under this Chapter with non-approved courses that it may offer in such a manner as to lead the public to believe that the non-approved courses bear Board approval or meet any registration, license, or certification requirements. An approved school shall not name and/or advertise non-

approved courses in such a manner as to lead the public to believe that the non-approved courses bear Board approval or meet any registration, license, or certification requirements.

(3) An approved school shall not advertise a course as being offered, sponsored, or conducted by or in conjunction with a real estate appraisal firm or other organization or individual which is not an approved school. However, a school may advertise that it will offer a course at the location of a real estate appraisal firm or other organization provided that only personnel of the approved school:

(a) provide students and prospective students with information concerning course offerings except that the school may allow other persons to distribute written + prepared by the school's director/coordinator. Such printed information shall include no telephone number other than the school's number and the following statement:

"This information provided by (name of school). Direct any questions concerning this information to (name of school).";

(b) handle paperwork for registering and enrolling students and for certifying students' completion of the course; and

(c) maintain all records required by the Board.

(4) While a course may help to prepare students to take a state examination, the Board will not approve any course if the name of the course or any advertising of the school or person offering the course indicates that the primary objective of the course is to prepare students for passing a state examination and may rescind approval of any course which so advertises.

(5) An approved school may not advertise that successful completion of its courses will assist an individual in passing a Board approved examination unless it includes its passing percentage in the advertisement in type as large as the reference to passing the examination. In calculating and advertising its passing percentage, an approved school must include the following information:

(a) the passing rate of its students:

1. on the examination(s) to which the advertisement refers;
2. expressed as a specific percentage (language such as "more than 80% passing" is not acceptable);
3. based on only first-time examinees and so state in the advertisement; and
4. for the calendar year prior to the advertisement (the year must be identified in the advertisement);

(b) whether the passing rate is for the licensing and certified residential examination or the certification examination (passing rates for the two examinations may not be combined);

(c) the actual number of its students taking the examination during the calendar year cited; and

(d) the actual number of its students passing the examination in the calendar year cited. An approved school which advertises non-approved courses which do not qualify an individual to sit for an examination but which are held out to the public as assisting an individual to pass the examination must comply with the requirements of this paragraph in advertising those courses.

CHAPTER 539-2**STANDARDS FOR APPRAISAL COURSES****539-2-.13 Violations.**

(1) Any violation of the provisions of this Chapter, any falsification or misrepresentation on the application for approval or renewal, or any falsification or misrepresentation of any other reports, certifications, or applications required to be submitted by this Chapter may result in withdrawal of approval or any other sanction permitted by O.C.G.A. Section 43-39A-18.

(2) Any school whose annual percentage of students passing the state examination falls ten percentage points or more below the percent of total examinees passing a state examination in any calendar year may have its approval withdrawn or have one of the sanctions allowed by O.C.G.A. Section 43-39A-18 imposed on it.

(3) Before imposing any sanction for a violation of this Chapter, the Board shall afford a hearing in accordance with the "Georgia Administrative Procedure Act" O.C.G.A. Chapter 50-13 to the school allegedly violating this Chapter.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-9, 43-39A-11, 43-39A-13, 43-39A-18, & 43-39A-22.

539-2-.14 Computer-Based Courses. Amended.

(1) Frequently, some applicants for appraiser classification have difficulty attending classes to meet the law's education requirements because they live at significant distances from approved schools offering these education courses, because of extended personal illness, because of induction into the armed forces, or because of other similar extraordinary circumstances. To meet these types of problems, the Board approves the offering of computer-based courses.

(2) Every course approved under this Rule shall teach to mastery. Teaching to mastery means that the course shall, as a minimum:

(a) divide the material into major units as approved by the Board;

(b) divide each of the major units of content into modules of instruction for delivery on a computer or other approved interactive audio or audiovisual programs;

(c) specify the learning objectives for each module of instruction. The learning objectives must be comprehensive enough to insure that if all the objectives are met, the entire content of the course will be mastered;

(d) specify an objective, quantitative criterion for mastery used for each learning objective;

(e) implement a structured learning method by which each student is able to attain each learning objective;

(f) provide means of diagnostic assessment of each student's performance on an ongoing basis during each module of instruction;

1. this assessment process shall measure what each student has learned and not learned at regular intervals throughout each module of instruction, and

2. the diagnostic assessment must specifically assess the mastery of each concept covered in the content material.

