



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Real Estate Appraiser Licensing And Certification Board TITLE-SERIES: 190-02
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: Requirements For Licensure and Certification
CITE STATUTORY AUTHORITY: WV Code 30-1-6b, 30-38-4, 30-38-5, 30-38-6, 30-38-7, 30-38-9, 30-38-11, 30-1-22, 30-1-24

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 09/06/2019 3:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Jennifer K. Akers
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Charleston, WV 25301
EMAIL: jennifer.k.akers@wvago.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

This rule provides all requirements to become a real estate appraiser in the state of West Virginia.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

Due to the passage of HB118, the rule is amended regarding prior criminal convictions of an initial licensee. An individual may only be disqualified from initial licensure if the conviction is for a crime that bears a rational nexus to the profession.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None

B. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

None

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2019 Increase/Decrease (use "-")	2020 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			0

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

Not applicable

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Jennifer K Akers -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 190
LEGISLATIVE RULE
WEST VIRGINIA REAL ESTATE APPRAISER LICENSING & CERTIFICATION BOARD

SERIES 2
REQUIREMENTS FOR LICENSURE AND CERTIFICATION

§190-2-1. General.

1.1. Scope. -- This rule establishes the requirements for an applicant to become a licensed or certified real estate appraiser in the state of West Virginia.

1.2. Authority. -- W.Va. Code §§ 30-1-6b, 30-38-4; 30-38-5; 30-38-6; 30-38-7; 30-38-9; 30-38-11, 30-1-22.

1.3. Filing Date. -- ~~March 29, 2019~~

1.4. Effective Date. -- ~~March 29, 2019~~

1.5. Sunset Provision – This rule shall terminate and have no further force or effect on ~~March 29, 2024~~.

§190-2-2. Definitions.

2.1. “Accredited colleges, universities and junior and community colleges” means those institutions of higher learning under the Higher Education Policy Commission or listed in the Transfer of Credit Practices of Designated Educational Institutions, published by the American Association of Collegiate Registrars and Admissions Officers.

2.2. “Adult distributive or marketing education programs” means those programs offered at schools approved by the Higher Education Policy Commission or any other local, state or federal government agency, board or commission to teach adult education or marketing courses.

2.3. “Appraisal Foundation” means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois.

2.4. “Appraiser Qualifications Board” or “AQB” means the board created by the Appraisal Foundation to establish minimum criteria for the licensure and certification of qualified appraisers by defining, issuing and promoting qualification criteria; to disseminate the qualification criteria to states, governmental entities and others; and to develop or assist in the development of examinations for qualified appraisers.

2.5 “Board” means the West Virginia Real Estate Appraiser Licensing and Certification Board.

~~2.5.6.~~ “Classroom hour” means 50 minutes out of each 60 minutes of actual classroom instruction in courses approved by the board.

~~2.6.7.~~ “Classroom hour of distance education” means the allotted course time approved by the International Distance Education Certification Center (IDECC) delivery certification, the AQB and the board.

~~2.7.8.~~ “Direct supervision” means that a supervisor shall accompany and view the exterior and interior of all properties with the supervised apprentice or appraiser; review each appraisal report;

assign work to the apprentice or appraiser only if the apprentice or appraiser is competent to perform the work; accept full responsibility for the report; and approve and sign the report as being independently and impartially prepared in compliance with the USPAP and applicable statutory requirements.

2.8.9. “Experience” as used in this rule includes but is not limited to experience gained in the performance of traditional appraisal assignments, or in the performance of the following: fee and staff appraisals; ad valorem tax appraisal; condemnation appraisal; technical review appraisal; appraisal analysis; real estate consulting; highest and best use analysis; and, feasibility analysis or study.

2.9.10. “Licensee” means a person who holds a current valid license as a state licensed residential real estate appraiser, a certification as a state certified residential real estate appraiser or a certification as a state certified general real estate appraiser issued under the provisions of W. Va. Code §§30-38 et seq.

2.40.11. “Local, state or federal government agency, board or commission” means any entity established by any local, federal or state government to protect or promote the health, safety and welfare for the citizens of its domain.

2.12. “LIW” means the Low-Income Waiver form used to request a waiver of the initial licensing fee for low income individuals, as authorized in W. VA. Code § 30-1-22.

2.13. “Low-Income individual” means an individual in the local labor market whose household adjusted gross income is below 130 percent of the federal poverty line. This term also includes any person enrolled in a state or federal public assistance program including, but not limited to, the Temporary Assistance for Needy Families Program, Medicaid, or the Supplemental Nutrition Assistance Program.

2.14. “Military families” means any person who services as an active member of the armed forces of the United States, the National Guard, or a reserve component as described in 38 U.S.C. § 101, honorable discharged veterans of those forces, and their spouses. This term also includes surviving spouses of deceased service members who have not remarried.

2.15. “MFW” means the Military Family Waiver form used to request a waiver of the initial licensing fee for military service members and their spouses, as described in West Virginia Code § 30-1-22.

2.44.16. “National Registry of the Appraisal Subcommittee” means the database of State Licensed, State Certified Residential and State Certified General Appraisers who are eligible to perform appraisals in connection with federally related transactions which is maintained by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (the Appraisal Subcommittee).

2.42.17. “Non-residential property” means any real property other than residential real property.

2.43.18. “Proprietary school” means a privately-owned school, under the authority of a local, state or federal government agency, board or commission, offering appraisal or appraisal related courses.

2.44.19. “Residential property means one to four single family residential units and lots where the highest and best use is for one to four single family residential units.

2.45.20. “Uniform Standards of Professional Appraisal Practice” or “USPAP” means the Uniform Standards of Professional Appraisal Practice published by the Appraisal Foundation, as such standards may be amended from time to time.

2.46.21. "Written exam" refers to an examination written on paper or administered through a computer workstation or other electronic device.

§190-2-3. Exceptions to License Requirement.

3.1. In addition to the exceptions of the W. Va. Code §30-38-1(c), this rule does not apply to a person licensed to practice public accountancy as defined in W. Va. Code §30-9-3, including the performance of a business evaluation; Provided, that the exception does not apply to federally related transactions as defined in Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, 12 U.S.C. §§ 3331-3351, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

§190-2-4. General Qualifications for Licensure or Certification.

4.1. Every person who applies to be classified as a licensed or certified appraiser shall:

4.1.a. Have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a licensed or certified appraiser in a manner that safeguards the interests of the public;

4.1.b. Except as provided in section 2-11 of this rule, meet the current education and experience requirements and submit an application to the Board or its agent prior to the time the applicant is approved to sit for the licensing or certification examination. An applicant shall complete an application for license or certification within twelve months after the board's receipt of the application and fee;

4.1.c. Be in good standing as a real estate appraiser in every jurisdiction where he or she is licensed or certified. An applicant's occupational or professional license or certification shall not be suspended, revoked or surrendered in connection with a disciplinary action or an applicant may not be the subject of disciplinary action in any jurisdiction prior to applying for licensure or certification in West Virginia;

4.1.d. At the time of initial licensure, ~~Not~~ not have been found guilty or pled guilty, regardless of adjudication, in any jurisdiction, of a ~~misdemeanor~~ crime that bears a rational nexus to the occupation requiring licensure or of any felony. Any plea of nolo contendere is considered a conviction for purposes of this subdivision. The record of a conviction authenticated in a form that is admissible in evidence under the laws of the jurisdiction where convicted is admissible as prima facie evidence of the conviction. In determining whether a criminal conviction bears a rational nexus to a profession or occupation, the board shall consider at a minimum: ~~and~~

4.1.d.1. The nature and seriousness of the crime for which the individual was convicted;

4.1.d.2. The passage of time since the commission of the crime;

4.1.d.3. The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation; and

4.1.d.4. Any evidence of rehabilitation or treatment undertaken by the individual.

