

STATE OF NEBRASKA

**NEBRASKA REAL ESTATE
APPRAISER ACT**

effective
September 1, 2001

**REAL ESTATE APPRAISER BOARD
301 CENTENNIAL MALL SOUTH
P.O. BOX 94963
LINCOLN, NEBRASKA 68509-4963**



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P.O. BOX 94963
LINCOLN, NEBRASKA 68509-4963**

**Phone (402) 471-9015
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2005 MEMBERS

- Danny Stoeber, Appraiser
First District Fremont
- Kevin Kroeger, Appraiser
Second District..... Omaha
- James Bain, Appraiser
Third District North Platte
- Sheila Newell, Broker
Real Estate Industry..... Kimball
- Financial Institutions (vacant)
Financial Institutions.....

STAFF

- Marilyn Hasselbalch..... Director
- Katherine Policky Staff Assistant

NOTE: Requests for applications or other information should be directed to the Real Estate Appraiser Board at the above address.

INDEX

NEBRASKA REAL ESTATE APPRAISER ACT

<u>Subject</u>	<u>Statute</u>	<u>Page</u>
ADVOCATE CONSULTING SERVICE	76-2203.01	1
	76-2247.01	15
APPLICATIONS		
Discipline Pledge	76-2227(2)	5
Fee Payment	76-2227(1)	5
Form of	76-2227(1)	5
Uniform Standards Pledge	76-2227(2)	5
APPLICATION PROCESS		
Applications	76-2227(1)(2)	5
Classes of Appraisers	76-2228	5
Denial of	76-2223(8)	4-5
Disciplinary Actions		
Authority	76-2239	13
Bribery	76-2238(3)	12
Failure to meet qualifications	76-2238(1)	12
False application	76-2238(2)	12
Fictitious name	76-2238(7)	12
Exemptions to Act	76-2221	3
Federal Fees	76-2223(5)	4
Fees	76-2241	14
Registration, License, or Residential or General Certificate Required	76-2220	2-3
Nonresident	76-2233	10
Qualifications		
General Certificate	76-2232	9-10
License	76-2230	7-8
Registration	76-2229.01	6-7
Residential Certificate	76-2231.01	8-9
Receive and Process Applications	76-2223(1)	4
Temporary Registration, License, or Residential or General Certificate	76-2233.01	11
APPRAISER		
Use of Title	76-2229	6
Signing Report	76-2229	6
ATTORNEY GENERAL	76-2248	15
BOARD CREATED		
Chairperson	76-2222(3)	4
Membership	76-2222(1)	3
Quorum	76-2222(4)	4
Term	76-2222(2)	3-4
BOARD MEMBER IMMUNITY	76-2225	5
BOARD POWERS		
Cease and Desist	76-2223(10)	4
Collect Fees	76-2223(5)	4
Contract	76-2224	5
Deny Application	76-2223(8)	4
Discipline Credential Holder	76-2223(8)	4
	76-2223(9)	4
Establish Discipline Procedures	76-2223(6)	4
Establish Minimum Standards	76-2223(11)	5
Evidence and Witnesses	76-2223(7)	4
Examination Contracts	76-2223(2)	4
Examination Specifications	76-2223(3)	4
Federal Fees	76-2223(5)	4

Subject	Statute	Page
General duties	76-2223(13)	5
Fees	76-2241	14
Hold Meetings and Hearings	76-2223(2)	4
Process Applications	76-2223(1)	4
Promulgate Rules	76-2223(12)	5
Question Bank	76-2223(2)(4)	4
Receive Applications	76-2223(1)	4
Registry Maintained	76-2223(1)	4
Research	76-2223(11)	4
Subpoena	76-2223(7)	5
CERTIFICATE OF GOOD STANDING	76-2250	15
CLASSES OF APPRAISERS		
Certified General	76-2228(4)	5
Certified Residential	76-2228(3)	5
Licensed	76-2228(2)	5
Registered	76-2228(1)	5
COMPLAINT PROCESS		
Answer to Complaint	76-2239	13
Disciplinary Action	76-2238, 76-2239	12-13
Formal Complaint	76-2239	13
Investigation	76-2239	13
Set Hearing	76-2239	13
Technical Assistance	76-2239	13
CONSULTING SERVICE	76-2211.01	2
CONTINUING EDUCATION		
Approvable Activities	76-2236	11-12
Requirement	76-2236	11-12
Retention of Proof	76-2236	11-12
CORPORATION, PARTNERSHIP, & FIRM	76-2227(4)	5
COURSES OF STUDY		
Certified General	76-2232	9-10
Certified Residential	76-2231.01	8-9
Licensed	76-2230	7-8
Registered	76-2229.01	6-7
COURT ACTION FOR COMPENSATION	76-2245	14
DEFINITIONS		
Advocate Consulting Service	76-2203.01	1
Appraisal	76-2204	1
Appraisal Foundation	76-2205	1
Appraisal Practice	76-2205.01	1
Appraisal Report	76-2206	1
Appraiser Trainee	76-2207	1
Board	76-2208	1
Brokers Price Opinion (BPO)	76-2209	1
Certified General Real Estate Appraiser	76-2210	1
Certified Real Estate Appraiser	76-2210.01	1
Certified Residential Real Estate Appraiser	76-2210.02	1
Credential	76-2211.02	2
Consulting Service	76-2211.01	2
Evaluation Assignment	76-2212	2
Licensed Real Estate Appraiser	76-2213	2
Real Estate	76-2214	2
Real Estate Appraisal Activity	76-2215	2
Real Estate Appraiser	76-2216	2
Real Property	76-2217	2
Registered Real Estate Appraiser	76-2217.01	2
Two-Year Continuing Education Period	76-2218	2
USPAP	76-2218.01	2
Valuation Assignment	76-2219	2

Subject	Statute	Page
CREENTIAL EXPIRATION		
Renewal	76-2233.02	11
CREENTIAL HOLDERS		
Change of Address	76-2244	14
Display of	76-2244	14
Issue	76-2242(1)	14
Pocket Card	76-2242(1)	14
Principal Address	76-2242(2)	14
	76-2244	14
Property of State	76-2242(3)	14
DISCIPLINARY ACTS AND OMISSIONS		
Appraisal Report		
Diligence	76-2238(13)	13
Falsifying	76-2238(9)	12
Negligence or Incompetence	76-2238(14)	13
Bribery	76-2238(3)	12
Civil or Criminal Judgment	76-2238(5)	12
Confidentiality	76-2238(11)	12
Contingent Fee	76-2238(12)	12-13
Conviction	76-2238(6)	12
Dishonesty, Fraud, Misrepresentation	76-2238(4)	12
Failure to Meet Qualifications	76-2238(1)	12
False Application	76-2238(2)	12
Fictitious Name	76-2238(7)	12
Finder's Fee	76-2238(8)	12
Maintain Records	76-2238(15)	13
Violation - Rule	76-2238(10)	12
DISCIPLINARY PROCESS		
Application Pledge	76-2227(2)	5
Board Member Immunity	76-2225	5
Complaint Process	76-2239	13
Conformance with Standards of		
Professional Practice	76-2237	12
Disciplinary Acts & Omissions	76-2238	12-13
Discipline & Hearing Authority	76-2223(2)(6)(8)(9)	4
Evidence and Witnesses	76-2223(7)	4
Hearings	76-2240	13-14
Promulgate Rules and Regulations	76-2223(12)	5
EXAMINATIONS		
Contract Authority	76-2223(2)	4
Fee Payment	76-2227(1)	5
Fees	76-2241	14
General Certification Examination	76-2232(e)	10
License Examination	76-2230(e)	7
Question Bank	76-2223(4)	4
Registration Examination	76-2229.01(d)	6
Residential Certification Examination	76-2231.01	8
Specification Authority	76-2223(3)	4
EXCEPTIONS TO ACT		
Appraiser Trainee	76-2221(4)	3
Condemnation Proceedings	76-2221(6)	3
Government Employees	76-2221(1)	3
Financial Institution	76-2221(1)	3
Insurance Company	76-2221(1)	3
Persons Providing Assistance	76-2221(3)	3
Salespersons and Brokers	76-2221(2)	3
Taxation Purposes	76-2221(5)	3

