

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

Form #3

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: WV Real Estate Appraiser Licensing and Certification Board TITLE NUMBER: 190

CITE AUTHORITY: WV Code §§30-38-7;30-38-9

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 190-2-11.6.a;11.7

TITLE OF RULE BEING AMENDED: Requirements for Licensure

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Sandy Kernan
Authorized Signature



STATE OF WEST VIRGINIA

REAL ESTATE APPRAISER LICENSING AND CERTIFICATION BOARD

Enola G. Ellis
Administrative Assistant

Sandra S. Kerns, Executive Director
2110 Kanawha Blvd., East Suite 101
Charleston, West Virginia 25311
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Karen Hudson
Executive Assistant

August 30, 2012

Office of the Honorable Natalie E. Tennant, Secretary of State
Building 1, Suite 157-K
1900 Kanawha Boulevard, East
Charleston, WV 25305-0770
Attn: Judy Cooper

RE: Legislative Rule 190-2-11.6.a; 190-2-11.7

Dear Ms. Cooper:

The West Virginia Real Estate Appraiser Licensing and Certification Board is proposing rule changes to Legislative Rules 190-2-11.6.a and 190-2-11.7. Enclosed are the required documents for our Agency Approved Filing.

Enclosed are the original and 15 (fifteen) (except for disc) copies of each of the following documents:

- Form 3 – Notice of Agency Approval of a Proposed Rule and Filing with the Legislative Rule-Making Review Committee
- Brief Summary of the Rule
- Facts and Circumstances of the Rule
- Legislative Rule-Making Committee Questionnaire
- Appendix B – Fiscal Note for Proposed Rules
- Complete copy of the rule
- Disc containing 1 (one) copy of rule.

Please note that our agency did not receive any public comments related to the proposed rule change.

Thank you for your assistance in this matter.

Sincerely,

Sandy Kerns
Executive Director

Enclosures

BOARD MEMBERS

Mary Beth Allveto, Fairmont **R. Scott Barber**, Huntington **Dale Dawson Clowser**, Charleston
The Honorable Anthony Julian, Fairmont **Virginia Shaw**, New Haven **David Shields**, Bluefield
Glenn Summers, Clendenin **Linda York**, Morgantown

BRIEF SUMMARY OF THE RULE

§§ 190-2-11.6.a. The proposed modification to this legislative rule establishes that a real estate appraiser apprentice shall work only under the direct supervision of a state certified real estate appraiser effective July 1, 2013.

Currently, real estate appraiser apprentices may work under the direct supervision of either a state licensed or a state certified real estate appraiser.

§§ 190-2-11.7. The proposed modification to this legislative rule establishes that a supervising appraiser shall be a state certified appraiser, shall have held an active and unencumbered state licensed or state certified real estate appraiser license for at least two (2) years immediately preceding the submission of an apprentice permit application to the board on behalf of any person, and has the following duties and responsibilities... effective July 1, 2013.

Currently, a supervising appraiser may be a state licensed or a state certified appraiser, shall have held an active and unencumbered state licensed or state certified real estate appraiser license for at least two (2) years immediately preceding the submission of an apprentice permit application to the board on behalf of any person, and has the following duties and responsibilities....

FACTS AND CIRCUMSTANCES OF THE RULE

In 1989, in response to the savings and loan crisis, the Federal Government adopted 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.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) was signed into law on July 21, 2010. Congress declared its purpose was "[t]o promote the financial stability of the United States by improving accountability and transparency in the financial system, to end 'too big to fail,' to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes."

The Dodd-Frank Act amended several sections of Title XI of FIRREA 1989 and created changes for the regulation of real estate appraisers and appraisals in the United States. While it will take several years for some of the provisions of the new law to become operative at the State and Federal levels, several changes are required to be in effect as of July 1, 2013.

Additionally, 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 (AQB). The AQB establishes the minimum education, experience and examination requirements for real property appraisers to obtain a state certification.

Specifically, provisions that will affect state appraiser regulatory programs as of July 1, 2013 include the minimum training requirements for trainee appraisers (apprentices) and supervisory appraisers. Title XI of FIRREA as amended by the Dodd-Frank Act mandates that any minimum qualification requirements established by a State for individuals in the position of "Trainee Appraiser" (WV uses the term Apprentice) and "Supervisory Appraiser" must meet or exceed the minimum requirements of the AQB.

AQB minimum requirements are that the supervisor is state certified, "The Appraiser Trainee shall be subject to direct supervision by a supervising appraiser in good standing, who shall be state certified."

Statutory Reference: FIRREA Title § 1116 (e), 12 U.S.C. 3345, as amended by the Dodd-Frank Act and AQB Real Property Appraiser Qualification Criteria.

Through implementation and adoption of this proposed rule, effective July 1, 2013, the Board will be in compliance with Title XI of FIRREA.

January 2008

THE REAL PROPERTY APPRAISER QUALIFICATION CRITERIA AND INTERPRETATIONS OF THE CRITERIA



*REAL PROPERTY APPRAISER QUALIFICATION CRITERIA
EFFECTIVE JANUARY 1, 2008*

*APPENDIX
REAL PROPERTY APPRAISER QUALIFICATION CRITERIA
PRIOR TO JANUARY 1, 2008*

*INCLUDES ALL INTERPRETATIONS AND SUPPLEMENTARY
INFORMATION AS OF FEBRUARY 1, 2007*



THE APPRAISAL FOUNDATION

*Authorized by Congress as the Source of Appraisal
Standards and Appraiser Qualifications*

APPRAISER QUALIFICATIONS BOARD

TRAINEE REAL PROPERTY APPRAISER CLASSIFICATION

Please consult the **CRITERIA APPLICABLE TO ALL APPRAISER CLASSIFICATIONS** for additional requirements.

I. General

- A. The scope of practice for the Appraiser Trainee Classification is the appraisal of those properties which the supervising Certified appraiser is permitted by his/her current credential and that the supervising appraiser is qualified to appraise.
- B. The Appraiser Trainee shall be entitled to obtain copies of appraisal reports he/she prepared. The supervising appraiser shall keep copies of appraisal reports for a period of five years, or at least two years after final disposition of any judicial proceedings in which the appraiser provided testimony related to the assignment, whichever period expires last.
- C. All Appraiser Trainees must comply with the **COMPETENCY RULE** of USPAP.

II. Examination: There is no examination requirement for the Appraiser Trainee Classification, but the trainee shall pass examinations in the prerequisite courses in order to earn credit for core education courses.

III. Qualifying Education: As the prerequisite for application, an applicant must have completed 75 creditable class hours as specified in the required Core Curriculum Appendix. Additionally, applicants must pass the Core Curriculum examinations and pass the 15-Hour National USPAP Course and examination as part of the 75 creditable class hours.

Qualifying Education Interpretation

1. Appraisers holding a valid Licensed Residential Real Property Appraiser credential satisfy the educational requirements for the Trainee Real Property Appraiser credential.

Appraisers holding a valid Certified Residential Real Property Appraiser credential satisfy the educational requirements for the Trainee Real Property Appraiser credential.

Appraisers holding a valid Certified General Real Property Appraiser credential satisfy the educational requirements for the Trainee Real Property Appraiser credential. (adopted, November 2006)

IV. Experience: No experience is required as a prerequisite for the Appraiser Trainee Classification.

V. Training

- A. The Appraiser Trainee shall be subject to direct supervision by a supervising appraiser in good standing, who shall be state certified.
- B. The supervising appraiser shall be responsible for the training, guidance, and direct supervision of the Appraiser Trainee by:
 1. Accepting responsibility for the appraisal report by signing and certifying the report complies with USPAP;
 2. Reviewing and signing the Appraiser Trainee appraisal report(s); and
 3. Personally inspecting each appraised property with the Appraiser Trainee until the supervising appraiser determines the Appraiser Trainee is competent, in accordance with the **COMPETENCY RULE** of USPAP for the property type.

C. The Appraiser Trainee is permitted to have more than one supervising appraiser, but a supervising appraiser may not supervise more than three trainees, at one time, unless a state program in the licensing jurisdiction provides for progress monitoring, supervising certified appraiser qualifications, and supervision and oversight requirements for supervising appraisers.

D. An appraisal log shall be maintained by the Appraiser Trainee and the supervising appraiser jointly. At a minimum, the appraisal log requirements are:

1. Type of property;
2. Date of report;
3. Address of appraised property;
4. Description of work performed by the trainee and scope of the review and supervision of the supervising appraiser;
5. Number of actual work hours by the trainee on the assignment; and
6. The signature and state certification number of the supervising appraiser. Separate appraisal logs shall be maintained for each supervising appraiser if applicable.

E. The supervising certified appraiser shall be in good standing in the training jurisdiction and not subject to any disciplinary action within the last two years that affects the supervisor's legal eligibility to engage in appraisal practice.

Title XI of FIRREA
Real Estate Appraisal Reform [12 U.S.C. 3331-3351]
as amended by the Dodd-Frank Reform Act

§ 1101. Purpose [12 U.S.C. 3331]

The purpose of this title is to provide that Federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.

§ 1102. Establishment of Appraisal Subcommittee of the Federal Financial Institutions Examination Council [12 U.S.C. 3310]

The Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 et seq.) is amended by adding at the end thereof the following new section:

§ 1011. Establishment of Appraisal Subcommittee

There shall be within the Council a subcommittee to be known as the Appraisal Subcommittee, which shall consist of the designees of the heads of the Federal financial institutions regulatory agencies, the Bureau of Consumer Financial Protection, and the Federal Housing Finance Agency. Each such designee shall be a person who has demonstrated knowledge and competence concerning the appraisal profession. At all times at least one member of the Appraisal Subcommittee shall have demonstrated knowledge and competence through licensure, certification, or professional designation within the appraisal profession.