(g) provide a means of tailoring the instruction to the needs of each student as identified in (e) above.

The process of tailoring the instruction shall insure that each student receives adequate remediation for specific deficiencies identified by the diagnostic assessment;

(h) continue the appropriate remediation on an individualized basis until the student demonstrates achievement of each mastery criterion; and

(i) require that the student demonstrate mastery of all material covered by the learning objectives for the module before the module is completed.

(3) Prior to the development of specific computer-based courses to be offered to meet education requirements, a school must submit to the Board for its approval satisfactory documentation of the method by which each element of mastery in paragraph (2) of this Rule is to be accomplished. If the Board authorizes that method, the school may utilize that method in developing any courses it may offer to meet appraisers' education requirements under this chapter. The rationale for the education processes implemented with computer-based courses must be based on sound instructional strategies that have been systematically designed and proven effective through educational research and development. The basis and rationale for any proposed instructional approach must be specified in any request for approval.

(4) Courses approved under this Rule must also meet the criteria outlined in Rule 539-2-.02, except those covering in-class instruction. Except where the Board has granted permission in writing to do otherwise, persons developing computer-based courses must:

(a) utilize at least nine persons in testing programs in order to evaluate for the developer the quality of content and the user friendliness of software and hardware. Of those nine persons, at least three must be unclassified, at least three must be classified appraisers holding classifications at the level of or higher than the courses being developed, and at least six must be non-educators. Persons developing such courses must document that those testing the programs have varying skill and knowledge levels of computers and appraising, and

(b) make reasonably available to an authorized representative of the Board documentation on the development and testing processes utilized in the computer-based courses.

(5) The following types of programs will not be deemed as meeting the requirements of this Rule:

(a) those which consist primarily of text material presented on a computer or other audio or audiovisual programs rather than in printed material;

(b) those which consist primarily of questions similar to those on the state licensing examination;

(c) those which consist primarily of combinations of the elements in (a) and (b) above.

(6) An approved instructor and/or the school coordinator/director shall grade the written course work required of students in computer-based courses.

(7) Every computer-based course approved to meet the educational requirement for state registered real property appraiser, for state licensed real property appraiser, for state certified residential real property appraiser, for state certified general real property appraiser, and for continuing education shall consist of interactive computer-based or other interactive audio or audiovisual programs which will reasonably require the student to expend in completing the course the number of hours for which the course is approved.

(8) Every school offering an approved computer-based course shall offer those courses under an approved instructor who shall:

(a) be available to answer students' questions or provide them assistance as necessary;

(b) provide reasonable oversight of students' work in order to insure that the student who completes the work is the student who is enrolled in the course;

(c) obtain from each student the following certification statement:

I certify that I have personally completed each assigned module of instruction.

Student's Signature

Date

(d) certify students as successfully completing a computer-based course only if the student:

1. has completed all instructional modules required to demonstrate mastery of the material,
2. has attended any hours of live instruction and/or testing required for a given course, and
3. has passed the final examination, if the Board, in approving the course requires such an examination. Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-9, 43-39A-11, 43-39A-13, 43-39A-18, & 43-39A-22.

539-2-.15 Instruction in Standards.

(1) Every course offered by an approved school for pre-classification or continuing education credit shall include acknowledgment and coverage of the provisions of the current editions of the Uniform Standards of Professional Appraisal Practice (USPAP) and the Board's Standards for Appraisals that relate to the subject matter of the course.

(2) Every approved school shall:

(a) provide instruction to each student who enrolls in any continuing education course offered by such school on how to access USPAP on the Internet and particularly how to identify and access that part of USPAP related to the subject matter of the course; or

(b) supply to every student who enrolls in any continuing education course offered by such school a copy of the latest annual edition of USPAP and identify that part of USPAP related to the subject matter of the course.