Subject	Statute	Page
FEES		
Deposits	76-2241	14
Collection	76-2223(5)	4
Investment	76-2226	5
Federal Fees	76-2241	14
Credentialing Fees		
Application	76-2241(1)	14
Examination	76-2241(2)	14
Initial	76-2241(3)	14
Late Renewal	76-2241(4)	14
Renewal	76-2241(3)	14
Temporary	76-2241(5)	14
Reciprocity	76-2241	14
FELONY		
Certified General	76-2232(f)(i)	10
Certified Residential	76-2231.01 (f)(i)	9
Licensed	76-2230(f)(i)	8
Registered	76-2229.01(e)(i)	7
GENERAL CERTIFICATION EXAMINATION	76-2232(e)	10
GENERAL CERTIFICATION QUALIFICATIONS	76-2232	9-10
CREDENTIALS REQUIRED	76-2220	2
HEARING		
Appeal	76-2240(2)	14
Determination	76-2240(1)	13
Time and Place	76-2240(1)	13
HOW CITED	76-2201	1
INTENT	76-2202	1
LICENSE EXAMINATION	76-2230(e)	7
LICENSE REQUIRED	76-2220	2-3
LICENSE QUALIFICATIONS	76-2230(1)(2)	7-8
MANDATORY REQUIREMENT	76-2220	2-3
	76-2246	15
NONRESIDENT LICENSE, OR CERTIFICATE		
Consent to Process	76-2233(1)	10
Equivalent Requirement	76-2233(2)	10
Temporary License, or Residential or General Certificate	76-2233.01	11
PLACE OF BUSINESS	76-2244	14
PROFESSIONAL CORPORATION	76-2243	14
REAL ESTATE APPRAISER FUND		
Established	76-2226	5
REGISTRATION EXAMINATION	76-2229.01	6-7
REGISTRATION QUALIFICATIONS	76-2229.01	6-7
REGISTRATION REQUIRED		
Exemptions	76-2220	2
	76-2221	3
RESIDENTIAL CERTIFICATION EXAMINATION	76-2231.01 (e)	8

Subject	Statute	Page
RESIDENTIAL CERTIFICATION QUALIFICATIONS	76-2231.01	8-9
RESIDENTIAL CERTIFICATION REQUIRED	76-2220	3
Exemptions	76-2221	3
ROSTER OF APPRAISERS	76-2223 (1)	5
	76-2249	15
RULES & REGULATIONS		
Adopt Rules	76-2237	12
Conformance with Standards	76-2237	12
Distribution	76-2237	12
STANDARDS OF PROFESSIONAL PRACTICE		
Application Pledge	76-2227(2)	5
Compliance	76-2247.01	15
Continuing Education	76-2236	11-12
Violation	76-2223(9)	4
TEMPORARY LICENSE, OR GENERAL CERTIFICATE	76-2233.01	11
UNREGISTERED, UNLICENSED, OR UNCERTIFIED VIOLATIONS	76-2246	15
USE OF TITLE & RESTRICTIONS	76-2229 (1)(2)	6

NUMERICAL BY SECTION

SECTION	
76-2201	Act, how cited. Sections 76-2201 to 76-2250 shall be known and may be cited as the Real Estate Appraiser Act.
76-2203	Definitions, where found.
76-2204	Appraisal defined.
76-2205.01	Appraisal practice, defined.
76-2207	Appraiser trainee, defined.
76-2211	Repealed. Laws 1994, LB 1107, s. 51
76-2211.02	Credentialed, defined.
76-2215	Real estate appraisal activity, defined.
76-2216	Real Estate appraiser, defined.
76-2217.01	Registered real estate appraiser, defined.
76-2217.02	Repealed. Laws 1994, LB 1107, s. 51
76-2218	Two-year continuing education period, defined.
76-2218.01	Uniform Standards of Professional Appraisal Practice, defined.
76-2220	Proper credentialing required.
76-2221	Act; exemptions.
76-2222	Real Estate Appraiser Board created; members; terms; compensation.
76-2223	Board; powers and duties, rules and regulations.
76-2225	Board; civil and criminal immunity.
76-2226	Real Estate Appraiser Fund; created; use; investment.
76-2227	Credentials; application; requirements.
76-2228	Appraisers; classification.
76-2229	Use of titles; restrictions.
76-2229.01	Registration; applicant; qualifications.
76-2229.02	Repealed. Laws 2001, LB 162, § 44.
76-2230	License; applicant; qualifications.
76-2231	Repealed. Laws 1991, LB 203, s 58.
76-2231.01	Certified residential real estate appraiser; certificate; applicant; qualifications.
76-2232	Certified general real estate appraiser, certificate; applicant; qualifications.
76-2233	Nonresident; license or certificate; issuance; when; waiver authorized.
76-2233.01	Nonresident; temporary license or certificate; issuance; when.
76-2233.02	Credential; expiration; renewal.
76-2234 to 76-2235	Repealed. Laws 2001, LB 162, § 44.
76-2236	Continuing education; requirements; extension or waiver.
76-2237	Professional and ethical standards; rules and regulations.
76-2238	Disciplinary action; denial of application; grounds.
76-2239	Investigations; authorized; disciplinary action; complaint; procedure; hearing.
76-2240	Complaints; hearing; decision; order; appeal.
76-2241	Fees.
76-2242	Credential holder; proof of credentials; issuance.
76-2243	Professional corporation; practice of appraising.
76-2244	Principal place of business; requirements.
76-2245	Action for compensation; conditions.
76-2246	Appraisal without credentials; penalty.
76-2247	Repealed. Laws 1991, LB 203, s 58.
76-2247.01	Services; authorized; contingent fee prohibited; when.
76-2248	Attorney General; powers and duties.
76-2249	Directory of appraisers; information; distribution.
76-2250	Certificate of good standing.

REAL ESTATE APPRAISER ACT

76-2201. Act, how cited. Sections 76-2201 to 76-2250 shall be known and may be cited as the Real Estate Appraiser Act.

76-2202. Legislative findings. The Legislature finds that, because of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 by the Congress of the United States, Nebraska laws providing for licensing of real estate appraisers require restructuring in order to comply with Title XI of the act. Compliance with the act is necessary to ensure an adequate number of appraisers in Nebraska to conduct appraisals of real estate involved in federally related transactions as defined in Title XI of the act. The restructuring of Nebraska laws by the Real Estate Appraiser Act includes the creation of a new, independent board.

