

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**
Form #7

Do Not Mark In This Box
Filing Date
2011 MAY 25 PM 1:57
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: WV Code §§ 30-38-7; 30-38-9

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 190-3-4.1.c

TITLE OF RULE BEING AMENDED: Renewal of Licensure - Qualifications for Renewal

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

Dorinda J. Kerns
Authorized Signature

EMERGENCY RULE QUESTIONNAIRE

DATE: 5/25/11

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WV Real Estate Appraiser Licensing and Certification Board
2110 Kanawha Blvd, East, Suite 101, Charleston, WV. 25311 (304) 558-2021

EMERGENCY RULE TITLE: 190-3-4.1.c.

1. Date of filing 5/25/11

2. Statutory authority for promulgating emergency rule:
W. Va. Code §§30-38-7; 30-38-9

3. Date of filing of proposed legislative rule: 5/25/11

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

See attached brief summary and facts and circumstances of emergency rule

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 § 1116(a), 12 U.S.C. § 3345; Title XI § 1118(a), 12 U.S.C. § 3347; and AQB
Real Property Appraiser Qualification Criteria~~

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

~~See attached brief summary and facts and circumstances of emergency rule~~

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

190-3-4.1.c. Renewal of Licensure or Certification

Rule Title: _____

Type of Rule: Legislative Interpretive Procedural

Agency: WV Real Estate Appraiser Licensing and Certification Board

Address: 2110 Kanawha Blvd, East, Suite 101, Charleston, WV 25311

Phone Number: (304) 558-2021 Email: WVAPPBD@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.

The amendment of this procedural rule will not have any impact on the costs and revenues of state government.

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	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

190-3-4.1.c. Renewal of Licensure or Certification

Rule Title: _____

Rule Title: _____

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

The amendment of this legislative rule will not have any impact on the costs and revenues of state government.

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 amendment of this legislative rule will not have any impact on the costs and revenues of state government. Any costs attributable to the acquisition of continuing educational hours are the responsibility of the licensee.

Date: 5-25-11

Signature of Agency Head or Authorized Representative

Andrew J. Kernz

FILED

TITLE 190
LEGISLATIVE RULE

2011 MAY 25 PM 1:57

WEST VIRGINIA REAL ESTATE APPRAISER LICENSING & CERTIFICATION BOARD

OFFICE OF 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 26, 2010.

1.4. Effective Date. -- April 26, 2010.

§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", 190CSR2, 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 one hundred and eighty days.

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", 190CSR2, 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", 190CSR2. 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).

BRIEF SUMMARY OF EMERGENCY RULE

This emergency rule changes the time period in which a licensee of the West Virginia Real Estate Appraiser Licensing and Certification Board is required to complete continuing education upon initial licensure or certification, and renewal thereof. Prior to the instant emergency rule, the rule provided that 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 was less than nine months. The emergency rule shortens the time frame from “less than nine months” to “less than one hundred and eighty days.”

FACTS AND CIRCUMSTANCES OF THE RULE

In September, 2010, the Appraisal Subcommittee, a federal oversight regulatory authority, performed a compliance review of the Board. All real estate appraiser regulatory boards are federally mandated to comply with the Appraiser Qualification Criteria., which is set forth by the Appraiser Qualification Board. The AQB establishes minimum education and experience requirements for appraisers, of which the Board must adhere to. In this regard, the states must adopt and/or implement all relevant Appraiser Qualifications Board’s Appraiser Qualification Criteria. Title XI § 1116(a), 12 U.S.C. § 3345; Title XI § 1118(a), 12 U.S.C. § 3347; and AQB Real Property Appraiser Qualification Criteria. Through implementation and adoption of this emergency rule, the Board shall come into compliance with the Appraiser Qualification Criteria set forth by the Appraiser Qualifications Board.