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Business Associations and Professions; licensing of real estate appraisers

NEV. REV. STAT. § ____ (new).

SB 358 (Committee on Commerce and Labor); 1989 STAT. Ch. 392

Chapter 392 requires all persons who advertise, act, or are compensated as an appraiser¹ of real estate to have a license or permit² issued by the Division of Real Estate of the Department of Commerce (Division).³

COMMISSION OF REAL ESTATE APPRAISERS

Chapter 392 creates a five-member Commission of Appraisers of Real Estate (Commission).⁴ The Commission must create educational programs, adopt regulations, and create standards for industry performance and ethics.⁵ Chapter 392 prohibits employees of the Division from having an interest in an appraisal business, or from acting as an appraiser or intern.⁶

LICENSING OF APPRAISERS

Applicants for an appraiser's license may apply for either a residential or general appraiser's license.⁷ A residential license allows the

1. See 1989 Nev. Stat. ch. 392, sec. 5, at 822 (enacting NEV. REV. STAT. § ____ (definition of appraiser)).

2. Permits to appraise may be issued, without an examination, to persons who are licensed or otherwise officially permitted to act as an appraiser in any other state or territory of the United States if the applicant can prove that the requirements for permission to act as an appraiser are essentially the same as the Nevada requirements. *Id.* sec. 31, at 827 (enacting NEV. REV. STAT. § ____). Permits are not valid for more than three months. *Id.* See *id.* sec. 10.5, at 823 (enacting NEV. REV. STAT. § ____ (definition of permit)).

3. *Id.* sec. 27, at 826 (enacting NEV. REV. STAT. ____). The stated purpose of Chapter 392 is to protect persons affected by real estate appraisals. *Id.* sec. 14, at 823 (enacting NEV. REV. STAT. § ____).

4. *Id.* secs. 16-18, at 823 (enacting NEV. REV. STAT. § ____ (setting composition, qualifications, and compensation of Commissioners)). See *id.* sec. 56, at 835 (enacting NEV. REV. STAT. § ____ (requiring governor to appoint Commissioners, and setting length of their terms)).

5. *Id.* sec. 19, at 824 (enacting NEV. REV. STAT. § ____ (the Commission may choose to delegate any of its authority to the Division Administrator)).

6. *Id.* sec. 20, at 825 (enacting NEV. REV. STAT. § ____). See *id.* sec. 8, at 822 (enacting NEV. REV. STAT. § ____ (definition of intern)).

7. *Id.* sec. 27, at 826 (enacting NEV. REV. STAT. § ____). The application must be made to the Division of Real Estate. *Id.* See *id.* sec. 39, at 829 (enacting NEV. REV. STAT. § ____ (describing form and content of license)).

licensee to prepare and transmit appraisals of real estate⁸ which can be used for one to twelve dwellings.⁹ A general license allows the licensee to prepare or transmit appraisals of any type of real estate.¹⁰

Applicants for a residential appraiser's license must show that they have satisfactorily completed sixty hours¹¹ or more of Commission-approved coursework¹² and two years of full-time employment as an intern.¹³ Applicants for a general appraiser's license must show that they have completed 120 hours or more of coursework and three years as a full-time intern.¹⁴ These requirements became effective July 1, 1989.¹⁵

A license is valid for two years;¹⁶ to renew an active license, an appraiser must have successfully completed twenty hours of Commission-approved coursework during the two years prior to applying for the renewal.¹⁷ The license must be openly displayed in the

8. See *id.* sec. 11, at 823 (enacting NEV. REV. STAT. § _____.) (definition of real estate).

9. *Id.* sec. 27, at 826 (enacting NEV. REV. STAT. § _____.). Dwelling means any building or part of a building intended for or occupied as a residence, or any vacant land which is for sale or lease for the purpose of building a structure intended to be a residence. NEV. REV. STAT. § 118.060 1 (1987).

10. 1989 Nev. Stat. ch. 392, sec. 27, at 826 (enacting NEV. REV. STAT. § _____.). Licensed residential appraisers may help make or transmit an appraisal of any type of real estate if they are directly supervised by a licensed general appraiser. *Id.*

11. See *id.* sec. 28, at 826 (enacting NEV. REV. STAT. § _____.) (50 minutes or more of actual instruction equals one hour).