76-2203. Definitions, where found. For purposes of the Real Estate Appraiser Act, the definitions found in sections 76-2204 to 76-2219 shall be used.

76-2203.01. Advocate Consulting Service, defined. Advocate consulting service shall mean an evaluation assignment intended to facilitate the achievement of the client's objective.

76-2204. Appraisal, defined. Appraisal shall mean an analysis, opinion, or conclusion prepared by a real estate appraiser relating to the value of specified interests in or aspects of identified real estate or identified real property. An appraisal may be classified by the nature of the assignment into either a valuation assignment or an evaluation assignment.

76-2205. Appraisal Foundation, defined. Appraisal Foundation shall mean the Appraisal Foundation that was incorporated as an Illinois not-for-profit corporation on November 30, 1987.

76-2205.01. Appraisal practice, defined. Appraisal practice shall mean valuation services including appraisal, appraisal review, or appraisal consulting performed by a real estate appraiser.

76-2206. Appraisal report, defined. Appraisal report shall mean any communication, written or oral, of an appraisal. The testimony of a real estate appraiser dealing with the appraiser's analyses, conclusions, or opinions concerning identified real estate or identified real property shall be deemed to be an oral appraisal report.

76-2207. Appraiser trainee, defined. Appraiser trainee shall mean a person who, under direct supervision of a licensed, certified residential, or certified general real estate appraiser, assists the appraiser in any phase of appraisal activity but shall not include nonprofessional employees such as clerical employees.

76-2208. Board, defined. Board shall mean the Real Estate Appraiser Board.

76-2209 – Broker's Price Opinion defined. Broker's price opinion shall mean an analysis, opinion, or conclusion prepared by a person licensed under the Nebraska Real Estate License Act in the ordinary course of his or her business relating to the price of specified interests in or aspects of identified real estate or identified real property for the purpose of listing, purchase, or sale.

76-2210. Certified general real estate appraiser, defined. Certified general real estate appraiser shall mean a person who holds a valid certificate as a certified general real estate appraiser issued under the Real Estate Appraiser Act.

76-2210.01. Certified real estate appraiser, defined. Certified real estate appraiser shall mean a person who holds a valid certificate as a certified general real estate appraiser or a valid certificate as a certified residential real estate appraiser issued under the Real Estate Appraiser Act.

76-2210.02. Certified Residential real estate appraiser, defined. Certified residential real estate appraiser shall mean a person who holds a valid certificate as a certified residential real estate appraiser issued under the Real Estate Appraiser Act.

76-2211. Comparative Market Analysis defined. Comparative market analysis shall mean an analysis,

opinion, or conclusion prepared by a person licensed under the Nebraska Real Estate License Act in the ordinary course of his or her business relating to the price of specified interests in or aspects of identified real estate or identified real property by comparison to other real property currently or recently in the marketplace for the purpose of listing, purchase, or sale.

76-2211. Repealed. Laws 1994, LB 1107, s. 51

76-2211.01 Consulting Service, defined. Consulting service shall mean an impartial evaluation service as a disinterested third party that responds to a client's stated objective and any other engagement for which a real estate 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 opinion.

76-2211.02 Credential defined. Credential shall mean a registration, license, or certificate.

76-2212. Evaluation assignment, defined. Evaluation assignment shall mean an assignment that relates to the nature, quality, or utility of identified real estate or identified real property and which typically does not include a value estimate. Evaluation assignment shall not include reports prepared by experts from professional disciplines other than real estate appraisal such as: A soil test or soil analysis of identified real estate prepared by a civil engineer; a title opinion or zoning analysis of identified real estate prepared by a lawyer; an architectural analysis of identified improved real estate prepared by an architect; and a property management analysis of identified improved real estate prepared by a property manager or property management consultant.

76-2213. Licensed real estate appraiser, defined. Licensed real estate appraiser shall mean a person who holds a valid license as a licensed real estate appraiser issued under the Real Estate Appraiser Act.

76-2214. Real estate, defined. Real estate shall mean a parcel or tract of land, including improvements, if any.

76-2215. Real estate appraisal activity, defined. Real estate appraisal activity shall mean any act or process, performed for a fee or other valuable consideration, involved in developing an appraisal or preparing an appraisal report, including but not limited to, a consulting service, an advocate consulting service, an evaluation assignment, or a valuation assignment.

76-2216. Real estate appraiser, defined. Real estate appraiser shall mean a person (1) who engages in real estate appraisal activity, (2) who advertises or holds himself or herself out to the general public as a real estate appraiser or (3) who offers, attempts, or agrees to perform or performs real estate appraisal activity with the intention or upon the promise of receiving valuable consideration.

76-2217. Real property, defined. Real property shall mean one or more defined interests, benefits, or rights inherent in the ownership of real estate.

76-2217.01. Registered real estate appraiser, defined. Registered real estate appraiser shall mean a person who holds a valid registration as a registered real estate appraiser as provided in section 76-2229.01.

76-2217.02. Repealed. Laws 1994, LB 1107, s. 51

76-2218. Two-year continuing education period, defined. Two-year continuing education period shall mean a period of twenty-four months commencing on January 1 following the date of credentialing under the Real Estate Appraiser Act and each succeeding twenty-four-month period.

76-2218.01. Uniform Standards of Professional Appraisal Practice, defined. Uniform Standards of Professional Appraisal Practice means the standards promulgated by the Appraiser Foundation, as the standards existed on September 1, 2001.

76-2219. Valuation assignment, defined. Valuation assignment shall mean an appraisal that estimates the value of identified real estate or identified real property at a particular point in time.

76-2220. Proper credentialing required. Except as provided in section 76-2221, it shall be unlawful for

anyone to act as a real estate appraiser in this state without first obtaining proper credentialing as required under the Real Estate Appraiser Act.

76-2221. Act; exemptions. The Real Estate Appraiser Act shall not apply to:

(1) Any real estate appraiser who is a salaried employee of (a) the federal government, (b) any agency of the state government or a political subdivision which appraises real estate, (c) any insurance company authorized to do business in this state, or (d) any bank, savings bank, savings and loan association, building and loan association, credit union, industrial loan and investment company, or small loan company licensed by the state or supervised or regulated by or through federal enactments covering financial institutions, except that any employee of the entities listed in subdivisions (a) through (d) of this subdivision who also practices as an independent real estate appraiser for others shall be subject to the act and shall be credentialed prior to engaging in such other appraising;

(2) A person licensed under the Nebraska Real Estate License Act who, in the ordinary course of his or her business, gives a broker's price opinion or comparative market analysis, except that such opinion or analysis shall not be referred to as an appraisal. No compensation, fee, or other consideration shall be charged for such opinion or analysis other than a real estate commission or brokerage fee charged or paid for brokerage services rendered in connection with the sale of the real estate involved unless the opinion or analysis is in writing and carries the following disclosure in bold fourteen-point type: This opinion or analysis is not an appraisal. It is intended only for the benefit of the addressee for the purpose of assisting buyers or sellers or prospective buyers or sellers in deciding the listing, offering, or sale price of the real property and not for any other purpose, including, but not limited to, lending purposes. This opinion or analysis is not governed by the Real Estate Appraiser Act, but is subject to enforcement through the Nebraska Real Estate License Act;

