

WEST VIRGINIA  
SECRETARY OF STATE  
Ken Hechler  
ADMINISTRATIVE LAW DIVISION



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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Form #4

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NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

Agency: West Virginia Real Estate Appraiser Licensing & Certification Board Title Number: 190

Cite Authority WV Code § 37-14-6; 37-14-28; 37-14-30

Amendment To An Existing Rule: Yes  No

If Yes, Series Number of Rule Being Amended: Series 2

Title of Rule Being Amended: Requirements for Licensure and Certification

If No, Series Number of New Rule Being Proposed: \_\_\_\_\_

Title of Rule Being Proposed: \_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE- MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE- MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

BY: Si Galperin, Executive Director

Si Galperin

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

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**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 § 37-14-6; § 37-14-28; § 37-14-30

1.3. **Filing Date.** --

1.4. **Effective Date.**--

1.5. **Repeal.** -- This legislative rule repeals and replaces the Board's rule "Requirements for Licensure and Certification" 190 CSR 2 filed in the Secretary of State's office March 31, 1994, and effective April 1, 1994, and repeals and replaces the Board's rule "Rules of West Virginia Real Estate Appraiser Licensing & Certification Board" 190 CSR 1 filed in the Secretary of State's office April 9, 1992, and effective April 10, 1992.

**§190-2-2. Definitions.**

2.1. "Classroom hour" means 50 minutes out of each 60 minute segment of classroom instruction. A "classroom hour" does not include time spent in the performance of a home study program or correspondence course.

2.2. "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/study.

2.3. "Accredited colleges, universities and junior and community colleges" means those institutions of higher learning under the West Virginia State College System Board of Directors or University System 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.

2.4. "Adult distributive or marketing education programs" means those programs offered at schools approved by the West Virginia State College System Board of Directors or University System Board of Trustees, or any other local, state, or federal government agency, board or

commission to teach adult education or marketing courses.

**2.5.** "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 the qualification criteria; to disseminate the qualification criteria to states, governmental entities and others; and to develop or assist in the development of appropriate examinations for qualified appraisers.

**2.6.** "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.

**2.7.** "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.

**2.8.** "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.

**2.9** "Residential" property is defined as one to four single family residential units and lots where the highest and best use is for one to four single family residential units.

**2.10** "Non-residential" property is defined as all properties other than residential.

**2.11** "Direct Supervision" means the supervisor must personally view the exterior and interior of all properties with their respective apprentice / appraiser; personally review each appraisal report; assign work to the apprentice / appraiser only if he/she is competent to perform the work; accept full responsibility for the report; and approve and sign the report as being independently and impartially prepared and in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), and applicable statutory requirements.

**2.12** "Licensee" means a person who holds a current valid license as a state licensed residential real estate appraiser or a person who holds a current valid certification as a state certified residential real estate appraiser or a state certified general real estate appraiser issued under the provisions of the W. Va. Code §37-14-1 et seq.;

### **§190-2-3. Exceptions To License Requirement.**

**3.1.** In addition to the exceptions of W. Va. Code § 37-14-4, this rule does not apply to a person licensed to practice public accountancy as defined in W. Va. Code § 30-9-2, including the performance of a business evaluation; Provided, that this exception does not apply to federally related transactions as defined in the "Financial Institutions Reform, Recovery, and Enforcement Act of 1989", 12 U.S.C. § 3331 et seq.

#### **§190-2-4. Classification of Licensure and Certification.**

There are three classifications of real estate appraisers:

**4.1. State Licensed Residential Real Estate Appraiser.** -- The state licensed residential real estate appraiser classification consists of those persons who are authorized to conduct appraisals of: (1) Complex residential real estate of one to four units having a value of less than two hundred fifty thousand dollars (\$250,000); (2) non-complex residential real estate of one to four units having a value of less than one million dollars (\$1,000,000); and, (3) non-residential real estate having a value of less than one hundred thousand dollars (\$100,000).

**4.2. State Certified Residential Real Estate Appraiser.** -- The state certified residential real estate appraiser classification consists of those persons who are authorized to conduct appraisals of residential real estate of one to four units without regard to value or complexity and to the appraisal of non-residential real estate when the value is less than one hundred thousand dollars (\$100,000).

**4.3. State Certified General Real Estate Appraiser.** --The state certified general real estate appraiser classification consists of those persons who are authorized to conduct appraisals of all types of real estate.