4.1.e. Notwithstanding any other provision of this chapter to the contrary, if an applicant is disqualified from licensure because of a prior criminal conviction, the board shall permit the applicant to apply for initial licensure if:

4.1.e.1. A period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;

4.1.e.2. The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

4.1.e.3. The conviction was not for an offense of a violent or sexual nature; *Provided that a conviction of a violent or sexual nature may subject an individual to a longer period of disqualification from licensure to be determined by the board.*

4.1.f. An individual with a criminal record who has not previously applied for licensure may petition the board at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license. This petition shall include sufficient details about the individual's criminal record to enable the board to identify the jurisdiction where the conviction occurred, the date of the conviction, and the specific nature of the conviction. The board shall provide the determination within sixty days of receiving the petition from the applicant. The board may charge a fee to recoup its costs for each petition.

4.1.g. The requirements of this section do not apply to the criteria that the board may consider when making determinations regarding relicensure or discipline of licensees.

4.1.e.h. Be at least 18 years of age.

~~4.2. Notwithstanding the requirements of subsection 4.1 of this rule, the Board may consider and approve for license or certification, applicants who do not meet the requirements set forth in subdivisions 4.1.e. and 4.1.d. of this section.~~

4.3.2. At the time of filing an application for original or renewal of a license or certification, each applicant shall sign a pledge to comply with the standards of professional appraisal practice and the ethical rules established by the board. Each applicant shall certify that he or she understands the types of misconduct described in W. Va. Code §§30-38-1 et seq. and acknowledges that the board may initiate disciplinary proceedings against him or her for such misconduct.

4.4.3. Any applicant who applies to be classified as a licensed or certified appraiser shall comply with all requirements in effect at that time.

4.5.4 The applicant shall submit to a state and national criminal history record check for the purpose of determining whether the applicant has been charged with, indicted for, or convicted of a crime that may have bearing upon the applicant's fitness to hold a license.

4.5.4.a. The criminal history record check shall be based on fingerprints submitted to the West Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

4.5.4.b. The applicant shall meet all requirements necessary to accomplish the state and national criminal history record check, including:

4.5.4.b.1. Submitting fingerprints for the purposes set forth in this subsection; and

4.5.4.b.2. Authorizing the board, the West Virginia State Police and the Federal Bureau of Investigation to use all records submitted and produced for the purpose of screening the applicant for a license.

4.5.4.c. The results of the state and national criminal history record check may not be released to or by a private entity except:

4.5.4.c.1. To the individual who is the subject of the criminal history record check;

4.5.4.c.2. With the written authorization of the individual who is the subject of the criminal history record check; or

4.5.4.c.3. Pursuant to a court order.

4.5.4.d. The criminal history record check and related records are not public records for the purposes of chapter twenty-nine-b of this code.

4.5.4.e. The applicant shall pay the actual costs of the fingerprinting and criminal history record check.

4.5.4.f. If the applicant for licensure actively holds an appraiser apprentice permit, licensed residential appraiser license, or certified residential appraiser license, issued by the board, and has previously completed a criminal background check conducted by the board, the results of the prior criminal background check shall satisfy the board's current criminal background investigation requirement.

§190-2-5. Additional Qualifications for Licensed Residential Appraisers.

5.1. Education.

5.1.a An applicant who has completed and passed one hundred fifty (150) classroom hours of courses required under this subsection, of which fifteen (15) hours shall be the National Uniform Standards of Professional Appraisal Practice Course or equivalent, shall be deemed to meet education requirements for licensure. Equivalency shall be determined through the AQB course approval program or by an alternate method established by the AQB.

5.1.b. The board shall grant credit towards classroom hours or classroom hours of distance education only where the length of the educational course is at least fifteen (15) hours and the applicant completed and passed an examination concerning that course: Provided, That effective January 1, 2015, the applicant shall have passed a final written exam, which for classroom hours of distance education shall be a closed-book written exam proctored by an official approved by the college, university or other sponsoring organization.

5.1.c. An applicant may obtain credit towards classroom hours or classroom hours of distance education from the following entities provided that the courses have been registered with and approved by the board:

5.1.c.1. Accredited colleges or universities;

5.1.c.2. Community or junior colleges;

5.1.c.3. Real estate appraisal or real estate related organizations;

5.1.c.4. Local, state or federal agencies, boards or commissions;

5.1.c.5. Proprietary schools;

5.1.c.6. Adult distributive or marketing educational programs;

5.1.c.7. Effective January 1, 2015, via completion of a degree in Real Estate from an accredited degree-granting college or university approved by the Association to Advance Collegiate Schools of Business, or a regional or national accreditation agency recognized by the U.S. Secretary of Education, provided that the college or university has had its curriculum reviewed and approved by the AQB; or

5.1.c.8. Any other entity which has received prior approval by the board.

5.1.d. Effective January 1, 2015, all qualifying education must be completed within the five (5) year period prior to the date of submission of application for an apprentice permit.

5.1. e. Effective January 1, 2008, the Board shall only credit appraisal courses completed by an applicant for Licensed Residential real estate appraiser and required by subdivision 5.1.a. of this subsection, if the applicant can show that his or her education involved coverage of all of the following topics and all minimum corresponding hours attendant with each topic:

5.1. e.1. Thirty (30) hours of basic appraisal principles, of which course hours may be evidenced by the following educational subtopics:

5.1.e.1.A. Real Property Concepts and Characteristics, including, but not limited to:

5.1.e.1.A.1. Basic Real Property Concepts;

5.1.e.1.A.2. Real Property Characteristics; and

5.1.e.1.A.3. Legal Description;

5.1.e.1.B. Legal Consideration, including, but not limited to:

5.1.e.1.B.1. Forms of Ownership;

5.1.e.1.B.2. Public and Private Controls;

5.1.e.1.B.3. Real Estate Contracts; and

5.1.e.1.B.4. Leases;

5.1.e.1.C. Influences on Real Estate Values, including, but not limited to:

5.1.e.1.C.1. Governmental;

5.1.e.1.C.2. Economic;

5.1.e.1.C.3. Social; and

5.1.e.1.C.4. Environmental, Geographic and Physical;

5.1.e.1.D. Types of Value, including, but not limited to:

5.1.e.1.D.1. Market Value;

5.1.e.1.D.2. Other Value Types; and

5.1.e.1.E. Economic Principles, including, but not limited to:

5.1.e.1.E.1. Classical Economic Principles; and

5.1.e.1.E.2. Application and Illustrations of the Economic Principles;

5.1.e.1.F. Overview of Real Estate Markets and Analysis, including, but not limited to:

5.1.e.1.F.1. Market Fundamentals, Characteristics, and Definitions;

5.1.e.1.F.2. Supply Analysis;

5.1.e.1.F.3. Demand Analysis; and

5.1.e.1.F.4. Use of Market Analysis;

5.1.e.1.G. Ethics and How They Apply in Appraisal Theory and Practice;

5.1.e.2. Thirty (30) hours of basic appraisal procedures, of which course hours may be evidenced by the following educational subtopics:

5.1.e.2.A. Overview of Approaches to Value;

5.1.e.2.B. Valuation Procedures, including, but not limited to:

5.1.e.2.B.1 Defining the Problem;

5.1.e.2.B.2. Collecting and Selecting Data;

5.1.e.2.B.3. Analyzing;

5.1.e.2.B.4. Reconciling and Final Value Opinion; and

5.1.e.2.B.5. Communicating the Appraisal;

5.1.e.2.C. Property Description, including, but not limited to:

5.1.e.2.C.1. Geographic Characteristics of the Land/Site;

5.1.e.2.C.2. Geologic Characteristics of the Land/Site;

5.1.e.2.C.3. Location and Neighborhood Characteristics;

5.1. e.2.C.4. Land/Site Considerations for Highest and Best Use; and

5.1.e.2.C.5. Improvements -- Architectural Styles and Types of Construction;

5.1. e.2.D. Residential Applications;

5.1.e.3. Successful completion of the fifteen (15) hour National Uniform Standards of Professional Appraisal Practice Course, or its equivalent;

5.1.e.4. Fifteen (15) hours of residential market analysis and highest and best use, of which course hours may be evidenced by the following educational subtopics:

5.1.e.4.A. Residential Markets and Analysis, including, but not limited to:

- 5.1.e.4.A.1. Market Fundamentals, Characteristics and Definitions;
- 5.1.e.4.A.2. Supply Analysis;
- 5.1.e.4.A.3. Demand Analysis; and
- 5.1.e.4.A.4. Use of Market Analysis;