(3) Any person who provides assistance (a) in obtaining the data upon which an appraisal is based, (b) in the physical preparation of an appraisal report, such as taking photographs, preparing charts, maps, or graphs, or typing or printing the report, or (c) that does not directly involve the exercise of judgment in arriving at the analyses, opinions, or conclusions concerning real estate or real property set forth in the appraisal report;

(4) An appraiser trainee;

(5) Any owner of real estate, employee of the owner, or attorney licensed to practice law in the State of Nebraska representing the owner who renders an estimate or opinion of value of real estate or any interest in the real estate when such estimate or opinion is for the purpose of real estate taxation, or any other person who renders such an estimate or opinion of value when that estimate or opinion requires a specialized knowledge that a real estate appraiser would not have, except that a real estate appraiser or a person licensed under the Nebraska Real Estate License Act is not exempt under this subdivision;

(6) Any owner of real estate, employee of the owner, or attorney licensed to practice law in the State of Nebraska representing the owner who renders an estimate or opinion of value of real estate or any interest in real estate or damages thereto when such estimate or opinion is offered as testimony in any condemnation proceeding, or any other person who renders such an estimate or opinion when that estimate or opinion requires a specialized knowledge that a real estate appraiser would not have, except that a real estate appraiser or a person licensed under the Nebraska Real Estate License Act is not exempt under this subdivision; or

(7) Any owner of real estate, employee of the owner, or attorney licensed to practice law in the State of Nebraska representing the owner who renders an estimate or opinion of value of the real estate or any interest in the real estate when such estimate or opinion is offered in connection with a legal matter involving real property.

76-2222. Real Estate Appraiser Board; created; members; terms; compensation.

(1) The Real Estate Appraiser Board is hereby created. The board shall consist of five members, one member who is a certified real estate appraiser shall be selected from each of the three congressional districts, and two members shall be selected at large. The two members selected at large shall include one representative of financial institutions and one licensed real estate broker who also holds a credential as a licensed or certified real estate appraiser. The Governor shall appoint the members of the board. The members shall be appointed so that the membership of the board selected from the congressional districts includes at least two certified general real estate appraisers.

(2) The term of each member of the board shall be five years, except that of the members initially appointed one shall serve for one year, one shall serve for two years, one shall serve for three years, and one shall serve for four

years as designated by the Governor. Upon the expiration of his or her term, a member of the board shall continue to hold office until the appointment and qualification of his or her successor. No person shall serve as a member of the board for more than two consecutive terms. Any vacancy shall be filled in the same manner as the original appointment. The Governor may remove a member for cause.

(3) The members of the board shall elect a chairperson during the first meeting of each year from among the members.

(4) Four members shall constitute a quorum. Each member shall receive a per diem of one hundred dollars per day or substantial part of a day for each scheduled meeting of the board at which the member is present and shall be reimbursed for actual and necessary expenses as provided in sections 81-1174 to 81-1177.

76-2223. Board; powers and duties; rules and regulations. The board shall administer and enforce the Real Estate Appraiser Act and may:

(1) Receive applications for credentialing under the act, process such applications, and regulate the issuance of credentials to qualified applicants, and maintain a directory of the names and addresses of persons who receive credentials under the act;

(2) Hold meetings, public hearings, informal conferences, and administrative hearings, prepare or cause to be prepared specifications for all appraiser classifications, solicit bids and enter into contracts with one or more educational testing services or organizations for the preparation of a bank of questions and answers for examination in such places and at such times as deemed appropriate;

(3) Develop the specifications for credentialing examinations, including timing, location, and security necessary to maintain the integrity of the examinations;

(4) Review from time to time the procedure for selecting individual questions from the bank of questions for use in connection with each scheduled examination and review from time to time the questions in the bank of questions and the related answers to ascertain that they meet the specifications established by the board;

(5) Collect all fees required or permitted by the act. The board shall remit all such receipts to the State Treasurer for credit to the Real Estate Appraiser Fund. In addition, the board may collect and transmit to the appropriate federal authority any fees established under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as the act existed on September 1, 2001;

(6) Establish appropriate administrative procedures for disciplinary proceedings conducted pursuant to the Real Estate Appraiser Act;

(7) Issue subpoenas to compel the attendance of witnesses and the production of books, documents, records, and other papers, administer oaths, and take testimony and require submission of and receive evidence concerning all matters within its jurisdiction. In case of disobedience of a subpoena, the board may make application to the district court of Lancaster County to require the attendance and testimony of witnesses and the production of documentary evidence. If any person fails to obey an order of the court, he or she may be punished by the court for contempt thereof;

(8) Deny, censure, suspend, or revoke an application or credential if it finds that the applicant or credential holder has committed any of the acts or omissions set forth in section 76-2238 or otherwise violated the act. Any disciplinary matter may be resolved through informal disposition pursuant to section 84-913;

(9) Take appropriate disciplinary action against a credential holder if the board determines that a credential holder has violated any provision of the act or the standards of professional appraisal practice or ethical rules established under section 76-2237;

(10) Enter into consent decrees and issue cease and desist orders upon a determination that a violation of the act has occurred or is about to occur;

(11) Promote research and conduct studies relating to the profession of real estate appraisal, sponsor real estate appraisal educational activities, and incur, collect fees for, and pay the necessary expenses in connection with activities which shall be open to all credential holders;

(12) Establish and annually adopt minimum standards for appraisals as required under section 76-2237;

(13) Adopt and promulgate rules and regulations to carry out the act. The rules and regulations may include provisions establishing minimum standards for schools, courses, and instructors. The rules and regulations shall be adopted pursuant to the Administrative Procedure Act; and

(14) Do all other things necessary to carry out the Real Estate Appraiser Act.

76-2224. Board; personnel, facilities, and equipment. In order to administer and enforce the Real Estate Appraiser Act, the board may hire a director and other staff, rent office space, and acquire other facilities and equipment. The board may contract for administrative assistance including facilities, equipment, supplies, and personnel that are required by the board to carry out its responsibilities under the act.

76-2225. Board; civil and criminal immunity. The members of the board shall be immune from any civil action or criminal prosecution for initiating or assisting in any lawful investigation of the actions of or any disciplinary proceeding concerning a credential holder pursuant to the Real Estate Appraiser Act if such action is taken without malicious intent and in the reasonable belief that it was taken pursuant to the powers vested in the members of the board.

76-2226. Real Estate Appraiser Fund; created; use; investment. There is hereby created the Real Estate Appraiser Fund. The board may use the fund for the administration and enforcement of the Real Estate Appraiser Act and to meet the necessary expenditures of the board. The fund shall include a sufficient cash fund balance as determined by the board. The expense of administering and enforcing the act shall not exceed the money collected by the board under the act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

76-2227. Credentials; application; requirements.

(1) Applications for credentials, including authorization to take the appropriate examination, and for renewal of credentials shall be made in writing to the board on forms approved by the board. The payment of the appropriate fee fixed by the board pursuant to section 76-2241 shall accompany all applications.

(2) At the time of filing an initial or renewal application for credentials, the applicant shall sign a pledge that he or she has read and will comply with the standards of professional appraisal practice and the ethical rules established under section 76-2237. Each applicant shall also certify that he or she understands the types of misconduct for which disciplinary proceedings may be initiated.

(3) Credentials shall be issued only to persons who have a good reputation for honesty, trustworthiness, integrity, and competence to perform assignments in such manner as to safeguard the interest of the public and only after satisfactory proof of such qualification has been presented to the board upon request

(4) No credential shall be issued to a corporation, partnership, limited liability company, firm, or group.