#### **§190-2-5. General Qualifications for Licensure or Certification.**

**5.1.** Every applicant who wishes to be classified as a licensed or certified real estate appraiser shall have the following qualifications:

**5.1.a.** The applicant has a good reputation for honesty, truthfulness, and fair dealing, and is competent to transact the business of a licensed or certified real estate appraiser in such a manner as to safeguard the interests of the public;

**5.1.b.** Except as provided for in Section 2-12 of this rule, the applicant meets the current education and experience requirements and submits 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 must complete an application for licensure or certification within twelve months of the date of the receipt of the application and fee by the Board;

**5.1.c.** The applicant is in good standing as a real estate appraiser in every jurisdiction where licensed or certified. The applicant's occupational or professional license or certification has not been suspended, revoked or surrendered in connection with a disciplinary action or the applicant has not been the subject of disciplinary action in any jurisdiction prior to applying for licensure or certification in West Virginia;

5.1.d. The applicant has not been found guilty or pled guilty, regardless of adjudication, in any jurisdiction, of a misdemeanor involving moral turpitude or of any felony. Any plea of nolo contendere is considered a conviction for purposes of this subsection. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted is admissible as prima facie evidence of the conviction; and,

5.1.e. The applicant is at least 18 years of age.

5.2 The Board may consider and approve for licensure or certification applicants who do not meet the requirements set forth in subdivisions 5.1.c. and 5.1.d. of this section.

5.3. At the time of filing an application for original or renewal of certification, each applicant shall sign a pledge to comply with the standards of professional appraisal practice and the ethical rules that are established by the Board. Each applicant must also certify that he or she understands the types of misconduct as described in W. Va. Code § 37-14-1 et seq. and that disciplinary proceedings may be initiated against him or her for such misconduct.

#### **§190-2-6. Additional Qualifications for Licensed Residential Real Estate Appraisers.**

##### **6.1. Education.**

6.1.a. The applicant shall have successfully completed seventy-five (75) classroom hours of courses in subjects related to real estate appraisal of which a minimum of fifteen (15) hours includes coverage of the Uniform Standards of Professional Appraisal Practice. Effective January 1, 1998, the applicant shall have successfully completed ninety (90) classroom hours in the subjects required under this subdivision.

6.1.b. The Board shall grant credit towards classroom hours only where the length of the educational offering was at least fifteen (15) hours and the applicant successfully completed an examination concerning that offering.

6.1.c. An applicant may obtain credit towards classroom hours from the following provided that, the courses have been registered with and approved by the Board:

- 6.1.c.1. Accredited colleges or universities;
- 6.1.c.2. Community or junior colleges;
- 6.1.c.3. Real estate appraisal or real estate related organizations;
- 6.1.c.4. Local, state or federal agencies, boards or commissions;
- 6.1.c.5. Proprietary schools;

6.1.c.6. Adult distributive or marketing educational programs; and  
6.1.c.7. Any other entity which has received prior approval by the Board.

6.1.d. The Board may award credit towards classroom hours to teachers of appraisal courses.

6.1.e. There is no time limit for when an applicant must obtain qualifying education credit.

6.1.f. The Board may grant credit for courses where the applicant obtained credit from the course provider by challenge examination without attending the courses, provided, that the credit was granted by the course provider prior to July 1, 1990. Provided further that the Board is satisfied with the quality of the challenge examination that was administered by the course provider.

6.1.g. The Board may credit various appraisal courses toward the classroom hours required by subdivision 6.1.a. of this section, if the applicant can show that his or her education involved coverage of all of the following topics, with particular emphasis on the appraisal of one to four unit residential properties:

- 6.1.g.1. Influences on real estate value;
- 6.1.g.2. Legal considerations in appraisal;
- 6.1.g.3. Types of value;
- 6.1.g.4. Economic principles;
- 6.1.g.5. Real estate markets and analysis;
- 6.1.g.6. Valuation process;
- 6.1.g.7. Property description;
- 6.1.g.8. Highest and best use analysis;
- 6.1.g.9. Appraisal statistical concepts;
- 6.1.g.10. Sales comparison approach;
- 6.1.g.11. Site value;
- 6.1.g.12. Cost approach;
- 6.1.g.13. Income approach

gross rent multiplier analysis  
estimation of income and expenses  
operating expense ratios;

6.1.g.14. Valuation of partial interests; and

6.1.g.15. Appraisal standards and ethics;

**6.1.h.** The 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. The applicant shall submit proof of the completion of a course claimed for credit.

## **6.2 Experience.**

**6.2.a.** The applicant shall have a minimum of two thousand (2000) hours of appraisal experience. The Board or the applicant may treat hours as cumulative in order to achieve the required two thousand (2000) hours.

**6.2.b.** As a part of the application for licensure, the 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, the applicant shall provide, on log forms provided by the Board, a detailed list of the real estate appraisal reports or file memoranda for each year of which experience is claimed. Upon request, the 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 Uniform Standards of Professional Appraisal Practice (USPAP).

