

WEST VIRGINIA SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

FILED

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

WV Real Estate Appraiser
AGENCY: Licensing and Certification Board TITLE NUMBER: 190

RULE TYPE: Emergency-Legislative; CITE AUTHORITY WV Code, Section 37-14-6
(as amended 1991)

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 2

TITLE OF RULE BEING AMENDED: Requirements of licensure and certification

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON 5/19/92 AT 4:00 p.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

West Virginia Real Estate Appraiser

Licensing and Certification Board

Suite 212, 814 Virginia St., E.

Charleston, WV 25301-2826

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.



ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

3.80

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 190

Type of Rule: Legislative Interpretive Procedural

Agency West Virginia Real Estate Appraiser
Licensing & 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	\$ --	\$ --	\$ --	\$ --	\$ --
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates:

These changes should have no effect on the expenses of the Board.

3. Objectives of these rules:

The objective is to conform with changes made in Chapter 37, Article 14, by S.B. 129 passed during the 1992 legislative session. It will help provide more appraisers in West Virginia, and make it easier and less expensive for consumers to get bank loans to purchase real estate.

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.

None

C. Economic Impact on Citizens/Public at Large.

Will make more appraisers available and will allow consumers to receive many bank loans quicker, easier and at less cost.

Date: 4/17/92

Signature of Agency Head or Authorized Representative

Lu Giffen, Executive Director

SUMMARY

These amendments make the following changes to comply with S.B. 129.

1. It eliminates the provision that a licensed appraiser cannot appraise property when a net operating income capitalization analysis is required.
2. It eliminates the requirement that the required two thousand (2000) hours of appraisal experience must have been acquired during the five years immediately preceding the filing of an application for certification.
3. It establishes a new classification of state certified residential real estate appraiser who can appraise residential real estate of one to four units without regard to value or complexity, and non-residential real estate having a value of less than \$100,000. It also establishes the qualifying criteria in accordance with the Appraisal Qualifications Board (AQB) criteria.
4. The rules exempt from the requirements any evaluation of the value of real estate serving as collateral for a loan made by a financial institution insured by the Federal Deposit Insurance Corporation (FDIC) provided it meets certain conditions, and the rule provides for the form to be used for such an evaluation.

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

SERIES 2

§ 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 by the West Virginia Real Estate Appraiser Licensing and Certification Board.

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

1.3. Filing Date - _____.

1.4. Effective date - _____.

§190-2-2. Definitions.

2.1. "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.

2.2. "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, review appraisal, appraisal analysis, real estate counseling, highest and best use analysis, feasibility analysis/study, and teaching of appraisal courses.

2.3. "Accredited colleges, universities, junior and community colleges" means those institutions of higher learning under 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.

2.4. "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.

2.5. "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 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.

2.6. "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.

§ 190-2-3. Real Estate appraiser license required.

3.1. Beginning the first day of January, one thousand nine hundred ninety-two, it is unlawful for any person, for compensation or valuable consideration, to prepare a valuation appraisal or a valuation appraisal report relating to real estate or real property in this state without first being licensed or certified as provided in this rule. This section does not apply to persons who do not render significant professional assistance in arriving at a real estate appraisal analysis, opinion or conclusion. Nothing in this rule prohibits any person who is licensed to practice in this state under any other law from engaging in the practice for which he or she is licensed.

3.2. ~~The following individuals are not required to be licensed, certified or registered by the Board:~~
These rules do not apply to the following individuals or activities:

3.3.1. A licensed real estate broker or salesperson who, in the ordinary course of his or her business, gives an opinion to a potential buyer, seller or third party, as to the recommended listing price of a piece of real estate, when the advice or opinion is not referred to as an appraisal, no opinion is given as to the value of the real estate, and no fee is charged.