76-2228. Appraisers; classification. There shall be four classes of credentials issued to real estate appraisers as follows:

(1) Registered real estate appraiser, which classification shall consist of those persons who meet the requirements for registration set forth in section 76-2229.01;

(2) Licensed real estate appraiser, which classification shall consist of those persons who meet the requirements for licensure set forth in section 76-2230;

(3) Certified residential real estate appraiser, which classification shall consist of those persons who meet the requirements for residential certification set forth in 76-2231.01; and

(4) Certified general real estate appraiser, which classification shall consist of those persons who meet the requirements for general certification set forth in section 76-2232.

76-2229. Use of titles; restrictions.

(1) No person other than a registered real estate appraiser shall assume or use the title registered real estate appraiser or any title, designation, or abbreviation likely to create the impression of registration as a real estate appraiser

by this state. No person other than a licensed real estate appraiser shall assume or use the title licensed real estate appraiser or any title, designation, or abbreviation likely to create the impression of licensure as a real estate appraiser by this state. No person other than a certified residential real estate appraiser shall assume or use the title certified residential real estate appraiser or any title, designation, or abbreviation likely to create the impression of residential certification as a real estate appraiser by this state. No person other than a certified general real estate appraiser shall assume or use the title certified general real estate appraiser or any title, designation, or abbreviation likely to create the impression of general certification as a real estate appraiser by this state. A real estate appraiser shall state whether he or she is a registered real estate appraiser, licensed real estate appraiser, certified residential real estate appraiser, or certified general real estate appraiser whenever he or she identifies himself or herself as a real estate appraiser, including on all reports which are signed individually or as cosigner.

(2) The terms registered real estate appraiser, licensed real estate appraiser, certified residential real estate appraiser, and certified general real estate appraiser may only be used to refer to a person who is credentialed as such under the Real Estate Appraiser Act and may not be used following or immediately in connection with the name or signature of a corporation, partnership, limited liability company, firm, or group or in such manner that it might be interpreted as referring to a corporation, partnership, limited liability company, firm, or group or to anyone other than the credential holder. This requirement shall not be constructed to prevent a credential holder from signing an appraisal report on behalf of a corporation, partnership, limited liability company, firm, or group if it is clear that only the individual holds the credential and that the corporation, partnership, limited liability company, firm, or group does not.

76-2229.01. Registration; applicant; qualifications.

(1) For registration as a real estate appraiser, an applicant shall:

(a) Be at least nineteen years of age;

(b) Hold a high school diploma or a certificate of high school equivalency or have education acceptable to the board;

(c) Have successfully completed not less than ninety class hours in board-approved courses of study which relate to appraisal and which include a fifteen-hour course in the Uniform Standards of Professional Appraisal Practice. The courses of study shall be conducted by an accredited university, college, community college, or junior college, an appraisal society, institute, or association, or such other education provider as may be approved by the board and shall be, at a minimum, fifteen class hours in length. Each course of study shall include an examination pertinent to the material presented;

(d) Pass an examination administered by the board which demonstrates that the applicant has:

(i) Knowledge of the English language, including technical terms commonly used in or related to appraisal and the writing of appraisal reports;

(ii) Knowledge of depreciation theories, cost estimating, methods of capitalization, market data analysis, and appraisal mathematics, and economic concepts applicable to real estate;

(iii) An understanding of the principles of land economics, appraisal processes, and problems encountered in the gathering, interpreting, and processing of data involved in the valuation of real property;

(iv) Knowledge of the appraisal of various types of and interests in real property for various functions and purposes;

(v) An understanding of basic real estate law;

(vi) An understanding of the types of misconduct for which disciplinary proceedings may be initiated;

(vii) An understanding of the standards of professional appraisal practice and ethical rules that a real estate appraiser is required to observe;

(viii) An understanding of the types of misconduct for which disciplinary proceedings may

be initiated;

(ix) Knowledge of such other principles and procedures as may be appropriate to produce a credible appraisal; and

(e)

(i) Not have been convicted of any felony or, if so convicted, have had his or her civil rights restored and

(ii) upon request of the board, furnish satisfactory proof of good reputation as required under section 76-2227.

(2) The application for registration shall include the applicant's social security number and such other information as the board may require.

76-2229.02. Repealed. Laws 2001, LB 162, § 44.

76-2230. License; applicant; qualifications.

(1) To qualify for a license as a licensed real estate appraiser, an applicant shall:

(a) Be at least nineteen years of age;

(b) Hold a high school diploma or a certificate of high school equivalency or have education acceptable to the board;

(c) Have successfully completed not less than ninety class hours, which may include the class hours set forth in section 76-2229.01, in board-approved courses of study which relate to appraisal and which include a fifteen-hour course in the Uniform Standards of Professional Appraisal Practice. The courses of study shall be conducted by an accredited university, college, community college, or junior college, an appraisal society, institute, or association, or such other educational provider as may be approved by the board and shall be, at a minimum, fifteen class hours in length. Each course shall include an examination pertinent to the material presented;

(d) Have no less than two years of experience in any combination of the following: Fee and staff appraisal; ad valorem tax appraisal; review appraisal; appraisal analysis; highest-and-best-use analysis; or feasibility analysis or study. The required experience shall not be limited to the listed items but shall be acceptable to the board and subject to review and determination as to conformity with the Uniform Standards of Professional Appraisal Practice. The experience shall include a total of at least two thousand hours and shall have occurred over at least a twenty-four-month period. If requested, evidence acceptable to the board concerning the experience shall be presented by the applicant in the form of written reports or file memoranda;

(e) Pass an examination administered by the board which demonstrates that the applicant has:

(i) Knowledge of the English language, including technical terms commonly used in or related to appraisal and the writing of appraisal reports;

(ii) Knowledge of depreciation theories, cost estimating, methods of capitalization, market data analysis, and appraisal mathematics, and economic concepts applicable to real estate;

(iii) An understanding of the principles of land economics, appraisal processes, and problems encountered in the gathering, interpreting, and processing of data involved in the valuation of real property;

(iv) Knowledge of the appraisal of various types of and interests in real property for various functions and purposes;

(v) An understanding of basic real estate law;

(vi) An understanding of the types of misconduct for which disciplinary proceedings may be initiated;

(vii) An understanding of the standards of professional appraisal practice and ethical rules that a real estate appraiser is required to observe;

(viii) An understanding of the recognized methods and techniques necessary for the development and communication of a credible appraisal; and

(ix) Knowledge of such other principles and procedures as may be appropriate to produce a credible appraisal; and

(f)

(i) Not have been convicted of any felony or, if so convicted, have had his or her civil rights restored and

(ii) upon request of the board, furnish satisfactory proof of good reputation as required under section 76-2227.

(2) The application for the license shall include the applicant's social security number and such other information as the board may require.

76-2231. Repealed. Laws 1991, LB 203, s 58.

76-2231.01. Certified residential real estate appraiser; certificate; applicant; qualifications.