## **6.3 Examination.**

**6.3.a.** Before the Board issues an initial license, the applicant shall successfully complete a written national examination 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.

**6.3.b.** Before the Board issues an initial license, the applicant shall successfully complete a written state examination covering the sections of the West Virginia Code that regulate the practice of real estate appraising. The passing score shall be determined by the Board.

## **§190-2-7. Additional Qualifications for Certified General and Certified Residential Real Estate Appraisers.**

### **7.1. Education.**

**7.1.a.** The applicant for Certified General shall have successfully completed one hundred sixty-five (165) classroom hours of courses in subjects related to real estate appraisal of which a minimum of fifteen (15) hours includes coverage of the Uniform Standards of Professional Appraisal Practice. Effective January 1, 1998, the applicant shall have successfully completed one

hundred eighty (180) classroom hours in the subjects required under this subdivision.

**7.1.b.** The applicant for Certified Residential shall have successfully completed one hundred thirty-five (135) classroom hours of courses in subjects related to real estate appraisal of which a minimum of fifteen (15) hours included coverage of the Uniform Standards of Professional Appraisal Practice.

**7.1.c.** The Board shall grant credit towards classroom hours only where the length of the educational offering is at least fifteen (15) hours and the applicant successfully completes an examination concerning that offering.

**7.1.d.** An applicant may obtain credit towards classroom hours from the following, provided that the courses have been registered with and approved by the Board:

- 7.1.d.1.** Accredited colleges or universities;
- 7.1.d.2.** Community or junior colleges;
- 7.1.d.3.** Real estate appraisal or real estate related organizations;
- 7.1.d.4.** Local, state or federal agencies, boards or commissions;
- 7.1.d.5.** Proprietary schools;
- 7.1.d.6.** Adult distributive or marketing education programs; and
- 7.1.d.7.** Any other entity which has received prior approval by the

Board.

**7.1.e.** The Board may award credit toward classroom hours to teachers of appraisal courses.

**7.1.f.** There is no time limit for when an applicant must obtain qualifying education credit.

**7.1.g.** The Board may grant credit for courses where the applicant obtained credit from the course provider by challenge examination without attending the courses, provided that such credit was granted by the course provider prior to July 1, 1990. Provided further that the Board is satisfied with the quality of the challenge examination that was administered by the course provider.

**7.1.h.** For general certification, the Board may credit various appraisal courses toward the classroom hours required by subdivision 7.1.a. of this section if the applicant can show that his or her education involved coverage of all of the following topics, with particular emphasis on the appraisal of non-residential properties:

- 7.1.h.1. Influences on real estate value
  - Physical and environmental
  - Economic
  - Governmental and legal
  - Social ;
  
- 7.1.h.2. Legal considerations in appraisal
  - Real estate vs. real property
  - Real property vs. personal property
  - Limitations on real estate ownership
  - Legal rights and interests
  - Forms of property ownership
  - Legal descriptions
  - Transfer of title;
  
- 7.1.h.3. Types of value
  - Market Value or Value in Exchange
  - Price
  - Cost
  - Investment Value
  - Value in Use
  - Assessed Value
  - Insurable Value
  - Going Concern Value;
  
- 7.1.h.4. Economic principles
  - Anticipation
  - Balance
  - Change
  - Competition
  - Conformity
  - Contribution
  - Increasing and decreasing returns
  - Opportunity Cost
  - Substitution
  - Supply and demand
  - Surplus productivity;
  
- 7.1.h.5. Real estate markets and analysis
  - Characteristics of real estate markets
  - Absorption analysis
  - Role of money and capital markets
  - Real estate financing;
  
- 7.1.h.6. Valuation process
  - Definition of the problem

- Collection and analysis of data
  - Analysis of highest and best use
  - Application and limitations of each approach to value
  - Reconciliation and final value estimate
  - The appraisal report;
- 7.1.h.7. Property description
- Site description
  - Improvement description
  - Basic construction and design
- 7.1.h.8. Highest and best use analysis
- Four tests
  - Vacant site or as if vacant
  - As improved
  - Interim use;
- 7.1.h.9. Appraisal math and statistics
- Compound interest concepts
  - Statistical concepts used in appraisal;
- 7.1.h.10. Sales comparison approach
- Research and selection of comparables
  - Elements of comparison
  - Adjustment process
  - Application of sales comparison approach;
- 7.1.h.11. Site value
- Sales comparison
  - Land residual
  - Allocation
  - Extraction
  - Ground rent capitalization
  - Subdivision analysis
  - Plottage and assemblage;
- 7.1.h.12. Cost approach
- Steps in Cost Approach
  - Application of the Cost Approach;
- 7.1.h.13. Income approach
- Estimation of income and expenses
  - Operating statement ratios
  - Direct capitalization
  - Cash flow estimates

