

Senate Bill 547

By: Senators Seabaugh of the 28th, Cagle of the 49th, Johnson of the 1st, Williams of the 19th and Stephens of the 27th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 39A of Title 43 of the Official Code of Georgia Annotated, relating to real  
2 estate appraisers, so as to provide for the recusal of board members when a conflict of  
3 interest exists; to provide for circumstances for removal of board members; to provide  
4 standards for offering education courses on appraising; to provide for certain conditions for  
5 the investigation of appraisers; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 39A of Title 43 of the Official Code of Georgia Annotated, relating to real estate  
9 appraisers, is amended by striking Code Section 43-39A-3, relating to the Georgia Real  
10 Estate Appraisers Board, requirements for membership, removal from the board, meetings,  
11 and compensation, and inserting in its place a new Code section to read as follows:

12 "43-39A-3.

13 (a) There is created the Georgia Real Estate Appraisers Board, which shall consist of five  
14 members. All members must be residents of Georgia. One member shall be a public  
15 member. The public member of the board shall not be connected in any way with the  
16 practice of real estate appraisal, real estate brokerage, or mortgage lending. Four members  
17 shall be real estate appraisers who have been actively engaged in the real estate appraisal  
18 business for at least three years. In appointing real estate appraisers to the board, while not  
19 automatically excluding other appraisers, the Governor shall give preference to real estate  
20 appraisers who do not hold an active, occupational license which authorizes their work in  
21 real estate brokerage or mortgage lending activities, who do not have a financial interest  
22 in any real estate brokerage firm or mortgage lending firm, and who are not employees of  
23 real estate brokerage firms or mortgage lending firms.

24 (b) The Governor shall appoint the members of the board, subject to confirmation by the  
25 Senate, with consideration given to appropriate geographic representation and to areas of

1 appraisal expertise. Any such appointments made when the Senate is not in session shall  
2 be effective until acted upon by the Senate.

3 (c) A member of the board shall recuse himself or herself from voting on matters in which  
4 the member has a conflict of interest. Whenever an investigation authorized by this chapter  
5 results in the board's initiating a contested case under Chapter 13 of Title 50, the 'Georgia  
6 Administrative Procedure Act,' against a member, such member shall be recused from  
7 voting on such matter and may not discuss the matter with other board members or be  
8 present when the board discusses or votes on such matter.

9 ~~(c)~~(d) The term of each member of the board shall be five years, except that one of the  
10 successors to the two members first appointed to serve until July 1, 1992, shall be  
11 appointed to serve until July 1, 1994, and one of the successors to the two members first  
12 appointed to serve until July 1, 1993, shall be appointed to serve until July 1, 1995. In the  
13 event of a vacancy, the Governor shall appoint a person to fill such vacancy and the person  
14 so appointed shall serve for the remainder of the unexpired term.

15 ~~(d)~~(e) Upon expiration of their terms, members of the board shall continue to hold office  
16 until the appointment and qualification of their successors. The Governor, after giving  
17 notice and opportunity for a hearing, may remove from office any member of the board for  
18 any of the following:

19 (1) Inability to perform or neglecting to perform the duties required of members;

20 (2) Incompetence; ~~or~~

21 (3) Dishonest conduct; or

22 (4) Having a disciplinary sanction other than a citation authorized by this chapter  
23 imposed by any professional licensing agency on such member's right to practice a trade  
24 or profession.

25 ~~(e)~~(f) The members of the board shall annually elect a chairperson from among the  
26 members to preside at board meetings.

27 ~~(f)~~(g) The board shall meet at least once each calendar quarter, or as often as is necessary,  
28 and remain in session as long as the chairperson shall deem it necessary to give full  
29 consideration to the business before the board. A quorum of the board shall be three  
30 members. Members of the board or others may be designated by the chairperson of the  
31 board, in a spirit of cooperation, to confer with similar boards of other states, attend  
32 interstate meetings, and generally do such acts and things as may seem advisable to the  
33 board in the advancement of the profession and the standards of real estate appraisal  
34 activity.