5.1.e.4.B. Highest and Best Use, including, but not limited to:

- 5.1.e.4.B.1. Test Constraints;
- 5.1.e.4.B.2. Application of Highest and Best Use;
- 5.1.e.4.B.3. Special Considerations;
- 5.1.e.4.B.4. Market Analysis; and
- 5.1.e.4.B.5. Case Studies;

5.1.e.5. Fifteen (15) hours of residential appraiser site valuation and cost approach, of which course hours may be evidenced by the following educational subtopics:

5.1.e.5.A. Site Valuation, including, but not limited to:

- 5.1.e.5.A.1. Methods; and
- 5.1.e.5.A.2. Case Studies;

5.1.e.5.B. Cost Approach, including, but not limited to:

- 5.1.e.5.B.1. Concepts and Definitions;
- 5.1.e.5.B.2. Replacement/ Reproduction Cost New;
- 5.1.e.5.B.3. Accrued Depreciation;
- 5.1.e.5.B.4. Methods of Estimating Accrued Depreciation; and
- 5.1.e.5.B.5. Case Studies;

5.1.e.6. Thirty (30) hours of residential sales comparison and income approaches, of which course hours may be evidenced by the following educational subtopics:

- 5.1.e.6.A. Valuation Principles & Procedures -- Sales Comparison Approach;
- 5.1.e.6.B. Valuation Principles & Procedures -- Income Approach;
- 5.1.e.6.C. Finance and Cash Equivalency;
- 5.1.e.6.D. Financial Calculator Introduction;

5.1.e.6.E. Identification, Derivation and Measurement of Adjustments;

5.1.e.6.F. Gross Rent Multipliers;

5.1.e.6.G. Partial Interests;

5.1.e.6.H. Reconciliation; and

5.1.e.6.I. Case Studies and Applications;

5.1.e.7. Fifteen (15) hours of residential report writing and case studies, of which course hours may be evidenced by the following educational subtopics:

5.1.e.7.A. Writing and Reasoning Skills;

5.1.e.7.B. Common Writing Problems;

5.1.e.7.C. Form Reports;

5.1.e.7.D. Report Options and USPAP Compliance; and

5.1.e.7.E. Case Studies.

5.1.f. An applicant shall submit to the board a listing of courses, which he or she claims meet the education credit requirement, on a form approved by the board. An applicant shall submit proof of the completion of a course claimed for credit.

5.2. Experience.

5.2.a. An applicant shall have a minimum of one thousand (1,000) hours of appraisal experience. The board or an applicant may treat hours as cumulative in order to achieve the required one thousand (1,000) hours. Effective February 1, 2018, an applicant shall obtain all qualifying experience hours in no fewer than six months.

5.2.b. As a part of the application for licensure, an applicant shall execute an affidavit attesting to his or her experience in the field of real estate appraisal. This affidavit shall be on forms provided by the board with the application. In addition, an applicant shall provide, on forms provided by the board, a detailed list of the real estate appraisal reports or file memoranda for each year for which experience is claimed. Upon request, an applicant shall provide the board a sample of appraisal reports which the applicant has prepared. Experience obtained after January 1, 1991, shall comply with the USPAP.

5.3. Examination.

5.3.a. Before the board issues an initial license, an applicant shall complete and pass a national written exam administered by the board or by a testing service acting on behalf of the board. The passing score shall be determined by the board based upon the recommendation of the testing service. Effective January 1, 2015, education and experience requirements shall be completed before taking the national written exam.

5.3.b. Before the board issues an initial license, an applicant shall complete and pass a written state examination covering the sections of the West Virginia Code that regulate the practice of real estate appraisal: Provided, that effective January 1, 2015, an applicant shall complete and pass a three (3) hour West Virginia law course by an examination approved by the board. The passing score shall be determined by the board.

§190-2-6. Additional Qualifications for Certified General and Certified Residential Appraisers.**6.1. Education.**

6.1.a. An applicant who has completed and passed three hundred (300) classroom hours of courses required under this subsection, of which fifteen (15) hours include the National Uniform Standards of Professional Appraisal Practice Course or its equivalent, shall be deemed to meet education requirements for certification. Equivalency shall be determined through the AQB course approval program or by an alternate method established by the AQB.

6.1.b. An applicant who has completed and passed two hundred (200) classroom hours of courses required under this subsection, of which fifteen (15) hours include the National Uniform Standards of Professional Appraisal Practice Course or its equivalent, shall be deemed to meet education requirements for certification. Equivalency shall be determined through the AQB course approval program or by an alternate method established by the AQB.

6.1.c. The board shall grant credit towards classroom hours or classroom hours of distance education only where the length of the educational course was at least fifteen (15) hours and an applicant passed an examination concerning the course.

6.1.d. An applicant may obtain credit towards classroom hours or classroom hours of distance education from the following entities, provided that the courses have been registered with and approved by the board:

6.1.d.1. Accredited colleges or universities;

6.1.d.2. Community or junior colleges;

6.1.d.3. Real estate appraisal or real estate related organizations;

6.1.d.4. Local, state or federal agencies, boards or commissions;

6.1.d.5. Proprietary schools;

6.1.d.6. Adult distributive or marketing educational programs;

6.1.d.7. Via completion of a degree in Real Estate from an accredited degree-granting college or university approved by the Association to Advance Collegiate Schools of Business, or a regional or national accreditation agency recognized by the U.S. Secretary of Education, provided that the college or university has had its curriculum reviewed and approved by the AQB; or

6.1.d.8. Any other entity which has received prior approval by the board.

6.1.e. There is no time limit for when an applicant must obtain qualifying education credit: Provided, that effective January 1, 2015, all qualifying education shall be completed within the five (5) year period prior to the date of submission of an application for an apprentice permit.

6.1.f. The Board shall only credit appraisal courses completed by an applicant for state certified general classification and required by subdivision 6.1.a. of this subsection, if the applicant can show that his or her education involved coverage of all of the following topics and all minimum corresponding hours attendant with each topic, with particular emphasis on the appraisal of non-residential properties:

6.1.f.1. Thirty (30) hours of basic appraisal principles, of which course hours may be evidenced by the following educational subtopics:

6.1.f. 1.A. Real Property Concepts and Characteristics, including, but not limited to:

6.1.f.1.A.1. Basic Real Property Concepts;

6.1.f.1.A.2. Real Property Characteristics; and

6.1.f.1.A.3. Legal Description;

6.1.f.1.B. Legal Consideration, including, but not limited to:

6.1.f.1.B.1. Forms of Ownership;

6.1.f.1.B.2. Public and Private Controls;

6.1.f.1.B.3. Real Estate Contracts; and

6.1.f.1.B.4. Leases;

6.1.f.1.C. Influences on Real Estate Values, including, but not limited to:

6.1.f.1.C.1. Governmental;

6.1.f.1.C.2. Economic;

6.1.f.1.C.3. Social; and

6.1.f.1.C.4. Environmental, Geographic and Physical;

6.1.f.1.D. Types of Value, including, but not limited to:

6.1.f.1.D.1. Market Value;

6.1.f.1.D.2. Other Value Types; and

6.1.f.1.E. Economic Principles, including, but not limited to:

6.1.f.1.E.1. Classical Economic Principles; and

6.1.f.1.E.2. Application and Illustrations of the Economic Principles;

6.1.f.1.F. Overview of Real Estate Markets and Analysis, including, but not limited to:

6.1.f.1.F.1. Market Fundamentals, Characteristics, and Definitions;

6.1.f.1.F.2. Supply Analysis;

6.1.f.1.F.3. Demand Analysis; and

6.1.f.1.F.4. Use of Market Analysis;

6.1.f.1.G. Ethics and How They Apply in Appraisal Theory and Practice;

6.1.f.2. Thirty (30) hours of basic appraisal procedures, of which course hours may be evidenced by the following educational subtopics:

6.1.f.2.A. Overview of Approaches to Value;

6.1.f.2.B. Valuation Procedures, including, but not limited to:

6.1.f.2.B.1. Defining the Problem;

6.1.f.2.B.2. Collecting and Selecting Data;