- Measures of cash flow
  - Discounted cash flow analysis (DCF);
- 7.1.h.14.** Valuation of partial interests
- Interests created by a lease
  - Lease provisions
  - Valuation considerations
  - Other partial interests;
- 7.1.h.15.** Appraisal standards and ethics; and
- 7.1.h.16.** Narrative report writing

**7.1.i.** For residential certification, the Board may credit various appraisal courses toward the classroom hours required by subdivision 7.1.b of this section if the applicant can show that his or her education involved coverage of all topics listed below with particular emphasis on the appraisal of one to four unit residential properties:

- 7.1.i.1.** Influences on real estate value
- Physical and environmental
  - Economic
  - Governmental and legal
  - Social;
- 7.1.i.2.** Legal considerations in appraisal
- Real estate vs. real property
  - Real Property vs. personal property
  - Limitations on real estate ownership
  - Legal rights and interests
  - Forms of property ownership
  - Legal descriptions
  - Transfer of title;
- 7.1.i.3.** Types of value
- Market Value or Value in Exchange
  - Price
  - Cost
  - Investment Value
  - Value in Use
  - Assessed Value
  - Insurable Value;

- 7.1.i.3. Economic principles
  - Anticipation
  - Balance
  - Change
  - Competition
  - Conformity
  - Contribution
  - Increasing and decreasing returns
  - Opportunity Cost
  - Substitution
  - Supply and demand
  - Surplus productivity;
  
- 7.1.i.4. Real estate markets and analysis
  - Characteristics of real estate markets
  - Absorption analysis
  - Role of money and capital markets
  - Real estate financing;
  
- 7.1.i.5. Valuation process
  - Definition of the problem
  - Collection and analysis of data
  - Analysis of highest and best use
  - Application and limitations of each approach to value
  - Reconciliation and final value estimate
  - The appraisal report;
  
- 7.1.i.6. Property description
  - Site description
  - Improvement description
  - Basic construction and design;
  
- 7.1.i.7. Highest and best use analysis
  - Four tests
  - Vacant site or as if vacant
  - As improved
  - Interim use;
  
- 7.1.i.8. Appraisal math and statistics
  - Compound interest concepts
  - Statistical concepts used in appraisal;
  
- 7.1.i.9. Sales comparison approach
  - Research and selection of comparables
  - Elements of comparison

- Adjustment process
  - Application of sales comparison approach;
- 7.1.i.10. Site value
- Sales comparison
  - Land residual
  - Allocation
  - Extraction
  - Plottage and assemblage;
- 7.1.i.11. Cost approach
- Steps in Cost Approach
  - Application of the Cost Approach;
- 7.1.i.12. Income approach
- Gross rent multiplier analysis
  - Estimation of income and expenses
  - Operating expense ratios
  - Direct capitalization;
- 7.1.i.13. Valuation of partial interests
- Life estates
  - Undivided interest in commonly held property
  - Easements
  - Timeshares
  - Cooperatives
  - Leased fee estate
  - Leasehold estate;
- 7.1.i.14. Appraisal standards and ethics; and
- 7.1.i.15. Narrative Report writing.

7.1.j. The 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. The applicant shall submit proof of the completion of a course claimed for credit.

7.2. Experience.

7.2.a. An applicant for residential certification shall have two thousand (2000) hours of appraisal experience over a period of not less than two (2) years. Effective January 1, 1998, said applicant shall have two thousand five hundred (2,500) hours of appraisal experience over a period of not less than 24 months.

7.2.b. An applicant for general certification shall have a minimum of two thousand (2000) hours of appraisal experience over a period of not less than two (2) years. At least one-half (1000) of the hours of the appraisal experience required shall be in non-residential appraisal assignments. Effective January 1, 1998, said applicant shall have a minimum of three thousand (3,000) hours of appraisal experience over a period of not less than 30 months. At least one-half (1,500) of the hours of the required experience shall be in non-residential appraisal assignments.

7.2.c. As a part of the application for licensure or certification, the applicant shall execute an affidavit attesting to his or her experience in the field of real estate appraisal. In addition, the applicant shall provide, on log forms provided by the Board, a detailed list of the real estate appraisal reports or file memoranda for each year of which experience is claimed. Upon request, the 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 Uniform Standards of Professional Appraisal Practice (USPAP).

7.2.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) and accumulate the experience hours required in subdivision 7.2.b. of this rule. He or she shall work under the **direct supervision** of the state certified general real estate appraiser and view the property and participate in the appraisal process in order to sign the report and receive credit for the experience hours.