§ 1103. Functions of Appraisal Subcommittee [12 U.S.C. 3332]

(a) *In general.* The Appraisal Subcommittee shall—

~~(1) monitor the requirements established by States for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions, including a code of professional responsibility;~~

(1) monitor the requirements established by States—

(A) for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions, including a code of professional responsibility; and

(B) for the registration and supervision of the operations and activities of an appraisal management company;

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as amended by the Dodd-Frank Reform Act [text in red indicates amendments].*

(2) monitor the requirements established by the Federal financial institutions regulatory agencies [and the Resolution Trust Corporation] with respect to—

(A) appraisal standards for federally related transactions under their jurisdiction, and

(B) determinations as to which federally related transactions under their jurisdiction require the services of a State certified appraiser and which require the services of a State licensed appraiser;

(3) maintain a National Registry of State certified and licensed appraisers who are eligible to perform appraisals in federally related transactions; and

(4) [Omitted] terminated effective May 15, 2000, pursuant to § 3003 of Act Dec. 21, 1995, P.L. 104-66, which appears as 31 USCS § 1113 note (see also page 170 of House Document No. 103-7);

(5) transmit an annual report to the Congress not later than June 15 of each year that describes the manner in which each function assigned to the Appraisal Subcommittee has been carried out during the preceding year. The report shall also detail the activities of the Appraisal Subcommittee, including the results of all audits of State appraiser regulatory agencies, and provide an accounting of disapproved actions and warnings taken in the previous year, including a description of the conditions causing the disapproval and actions taken to achieve compliance; and

(6) maintain a national registry of appraisal management companies that either are registered with and subject to supervision of a State appraiser certifying and licensing agency or are operating subsidiaries of a Federally regulated financial institution.

(b) *Monitoring and reviewing Foundation.* The Appraisal Subcommittee shall monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation.

§ 1104. Chairperson of Appraisal Subcommittee; term of Chairperson; meetings [12 U.S.C. 3333]

(a) *Chairperson.* The Council shall select the Chairperson of the subcommittee. The term of the Chairperson shall be 2 years.

(b) *Meetings; quorum; voting.* The Appraisal Subcommittee shall meet in public session after notice in the Federal Register, but may close certain portions of these meetings related to personnel and review of preliminary State audit reports at the call of the Chairperson or a majority of its members when there is business to be conducted. A majority of members of the Appraisal Subcommittee shall constitute a quorum but 2 or more members may hold hearings.

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Decisions of the Appraisal Subcommittee shall be made by the vote of a majority of its members. The subject matter discussed in any closed or executive session shall be described in the Federal Register notice of the meeting.

§ 1105. Officers and staff [12 U.S.C. 3334]

The Chairperson of the Appraisal Subcommittee shall appoint such officers and staff as may be necessary to carry out the functions of this title consistent with the appointment and compensation practices of the Council.

§ 1106. Powers of Appraisal Subcommittee [12 U.S.C. 3335]

The Appraisal Subcommittee may, for the purpose of carrying out this title, establish advisory committees, hold hearings, prescribe regulations in accordance with chapter 5 of title 5, *United States Code* (commonly referred to as the Administrative Procedures Act) after notice and opportunity for comment, sit and act at times and places, take testimony, receive evidence, provide information, and perform research, as the Appraisal Subcommittee considers appropriate. Any regulations prescribed by the Appraisal Subcommittee shall (unless otherwise provided in this title) be limited to the following functions: temporary practice, national registry, information sharing, and enforcement. For purposes of prescribing regulations, the Appraisal Subcommittee shall establish an advisory committee of industry participants, including appraisers, lenders, consumer advocates, real estate agents, and government agencies, and hold meetings as necessary to support the development of regulations.

§ 1107. Procedures for establishing appraisal standards and requiring the use of certified and licensed appraisers [12 U.S.C. 3336]

Appraisal standards and requirements for using State certified and licensed appraisers in federally related transactions pursuant to this title shall be prescribed in accordance with procedures set forth in section 553 of title 5, *United States Code*, including the publication of notice and receipt of written comments or the holding of public hearings with respect to any standards or requirements proposed to be established.

§ 1108. Startup funding [12 U.S.C. 3337]

(a) *In general.* For purposes of this title, the Secretary of the Treasury shall pay to the Appraisal Subcommittee a one-time payment of \$ 5,000,000 on the date of the enactment of this Act [enacted Aug. 9, 1989]. Thereafter, expenses of the subcommittee shall be funded through the collection of registry fees from certain certified and licensed appraisers pursuant to section 1109 [12 USCS § 3338] or, if required, pursuant to section 1122(b) of this title [12 USCS § 3351(b)].

(b) *Additional funds.* Except as provided in section 1122(c) of this title [12 USCS § 3351(b)], funds in addition to the funds provided under subsection (a) may be made available to the Appraisal Subcommittee only if authorized and appropriated by law.

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(c) *Repayment of Treasury loan.* Not later than September 30, 1998, the Appraisal Subcommittee shall repay to the Secretary of the Treasury the unpaid portion of the \$5,000,000 paid to the Appraisal Subcommittee pursuant to this section.

§ 1109. Roster of State certified or licensed appraisers; authority to collect and transmit fees [12 U.S.C. 3338]

(a) *In general.* Each State with an appraiser certifying and licensing agency whose certifications and licenses comply with this title, shall—

(1) transmit to the Appraisal Subcommittee, no less than annually, a roster listing individuals who have received a State certification or license in accordance with this title; and

(2) transmit reports on the issuance and renewal of licenses and certifications, sanctions, disciplinary actions, license and certification revocations, and license and certification suspensions on a timely basis to the national registry of the Appraisal Subcommittee;

(3) transmit reports on a timely basis of supervisory activities involving appraisal management companies or other third-party providers of appraisals and appraisal management services, including investigations initiated and disciplinary actions taken; and

~~(2) collect from such individuals who perform or seek to perform appraisals in federally related transactions, an annual registry fee of not more than \$ 25, such fees to be transmitted by the State agencies to the Council on an annual basis.~~

(4) collect—

(A) from such individuals who perform or seek to perform appraisals in federally related transactions, an annual registry fee of not more than \$40, such fees to be transmitted by the State agencies to the Council on an annual basis; and
(B) from an appraisal management company that either has registered with a State appraiser certifying and licensing agency in accordance with this title or operates as a subsidiary of a federally regulated financial institution, an annual registry fee of—

(i) in the case of such a company that has been in existence for more than a year, \$25 multiplied by the number of appraisers working for or contracting with such company in such State during the previous year, but where such \$25 amount may be adjusted, up to a maximum of \$50, at the discretion of the Appraisal Subcommittee, if necessary to carry out the Subcommittee's functions under this title; and

(ii) in the case of such a company that has not been in existence for more than a year, \$25 multiplied by an appropriate number to be determined by the Appraisal Subcommittee, and where such number will be used for determining the fee of all such companies that were not in existence for more than a year, but where such \$25 amount may be adjusted, up to a maximum of \$50, at the discretion of the Appraisal

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Subcommittee, if necessary to carry out the Subcommittee's functions under this title.

~~Subject to the approval of the Council, the Appraisal Subcommittee may adjust the dollar amount of registry fees, up to a maximum of \$ 50 per annum, as necessary to carry out its functions under this title.~~

Subject to the approval of the Council, the Appraisal Subcommittee may adjust the dollar amount of registry fees under paragraph (4)(A), up to a maximum of \$80 per annum, as necessary to carry out its functions under this title. The Appraisal Subcommittee shall consider at least once every 5 years whether to adjust the dollar amount of the registry fees to account for inflation. In implementing any change in registry fees, the Appraisal Subcommittee shall provide flexibility to the States for multi-year certifications and licenses already in place, as well as a transition period to implement the changes in registry fees. In establishing the amount of the annual registry fee for an appraisal management company, the Appraisal Subcommittee shall have the discretion to impose a minimum annual registry fee for an appraisal management company to protect against the under reporting of the number of appraisers working for or contracted by the appraisal management company.

[*Incremental Revenues.*—Incremental revenues collected pursuant to the increases required by this subsection shall be placed in a separate account at the United States Treasury, entitled the “Appraisal Subcommittee Account.”]

(b) *Use of amounts appropriated or collected.* Amounts appropriated for or collected by the Appraisal Subcommittee under this section shall be used—

- (1) to maintain a registry of individuals who are qualified and eligible to perform appraisals in connection with federally related transactions;
- (2) to support its activities under this title;
- (3) to reimburse the general fund of the Treasury for amounts appropriated to and expended by the Appraisal Subcommittee during the 24-month startup period following the date of the enactment of this title [enacted Aug. 9, 1989]; and
- (4) to make grants in such amounts as it deems appropriate to the Appraisal Foundation, to help defray those costs of the foundation relating to the activities of its Appraisal Standards and Appraiser Qualification Boards;
- (5) to make grants to State appraiser certifying and licensing agencies, in accordance with policies to be developed by the Appraisal Subcommittee, to support the efforts of such agencies to comply with this title, including—
 - (A) the complaint process, complaint investigations, and appraiser enforcement activities of such agencies; and
 - (B) the submission of data on State licensed and certified appraisers and appraisal management companies to the National appraisal registry, including information affirming that the appraiser or appraisal management company meets the required qualification criteria and formal and informal disciplinary actions; and

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(6) to report to all State appraiser certifying and licensing agencies when a license or certification is surrendered, revoked, or suspended.

