

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**
Form #7

Do Not Mark In This Box
FILED Filing Date

2008 DEC 23 PM 2:37

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Effective Date

NOTICE OF AN EMERGENCY RULE

AGENCY: WV Real Estate Appraiser Licensing and Certification Board TITLE NUMBER: 190
CITE AUTHORITY: 30-38-9

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 03

TITLE OF RULE BEING AMENDED: Renewal of Licensure or Certification

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

Use additional sheets if necessary


Authorized Signature



EMERGENCY RULE QUESTIONNAIRE

DATE: December 19, 2008

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WV Real Estate Appraiser Licensing and Certification Board

2110 Kanawha Boulevard, East, Suite 101

Charleston, West Virginia 25311 (304) 558-3919

EMERGENCY RULE TITLE: Requirements for Licensure and Certification

1. Date of filing December 19, 2008

2. Statutory authority for promulgating emergency rule:
West Virginia Code Section 30-38-8

3. Date of filing of proposed legislative rule: December 19, 2008

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? Amends a current legislative rule.

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.
Please see attachment.

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.

Not applicable

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

See answer to Question No. 6

NOTICE OF EMERGENCY RULE for 190-03

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

In 1989, in response to the savings and loans crisis, the Federal Government promulgated the Financial Institutions Reform, Recovery, and Enforcement Act ("FIRREA"). Among other things, Title XI of FIRREA created the Appraisal Subcommittee ("ASC"), and granted the ASC federal oversight of the states' regulatory agencies relating to the practice of real estate appraising.

As such, the ASC promulgated the Uniform Standards of Professional Appraisal Practice ("USPAP"), and required that the states' licensed real estate appraisers comply with USPAP. Although the ASC requires compliance with USPAP, the ASC left the regulation of such to each states' individual board of real estate appraisal regulators.

As with all regulatory law in general, USPAP is subject to modification and amendment. Real estate appraisers are responsible for conducting real estate appraisal practice within the scope of the most recent USPAP edition in effect.

Currently, the regulations set forth by the Board reflect that the Board has adopted the 2005 edition of USPAP. However, since that time, the ASC has promulgated amended versions of USPAP in both 2006 and 2008. The ASC requires that the states adopt and implement the most recent addition of USPAP, or risk losing federal certification through the ASC.

Given that the Board currently has not implemented the most recent version of USPAP, and that such implementation is required by the ASC and non-discretionary, the Board has determined that it is necessary to amend its rules to incorporate the most recent addition of USPAP immediately.

Specifically, this emergency rule strikes § 190-3-8, relating to USPAP. By emergency rule dated September 2, 2008, relating to § 190-2-14, the Board has come into compliance with the ASC, and adopted the most recent edition of USPAP. By striking § 190-3-8, the Board eliminates a repetitive and unnecessary rule that is not in compliance with current USPAP requirements.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Renewal of Licensure or Certification

Type of Rule: Legislative Interpretive Procedural

Agency: WV Real Estate Appraiser Licensing and Certification Board

Address: 2110 Kanawha Boulevard, East, Suite 101
Charleston, West Virginia 25311

Phone Number: (304) 558-3919 Email: wva-pbc@mail.wvnet.edu

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

This measure will have no impact on costs and revenues of the Board.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs & Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

Rule Title: Requirements for Licensure and Certification

Rule Title: Requirements for Licensure and Certification

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

Not applicable

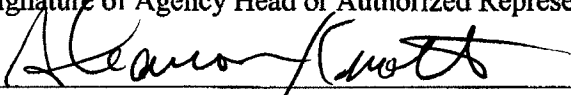
MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

The rule merely brings the Board into compliance with the most recent edition of the Uniform Standards of Professional Appraisal Practice, as promulgated and required by the federal Appraisal Subcommittee, as created by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

Date: 9-2-08

Signature of Agency Head or Authorized Representative



FILED

TITLE 190
LEGISLATIVE RULE

2008 DEC 23 PM 2: 37

WEST VIRGINIA REAL ESTATE APPRAISER LICENSING & CERTIFICATION BOARD

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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, a Certified General Real Estate Appraiser certification and an Apprentice Permit by the West Virginia Real Estate Appraiser Licensing and Certification Board.

1.2. Authority. -- W. Va. Code §§30-38-7; 30-38-9; 30-38-11.

1.3. Filing Date. -- April 5, 2006.

1.4. Effective Date. -- April 5, 2006.

§190-3-2. Definitions.

2.1. "Accredited colleges, universities, junior and community colleges" means those institutions of higher learning under the Higher Education Policy Commission, or listed in the Transfer Credit Practices of Designated Educational Institutions, published by the American Association of Collegiate Registrars and Admissions Officers.

2.2 "Adult distributive or marketing education programs" means those programs offered at schools approved by the Higher Education Policy Commission, or any other local, state, or federal government agency, board or commission to teach adult education or marketing courses.

2.3. "Classroom hour" means 50 minutes out of each 60 minute segment of instruction in courses approved by the board.

2.4. "Course" means an educational course, seminar, program or offering approved by the board.

2.5. "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.

2.6. "Licensee" means a person who holds a current valid license as a state licensed residential real estate appraiser, a certification as a state certified residential real estate appraiser or a certification as a state certified general real estate appraiser issued under the provisions of the W. Va. Code §§30-38 et seq., or an apprentice permit issued under the provisions of the board's rule, "Requirements for Licensure and Certification", 190 CSR 2, subdivision 11.2.