### 7.3 Examination.

7.3.a. Before the Board issues an initial certification, the applicant shall successfully complete a written national examination 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.

7.3.b. Before the Board issues an initial certification, the applicant shall successfully complete a written state examination covering the sections of the West Virginia Code that regulate the practice of real estate appraising. The passing score shall be determined by the Board.

### §190-2-8. Procedure for Calculation of Experience by the Board.

8.1. As provided for in Sections 6 and 7 of this rule, an applicant for residential real estate appraiser licensing or certification must 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:

- 8.1.a. A maximum of twelve hours of credit for a complex residential appraisal;
- 8.1.b. A maximum of four hours of credit for a complex residential field review;
- 8.1.c. A maximum of two hours of credit for a complex residential desk review;

- 8.1.d. A maximum of six hours of credit for a non-complex residential appraisal;
  - 8.1.e. A maximum of two hours of credit for a non-complex residential field review;
- and,
- 8.1.f. A maximum of one hour of credit for a non-complex residential desk review.

8.2 As provided for in subdivision 7.2.b. of this rule, an applicant for general real estate 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 must be in non-residential appraisal assignments. The Board may award maximum experience credits for non-residential real estate appraisals as follows:

- 8.2.a. A maximum of thirty-two (32) hours of credit for a complex non-residential appraisal;
- 8.2.b. A maximum of six (6) hours of credit for a complex non-residential field review;
- 8.2.c. A maximum of three (3) hours of credit for a complex non-residential desk review;
- 8.2.d. A maximum of eight (8) hours of credit for a non-complex non-residential appraisal;
- 8.2.e. A maximum of four (4) hours of credit for a non-complex non-residential field review; and,
- 8.2.f. A maximum of two (2) hours of credit for a non-complex non-residential desk review;

8.3. If an applicant for licensure or certification feels that he/ she has performed any real estate appraisals under unique circumstances, or that he/ 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/she is requesting experience credit.

8.4 For the purpose of this section only: a non-complex appraisal is one having the following characteristics:

- 8.4.a. There is an active market of essentially identical properties;
- 8.4.b. Adequate data is available to the appraiser;

8.4.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

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

8.5 For the purpose of this section only: a complex appraisal:

8.5.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.

8.5.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.

8.6 For each appraisal having three or more signers accepting responsibility, the Board may award experience hour credit based upon the number of hours divided by the number of signers. For each appraisal having less than three signers who accept responsibility, the Board may award each signer the maximum experience hour credit.

8.7 All appraisals submitted or claimed for experience credit are subject to verification by the Board. Applicants may not claim experience hours for appraisals which are not supported by written reports or file memoranda. On request, the 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.

8.8. Review appraisal experience must be matched hour for hour by experience in preparing appraisal reports other than as a review appraisal. The Board may award matching appraisal experience for appraisal reports prepared at any time in the applicant's career.

#### **§190-2-9. Qualifications for Licensure or Certification by Reciprocity.**

9.1. An applicant who is currently licensed or certified as a real estate appraiser in another jurisdiction may obtain a West Virginia real estate appraiser license or certification by providing documentation that he or she has met educational, experience and examination requirements that are substantially equivalent to those required in West Virginia for the appropriate level of licensure or certification: Provided that the other jurisdiction extends the same reciprocal consideration to all West Virginia licensed or certified appraisers in good standing in this state. All reciprocal applicants must pass the West Virginia appraiser law section of the licensing examination prior to licensure or certification and pay the appropriate fees provided for in Section 11 of this Rule.

9.2 Each applicant for a license or certification by reciprocity shall meet the following qualifications:

9.2.a. The applicant is at least 18 years of age;

9.2.b. The applicant shall sign, as part of the application, an affidavit certifying that the applicant has read and understands the West Virginia real estate appraiser license laws and the rules of the Board;

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

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

9.2.e. The applicant has not been convicted or pled guilty, regardless of adjudication, in any jurisdiction, of a misdemeanor involving moral turpitude or of any felony. Any plea of nolo contendere is considered a conviction for purposes of this subsection. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted is admissible as prima facie evidence of the conviction.

9.3. The Board may consider applicants for licensure or certification who do not meet the requirements set forth in subdivision 9.2.c. or subdivision 9.2.e. of this section.

**§190-2-10. Qualifications for Temporary Permit as a Licensed Residential Real Estate Appraiser, Certified Residential or General Real Estate Appraiser.**

10.1. An individual who is currently licensed or certified as a real estate appraiser in another jurisdiction may apply for a temporary permit as provided for in Title XI of the United States Code entitled "Financial Institutions Reform, Recovery and Enforcement Act of 1989". Each applicant shall sign an irrevocable consent to service form consenting to the service of process by means of delivery to the Secretary of State if, in the event of an action which results from his or her activities as a real estate appraiser in the State, the plaintiff, in the exercise of due diligence, cannot effect personal service upon the temporary permit holder.

