

SENATE BILL No. 360

AN ACT concerning the state certified and licensed real property appraisers act; amending K.S.A. 58-4105, 58-4107, 58-4112 and 58-4119 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) Except as provided by subsection (f), the holder of a certificate or license may request that such certificate or license be placed on inactive status for a period not to exceed two years. Such request shall be submitted to the board on an application form prescribed by the board.

(b) The holder of a certificate or license that has been placed on inactive status shall pay the renewal fee required by K.S.A. 58-4107, and amendments thereto, while such certificate or license is on inactive status.

(c) The holder of a certificate or license which has been placed on inactive status shall not:

(1) Assume or use any title designation or abbreviation likely to create the impression that such person holds an active certificate or license issued by the board;

(2) describe or refer to any appraisal or evaluation of real estate by the term state certified or state licensed or words of substantially similar meaning; or

(3) prepare real estate appraisals for federally related transactions which, under title XI of the financial institutions reform, recovery and enforcement act of 1989 require the services of a state certified or licensed appraiser.

(d) The holder of a certificate or license that has been placed on inactive status may request that such certificate or license be reinstated to active status. The request shall be submitted to the board on an application form prescribed by the board and shall be accompanied by the reinstatement fee required by K.S.A. 58-4107, and amendments thereto, and the federal registry fee. An applicant for reinstatement shall provide evidence of completion of continuing education hours required by the board.

(e) The holder of any certificate or license which has been placed on inactive status for more than two years shall be required to meet all the requirements for original issuance of a certificate or license.

(f) A certificate or license issued to a person as trainee appraiser shall not be eligible to be placed on inactive status.

Sec. 2. K.S.A. 58-4105 is hereby amended to read as follows: 58-4105. (a) The board may adopt such rules and regulations as necessary to implement, administer and enforce the provisions of this act.

(b) The board shall:

(1) Approve courses of instruction to meet requirements of this act and monitor approved courses;

(2) adopt rules and regulations prescribing policies and procedures for obtaining board approval of courses, monitoring approved courses and withdrawing board approval of courses;

(3) administer, or designate a testing service to administer, examinations required by this act;

(4) receive and approve or disapprove applications for certification and licensure and renewal of certificates and licenses and issue certificates and licenses after approval of application;

(5) *receive and approve or disapprove applications to place certificates or licenses on inactive status;*

(6) *receive and approve or disapprove applications for reinstatement of active status of certificates or licenses;*

~~(5)~~ (7) maintain a registry of the names and addresses of persons certified and licensed under this act and transmit the registry to the appraisal subcommittee of the federal financial institutions examination council on an annual basis in accordance with federal law;

~~(6)~~ (8) maintain all records submitted to the board;

~~(7)~~ (9) collect fees prescribed pursuant to K.S.A. 58-4107, and amendments thereto;

~~(8)~~ (10) review from time to time the standards for the development and communication of real estate appraisals provided for in this act and to adopt rules and regulations explaining and interpreting the standards; and

~~(9)~~ (11) perform such other functions and duties as necessary to carry out the provisions of this act.

(c) The board shall maintain an office in the city of Topeka. The board shall employ a director, who shall keep a record of all proceedings, hearings, meetings, communications and official acts of the board and perform such other duties as the board requires. The director shall be in the unclassified service under the Kansas civil service act and shall receive compensation fixed by the board. The board may employ such other employees as necessary, who shall be in the classified service under the Kansas civil service act. The board may make such other expenditures as necessary to properly carry out the provisions of this act. The board may enter into such contracts for the services of attorneys and appraisers as necessary to administer and enforce the provisions of this act.

(d) *In connection with any investigation, based upon a written complaint or other reasonably reliable written information received by the board, the board or its duly authorized agents or employees may apply to the district court in accordance with the provisions of K.S.A. 60-245 or 60-245a, and amendments thereto, whichever is applicable, for the issuance of subpoenas compelling the attendance and testimony of witnesses or the production for examination or copying of documents or any other physical evidence if such evidence relates to practices which may be grounds for disciplinary action.*

Sec. 3. K.S.A. 58-4107 is hereby amended to read as follows: 58-4107. (a) The board shall adopt rules and regulations prescribing the fees provided for by this act in amounts necessary to administer and enforce this act, subject to the following:

(1) For application for certification or licensure, a fee not to exceed \$50.

(2) For any examination required for certification or licensure, a fee in an amount equal to the actual cost of the examination and administration thereof.

(3) For original or renewal certification or licensure, a fee not to exceed \$300.

(4) For late renewal of a certificate or license, a late fee not to exceed \$50.

(5) For certification to another jurisdiction that an individual is certified or licensed, an amount not exceeding \$25.

(6) For approval of a course of instruction approved pursuant to K.S.A. 58-4105, and amendments thereto, an amount not to exceed \$100.

(7) For renewal of a course of instruction approved pursuant to K.S.A. 58-4105, and amendments thereto, an amount not to exceed \$25.