12. See *id.* sec. 43, at 831 (enacting NEV. REV. STAT. § _____.) The Commission must develop standards to approve courses. *Id.*

13. *Id.* sec. 28, at 826 (enacting NEV. REV. STAT. § _____.).

14. *Id.* The internship must have occurred within the five years preceding the application. *Id.*

15. *Id.* sec. 58, at 835 (enacting NEV. REV. STAT. § _____.). Persons applying for appraiser licenses prior to July 1, 1991, need not prove they served as interns, provided they have worked as a full-time appraiser for two years (in the case of an applicant for a residential license) or three years (in the case of an applicant for a general license). *Id.* sec. 57, at 935 (enacting NEV. REV. STAT. § _____.). The work must have occurred within the five years preceding the application. *Id.* Applicants must identify when and where they learned how to be an appraiser. *Id.*

16. *Id.* sec. 39, at 829 (enacting NEV. REV. STAT. § _____.). If a licensed appraiser fails to apply for a renewal and fails to pay the renewal fee after one year from the date the license expires, the licensee must apply for a new license. *Id.* If an expired license is renewed within one year from its expiration, the renewal fee is 150% of the standard renewal fee. *Id.*

17. *Id.* sec. 42, at 830 (enacting NEV. REV. STAT. § _____.). Inactive licenses may also be renewed. *Id.* For renewal of a license which has been inactive for a certain period, the following hours of continuing education must be completed: if inactive for less than two years—20 hours of coursework; if inactive for more than two, but less than four years—40 hours of coursework; if inactive for more than 4 years—60 hours of coursework. *Id.* A license may become inactive upon the request of the appraiser if the appraiser fails to tell the Division of a change in the name or location of the business or in the location of records, or by the appraiser's failure to pay the renewal fee before the license expires. *Id.* sec. 44, at 831 (enacting NEV. REV. STAT. § _____.). A license may also become inactive because of disciplinary action taken by the Division. *Id.*

appraiser's office.¹⁸ Chapter 392 requires the appraiser to notify the Division in writing of any changes in business name or location,¹⁹ and maintain records of all appraisals performed for at least five years.²⁰ Each applicant must also pass a Commission-approved written examination.²¹

REGISTRATION OF INTERNS

Interns must register with the Division by applying for and obtaining a registration card.²² To qualify for registration, the applicant must work for and be supervised by a licensed appraiser, whose name must be listed on the registration card.²³ The registration card is valid for two years.²⁴ If the business relationship between an intern and the supervising appraiser is severed, the intern's registration will be suspended, unless the intern is associated with another appraiser within thirty days.²⁵

DENIAL OF APPLICATIONS

If the Division denies an application for either an appraiser's license or the registration of an intern, it must notify the applicant within fifteen days.²⁶ If the denial was for reasons other than failure

18. *Id.* sec. 40, at 830 (enacting NEV. REV. STAT. § ____). An appraiser must maintain an office for conducting business, and duplicate licenses must be prominently displayed in each branch office. *Id.*

19. *Id.* After the appraiser surrenders the license and pays a fee, the Division will issue a corrected license. *Id.*

20. *Id.* The appraiser must notify the Division regarding where the records are kept. *Id.*

21. *Id.* sec. 32, at 827 (enacting NEV. REV. STAT. § ____). The examination must cover topics relevant to the type of license applied for and the laws and regulations adopted by the Division and the Commission regarding the preparation and transmission of appraisals. *Id.* The examination must be given at least once every six months. *Id.* sec. 34, at 828 (enacting NEV. REV. STAT. § ____). Applicants may take the exam before completing the other requirements; the Division must give written notification to applicants stating whether or not they passed the exam. *Id.*

22. *Id.* sec. 35, at 828 (enacting NEV. REV. STAT. § ____). *See id.* sec. 39, at 829 (enacting NEV. REV. STAT. § ____) (describing form and content of the registration card).

23. *Id.*

24. *Id.* sec. 39, at 829 (enacting NEV. REV. STAT. § ____).