(1) To qualify for a residential certificate as a certified residential real estate appraiser, an applicant shall:

(a) Be at least nineteen years of age;

(b) Hold a high school diploma or a certificate of high school equivalency or have education acceptable to the board;

(c) Have successfully completed not less than one hundred twenty class hours, which may include the class hours set forth in section 76-2229.01 and 76-2230, in board-approved courses of study which relate to appraisal and which include a fifteen-hour course in the Uniform Standards of Professional Appraisal Practice. The courses of study shall be conducted by an accredited university, college, community college, or junior college, an appraisal society, institute, or association, or such other educational provider as may be approved by the board and shall be, at a minimum, fifteen class hours in length. Each course shall include an examination pertinent to the material presented;

(d) Have no less than two years of experience in any combination of the following: Fee and staff appraisal; ad valorem tax appraisal; review appraisal; appraisal analysis; highest-and-best-use analysis; or feasibility analysis or study. The required experience shall not be limited to the listed items but shall be acceptable to the board and subject to review and determination as to conformity with the Uniform Standards of Professional Appraisal Practice. The experience shall include a total of at least two thousand five hundred hours and shall have occurred over no less than a twenty-four-month period. If requested, evidence acceptable to the board concerning the experience shall be presented by the applicant in the form of written reports or file memoranda. Of the two thousand five hundred hours, one thousand five hundred hours shall be in residential appraisal work. For purposes of determining residential appraisal work, residential appraisal work shall be the appraisal of property having one to four residential units;

(e) Pass an examination administered by the board which demonstrates that the applicant has:

(i) Knowledge of the English language, including technical terms commonly used in or related to appraisal and the writing of appraisal reports;

(ii) An understanding of the basic principles of land economics, appraisal processes, and

problems encountered in gathering, interpreting, and processing of data involved in the valuation of real property;

(iii) An understanding of the recognized methods and techniques necessary for the development and communication of credible appraisals as provided in the Real Estate Appraiser Act;

(iv) An understanding of the standards of professional appraisal practice and ethical rules that a real estate appraiser is required to observe;

(v) Knowledge of depreciation theories, cost estimating, methods of capitalization, appraisal mathematics, and economic concepts applicable to real estate;

(vi) Knowledge of such other principles and procedures as may be appropriate for certification;

(vii) An understanding of real estate law; and

(viii) An understanding of the types of misconduct for which disciplinary proceedings may be initiated; and

(f)

(i) Not have been convicted of any felony or, if so convicted, have had his or her civil rights restored and

(ii) upon request of the board, furnish satisfactory proof of good reputation as required under section 76-2227.

(2) The application for a residential certification shall include the applicant's social security number and such other information as the board may require.

76-2232. Certified general real estate appraiser; certificate; applicant; qualifications.

(1) To qualify for a general certificate as a certified general real estate appraiser, an applicant shall:

(a) Be at least nineteen years of age;

(b) Hold a high school diploma or a certificate of high school equivalency or have education acceptable to the board;

(c) Have successfully completed not less than one hundred eighty class hours, which may include the class hours set forth in section 76-2229.01, 76-2230, and 76-2231.01, in board-approved courses of study which relate to appraisal and which include a fifteen-hour course in the Uniform Standards of Professional Appraisal Practice. The courses of study shall be conducted by an accredited university, college, community college, or junior college, an appraisal society, institute, or association, or such other educational provider as may be approved by the board and shall be, at a minimum, fifteen class hours in length. Each course shall include an examination pertinent to the material presented;

(d) Have no less than two and one-half years of experience in any combination of the following: Fee and staff appraisal; ad valorem tax appraisal; review appraisal; appraisal analysis; highest-and-best-use analysis; or feasibility analysis or study. The required experience shall not be limited to the listed items but shall be acceptable to the board and conform with the Uniform Standards of Professional Appraisal Practice. The experience shall include a total of at least three thousand hours and shall have occurred over a thirty-month period. If requested, evidence acceptable to the board concerning the experience shall be presented by the applicant in the form of written reports or file memoranda. Of the three thousand hours, one thousand five hundred hours shall be in nonresidential appraisal work. For purposes of determining nonresidential appraisal work, residential appraisal work shall be the appraisal of property having one to four residential units;

(e) Pass an examination administered by the board which demonstrates that the applicant has:

- (i) Knowledge of the English language, including technical terms commonly used in or related to appraisals and the writing of appraisal reports;
- (ii) An understanding of the principles of land economics, appraisal processes, and problems encountered in the gathering, interpreting, and processing of data involved in the valuation of real property;
- (iii) An understanding of the recognized methods and techniques necessary for the development and communication of credible appraisals as provided in the Real Estate Appraiser Act;
- (iv) An understanding of the standards of professional appraisal practice and ethical rules that a real estate appraiser is required to observe;
- (v) Knowledge of depreciation theories, cost estimating, methods of capitalization, appraisal mathematics, and economic concepts applicable to real estate;
- (vi) Knowledge of such other principles and procedures as may be appropriate for general certification;
- (vii) An understanding of real estate law; and
- (viii) An understanding of the types of misconduct for which disciplinary proceedings may be initiated; and

(f)

- (i) Not have been convicted of any felony or, if so convicted, have had his or her civil rights restored and
- (ii) upon request of the board, furnish satisfactory proof of good reputation as required under section 76-2227.

(2) The application for a general certification shall include the applicant's social security number and such other information as the board may require.

76-2233. Nonresident, license or certificate; issuance; when; waiver authorized.

(1) A nonresident of this state may obtain a license as a licensed real estate appraiser, or obtain a certificate as a certified residential real estate appraiser or as a certified general real estate appraiser by (a) complying with all of the provisions of the Real Estate Appraiser Act relating to the appropriate classification or credentialing, (b) submitting an application on a form approved by the board, and (c) submitting an irrevocable consent that service of process upon him or her may be made by delivery of the process to the director of the board if the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant in an action against the applicant in a court of this state arising out of the applicant's activities as a real estate appraiser in this state.

(2) If, in the determination of the board, another state or territory or the District of Columbia has substantially equivalent requirements to the requirements of this state, an applicant who is a resident of that state, territory, or district and is currently credentialed to appraise real estate and real property under the laws of that state, territory, or district may through reciprocity become credentialed under the act. To qualify for reciprocal credentialing, the applicant shall:

- (a) Submit evidence that he or she is currently a resident of that state, territory, or District of Columbia in which he or she is credentialed to appraise real estate and real property and that such credential is in good standing, along with his or her social security number and such other information as the board may require;
- (b) Certify that disciplinary proceedings are not pending against him or her or state the nature of any pending disciplinary proceedings;
- (c) Submit an irrevocable consent that service of process upon him or her may be made by delivery of the process to the director of the board if the plaintiff cannot, in the exercise of due diligence, effect personal

service upon the applicant in an action against the applicant in a court of this state arising out of the applicant's activities as a real estate appraiser in this state;

(d) Pay fees as established in section 76-2241; and

(e) Comply with such other terms and conditions as may be determined by the board.

The Board may waive the residence requirement of this subsection under special residency circumstances.

76-2233.01. Nonresident; temporary license, or certificate; issuance; when. A nonresident may obtain a temporary license as a licensed real estate appraiser, obtain a temporary certificate as a certified residential real estate appraiser or as a certified general real estate appraiser to perform a contract relating to the appraisal of real estate or real property in this state. To qualify for the issuance of a temporary license or certificate, an applicant shall:

(1) Submit an application on a form approved by the board;

(2) Submit an irrevocable consent that service of process upon him or her may be made by delivery of the process to the director of the board if the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant in an action against the applicant in a court of this state arising out of the applicant's activities in this state;

(3) Submit evidence that he or she is credentialed as a licensed or certified appraiser of real estate and real property and is currently in good standing in the jurisdiction of residency, along with his or her social security number and such other information as the board may require;

(4) Certify that disciplinary proceedings are not pending against the applicant in the applicant's state of domicile or in any other jurisdiction or state the nature of any pending disciplinary proceedings;

(5) Pay an application fee in an amount established by the board.