[Obligations authorized under this subsection may not exceed 75 percent of the fiscal year total of incremental increase in fees collected and deposited in the "Appraisal Subcommittee Account" pursuant to subsection (h).]

§ 1110. Functions of Federal financial institutions regulatory agencies relating to appraisal standards [12 U.S.C. 3339]

Each Federal financial institutions regulatory agency and the Resolution Trust Corporation shall prescribe appropriate standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of each such agency or instrumentality. These rules shall require, at a minimum—

(1) that real estate appraisals be performed in accordance with generally accepted appraisal standards as evidenced by the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation;

and—

(2) that such appraisals shall be written appraisals. Each such agency or instrumentality may require compliance with additional standards if it makes a determination in writing that such additional standards are required in order to properly carry out its statutory responsibilities; and

(3) that such appraisals shall be subject to appropriate review for compliance with the Uniform Standards of Professional Appraisal Practice.

§ 1111. Time for proposal and adoption of standards [12 U.S.C. 3340]

Appraisal standards established under this title shall be proposed not later than 6 months and shall be adopted in final form and become effective not later than 12 months after the date of the enactment of this Act [enacted Aug. 9, 1989].

§ 1112. Functions of Federal financial institutions regulatory agencies relating to appraiser qualifications [12 U.S.C. 3341]

(a) *In general.* Each Federal financial institutions regulatory agency and the Resolution Trust Corporation shall prescribe, in accordance with sections 1113 and 1114 of this title [12 USC §§ 3342, 3343], which categories of federally related transactions should be appraised by a State certified appraiser and which by a State licensed appraiser under this title.

(b) *Threshold level.* Each Federal financial institutions regulatory agency and the Resolution Trust Corporation may establish a threshold level at or below which a certified or licensed appraiser is not required to perform appraisals in connection with federally related transactions,

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if such agency determines in writing that such threshold level does not represent a threat to the safety and soundness of financial institutions and receives concurrence from the Bureau of Consumer Financial Protection that such threshold level provides reasonable protection for consumers who purchase 1–4 unit single-family residences.

(c) *GAO study of appraisals in connection with real estate related financial transactions below the threshold level.*

(1) *GAO studies.* The Comptroller General of the United States may conduct, under such conditions as the Comptroller General determines appropriate, studies on the adequacy and quality of appraisals or evaluations conducted in connection with real estate related financial transactions below the threshold level established under subsection (b), taking into account—

- (A) the cost to any financial institution involved in any such transaction;
- (B) the possibility of losses to the Deposit Insurance Fund or the National Credit Union Share Insurance Fund;
- (C) the cost to any customer involved in any such transaction; and
- (D) the effect on low-income housing.

(2) *Reports to Congress and the appropriate Federal financial institutions regulatory agencies.* Upon completing each of the studies referred to in paragraph (1), the Comptroller General shall submit a report on the Comptroller General's findings and conclusions with respect to such study to the Federal financial institutions regulatory agencies, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, together with such recommendations for legislative or administrative action as the Comptroller General determines to be appropriate.

§ 1113. Transactions requiring the services of a State certified appraiser **[12 U.S.C. 3342]**

In determining whether an appraisal in connection with a federally related transaction shall be performed by a State certified appraiser, an agency or instrumentality under this title shall consider whether transactions, either individually or collectively, are of sufficient financial or public policy importance to the United States that an individual who performs an appraisal in connection with such transactions should be a State certified appraiser, except that—

- (1) a State certified appraiser shall be required for all federally related transactions having a value of \$1,000,000 or more; and
- (2) 1-to-4 unit, single family residential appraisals may be performed by State licensed appraisers unless the size and complexity requires a State certified appraiser, where a complex 1-to-4 unit single family residential appraisal means an appraisal for which the property to be appraised, the form of ownership, the property characteristics, or the market conditions are atypical.

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§ 1114. Transactions requiring the services of a State licensed appraiser [12 U.S.C. 3343]

All federally related transactions not requiring the services of a State certified appraiser shall be performed by either a State certified or licensed appraiser.

§ 1115. Time for proposal and adoption of rules [12 U.S.C. 3344]

As appropriate, rules issued under sections 1113 and 1114 [12 USCS §§ 3342 and 3343] shall be proposed not later than 6 months and shall be effective upon adoption in final form not later than 12 months after the date of the enactment of this Act [enacted Aug. 9, 1989].

§ 1116. Certification and licensing requirements [12 U.S.C. 3345]

(a) *In general.* For purposes of this title, the term “State certified real estate appraiser” means any individual who has satisfied the requirements for State certification in a State or territory whose criteria for certification as a real estate appraiser currently meets the minimum criteria for certification issued by the Appraiser Qualification Board of the Appraisal Foundation.

(b) *Restriction.* No individual shall be a State certified real estate appraiser under this section unless such individual has achieved a passing grade upon a suitable examination administered by a State or territory that is consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the Appraiser Qualification Board of the Appraisal Foundation.

(c) *“State licensed appraiser” defined.* As used in this section, the term “State licensed appraiser” means an individual who has satisfied the requirements for State licensing in a State or territory whose criteria for the licensing of a real estate appraiser currently meet or exceed the minimum criteria issued by the Appraisal Qualifications Board of The Appraisal Foundation for the licensing of real estate appraisers.

(d) *Additional qualification criteria.* Nothing in this title shall be construed to prevent any Federal agency or instrumentality under this title from establishing such additional qualification criteria as may be necessary or appropriate to carry out the statutory responsibilities of such department, agency, or instrumentality.

~~(e) *Authority of Appraisal Subcommittee.* The Appraisal Subcommittee shall not set qualifications or experience requirements for the States in licensing real estate appraisers, including a de minimus [de minimis] standard. Recommendations of the Subcommittee shall be nonbinding on the States.~~

(e) *Minimum Qualification Requirements.*— Any requirements established for individuals in the position of ‘Trainee Appraiser’ and ‘Supervisory Appraiser’ shall meet or exceed the minimum

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qualification requirements of the Appraiser Qualifications Board of The Appraisal Foundation. The Appraisal Subcommittee shall have the authority to enforce these requirements.

§ 1117. Establishment of State appraiser certifying and licensing agencies
[12 U.S.C. 3346]

To assure the availability of State certified and licensed appraisers for the performance in a State of appraisals in federally-related transactions and to assure effective supervision of the activities of certified and licensed appraisers, a State may establish a State appraiser certifying and licensing agency. The duties of such agency may additionally include the registration and supervision of appraisal management companies and the addition of information about the appraisal management company to the national registry.

§ 1118. Monitoring of State appraiser certifying and licensing agencies
[12 U.S.C. 3347]

~~(a) *In general.*—The Appraisal Subcommittee shall monitor State appraiser certifying and licensing agencies for the purpose of determining whether a State agency’s policies, practices, and procedures are consistent with this title. The Appraisal Subcommittee and all agencies, instrumentalities, and federally recognized entities under this title shall not recognize appraiser certifications and licenses from States whose appraisal policies, practices, or procedures are found to be inconsistent with this title.~~

(a) *In general.*—The Appraisal Subcommittee shall monitor each State appraiser certifying and licensing agency for the purposes of determining whether such agency—

- (1) has policies, practices, funding, staffing, and procedures that are consistent with this title;
- (2) processes complaints and completes investigations in a reasonable time period;
- (3) appropriately disciplines sanctioned appraisers and appraisal management companies;
- (4) maintains an effective regulatory program; and
- (5) reports complaints and disciplinary actions on a timely basis to the national registries on appraisers and appraisal management companies maintained by the Appraisal Subcommittee.

The Appraisal Subcommittee shall have the authority to remove a State licensed or certified appraiser or a registered appraisal management company from a national registry on an interim basis, not to exceed 90 days, pending State agency action on licensing, certification, registration, and disciplinary proceedings. The Appraisal Subcommittee and all agencies, instrumentalities, and Federally recognized entities under this title shall not recognize appraiser certifications and licenses from States whose appraisal policies, practices, funding, staffing, or procedures are found to be inconsistent with this title. The Appraisal Subcommittee shall have the authority to impose sanctions, as described in this section, against a State agency that fails to have an effective appraiser regulatory program. In determining whether such a program is effective, the Appraisal Subcommittee shall include an analysis of the licensing and certification of appraisers,

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as amended by the Dodd-Frank Reform Act [text in red indicates amendments].*

the registration of appraisal management companies, the issuance of temporary licenses and certifications for appraisers, the receiving and tracking of submitted complaints against appraisers and appraisal management companies, the investigation of complaints, and enforcement actions against appraisers and appraisal management companies. The Appraisal Subcommittee shall have the authority to impose interim actions and suspensions against a State agency as an alternative to, or in advance of the derecognition of a State agency.

(b) *Disapproval by Appraisal Subcommittee.* The Federal financial institutions, regulatory agencies, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Resolution Trust Corporation shall accept certifications and licenses awarded by a State appraiser certifying the licensing agency unless the Appraisal Subcommittee issues a written finding that—

- (1) the State agency fails to recognize and enforce the standards, requirements, and procedures prescribed pursuant to this title;
- (2) the State agency is not granted authority or sufficient funding by the State which is adequate to permit the agency to carry out its functions under this title; or
- (3) decisions concerning appraisal standards, appraiser qualifications and supervision of appraiser practices are not made in a manner that carries out the purposes of this title.

(c) *Rejection of State certifications and licenses.*

(1) *Opportunity to be heard or correct conditions.* Before refusing to recognize a State's appraiser certifications or licenses, the Appraisal Subcommittee shall provide that State's certifying and licensing agency a written notice of its intention not to recognize the State's certified or licensed appraisers and ample opportunity to provide rebuttal information or to correct the conditions causing the refusal.