25. *Id.* sec. 41, at 830 (enacting NEV. REV. STAT. § ____). Upon severance, the appraiser must return the intern's registration card to the Division (either personally or by certified mail) and notify the intern that the card has been returned. *Id.* Along with the card, the appraiser must provide a written statement describing the reasons for the termination of the relationship and a copy of the notice sent to the intern. *Id.*

26. *Id.* sec. 37, at 829 (enacting NEV. REV. STAT. § ____). The denial may be on the ground that the applicant lied on the application, had a license or registration previously revoked in Nevada or elsewhere, or was convicted of, or plead guilty or nolo contendere to, crimes involving moral turpitude. *Id.* sec. 32, at 827 (enacting NEV. REV. STAT. § ____).

to pass the examination, the applicant must get permission from the Division to reapply.²⁷ A denied applicant can request a hearing before the Commission to review the Division's denial of the application.²⁸ The Commission must decide whether to grant or deny the application within sixty days of the hearing.²⁹ If the Division mistakenly grants a license or registration card it may invalidate it, but the person whose license or card is invalidated may request a hearing to dispute the Division action.³⁰ Under Chapter 392, the Division must keep certain records.³¹

DISCIPLINARY ACTIONS

Chapter 392 provides procedures by which the Division may discipline licensed appraisers and registered interns,³² and sets forth certain grounds upon which disciplinary action may be based.³³ The Commission may levy a fine; revoke, suspend, or place conditions on the license or registration card, or on its renewal.³⁴ Before a license or registration card may be revoked or suspended, the Division administrator must file a complaint and set a date for a hearing before the Commission.³⁵ The appraiser or intern must file a timely

See *State ex rel Conklin v. Buckingham*, 59 Nev. 36, 41-42, 84 P.2d 49, 51 (1938) (defining "moral turpitude" as "an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellowmen or to society in general contrary to the accepted rule of right and duty between man and man"). *But see id.* An act done without criminal or improper intent "does not carry with it the germs of moral turpitude." *Id.* at 42.

27. 1989 Nev. Stat. ch. 392, sec. 37, at 829 (enacting NEV. REV. STAT. § _____) (the Division has discretion to grant or deny permission to reapply).

28. *Id.* The request must be made within 30 days of the Division's notification to the applicant of denial. *Id.*

29. *Id.*

30. *Id.* sec. 38, at 829 (enacting NEV. REV. STAT. § _____).

31. *Id.* sec. 21, at 825 (enacting NEV. REV. STAT. § _____). The Division must keep records of the following: Applicants who have been denied a license or registration card; investigations resulting in disciplinary action against a licensee or registrant; formal disciplinary hearings; and rulings on complaints filed. *Id.* These records are public information, with the exception of licensing examinations, information from investigations of violations, and the criminal or financial records of applicants, licensees and registrants. *Id.* The Commission must adopt regulations for the public inspection of records. *Id.*

32. *Id.* secs. 50-55, at 833 (enacting NEV. REV. STAT. § _____).

33. *Id.* sec. 46, at 831 (enacting NEV. REV. STAT. § _____) (grounds for action include unprofessional conduct, incompetence, conviction of a felony or offense involving moral turpitude, or disciplinary action relating to appraiser or intern status in another jurisdiction). See *id.* secs. 47, at 832 (enacting NEV. REV. STAT. § _____) (defining unprofessional conduct by an appraiser or intern); 48, at 832 (enacting NEV. REV. STAT. § _____) (further defining unprofessional conduct by an appraiser).

34. *Id.* sec. 46, at 831 (enacting NEV. REV. STAT. § _____).

35. *Id.* sec. 50, at 833 (enacting NEV. REV. STAT. § _____). The Commission must hear the case within 90 days of filing the complaint; the appraiser or intern, or their counsel, may attend the hearing. *Id.* The Division must notify the appraiser or intern of the hearing by

answer to the complaint.³⁶ The Commission may not suspend or revoke the license or registration if the grounds for revocation or suspension arose more than three years before notice was given to the alleged violator.³⁷ For purposes of the hearing, Commissioners may administer oaths and subpoena witnesses or documents.³⁸ Within fifteen days after the date of the hearing, the Commission must rule on whether to discipline the alleged violator.³⁹

CRIMINAL ACTS

Chapter 392 makes it a misdemeanor for persons to advertise, act, or be compensated as an appraiser without a license or permit.⁴⁰ The Division may bring suit to enjoin a person who violates or is about to violate Chapter 392.⁴¹ Chapter 392 requires that applicants using intentional misrepresentation, deceit, or fraud to secure a license or registration card be punished by imprisonment, fine, or both.⁴² Un-professional conduct by an appraiser or intern is also punishable by a criminal penalty.⁴³ Chapter 392 makes it a gross misdemeanor for

personal delivery or registered mail, and provide copies of the complaint and all documents, depositions, affidavits, and other relevant evidence in the possession of the Division at least 30 days before the hearing. *Id.* The Division must also notify an appraiser if a hearing involves an intern associated with that appraiser. *Id.*