6.1.f.2.B.3. Analyzing;

6.1.f.2.B.4. Reconciling and Final Value Opinion; and

6.1.f.2.B.5. Communicating the Appraisal;

6.1.f.2.C. Property Description, including, but not limited to:

6.1.f.2.C.1. Geographic Characteristics of the Land/Site;

6.1.f.2.C.2. Geologic Characteristics of the Land/Site;

6.1.f.2.C.3. Location and Neighborhood Characteristics;

6.1.f.2.C.4. Land/Site Considerations for Highest and Best Use; and

6.1.f.2.C.5. Improvements – Architectural Styles and Types of Construction;

6.1.f.2.D. Residential Applications;

6.1.f.3. Successful completion of the fifteen (15) hour National Uniform Standards of Professional Appraisal Practice Course, or its equivalent;

6.1.f.4. Thirty (30) hours of general appraiser market analysis and highest and best use, of which course hours may be evidenced by the following educational subtopics:

6.1.f.4.A. Real Estate Markets and Analysis, including, but not limited to:

6.1.f.4.A.1. Market Fundamentals, Characteristics and Definitions;

6.1.f.4.A.2. Supply Analysis;

6.1.f.4.A.3. Demand Analysis; and

6.1.f.4.A.4. Use of Market Analysis;

6.1.f.4.B. Highest and Best Use, including, but not limited to:

6.1.f.4.B.1. Test Constraints;

6.1.f.4.B.2. Application of Highest and Best Use;

6.1.f.4.B.3. Special Considerations;

6.1.f.4.B.4. Market Analysis; and

6.1.f.4.B.5. Case Studies;

6.1.f.5. Fifteen (15) hours of statistics, modeling and finance, of which course hours may be evidenced by the following educational subtopics:

6.1.f.5.A. Statistics;

6.1.f.5.B. Valuation Models (AVM's and Mass Appraisal); and

6.1.f.5.C. Real Estate Finance;

6.1.f.6. Thirty (30) hours of general appraiser sales comparison approach, of which course hours may be evidenced by the following educational subtopics:

6.1.f.6.A. Value Principles;

6.1.f.6.B. Procedures;

6.1.f.6.C. Identification and Measurement of Adjustments;

6.1.f.6.D. Reconciliation; and

6.1.f.6.E. Case Studies;

6.1.f.7. Thirty (30) hours of general appraiser site valuation and cost approach, of which course hours may be evidenced by the following educational subtopics:

6.1.f.7.A. Site Valuation, including, but not limited to:

6.1.f.7.A.1. Methods; and

6.1.f.7.A.2. Case Studies;

6.1.f.7.B. Cost Approach, including, but not limited to:

6.1.f.7.B.1. Concepts and Definitions;

6.1.f.7.B.2. Replacement/Reproduction Cost New;

6.1.f.7.B.3. Accrued Depreciation;

6.1.f.7.B.4. Methods of Estimating Accrued Depreciation; and

6.1.f.7.B.5. Case Studies;

6.1.f.8. Sixty (60) hours of general appraiser income approach, of which course hours may be evidenced by the following educational subtopics:

6.1.f.8.A. Overview;

- 6.1.f.8.B. Compound Interest;
- 6.1.f.8.C. Lease Analysis;
- 6.1.f.8.D. Income Analysis;
- 6.1.f.8.E. Vacancy and Collection Loss;
- 6.1.f.8.F. Estimating Operating Expenses and Reserves;
- 6.1.f.8.G. Reconstructed Income and Expense Statement;
- 6.1.f.8.H. Stabilized Net Operating Income Estimate;
- 6.1.f.8.I. Direct Capitalization;
- 6.1.f.8.J. Discounted Cash Flow;
- 6.1.f.8.K. Yield Capitalization;
- 6.1.f.8.L. Partial Interests; and
- 6.1.f.8.M. Case Studies;

6.1.f.9. Thirty (30) hours of general appraiser report writing and case studies, of which course hours may be evidenced by the following educational subtopics:

- 6.1.f.9.A. Writing and Reasoning Skills;
- 6.1.f.9.B. Common Writing Problems;
- 6.1.f.9.C. Report Options and USPAP Compliance; and
- 6.1.f.9.D. Case Studies;

6.1.f.10. Thirty (30) hours of appraisal subject matter electives.

6.1.g. The Board shall only credit appraisal courses completed by an applicant for state certified residential classification and required by subdivision 6.1.b. of this subsection, if the applicant can show that his or her education involved coverage of all of the following topics and all minimum corresponding hours attendant with each topic with particular emphasis on the appraisal of one to four unit residential properties:

6.1.g.1. Thirty (30) hours of basic appraisal principles, of which course hours may be evidenced by the following educational subtopics:

- 6.1.g.1.A. Real Property Concepts and Characteristics, including, but not limited to:
 - 6.1.g.1.A.1. Basic Real Property Concepts;
 - 6.1.g.1.A.2. Real Property Characteristics; and
 - 6.1.g.1.A.3. Legal Description;

6.1.g.1.B. Legal Consideration, including, but not limited to:

- 6.1.g.1.B.1. Forms of Ownership;
- 6.1.g.1.B.2. Public and Private Controls;
- 6.1.g.1.B.3. Real Estate Contracts; and
- 6.1.g.1.B.4. Leases;

6.1.g.1.C. Influences on Real Estate Values, including, but not limited to:

- 6.1.g.1.C.1. Governmental;
- 6.1.g.1.C.2. Economic;
- 6.1.g.1.C.3. Social; and
- 6.1.g.1.C.4. Environmental, Geographic and Physical;

6.1.g.1.D. Types of Value, including, but not limited to:

- 6.1.g.1.D.1. Market Value;
- 6.1.g.1.D.2. Other Value Types; and

6.1.g.1.E. Economic Principles, including, but not limited to:

- 6.1.g.1.E.1. Classical Economic Principles; and
- 6.1.g.1.E.2. Application and Illustrations of the Economic Principles;

6.1.g.1.F. Overview of Real Estate Markets and Analysis, including, but not limited to:

- 6.1.g.1.F.1. Market Fundamentals, Characteristics, and Definitions;
- 6.1.g.1.F.2. Supply Analysis;
- 6.1.g.F.3. Demand Analysis; and
- 6.1.g.1.F.4. Use of Market Analysis;

6.1.g.1.G. Ethics and How They Apply in Appraisal Theory and Practice

6.1.g.2. Thirty (30) hours of basic appraisal procedures, of which course hours may be evidenced by the following educational subtopics:

- 6.1.g.2.A. Overview of Approaches to Value;
- 6.1.g.2.B. Valuation Procedures, including, but not limited to:
 - 6.1.g.2.B.1. Defining the Problem;

6.1.g.2.B.2. Collecting and Selecting Data;

6.1.g.2.B.3. Analyzing;

6.1.g.2.B.4. Reconciling and Final Value Opinion; and

6.1.g.2.B.5. Communicating the Appraisal;

6.1.g.2.C. Property Description, including, but not limited to:

6.1.g.2.C.1. Geographic Characteristics of the Land/Site;

6.1.g.2.C.2. Geologic Characteristics of the Land/Site;

6.1.g.2.C.3. Location and Characteristics;

6.1.g.2.C.4. Land/Site Considerations for Highest and Best Use; and

6.1.g.2.C.5. Improvements -- Architectural Styles and Types of Construction;

6.1.g.2.D. Residential Applications;

6.1.g.3. Successful completion of the fifteen (15) hour National Uniform Standards of Professional Appraisal Practice Course, or its equivalent;

6.1.g.4. Fifteen (15) hours of residential market analysis and highest and best use, of which course hours may be evidenced by the following educational subtopics:

6.1.g.4.A. Residential Markets and Analysis, including, but not limited to:

6.1.g.4.A.1. Market Fundamentals, Characteristics and Definitions;

6.1.g.4.A.2. Supply Analysis;

6.1.g.4.A.3. Demand Analysis; and

6.1.g.4.A.4. Use of Market Analysis;

6.1.g.4.B. Highest and Best Use, including, but not limited to:

6.1.g.4.B.1. Test Constraints;