10.2. 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:

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

10.2.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;

10.2.c. The applicant signs, as part of the application, an affidavit certifying that the applicant will read and comply with the law and the rules of the West Virginia Real Estate Appraiser Board;

10.2.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 applicant's license or certification has not been suspended, revoked, or surrendered in connection with a disciplinary action. The applicant has not been or is not currently the subject of disciplinary action in any jurisdiction;

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

10.2.f. The applicant has not been found guilty or pled guilty, regardless of adjudication, in any jurisdiction, of a misdemeanor involving moral turpitude or of any felony. Any plea of nolo contendere is considered a conviction for purposes of this paragraph. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted is admissible as prima facie evidence of the conviction; and

10.2.g. The applicant is at least 18 years of age.

10.3. The Board may consider and approve for a temporary permit an applicant who does not meet the requirements set forth in subdivisions 10.2.d and 10.2.f of this section.

10.4. 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.

10.5. Each temporary permit obtained 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.

#### **§190-2-11. Licensure and Certification Fees**

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

11.2. The fees charged by the Board are as follows:

11.2.a. A license application fee of twenty-five dollars (\$25);

11.2.b. An annual license fee of one hundred twenty-five dollars (\$125);

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

11.2.d. A temporary permit fee of one hundred dollars (\$100) for a non-residential appraisal and of fifty dollars (\$50) for a residential appraisal;

- 11.2.e. A certification application fee of twenty-five dollars (\$25);
- 11.2.f. An annual general certification fee of three hundred twenty-five dollars (\$325);
- 11.2.g. An annual residential certification fee of one hundred seventy-five dollars (\$175);
- 11.2.h. A delinquent certification fee of an additional one hundred dollars (\$100); and
- 11.2.i. An annual inactive status fee of twenty-five (\$25) dollars.

11.3. The Board shall collect from licensed and certified real estate appraisers an annual registry fee which is established by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council and shall submit the said registry fees to the Federal Financial Institutions Examination Council on an annual basis.

11.4. The Board shall deposit all fees and revenues collected pursuant to these rules in a special fund that the board shall use solely for the purposes of paying the expenses incurred in connection with the administration of W. Va. Code § 37-41-1 et seq.

**§190-2-12. Apprentice Permits.**

12.1. This section establishes a real estate appraiser apprentice program for persons who desire to acquire the appraisal experience required by subdivisions 6.2.a, 7.2.a and 7.2.b. of this rule in order to be licensed or certified.

Participation in the apprentice program is not a prerequisite to licensure or certification. Those persons who do not participate, however, must still submit documentation showing they have obtained the required hours of appraisal experience.

12.2. Application for apprentice permit; requirements and qualifications.

The applicant for an apprentice permit shall submit; a completed application form; a one hundred dollar (\$100.00) annual permit fee; and, the name and address of his or her supervising appraiser. The applicant shall meet the following qualification:

- 12.2.a. The applicant is at least eighteen (18) years of age;
- 12.2.b. The applicant has a good reputation for honesty and truthfulness as required by Subdivisions 5.1.a and 5.1.d of this rule;
- 12.2.c. The applicant has a high school diploma or its equivalent; and

12.2.d. The applicant has successfully completed the classroom hours required by subdivision 6.1.a in subjects related to real estate appraisal in accordance with subsection 6.1 of this rule.

12.3. 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 of one hundred dollars (\$100.00), an experience log as provided by the Board, and proof of fourteen (14) hours continuing education as defined in the Rule of the Board titled "Renewal of Licensure for Certification", 190 CSR 3...

12.4. Responsibilities of Apprentice.

The holder of a real estate appraiser apprentice permit issued by the Board shall have the following duties and responsibilities:

12.4.a. The apprentice shall work under the direct supervision of a state licensed or state certified real estate appraiser;

12.4.b. The apprentice shall maintain a log on a form provided by the Board. Experience hours shall be calculated in accordance with Section 8 of this rule;

12.4.c. An apprentice must 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: \_\_\_\_\_  
Name

Apprentice Number: \_\_\_\_\_

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

12.4.e. When performing appraisal assignments, the apprentice shall carry on his or her person, the permit issued by the Board.