2.7. "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 of its domain.

2.8. "Proprietary school" means a privately owned school, under the authority of a local, state or federal government agency, board or commission, offering appraisal related courses.

2.9. "Uniform Standards of Professional Appraisal Practice" means the Uniform Standards of Professional Appraisal Practice (USPAP), published by The Appraisal Foundation.

§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 shall satisfactorily complete continuing education courses offered by board approved course providers of not less than fourteen (14) classroom hours during each renewal term.

4.1.a. As a condition of renewal, a licensee shall complete a seven (7) hour Uniform Standards of Professional Appraisal Practice (USPAP) update course every two (2) years. The first required submission shall be in the year 2007, by those persons who were licensees on January 1, 2005.

4.1.b. The board shall award credit for various continuing education courses relating to real estate appraising, including but not limited to, the following topics:

- 4.1.b.1. Ad valorem taxation;
- 4.1.b.2. Arbitration;
- 4.1.b.3. Business courses related to the practice of real estate appraisal;
- 4.1.b.4. Construction estimating;
- 4.1.b.5. Ethics and standards of professional practice;
- 4.1.b.6. Land use planning, zoning and taxation;
- 4.1.b.7. Management, leasing, brokerage and timesharing;
- 4.1.b.8. Property development;
- 4.1.b.9. Real estate appraisal; (valuations/evaluations)

4.1.b.10. Real estate law and Fair Housing;

4.1.b.11. Real estate litigation;

4.1.b.12. Real estate financing and investment;

4.1.b.13. Real estate appraisal related computer applications;

4.1.b.14. Real estate securities and syndication; and

4.1.b.15. Real property exchange.

4.1.c. A licensee 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 a licensee and the beginning of the first renewal term is less than nine (9) months.

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

4.3. The course provider shall fully inform each licensee of the standards and requirements at the commencement of the course. The course provider shall monitor the attendance of licensees and submit the attendance records to the board. The board shall use the attendance records to verify documentation submitted with a licensee's application for renewal.

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

5.1. The board shall evaluate and approve courses for the purpose of accepting hours for continuing education of a licensee for the renewal of a license, certification or permit.

5.2. The board may grant credit towards the classroom hour requirement only when the length of the course is a minimum of three (3) hours.

5.3. In order for a course to be approved by the board, the instructor 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 and attendance requirements.

5.4. The board shall determine whether the subject matter covered by the course is an approved topic listed in the board's rule, "Requirements for Licensure and Certification", 190 CSR 2, subdivisions 5.1.g., 6.1.h., or 6.1.i., subdivision 4.1.b. 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 and instructors after a determination that the course provider does or does not meet the standards of the board. The board shall maintain and provide licensees access to a list of approved courses.

5.5.a. Instructors must meet at least one of the following qualifications:

5.5.a.1. Hold a license or certification in West Virginia or in any other state at the level to be taught and have five (5) years appraisal experience within the past ten (10) years directly related to the subject matter to be taught;

5.5.a.2. Hold a license or certification in West Virginia or in any other state at the level to be taught and have five (5) years of teaching experience within the past ten (10) years in the subject matter to be taught;

5.5.a.3. Have five (5) years of teaching experience within the past ten (10) years in the subject matter to be taught and pass an examination at the level to be taught;

5.5.a.4. Have five (5) years appraisal experience within the past ten (10) years directly related to the subject matter to be taught and pass an examination at the level to be taught;

5.5.a.5. Hold a baccalaureate or higher degree in a field directly related to subject matter to be taught, and pass an examination at the level to be taught; or

5.5.a.6. Be a full time faculty member at a college or university teaching a credit course in appraising.

5.5.b. To teach a Uniform Standards of Professional Appraisal Practice (USPAP) course, the instructor must have successfully completed the 15-hour national USPAP instructor training course and examination adopted by the Appraisal Qualifications Board of The Appraisal Foundation, or its equivalent, and successfully complete the 7-hour national USPAP update course and examination, or its equivalent, every two years in order to maintain his or her USPAP teaching credential.

5.6. The board shall determine whether or not a course meets the equivalency of an approved course based upon the topic of the course as it relates to the area of real estate appraisal and the amount of time which the course uses for instruction. The course provider 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 under the auspices of organizations or associations of professional real estate appraisers which are used for the purpose of awarding real estate appraiser 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 of each licensee. A licensee who does not receive the renewal application form is not relieved of the obligation to renew his or her license or

certification 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 4 of this rule.

7.2. The board shall approve or deny each application for renewal within ninety (90) days of receipt of the application. Any licensee whose application for renewal is denied may demand and shall be afforded a hearing pursuant to W. Va. Code §30-1-8(e).

§190-3-8. Standards of Professional Appraisal Practice:

~~8.1. Each licensee applying for renewal shall comply with generally accepted standards of professional appraisal practice and generally accepted ethical rules to be observed by a real estate appraiser. Generally accepted standards of professional appraisal practice are currently evidenced by the 2005 edition of the Uniform Standards of Professional Appraisal Practice (USPAP) promulgated by The Appraisal Foundation, which are incorporated by reference and on file with the board and the office of the secretary of state for use by all appraisers in the preparation of appraisal reports. This incorporation by reference contains no future editions or amendments. A copy of the USPAP may be obtained from The Appraisal Foundation.~~