

WEST VIRGINIA
SECRETARY OF STATE
Ken Hechler
ADMINISTRATIVE LAW DIVISION



FILED

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Form #4

Do Not Mark In This Box

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

Agency: West Virginia Real Estate Appraiser Licensing & Certification Board

Title Number: 190

Cite Authority WV Code § 37-14-6; 37-14-36

Amendment To An Existing Rule: Yes No

If Yes, Series Number of Rule Being Amended: 3

Title of Rule Being Amended: Renewal of Licensure or Certification

If No, Series Number of New Rule Being Proposed: _____

Title of Rule Being Proposed: _____

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

BY: Si Galperin, Executive Director

Si Galperin

3.20

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

SERIES 3
RENEWAL OF LICENSURE OR CERTIFICATION

§190-3-1. General.

1.1. Scope. -- This legislative rule establishes the procedures and qualifications for the renewal of a Licensed Residential Real Estate Appraiser license, a Certified Residential Real Estate Appraiser certification 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 § 37-14-6; § 37-14-36

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Repeal. -- This legislative rule repeals and replaces the Board's rule "Renewal of Licensure or Certification" 190 CSR 3 filed in the Secretary of State's office April 9, 1992, and effective April 10, 1992.

§190-3-2. Definitions.

2.1. A "Course Provider" means any of the following: Accredited colleges or universities; Community or junior colleges; Real estate appraisal or real estate related organizations; Local, state or federal agencies, boards or commissions; Proprietary schools; Adult distributive or marketing education programs; and any other entity which has received prior approval by the Board.

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

2.3. "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.

2.4. "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.

2.5. "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.

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

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

§190-3-3. Renewal Term

3.1 Licenses and certifications are renewed for the period from October 1 to September 30 of the following year.

§190-3-4. Qualifications for Renewal.

Continuing education requirements.

4.1 As a condition of renewal, all licensees must satisfactorily complete continuing education courses or seminars offered by Board approved course providers of not less than fourteen (14) classroom hours during each licensing or certification term.

4.1.a. Effective January 1, 1998, as a condition of renewal, the required continuing education hours shall include completion of a fourteen (14) hour Uniform Standards of Professional Appraisal Practice (USPAP) course every five (5) years. The first required submission shall be in the year 2002, by those persons who are licensees on January 1, 1998.

4.1.b. For the licensing or certification term beginning October 1, 1998, as a condition of renewal, a minimum of four (4) hours of the fourteen (14) hours of the continuing education required by subsection 4.1 of this section, shall consist of training in the application of Uniform Standards of Professional Appraisal Practice (USPAP).

4.1.c. The Board shall award credit for various continuing education courses relating to real estate appraising, including but not limited to, the topics listed below:

- 4.1.c. 1. Ad valorem taxation;
- 4.1.c.2. Arbitration;
- 4.1.c.3. Business courses related to practice or real estate appraisal;
- 4.1.c.4. Construction estimating;

- 4.1.c.5. Ethics and standards of professional practice;
- 4.1.c.6. Land use planning, zoning and taxation;
- 4.1.c.7. Management, leasing, brokerage, timesharing;
- 4.1.c.8. Property development;
- 4.1.c.9. Real estate appraisal; (valuations/evaluations)
- 4.1.c.10. Real estate law,
Fair Housing;
- 4.1.c.11. Real estate litigation;
- 4.1.c.12. Real estate financing and investment;
- 4.1.c.13. Real estate appraisal related computer applications;
- 4.1.c.14. Real estate securities and syndication;
- 4.1.c.15. Real property exchange.

4.1.d. An appraiser is not required to complete the required amount of 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 first renewal term is less than nine (9) months.

4.2 A course provider shall issue notice of a satisfactory course completion to any licensee who attended a minimum of 90% of the classroom hours of approved course instruction. The applicant for renewal is responsible for submitting a certificate stating that they have satisfactorily completed the course to the Board with his or her application for renewal.

4.3. The course provider shall fully inform each student of the standards and requirements at the commencement of the course. The course provider shall monitor the attendance of students and submit the attendance records to the Board. Said attendance records shall be used to verify documentation submitted with an applicant's application for renewal.

§190-3-5. Policies and Procedures of the Board for Approving Courses, Seminars and Educational Programs of Continuing Education.

5.1. The Board shall evaluate and approve courses and seminars that meet the standards of the Board for the purpose of accepting hours for continuing education of an applicant for the renewal of a licensure or certification .

5.2. ... The Board may only grant credit towards the classroom hour requirement only when the length of the educational offering is a minimum of two (2) hours.

5.3. In order for a course or seminar to be approved by the Board, the instructor shall present a written plan of the class including, but not limited to, a syllabus of the subject areas covered by the course and attendance requirements.

5.4. The Board shall determine whether the subject matter covered by the course or seminar is an approved topic listed in the Board's rule, "Requirements for Licensure and Certification", 190.CSR 2, subdivisions 6.1.g., 7.1.h, or 7.1.i., subdivision 4.1.c. of this rule, or other appropriate topic relating to the area of real estate appraisal activity.

5.5. The Board shall approve or disapprove courses, seminars and instructors after a determination that the course provider does or does not meet the standards of the Board. The Board shall maintain a list of courses and seminars which it has approved in order for licensees to have access to approved offerings.