12.5. Responsibilities of Supervisor.

A supervising appraiser shall be a state licensed or state certified real estate appraiser and has the following duties and responsibilities:

12.5.a. The supervisor is at all times responsible for and shall provide direct supervision of the work performed by the apprentice in accordance with the Uniform Standards of Professional Appraisal Practice;

12.5.b. The supervisor shall, at least once a month, sign the log required to be kept by the apprentice and shall indicate his or her license or certification number;

12.5.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

12.5.d. After the apprentice successfully completes the licensing examination required by subsection 6.3 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 an appraisal report without viewing the property, provided the apprentice is competent to perform the inspection.

12.6. An apprentice may take the licensing examination required by subsection 6.3 of this rule at any time during their apprenticeship.

12.7. This rule 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. However, the licensed or certified appraiser who uses such an assistant or helper shall conform with the duties and responsibilities as required in Subdivision 12.5.a of this section.

#### § 190-2-13. Inactive Status.

13.1. Upon written request by a licensee and accompanied by the prescribed fee, any real estate appraiser may choose to place their license or certificate on inactive status. The licensee must complete a signed and sworn affidavit approved by the Board.

13.2. A licensee that has been placed on inactive status may not engage in the practice of real estate appraisal but may still consider himself or herself as an appraiser.

13.3. A licensee may remain on inactive status for an unlimited number of years as long as the annual fee for inactive status is submitted to the Board.

13.4. In order for a licensee to reactivate a license or certificate from inactive status, the licensee must pay the fee established by the Board at that time for an active license or certificate in their classification and verify to the Board that he or she completed the required amount of hours of continuing education as defined in the Board's rule "Renewal of License or Certification" 190 CSR 3. Regardless of the number of consecutive years a licensee remains on inactive status, he or she need only complete the required amount of hours of continuing education for the year prior to being reactivated.

#### §190-2-14. Licenses and Certifications.

14.1. The Board shall issue to each licensee a document stating that the license or certification has been issued pursuant to W. Va. Code §37-14-1 et seq. and specifying the expiration date. The Board shall issue a pocket card with the name and license or certification number of the respective licensee on a size and form provided by the Board. All licensees governed by this rule shall

place their respective title and license or certification number on any and all statements of qualifications, contracts or other instruments, including advertising media. The pocket card remains the property of the Board and the licensee must surrender it at any time upon request by the Board.

**14.2** 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. The Board shall pro-rate fees for licenses and certifications.

## ANALYSIS OF PROPOSED LEGISLATIVE RULES

**Agency:** WV Real Estate Appraiser Licensing and Certification Board

**Subject:** Requirements for Licensure and Certification

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### PERTINENT DATES

Filed for public comment: May 10, 1996  
Public comment period ended: July 1, 1996  
Filed following public comment period: July 31, 1996  
Filed LRMRC: July 31, 1996  
Filed as emergency:

Fiscal Impact: None

### ABSTRACT

The proposed rule amends a current legislative rule. The following is a synopsis of the substantive amendments.

Subsection 2.2 which defines the term "experience" has been amended to include condemnation appraisal and to exclude the teaching appraisal.

Section 3 has been amended by deleting statutory provisions relating to exceptions to licensure and certification requirements.

Subdivision 7.1.a has been amended to increase the number of classroom hours required of an applicant for a license as a licensed residential real estate appraiser from 75 to 90 classroom hours beginning January 1, 1998. Subdivision d has been amended by deleting language which prohibited a teacher of an appraisal course from receiving both education and experience credit for the same hour.

Subsection 7.2 has been amended to require that after January 1, 1991, all of an applicant's appraisal experience must comply with the Uniform Standards of Professional Appraisal Practice.

Subsection 7.2 has been amended to require an applicant for initial licensure as a licensed residential real estate appraiser to pass both a written State and national examination.

Subsection 7.4 relating to transitional licenses has been deleted.

Subsection 8.1 has been amended to increase the number of required classroom hours for general certification from 165 to 180 beginning January 1, 1988, and for residential certification from 105 classroom hours to 135 hours. Subdivision d has been amended by deleting language which prohibited a teacher of an appraisal course from receiving both education and experience credit for the same hour. Subdivisions g and h have been amended to provide more specificity on course topics.

Subsection 8.2 has been amended to increase the number of experience hours required for residential certification from 2,000 to 2,500 hours and for general certification from 2,000 to 3,000 hours beginning January 1, 1988.

Subsection 8.3 has been amended to require an applicant for initial licensure as a certified general or residential real estate appraiser to pass both a written State and national examination.

Subsection 12.2 has been amended to lower certain licensure and certification fees and to add a \$25 fee for inactive status. The fees for license and certification examinations has been deleted. It specifies that the registry fee shall be that set by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council rather than the current fee of \$25.

Section 14 is new and relates to inactive status. It allows a licensee to place their license or certificate on inactive status. It also provides for the reinstatement of the license or certificate.