6.1.g.4.B.2. Application of Highest and Best Use;

6.1.g.4.B.3. Special Considerations;

6.1.g.4.B.4. Market Analysis; and

6.1.g.4.B.5. Case Studies;

6.1.g.5. Fifteen (15) hours of residential appraiser site valuation and cost approach, of which course hours may be evidenced by the following educational subtopics:

6.1.g.5.A. Site Valuation, including, but not limited to:

6.1.g.5.A.1. Methods; and

6.1.g.5.A.2. Case Studies;

6.1.g.5.B. Cost Approach, including, but not limited to:

6.1.g.5.B.1. Concepts and Definitions;

6.1.g.5.B.2. Replacement/ Reproduction Cost New;

6.1.g.5.B.3. Accrued Depreciation;

6.1.g.5.B.4. Methods of Estimating Accrued Depreciation; and

6.1.g.5.B.5. Case Studies;

6.1.g.6. Thirty (30) hours of residential sales comparison and income approaches, of which course hours may be evidenced by the following educational subtopics:

6.1.g.6.A. Valuation Principles & Procedures -- Sales Comparison Approach;

6.1.g.6.B. Valuation Principles & Procedures -- Income Approach;

6.1.g.6.C. Finance and Cash Equivalency;

6.1.g.6.D. Financial Calculator Introduction;

6.1.g.6.E. Identification, Derivation and Measurement of Adjustments;

6.1.g.6.F. Gross Rent Multipliers;

6.1.g.6.G. Partial Interests;

6.1.g.6.H. Reconciliation; and

6.1.g.6.I. Case Studies and Applications;

6.1.g.7. Fifteen (15) hours of residential report writing and case studies, of which course hours may be evidenced by the following educational subtopics:

6.1.g.7.A. Writing and Reasoning Skills;

6.1.g.7.B. Common Writing Problems;

6.1.g.7.C. Form Reports;

6.1.g.7.D. Report Options and USPAP Compliance; and

6.1.g.7.E. Case Studies;

6.1.g.8. Fifteen (15) hours in statistics, modeling and finance, of which course hours may be evidenced by the following educational subtopics:

6.1.g.8.A. Statistics;

6.1.g.8.B. Valuation Models (AVM's and Mass Appraisal); and

6.1.g.8.C. Real Estate Finance;

6.1.g.9. Fifteen (15) hours in advanced residential applications and case studies, of which course hours may be evidenced by the following educational subtopics:

6.1.g.9.A. Complex Property, Ownership and Market Conditions;

6.1.g.9.B. Deriving and Supporting Adjustments;

6.1.g.9.C. Residential Market Analysis; and

6.1.g.9.D. Advanced Case Studies;

6.1.g.10. Twenty (20) hours in appraisal subject matter electives.

6.1.h. An applicant shall submit to the board a listing of courses, which he or she claims meet the education credit requirement, on a form approved by the board. An applicant shall submit proof of the completion of a course claimed for credit.

6.1.i. Effective February 1, 2018, an applicant for the Certified Residential appraiser certification must satisfy at least one of the following options

6.1.i.1. Possession of a Bachelor's Degree in any field of study;

6.1.i.2. Possession of an Associate's Degree in a field of study related to:

6.1.i.2.A. Business Administration;

6.1.i.2.B. Accounting;

6.1.i.2.C. Finance;

6.1.i.2.D. Economics; or

6.1.i.2.E. Real Estate

6.1.i.3. Successful completion of thirty (30) semester hours of college-level courses that cover each of the following specific topic areas and hours:

6.1.i.3.A. English Composition (3 semester hours);

6.1.i.3.B. Microeconomics (3 semester hours);

6.1.i.3.C. Macroeconomics (3 semester hours);

6.1.i.3.D. Finance (3 semester hours);

6.1.i.3.E. Algebra, Geometry or higher mathematics (3 semester hours);

6.1.i.3.F. Statistics (3 semester hours);

6.1.i.3.G. Computer Science (3 semester hours);

6.1.i.3.H. Business or Real Estate Law (3 semester hours); and

6.1.i.3.I. Two elective courses in any of the topics listed above or in accounting, geography, agricultural economics, business management or real estate (3 semester hours each).

6.1.i.4. Successful completion of at least thirty (30) hours of College Level Examination Program (CLEP) Examinations from each of the following subject matter areas:

6.1.i.4.A. College Algebra (3 semester hours);

6.1.i.4.B. College Composition (6 semester hours);

6.1.i.4.C. College Composition Modular (3 semester hours);

6.1.i.4.D. College Mathematics (6 semester hours);

6.1.i.4.E. Principles of Macroeconomics (3 semester hours);

6.1.i.4.F. Principles of Microeconomics (3 semester hours);

6.1.i.4.G. Introductory Business Law (3 semester hours); and

6.1.i.4.H. Information systems (3 semester hours).

6.1.i.5. Any combination of 6.1.i.3 and 6.1.i.4 that ensures coverage of all topics and hours identified in 6.1.i.3.

6.1.j. Effective January I, 2015, an applicant for the Certified General appraiser certification shall have a bachelor's degree, or higher, from an accredited college or university: Provided, That from January 1, 2008, through December 31, 2014, an applicant for the Certified General appraiser certification may, in lieu of a bachelor's degree, or higher, from an accredited college or university, have completed and passed at least thirty (30) semester hours, of which the following courses taken from an accredited college, junior college, community college or university are required:

6.1.j.1. English composition;

6.1.j.2. Micro economics;

6.1.j.3. Macro economics;

6.1.j.4. Finance;

6.1.j.5. Algebra, geometry, or higher mathematics;

6.1.j.6. Statistics;

6.1.j.7. Introduction to computers, such as word processing or spreadsheets;

6.1.j.8. Business or real estate law; and

6.1.j.9. Two (2) elective courses in accounting, geography, ageconomics, business management, or real estate.

6.1.k. As an alternative to the Bachelor's Degree requirement, individuals who have held a Licensed Residential credential for a minimum of five (5) years may qualify for a Certified Residential credential by satisfying the following:

6.1.k.1. No finally adjudicated disciplinary action affecting the appraiser's legal eligibility to engage in appraisal practice within five (5) years immediately preceding the date of application for a Certified Residential credential; and

6.1.k.2. Completion of specific additional education which includes the following:

6.1.k.2.A. Statistics, Modeling and Finance consisting of fifteen (15) hours,

6.1.k.2.B. Advanced Residential Applications and Case Studies consisting of fifteen (15) hours; and

6.1.k.2.C. Appraisal Subject Matter Electives consisting of twenty (20) hours.

6.2. Experience.

6.2.a. An applicant for the state certified residential classification shall have one thousand five hundred (1,500) hours of appraisal experience over a period of not less than 12 months. At least one hundred (100) hours of the required experience shall be in non-residential assignments. While the number of experience hours may be cumulative, a period of no less than 24 months wherein such experience is acquired shall accrue before an applicant may be certified. Applicants must be able to demonstrate the ability to develop all three (3) approaches to value.

6.2.b. An applicant for the state certified general classification shall have a minimum of three thousand (3,000) hours of appraisal experience over a period of not less than ~~30~~ 18 months. At least one hundred (100) hours of the required experience hours shall be in residential assignments. At least one-half (1,500) of the hours of the required experience shall be in non-residential assignments. While the number of experience hours may be cumulative, a period of no less than 30 months wherein such experience is acquired shall accrue before an applicant may be certified. Applicants shall be able to demonstrate the ability to develop all three (3) approaches to value.

6.2.c. As a part of the application for license or certification, an applicant shall execute an affidavit attesting to his or her experience in the field of real estate appraisal. In addition, an applicant shall provide, on forms provided by the board, a detailed list of the real estate appraisal reports or file memoranda for each year for which experience is claimed. Upon request, an applicant shall provide the board a sample of appraisal reports which the applicant has prepared. Experience obtained after January 1, 1991, shall comply with the USPAP.

6.2.d. A licensed or certified residential appraiser may assist a certified general appraiser in the appraisal of non-residential property valued over one hundred thousand dollars (\$100,000) in order to accumulate the experience hours required by subdivision 6.2.b of this rule. The licensed or certified residential real estate appraiser shall work under the direct supervision of a state certified general appraiser, view the property on site and participate in the appraisal process in order to sign the report and receive credit for the experience hours.