A temporary license or certificate issued under this section shall be expressly limited to a grant of authority to perform the appraisal work required by the contract for appraisal services in this state. Each temporary license or certificate shall expire upon the completion of the appraisal work required by the contract for appraisal services or upon the expiration of a period of six months from the date of issuance, whichever occurs first. A temporary license or certificate may not be renewed.

76-2233.02. Credential; expiration; renewal. A credential issued under the Real Estate Appraiser Act other than a temporary credential shall remain in effect until December 31 following the date of credentialing unless surrendered, revoked, suspended, or canceled prior to such date. To renew a valid credential, the credential holder shall file an application on a form approved by the board and pay the prescribed renewal fee to the board not later than November 30 of each year. In every second year of renewal, as specified in section 76-2236, evidence of completion of continuing education requirements shall accompany renewal application or be on file with the board prior to renewal.

If a credential holder fails to apply and meet the requirements for renewal by November 30, such credential holder may obtain a renewal of such credential by satisfying all of the requirements for renewal and paying a late renewal fee if such late renewal takes place prior to July 1 of the following year. The board may refuse to renew any credential if the credential holder has continued to perform real estate appraisal activities or other related activities in this state following the expiration of his or her credential.

76-2234 to 76-2235. Repealed. Laws 2001, LB 162, § 44.

76-2236. Continuing education; requirements; extension or waiver. Every credential holder shall furnish evidence to the board that he or she has satisfactorily completed no less than twenty-eight hours of approved continuing education activities in each two-year continuing education period, except that during the first full year of the two-year continuing education period only, commencing on January 1, 2001, every new or upgraded credential holder shall furnish evidence to the board that he or she has satisfactorily completed one-half of the two-year continuing education requirement. Hours of satisfactorily completed approved continuing education activities cannot be carried over from one two-year continuing education period to another. The board may extend or waive these requirements by rule or regulation. As prescribed by rule or regulation of the board and at least once every four years, an update seminar of no less than seven hours, covering the Uniform Standards of Professional Appraisal Practice shall be included in the

continuing education requirement of each credential holder. The board shall approve continuing education activities which it determines would protect the public by improving the competency of credential holders. Evidence of completion of such continuing education activities for the two-year continuing education period may be submitted to the board as each activity is completed. A person who holds a temporary credential shall not have to meet any continuing education requirements in this state.

76-2237. Professional and ethical standards; rules and regulations. Each credential holder shall comply with generally accepted standards of professional appraisal practice and generally accepted ethical rules to be observed by a real estate appraiser. The board shall adopt and promulgate rules and regulations which may conform to the generally accepted standards of professional appraisal practice evidenced by the Uniform Standards of Professional Appraisal Practice. The board shall review such rules and regulations annually. A copy of each such rule or regulation shall be mailed to the business address of each credential holder.

76-2238. Disciplinary action; denial of application; grounds. The following acts and omissions shall be considered grounds for disciplinary action or denial of an application by the board:

(1) Failing to meet the minimum qualifications for credentialing established by or pursuant to the Real Estate Appraiser Act;

(2) Procuring or attempting to procure a credential under the act by knowingly making a false statement, submitting false information, or making a material misrepresentation in an application filed with the board or procuring or attempting to procure a credential through fraud or misrepresentation;

(3) Paying money or other valuable consideration other than the fees provided for by the act to any member or employee of the board to procure a credential;

(4) An act or omission involving real estate or appraisal practice which constitutes dishonesty, fraud, or misrepresentation with or without the intent to substantially benefit the credential holder or another person or with the intent to substantially injure another person;

(5) Entry of a final civil or criminal judgment against a credential holder on grounds of fraud, misrepresentation, or deceit involving real estate or in the making of an appraisal;

(6) Conviction, including a conviction based upon a plea of guilty or nolo contendere, of a crime which is substantially related to the qualifications, functions, or duties of a real estate appraiser;

(7) Engaging in the business of real estate appraising under an assumed or fictitious name;

(8) Paying a finder's fee or a referral fee to any person in connection with the appraisal of real estate or real property, except that an intracompany payment for business development shall not be considered to be unethical or a violation of this subdivision;

(9) 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;

(10) Any violation of the act or any rule or regulation adopted and promulgated pursuant to the act;

(11) Violation of the confidential nature of any information to which a credential holder gained access through employment for evaluation assignments or valuation assignments;

(12) Acceptance of a fee for performing a real estate appraisal valuation assignment or evaluation assignment other than an advocate consulting service when the fee is or was contingent upon (a) the real estate appraiser reporting a predetermined analysis, opinion, or conclusion, (b) the analysis, opinion, conclusion, or valuation reached, or (c) the consequences resulting from the appraisal;

(13) Failure or refusal to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(14) Negligence or incompetence in developing an appraisal, preparing an appraisal report, or communicating an appraisal, including failure to follow the standards and ethical rules adopted by the board;

(15) Failure to maintain, or to make available for inspection and copying, records required by the board;

(16) Demonstrating negligence, incompetence, or unworthiness to act as an appraiser, whether of the same or of a different character as otherwise specified in this section;

(17) Suspension or revocation of an appraisal credential or a license in another regulated occupation, trade, or profession in this or any other jurisdiction;

(18) Failure to comply with terms of a consent agreement or settlement agreement;

(19) Failure to submit or produce books, records, documents, work files, appraisal reports, or other materials requested by the board concerning any matter under investigation;

(20) Presentation to the board of any check which is returned to the State Treasurer unpaid, whether payment of fee is for an initial or renewal credential or for examination; and

(21) Failure to pass the examination.

76-2239. Investigations; authorized; disciplinary action; complaint; procedure; hearing. The board may, upon its own motion, and shall, upon the written complaint of any aggrieved person, cause an investigation to be made with respect to an alleged violation of the Real Estate Appraiser Act by any credential holder or applicant for credentialing under the act. The board may revoke or suspend the credential or otherwise discipline a credential holder or deny any application for any of the acts or omissions set forth in section 76-2238. Violation of the act or the rules and regulations during a period of probation shall cause immediate execution of a suspension penalty. Upon receipt of information indicating that a credential holder may have violated any provision of the act, the board shall make an investigation of the facts to determine whether or not there is evidence of a violation. If technical assistance is required, the board may contract with or use qualified individuals or companies.

If an investigation indicates that a credential holder may have violated a provision of the act, the board may offer the credential holder an opportunity to voluntarily and informally discuss the alleged violation before the board. The board may enter into consent agreements or negotiate settlements. If an investigation indicates that a credential holder has violated a provision of the act, a formal complaint shall be prepared by the board and served upon the credential holder. The complaint shall require the credential holder to file an answer within thirty days of the date of service. In responding to a complaint, the credential holder may admit the allegations of the complaint, deny the allegations of the complaint, or plead otherwise. Failure to make a timely response shall be deemed an admission of the allegations of the complaint. Upon receipt of an answer to the complaint, the director or chairperson of the board shall set a date, time, and place for an administrative hearing on the complaint. The date of the hearing shall not be less than thirty nor more than one hundred twenty days from the date that the answer is filed unless such date is extended for good cause.