3.3.2. A casual or drive-by inspection of real estate in connection with a consumer loan secured by the real estate, when the inspection is not referred to as an appraisal report, no opinion is rendered as to the value of the real estate, and no fee is charged;

3.3.3. An employee who renders an opinion as to the value of real estate for his or her full-time employer, for the employer's internal use only, and performed in the regular course of the employee's position, when the opinion is not referred to as an appraisal report and no fee is charged;

3.3.4. Appraisals of personal property, including, but is not limited to, jewelry, household furnishings, vehicles, and manufactured homes not attached to real estate;

3.3.5. Any officer or employee of the United States or the State of West Virginia or a political subdivision thereof, when the officer or employee is performing his official duties: Provided, such individual does not furnish advisory service for compensation to the public or act as an independent contracting party in West Virginia or any subdivision thereof in connection with the appraisal of real estate: Provided however, this exception does not apply with respect to federally related transactions as defined in Title XI of the United States Code, entitled "Financial Institutions Reform, Recovery, and Enforcement Act of 1989."

3.3.6. 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.

3.3.7. Any evaluation of the value of real estate serving as collateral for a loan made by a financial institution insured by the Federal Deposit Insurance Corporation: Provided, That: (1) The amount of the loan is less than "fifty thousand dollars or such other amount not to exceed one hundred thousand dollars established by the federal deposit insurance corporation, the board of governors of the federal reserve system, the office of the comptroller of the currency or the office of thrift supervision pursuant to authority granted under Title XI of the United States Code, entitled 'Financial Institutions Reform Recovery, and Enforcement Act of 1989' applicable to a particular insured financial institution as the level below which collateral evaluations need not be performed by a licensed or certified appraiser."; (2) the evaluation is used solely by the lender in its records to document the collateral value; (3) the evaluation clearly indicates on its face that it is for the lender's internal use only; (4) the

evaluation shall not be labeled an "appraisal"; and (5) the evaluation be on a form approved by the board. Individuals performing these evaluations may be compensated for their services.

§ 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 meet the requirements for licensure that relate to the appraisal of residential real estate of one to four units, when the value of the property appraised is less than one million dollars, ~~a net operating income capitalization analysis is not required by the terms of the assignment,~~ and, if the value of the property appraised is over two hundred fifty thousand dollars, the appraisal is non-complex; and to the appraisal of non-residential real estate when the value of the property appraised is less than one hundred thousand dollars.

4.2. State Certified Residential Real Estate Appraiser. -- The Certified Residential Real Property Appraiser Classification applies to the appraisal of one to four residential units without regard to transaction value or complexity.

4.3. State certified general real estate appraiser. --The state certified general real estate appraiser classification consists of those persons who meet the requirements for certification relating to the appraisal of all types of real estate.

4.4. Each application for licensure or certification and each application to take an examination shall specify the classification being applied for and, if applicable, the class of licensure or certification previously granted the applicant.

§ 190-2-5. Adoption of Appraisal Foundation criteria

5.1. Pursuant to W. Va. Code § 37-14-30, all applicants for licensure or certification as a real estate appraiser shall satisfy the education, experience and examination criteria established by the Appraisal Qualifications Board of the Appraisal Foundation which have been adopted by this Board.

§ 190-2-6. General qualifications for licensure or certification.

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

6.1.1. The applicant has a good reputation for honesty, truthfulness, and fair dealing, and be 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.

6.1.2. Except as provided for in 190 CSR 2, the applicant meets 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. Applications for licensure or certification must be complete within twelve months of the date of the receipt of the application and fee by the Board.

6.1.3. The applicant is in good standing as a real estate appraiser in every jurisdiction where licensed or certified. The applicants occupational or professional license or certification may not have been suspended, revoked or surrendered in connection with a disciplinary action or the applicant may not have been the subject of discipline in any jurisdiction prior to applying for licensure or certification in West Virginia.

6.1.4. 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 such conviction.

6.1.5. The applicant is at least 18 years of age.

6.1.6. The board may consider and approve for licensure or certification applicants who do not meet the requirements set forth in this section.

6.1.7. 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 190 CSR 4 and that disciplinary proceedings may be initiated against him or her for such misconduct.

§ 190-2-7. Additional qualifications for licensed residential real estate appraisers.