(2) *Adoption of procedures.* The Appraisal Subcommittee shall adopt written procedures for taking actions described in this section.

(3) *Judicial review.* A decision of the subcommittee under this section shall be subject to judicial review.

§ 1119. Recognition of State certified and licensed appraisers for purposes of this title [12 U.S.C. 3348]

(a) *Effective date for use of certified or licensed appraisers only.*

(1) *In general.* Not later than December 31, 1992, all appraisals performed in connection with federally related transactions shall be performed only by individuals certified or licensed in accordance with the requirements of this title.

(2) *Extension of effective date.* Subject to the approval of the Council of Economic Advisors, the Appraisal Subcommittee may extend, until December 31, 1991, the effective date for the use of certified or licensed appraisers if it makes a written finding that a State has made

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substantial progress in establishing a State certification and licensing system that appears to conform to the provisions of this title.

(b) *Temporary waiver of appraiser certification or licensing requirements for State having scarcity of qualified appraisers.* Subject to the approval of the Council, the Appraisal Subcommittee may waive any requirement relating to certification or licensing of a person to perform appraisals under this title if the Appraisal Subcommittee or a State agency whose certifications and licenses are in compliance with this title, makes a written determination that there is a scarcity of certified or licensed appraisers to perform appraisals in connection with federally related transactions in a State, or in any geographical political subdivision of a State, leading to significant delays in the performance of such appraisals. The waiver terminates when the Appraisal Subcommittee determines that such significant delays have been eliminated.

(c) *Reports to State certifying and licensing agencies.* The Appraisal Subcommittee, any other Federal agency or instrumentality, or any federally recognized entity shall report any action of a State certified or licensed appraiser that is contrary to the purposes of this title to the appropriate State agency for a disposition of the subject of the referral. The State agency shall provide the Appraisal Subcommittee or the other Federal agency or instrumentality with a report on its disposition of the matter referred. Subsequent to such disposition, the subcommittee or the agency or instrumentality may take such further action, pursuant to written procedures, it deems necessary to carry out the purposes of this title.

§ 1120. Violations in obtaining and performing appraisals in federally related transactions [12 U.S.C. 3349]

(a) *Violations.* Except as authorized by the Appraisal Subcommittee in exercising its waiver authority pursuant to section 1119(b) [12 USCS § 3348(b)], it shall be a violation of this section—

(1) for a financial institution to seek, obtain, or give money or any other thing of value in exchange for the performance of an appraisal by a person who the institution knows is not a State certified or licensed appraiser in connection with a federally related transaction; and

(2) for the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Resolution Trust Corporation to knowingly contract for the performance of any appraisal by a person who is not a State certified or licensed appraiser in connection with a real estate related financial transaction defined in section 1121(5) [12 USCS § 3350(5)] to which such association or corporation is a party.

(b) *Penalties.* A financial institution that violates subsection (a)(1) shall be subject to civil penalties under section 8(i)(2) of the Federal Deposit Insurance Act or section 206(k)(2) of the Federal Credit Union Act [12 USCS § 1818(i)(2) or 1786(k)(2)], as appropriate.

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(c) *Proceeding*. A proceeding with respect to a violation of this section shall be an administrative proceeding which may be conducted by a Federal financial institutions regulatory agency in accordance with the procedures set forth in subchapter II of chapter 5 of title 5, United States Code [5 USCS §§ 551 et seq.].

§ 1121. Definitions [12 U.S.C. 3350]

For purposes of this title:

(1) *State appraiser certifying and licensing agency*. The term “State appraiser certifying and licensing agency” means a State agency established in compliance with this title.

(2) *Appraisal Subcommittee; subcommittee*. The terms “Appraisal Subcommittee” and “subcommittee” mean the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(3) *Council*. The term “Council” means the Federal Financial Institutions Examinations Council.

(4) *Federally related transaction*. The term “federally related transaction” means any real estate-related financial transaction which—

- (A) a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and
- (B) requires the services of an appraiser.

(5) *Real estate related financial transaction*. The term “real estate-related financial transaction” means any transaction involving—

- (A) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof;
- (B) the refinancing of real property or interests in real property; and
- (C) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

(6) *Federal financial institutions regulatory agencies*. The term “Federal financial institutions regulatory agencies” means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation Corporations, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration.

(7) *Financial institution*. The term “financial institution” means an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act [12 USCS § 1813] or an insured credit union as defined in section 101 of the Federal Credit Union Act [12 USCS § 1752].

(8) *Chairperson*. The term “Chairperson” means the Chairperson of the Appraisal Subcommittee selected by the Council.

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(9) *Foundation*. The terms “Appraisal Foundation” and “Foundation” means [mean] the Appraisal Foundation established on November 30, 1987, as a not for profit corporation under the laws of Illinois.

(10) *Written appraisal*. The term “written appraisal” means a written statement used in connection with a federally related transaction that is independently and impartially prepared by a licensed or certified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information.

(11) *Appraisal Management Company*.—

The term ‘appraisal management company’ means, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party authorized either by a creditor of a consumer credit transaction secured by a consumer’s principal dwelling or by an underwriter of or other principal in the secondary mortgage markets, that oversees a network or panel of more than 15 certified or licensed appraisers in a State or 25 or more nationally within a given year—

- (A) to recruit, select, and retain appraisers;
- (B) to contract with licensed and certified appraisers to perform appraisal assignments;
- (C) to manage the process of having an appraisal performed, including providing administrative duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from creditors and underwriters for services provided, and reimbursing appraisers for services performed; or
- (D) to review and verify the work of appraisers.

§ 1122. Miscellaneous provisions [12 U.S.C. 3351]

(a) *Temporary practice*.

(1) In general. A State appraiser certifying or licensing agency shall recognize on a temporary basis the certification or license of an appraiser issued by another State if—

- (A) the property to be appraised is part of a federally related transaction,
- (B) the appraiser’s business is of a temporary nature, and
- (C) the appraiser registers with the appraiser certifying or licensing agency in the State of temporary practice.

(2) *Fees for temporary practice*. A State appraiser certifying or licensing agency shall not impose excessive fees or burdensome requirements, as determined by the Appraisal Subcommittee, for temporary practice under this subsection.

(b) *Reciprocity*. ~~The Appraisal Subcommittee shall encourage the States to develop reciprocity~~

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~~agreements that readily authorize appraisers who are licensed or certified in one State (and who are in good standing with their State appraiser certifying or licensing agency) to perform appraisals in other States.~~

Notwithstanding any other provisions of this title, a federally related transaction shall not be appraised by a certified or licensed appraiser unless the State appraiser certifying or licensing agency of the State certifying or licensing such appraiser has in place a policy of issuing a reciprocal certification or license for an individual from another State when—

- (1) the appraiser licensing and certification program of such other State is in compliance with the provisions of this title; and
- (2) the appraiser holds a valid certification from a State whose requirements for certification or licensing meet or exceed the licensure standards established by the State where an individual seeks appraisal licensure.

(c) *Supplemental funding.* Funds available to the Federal financial institutions regulatory agencies may be made available to the ~~Federal Financial Institutions Examination Council~~ Financial Institutions Examination Council to support the ~~council's~~ Council's functions under this title.

(d) *Prohibition against discrimination.* Criteria established by the Federal financial institutions regulatory agencies, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Resolution Trust Corporation for appraiser qualifications in addition to State certification or licensing ~~shall not exclude a certified or licensed appraiser for consideration for an assignment solely by virtue of membership or lack of membership in any particular appraisal organization.~~ may include education achieved, experience, sample appraisals, and references from prior clients. Membership in a nationally recognized professional appraisal organization may be a criteria considered, though lack of membership therein shall not be the sole bar against consideration for an assignment under these criteria.

(e) *Other requirements.* A corporation, partnership, or other business entity may provide appraisal services in connection with federally related transactions if such appraisal is prepared by individuals certified or licensed in accordance with the requirements of this title. An individual who is not a State certified or licensed appraiser may assist in the preparation of an appraisal if—

- (1) the assistant is under the direct supervision of a licensed or certified individual; and
- (2) the final appraisal document is approved and signed by an individual who is certified or licensed.

(f) *Studies.*

(1) *Study.* The Appraisal Subcommittee shall—

- (A) conduct a study to determine whether real estate sales and financing information and data that is available to real estate appraisers in the States is sufficient to permit appraisers to properly estimate the values of properties in

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connection with federally related transactions; and

(B) study the feasibility and desirability of extending the provisions of this title to the function of personal property appraising and to personal property appraisers in connection with Federal financial and public policy interests.

(2) *Report.* The Appraisal Subcommittee shall— (A) report its findings to the Congress with respect to the study described in paragraph (1)(A) no later than 12 months after the date of the enactment of this title [enacted Aug. 9, 1989], and (B) report its findings with respect to the study described in paragraph (1)(B) to Congress not later than 18 months after the date of the enactment of this title [enacted Aug. 9, 1989].

(g) *Appraiser Independence Monitoring.*—The Appraisal Subcommittee shall monitor each State appraiser certifying and licensing agency for the purpose of determining whether such agency's policies, practices, and procedures are consistent with the purposes of maintaining appraiser independence and whether such State has adopted and maintains effective laws, regulations, and policies aimed at maintaining appraiser independence.

(h) *Approved Education.*—The Appraisal Subcommittee shall encourage the States to accept courses approved by the Appraiser Qualification Board's Course Approval Program.