Authority O.C.G.A. §§ 43-39A-8, 43-39A-9, 43-39A-11, 43-39A-13, 43-39A-18, & 43-39A-22.

539-2-.16 Distance Education Courses.

(1) Distance education is a course(s) in which instruction does not take place in a traditional classroom setting but rather through other media in which teacher and student are separated by distance and sometimes by time.

(2) The Board approves distance education courses:

(a) that meet all of the requirements of this chapter, or

(b) for which the applicant provides satisfactory documentation that (1) the International Distance Education Certification Center (IDECC) has certified the course as meeting its distance education standards for course design and delivery mechanism and (2) the course content meets the content requirements of this Chapter. Any Board approval based on such an IDECC certification will cease immediately upon notice from IDECC that certification of the course has been discontinued for any reason.

(3) In distance education courses, a classroom hour is defined as fifty minutes of instruction out of each sixty minute segment.

STANDARDS FOR APPRAISALS

539-3-.01 Federally Related Transactions

539-2-.02 Non-federally Related Transactions

539-3-.03 Review Appraisals

539-3-.04 Departure in Non-federally Related Transactions

539-3-.01 Federally Related Transactions.

(1) A federally related transaction is any real estate related financial transaction that (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.

(2) In developing and reporting an appraisal of real property in a federally related transaction, an appraiser must comply with the standards required by the federal financial institutions regulatory agency that regulates the financial transaction for which the appraisal assignment was undertaken. For each appraisal assignment, it is the responsibility of the appraiser to determine what standards a federal financial institutions regulatory agency requires.

(3) In developing and reporting an appraisal of real property in a federally related transaction; an appraiser must take reasonable efforts to identify and report (a) the identity of the current owner of the property, (b) whether the property is listed for sale, (c) whether the property is under contract for sale, and (d) whether the property has sold within the last year prior to the date of the appraisal (if residential, or three years if other than residential). While documenting compliance with this requirement may be met in a variety of ways, an appraiser who attaches to the appraisal report the following items, obtained contemporaneously with the appraisal, shall be deemed to have met the requirements of this rule:

(a) a copy of the most recently recorded deed transferring ownership of the property or county tax records showing the name(s) of the property's current owner(s) of record;

(b) a copy of any existing listing agreement or documentation from a multiple listing service that reflects the listing period of the property and its owner(s); and

(c) a written statement signed by the party ordering the appraisal that such party has disclosed to the appraiser all pending agreements to sell the property of which it is aware and has supplied to the appraiser all written agreements to sell the property of which it is aware.

Authority O.C.G.A. §§ 43-39A-8, 43-39A-13, & 43-39A-18.

539-3-.02 Standards for Developing and Reporting An Appraisal. Amended.

(1) In developing and reporting an appraisal of real property, an appraiser shall not:

(a) perform any appraisal assignment beyond the scope of authority granted in the appraiser classification held;

(b) fail to disclose clearly and accurately the appraiser classification granted to the appraiser by the state;

(c) fail to employ correctly methods and techniques that are necessary to produce a credible appraisal;

(d) commit a substantial error of omission or commission that significantly affects the appraisal;

(e) render appraisal services in a careless or negligent manner;

- (f) communicate the appraiser's analyses, opinions, or advice in a manner that is misleading to the client;
- (g) fail to include in a report of an appraisal sufficient information to enable the person(s) who are expected to receive or rely on the report to understand it properly;
- (h) perform an independent appraisal assignment with partiality or an accommodation of personal interest;
- (i) accept an independent appraisal assignment when the employment itself is contingent upon the appraiser's reporting a predetermined estimate, analysis, valuation, or opinion or where the fee to be paid is contingent upon the opinion, conclusions, analysis, or valuation reached or upon the consequences resulting from the appraisal assignment;
- (j) perform any appraisal assignment without (1) disclosing any lack of knowledge and/or experience to the client before accepting the assignment; (2) taking all steps necessary to complete the assignment competently; (3) describing the lack of knowledge and/or experience and the steps taken to complete the assignment competently in the appraisal report; and (4) having the client expressly identify any other persons or entities that the client expects to rely on the appraisal report;
- (k) report the results of a real property appraisal without disclosing the nature, extent, and detail of the appraisal processes undertaken;
- (l) fail to disclose clearly and accurately in the appraisal report any assumption or any limiting condition that directly affects the appraisal and to indicate its impact on value; and
- (m) fail to include in an appraisal report a certification as follows:

I certify that, to the best of my knowledge and belief:

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions, and conclusions.
- I have no (or the specified) present or prospective interest in the property that is the subject of this report, and I have no (or the specified) personal interest or bias with respect to the parties involved.
- my compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.
- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Georgia Real Estate Appraiser Classification and Regulation Act and the Rules and Regulations of the Georgia Real Estate Appraisers Board.
- I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs the report, this certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.)

- no one provided significant professional assistance to the person signing this report. (If there are exceptions, the name of each individual providing significant professional assistance must be stated.)

(2) An appraiser who signs a real property appraisal report prepared by another accepts full responsibility for the appraisal and the contents of the appraisal report.

(3) An appraiser shall not disclose confidential information or the results of an appraisal assignment to anyone other than:

- (a) the client and persons specifically authorized by the client;
- (b) state enforcement agencies and such third parties as may be authorized by due process of law; and
- (c) a duly authorized professional peer review committee.

(4) In developing and reporting an appraisal of real property in a non-federally related transaction; an appraiser must take reasonable steps to identify and report (a) the identity of the current owner of the property, (b) whether the property is listed for sale, (c) whether the property is under contract for sale, and (d) whether the property has sold within the last year prior to the date of the appraisal (if residential, or three years if other than residential). While documenting compliance with this requirement may be accomplished in a variety of ways, an appraiser who attaches to the appraisal report the following items, obtained contemporaneously with the appraisal, shall be deemed to have met the requirements of this rule:

- (a) a copy of the most recently recorded deed transferring ownership of the property or county tax records showing the name(s) of the property's current owner(s) of record,
- (b) a copy of any existing listing agreement or documentation from a multiple listing service that reflects the listing period of the property and its owner(s); and
- (c) a written statement signed by the party ordering the appraisal that such party has disclosed to the appraiser all pending agreements to sell the property of which it is aware and has supplied to the appraiser all written agreements to sell the property of which it is aware.

Authority O.C.G.A. §§ 43-39A-8, 43-39A-13, & 43-39A-18.

539-3-.03 Review of Appraisals. Amended.

(1) An appraisal review assignment shall consist of developing and reporting an opinion of the quality of another appraiser's work.

(2) In undertaking an appraisal review assignment, the appraiser must:

(a) identify for the appraisal review assignment the client, the intended users, the subject, the effective date, the purpose of the assignment, and the scope of work to be performed;

(b) develop and report a credible opinion of the quality of another appraiser's work including, but not limited to an opinion as to whether the data is adequate and relevant, the appraisal methods used are appropriate, and the analyses, opinions, and conclusions in the work being reviewed are reasonable and appropriate; and

(c) disclose in the appraiser's report the nature, extent, and detail of the review process undertaken and include all known pertinent information.

(3) Anytime an appraiser develops and reports an opinion of value that agrees or disagrees with the opinion of value developed and reported in an appraisal assignment performed by another appraiser, that opinion is an appraisal, not a review of an appraisal. When the purpose of an appraisal review assignment also requires that the appraiser develop an opinion of value of the subject of the review assignment, that requirement must be identified in the purpose and scope of work of the appraisal review assignment and the appraiser must comply with the applicable standards for developing an appraisal.

Authority O.C.G.A. §43-39A-8 & §43-39A-18(a)(8).

539-3-.04 Departure in Non-federally Related Transactions.

(1) An appraiser may not depart from the requirements of this chapter in independent appraisal assignments. In other appraisal assignments an appraiser may not depart from the requirements of 539-3-.02(1) (a) through (g).

