

FIRST REGULAR SESSION

SENATE BILL NO. 369

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SIMS.

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S1298.021

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 324, RSMo, by adding thereto ten new sections relating to the regulation of property tax consultants, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 324, RSMo, is amended by adding thereto ten new sections, to be known as sections 324.630, 324.633, 324.636, 324.639, 324.642, 324.645, 324.648, 324.650, 324.653 and 324.656, to read as follows:

324.630. As used in sections 324.630 to 324.656, the following terms shall mean:

- (1) "Council", the property tax consultants advisory council;**
- (2) "Department", the department of economic development;**
- (3) "Director", the director of the department of economic development;**
- (4) "Division", the division of professional registration of the department of economic development;**
- (5) "Person", an individual, partnership, corporation or association;**
- (6) "Property tax consultant", a person who performs or supervises others in the performance of property tax consulting services for compensation;**
- (7) "Property tax consulting services":**
 - (a) Preparing a property tax rendition or report for another person;**
 - (b) Representing another person in an appeal under chapter 137, RSMo;**
 - (c) Consulting or advising another person concerning the preparation of a property tax rendition or report or concerning a matter the person may appeal under chapter 137, RSMo;**
 - (d) Negotiating or entering into an agreement with a city or county assessor's office on behalf of another person concerning a matter that is or may be the subject of**

an appeal under chapter 137, RSMo;

(e) Acting as the designated agent of a property owner;

(8) "Registered property tax consultant" and "registered senior property tax consultant", only individuals registered pursuant to sections 324.630 to 324.656.

324.633. 1. An individual may not perform property tax consulting services for compensation unless the individual is a registered property tax consultant or a registered senior property tax consultant. Registered property tax consultants and registered senior property tax consultants shall not be subject to the provisions of sections 339.500 to 339.545, RSMo.

2. A registered property tax consultant may not perform property tax consulting services for compensation unless the individual is employed by or associated with and acting for a registered senior property tax consultant.

3. A person may not represent that an individual is a registered property tax consultant, agent, advisor or representative unless the individual is a registered property tax consultant or registered senior property tax consultant.

4. The registration requirement imposed under subsection 1 of this section does not apply to:

(1) An individual acting under a general power of attorney, unless the individual represents that the individual is a property tax consultant, agent, advisor or representative;

(2) An individual licensed to practice law in this state;

(3) An employee of a property owner or of an affiliated or subsidiary company of a property owner, if the employee performs property tax consulting services for the property owner or for a partnership, joint venture or corporation in which the property owner owns an interest;

(4) A property owner's lessee who is designated as the agent of the property owner;

(5) A public employee or officer who provides assistance to a property owner in the course of the employee's or officer's duties;

(6) A certified public accountant;

(7) An individual who assists another person in the performance of property tax consulting services or provides testimony on behalf of the other person at a protest hearing, unless the individual is designated as the person's agent, or more than fifty percent of the individual's employment time is devoted to, or income is derived from, performing or supervising the performance of property tax consulting services; or

(8) An individual who holds an active license as a real estate broker or salesman or an active license as a state-licensed real estate appraiser or state-certified real estate appraiser under sections 339.500 to 339.549, RSMo, providing property tax consultant

services in connection with single-family residences.

324.636. 1. To be eligible to register pursuant to sections 324.630 to 324.656, an individual must:

(1) Have the following qualifications:

(a) Be at least eighteen years of age;

(b) Hold a high school diploma or an equivalent credential;

(c) Pay the fees required by the division;

(d) Establish a place of business in this state or designate an agent for service of legal process who is a resident of this state; and

(e) Meet any additional qualifications required by sections 324.630 to 324.656 or by the director in the exercise of the director's authority under this chapter; or

(2) Hold an active license as a real estate broker or salesman under chapter 339, RSMo, or an active license as a state-licensed real estate appraiser or state-certified real estate appraiser pursuant to sections 339.500 to 339.549, RSMo.

2. To be eligible to register as a property tax consultant, an applicant must:

(1) Complete at least fifteen classroom hours of educational courses approved by the director, of which at least four hours must include instruction on laws and legal issues in this state related to property tax consulting services; or

(2) Furnish evidence to the division that the applicant:

(a) Holds an active license as a real estate broker or salesman under chapter 339, RSMo, or an active license as a state-licensed real estate appraiser or state-certified real estate appraiser pursuant to sections 339.500 to 339.549, RSMo; and

(b) Has completed at least four classroom hours in educational programs or courses on the legal issues and laws related to property tax consulting services.