(i) *Appraisal Complaint National Hotline.*—If, 6 months after the date of the enactment of this subsection, the Appraisal Subcommittee determines that no national hotline exists to receive complaints of non-compliance with appraisal independence standards and Uniform Standards of Professional Appraisal Practice, including complaints from appraisers, individuals, or other entities concerning the improper influencing or attempted improper influencing of appraisers or the appraisal process, the Appraisal Subcommittee shall establish and operate such a national hotline, which shall include a toll-free telephone number and an email address. If the Appraisal Subcommittee operates such a national hotline, the Appraisal Subcommittee shall refer complaints for further action to appropriate governmental bodies, including a State appraiser certifying and licensing agency, a financial institution regulator, or other appropriate legal authorities. For complaints referred to State appraiser certifying and licensing agencies or to Federal regulators, the Appraisal Subcommittee shall have the authority to follow up such complaint referrals in order to determine the status of the resolution of the complaint.

§ 1123. Emergency exceptions for disaster areas [12 U.S.C. 3352]

(a) *In general.* Each Federal financial institutions regulatory agency may, by regulation or order, make exceptions to this title, and to standards prescribed pursuant to this title, for transactions involving institutions for which the agency is the primary Federal regulator with respect to real property located within a disaster area if the agency—

(1) makes the exception not later than 30 months after the date on which the President determines, pursuant to section 401 of the Robert T. Stafford Disaster Relief and

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Emergency Assistance Act [42 USCS § 5170], that a major disaster exists in the area; and
(2) determines that the exception—

- (A) would facilitate recovery from the major disaster; and
- (B) is consistent with safety and soundness.

(b) *3-year limit on exceptions.* Any exception made under this section shall expire not later than 3 years after the date of the determination referred to in subsection (a)(1).

(c) *Publication required.* Any Federal financial institutions regulatory agency shall publish in the Federal Register a statement that—

- (1) describes any exception made under this section; and
- (2) explains how the exception—
 - (A) would facilitate recovery from the major disaster; and
 - (B) is consistent with safety and soundness.

(d) *“Disaster area” defined.* For purposes of this section, the term “disaster area” means an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 USCS § 5170], has determined that a major disaster exists.

§ 1124. Appraisal Management Company Minimum Requirements.

(a) *In General.*—The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, the Federal Housing Finance Agency, and the Bureau of Consumer Financial Protection shall jointly, by rule, establish minimum requirements to be applied by a State in the registration of appraisal management companies. Such requirements shall include a requirement that such companies—

- (1) register with and be subject to supervision by a State appraiser certifying and licensing agency in each State in which such company operates;
- (2) verify that only licensed or certified appraisers are used for federally related transactions;
- (3) require that appraisals coordinated by an appraisal management company comply with the Uniform Standards of Professional Appraisal Practice; and
- (4) require that appraisals are conducted independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established under section 129E of the Truth in Lending Act.

(b) *Relation to State Law.*—Nothing in this section shall be construed to prevent States from establishing requirements in addition to any rules promulgated under subsection (a).

(c) *Federally Regulated Financial Institutions.*—The requirements of subsection (a) shall apply to an appraisal management company that is a subsidiary owned and controlled by a financial

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institution and regulated by a Federal financial institution regulatory agency. An appraisal management company that is a subsidiary owned and controlled by a financial institution regulated by a Federal financial institution regulatory agency shall not be required to register with a State.

(d) *Registration Limitations.*—An appraisal management company shall not be registered by a State or included on the national registry if such company, in whole or in part, directly or indirectly, is owned by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State. Additionally, each person that owns more than 10 percent of an appraisal management company shall be of good moral character, as determined by the State appraiser certifying and licensing agency, and shall submit to a background investigation carried out by the State appraiser certifying and licensing agency.

(e) *Reporting.*—The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, the Federal Housing Finance Agency, and the Bureau of Consumer Financial Protection shall jointly promulgate regulations for the reporting of the activities of appraisal management companies to the Appraisal Subcommittee in determining the payment of the annual registry fee.

(f) *Effective Date.*—

(1) *In General.*—No appraisal management company may perform services related to a federally related transaction in a State after the date that is 36 months after the date on which the regulations required to be prescribed under subsection (a) are prescribed in final form unless such company is registered with such State or subject to oversight by a Federal financial institutions regulatory agency.

(2) *Extension of Effective Date.*—Subject to the approval of the Council, the Appraisal Subcommittee may extend by an additional 12 months the requirements for the registration and supervision of appraisal management companies if it makes a written finding that a State has made substantial progress in establishing a State appraisal management company registration and supervision system that appears to conform with the provisions of this title.

§ 1125. Automated Valuation Models Used to Estimate Collateral Value for Mortgage Lending Purposes.

(a) *In general.*—Automated valuation models shall adhere to quality control standards designed to—

- (1) ensure a high level of confidence in the estimates produced by automated valuation models;
- (2) protect against the manipulation of data;
- (3) seek to avoid conflicts of interest;
- (4) require random sample testing and reviews; and

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(5) account for any other such factor that the agencies listed in subsection (b) determine to be appropriate.

(b) *Adoption of Regulations.*—The Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, the Federal Housing Finance Agency, and the Bureau of Consumer Financial Protection, in consultation with the staff of the Appraisal Subcommittee and the Appraisal Standards Board of the Appraisal Foundation, shall promulgate regulations to implement the quality control standards required under this section.

(c) *Enforcement.*—Compliance with regulations issued under this subsection shall be enforced by—

(1) with respect to a financial institution, or subsidiary owned and controlled by a financial institution and regulated by a Federal financial institution regulatory agency, the Federal financial institution regulatory agency that acts as the primary Federal supervisor of such financial institution or subsidiary; and

(2) with respect to other participants in the market for appraisals of 1-to-4 unit single family residential real estate, the Federal Trade Commission, the Bureau of Consumer Financial Protection, and a State attorney general.

(d) *Automated Valuation Model Defined.*—For purposes of this section, the term ‘automated valuation model’ means any computerized model used by mortgage originators and secondary market issuers to determine the collateral worth of a mortgage secured by a consumer’s principal dwelling.

§ 1126. Broker Price Opinions.

(a) *General Prohibition.*—In conjunction with the purchase of a consumer’s principal dwelling, broker price opinions may not be used as the primary basis to determine the value of a piece of property for the purpose of a loan origination of a residential mortgage loan secured by such piece of property.

(b) *Broker Price Opinion Defined.*—For purposes of this section, the term ‘broker price opinion’ means an estimate prepared by a real estate broker, agent, or sales person that details the probable selling price of a particular piece of real estate property and provides a varying level of detail about the property’s condition, market, and neighborhood, and information on comparable sales, but does not include an automated valuation model, as defined in section 1125(c).

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QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: August 30, 2012

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

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

2110 Kanawha Boulevard, East, Suite 101

Charleston, WV 25311

LEGISLATIVE RULE TITLE: Requirements for Licensure and Certification

1. Authorizing statute(s) citation WV Code §§ 30-38-7;30-38-9

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
July 30, 2012

b. What other notice, including advertising, did you give of the hearing?
NA

c. Date of Public Hearing(s) or Public Comment Period ended:
August 29, 2012 at 4:00 pm

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached none No comments received none

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

August 30, 2012

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Sandy Kerns, Executive Director

2110 Kanawha Boulevard, East, Suite 101

Charleston, WV 25311

304-558-3919 (phone) 304-558-3983 (fax)

- g. **IF DIFFERENT FROM ITEM 'F'**, please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

NA

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

NA

b. Date of hearing or comment period:

NA

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

NA

d. Attach findings and determinations and reasons:

Attached NA

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

190-2-11.6.a.; 190-2-11.7. Requirements for Licensure and Certification

Rule Title: _____

Type of Rule: Legislative Interpretive Procedural

Agency: WV Real Estate Appraiser Licensing and Certification Board

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

Phone Number: 304-558-3919 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 legislative 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 |

190-2-11.6.a.; 190-2-11.7. Requirements for Licensure and 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. The only fees associated with the real estate appraiser apprentice - supervisor relationship, regardless of whether the supervisor is licensed or certified, are those associated with annual licensing and applications, which will not be affected by this rule.

Date: 07-30-2012

Signature of Agency Head or Authorized Representative

Sandy Korno

FILED

2012 AUG 31 AM 10:30

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

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 2
REQUIREMENTS FOR LICENSURE AND CERTIFICATION

§190-2-1. General.

1.1. Scope. -- This rule establishes the requirements for an applicant to become a licensed or certified real estate appraiser in the state of West Virginia.

1.2. Authority. -- W. Va. Code §§30-38-6; 30-38-7; 30-38-9.

1.3. Filing Date. --

1.4. Effective Date. --

§190-2-2. Definitions.

2.1. "Accredited colleges, universities and junior and community colleges" means those institutions of higher learning under the Higher Education Policy Commission or listed in the Transfer of 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. "Appraisal foundation" means the appraisal foundation established on the thirtieth day of November, one thousand nine hundred eighty-seven, as a not-for-profit corporation under the laws of Illinois.

2.4. "Appraiser qualifications board" means the board created by the Appraisal Foundation to establish appropriate criteria for the licensure and certification of qualified appraisers by defining, issuing and promoting the qualification criteria; to disseminate the qualification criteria to states, governmental entities and others; and to develop or assist in the development of appropriate examinations for qualified appraisers.

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

2.6. "Direct supervision" means the supervisor shall personally view the exterior and interior of all properties with his or her respective apprentice or appraiser; personally review each appraisal report; assign work to the apprentice or appraiser only if he or she is competent to perform the work; accept full responsibility for the report; and approve and sign the report as being independently and impartially prepared in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP) and applicable statutory requirements.