An applicant for a license as a licensed residential real estate appraiser shall meet the following requirements in addition to those set forth in Section 6 of this rule:

7.1. Education.

7.1.1. The applicant has 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.

7.1.2. The Board will grant credit towards classroom hours where the length of the educational offering was at least fifteen (15) hours and the individual successfully completed an examination concerning that offering.

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

- a. Accredited colleges or universities;
- b. Community or junior colleges;
- c. Real estate appraisal or real estate related organizations;
- d. Local, state or federal agencies, boards or commissions;
- e. Proprietary schools;
- f. Adult distributive or marketing educational programs;
- g. Any other entity which has received prior approval by the Board.

7.1.4. The Board may award credit towards classroom hours to teachers of appraisal courses, however, a teacher may not receive both education and experience credit for the same classroom hour. A teacher may obtain credit for the classroom hour or experience, but not both.

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

7.1.6. 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, and provided further, that the Board is satisfied with the quality of the challenge examination that was administered by the course provider.

7.1.7. The Board may credit various appraisal courses toward the seventy-five (75) classroom hour requirement 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:

- a. Influences on real estate value;
- b. Legal considerations in appraisal;
- c. Types of value;
- d. Economic principles;
- e. Real estate markets and analysis;
- f. Valuation process;
- g. Property description;
- h. Highest and best use analysis;
- i. Appraisal statistical concepts;
- j. Sales comparison approach;
- k. Cost approach;
- l. Site value;
- m. Income approach;
 - gross rent multiplier analysis
 - estimation of income and expenses
 - operating expense ratios
- n. Valuation of partial interests;
- o. Appraisal standards and ethics.

7.1.8. The applicant shall submit to the Board a listing of those courses which he or she claims meet the education credit requirement, on a form to be prescribed by the Board. In addition, the applicant shall submit proof that he or she completed the course if such proof is available. The applicant shall submit proof of the completion of a course claimed for credit if that course was completed after July 1, 1991.

7.2. Experience.

7.2.1. The applicant has 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 2000 hours.

7.2.2. The applicant shall execute an affidavit as a part of the application for licensure, attesting to his or her experience in the field of real estate appraisal. This affidavit should be on log forms provided by the Board with the application, and the application shall also comply with the procedure for calculation of experience set forth in Section 8 in this rule.

7.3. Examination.

7.3.1. The applicant shall have registered for and passed a written examination administered by the Board or by a testing service acting on behalf of the Board prior to the issuance of his or her initial license.

7.4. Transitional license.

7.4.1. The applicant may take the exam and be issued a transitional license as a state licensed residential real estate appraiser as long as: (1) the applicant meets either the education or experience requirements for licensure; (2) all other criteria is satisfied; (3) the applicant passes the examination; and (4) the educational deficiency is corrected within one (1) year of the issuance of the transitional license, or the experience deficiency is corrected within two (2) years of the issuance of the transitional license.

§ 190-2-8. Additional qualifications for certified general and certified residential real estate appraisers.

An applicant for a classification as a certified general real estate appraiser shall meet the following requirements in addition to those set forth in Section 3 of this rule:

8.1. Education.

8.1.1. For general certification, the applicant has 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 included coverage of the Uniform Standards of Professional Appraisal Practice.

For residential certification the applicant has successfully completed one hundred and five (105) classroom hours of courses in subjects related to real estate appraisal of which a minimum of (15) hours included coverage of the Uniform Standards of Professional Appraisal Practice. Effective January 1, 1994, this requirement will increase to 165 classroom hours.

8.1.2. The Board will grant credit towards classroom hours only where the length of the educational offering is at least fifteen (15) hours and the individual successfully completes an examination concerning that offering.

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

- a. Accredited colleges or universities;
- b. Community or junior colleges;
- c. Real estate appraisal or real estate related organizations;
- d. Local, state or federal agencies, boards or commissions;
- e. Proprietary schools;
- f. Adult distributive or marketing education programs;
- g. Any other entity which has received prior approval by the Board.

8.1.4. The Board may award credit toward classroom hours to teachers of appraisal courses, however, a teacher may not receive both education and experience credit for the same classroom hour. A teacher may obtain credit for the classroom hour or experience, but not both.