76-2240. Complaints; hearing; decision; order; appeal.

(1) The administrative hearing on the allegations in the complaint filed pursuant to section 76-2239 shall be heard by the board at the time and place prescribed by the board and in accordance with the Administrative Procedure Act. If, at the conclusion of the hearing, the board determines that the credential holder is guilty of the violation, it shall take such disciplinary action as it deems appropriate. Disciplinary actions which may be taken shall include, but not be limited to, revocation, suspension, probation, admonishment, letter of reprimand, and formal censure, with or without publication, of the credential holder and may or may not include an education requirement. Costs incurred for an administrative hearing, including fees of counsel, court reporters, investigators, and witnesses, shall be taxed as costs in such action as the board may direct.

(2) The decision and order of the board shall be final. Any decision or order of the board may be appealed. The appeal shall be on questions of law only and otherwise shall be in accordance with the Administrative Procedure Act.

76-2241. Fees. The board shall charge and collect appropriate fees for its services under the Real Estate Appraiser Act as follows:

- (1) An application fee of one hundred dollars;
- (2) An examination fee of not more than two hundred dollars. The board may direct applicants to pay the fee directly to a third party who has contracted to administer the examination;
- (3) An initial and renewal credentialing fee, other than temporary credentialing, of no more than three hundred dollars;
- (4) A late renewal fee of twenty-five dollars for each month or portion of a month the fee is late; and
- (5) A temporary license fee for a licensed real estate appraiser of no more than one hundred fifty dollars and a temporary certificate fee for a certified residential real estate appraiser or a certified general real estate appraiser of no more than one hundred fifty dollars.

All fees for credentialing through reciprocity shall be the same as those paid by others pursuant to this section.

In addition to the fees set forth in this section, the board may collect and transmit to the appropriate federal authority any fees established under the provisions of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as the act existed on September 1, 2001. The board may establish such fees as it deems appropriate for special examinations and other services provided by the board. All fees and other revenue collected pursuant to the Real Estate Appraiser Act shall be remitted by the board to the State Treasurer for credit to the Real Estate Appraiser Fund.

76-2242. Credential holder; proof of credentials; issuance.

(1) The board shall provide to each credential holder proof that such person has been credentialed under the Real Estate Appraiser Act for the classification requirements set forth in the act. The board shall also issue a pocket card in such size and form as it may approve.

(2) Each credential issued under the act shall designate the principal place of business of the credential holder.

(3) Registrations, licenses, residential or general certificates, the proof of credentialing, and pocket cards issued by the board shall remain the property of the state, and upon surrender, cancellation, suspension or revocation, any person holding the documents shall immediately return such documents to the board.

76-2243. Professional corporation; practice of appraising. Nothing contained in the Real Estate Appraiser Act shall be deemed to prohibit any credential holder under the act from engaging in the practice of real estate appraising as a professional corporation in accordance with the Nebraska Professional Corporation Act.

76-2244. Principal place of business; requirements. Each credential holder shall designate and maintain a principal place of business and shall conspicuously display his or her proof of credentialing in such place of business. Upon any change of his or her principal place of business, a credential holder shall promptly give notice thereof in writing to the board and the board shall issue a new proof of credentialing for the unexpired term. A nonresident shall not be required to maintain a place of business in this state if he or she maintains an active place of business in his or her place of domicile.

76-2245. Action for compensation; conditions. No person engaged in real estate appraisal activities in this state or acting in the capacity of a real estate appraiser in this state may bring or maintain any action in any court of this state to collect compensation for the performance of real estate appraisal activities for which credentialing is required by the Real Estate Appraiser Act without alleging and proving that he or she was duly credentialed under the act in this state at all times during the performance of such activities.

76-2246. Appraisal without credentials; penalty. Any person required to be credentialed by the Real Estate Appraiser Act who engages in real estate appraisal activity or who advertises or holds himself or herself out to the general public as a real estate appraiser in this state without obtaining proper credentialing under the act shall be guilty of a Class III misdemeanor and shall be ineligible to apply for credentials under the act for a period of one year from the date of his or her conviction of such offense. The board may, in its discretion, credential such person within such one-year period upon application and after an administrative hearing.

76-2247. Repealed. Laws 1991, LB 203, s 58. 14

76-2247.01. Services; authorized; contingent fee prohibited; when. A person may retain or employ a real

estate appraiser credentialed under the Real Estate Act to provide appraisal services, including, but not limited to, valuation assignments, consulting services, or advocate consulting services. In each case, the appraisal and the appraisal report shall comply with the Real Estate Appraiser Act and the Uniform Standards of Professional Appraisal Practice.

In a valuation assignment, the real estate appraiser shall remain an impartial, disinterested third party. When providing a consulting service, the real estate appraiser may complete the evaluation assignment in a manner that responds to a client's stated objective but shall also remain an impartial, disinterested third party. Compensation of a real estate appraiser for either a valuation assignment or consulting service shall not be contingent upon the real estate appraiser reporting a predetermined analysis, opinion, or conclusion reached or upon the results achieved.

For an advocate consulting service, the real estate appraiser may be paid a fixed fee or a fee that is contingent on the results achieved by the advocate consulting service. If a real estate appraiser enters into an agreement to perform an advocate consulting service, this fact shall be clearly stated in each written and oral report, in each letter of transmittal, and in the certification statement.

76-2248. Attorney General; powers and duties. At the request of the board, the Attorney General shall render to the board an opinion with respect to all questions of law arising in connection with the administration of the Real Estate Appraiser Act and shall act as attorney for the board in all actions and proceedings brought by or against the board under or pursuant to the act. All fees and expenses of the Attorney General arising out of such duties shall be paid out of the Real Estate Appraiser Fund. The Attorney General may appoint special counsel to prosecute such action, and all fees and expenses of such counsel allowed shall be taxed as costs in the action as the court may direct.

76-2249. Directory of appraisers; information, distribution.

(1) The board may prepare a directory showing the name and place of business of credential holders under the Real Estate Appraiser Act. Copies of the directory shall be made available to the public at such reasonable price per copy as may be fixed by the board and shall be provided to federal authorities as required by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as the act existed on September 1, 2001.

(2) The board shall provide without charge to any credential holder under the act a set of rules and regulations adopted and promulgated by the board and any other information which the board deems important in the area of real estate appraisal in the State of Nebraska. The information may be printed in a booklet, a pamphlet, or any other form the board determines appropriate. The board may update such material as often as it deems necessary. The board may provide such material to any other person upon request and may charge a fee for the material. The fee shall be reasonable and shall not exceed any reasonable or necessary costs of producing the material for distribution.

76-2250. Certificate of good standing. The board may, upon payment of a fee in an amount specified in its rules and regulations, issue a certificate of good standing to any credential holder under the Real Estate Appraiser Act who is in good standing in this state.

DO NOT PRINT UNTIL RULES ARE INCLUDED

TABLE OF CONTENTS

SECTION I	<u>Pages</u>
Index of Real Estate Appraiser Act.....	i-v
Index of Real Estate Appraiser Act by Sections	v
Real Estate Appraiser Act	1-17
 SECTION II	
Index of Rules and Regulations.....	i-iv
Rules and Regulations	1-18