

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #7

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1991 MAY 23 AM 10:56

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF AN EMERGENCY RULE

Board. West Virginia Real Estate Appraiser Licensing and Certification Board
AGENCY: _____ TITLE NUMBER: _____ 190

CITE AUTHORITY: West Virginia Code, Section 37-14-6 as amended (1991) _____

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES____, NO^X____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: Series ~~1991-2~~ 2 _____

TITLE OF RULE BEING FILED AS AN EMERGENCY: _____

REQUIREMENTS OF LICENSURE & CERTIFICATION _____

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE UPON FILING.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

West Virginia Code § 37-14-1 et seq as amended (1991), entitled the "Real Estate Appraiser Licensing and Certification Act", established by law the requirement that all real estate appraisal activity that was to be performed in this state, was to be performed by only those appraisers who are to be licensed or certified by the Real Estate Appraiser Licensing and Certification Board which was created by the Act. This Board was empowered to establish policies and procedures for the licensing and certification of real estate appraisers pursuant to legislative rules adopted by the Board. These proposed legislative rules are to function as emergency rules in order to allow the Board to operate and meet the deadline of January 1, 1992, the date with which the Board has determined will be effective date of the Act, pursuant to the authority vested in the Board by W. Va. Code § 37-14-3 as amended (1991). The Board needs to enact emergency rules in order for it to meet its statutorily created duties.

Use Additional Sheets If Necessary.

Arthur C. [Signature] AA6
Council for Board

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

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1991 MAY 23 AM 10:56

Rule Title: 190

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Type of Rule: Legislative Interpretive Procedural

Agency WV Real Estate Appraiser Licensing and Certification Board Address Suite 212, 814 Virginia St. E. Charleston, WV 25301

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

2. Explanation of above estimates:

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

3. Objectives of these rules:

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

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

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

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

C. Economic Impact on Citizens/Public at Large.

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

Date: 5/23/91

Signature of Agency Head or Authorized Representative

Albert C. Quinn
Assistant Attorney General
Council for Board.

FILED

DATE: May 23, 1991

1991 MAY 23 AM 10:56

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

OFFICE OF WEST VIRGINIA

FROM: West Virginia Real Estate Appraiser Licensing and Certification Board

EMERGENCY RULE TITLE: 190

1. Date of filing: May 23, 1991
2. Statutory authority for promulgating the emergency rule: W. Va. Code Section 37-14-1 et seq. as amended (1991)
3. Date of filing of proposed legislative rule: May 23, 1991
4. Does the emergency rule adopt new language or does it amend or repeal a current legislative rule?
New language

5. Has the same or similar emergency rule previously been filed and expired?
No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.

The Board is a new board created pursuant to legislative enactments and therefore, needs to adopt the attached emergency rules, in order to establish policies, guidelines and procedures for its functioning in licensing or certifying real estate appraisers.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

Title XI Federal Institutions Reform, Recovery and Inforcement Act of 1989.
W. Va. Code Section 37-14-3 as amended (1991) - July 1, 1991

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

Pursuant to the board's authority derived from W. Va. Code Section 37-14-3
All real estate appraisal activity performed in this state must be done
by either licensed or certified appraisers as issued by the board. If
the board does not file emergency rules with the Secretary of State's Office,
then the board has no rules or regulations governing their issuance of
licenses' or certifications. The legislative rules also establish standards
for the practice of professional real estate appraisers.

Albert C. Quinlan
Assistant Attorney General
Counsel for Board

OFFICE OF THE ATTORNEY GENERAL
MARIO J. PALUMBO

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1991 MAY 23 AM 10:56

MEMORANDUM

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

TO: W. Va. Secretary of State

DATE: 05/23/91

FROM: West Virginia Real Estate Appraiser Licensing and Certification Board.

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

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

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


Agency Head or Authorized Representative

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

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 2

§ 190-2-1. General.