6.3. Examination.

6.3.a. Before the board issues an initial certification or license, an applicant shall complete and pass a national written exam administered by the board or by a testing service acting on behalf of the board. The passing score shall be determined by the board based upon the recommendation of the testing service. Effective January 1, 2015, education and experience shall be completed before taking the national written exam.

6.3.b. Before the board issues an initial certification or license, an applicant shall complete and pass a written state examination covering the sections of the West Virginia Code that regulate the practice of real estate appraisal. Provided, that effective January 1, 2015, an applicant shall complete and pass a three (3) hour West Virginia law course by an examination approved by the board. The passing score shall be determined by the board.

§190-2-7. Procedure for Calculation of Experience by the Board.

7.1. As provided in Sections 5 and 6 of this rule, an applicant for residential appraiser licensing or certification shall provide evidence satisfactory to the board that the applicant possesses the required amount of appraisal experience. The board may award maximum experience hours for residential real estate appraisals as follows:

7.1.a. A maximum of fifteen (15) hours of credit for a complex residential appraisal; and

7.1.b. A maximum of six (6) hours of credit for a non-complex residential appraisal.

7.2. As provided in subdivision 6.2.b. of this rule, an applicant for general appraiser certification shall provide evidence satisfactory to the board that the applicant possesses the required amount of appraisal experience. At least one-half of the hours of the required experience shall be in non-residential appraisal assignments. The board may award maximum experience credits for non-residential real estate appraisals as follows:

7.2.a. A maximum of fifty (50) hours of credit for a complex non-residential appraisal; and

7.2.b. A maximum of eight (8) hours of credit for a non-complex non-residential appraisal.

7.3. If an applicant for licensure or certification feels that he or she has performed any real estate appraisals under unique circumstances, or that he or she has expended a greater amount of hours in the performance of an appraisal than the provisions of this section allow, the applicant may provide the board with a log detailing the amount of actual hours spent on the appraisals, with sufficient details of the hours of experience for which he or she is requesting experience credit.

7.4. For the purpose of this section only: a non-complex appraisal is one for which:

7.4.a. There is an active market of essentially identical properties;

7.4.b. Adequate data is available to the appraiser;

7.4.c. Adjustments to comparable sales are not large in the aggregate, specifically not exceeding the trading range found in the market of essentially identical properties; and

7.4.d. For residential property, the contract price falls within the market norm (median sales price) of homes in the neighborhood.

7.5. For the purpose of this section only, a complex appraisal:

7.5.a. For non-residential property is one that relies to any significant degree on all three approaches to value (cost, sales comparison and income) or does not have the characteristics of a non-complex appraisal; and

7.5.b. For residential property is one that relies to any significant degree on at least two of the three approaches to value, with one approach being the sales comparison approach, or does not have the characteristics of a non-complex appraisal.

7.6. All appraisals submitted or claimed for experience credit are subject to verification by the board. An applicant may not claim experience hours for appraisals which are not supported by written reports or file memoranda. On request, an applicant shall furnish the board copies of appraisal reports and file memoranda supporting the experience hours sought by the applicant. The board shall treat all appraisal reports and file memoranda submitted to the board as confidential to the extent permitted by law.

§190-2-8. Qualifications for Licensure or Certification by Reciprocity.

8.1. Effective July 1, 2013, an applicant who is currently licensed or certified as a real estate appraiser in another jurisdiction may apply for a West Virginia appraiser license or certification of the same classification as the out-of-state license or certification: Provided that:

8.1.a. The appraiser licensing program of the other state is in compliance with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, 12 U.S.C. §§ 3331-3351, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010; and

8.1.b. The other state has credentialing requirements that meet or exceed those of West Virginia.

8.2. Effective July 1, 2013, each applicant for a license or certification by reciprocity shall:

8.2.a. Be at least 18 years of age;

8.2.b. Have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate appraiser in a manner that safeguards the interest of the public;

8.2.c. Not have been convicted or pled guilty, regardless of adjudication, in any jurisdiction, of a ~~misdemeanor~~ crime that bears a rational nexus to the occupation requiring licensure. ~~or of any felony.~~ Any plea of nolo contendere is considered a conviction for purposes of this subdivision. The record of a conviction authenticated in a form that is admissible in evidence under the laws of the jurisdiction where convicted is admissible as prima facie evidence of the conviction. In determining whether a criminal conviction bears a rational nexus to a profession or occupation, the board shall consider at a minimum:

8.2.c.1. The nature and seriousness of the crime for which the individual was convicted;

8.2.c.2. The passage of time since the commission of the crime;

8.2.c.3. The relationship of the crime to the ability, capacity and fitness required to perform the duties and discharge the responsibilities of the profession and

8.2.c.4. Any evidence of rehabilitation or treatment undertaken by the individual.

8.2.d. Notwithstanding any other provision of this chapter to the contrary, if an applicant is disqualified from licensure because of a prior criminal conviction, the board shall permit the applicant to apply for initial licensure if:

8.2.d.1. A period of five years has elapsed from the date of the conviction or the date of release from incarceration, whichever is later;

8.2.d.2. The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

8.2.d.3. The conviction was not for an offense of a violent or sexual nature; *Provided that* a conviction of a violent or sexual nature may subject an individual to a longer period of disqualification from licensure to be determined by the board.

8.2.e. An individual with a criminal record who has not previously applied for licensure may petition the board at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license. This petition shall include sufficient details about the individual's criminal record to enable the board to identify the jurisdiction where the conviction occurred, the date of the conviction, and the specific nature of the conviction. The board shall provide the determination within sixty days of receiving the petition from the applicant. The board may charge a fee to recoup its costs for each petition.

8.2.f. The requirements of this section do not apply to the criteria that the board may consider when making determinations regarding relicensure or discipline of licensees.

8.2.g. Be identified on The National Registry of The Appraisal Subcommittee as an active licensed or certified real property appraiser that currently conforms to the AQB criteria;

8.2.h. Complete an application approved by the board; and

8.2.i. On forms provided by the board, sign a pledge to comply with the standards of professional appraisal practice and the ethical rules that are established by the board. Each applicant shall also certify that he or she understands the types of misconduct as described in W. Va. Code §30-38-1 et seq. and that disciplinary proceedings may be initiated against him or her for that misconduct.

~~8.3. The Board may consider applicants for license or certification who do not meet the requirements set forth in subdivision 8.2.e of this section.~~

§190-2-9. Qualifications for Temporary Permit as a Licensed Residential Real Estate Appraiser, Certified Residential or Certified General Real Estate Appraiser

9.1. An individual who is currently licensed or certified as a real estate appraiser in another jurisdiction may apply for a temporary permit as provided Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, 12 U.S.C. §§ 3331-3351, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. Each applicant shall file with the board an irrevocable consent, duly acknowledged, to service of process upon a person located within this State designated to accept service, or upon the Secretary of State, if a plaintiff in a civil action arising from the applicant's activities as a real estate appraiser in this State is unable, through the exercise of due diligence, to effect personal service upon the temporary permit holder.

9.2. The board shall recognize the appraiser's certification or license issued by another state as equivalent to a West Virginia license or certification provided that:

9.2.a. The applicant's business is of a temporary nature, and is limited to one specific assignment;

9.2.b. The board considers the education, experience and general examination requirements completed in the jurisdiction of original licensure or certification to be substantially equivalent to those required for the appropriate level of licensure or certification in West Virginia;

9.2.c. The applicant signs, as part of the application, an affidavit certifying that the appraiser will read and comply with West Virginia law and the board's rules;

9.2.d. The applicant is in good standing as a licensed or certified real estate appraiser in every jurisdiction where he or she is licensed or certified, the license or certification has not been suspended, revoked, or surrendered in connection with a disciplinary action, and the applicant ~~be~~ is not and has not been the subject of disciplinary action in any jurisdiction;

9.2.e. The applicant has a good reputation for honesty, truthfulness, and fair dealing, and is competent to transact business of a real estate appraiser in a manner that safeguards the interest of the public;

9.2.f. The applicant has not been found guilty or pled guilty, regardless of adjudication, in any jurisdiction, of a ~~misdemeanor~~ crime that bears a rational nexus to the occupation requiring licensure. ~~or of any felony.~~ Any plea of nolo contendere is considered a conviction for purposes of this subdivision. The record of a conviction authenticated in a form that is admissible in evidence under the laws of the jurisdiction where convicted is admissible as prima facie evidence of the conviction; and In determining whether a criminal conviction bears a rational nexus to a profession or occupation, the board shall consider at a minimum:

9.2.f.1. The nature and seriousness of the crime for which the individual was convicted;

9.2.f.2. The passage of time since the commission of the crime;

9.2.f.3. The relationship of the crime to the ability, capacity and fitness required to perform the duties and discharge the responsibilities of the profession; and

9.2.f.4. Any evidence of rehabilitation or treatment undertaken by the individual.