3. To be eligible to register as a senior property tax consultant, an applicant must:

(1) Acquire at least twenty-five credits as provided by subsections 4 to 8 of this subsection;

(2) Have performed or supervised other persons in the performance of property tax consulting services as the applicant's primary occupation for at least four of the seven years preceding the date of the application; and

(3) Pass the examination required for registration as a senior property tax consultant or hold a professional designation in property taxation granted by a nonprofit, voluntary trade association, institute or organization that has a membership primarily composed of persons who represent property owners in property tax and transactional tax matters and that:

(a) Has written experience and examination requirements for granting the professional designation; and

(b) Subscribes to a code of professional conduct or ethics.

4. The director shall grant an applicant for registration as a senior property tax consultant two credits for each year the applicant completed at an institution of higher education that meets program and accreditation standards comparable to public institutions of higher education as determined by the Missouri coordinating board for higher education. The applicant is entitled to not more than six credits under this subsection.

5. The director shall grant an applicant for registration as a senior property tax consultant four credits if the applicant has been issued a bachelor's degree or its equivalent from an institution of higher education described in subsection 4 of this section.

6. The director shall grant an applicant for registration as a senior property tax consultant one credit for each of the years in excess of five years that the applicant's primary occupation involved the performance or supervision of property tax consultant services or property appraisal, assessment or taxation. The applicant is entitled to not more than ten credits under this subsection.

7. The director may grant an applicant for registration as a senior property tax consultant additional credits, as determined by the director, for successful completion of educational programs or courses on property taxation, the property tax system, property tax administration, the standards of ethics or the general principles of appraisal, accounting and law as they relate to property tax consulting services. In determining the credit entitlement for each program or course, the director shall consider the nature of the program or course, the number of actual instructional hours involved in the program or course, whether an examination is required for successful completion of the program or course and other factors the director deems appropriate for the evaluation of the program or course. The director may assign a minimum of one credit and a maximum of five credits to a program or course.

8. The director may grant an applicant for registration as a senior property tax consultant additional credits, as determined by the director, for other educational programs or courses completed by an applicant or for an applicant's advanced or postgraduate educational achievement, occupational experience, professional licenses or professional designations from recognized institutes, organizations or associations.

9. The director may give appropriate credit to an initial applicant for educational courses on the principles of law related to property tax consulting services that were completed by an applicant not more than two years before the date of the application.

10. The director may give appropriate credit to an initial applicant for educational programs or courses on property taxation, the property tax system,

property tax administration, ethical standards or general principles of appraisal, accounting or law as they relate to property tax consulting services.

324.639. 1. The senior property tax consultant registration examination must be adopted by the director and be graded according to rules adopted by the director. The examination must test the applicant's knowledge of property taxation, the property tax system, property tax administration, ethical standards and the general principles of appraisal, accounting and law as they relate to property tax consulting services. The director shall establish the standards for passing the examination.

2. The department shall conduct the senior property tax consultant registration examination at times and places designated by the director.

3. Each individual applying for examination shall pay an examination fee to the department. The director may establish by rule conditions for the refund of this fee to applicants who do not take the examination.

4. Not later than the thirtieth day after the date on which a registration examination is administered under this section, the commission shall notify each examinee of the results of the examination.

5. If requested in writing by an examinee who fails a licensing examination, the department shall provide the examinee with an analysis of the examinee's performance on the examination.

324.642. 1. An applicant for registration must file an application with the division on a printed form prescribed by the division. The application must be accompanied by a nonrefundable application fee and a registration fee, which shall be refunded if the director does not approve the application.

2. The director shall act on an initial application not later than the thirty-first day after the date on which the division receives the application.

3. The director may waive any registration requirement for an applicant who holds a valid registration certificate or license issued by another state that has requirements that were, on the date of the registration or licensing, substantially equal to those of this state. An applicant for registration under this subsection shall apply in the same manner as any other applicant and shall furnish the division with documents and other evidence substantiating the applicant's qualifications as required by the division.

4. The director shall issue to each applicant that qualifies for registration pursuant to sections 324.630 to 324.656 the appropriate certificate of registration. Except as otherwise provided by the division, a certificate of registration is valid for two years from the date of issuance.

5. On the timely receipt of the required renewal fee, the director shall issue to an eligible registered property tax consultant or registered senior property tax

consultant a certificate of renewal of registration that is valid for two years after the date of issuance.