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

8.1.6. 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, and provided further that the Board is satisfied with the quality of the challenge examination that was administered by the course provider.

8.1.7. For general certification, the Board may credit various appraisal courses toward the one hundred sixty-five (165) classroom hour requirement 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:

- a. Influences on real estate value;
- b. Legal considerations in appraisal;
- c. Types of value;
- d. Economic principles;
- e. Real estate markets and analysis;
- f. Valuation process;
- g. Property description;
- h. Highest and best use analysis;
- i. Appraisal math and statistics;
- j. Sales comparison approach;
- k. Site value;
- l. Cost approach;

- m. Income approach;
 - estimation of income and expenses
 - operating statement ratios
 - direct capitalization
 - cash flow estimates
 - measures of cash flow
 - discounted cash flow analysis
- n. Valuation of partial interests;
- o. Appraisal standards and ethics;
- p. Narrative report writing.

8.1.8 For residential certification, the Board may credit various appraisal courses toward the one hundred five class room hour education requirement 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:

- a. Influences on real estate value
- b. Legal considerations in appraisal
- c. Types of value
- d. Economic principles
- e. Real estate markets and analysis
- f. Valuation process
- g. Property description
- h. Highest and best use analysis
- i. Appraisal statistical concepts
- j. Sales comparison approach
- k. Site value
- l. Cost approach
- m. Income approach
 - gross rent multiplier analysis
 - estimation of income and expenses
 - operating expense ratios
 - direct capitalization
- n. Valuation of partial interests
- o. Appraisal standards and ethics
- p. Narrative report writing

8.1.9. The applicant shall submit to the Board a listing of those courses which he or she claims meet the education credit requirement, on a form to be prescribed by the Board. In addition, the applicant shall submit proof that he or she completed the course if such proof is available. The applicant shall submit proof of the completion of a course claimed for credit if that course was completed after July 1, 1991.

8.2. Experience.

8.2.1. The applicant has a minimum of two (2) calendar years experience as a real estate appraiser ~~within the five year period immediately preceding application for certification.~~ The Board considers two thousand (2000) hours of experience to be the equivalent of two (2) years of experience. ~~Within that five year period immediately preceding application for certification~~ For general certification only, at least one-half (1000 hours) of the appraisal experience required must be in non-residential appraisal assignments.

8.2.2. The applicant shall execute an affidavit attesting to his experience in the field of real estate appraisal, as a part of the application for certification upon log forms provided by the Board with the application. This affidavit must consist of a detailed list of the real estate appraisal reports or file memoranda for each year of which experience is claimed by the applicant. Upon request, the applicant shall provide the Board a sample of appraisal reports which the applicant has prepared in the course of his or her practice.

8.3. Examination.

8.3.1. The applicant has registered for and passed a written examination administered by the Board or by a testing service acting on behalf of the Board prior to the issuance of his initial certification.

§ 190-2-9. Procedure for calculation of experience by the Board.

9.1. As provided for in Section 6 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 equivalent of two (2) years of appraisal experience. The Board considers 2000 hours of experience to be the equivalent of two (2) years of experience. The Board may award maximum experience hours for residential real estate appraiser licensing or certification as follows:

9.2. A maximum of twelve hours of credit for a complex residential appraisal.

A maximum of four hours of credit for a complex residential field review.

A maximum of two hours of credit for a complex residential desk review.

A maximum of six hours of credit for a non-complex residential appraisal.

A maximum of two hours of credit for a non-complex residential field review.

A maximum of three hours of credit for a non-complex residential desk review.

Credit for appraisals of non-residential properties shall be awarded as provided in subsection 8.2 of these rules.

9.3. As provided for in Section 8 of this rule, an applicant for general real estate appraiser certification must provide evidence satisfactory to the Board that the applicant possesses the equivalent of two (2) years of appraisal experience ~~within the five (5) year period immediately preceding the filing of the application for certification.~~ The Board considers 2,000 hours of experience to be the equivalent of two (2) years of experience. Fifty percent, or 1,000 hours must be in non-residential appraisal work. Residential is defined as one to four units. The Board may award maximum experience credits for general real estate appraiser certification as follows:

9.4. A maximum of thirty-two hours of credit for a complex non-residential appraisal.

A maximum of six hours of credit for a complex non-residential field review.