9.2.g. Notwithstanding any other provision of this chapter to the contrary, if an applicant is disqualified from licensure because of a prior criminal conviction, the board shall permit the applicant to apply for initial licensure if:

9.2.g.1. A period of five years has elapsed from the date of conviction or the date of release from incarceration whichever is later;

9.2.g.2. The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

9.2.g.3. The conviction was not for an offense of a violent or sexual nature; *Provided that a conviction of a violent or sexual nature may subject an individual to a longer period of disqualification from licensure to be determined by the board.*

9.2.h. An individual with a criminal record who has not previously applied for licensure may petition the board at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license. This petition shall include sufficient details about the individual's criminal record to enable the board to identify the jurisdiction where the conviction

occurred, the date of the conviction, and the specific nature of the conviction. The board shall provide the determination within sixty days of receiving the petition from the applicant. The board may charge a fee to recoup its costs for each petition.

9.2.g.i. The applicant is at least 18 years of age.

~~9.3. The board may consider and approve for a temporary permit an applicant who does not meet the requirements set forth in subdivisions 9.2.d. and 9.2.f. of this section.~~

9.4.3. The temporary permit issued under the provisions of this section is expressly limited to the authority of the permit holder to perform the specific contract of appraising which is the basis for the temporary permit.

9.5.4. Each temporary permit expires upon the completion of the appraisal work which is the basis of the permit or after a period of six (6) months, whichever occurs first.

§190-2-10. Licensure, Certification and Other Fees.

10.1. All licensure and certification fees for licenses and certifications are non-refundable.

10.2. The fees charged by the board are as follows:

10.2.a. A license application fee of one hundred fifty dollars (\$150);

10.2.b. An annual state licensed residential license fee of two hundred sixty-five dollars (\$265);

10.2.c. A delinquent license fee of an additional one hundred dollars (\$100);

10.2.d. A temporary permit fee of two hundred fifty dollars (\$250) for a non-residential appraisal and two hundred fifty dollars (\$250) for a residential appraisal;

10.2.e. A certification application fee of one hundred fifty dollars (\$150);

10.2.f. An annual state certified general license fee of four hundred sixty-five dollars (\$465);

10.2.g. An annual state certified residential license fee of three hundred fifteen dollars (\$315);

10.2.h. A delinquent certification fee of an additional one hundred dollars (\$100);

10.2.i. After approving a waiver request of an individual on active duty as a member of the Armed Forces of the United States, the National Guard of this state, or any other military reserve component and deployed outside this state, in accordance with W. Va. Code §30-1-6b (b), the board shall waive fees for:

10.2.i.a. Renewals of licenses, registrations, certifications or permits for the individual and his or her accompanying spouse during the individual's qualified deployment;

10.2.i.b. Licensing, registrations, certifications, or permits for the individual and his or her accompanying spouse for six (6) months following the individual's discharge from active duty.

10.2.j. An annual inactive status fee of one hundred fifty dollars (\$150);

10.2.k. An apprentice application permit fee of one hundred fifty dollars (\$150);

- 10.2.l. An annual apprentice permit fee of one hundred ninety dollars (\$190);
- 10.2.m. A Certificate of Good Standing twenty-five dollars (\$25);
- 10.2.n. Copy fees: fifty cents (\$.50) per page;
- 10.2.o. An Upgrade application fee: one hundred fifty dollars (\$150);
- 10.2.p. An Exemption from Supervisory Accompaniment Application fee: one hundred fifty dollars (\$150);
- 10.2.q. One roster: thirty-five dollars (\$35), roster subscription fee: fifty dollars (50);
- 10.2.r. A duplicate wall certificate: fifty dollars (\$50);
- 10.2.s. A duplicate pocket card: fifty dollars (\$50);
- 10.2.t. A continuing education and qualifying education course approval fee: seventy-five dollars \$75, per course, per educational course provider;
- 10.2.u. A duplicate renewal application form: twenty-five dollars (\$25).

10.3. The board shall collect from each licensed or certified appraisers an annual registry fee established by the Appraisal Subcommittee and shall annually submit the registry fees to the Federal Financial Institutions Examination Council

10.4. The board shall deposit all fees and revenues collected pursuant to this rule in a special fund that the board shall use solely for the purposes of paying the expenses of the administration of W. Va. Code §30-38-1 et seq.

§190-2-11. Qualifications for Apprentices, Apprentice Supervisors, Apprentice Permits.

11.1. This section establishes an appraiser apprentice permit program for persons who desire to acquire the appraisal experience required by this rule in order to be licensed or certified.

11.2. Participation in the apprentice program is a prerequisite to licensure or certification except in cases of reciprocity or issuance of a temporary permit.

11.3. Application for apprentice permit; requirements and qualifications. An applicant for an apprentice permit shall submit: a completed application form; the permit fee; and, the name and address of his or her proposed supervisor. An applicant shall:

- 11.3.a. Be at least eighteen (18) years of age;
- 11.3.b. Have a good reputation for honesty and truthfulness as required by subdivisions 4.1.a. and 4.1.d. of this rule;
- 11.3.c. Have a high school diploma or its equivalent;
- 11.3.d. Have completed and passed seventy-five hours (75) in subjects related to real estate appraisal in accordance with subsection 5.1. of this rule within the five (5) year period prior to the date of submission of application for an apprentice permit; and

11.3.e. Cause his or her supervisor to submit a copy of an appraisal completed by the supervisor to the upgrades committee of the board for review, which shall have been performed within three (3) months preceding the submission of the apprentice application. Such appraisal must be a residential appraisal that at minimum includes the cost and sales comparison approach to value. The upgrades committee shall review the appraisal of the supervisor to determine compliance with USPAP and W. Va. Code §30-38-1, et seq. Based upon the supervisor's compliance with USPAP and W. Va. Code §30-38-1, et seq., as reflected from a review of the appraisal submitted by the supervisor, or failure of compliance thereof, the upgrades committee shall recommend and submit to the Board for final determination, whether to approve the supervisor from acting in the capacity of supervisor to the apprentice. If the Board disapproves a supervisor from acting in the capacity of supervisor to an apprentice, the board shall deny the apprentice application.

11.3.f. Submit to, and pay for the actual costs of, a state and national criminal history record check as set forth in subsection 4.5 of this rule, for the purpose of determining whether the applicant has been charged with, indicted for, or convicted of a crime that may have bearing upon the applicant's fitness to hold a license.

11.4. Effective January 1, 2015, the apprentice shall complete a board-approved supervisor-apprentice orientation course that, at a minimum, complies with the specifications for course content established by the Appraisal Qualifications Board prior to obtaining the apprentice permit.

11.5. Effective January 1, 2015, the applicant shall complete and pass a three (3) hour West Virginia law course, with exam, prior to obtaining the apprentice permit.

11.6. Annual Apprentice Permit Renewal.

An apprentice may renew his or her annual permit upon submission to the board of a renewal application, the annual permit fee, proof of fourteen (14) hours continuing education as defined in "Renewal of Licensure for Certification", 190 CSR 3.

11.6.a. Effective July 1, 2015, an apprentice shall, as a condition of renewal, complete a three (3) hour West Virginia law course, with exam, every four (4) years.