(2) An appraiser may depart from the requirements of 539-3-.02(1)(h) through (m) and 539-3-.02(4) in other than an independent appraisal assignment only if:

(a) the appraiser has lawful written instructions from the client;

(b) the appraiser has advised the client that the assignment calls for something less than, or different from, the work and content required for an independent appraisal assignment under this chapter and that the report will clearly identify and explain the departure(s); and

(c) the appraiser has determined that the appraisal or consulting process to be performed is not so limited that the resulting opinions and report of those opinions would tend to mislead or confuse the client. The burden of proof is on the appraiser to decide before accepting an assignment and invoking this departure provision, that the result will not confuse or mislead the client. In addition, the appraisal must clearly state the nature and extent of any departures so that any unintended users (other than the client) will be adequately warned as to the limited scope of the work.

Authority O.C.G.A. §§43-39A-8, 43-39A-13, & 43-39A-18.

PROCEDURAL RULES**539-4-.01 Hearing Procedures. Amended.****539-4-.03 Service. Amended.****539-4-.02 General Information. Amended.****539-4-.04 Posthearing Procedures. Amended****539-4-.01 Hearing Procedures. Amended.**

(1) All hearings in "contested cases," as that term is defined in the Georgia Administrative Procedure Act (O.C.G.A. §50-13-13), shall be conducted by the Office of State Administrative Hearings. All proceedings pending before the Office of State Administrative Hearings shall be governed by its rules and regulations. Chapter 616-1-2 Procedures for Administrative Hearings before Office of State Administrative Hearings Administrative Law Judges. The Board shall initiate all proceedings in contested cases by filing the requisite pleadings with Office of State Administrative Hearings.

(2) When the Board denies an application for classification based on the applicant's failure to meet the requirements of O.C.G.A. § 43-39A-14, notwithstanding the fact the applicant may have met the other requirements under O.C.G.A. § 43-39A-8, the Board shall notify the applicant of the denial and the applicant shall be offered the opportunity to request a hearing before the Office of State Administrative Hearings.

Authority O.C.G.A. §§ 43-39A-3, 43-39A-6, 43-39A-13, 43-39A-14, 43-39A-15, 43-39A-18, 43-39A-21, 43-39A-22, & 43-39A-25, and Chapter 50-13.

539-4-.02 General Information.

(1) The following rules govern prehearing and posthearing procedures in "contested cases" pending before the Georgia Real Estate Appraisers Board. The following rules do not apply to matter filed or pending before the Office of State Administrative Hearings.

(2) The Board shall maintain records indicating when it received all papers relating to every proceeding to which these rules apply.

(3) The office of the Board shall be open from 8:00 a.m. to 4:30 p.m. each week-day except Saturdays, Sundays, legal holidays, and such other times as the Governor shall declare state offices closed.

(4) All documents, including requests for hearing or review of an initial decision, correspondence, motions, and pleadings related to matters pending before the Board and not pending before the Office of State Administrative Hearings, shall be filed with the Real Estate Commissioner, whose office is located at Suite 1000 - International Tower, 229 Peachtree Street, N. E., Atlanta, Georgia 30303-1605. Copies shall be furnished by the party filing said documents to all parties of record, including the attorney representing the Board.

(5) All communications, correspondence, motions, and pleadings in any proceeding shall be deemed to be filed or received on the date on which they are actually received by the Commissioner.

(6) Computation of any period of time referred to in these rules shall begin with the first day following that on which the act which initiates such period of time occurs. When the last day of the period so computed is a day on which the office of the Board is closed, the period shall run until the end of the following business day. When such period of time, with the intervening Saturdays, Sundays, and legal holidays counted, is seven (7) days or less, the said Saturdays, Sundays, and legal holidays shall be excluded from the computation; otherwise such days shall be included in the computation.

(7) It shall be within the discretion of the Board to extend, for good cause shown, any time limit prescribed or allowed by these rules. Extension shall be granted only when the Board is satisfied that good cause has been shown and not otherwise.