2.7. "Experience" as used in this rule includes, but is not limited to experience gained in the performance of traditional appraisal assignments, or in the performance of the following: fee and staff appraisals; ad

valorem tax appraisal; condemnation appraisal; technical review appraisal; appraisal analysis; real estate consulting; highest and best use analysis; and, feasibility analysis or study.

2.8. "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.

2.9. "Local, state or federal government agency, board or commission" means any entity established by any local, federal or state government to protect or promote the health, safety and welfare for the citizens of its domain.

2.10. "Non-residential" property is defined as all properties other than residential.

2.11. "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.

2.12. "Residential" property is defined as one to four single family residential units and lots where the highest and best use is for one to four single family residential units.

2.13. "Uniform Standards of Professional Appraisal Practice" means the Uniform Standards of Professional Appraisal Practice (USPAP) published by the appraisal foundation.

§190-2-3. Exceptions to License Requirement.

3.1. In addition to the exceptions of the W. Va. Code §30-38-1(c), this rule does not apply to a person licensed to practice public accountancy as defined in W. Va. Code §30-9-3, including the performance of a business evaluation; Provided, that the exception does not apply to federally related transactions as defined in the "Financial Institutions Reform, Recovery and Enforcement Act of 1989", 12 U.S.C. §33331 et seq.

§190-2-4. General Qualifications for Licensure or Certification.

4.1. Every person who applies to be classified as a licensed or certified real estate appraiser shall:

4.1.a. 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 a manner that safeguards the interests of the public;

4.1.b. Except as provided for in subsection 2-11 of this rule, 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. An applicant shall complete an application for license or certification within twelve months of the date of the receipt of the application and fee by the board;

4.1.c. Be in good standing as a real estate appraiser in every jurisdiction where he or she is licensed or certified. An applicant's occupational or professional license or certification shall not be suspended, revoked or surrendered in connection with a disciplinary action or an applicant may not be the subject of disciplinary action in any jurisdiction prior to applying for licensure or certification in West Virginia;

4.1.d. Not have been 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 is considered a

conviction for purposes of this subdivision. The record of a conviction authenticated in a form that is admissible in evidence under the laws of the jurisdiction where convicted is admissible as prima facie evidence of the conviction; and

4.1.e. Be at least 18 years of age.

4.2. The Board may consider and approve for license or certification, applicants who do not meet the requirements set forth in subdivisions 4.1.c. and 4.1.d. of this section.

4.3. At the time of filing an application for original or renewal of a license or 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 shall also certify that he or she understands the types of misconduct as described in W. Va. Code §§30-38-1 et seq. and that disciplinary proceedings may be initiated against him or her for that misconduct.

4.4. Any applicant who applies to be classified as a licensed or certified real estate appraiser after January 1, 2008, shall comply with all requirements in effect at that time. In the event that an applicant who applies to be classified as a licensed or certified real estate appraiser after January 1, 2008, completes the education, experience, or examination component requirements, or any combination of such components required herein, prior to January 1, 2008, any such component, completed by January 1, 2008, shall satisfy the respective requirement or requirements as currently in effect. In the event that an applicant who applies to be classified as a licensed or certified real estate appraiser after January 1, 2008, completes the education, experience, or examination components, or any combination of such components required herein, after January 1, 2008, any such component completed after January 1, 2008, shall satisfy the respective requirement or requirements as in effect after January 1, 2008.

4.5. The board shall conduct criminal background investigations for the purpose of determining whether an applicant has been charged with, indicted for, or convicted of a crime that may have bearing upon the applicant's fitness to hold a license. The applicant shall complete and submit to the board, on a form provided by the board, a form that relates to the release of information and waiver of confidentiality of records. The applicant will also submit a full set of fingerprints to facilitate a criminal background check and the board will request the state police to submit the fingerprints and identifying information to the Federal Bureau of Investigation for a national criminal history record check. The results of the fingerprint check will be returned to the board.

4.5.a. The applicant will reimburse the board for all fees or charges that are incurred by the board for the background investigation.

4.5.b. If the applicant for licensure actively holds a real estate appraiser apprentice permit, licensed residential real estate appraiser license, or certified residential real estate appraiser license, issued by the board, and has previously completed a criminal background check conducted by the board, the results of the prior criminal background check shall satisfy the board's current criminal background investigation requirement.

§190-2-5. Additional Qualifications for Licensed Residential Real Estate Appraisers.

5.1. Education.

5.1.a. An applicant shall have successfully completed ninety (90) classroom hours of courses in subjects related to real estate appraisal that are required under this subdivision. Effective January 1, 2003,

fifteen (15) of the ninety (90) hours shall include the successful completion of the National Uniform Standards of Professional Appraisal Practice Course, or its equivalent. Effective January 1, 2008, an applicant shall have successfully completed one-hundred and fifty (150) classroom hours of courses in subjects related to real estate appraisal that are required under this subdivision, of which fifteen (15) of the one hundred and fifty (150) hours shall include the successful completion of the National Uniform Standards of Professional Appraisal Practice Course, or its equivalent. Equivalency shall be determined through the appraisal qualifications board course approval program or by an alternate method established by the appraisal qualifications board.

5.1.b. The board shall grant credit towards classroom hours only where the length of the educational course is at least fifteen (15) hours and an applicant successfully completed an examination concerning that course.

5.1.c. An applicant may obtain credit towards classroom hours from the following entities provided that, the courses have been registered with and approved by the board:

- 5.1.c.1. Accredited colleges or universities;
- 5.1.c.2. Community or junior colleges;
- 5.1.c.3. Real estate appraisal or real estate related organizations;
- 5.1.c.4. Local, state or federal agencies, boards or commissions;
- 5.1.c.5. Proprietary schools;
- 5.1.c.6. Adult distributive or marketing educational programs; or
- 5.1.c.7. Any other entity which has received prior approval by the board.

5.1.d. The board may award credit towards classroom hours to teachers of appraisal courses.

5.1.e. There is no time limit for when an applicant must obtain qualifying education credit.

5.1.f. The board may grant credit for courses where an applicant obtained credit from the course provider by challenge examination without attending the courses, provided, that the credit was granted by the course provider prior to July 1, 1990 and that the board is satisfied with the quality of the challenge examination that was administered by the course provider.

5.1.g. Prior to January 1, 2008, the board may credit various appraisal courses toward the classroom hours required by subdivision 5.1.a. of this section, if the applicant can show that his or her education involved coverage of all of the following topics, with particular emphasis on the appraisal of one to four unit residential properties:

- 5.1.g.1. Influences on real estate value;
- 5.1.g.2. Legal considerations in appraisal;
- 5.1.g.3. Types of value;

- 5.1.g.4. Economic principles;
- 5.1.g.5. Real estate markets and analysis;
- 5.1.g.6. Valuation process;
- 5.1.g.7. Property description;
- 5.1.g.8. Highest and best use analysis;
- 5.1.g.9. Appraisal statistical concepts;
- 5.1.g.10. Sales comparison approach;
- 5.1.g.11. Site value;
- 5.1.g.12. Cost approach;
- 5.1.g.13. Income approach, which includes, but is not limited to:
 - 5.1.g.13.A. Gross rent multiplier analysis;
 - 5.1.g.13.B. Estimation of income and expenses; and
 - 5.1.g.13.C. Operating expense ratios;
- 5.1.g.14. Valuation of partial interests; and
- 5.1.g.15. Appraisal standards and ethics.

5.1.h. Effective January 1, 2008, the Board shall only credit appraisal courses completed by an applicant for Licensed Residential real estate appraiser, and required by subdivision 5.1.a. of this section, if the applicant can show that his or her education involved coverage of all of the following topics and all minimum corresponding hour attendant with each topic thereof:

5.1.h.1. Thirty (30) hours of basic appraisal principles, of which course hours may be evidenced by the following educational subtopics:

5.1.h.1.A. Real Property Concepts and Characteristics, including, but not limited to:

5.1.h.1.A.1. Basic Real Property Concepts;

5.1.h.1.A.2. Real Property Characteristics; and

5.1.h.1.A.3. Legal Description;

5.1.h.1.B. Legal Consideration, including, but not limited to:

5.1.h.1.B.1. Forms of Ownership;

5.1.h.1.B.2. Public and Private Controls;

5.1.h.1.B.3. Real Estate Contracts; and

5.1.h.1.B.4. Leases;

5.1.h.1.C. Influences on Real Estate Values, including, but not limited to:

5.1.h.1.C.1. Governmental;

5.1.h.1.C.2. Economic;

5.1.h.1.C.3. Social; and

5.1.h.1.C.4. Environmental, Geographic and Physical;

5.1.h.1.D. Types of Value, including, but not limited to:

5.1.h.1.D.1. Market Value;

5.1.h.1.D.2. Other Value Types; and

5.1.h.1.E. Economic Principles, including, but not limited to:

5.1.h.1.E.1. Classical Economic Principles; and

5.1.h.1.E.2. Application and Illustrations of the Economic Principles;

5.1.h.1.F. Overview of Real Estate Markets and Analysis, including, but not limited to:

5.1.h.1.F.1. Market Fundamentals, Characteristics, and Definitions;

5.1.h.1.F.2. Supply Analysis;

5.1.h.1.F.3. Demand Analysis; and

5.1.h.1.F.4. Use of Market Analysis;

5.1.h.1.G. Ethics and How They Apply in Appraisal Theory and Practice;

5.1.h.2. Thirty (30) hours of basic appraisal procedures, of which course hours may be evidenced by the following educational subtopics:

5.1.h.2.A. Overview of Approaches to Value;

5.1.h.2.B. Valuation Procedures, including, but not limited to:

5.1.h.2.B.1 Defining the Problem;