1.1. Scope - These rules establish 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 § 37-14-3 as amended (1991).

1.3. Filing Date - _____.

1.4. Effective date - _____.

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

2.1. 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 article. This section shall not be construed to apply to persons who do not render significant professional assistance in arriving at a real estate appraisal analysis, opinion or conclusion. Nothing in this article, however, shall be construed to prohibit 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.

2.2. Notwithstanding the provisions of subsection (a) herein, the Board may, by emergency rule, extend the date for complying with the provisions of this article in accordance with any extensions which may be provided under applicable federal law, except that the date for compliance set by emergency rule may not be extended beyond the thirty-first day of December, one thousand nine hundred ninety-one.

2.3. The following individuals are not required to be licensed, certified or registered by the Board:

2.3.1. A licensed real estate broker or salesperson who, in the ordinary course of his/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 said 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.

2.3.2. A casual or drive-by inspection of real estate in connection with a consumer loan secured by said 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;

2.3.3. An employee who renders an opinion as to the value of real estate for his full-time employer, for his employer's 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;

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

2.3.5. 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 shall 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."

§ 190-2-3. Classification of licensure and certification.

There shall be two classifications of real estate appraisers:

3.1. State licensed residential real estate appraiser. -- The state licensed residential real estate appraiser classification shall consist 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 nonresidential real estate when the value of the property appraised is less than one hundred thousand dollars.

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

3.3. 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.

§ 190-2-4. Adoption of Appraisal Foundation criteria

4.1. Pursuant to West Virginia Code § 37-14-30 as amended (1991), 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.

§ 190-2-5. General qualifications for licensure or certification.

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

5.1.1. The applicant shall have 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.

5.1.2. Except as provided for in § 190-2-6.6.4, the applicant shall meet the current education and experience requirements and submit an application to the Board or its agent prior to the time the applicant is approved to sit for the licensing or certification examination. 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.

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

5.1.4. The applicant may not have been convicted, 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 shall be 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 shall be admissible as prima facie evidence of such conviction.

5.1.5. The applicant shall be at least 18 years of age.

5.1.6. Applicants for licensure or certification who do not meet the requirements set forth in the above subsections 5.1.3 and 5.1.4 may be approved for licensure or certification following consideration of their application by the Board.

§ 190-2-6. 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 § 190-2-5 of these regulations:

6.1. Education.

6.1.1. 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 shall include coverage of the Uniform Standards of Professional Appraisal Practice.

6.1.2. Credit towards classroom hours will only be granted where the length of the educational offering is at least fifteen (15) hours and the individual successfully completes an examination concerning that offering.

6.1.3. Credit towards classroom hours may be obtained 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.

6.1.4. Credit towards classroom hours may be awarded 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.

6.1.5. There is no time limit for when qualifying education credit must have been obtained.

6.1.6. 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.

6.1.7. Various appraisal courses may be credited toward the seventy-five (75) classroom hour requirement if the applicant can show that their 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.

6.1.8. The applicant shall submit to the Board a listing of those courses for which he/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/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.

6.2. Experience.

6.2.1. The applicant shall have a minimum of two thousand (2000) hours of appraisal experience. Hours may be treated as cumulative in order to achieve the required 2000 hours.

6.2.2. The applicant shall execute an affidavit as a part of the application for licensure, attesting to his/her experience in the field of real estate appraisal, on log forms provided by the Board with the application, and, shall also comply with the procedure for calculation of experience set forth in § 190-2-8 of these rules.

6.3. Examination.

6.3.1. 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 initial license.

6.4. Transitional license.

6.4.1. 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 licensure, or the experience deficiency is corrected within two (2) years of the issuance of the transitional license.

§ 190-2-7. Additional qualifications for certified general 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 § 2.4 of these regulations:

7.1. Education.

7.1.1. The applicant 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 shall include coverage of the Uniform Standards of Professional Appraisal Practice.

7.1.2. Credit towards classroom hours will only be granted where the length of the educational offering is at least fifteen (15) hours and the individual successfully completes an examination concerning that offering.

7.1.3. Credit towards classroom hours may be obtained 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.

7.1.4. Credit toward classroom hours may be awarded 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 qualifying education credit must have been obtained.

