

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

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FILED

1991 MAY 23 AM 10:56

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Form #7

NOTICE OF AN EMERGENCY RULE

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

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

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES , NO

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 73

TITLE OF RULE BEING FILED AS AN EMERGENCY: RENEWAL OF LICENSE OR CERTIFICATION

RENEWAL OF LICENSE OR 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.

Albert C. [Signature] AA6
Council for Board

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 190

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

SECRETARY OF STATE

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. Quinn Jr.
Assistant Attorney General
Counsel for Board

OFFICE OF THE ATTORNEY GENERAL FILED
MARIO J. PALUMBO

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.

 / Council for Board
Agency Head or Authorized Representative

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

FILED

MAY 23 AM 10:56

SERIES 3

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§ 190-3-1. General.

1.1. Scope - These legislative rules establish the procedures and qualifications for the renewal of a Licensed Residential Real Estate Appraiser license and a Certified General Real Estate Appraiser certification by the West Virginia Real Estate Appraiser Licensing and Certification Board.

1.2. Authority. - W.Va.Code § 37-14-1 et seq., as amended (1991).

1.3. Filing date. - _____.

1.4. Effective date. - _____.

§ 190-3-2. Renewal required.

2.1. Licenses and certifications issued under these regulations for licensed residential real estate appraisers and certified general real estate appraisers shall expire one year from the last day of the month in which they were issued, as indicated on the license or certification: Provided that, following the effective date of these rules, the licenses and certifications issued within the first year by the Board under the provisions of West Virginia Code 37-14-1 et seq. (1991), and these rules, shall be valid until September 31, 1992. Thereafter, all licenses and certifications shall be issued for the period of October to October of the following year. Fees for licensure or certification shall not be pro-rated by the Board until April 1, 1992, thereafter, all application fees shall be paid by the applicant in full.

§ 190-3-3. Qualifications for renewal.

Continuing education requirements.

3.1. As a condition of renewal, all licensed residential real estate appraisers, resident or non-resident, and all certified general real estate appraisers shall be required to complete continuing education courses satisfactorily within each licensing or certification term.

3.1.1. Continuing education requirements for both licensed real estate appraisers and certified general real estate appraisers.

a. Licensed residential real estate appraisers or certified general real estate appraisers must

- a. Licensed residential real estate appraisers or certified general real estate appraisers must satisfactorily complete continuing education courses or seminars offered by accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations of not less than ten (10) classroom hours during each licensing or certification term.
- b. Credit for continuing education shall be awarded for but not limited to the coverage of topics as listed below:
 1. Ad valorem taxation;
 2. Arbitration;
 3. Business courses related to practice or real estate appraisal;
 4. Construction estimating;
 5. Ethics and standards of professional practice;
 6. Land use planning, zoning and taxation;
 7. Management, leasing, brokerage timesharing;
 8. Property development;
 9. Real estate appraisal (valuations/evaluations)
 10. Real estate law;
 11. Real estate litigation;
 12. Real estate financing and investment;
 13. Real estate appraisal related computer applications;
 14. Real estate securities and syndication;
 15. Real property exchange.
- c. Licensed real estate appraisers or certified general real estate appraisers may also satisfy continuing education requirements by participation other than as a student in educational processes and programs approved by the Board as substantially equivalent to courses and seminars which have been approved by the Board for continuing education purposes, to including but not limited to, teaching, program development, or authorship of textbooks.

- d. An appraiser is not required to complete the ten (10) classroom hours of continuing education as a condition for initial license or certification renewal if the time between the effective date on the initial license or certification as an appraiser and the beginning of the initial renewal of license or certification is less than nine (9) months.

3.2. Credit awarded for continuing education may not also be awarded for the classroom hour requirement when an individual seeks a different classification other than that currently held.

3.3. Notice of a satisfactory course completion shall not be issued to any licensee or certified appraiser not attending a minimum of 90% of each of the classroom hours of proscribed course instruction. The applicant for renewal shall be responsible for seeing that his record of attendance and grade received from an approved course be submitted to the Board with his/her application for renewal.

3.4. The institution, organization, licensed real estate school or Board approved entity offering these approved courses, shall fully inform each student of the standards and requirements at the commencement of the course. Said entity shall also maintain and monitor the attendance and grades of students taking its respective offering by an appropriate system of record keeping; submitting to the Board the guidelines utilized by the entity in evaluating and grading the work of the applicant for renewal of license or certification.

3.5. Applicants for renewal of a license or certification shall continue to meet the standards for entry as set forth in § 190-2-5 of these rules.

§ 190-3-4. Policies and procedures of the Board for approving courses, seminars and educational programs of continuing education.

4.1. The Board shall have the authority and duty to evaluate and approve; for the purpose of accepting hours for continuing education of applicants for the renewal of licensure or certification; courses, seminars and their equivalent, taken by the applicant to meet the required number of hours of continued education by his attendance and passing of said course, seminar or its equivalent.

4.2. Credit towards the classroom hour requirement may be granted by the Board only when the length of the educational offering is a minimum of two (2) hours.