35 ~~(g)~~(h) Each member of the board shall receive as compensation for each day actually spent  
36 on his or her official duties at scheduled meetings and for time actually required in  
37 traveling to and from its meetings, not to exceed one day's traveling time, the sum of

1 \$25.00 and his or her actual and necessary expenses incurred in the performance of official  
 2 duties.  
 3 ~~(h)~~(i) The commission shall supply staff support for the board. The commissioner shall  
 4 serve as executive officer of the board. The commissioner shall be charged with the duties  
 5 and powers as delegated by the board."

## 6 SECTION 2.

7 Said chapter is further amended by striking subsection (c) of Code Section 43-39A-8, relating  
 8 to establishing appraiser classifications to comply with federal law, continuing education  
 9 courses required for renewing classification, and approval of instructors, and inserting a new  
 10 subsection (c) to read as follows:

11 "(c) The board, through its rules and regulations, shall establish standards for offering of  
 12 all education courses required by this Code section and for the approval of schools and  
 13 instructors to offer the education courses required by this chapter. Each approved school  
 14 must comply with Code Sections 43-40-15 through 43-40-32. Each approved school must  
 15 designate an individual approved by the board to act as its director and such designated  
 16 individual shall be responsible for assuring that the approved school complies with the  
 17 requirements of this chapter and rules and regulations promulgated under this chapter. No  
 18 school approval shall be granted to a school unless the school authorizes its director to bind  
 19 the school to any settlement of a contested case before the board as defined in Chapter 13  
 20 of Title 50, the 'Georgia Administrative Procedure Act.'  
 21 Violations of this chapter or its attendant rules and regulations by an approved school shall  
 22 subject the school and its director to sanction as authorized by this chapter."

## 23 SECTION 3.

24 Said chapter is further amended by striking subsections (a) and (d) of Code Section  
 25 43-39A-22, relating to investigations, subpoenas, confidentiality, access to records, and the  
 26 publication of the names of disciplined appraisers and schools, and inserting in its place a  
 27 new Code section to read as follows:

28 "(a) The board may, upon its own motion, and shall, upon the sworn written request of any  
 29 person, investigate the actions of any appraiser, applicant, or school approved by the board;  
 30 provided, however, that, whenever a request for investigation involves an appraisal report  
 31 which varies from a sales, lease, or exchange price by ~~10~~ 20 percent or less, or, if the  
 32 appraiser is acting as a tax consultant, which varies from the tax assessor's value by 20  
 33 percent or less, the board may in its discretion decline to conduct an investigation. Except  
 34 for investigations of applicants for appraiser classifications, investigations of allegations  
 35 of fraudulent conduct, or investigations of possible violations of this chapter which have

1 been litigated in the courts or arise from litigation in the courts, the board shall not initiate  
 2 an investigation on its own motion or upon a sworn written request for investigation unless  
 3 the act or acts which may constitute a violation of this chapter occurred within ~~three~~ five  
 4 years of the initiation of the investigation."

5 "(d) The results of all investigations shall be reported only to the board or to the  
 6 commissioner and the records of such investigations shall not be subject to subpoena in  
 7 civil actions. Records of investigations shall be kept by the board and no part of any  
 8 investigative record shall be released for any purpose other than a hearing before the board  
 9 or its designated hearing officer, review by another law enforcement agency or lawful  
 10 licensing authority upon issuance of a subpoena from such agency or authority or at the  
 11 discretion of the board upon an affirmative vote of ~~all members~~ a majority of the quorum  
 12 of the board, review by the ~~respondent~~ appraiser or applicant who is the subject of the  
 13 notice of hearing after ~~the~~ its service of a notice of hearing, review by the board's legal  
 14 counsel, or an appeal of a decision by the board to a court of competent jurisdiction;  
 15 provided, however, if an investigation authorized by this chapter results in the board's  
 16 filing a notice of hearing or entering into settlement discussions with a member of the  
 17 board, the commissioner shall immediately notify the Governor or the Governor's legal  
 18 counsel of such action by the board. After service of a notice of hearing, ~~a respondent~~ the  
 19 appraiser or applicant who is the subject of the notice of hearing shall have a right to obtain  
 20 a copy of the investigative record pertaining to the ~~respondent~~ hearing."

#### 21 SECTION 4.

22 All laws and parts of laws in conflict with this Act are repealed.