(8) *For reinstatement of active status of a certificate or license, a fee not to exceed \$50.*

If a certificate or license is issued or renewed for a period other than one year, the fee shall be prorated to the nearest whole month.

~~(b) In addition to the certificate or license issued pursuant to this act, the board may offer to provide a wall certificate, which shall bear no expiration date, and may charge a fee not exceeding \$50 to each appraiser requesting the issuance of a wall certificate.~~

~~(c)~~ (b) The board may prescribe a fee not to exceed \$50 for registration of an appraiser pursuant to subsection (b) of K.S.A. 58-4103, and amendments thereto.

~~(d)~~ (c) The board may establish different classes of courses of instruction for the purpose of establishing fees pursuant to subsections (a)(6) and (7) and may establish a different fee for each such class.

~~(e)~~ (d) In addition to the fees prescribed above, the board shall collect any registry fee required pursuant to federal law. Such registry fees shall be transmitted by the board to the appraisal subcommittee of the federal financial institutions examination council in accordance with federal law.

~~(f)~~ (e) Except as provided in subsection ~~(g)~~ (f), the board shall collect all fees provided for by this act. No original or renewed certificate or license shall be issued unless all appropriate fees, including any federal registry fee, have been paid.

~~(g)~~ (f) If a testing service has been designated by the board to administer the examination, each applicant shall pay the examination fee to the testing service.

~~(h)~~ (g) The director of the board shall remit all moneys, received pursuant to this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such

remittance, the state treasurer shall deposit the entire amount in the state treasury. Twenty percent of each such deposit, other than amounts collected for federal registry fees or for civil fines imposed pursuant to K.S.A. 58-4118, and amendments thereto, shall be credited to the state general fund and the balance shall be credited to the appraiser fee fund, which is hereby created in the state treasury. All expenditures from such fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the board or by a person or persons designated by the chairperson.

(h) All amounts collected for federal registry fees shall be credited totally to the federal registry clearing fund, which is hereby created in the state treasury. All disbursements from the federal registry clearing fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the board or by a person or persons designated by the chairperson. Amounts credited to the federal registry clearing fund under this section shall not be subject to any limitations imposed by any appropriations act of the legislature.

Sec. 4. K.S.A. 58-4112 is hereby amended to read as follows: 58-4112. (a) To obtain renewal of a certificate or license, the holder of a current, valid certificate or license shall make application for renewal on a form provided by the board and pay the fee prescribed pursuant to K.S.A. 58-4107, and amendments thereto, to the board not earlier than 120 days nor later than 30 days prior to the expiration date of the certificate or license then held. With the application for renewal, ~~except for the first renewal period following licensure or certification,~~ the applicant shall present evidence in the form prescribed by the board of having completed the continuing education requirements for renewal specified in this act.

(b) If a person fails to apply for renewal prior to the date provided by subsection (a), the person may obtain renewal of a certificate or license if the person, not later than three months after expiration of the certificate or license, satisfies all of the requirements for renewal and pays the renewal and late fees prescribed pursuant to K.S.A. 58-4107, and amendments thereto.

Sec. 5. K.S.A. 58-4119 is hereby amended to read as follows: 58-4119. (a) ~~The costs of any hearing before the board incurred by the board in conducting any proceeding under the Kansas administrative procedure act~~ may be assessed against the appraiser or applicant if the order of the board is adverse to the appraiser or applicant *in such proportion as the board determines upon consideration of all relevant circumstances including the nature of the proceeding and the level of participation by the parties.* The board may reduce any such assessment to judgment by filing a petition in the district court of Shawnee county. No certificate or license shall be reinstated, renewed or issued if an assessment for costs has not been paid by the applicant or appraiser. ~~Costs shall include:~~ *If the board is the unsuccessful party, the costs shall be paid from the real estate appraisal board fee fund.*

~~(a) Statutory fees and mileage of witnesses attending a hearing or for the taking of depositions used as evidence;~~

~~(b) reporter's or stenographic charges for the taking of depositions used as evidence or for transcripts of the hearing; and~~

~~(c) such other charges authorized to be taxed as costs, as specified in K.S.A. 60-2003 and amendments thereto.~~

(b) *For purposes of this section "costs" means the fees and expenses of the presiding officer, costs of making and preparing the record, witness fees and expenses, mileage, travel allowances and subsistence expenses of board employees and fees and expenses of agents of the board who provide services to the board. "Costs" shall not mean fees and expenses or costs of making and preparing the record unless the board has designated or retained the services of the office of administrative hearings to perform such functions.*

(c) *The board shall make any assessment of costs incurred as part of the final order rendered in the proceeding. Such order shall include findings and conclusions in support of the assessment of costs.*

Sec. 6. K.S.A. 58-4105, 58-4107, 58-4112 and 58-4119 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

President of the Senate.

Secretary of the Senate.

Passed the HOUSE _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.