(8) Every notice, pleading, petition, motion, or other document filed by a party (other than the Board) represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name and the attorney's address and telephone number shall be stated. A party who is not represented by an attorney shall sign the pleading and state the party's address and telephone number. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney constitutes a certificate by the attorney that the attorney has read the pleading and that it is not interposed for delay.

(9) No person not employed by the Board shall communicate ex-parte with any member of the Board or any employee of the Board involved in the decisional process with respect to the merits of a contested case. If any ex-parte communication is directed to any person in violation of these rules, all parties shall be immediately informed of the substance of the communication and the circumstances of its receipt; provided, that a request for information with respect to the status of a proceeding shall not be prohibited by this section.

(10) Any applicant/appraiser named as a petitioner/respondent in a notice of hearing shall have a right to obtain a copy of the investigative record pertaining to the applicant/appraiser upon written request. That record shall be available to the applicant/appraiser or the applicant/appraiser's legal counsel at the Board office during regular business hours. Charges for copies of any material from the applicant/appraiser's investigative file shall be at a rate of \$.25 per page with a minimum charge of \$5.00. Any material from said investigative file to be mailed shall be mailed by certified mail or statutory overnight delivery, return receipt requested, at the applicant/appraiser's expense.

Authority O.C.G.A. §§ 43-39A-3, 43-39A-6, 43-39A-13, 43-39A-14, 43-39A-15, 43-39A-18, 43-39A-21, 43-39A-22, & 43-39A-25, and Chapter 50-13.

539-4-.03 Service of Documents Generated by the Board.

(1) Service of a proposed or final decision in a contested case shall be by personal delivery or by certified mail or statutory overnight delivery to the last known place of business of the appraiser. All other notices, pleadings, orders, motions, and other documents shall be served by hand delivery or first class mail to the last address of record with the Board.

(2) Service upon a party's attorney shall be deemed service upon the party.

Authority O.C.G.A. §§ 43-39A-3, 43-39A-6, 43-39A-13, 43-39A-14, 43-39A-15, 43-39A-18, 43-39A-21, 43-39A-22, & 43-39A-25, and Chapter 50-13.

539-4-.04 Posthearing Procedures.

(1) Upon issuance of an initial decision by the Office of State Administrative Hearings, any party may request a review of the initial decision by filing the request in accordance with the provisions of Rule 539-4-.02 of the Board within thirty (30) days from the date of filing of the initial decision by the Administrative Law Judge.

(2) Any rejection or modification by the Board of the findings of fact, conclusions of law, or disposition contained in an initial decision shall be supported by written reasons contained in the final decision by the Board.

(3) A party may move that the matter be remanded to the Office of State Administrative Hearings for purposes of taking additional testimony. Such motions shall be filed in accordance with the provisions of Rule 439-4-.02 of the Board and shall be granted only for good cause shown. The Board shall notify all parties of its action upon the motion.

(4) All motions, briefs or other documents pertaining to matters pending before the Board shall be filed with the Board at least seven days prior to the scheduled hearing date.

(5) All petitions for judicial review shall be filed in accordance with the Georgia Administrative Procedure Act, O.C.G.A. Chapter 50-13 and must be filed in Fulton County Superior Court.

Authority O.C.G.A. §§ 43-39A-3, 43-39A-6, 43-39A-13, 43-39A-14, 43-39A-15, 43-39A-18, 43-39A-21, 43-39A-22, & 43-39A-25, and Chapter 50-13.

STANDARDS FOR APPRAISER COURSE INSTRUCTORS

539-5-.01 Types of Instructors

539-5-.02 Approval Procedures

539-5-.03 Renewal of Approval

539-5-.04 Evaluation of Instructors

539-5-.05 Violations

539-5-.01 Types of Instructors.

(1) Only instructors approved, by name, by the Board; guest instructors as provided for in paragraph (4) of this Rule; or instructors identified on the application for a course that is approved by the Board may teach courses approved by the Board to meet the educational requirement for state registered real property appraiser, for state licensed real property appraiser, for state certified residential real property appraiser, for state certified general real property appraiser. Instructors approved, by name, by the Board may teach any course approved by the Board.