5.1.h.2.B.2. Collecting and Selecting Data;

5.1.h.2.B.3. Analyzing;

5.1.h.2.B.4. Reconciling and Final Value Opinion; and

5.1.h.2.B.5. Communicating the Appraisal;

5.1.h.2.C. Property Description, including, but not limited to:

5.1.h.2.C.1. Geographic Characteristics of the Land/Site;

5.1.h.2.C.2. Geologic Characteristics of the Land/Site;

5.1.h.2.C.3. Location and Neighborhood Characteristics;

5.1.h.2.C.4. Land/Site Considerations for Highest and Best Use; and

5.1.h.2.C.5. Improvements -- Architectural Styles and Types of Construction;

5.1.h.2.D. Residential Applications;

5.1.h.3. Successful completion of the fifteen (15) hour National Uniform Standards of Professional Appraisal Practice Course, or its equivalent;

5.1.h.4. Fifteen (15) hours of residential market analysis and highest and best use, of which course hours may be evidenced by the following educational subtopics:

5.1.h.4.A. Residential Markets and Analysis, including, but not limited to:

5.1.h.4.A.1. Market Fundamentals, Characteristics and Definitions;

5.1.h.4.A.2. Supply Analysis;

5.1.h.4.A.3. Demand Analysis; and

5.1.h.4.A.4. Use of Market Analysis;

5.1.h.4.B. Highest and Best Use, including, but not limited to:

5.1.h.4.B.1. Test Constraints;

5.1.h.4.B.2. Application of Highest and Best Use;

5.1.h.4.B.3. Special Considerations;

5.1.h.4.B.4. Market Analysis; and

5.1.h.4.B.5. Case Studies;

5.1.h.5. Fifteen (15) hours of residential appraiser site valuation and cost approach, of which course hours may be evidenced by the following educational subtopics:

5.1.h.5.A. Site Valuation, including, but not limited to:

5.1.h.5.A.1. Methods; and

5.1.h.5.A.2. Case Studies;

5.1.h.5.B. Cost Approach, including, but not limited to:

5.1.h.5.B.1. Concepts and Definitions;

5.1.h.5.B.2. Replacement/ Reproduction Cost New;

5.1.h.5.B.3. Accrued Depreciation;

5.1.h.5.B.4. Methods of Estimating Accrued Depreciation; and

5.1.h.5.B.5. Case Studies;

5.1.h.6. Thirty (30) hours of residential sales comparison and income approaches, of which course hours may be evidenced by the following educational subtopics:

5.1.h.6.A. Valuation Principles & Procedures -- Sales Comparison Approach;

5.1.h.6.B. Valuation Principles & Procedures -- Income Approach;

5.1.h.6.C. Finance and Cash Equivalency;

5.1.h.6.D. Financial Calculator Introduction;

5.1.h.6.E. Identification, Derivation and Measurement of Adjustments;

5.1.h.6.F. Gross Rent Multipliers;

5.1.h.6.G. Partial Interests;

5.1.h.6.H. Reconciliation; and

5.1.h.6.I. Case Studies and Applications;

5.1.h.7. Fifteen (15) hours of residential report writing and case studies, of which course hours may be evidenced by the following educational subtopics:

5.1.h.7.A. Writing and Reasoning Skills;

5.1.h.7.B. Common Writing Problems;

5.1.h.7.C. Form Reports;

5.1.h.7.D. Report Options and USPAP Compliance; and

5.1.h.7.E. Case Studies.

5.1.i. An applicant shall submit to the board a listing of courses, which he or she claims meet the education credit requirement, on a form approved by the board. An applicant shall submit proof of the completion of a course claimed for credit.

5.2. Experience.

5.2.a. An applicant shall have a minimum of two thousand (2000) hours of appraisal experience. The board or an applicant may treat hours as cumulative in order to achieve the required two thousand (2000) hours. Effective January 1, 2008, an applicant must obtain all qualifying experience hours in no fewer than a twelve month period.

5.2.b. As a part of the application for licensure, an applicant shall execute an affidavit attesting to his or her experience in the field of real estate appraisal. This affidavit shall be on forms provided by the board with the application. In addition, an applicant shall provide, on forms provided by the board, a detailed list of the real estate appraisal reports or file memoranda for each year for which experience is claimed. Upon request, an applicant shall provide the board a sample of appraisal reports which the applicant has prepared. Experience obtained after January 1, 1991, shall comply with the Uniform Standards of Professional Appraisal Practice (USPAP).

5.3. Examination.

5.3.a. Before the board issues an initial license, an applicant shall successfully complete a written national examination administered by the board or by a testing service acting on behalf of the board. The passing score shall be determined by the board based upon the recommendation of the testing service.

5.3.b. Before the board issues an initial license, an applicant shall successfully complete a written state examination covering the sections of the West Virginia Code that regulate the practice of real estate appraising. The passing score shall be determined by the board.

§190-2-6. Additional Qualifications for Certified General and Certified Residential Real Estate Appraisers.

6.1. Education.

6.1.a. An applicant for the Certified General real estate appraiser certification shall have successfully completed one hundred eighty (180) classroom hours in subjects related to real estate appraisal that are required under this subdivision of which a minimum of fifteen (15) of the one hundred eighty (180) hours shall include the successful completion of the National Uniform Standards of Professional Appraisal Practice Course, or its equivalent. Effective January 1, 2008, an applicant for the Certified General real estate appraiser certification shall have successfully completed three hundred (300) classroom hours of courses in subjects related to real estate appraisal that are required under this subdivision, of which fifteen (15) of the three hundred (300) hours shall include the successful completion of the National Uniform Standards of Professional Appraisal Practice Course, or its equivalent. Equivalency shall be determined through the appraisal qualifications board course approval program or by an alternate method established by the appraisal qualifications board.

6.1.b. An applicant for the Certified Residential real estate appraiser certification shall have successfully completed one hundred thirty-five (135) classroom hours of courses in subjects related to real

estate appraisal that are required under this subdivision of which a minimum of fifteen (15) of the one hundred thirty-five (135) hours shall include the successful completion of the National Uniform Standards of Professional Appraisal Practice Course, or its equivalent. Effective January 1, 2008, an applicant for the Certified Residential real estate appraiser certification shall have successfully completed two hundred (200) classroom hours of courses in subjects related to real estate appraisal that are required under this subdivision, of which fifteen (15) of the two hundred (200) hours shall include the successful completion of the National Uniform Standards of Professional Appraisal Practice Course, or its equivalent. Equivalency shall be determined through the appraisal qualifications board course approval program or by an alternate method established by the appraisal qualifications board.

6.1.c. The board shall grant credit towards classroom hours only where the length of the educational course was at least fifteen (15) hours and an applicant successfully completed an examination concerning the course.

6.1.d. An applicant may obtain credit towards classroom hours from the following entities, provided that the courses have been registered with and approved by the board:

6.1.d.1. Accredited colleges or universities;

6.1.d.2. Community or junior colleges;

6.1.d.3. Real estate appraisal or real estate related organizations;

6.1.d.4. Local, state or federal agencies, boards or commissions;

6.1.d.5. Proprietary schools;

6.1.d.6. Adult distributive or marketing educational programs; or

6.1.d.7. Any other entity which has received prior approval by the board.

6.1.e. The board may award credit toward classroom hours to teachers of appraisal courses.

6.1.f. There is no time limit for when an applicant must obtain qualifying education credit.

6.1.g. The board may grant credit for courses where an applicant obtained credit from the course provider by challenge without attending the courses, provided that the credit was granted by the course provider prior to July 1, 1990, and that the board is satisfied with the quality of the challenge examination that was administered by the course provider.

6.1.h. Prior to January 1, 2008, for the state certified general classification, the board may credit various appraisal courses toward the classroom hours required by subdivision 6.1.a. of this section if an applicant can show that his or her education involved coverage of all of the following topics, with particular emphasis on the appraisal of non-residential properties:

6.1.h.1. Influences on real estate value, including but not limited to:

6.1.h.1.A. Physical and environmental;

6.1.h.1.B. Economic;

6.1.h.1.C. Governmental and legal; and

6.1.h.1.D. Social;

6.1.h.2. Legal considerations in appraisal, including but not limited to:

6.1.h.2.A. Real estate vs. real property;

6.1.h.2.B. Real property vs. personal property;

6.1.h.2.C. Limitations on real estate ownership;

6.1.h.2.D. Legal rights and interests;

6.1.h.2.E. Forms of property ownership;

6.1.h.2.F. Legal descriptions; and

6.1.h.2.G. Transfer of title;

6.1.h.3. Types of value, including but not limited to:

6.1.h.3.A. Market Value or Value in Exchange;

6.1.h.3.B. Price;

6.1.h.3.C. Cost;

6.1.h.3.D. Investment Value;

6.1.h.3.E. Value in Use;

6.1.h.3.F. Assessed Value;

6.1.h.3.G. Insurable Value; and

6.1.h.3.H. Going Concern Value;

6.1.h.4. Economic principles, including but not limited to:

6.1.h.4.A. Anticipation;

6.1.h.4.B. Balance;

6.1.h.4.C. Change;

6.1.h.4.D. Competition;

6.1.h.4.E. Conformity;