6. The director by rule shall require that each registrant complete during each registration period a minimum of twenty classroom hours of continuing education courses recognized by the director as a prerequisite to renewal of registration. The rules must require that at least six of the twenty hours required include instruction on laws and legal issues in this state related to property tax consulting services.

7. If an individual's registration has been expired for less than thirty days after the date of expiration, the individual may renew the registration by paying the unpaid renewal fees plus a late registration renewal fee. If the individual's registration has been expired for one year or more, the individual may not renew the registration. The individual may obtain a new certificate of registration by complying with the requirements for an original application.

8. A continuing education course, including a course on the legal issues and law related to property tax consulting services, approved by the Missouri real estate commission and completed by a registrant who holds an active license as a real estate broker or salesman pursuant to chapter 339, RSMo, or an active license as a state-licensed real estate appraiser or state-certified real estate appraiser pursuant to sections 339.500 to 339.549, RSMo, shall be recognized by the director as an appropriate continuing education program for the purposes of this section.

324.645. The director is authorized to adopt those rules that are reasonable and necessary to accomplish the limited duties specifically delegated within sections 324.630 to 324.656. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in sections 324.630 to 324.656 shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section shall be invalid and void.

324.648. 1. The department shall receive and account for all fees collected or money derived under sections 324.630 to 324.656.

2. The department shall deposit all money received pursuant to sections 324.630 to 324.656 in the state treasury not later than three working days after the money is received. Money received pursuant to sections 324.630 to 324.656 may be used only for the administration and enforcement of these sections.

324.650. After a hearing, the director may deny, suspend or revoke a certificate of registration and may impose administrative sanctions and penalties and seek

injunctive relief and civil penalties against a registrant on the following grounds:

(1) A violation of this act or of a rule applicable to the registrant adopted by the director pursuant to sections 324.630 to 324.656;

(2) Gross incompetency in the performance of property tax consulting services;

(3) Dishonesty or fraud committed while performing property tax consulting services; or

(4) Violation of the standards of ethics adopted by the director.

324.653. 1. An individual commits an offense if the individual is required to register under this act, is not registered under this act and performs or offers to perform property tax consulting services for compensation.

2. A person commits an offense if the person represents that an individual is a property tax consultant, agent, counselor, advisor or representative, knowing that the individual is required to be registered under this act and is not registered.

3. An offense under this section is a class B misdemeanor.

324.656. 1. The "Property Tax Consultants Advisory Council" is hereby created within the division. The council is composed of six members appointed by the director. The director may appoint not more than two members who are qualified for exemption under subdivision (3) of subsection 4 of section 324.633. Each individual appointed for membership on the council must:

(1) Be a registered senior property tax consultant;

(2) Be a member of a nonprofit, voluntary trade association that:

(a) Has a membership primarily composed of individuals who perform property tax consulting services in this state or who engage in property tax management in this state for other persons;

(b) Has written requirements of experience and examination as a prerequisite for an individual's membership; and

(c) Subscribes to a code of professional conduct or ethics;

(3) Be a resident of this state for the four years preceding the date of the appointment; and

(4) Have performed or supervised the performance of property tax consulting services as the individual's primary occupation continuously for the five years preceding the date of the appointment.

2. An individual is not eligible for appointment as a member of the council if the individual is:

(1) Required to register with the secretary of state;

(2) Exempt from the registration requirements imposed by this chapter, except as provided by subsection 1 of this section.

3. Before March first of each year, the members of the council shall elect one

member to serve as presiding officer of the council until the last day of February of the following year.

4. Members of the council serve for staggered three-year terms with the terms of two members expiring February first of each year. In the event of a vacancy during a member's term, the director shall appoint to fill the unexpired part of the term a replacement who meets the qualifications of the vacated office.

5. The council shall:

(1) Recommend to the director standards of practice, conduct and ethics for registrants to be adopted pursuant to sections 324.630 to 324.656;

(2) Recommend to the department amounts for the fees it may set under sections 324.630 to 324.656;

(3) Recommend to the director contents for the senior property tax consultant registration examination and standards of acceptable performance;

(4) Assist and advise the director in recognizing continuing education programs and educational courses for registrants; and

(5) Advise the director in establishing educational requirements for initial applicants.

6. A member of the council is not entitled to receive compensation for serving as a member. A member is entitled to reimbursement for reasonable expenses incurred in performing duties as a member.

7. The council shall meet at least semiannually at the call of the presiding officer or at the call of a majority of its members. A decision of the council is not effective unless it receives the affirmative vote of at least four members.

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