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PROFESSIONS AND BUSINESSES Real Estate Appraisers: Authorize Board of Appraisers to Issue Temporary Practice Permits for a Single Federally Related Transaction; Prohibit Appraisers from Giving Oral Appraisals of Federally Related Transaction; Prohibit Use of Appraisers Whose Appraisal Classification is Suspended or Revoked

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PROFESSIONS AND BUSINESSES

Real Estate Appraisers: Authorize Board of Appraisers to Issue Temporary Practice Permits for a Single Federally Related Transaction; Prohibit Appraisers from Giving Oral Appraisals in Federally Related Transaction; Prohibit Use of Appraisers Whose Appraisal Classification is Suspended or Revoked

CODE SECTIONS:	O.C.G.A. §§ 43-39A-6, -8 to -9, -14, -18 (amended)
BILL NUMBER:	HB 1226
ACT NUMBER:	1106
SUMMARY:	The Act authorizes the Georgia Board of Real Estate Appraisers (the Board) to issue temporary practice permits to appraisers classified outside the state. This authorization brings Georgia legislation in line with federal regulations. The Act further amends the original Code section by adding two new violations to the list of violations that result in penalties for appraisers classified in Georgia. The Act further amends the Code by deleting the list of courses of study weighed by the Board when determining appraisal classifications. As it now exists, appraiser classifications must simply be in compliance with federal law.
EFFECTIVE DATE:	July 1, 1994

History

Federal legislation in the real estate appraisal industry has forced states to make changes to existing state legislation.[1] Because the federal government often needs to send appraisers to appraise property throughout the country, federal legislation forces states to adopt procedures for issuing temporary permits.[2] For example, if the Resolution Trust Corporation needs to have a piece of property in Georgia appraised, it simply sends an appraiser from Washington and this appraiser may be temporarily classified in Georgia.[3]

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1. *See* Act of Aug. 9, 1989, Pub. L. No. 101-73, § 1122, 103 Stat. 518 (codified as amended at 12 U.S.C. § 3351 (Supp. IV 1992)).
2. Telephone Interview with Rep. Jimmy Skipper, House District No. 137 (Apr. 6, 1994) [hereinafter Skipper Interview].
3. *Id.*

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The amendments to this Code section sought to address two main issues. First, a substantial problem in the appraisal industry was the widespread practice of appraisers signing the work of other appraisers and thus allowing unclassified appraisers to continue working.[4] This problem arises primarily when an appraiser allows his classification to lapse or perhaps has it revoked and continues working without being reclassified.[5] Second, federal legislation now makes it illegal to give oral appraisal reports in federally related transactions.[6]

HB 1226

The Act amends several sections of chapter 39A of title 43 of the Code which relate to real estate appraisers. Some of the changes are simply "house-cleaning" measures designed to clarify the language in the Code.[7] For example, Code section 43-39A-14(b)(1) defines the terms "conviction" and "felony" as they are used within that subsection.[8]

There were, however, four substantive parts of the bill. First, Code section 43-39A-6 was amended to allow the Real Estate Commissioner to appoint a designee to sign records and papers of the Real Estate Appraisers Board.[9] This signature is needed to certify the documents as official Board acts.[10] The amendment was necessary to alleviate the burden on the Real Estate Commissioner and to provide for those occasions when the Commissioner is unavailable.[11] This amendment appeared in the initial version of the bill and remained unchanged throughout the amendment and substitute process.[12]

The next amendment added subsection (d) to Code section 43-39A-9. This subsection of the Act authorizes the Board to issue temporary practice permits to out-of-state appraisers for *one* federally related transaction.[13] However, the bill's initial version allowed the Board to grant permits for "one or more" appraisals for federally related

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4. *Id.*
5. *Id.*
6. *See* Act of Aug. 9, 1989, Pub. L. No. 101-73, § 1122, 103 Stat. 518 (codified as amended at 12 U.S.C. § 3351 (Supp. IV 1992)). The term "federal related transactions" 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." 12 U.S.C. § 3350(5) (Supp. IV 1992).
7. Skipper Interview, *supra* note 2.
8. O.C.G.A. § 43-39A-14(b)(1) (1994).
9. *Id.* § 43-39A-6 (1994).
10. Skipper Interview, *supra* note 2.
11. *Id.*
12. *See* HB 1226, as introduced, 1994 Ga. Gen. Assem.; HB 1226 (SCS), 1994 Ga. Gen. Assem.; O.C.G.A. § 43-39A-6 (1994).
13. O.C.G.A. § 43-39A-9(d) (1994).

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transactions.[14] The Senate Committee on Science, Technology, and Industry offered a substitute bill which restricted the permits to one transaction.[15] This substitute bill further amended the initial version by authorizing the Board to promulgate rules for issuing permits that are consistent with guidelines established by the Appraisal Subcommittee.[16]

The third major amendment added two new violations to the list contained in subsection (a) of Code section 43-39A-18.[17] The first new violation, stemming from the new federal legislation dealing with real estate appraisers,[18] occurs when an appraiser provides an oral appraisal report in a federally related transaction.[19] This amendment was contained in the original version of the bill.[20] The second violation added to this Code subsection targets appraisers who use the services of non-classified appraisers.[21] This violation was not contained in the original version of the bill, but was added by substitute bill in the Senate Committee on Science, Technology, and Industry.[22] This addition serves public policy by penalizing a classified appraiser for using the services of other appraisers who have failed to renew their licenses, have had their license suspended, or have even had their license revoked.[23]

The fourth major amendment provides a method for the Board to issue orders revoking an appraiser's classification after beginning an investigation pursuant to Code section 43-39A-22.[24] The provision applies only if appraisers allow their licenses to lapse or surrender their licenses subsequent to the beginning of the investigation, but before receiving notice of a hearing.[25]

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14. HB 1226, as introduced, 1994 Ga. Gen. Assem.

15. HB 1226 (SCS), 1994 Ga. Gen. Assem. The purpose for limiting the transactions to only one was to simplify record keeping. Skipper Interview, *supra* note 2.

16. O.C.G.A. § 43-39A-9(d) (1994). This "Appraisal Subcommittee" is a federal committee responsible for monitoring state real estate authorities. Telephone Interview with Charles Clark, Georgia Real Estate Commissioner (Apr. 28, 1994); *see also* 12 U.S.C. § 3350(2) (Supp. IV 1992).

17. *See* O.C.G.A. 43-39A-18(a)(17)-(18) (1994).

18. *See* Act of Aug. 9, 1989, Pub. L. No. 101-73, § 1122, 103 Stat. 518 (codified as amended at 12 U.S.C. § 3351 (Supp. IV 1992)).

19. O.C.G.A. § 43-39A-18(a)(17) (1994).

20. HB 1226, as introduced, 1994 Ga. Gen. Assem. This violation remained unchanged and is now codified at O.C.G.A. § 43-39A-18(a)(17) (1994).

21. *Id.* § 43-39A-18(a)(18) (1994).

22. HB 1226 (SCS), 1994 Ga. Gen. Assem.

23. Skipper Interview, *supra* note 2; *see* O.C.G.A. § 43-39A-18(a)(18) (1994).

24. This section allows the Board to conduct investigations of appraisers licensed in the state. O.C.G.A. § 43-39A-22 (1994).

25. *Id.* § 43-39A-14(g) (1994).

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Finally, the Act amends Code section 43-39A-8 by deleting the list of courses of study previously used to guide the Board in making its determination for appraiser certification.[26]

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26. *See* 1992 Ga. Laws 1402 (formerly found at O.C.G.A. § 43-39A-8(d)(1)-(8) (Supp. 1993)).

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