

WEST VIRGINIA  
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #1

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1991 MAY 23 AM 10:57

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

Board: Real Estate Appraiser Licensing and Certification Board  
~~AGENCY:~~ \_\_\_\_\_ TITLE NUMBER: 190 .

RULE TYPE: Legislative ; CITE AUTHORITY W. Va. Code 37-14-1 et seq as amended (1991)

AMENDMENT TO AN EXISTING RULE: YES \_\_\_ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 1

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

RULES AND REGULATIONS OF THE REAL ESTATE LICENSING & CERTIFICATION BOARD

DATE OF PUBLIC HEARING: July 10, 1991 TIME: 10:00 a.m.

LOCATION OF PUBLIC HEARING: 814 Virginia St. East

Charleston, W.Va. 25301

Fourth Floor Conference room

COMMENTS LIMITED TO: ORAL \_\_\_ , WRITTEN \_\_\_ , BOTH X

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: West Virginia Real Estate Appraiser Licensing and Certification Board

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

814 Virginia Street, East Suite 212  
Charleston, West Virginia 25301

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

*Albert C. [Signature]*  
Counsel for Board  
Assistant Attorney General

2.90

OFFICE OF THE ATTORNEY GENERAL  
MARIO J. PALUMBO

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MEMORANDUM

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

TO: W. Va. Secretary of State

DATE: 05/23/91

FROM:

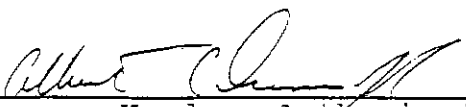
West Virginia Real Estate Appraiser Licensing and Certification Board.

RE:

Title 190 Legislative Rules, Series 1 through 4 Summary of Proposed Rules.

The legislative rules that are proposed by the Real Estate Appraiser Licensing and Certification Board are rules which establish policies, standards and provisions that will enable the Board to accept applications from individuals wishing to become either licensed or certified as real estate appraisers in the State of West Virginia. In order for real estate appraisers to practice their profession after December 31, 1991; the date in which the Board has determined that the Real Estate Appraiser Licensing and Certification Act will take effect; the Board must follow the provisions that they have developed in these rules for the licensing and certifying of those applicants.

These legislative rules also establish definitions and procedures for the Board to operate in its day to day activities as a professional licensing board. These rules establish the procedures, polices and grounds by which real estate appraiser licenses' and certifications may be renewed; procedures for the Board to follow when it is in receipt of complaints; when it needs to conduct hearings or investigations; or when the Board needs to take some disciplinary action regarding the activity of a real estate appraiser under it's jurisdiction who has violated established ethical and/or professional standards.

  
Agency Head or Authorized Representative

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

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Rule Title: 190

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Type of Rule:  Legislative  Interpretive  Procedural

WV Real Estate Appraiser

Agency Licensing and Certification Board

Address Suite 212, 814 Virginia St. E.  
Charleston, WV 25301

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	157,000.	117,000.00
Personal Services				43,000.	48,500.00
Current Expense				63,000.	48,000.00
Repairs and Alterations				0.	0.0
Equipment				2,000.	2,000.00
Other				48,500.0	18,500.00

2. Explanation of above estimates:

Next year will be the first full year of operation. All funds are generated by fees that are received from applications from the board for licensure or certification. The expenses are estimates of the cost incurred in the operation of the board through meetings, equipment purchases such as a computer, expense reimbursements, printing fees, and attorneys fees.

3. Objectives of these rules:

The objective is to allow the board to fulfill its statutorily created obligation of licensing and certifying real estate appraisers pursuant to W. Va. Code Section 34-14-1 et seq. as amended (1991). These duties include the issuance of licenses' and certifications, charging of fees, investigations and hearings.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

The citizens of this State who will require real estate appraisal services will be required to engage only licensed real estate appraisers for all real estate appraising. Those licensed to perform appraisal work will be required to submit an application fee, annual fees for renewal and examination fees to the board. Financial institutions, as of January 1, 1992, will no longer be able to approve real estate mortgages without the utilization of licensed real estate appraisers.

C. Economic Impact on Citizens/Public at Large.

The annual fees which are to be paid by licensed or certified real estate appraisers will in all likelihood be passed on the public in the price of appraisals.

Date: 5/23/91

Signature of Agency Head or Authorized Representative

Albert C. Quinn  
Assistant Attorney General  
Council for Board.

TITLE 190  
LEGISLATIVE RULES  
WEST VIRGINIA REAL ESTATE APPRAISER  
LICENSING AND CERTIFICATION BOARD

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SECRETARY OF STATE

SERIES 1

§ 190-1-1. General.

1.1. Scope - These legislative rules establish definitions, meeting dates and times, and various other provisions dealing with the licensing and certification of real estate appraisers by the West Virginia Real Estate Appraiser Licensing and Certification Board; along with standards of conduct and penalties for real estate appraisers.

1.2. Authority. - W. Va. Code § 37-14-6 as amended (1991).

1.3. Filing date. - \_\_\_\_\_.

1.4. Effective date. - \_\_\_\_\_.

§ 190-1-2. Definitions.

2.1. The following words and terms, when used in these regulations, unless a different meaning is provided or is plainly required by the context, shall have the following meanings: Provided, those additional definitions contained in West Virginia Code § 37-14-2 as amended (1991) are hereby incorporated by reference into these regulations by the Board.

2.1.1. "Accredited colleges, universities, junior and community colleges" means those accredited institutions of higher learning approved by the West Virginia Board of Directors or Board of Trustees, or listed in the Transfer Credit Practices of Designated Educational Institutions, published by the American Association of Collegiate Registrars and Admissions Officers.