A maximum of three hours of credit for a complex non-residential desk review.

A maximum of eight hours of credit for a non-complex non-residential appraisal.

A maximum of four hours of credit for a non-complex non-residential field review.

A maximum of two hours of credit for a non-complex non-residential desk review.

Hours for appraisal of residential properties shall be awarded as provided in section 8.1 of this rule.

9.5. 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 for experience credit; that applicant may provide the Board with a separate log, other than

that log provided for in Section 7 and 8 of this rule, detailing the amount of actual hours spent on that appraisal, with sufficient details and proof of the credit hours of experience that the Board should award him or her.

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

9.7. There is an active market of essentially identical properties;

Adequate data is available to the appraiser;

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

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

9.8. For the purpose of this section only: a complex appraisal for non-residential property is one that relied to any significant degree on all three approaches to value (cost, sales comparison and income) or was an appraisal which did not have the characteristics of a non-complex appraisal. A complex appraisal for residential property is one that relied to any significant degree on at least two of the three approaches to value, with one approach being the sales comparison approach, or was an appraisal which did not have the characteristics of a non-complex appraisal.

9.9. The Board shall award each signer (co-author) of an appraisal report accepting responsibility for the report full credit for the appraisal. The Board shall award credit for each appraisal having three or more signers accepting responsibility for the report based on the appropriate hours divided by the number of signers.

9.10. ~~The Board shall award credit for~~ 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.

9.11. 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.

§ 190-2-10. Qualifications for licensure or certification by reciprocity.

Every applicant to the Board for a license or certification by reciprocity shall meet the following qualifications:

10.1. An individual 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 the individual 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, such other jurisdiction extends the same reciprocal consideration to all West Virginia licensed or certified appraisers in good standing in this state. All reciprocal applicants are required to pass the West Virginia appraiser law and regulation section of the licensing examination prior to licensure or certification, and to pay to the Board the appropriate fees provided for by Section 11 of this rule.

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

10.3. 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 regulations of the Real Estate Appraiser Board.

10.4. The applicant is in good standing as a licensed or certified real estate appraiser in every jurisdiction where the applicants' license or certification as a real estate appraiser was not suspended, revoked, or surrendered in connection with a disciplinary action or the applicant has not been or is not currently the subject of discipline in any jurisdiction prior to applying for licensure or certification in West Virginia.

10.5. 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.

10.6. 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 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 such conviction.

10.7. The Board may consider applicants for licensure or certification who do not meet the requirements set forth in section 10.4 or section 10.6 of this rule.

§ 190-2-11. Qualifications for temporary permit as a licensed residential real estate appraiser or certified residential or general real estate appraiser.

11.1. An individual who is currently licensed or certified as a real estate appraiser in another jurisdiction may obtain a temporary West Virginia real estate appraiser's permit as provided for Section 1121 of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989. Provided, that every applicant shall file an application on an appropriate form of the Board and an irrevocable consent notice that service of process upon him or her may be made by delivery of the process to the Secretary of State if an action arises out of the temporary work of the permittee in this State, and the plaintiff cannot, in the exercise of due diligence, serve the permittee personally.

11.2. 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:

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

11.2.2. 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.

11.2.3. The applicant signs, as part of the application, an affidavit certifying that the applicant has read and understands the West Virginia real estate appraiser license law and the regulations of the Real Estate Appraiser Board.

11.2.4. 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 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 discipline action in any jurisdiction prior to applying for licensure in West Virginia.

11.2.5. 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 matter as to safeguard the interest of the public.

11.2.6. 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 such conviction.

11.2.7. The Board may consider and approve for licensure or certification all applicants for licensure or certification who do not meet the requirements set forth in this section.

11.2.8. The applicant is at least 18 years of age.

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

11.4. 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.