5.6. 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. This determination shall be based upon the topic of the program as it relates to the area of real estate appraisal and the amount of time which the program uses for instruction. The applicant has the responsibility of providing to the Board the information on the subject matter, the instructor and length of the program. The Board shall make a case by case determination of the equivalency value of the program.

5.7. The Board shall consider for approval those courses, seminars or programs under the auspices of organizations or associations of professional real estate appraisers which are used for the purpose of awarding real estate designations or indicating compliance with the continuing education requirements of the organizations or associations.

§190-3-6. Procedures for renewal.

6.1. Prior to the expiration date of the license or certification, the board shall mail a renewal application form to the address on file. Failure to receive the renewal application form shall not relieve the applicant of the obligation to renew if he or she desires to retain his or her license or certification.

§190-3-7. Board Discretion to Deny Renewal.

7.1. The Board may deny the renewal of a license or certification on any grounds enumerated in this rule or in the Board's rule, "Requirements for Licensure and Certification", 190 CSR 2. The Board may deny renewal for the same reasons as it may refuse an initial license or certification. The Board may also deny renewal consistent with the provisions of Section 5 of this rule.

7.2 The Board shall approve or deny each application within ninety (90) days of receipt of the application. Any applicant whose application for renewal is denied may demand and shall be afforded a hearing pursuant to WV Code 37-14-7.

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: WV Real Estate Appraiser Licensing and Certification Board

Subject: Renewal of Licensure or Certification, 190CSR3

PERTINENT DATES

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

Fiscal Impact: None

ABSTRACT

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

Section 4 which relates to continuing education requirements has been amended by adding several new subdivisions. The new subdivisions add the requirement that 4 of the 14 hours of required continuing education consist of training in the application of the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Foundation. This requirement is in effect from January 1, 1998, through January 1, 2002. Beginning January 1, 1998, an applicant for renewal must complete, as part of the mandated continuing education hours, a 14 hour Uniform Standards of Professional Appraisal Practice course every five years. The course must be approved by the Board.

This section has also been amended to increase the number of continuing education hours required annually from 10 to 14 hours.

The current subsection 4.2 which prohibited the awarding of continuing education credit for the classroom hour requirement for an individual who seeks a different classification from the one currently held was deleted.

Section 7 contains renewal fees. It has been amended by adding a \$175 renewal fee for certified residential real estate appraisers, by substantially reducing the fees for certified general and licensed residential real estate appraisers, and by deleting the \$25 registry fee.

AUTHORITY

Statutory authority: W.Va. Code, §§37-14-6 & 36, which provide, in part, as follows:

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

The board shall:

...(d) Define by rule continuing education requirements for the renewal of certification and licenses;

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

WV Code, §37-14-36 provides, in part, as follows:

The board shall develop rules for the implementation of the provisions of this section to the end of assuring that an individual who renews his or her license or certification under this article has a working knowledge of current real estate appraisal theories, practices and techniques that will enable the individual to provide competent real estate appraisal services to the members of the public with whom such individual deals in a professional relationship under the authority of his or her license or certification. All rules shall be promulgated pursuant to the provisions of chapter twenty-nine-a of this code and shall prescribe the following:

(1) Policies and procedures to be followed in approval of courses of instruction and seminars;

(2) Standards, policies and procedures to be used in evaluating an applicant's claim of equivalency;

(3) Standards, monitoring methods and systems for recording attendance to be employed by course and seminar sponsors as a prerequisite to approval of courses and seminars for credit.

In developing and proposing rules pursuant to this section, the board shall give consideration to courses of instruction, seminars, and other appraisal education

programs developed by or 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 appraisal designations or indicating compliance with the continuing education requirements of the organizations or associations...

ANALYSIS

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

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

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

No.

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

Yes.

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

Yes.

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

Yes, the new provisions regarding continuing education are very unclear and in fact seem to conflict with each other.

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

Yes, although the fiscal note is incorrect. It should

reflect the decrease in Board revenues relating to the reduced fees.

VIII. OTHER.

Counsel has technical modifications to suggest.



FILED

Nov 22 10 41 AM '96

West Virginia Legislature
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

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

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

November 20, 1996

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register
TO: Mr. Si Galperin
Real Estate Appraiser Licensing & Certification Board
2110 Kanawha Blvd., East
Charleston, WV 25311

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Renewal of Licensure or Certification

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

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

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

Senate Bill No. 207

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

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

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

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

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

22 ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND
23 BOARDS TO PROMULGATE LEGISLATIVE RULES.

1 §64-9-8. Real estate appraiser licensure and certification
2 board.

3 The legislative rule filed in the state register on
4 the thirty-first day of July, one thousand nine hundred
5 ninety-six, under the authority of section six, article
6 fourteen, chapter thirty, of this code, modified by the
7 real estate appraiser licensure and certification board to
8 meet the objections of the legislative rule-making review
9 committee and refiled in the state register on the twenty-
10 third day of December, one thousand nine hundred
11 ninety-six, relating to the real estate appraiser licensure
12 and certification board (renewal of licensure or
13 certification, 190 CSR 3), is authorized.

14

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

19
20 This section is new; therefore, strike-throughs and
21 underscoring have been omitted.

67ET

H. B. 2369

1 Bill-RE Appraiser, Renewal

2 (By Delegate(s) Douglas, Hunt, Compton,
3 Faircloth, Linch and Riggs)

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