2.1.2. "Adult distributive or marketing education programs" means those programs offered at schools approved by the West Virginia Board of Directors or Board of Trustees, or any other local, state, or federal government agency, board or commission to teach adult education or marketing courses.

2.1.3. "Appraiser Qualification Board" means the board created by the Appraisal Foundation to establish appropriate criteria for the licensure and certification of qualified appraisers by defining, issuing and promoting such qualification criteria; to disseminate such qualification criteria to states, governmental entities and others; and to develop or assist in the development of appropriate examinations for qualified appraisers.

2.1.4. "Classroom hour" means 50 minutes out of each 60 minute segment of classroom instruction. A "classroom hour" shall

not be credited to any time spent in the performance of a home study program or correspondence course.

2.1.5. "Experience" as used in these rules 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, review appraisal, appraisal analysis, real estate counseling, highest and best use analysis, feasibility analysis/study, and teaching of appraisal courses.

2.1.6. "Independent appraisal service" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion or conclusion relating to the nature, quality, value, or utility of identified real estate or identified real property.

2.1.7. "Licensee" means any individual holding a license issued by the Real Estate Appraiser Board to act as a licensed residential real estate appraiser.

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

2.1.9. "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.

2.1.10. "Real estate appraisal or real estate related organization" means any appraisal or real estate related organization formulated on a national level, where its membership extends to more than one state or territory of the United States, and where its educational courses or seminars meet standards set forth by the organization.

2.1.11. "Registrant" means any nonresident applicant who has registered with the Board and who desires to perform a temporary contract of real estate appraisal within this state.

2.1.12. "Specialized appraisal service" means an engagement to provide appraisal service which does not fall within the definition of "independent appraisal service". The term may include valuation, appraisals, analysis assignments and review assignments. Regardless of the intention of the client or employer, if the appraiser is, in fact, perceived by third parties or the public as acting as a disinterested third party in rendering an unbiased analysis, opinion or conclusion.

2.1.13. "Uniform Standards of Professional Appraiser Practice" means those standards promulgated by the Appraisal Standards Board of the Appraisal Foundation for use by all appraisers in the preparation of appraisal reports.

2.1.14. "Real estate appraisal activity" means the act or proces of making an appraisal of real estate or real property and preparing an appraisal report.

§ 190-1-3. Real Estate Appraiser Licensing and Certification Board created, meeting dates, times.

3.1. West Virginia Code § 37-14-5 as amended (1991), established the Real Estate Appraiser Licensing and Certification Board (herein referred to as Board). The Board shall meet every third Wednesday of the second month of each calendar quarter at a time to be determined by the Board.

§ 190-1-4. Licenses.

4.1. The Board shall issue to each licensed real estate appraiser, a document stating that such license has been issued pursuant to West Virginia Law and specifying the license's expiration date. The Board shall also issue a pocket card with the name and license number of the respective applicant, in a size and form that the Board adopts. Said pocket card remains the property of the Board and must be surrendered at any time upon request.

4.2. The Board shall also issue a certificate to all individuals classified as a certified real estate appraiser evidencing such certification and the expiration date. A certificate issued under this section shall bear a certificate number assigned to the individual by the Board, to be placed on any certified appraisal report performed by the appraiser, immediately below his / her title. Said certificate number may also be placed on all statements of qualification, contracts or other instruments, including advertising medium. The Board shall also issue a pocket card with the name and certification number included, to each certified real estate appraiser.

4.3. The Board shall maintain for public inspection during regular Board office hours, a complete and properly indexed record of all applications for licensure or certification received, and licenses or certifications issued, renewed, revoked, cancelled or suspended. A copy of such record shall be made available to the public upon application and the payment of a reasonable fee determined by the Board.

§ 190-1-5. Standards of professional appraisal practice.

5.1. Each real estate appraiser licensed or certified under these rules shall comply with the generally accepted standards of

professional appraisal practice and generally accepted ethical rules to be observed by a real estate appraiser. Generally accepted standards of appraisal practice are currently evidenced by the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisals Foundation. After the holding of a public hearing, the Board may make modifications of or additions to these uniform standards.

§ 190-1-6. Collection of appraisal fees.

6.1. No person engaged in the business of real estate appraising shall bring any action in any court in this state to collect compensation for the performance of real estate appraisal services for which service a license or certification is required unless said person can prove that he/she was the holder of a valid real estate appraiser license or certification at the time of the performance of the service.

§ 190-1-7. Penalty.

7.1. An individual acting as a licensed real estate appraiser without first obtaining the appropriate license shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1000.00). Said individual shall also be ineligible to obtain a valid license for a period of one year from the date of the conviction: Provided that, the Board may grant a license to such person within such one-year period upon application and payment of fees; upon a finding of extenuating circumstances; and after an administrative hearing thereon.

7.2. Any person acting as a certified real estate appraiser without first obtaining a valid certification is guilty of a misdemeanor and, upon conviction, shall be fined not more than two thousand five hundred dollars (\$2500.00), imprisoned in the county jail for not more than one year, or both.

7.3. If any individual receives money or anything else of value as a fee, commission, compensation or profit while in violation of these rules, said individual shall, in the addition to those penalties mentioned above, be subject to a penalty not less than the amount of the remuneration received nor more than three times such sum, as determined by the court, which penalty may be enforced in a court of competent jurisdiction by any person aggrieved by the violation.

§ 190-1-8. Roster.

8.1. The Board shall annually publish a roster of all persons licensed and certified pursuant to these rules. A copy of said register shall be made available to the public, upon application to the Board, and the payment of a reasonably set fee to be

determined by the Board.