§ 190-2-12. Application fees.

12.1. All application fees for licenses, and certifications are non-refundable.

12.2. Application fees for original licenses and certifications are as follows:

12.3. A license application fee of fifty dollars;

A license examination fee of fifty dollars;

A license fee of three hundred twenty-five dollars;

A delinquent license fee of an additional one hundred dollars;

A registration fee for a temporary permit of one hundred dollars;

A certification application fee of seventy-five dollars;

A certification examination fee of fifty dollars;

A certification fee of five hundred twenty-five dollars;

A delinquent certification fee of an additional one hundred dollars;

The board shall collect from individuals who perform or seek to perform appraisal transactions where required by federal law, an annual registry fee in the amount of \$ 25.00, in order to enable the board to transfer the necessary fees to the Federal Financial Institution Examination Council on an annual basis.

12.4. The Board shall deposit all fees and revenues collected pursuant to these regulations 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.

THIS IS NOT AN APPRAISAL

FOR INTERNAL USE ONLY

EVALUATION OF COLLATERAL

I hereby certify that I have made an examination of the premises of

located at

used for

with the range of value of said property being \$ _____ to \$ _____
(Intervals of \$5,000)

Very truly yours,

Dated _____

No Additions, addendum or changes allowed.

This form has been approved by the West Virginia Real Estate Appraiser Licensing and Certification Board in accordance with Section 4, Article 14, Chapter 37, Code of West Virginia.



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

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WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
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Director, Corporations

(Plus all the volunteer
help we can get)

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

FILED IN THE OFFICE OF
THE SECRETARY OF STATE

THIS DATE May 22, 1992
ADMINISTRATIVE LAW DIVISION

May 22, 1992

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: Real Estate Appraiser Licensing and Certification Board

RULE: Amendments, Series 2, Requirements of Licensure and Certification

DATE FILED AS AN EMERGENCY RULE: April 17, 1992

DECISION NO. 10-92

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be approved. A copy of the complete decision with required findings is available from this office.

KEN HECHLER
Secretary of State



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

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STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
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Charleston, WV 25305-0770

DECISION

EMERGENCY RULE DECISION (ERD 10-92)

AGENCY: Real Estate Appraiser Licensing & Certification Board

RULE: Amendments, Series 2, Requirements of Licensure & Certification

FILED AS AN EMERGENCY RULE: April 17, 1992

- par. 1 The Real Estate Appraiser Licensing & Certification Board (Board) has filed amendments to an existing rule as an emergency.
- par. 2 West Virginia Code 29A-3-a requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule: 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [(29A-3-a(a))].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the emergency rule decision is issued or the expiration of the thirty-five day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.

- par. 6 The Board filed this emergency rule with supporting documents with the Secretary of State April 17, 1992 and with the LRMRC April 17, 1992.
- par. 7 It is the determination of the Secretary of State that the Board has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.
- par. 8 (B) Statutory Authority -- WV Code 37-14-6 reads in part:


(m) Perform any other functions and duties as may be necessary in carrying out the provisions of this article.
All rules shall be promulgated pursuant to the provisions of §29A-1-1 et seq. of this code.
- par. 9 It is the determination of the Secretary of State that the Board has not exceeded its statutory authority in promulgating this emergency rule.
- par. 10 (C) Emergency WV Code 29A-3-15(g) defines "emergency" as follows:

(g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.
- par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.
- par. 12 The facts and circumstances as presented by the Board are as follows:

These are amendments to our rules to comply with the changes in the law mandated by the passage of SB 129 March 7, 1992 and in effect from passage. These changes will allow for more appraisers in West Virginia, and for quicker and less costly loans for consumers
- par. 13 It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency as defined in §29A-3-15(g).

par. 14

This decision shall be cited as Emergency Rule Decision 10-92 or ERD 10-92 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the Real Estate Appraiser Licensing & Certification Board, the Attorney General and the Legislative Rule Making Review Commission.



KEN HECHLER
Secretary of State

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE May 22, 1992
ADMINISTRATIVE LAW DIVISION

Entered _____