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. Various appraisal courses may be credited toward the one hundred sixty-five (165) classroom hour requirement if the applicant can show that their 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.

7.1.8. The applicant shall submit to the Board a listing of those courses for which he/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/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 shall have a minimum of two (2) calendar years experience as a real estate appraiser within the five year period immediately preceding application for certification. Within that five (5) year period, at least one-half (1000 hours) of the appraisal experience required must be in non-residential appraisal assignments. Two thousand (2000) hours of experience is deemed to be the equivalent of two (2) years of experience.

7.2.2. The applicant shall execute an affidavit as a part of the application for certification, attesting to his experience in the field of real estate appraisal, 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/her practice.

7.2.3. 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 understands the types of misconduct as described in § 190-4-6 of these rules and that

disciplinary proceedings may be initiated against him/her for such misconduct.

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 initial certification.

§ 190-2-8. Procedure for calculation of experience by the Board.

8.1. An applicant for residential real estate appraiser licensing must provide evidence satisfactory to the Board that the applicant possesses the equivalent of two (2) years of appraisal experience. 2000 hours of experience is deemed to be the equivalent of two (2) years of experience. Maximum experience hours for residential real estate appraiser licensing may be awarded as follows.

- 8.1.1. A maximum of twelve hours of credit may be awarded for a complex residential appraisal.
- 8.1.2. A maximum of four hours of credit may be awarded for a complex residential field review.
- 8.1.3. A maximum of two hours of credit may be awarded for a complex residential desk review.
- 8.1.4. A maximum of six hours of credit may be awarded for a non-complex residential appraisal.
- 8.1.5. A maximum of two hours of credit may be awarded for a non-complex residential field review.
- 8.1.6. A maximum of three hours of credit may be awarded for a non-complex residential desk review.
- 8.1.7. Credit for appraisals of non-residential properties shall be awarded as provided in subsection (a) of this section.
- 8.1.8. Each applicant must have a minimum of 2,000 hours.

8.2. 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. 2,000 hours of experience is deemed 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. Maximum experience credits for general real estate appraiser certification may be awarded as follows:

- 8.2.1. A maximum of thirty-two hours of credit may be awarded for a complex non-residential appraisal.
- 8.2.2. A maximum of six hours of credit may be awarded

- for a complex non-residential field review.
- 8.2.3. A Maximum of three hours of credit may be awarded for a complex non-residential desk review.
- 8.2.4. A maximum of eight hours of credit may be awarded for a non-complex non-residential appraisal.
- 8.2.5. A maximum of four hours of credit may be awarded for a non-complex non-residential field review.
- 8.2.6. A Maximum of two hours of credit may be awarded for a non-complex non-residential desk review.
- 8.2.7. Hours for appraisal of residential properties shall be awarded as provided in subsection (b) of this section.
- 8.2.8. Each applicant must have a minimum of 2,000 hours of credit.
- 8.2.9. No more than 1,000 hours may be awarded for experience in appraising residential properties.

8.3. If an applicant for licensure or certification feels that he/she has performed any real estate appraisals under unique circumstances, or that the applicant has expended a greater amount of hours in the performance of an appraisal than the provisions of § 8.1 or § 8.2 allow for experience credit; that applicant may provide the Board with a separate log, other than that log provided for in § 190-2-6.6.2.2 and § 190-2-7.7.2.2, detailing the amount of actual hours spent on that appraisal, with sufficient details and proof of the credit hours of experience that the applicant feels he / she should be awarded by the Board.

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

- 8.4.1. There is an active market of essentially identical properties;
- 8.4.2. Adequate data is available to the appraiser;
- 8.4.3. 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
- 8.4.4. 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 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.

8.6. Each signer (coauthor) of an appraisal report accepting responsibility for the report shall be awarded full credit for the appraisal. Each appraisal having four or more signers accepting responsibility for the report shall be awarded credit for an appraisal based on the appropriate hours divided by the number of signers.