(2) Applicants for instructor approval shall file an application for approval with the Board. The application shall be signed by the applicant. The application shall include a resume of the applicant's background and include the following information:

(a) appraiser classification status;

(b) teaching experience with recommendations and evaluations from supervisors, colleagues, and students;

(c) real estate appraisal education as evidenced by formal professional education;

(d) real estate appraisal experience as evidenced by association with professional associations, experience with auxiliary fields, continuing education and training, and specific numbers and types of appraisal assignment in which the applicant has been involved;

(e) formal education experience; and

(f) evidence of the applicant's having completed a Board approved course of study for instructors.

(3) In approving the applicant, the Board shall consider qualifications from the six areas above and student and approved instructor evaluations of the applicant. However, in granting approval the Board will give most weight to the applicant's teaching experience, involvement in a wide variety of appraisal assignments, and satisfactory evaluation of the applicant's performance in apprentice instruction in a Board approved course of study. The Board shall be the final determinant of approval of instructors.

(4) Schools may utilize guest instructors with expertise in particular areas in any approved course provided a properly approved instructor is present at the time of their presentation. Schools may, however, utilize guest instructors without an approved instructor's being present with the prior written approval of the Board.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-9, 43-39A-11, 43-39A-13, 43-39A-18, & 43-39A-22.

539-5-.02 Approval Procedures.

(1) The Board shall approve, disapprove, or request further information on all applications for instructor approval within sixty (60) days of the receipt of a completed application.

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(2) If an applicant for instructor or an instructor has an appraiser classification and that classification is sanctioned by the Board, such sanction may be grounds for Board withdrawal of approval or denial of approval as an instructor.

(3) If the Board revokes the approval of an instructor approved under this chapter, that instructor may not teach any course approved by the Board without the written authorization of the Board.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39-9, 43-39A-11, 43-39A-13, 43-39A-18, & 43-39A-22.

539-5-.03 Renewal of Approval.

(1) An instructor must complete an instructor development workshop approved by the Board within one year of such instructor's approval or the approval will be withdrawn without hearing.

(2) All instructors must apply for renewal of approval by December 1 each year. Renewal applications must be on forms supplied by the Board and accompanied by:

(a) satisfactory evidence that the applicant has engaged in at least 14 hours of instructional contact with students in any Board approved course during the preceding year or has completed at least six hours of an instructor development workshop approved by the Board or by an appraiser licensing agency in another state; and

(b) satisfactory proof that the instructor has attended during the renewal period any Board required course(s) of study for instructors.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-9, 43-39A-11, 43-39A-13, 43-39A-18, & 43-39A-22.

539-5-.04 Evaluation of Instructors.

(1) The school coordinator/director shall be responsible for consistent and regular evaluation of the school's instructors. The coordinator/director shall provide students with an opportunity to make unsigned, written evaluations of instructors.

(2) Each time any school uses an instructor for the first time, the school coordinator/director shall evaluate the instructor and maintain this evaluation in the school files along with the original student evaluations of the instructor.

(3) Subsequent evaluations on instructors previously evaluated and qualified and which a school uses in any calendar year shall be completed at least annually, by the coordinator/director and should be used to measure any change in the quality of the instruction.

(4) Upon receipt of a sworn written request for an investigation or at its own discretion, the Real Estate Appraisers Board may request, and the coordinator/director shall supply additional student and coordinator/director evaluations on specific individual instructors in question. These evaluations may be used by the Board to determine what action to take to improve the quality of instruction.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-9, 43-39A-11, 43-39A-13, 43-39A-18, & 43-39A-22.

539-5-.05 Violations.

(1) Any violation of the provisions of this Chapter or any falsification or misrepresentation on the application for approval or renewal may result in withdrawal of approval or any sanction permitted by O.C.G.A. Section 43-39A-18.

(2) Before imposing any sanction for a violation of this Chapter, the Board shall afford a hearing in accordance with the "Georgia Administrative Procedure Act" [O.C.G.A. Chapter 50-13] to the instructor allegedly violating this Chapter.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-9, 43-39A-11, 43-39A-13, 43-39A-18, & 43-39A-22.

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