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#### AUTHORITY

Statutory authority: W.Va. Code, §37-14-6, 28 & 30, which provides, in part, as follows:

§37-14-6. provides, in part, as follows:

The board shall:

(a) Define by rule the type of educational experience, appraisal experience and equivalent experience that will meet the statutory requirements of this article;

(b) Establish examination specifications as

prescribed herein and provide or procure appropriate examinations;

(c) Approve or disapprove applications for certification and licensure;

...All rules shall be promulgated pursuant to the provisions of chapter twenty-nine-a of this code...

§37-14-28 provides, in part, as follows:

...The board is authorized to establish by rules promulgated pursuant to the provisions of chapter twenty-nine-a of this code classes or classifications of appraiser licensing not prohibited by applicable federal law...

§37-14-30, provides, in part, as follows:

...(b) Residential and general certified classifications. -- As a prerequisite to taking the examination for certification as either a state certified residential or a state certified general real estate appraiser, an applicant shall present evidence satisfactory to the board that he or she has satisfied the criteria, including education and experience criteria, for certification of residential or general appraisers issued by the appraisal qualifications board of the appraisal foundation, which criteria shall be incorporated in regulations of the board adopted pursuant to the provisions of chapter twenty-nine-a of this code...

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## ANALYSIS

### I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

### II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE

INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

Yes.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes.

VIII. OTHER.

Counsel has technical modifications to suggest. Also those provisions directly from the Code should be deleted.



FILED

Nov 22 10 41 AM '96

West Virginia Legislature
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Room MB47-State Capitol
Charleston, West Virginia 25305
(304) 347-4840

Senator Mike Ross, Co-Chair
Delegate Vicki Douglas, Co-Chair

Debra A. Graham, Counsel
Joe Altizer, Associate Counsel
Marie Nickerson, Adm. Assistant

November 20, 1996

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register
TO: Mr. Si Galperin
Real Estate Appraiser Licensing & Certification Board
2110 Kanawha Blvd., East
Charleston, WV 25311
FROM: Legislative Rule-Making Review Committee
PROPOSED RULE: Rules of WV Real Estate Appraiser Licensing & Certification Board

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

- 1. Authorize the agency to promulgate the Legislative Rule (a) as originally filed (b) as modified by the agency
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

**Senate Bill No. 206**

(By Senator(s) Ross, Anderson, Macnaughtan,  
Boley and Buckalew)

[Introduced March 3, 1997; referred to the  
Committee on the Judiciary.]

10 A BILL to amend article nine, chapter sixty-four of the  
11 code of West Virginia, one thousand nine hundred  
12 thirty-one, as amended, by adding thereto a new  
13 section, designated section eight, relating to  
14 authorizing the real estate appraiser licensure and  
15 certification board to promulgate a legislative rule  
16 relating to the requirements for licensure and  
17 certification.

18 *Be it enacted by the Legislature of West Virginia:*

19 That article nine, chapter sixty-four of the code of  
20 West Virginia, one thousand nine hundred thirty-one, as  
21 amended, be amended by adding thereto a new section,  
22 designated section eight, to read as follows:

23 ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND

1       BOARDS TO PROMULGATE LEGISLATIVE RULES.

2 §64-9-8. Real estate appraiser licensure and certification  
3 board.

4       The legislative rule filed in the state register on  
5 the thirty-first day of July, one thousand nine hundred  
6 ninety-six, under the authority of section thirty, article  
7 fourteen, chapter thirty, of this code, modified by the  
8 real estate appraiser licensure and certification board to  
9 meet the objections of the legislative rule-making review  
10 committee and refiled in the state register on the twenty-  
11 third day of December, one thousand nine hundred  
12 ninety-six, relating to the real estate appraiser licensure  
13 and certification board (requirements for licensure and  
14 certification, 190 CSR 2), is authorized.

15

16       NOTE: The purpose of this bill is to authorize the  
17 Real Estate Appraiser Licensure and Certification Board to  
18 promulgate a legislative rule relating to the Requirements  
19 for Licensure and Certification.

20

21       This section is new; therefore, strike-throughs and  
22 underscoring have been omitted.

89ET

H. B. 2368

1 Bill-RE Appraiser, Licensure (By Delegate(s) Douglas, Hunt, Compton,  
2 Faircloth, Linch and Riggs)

3  
4 [Introduced March 3, 1997; referred to the  
5 Committee on Government Organization then the  
6 Judiciary.]  
7  
8  
9

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17 Real Estate Appraiser Licensure and Certification Board to  
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21        This section is new; therefore, strike-throughs and  
22 underscoring have been omitted.