4.3. In order for a course, seminar, or other educational program to be approved by the Board, the instructor of that course, seminar or program shall present to the Board a written plan of the class, including but not limited to, a syllabus of the subject areas covered by the course, the attendance requirements, and the method of evaluating the student's knowledge of the subject matter.

4.4. The Board shall determine whether the subject matter covered by the course, seminar or educational program includes those topics listed in sections 190-2-6.6.1.7, 190-2-7.7.1.7, or 190-3-3.3.1.1.b respectively, or any other appropriate topic relating to the area of real estate appraisal activity, determined by the Board to be worthy of hours toward continuing education.

4.5. The Board shall approve or disapprove courses, seminars, educational programs, or instructors, after a determination by the Board that said entity or subject matter does or does not meet the standards of the Board. A list of all approved courses, seminars or educational programs shall be maintained by the Board for the purpose of providing to the applicants for renewal of licensure or certification, notice of whether said course, seminar or educational program's hours will qualify for the requirements of continuing education for the renewal of licensure or certification.

4.6. The Board shall determine whether or not an educational program meets the equivalency standard of an approved course or seminar, pursuant to W. Va. Code § 37-14-36 as amended (1991), by looking at the topic of the program as it relates to the area of real estate appraisal, the amount of time in which the program uses for instruction, and the method by which the applicant for licensure or certification is evaluated during or at the end of the program. The Applicant shall have the responsibility of providing to the Board information on the subject matter, instructor and time of the program, in order for the Board to make a case by case determination of the equivalency value of the program.

4.7. In making a determination concerning the approval of a course, seminar or educational program, the Board shall give consideration to those courses, seminars or programs under the auspices of organizations or associations of professional real estate appraisers which are utilized by such organizations or associations for the purpose of awarding real estate designations or indicating compliance with the continuing education requirement of such organizations or associations.

§ 190-3-5. Procedures for renewal.

5.1. The board will mail a renewal application form to the applicant at the last known home address. This form shall outline the procedures for renewal. Failure to receive the renewal

application form shall not relieve the applicant of the obligation to renew.

5.2. Prior to the expiration date shown on the license or certification, each licensee or certified appraiser desiring to renew his/her license or certification, shall return to the Board the completed renewal application form and the appropriate renewal and registry fees as outlined in § 190-3-6 of these regulations, no earlier than one-hundred and twenty (120) days nor later than thirty (30) days prior to the expiration date of the license or certification held. Each applicant shall submit, on forms provided by the Board, satisfactory evidence of the applicant's conformity with the continuing education requirements as described in § 190-3-3.

5.3. If a applicant for a renewal of a license fails to apply for a renewal within the period prescribed in subsection 5.2, said applicant may, within a period of two (2) years following the expiration of said license, obtain a renewal by satisfying all the requirements of renewal and paying the applicable late renewal fee. The board may refuse to renew said applicant's license if during the two (2) year period, the applicant has continued to perform real estate appraisal activities in this state.

5.4. If the Board determines that the applicant for renewal of certification has failed to meet the requirements for renewal of certification through a mistake, misunderstanding, or circumstances beyond the applicant's control, the Board may extend the term of the applicant's certification for a period not to exceed six (6) months upon payment by the applicant of the prescribed fee. If a state certified real estate appraiser fails to renew his/her certification prior to the expiration date or within any period approved by the board, such person may obtain a renewal of his/her certification by satisfying all of the requirements for renewal and filing an application accompanied by a late renewal fee, within two (2) years of the date of his/her certification expiration. The Board may refuse to issue said certification if, during the two (2) year period, the applicant has continued to perform real estate appraiser activities in this state.

5.5. The Board may deny the issuance of a license as a licensed residential real estate appraiser, or a certificate as a state certified real estate appraiser, on any ground enumerated in these rules. Any applicant whose application for renewal of licensure or certification which is denied may demand and shall be afforded a hearing pursuant to § 190-4-3 of these rules.

§ 190-3-6. Fees for renewal.

6.1. Renewal fees are established as follows;

Certified general real estate appraiser	\$525.00;
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Licensed residential real estate appraiser	\$325.00;
Registry fee	\$ 25.00.

§ 190-3-7. Board discretion to deny renewal.

7.1. The board may deny renewal of a license or certification within the Board's discretion, upon the same reasons as it may refuse initial licensure or certification. The Board may also deny renewal of a license or certification consistent with the provisions of § 190-3-5.5.3 or § 190-3-5.5.4. The board shall approve or deny each application within ninety days of receipt.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

ROBERT E. WILKINSON
Deputy Secretary of State

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STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

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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 3, Renewal of License or Certification

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

DECISION NO. 31-91

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

ROBERT E. WILKINSON
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

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STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

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Director, Corporations

SHEREE COHEN
Special Assistant

(Plus all the volunteer
help we can get)

DECISION

EMERGENCY RULE DECISION (ERD 31-91)

AGENCY: WV Real Estate Appraiser Licensing and Certification Board
RULE: New Rule, Series 3, Renewal of License or 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.

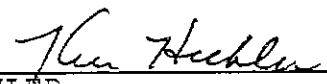
par. 12 The facts and circumstances as presented by the Board are as follows:

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 31-91 or ERD 31-91 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
Secretary of State

Entered _____

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