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. Appraisal reports and file memoranda submitted to the Board shall be treated 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. Matching appraisal experience may be awarded for appraisal reports prepared at any time in the applicant's career.

§ 190-2-9. Qualifications for licensure or certification by reciprocity.

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

9.1. 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 applicant 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 shall be required to pass the West Virginia appraiser law and regulation section of the licensing examination prior to licensure or certification, and have paid to the Board the appropriate application fee provided for by § 190-2-11.11.2.

9.2. The applicant shall be at least 18 years of age.

9.3. 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.

9.4. The applicant shall be in good standing as a licensed or certified real estate appraiser in every jurisdiction where licensed or certified; the applicant may not have had a license or

certification as a real estate appraiser which was suspended, revoked, or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure or certification in West Virginia.

9.5. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate appraiser in such a manner as to safeguard the interest of the public.

9.6. The applicant may not have been convicted, 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 shall be 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 shall be admissible as prima facie evidence of such conviction.

9.7. Applicants for licensure or certification who do not meet the requirements set forth in § 9.4 or § 9.6 may be approved for licensure or certification following consideration by the Board.

§ 190-2-10. Qualifications for temporary licensure or certification as a licensed residential real estate appraiser or certified general real estate appraiser.

10.1. 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 license or certification as required by 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 also an irrevocable consent notice that service of process upon him/her may be made by delivery of the process to the Secretary of State if an action arises out of the temporary work of said applicant in this State, and the plaintiff cannot, in the exercise of due diligence, serve applicant personally.

10.2. The appraiser's certification or license issued by another state shall be recognized as equivalent to a West Virginia license or certification provided that:

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

10.2.2. The education, experience and general examination requirements completed in the jurisdiction of original licensure or certification is deemed to be

substantially equivalent to those required for the appropriate level of licensure or certification in West Virginia.

10.2.3. 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 law and the regulations of the Real Estate Appraiser Board.

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

10.2.5. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate appraiser in such a matter as to safeguard the interest of the public.

10.2.6. The applicant may not have been convicted, 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 shall be 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 shall be admissible as prima facie evidence of such conviction.

10.2.7. Applicants for licensure or certification who do not meet the requirements set forth in § 10.2.4 and § 10.2.6 may be approved for licensure or certification following consideration by the Board.

10.2.8. The applicant shall be at least 18 years of age.

10.3. The temporary license or certification issued under the provisions of this section shall be expressly limited to the authority of the registrant to perform the specific contract of appraising which is the basis for the temporary license or certification.

10.4. Each temporary license or certification obtained shall expire upon the completion of the appraisal work which is the basis of the license or certification, or after a period of six (6) months, whichever shall occur first.

§ 190-2-11. Application and registration fees.

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

11.2. Application fees for original licenses, certifications and registrations are as follows:

- 11.2.1. A license application fee of fifty dollars;
- 11.2.2. A license examination fee of fifty dollars;
- 11.2.3. A license fee of three hundred twenty-five dollars;
- 11.2.4. A delinquent license fee of an additional one hundred dollars;
- 11.2.5. A registration fee for temporary practice of one hundred dollars;
- 11.2.6. A certification application fee of seventy-five dollars;
- 11.2.7. A certification examination fee of fifty dollars;
- 11.2.8. A certification fee of five hundred twenty-five dollars;
- 11.2.9. A delinquent certification fee of an additional one hundred dollars;
- 11.2.10. 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.

11.3. All fees and revenues collected by the board pursuant to these regulations shall be deposited in a special fund that shall be used solely for the purposes of paying the expenses incurred in connection with the administration of this article.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

ROBERT E. WILKINSON
Deputy Secretary of State

CATHERINE FREROTTE
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STATE OF WEST VIRGINIA
SECRETARY OF STATE
Charleston 25305

WILLIAM H. HARRINGTON
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Special Assistant

(Plus all the volunteer
help we can get)

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE June 26, 1991
ADMINISTRATIVE LAW DIVISION