36. *Id.* sec. 51, at 833 (enacting NEV. REV. STAT. § _____.) (answer must be made within 30 days of being served with the complaint). Failure to respond by admitting or denying the averments of the complaint may be ruled an admission by the Commission, and disciplinary action may be taken after notice of default is given. *Id.*

37. *Id.* The Commission may suspend or revoke the license or registration card if the violator is given notice of the alleged violation within three years of its occurrence; if misrepresentation or failure to disclose is alleged the three year period begins when the Division knew or should have known facts indicating the violation occurred. *Id.*

38. *Id.* sec. 53, at 834 (enacting NEV. REV. STAT. § _____.) If a witness fails to testify or produce documents as ordered, the Commission may petition the district court to compel testimony or production of documents. *Id.* Witnesses must be compensated for attendance and mileage as in civil cases. *Id.* sec. 54, at 834 (enacting NEV. REV. STAT. § _____.)

39. *Id.* sec. 52, at 834 (enacting NEV. REV. STAT. § _____.) (the Commission must notify the appraiser or intern of the decision within 60 days of the hearing).

40. *Id.* sec. 26, at 826 (enacting NEV. REV. STAT. § _____.) Violations of this section may be prosecuted by the Attorney General or the appropriate district attorney, at the discretion of the administrator of the Division. *Id.*

41. *Id.* sec. 23, at 825 (enacting NEV. REV. STAT. § _____.) The opposing party must have at least five days' notice before a preliminary injunction or temporary restraining order may be granted. *Id.*

42. *Id.* sec. 55, at 834 (enacting NEV. REV. STAT. § _____.) The punishment may be between one and six years imprisonment. *Id.* The fine may be up to \$10,000. *Id.*

43. *Id.* The maximum fine is \$500 per offense, in addition to fines imposed by the Commission. *Id.*

unlicensed or unregistered persons to represent themselves as licensed appraisers or registered interns.⁴⁴

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44. *Id.* It is also a gross misdemeanor for an unlicensed or unregistered person to use words synonymous with "licensed," "registered," or "certified" to suggest the person is licensed or registered. *Id.*

Business Associations and Professions; loan operation exemptions

NEV. REV. STAT. §§ 106.____, 645B.____, 675.____, (new); §§ 645B.010, 645B.015, 645B.020, 645B.050, 645B.080, 645B.170, 645B.180, 645B.191, 675.040, 675.369, 675.470 (amended).

AB 754 (Committee on Commerce); 1989 STAT. Ch. 453

AB 868 (Committee on Commerce); 1989 STAT. Ch. 500

SB 487 (Committee on Commerce and Labor); 1989 STAT. Ch. 749

Existing law contains provisions governing installment loans¹ and regulating mortgage companies.² Under existing law, specified entities are excluded from the provisions governing mortgage companies.³ Chapter 749 limits this exclusion to mortgage companies whose activities in Nevada are subject to the regulatory authority of another jurisdiction.⁴

1. See NEV. REV. STAT. §§ 675.010-.470 (1987) (Nevada Installment Loan and Finance Act).

2. *Id.* § 645B.015 (1987) (amended by 1989 Nev. Stat. ch. 453, sec. 3, at ____ (defining entities covered by the statute). See *id.* §§ 645B.010 3 (1987) (amended by 1989 Nev. Stat. ch. 453, sec. 2 at ____ (definition of a mortgage company); 645B.020-.230 (1987) (providing for licensing of mortgage companies and their regulation). See also NEV. ADMIN. CODE ch. ____, §§ 645B.010-.140 (1987) (procedures and regulations of mortgage companies).

3. NEV. REV. STAT. § 645B.015 (1987) (amended by 1989 Nev. Stat. ch. 453, sec. 1, at ____).

4. 1989 Nev. Stat. ch. 749, sec. 1, at ____ (amending NEV. REV. STAT. § 645B.015). Chapter 453 extends these exemptions to employee benefit plans. *Id.* This exemption applies if the money loaned comes directly from the employee benefit plan. *Id.*