11.7. Responsibilities of Apprentice.

11.7.a. The apprentice shall work under the direct supervision of a state certified appraiser.

11.7.b. The apprentice and supervisor shall jointly maintain an experience log on a form designed by the Board. Experience hours shall be calculated in accordance with Section 7 of this rule. Separate experience logs shall be maintained for each supervisor.

11.7.c. An apprentice shall view the property and participate in the appraisal process in order to sign the report and to receive credit for the hours spent. The report shall be signed by the apprentice as follows:

Assisted by: _____

Apprentice Number: _____

11.7.d. The apprentice shall ensure that the experience log is available at all times for inspection by the board; and

11.7.e. When performing appraisal assignments, the apprentice shall carry on his or her person, the permit issued by the board;

11.8. Qualifications of Supervisor.

A supervisor shall be a state certified appraiser, active and in good standing for at least three (3) years, shall not have been the subject of any disciplinary action affecting the appraiser's legal eligibility to engage in the practice of real estate appraisal for the previous three (3) years, shall not be the subject of any complaint or pending disciplinary action, and shall have the following duties:

11.8.a. The supervisor may not supervise more than three (3) apprentices at one time. The supervisor shall at all provide direct supervision of the work performed by the apprentice in accordance with the USPAP, and, when offered by the board, attend the apprentice orientation program within sixty (60) days immediately following the issuance of the apprentice permit and supervisor approval, required by subsection 11.4. of this rule: Provided, that effective January 1, 2015, a supervisor shall, before supervising an apprentice, complete a board-approved supervisor-apprentice orientation course that at minimum complies with the specifications for course content established by the AQB;

11.8.b. The supervisor and apprentice shall jointly maintain an experience log on a form designed by the Board. Experience hours shall be calculated in accordance with section 7 of this rule. Separate experience logs shall be maintained for each supervisor and shall indicate his or her certification number. The supervisor and apprentice shall, at least once a month, sign the experience log required to be kept by the apprentice, and each shall indicate his or her license or certification or permit number.

11.8.c. The supervisor shall make available to the apprentice, a copy of any appraisal report that the apprentice signed that is requested for review by the board; and

11.8.d. Until December 31, 2014, after the apprentice completes and passes the examinations required by subsection 5.3 of this rule and has obtained five hundred (500) hours of experience, the supervisor and the apprentice may jointly apply to the board for an exemption that would allow the supervisor to sign the appraisal report without viewing the property, provided the apprentice is competent to perform the inspection. In any application for exemption, the supervisor and the apprentice shall obtain from the board and complete an application for exemption from supervisory accompaniment, pay the appropriate fee as set forth in subsection 10.2 of this rule, and attach an experience log that reflects the apprentice's completion of at least five hundred (500) hours of experience. The experience log shall be in chronological order, complete and signed as required by subdivision 11.8.b.

11.9. Effective January 1, 2015, an apprentice may take the licensing examinations required by this rule only after completing required education and experience components.

11.10. This section is not intended to prohibit a person who does not have an apprentice permit from assisting or helping a licensed or certified appraiser as long as that person does not sign the report; Provided, That the licensed or certified appraiser who uses such an assistant or helper shall conform with all duties required by this rule.

§190-2-12. Inactive Status.

12.1. Only a licensed or certified appraiser who is in good standing and not the subject of a pending complaint or disciplinary action may place his or her license or certification on inactive status.

12.2. No apprentice is eligible for inactive status.

12.3. A licensed or certified real estate appraiser on inactive status may not engage in the practice of real estate appraisal but may still consider himself or herself as an appraiser.

12.4. Effective January 1, 2015, a licensed or certified appraiser may remain on inactive status for no more than five (5) years if he or she pays the annual fee for inactive status: Provided, that for an appraiser on inactive status on December 31, 2014, the five (5) year period shall begin on January 1, 2015. The appraiser's license or certification shall expire at the end of the five (5) year period, and the appraiser may not engage in the practice of real estate appraisal unless the board grants a new license or certification under this rule.

12.5. An appraiser may reactivate a license or certification by paying the fee established by the board for an active license or certificate in his or her classification and verifying to the board that he or she completed, for each licensure year of inactive status, the continuing education required by "Renewal of License or Certification" 190 CSR 3. Effective January 1, 2015, to reactivate an unexpired license or certification, a licensed or certified appraiser shall:

12.5.a. Pay the reactivation fee established by the board for the license or certification;

12.5.b. Submit documentation that the appraiser has completed the current fifteen (15) hour USPAP course, the current West Virginia Law course and, for each licensure year of inactive status, all other continuing education required by "Renewal of License or Certification," 190 CSR 3; and

12.5.c. Submit to, and pay for the actual costs of, a state and national criminal history record check as set forth in subsection 4.5 of this rule, for the purpose of determining whether the appraiser has been charged with, indicted for or convicted of a crime that may bear upon the appraiser's fitness to hold a license.

§190-2-13. Licenses and Certifications.

13.1. The board shall issue to each licensed or certified real estate appraiser a document stating that the license or certification has been issued pursuant to W. Va. Code §30-38-7(j) and specifying the expiration date. The board shall issue a pocket card with the name and license or certification number of the respective licensee. An appraiser subject to this rule shall place his or her title and license or certification number on all statements of qualifications, contracts or other instruments, including advertising media. The pocket card remains the property of the board and the licensee shall surrender it upon request by the board.

13.2. Initial licenses and certifications expire on September 30 following the date of issue. Subsequent licenses and certifications are renewed for the period of October 1 to September 30 of the following year.

§190-2-14. Standards of Professional Appraisal Practice.

14.1. Each licensed or certified appraiser shall comply with generally accepted standards of professional appraisal practice and generally accepted ethical rules to be observed by a real estate appraiser, at minimum the USPAP, incorporated by reference. The minimum standard for an appraisal report shall be the edition of the USPAP in effect on the date of the appraisal report. Appraisers may view a copy of the USPAP at the office of the board during regular business hours or may purchase a copy from the Appraisal Foundation.

§190-2-15 Application for Waiver of Initial Licensing Fees.

15.1. An applicant seeking a low income or military family waiver of the initial licensing fee shall apply for licensure to the board and provide the required documentation.

15.2. The Board shall provide the application form and instructions on what documentation is necessary to submit with the license application requesting the low income or military family initial licensing fee waiver.

15.3. An applicant shall submit all require documentation to the board and upon the submission of a complete application, the board shall review the application and issue a decision within 30 days of receipt of the completed application.

15.4. The board may issue a license to an applicant who meets the requirements of West Virginia Code § 30-38-1 et seq., the rules promulgated by the board, and the board shall waive the initial licensing fee for an applicant that meets the requirement of “low-income individuals” or “military families” as defined in West Virginia Code § 30-1-22.

15.5. An applicant denied a waiver of initial licensing fees shall have 30 days to appeal the decision of the board.

§19-2-16 Required Documentation for Waiver of Initial Licensure Fees.

16.1. Individuals requesting a waiver of initial licensure fees for low-income or military service personnel and their spouses shall submit, with the application for licensure, the initial licensure waiver LIW or MFW form and the appropriate documentation as specified in this section.

16.2. To establish low income eligibility for the initial licensing fee waiver, an applicant shall submit to the board, evidence that the adjusted gross income of the household of the applicant is at or below 130 percent of the federal poverty level by submitting documentation of eligibility for:

16.2.a. Temporary Assistance for Needy Families Program;

16.2.b. Medicaid;

16.2.c. Supplemental Nutrition Assistance Program; or

16.2.d. A federal tax return.

16.3. To establish military family eligibility for the initial licensing fee waiver, an applicant shall submit to the board proof of qualifying military service and proof of eligibility as a qualifying spouse or widow, as follows:

16.3.a. A service members DD-214 form;

16.3.b. A service members NGB-22 form;

16.3.c. A service members DD-1300 form; or

16.3.d. A copy of their current military orders; and

16.3.e. A copy of the marriage certificate with the qualifying service member and, where applicable, the death certificate of the service member if the widow is applying for the military family waiver.

16.4. Honorably discharged applicants shall submit a completed application, and a DD-214 form or an NGB-22 form showing the applicant has been honorable discharged from military service.