June 26, 1991

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

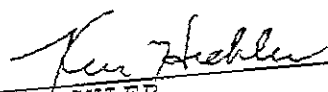
AGENCY: WV Real Estate Appraiser Licensing and Certification Board

RULE: New Rule, Series 2, Requirements of Licensure and Certification

DATE RULE FILED AS AN EMERGENCY RULE: May 23, 1991

DECISION NO. 30-91

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

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Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

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DECISION

EMERGENCY RULE DECISION (ERD 30-91)

AGENCY: WV Real Estate Appraiser Licensing and Certification Board
RULE: New Rule, Series 2, Requirements of Licensure and
Certification

FILED AS AN EMERGENCY RULE: May 23, 1991

- par. 1 The WV Real Estate Appraiser Licensing and Certification Board (Board) has filed the above new 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 forty-two 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 May 23, 1991 and with the LRMRC May 23, 1991.
- 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 §37-14-69 reads:

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;*
- (d) Define by rule continuing education requirements for the renewal of certification and licenses;*
- (e) Censure, suspend or revoke licenses and certification as provided in this article;*
- (f) Hold meetings, hearings and examinations in places and at times as it shall designate;*
- (g) Establish procedures for submitting, approving and disapproving applications;*
- (h) Maintain an accurate registry of the names and addresses of all persons certified or issued a license to practice under this article;*
- (i) Maintain accurate records on applicants and licensed or certified real estate appraisers;*
- (j) Issue to each licensed or certified real estate appraiser a pocket card with the name and license or certification number on each in the size and form it may approve. The license or certification pocket card shall remain the property of the state of West Virginia, and upon suspension or revocation of the license to practice pursuant to this article, shall be returned immediately to the commission;*
- (k) Deposit all fees collected by the commission in the state treasury. The state treasurer shall deposit the fees to the credit of the West virginia appraiser licensing and certification board and shall disburse moneys from the account to pay the cost of board operation. Disbursements from the account shall not exceed the moneys credited to it;*
- (l) Hire employees to assist in the discharge of the duties imposed upon it by this article subject to the policies and standards of the department of administration. No employee of the commission may be a paid employee of any real estate association, group or real estate dealers, brokers, appraisers or lenders;*
- (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. Emergency rules are specifically authorized upon the effective date of this article and prior to the first day of July, 1991. The members of the board shall be immune from any civil action or criminal prosecuting for initiating or assisting in any lawful investigation

of the actions of, or participating in any disciplinary proceeding concerning a licensed or certified real estate appraiser pursuant to this article: Provided, That such action is taken without malicious intent and in the reasonable belief that the action was taken pursuant to the powers and duties vested in the members of the board under this article.

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:

West Virginia Code §37-14-1 et seq. as amended (1991), entitled "Real Estate Appraiser Licensing and Certification Act", established by law the requirement that all real estate appraisal activity that was to be performed in this state, was to be performed by only those appraisers who are to be licensed or certified by the Real Estate Appraiser Licensing and Certification Board which was created by the Act. This Board was empowered to establish policies and procedures for the licensing and certification of real estate appraisers pursuant to legislative rules adopted by the Board. These proposed legislative rules are to function as emergency rules in order to allow the Board to operate and meet the deadline of January 1, 1992, the date with which the Board has determined will be effective date of the Act, pursuant to the authority vested in the Board by W. Va. Code §37-14-3 as amended (1991). The Board needs to enact emergency rules in order for it to meet its statutorily created duties.

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). . . "time limitation" and "prevent substantial harm to public interest."

par. 14 This decision shall be cited as Emergency Rule Decision 30-91

par. 14 . This decision shall be cited as Emergency Rule Decision 30-91 or ERD 30-91 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the WV Real Estate Appraiser Licensing and Certification Board, the Attorney General and the Legislative Rule Making Review Commission.

Ken Hechler

KEN HECHLER
Secretary of State

Entered _____

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE June 26, 1991
ADMINISTRATIVE LAW DIVISION

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY

PHYSICAL CHEMISTRY
BY
ROBERT M. MAYER
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