- 6.1.h.4.F. Contribution;
- 6.1.h.4.G. Increasing and decreasing returns;
- 6.1.h.4.H. Opportunity Cost;
- 6.1.h.4.I. Substitution;
- 6.1.h.4.J. Supply and demand; and
- 6.1.h.4.K. Surplus productivity;
- 6.1.h.5. Real estate markets and analysis, including but not limited to:
 - 6.1.h.5.A. Characteristics of real estate markets;
 - 6.1.h.5.B. Absorption analysis;
 - 6.1.h.5.C. Role of money and capital markets; and
 - 6.1.h.5.D. Real estate financing;
- 6.1.h.6. Valuation process, including but not limited to:
 - 6.1.h.6.A. Definition of the problem;
 - 6.1.h.6.B. Collection and analysis of data;
 - 6.1.h.6.C. Analysis of highest and best use;
 - 6.1.h.6.D. Anticipation and limitations of each approach to value;
 - 6.1.h.6.E. Reconciliation and final value estimate; and
 - 6.1.h.6.F. The appraisal report;
- 6.1.h.7. Property description, including but not limited to:
 - 6.1.h.7.A. Site description;
 - 6.1.h.7.B. Improvement description; and
 - 6.1.h.7.C. Basic construction and design;
- 6.1.h.8. Highest and best use analysis, including but not limited to:
 - 6.1.h.8.A. Four tests;
 - 6.1.h.8.B. Vacant site or as if vacant;

- 6.1.h.8.C. As improved; and
- 6.1.h.8.D. Interim use;
- 6.1.h.9. Appraisal math and statistics, including but not limited to:
 - 6.1.h.9.A. Compound interest concepts; and
 - 6.1.h.9.B. Statistical concepts used in appraisal;
- 6.1.h.10. Sales comparison approach, including but not limited to:
 - 6.1.h.10.A. Research and selection of comparables;
 - 6.1.h.10.B. Elements of comparison;
 - 6.1.h.10.C. Adjustment process; and
 - 6.1.h.10.D. Application of sales comparison approach;
- 6.1.h.11. Site value, including but not limited to:
 - 6.1.h.11.A. Sales comparison;
 - 6.1.h.11.B. Land residual;
 - 6.1.h.11.C. Allocation;
 - 6.1.h.11.D. Extraction;
 - 6.1.h.11.E. Ground rent capitalization;
 - 6.1.h.11.F. Subdivision analysis; and
 - 6.1.h.11.G. Plottage and assemblage;
- 6.1.h.12. Cost approach, including but not limited to:
 - 6.1.h.12.A. Steps in Cost Approach; and
 - 6.1.h.12.B. Application of the Cost Approach;
- 6.1.h.13. Income approach, including but not limited to:
 - 6.1.h.13.A. Estimation of income and expenses;
 - 6.1.h.13.B. Operating statement ratios;
 - 6.1.h.13.C. Direct capitalization;

- 6.1.h.13.D. Cash flow estimates;
- 6.1.h.13.E. Measures of cash flow; and
- 6.1.h.13.F. Discounted cash flow analysis (DCF);
- 6.1.h.14. Valuation of partial interests, including but not limited to:
 - 6.1.h.14.A. Interests created by a lease;
 - 6.1.h.14.B. Lease provisions;
 - 6.1.h.14.C. Valuation considerations; and
 - 6.1.h.14.D. Other partial interests;
- 6.1.h.15. Appraisal standards and ethics; and
- 6.1.h.16. Narrative report writing.

6.1.i. Effective January 1, 2008, the Board shall only credit appraisal courses completed by an applicant for state certified general classification, and required by subdivision 6.1.a. of this section, if the applicant can show that his or her education involved coverage of all of the following topics and all minimum corresponding hours attendant with each topic thereof, with particular emphasis on the appraisal of non-residential properties:

6.1.i.1. Thirty (30) hours of basic appraisal principles, of which course hours may be evidenced by the following educational subtopics:

- 6.1.i.1.A. Real Property Concepts and Characteristics, including, but not limited to:
 - 6.1.i.1.A.1. Basic Real Property Concepts;
 - 6.1.i.1.A.2. Real Property Characteristics; and
 - 6.1.i.1.A.3. Legal Description;
- 6.1.i.1.B. Legal Consideration, including, but not limited to:
 - 6.1.i.1.B.1. Forms of Ownership;
 - 6.1.i.1.B.2. Public and Private Controls;
 - 6.1.i.1.B.3. Real Estate Contracts; and
 - 6.1.i.1.B.4. Leases;
- 6.1.i.1.C. Influences on Real Estate Values, including, but not limited to:
 - 6.1.i.1.C.1. Governmental;

6.1.i.1.C.2. Economic;

6.1.i.1.C.3. Social; and

6.1.i.1.C.4. Environmental, Geographic and Physical;

6.1.i.1.D. Types of Value, including, but not limited to:

6.1.i.1.D.1. Market Value;

6.1.i.1.D.2. Other Value Types; and

6.1.i.1.E. Economic Principles, including, but not limited to:

6.1.i.1.E.1. Classical Economic Principles; and

6.1.i.1.E.2. Application and Illustrations of the Economic Principles;

6.1.i.1.F. Overview of Real Estate Markets and Analysis, including, but not limited to:

6.1.i.1.F.1. Market Fundamentals, Characteristics, and Definitions;

6.1.i.1.F.2. Supply Analysis;

6.1.i.1.F.3. Demand Analysis; and

6.1.i.1.F.4. Use of Market Analysis;

6.1.i.1.G. Ethics and How They Apply in Appraisal Theory and Practice;

6.1.i.2. Thirty (30) hours of basic appraisal procedures, of which course hours may be evidenced by the following educational subtopics:

6.1.i.2.A. Overview of Approaches to Value;

6.1.i.2.B. Valuation Procedures, including, but not limited to:

6.1.i.2.B.1. Defining the Problem;

6.1.i.2.B.2. Collecting and Selecting Data;

6.1.i.2.B.3. Analyzing;

6.1.i.2.B.4. Reconciling and Final Value Opinion; and

6.1.i.2.B.5. Communicating the Appraisal;

6.1.i.2.C. Property Description, including, but not limited to:

6.1.i.2.C.1. Geographic Characteristics of the Land/Site;

6.1.i.2.C.2. Geologic Characteristics of the Land/Site;

6.1.i.2.C.3. Location and Neighborhood Characteristics;

6.1.i.2.C.4. Land/Site Considerations for Highest and Best Use; and

6.1.i.2.C.5. Improvements - Architectural Styles and Types of Construction;

6.1.i.2.D. Residential Applications;

6.1.i.3. Successful completion of the fifteen (15) hour National Uniform Standards of Professional Appraisal Practice Course, or its equivalent;

6.1.i.4. Thirty (30) hours of general appraiser market analysis and highest and best use, of which course hours may be evidenced by the following educational subtopics:

6.1.i.4.A. Real Estate Markets and Analysis, including, but not limited to:

6.1.i.4.A.1. Market Fundamentals, Characteristics and Definitions;

6.1.i.4.A.2. Supply Analysis;

6.1.i.4.A.3. Demand Analysis; and

6.1.i.4.A.4. Use of Market Analysis;

6.1.i.4.B. Highest and Best Use, including, but not limited to:

6.1.i.4.B.1. Test Constraints;

6.1.i.4.B.2. Application of Highest and Best Use;

6.1.i.4.B.3. Special Considerations;

6.1.i.4.B.4. Market Analysis; and

6.1.i.4.B.5. Case Studies;

6.1.i.5. Fifteen (15) hours of statistics, modeling and finance, of which course hours may be evidenced by the following educational subtopics:

6.1.i.5.A. Statistics;

6.1.i.5.B. Valuation Models (AVM's and Mass Appraisal); and

6.1.i.5.C. Real Estate Finance;

6.1.i.6. Thirty (30) hours of general appraiser sales comparison approach, of which course hours may be evidenced by the following educational subtopics:

- 6.1.i.6.A. Value Principles;
- 6.1.i.6.B. Procedures;
- 6.1.i.6.C. Identification and Measurement of Adjustments;
- 6.1.i.6.D. Reconciliation; and
- 6.1.i.6.E. Case Studies;

6.1.i.7. Thirty (30) hours of general appraiser site valuation and cost approach, of which course hours may be evidenced by the following educational subtopics:

- 6.1.i.7.A. Site Valuation, including, but not limited to:
 - 6.1.i.7.A.1. Methods; and
 - 6.1.i.7.A.2. Case Studies;
- 6.1.i.7.B. Cost Approach, including, but not limited to:
 - 6.1.i.7.B.1. Concepts and Definitions;
 - 6.1.i.7.B.2. Replacement/Reproduction Cost New;
 - 6.1.i.7.B.3. Accrued Depreciation;
 - 6.1.i.7.B.4. Methods of Estimating Accrued Depreciation; and
 - 6.1.i.7.B.5. Case Studies;

6.1.i.8. Sixty (60) hours of general appraiser income approach, of which course hours may be evidenced by the following educational subtopics:

- 6.1.i.8.A. Overview;
- 6.1.i.8.B. Compound Interest;
- 6.1.i.8.C. Lease Analysis;
- 6.1.i.8.D. Income Analysis;
- 6.1.i.8.E. Vacancy and Collection Loss;
- 6.1.i.8.F. Estimating Operating Expenses and Reserves;
- 6.1.i.8.G. Reconstructed Income and Expense Statement;
- 6.1.i.8.H. Stabilized Net Operating Income Estimate;

- 6.1.i.8.I. Direct Capitalization;
- 6.1.i.8.J. Discounted Cash Flow;
- 6.1.i.8.K. Yield Capitalization;
- 6.1.i.8.L. Partial Interests; and
- 6.1.i.8.M. Case Studies;

6.1.i.9. Thirty (30) hours of general appraiser report writing and case studies, of which course hours may be evidenced by the following educational subtopics:

- 6.1.i.9.A. Writing and Reasoning Skills;
- 6.1.i.9.B. Common Writing Problems;
- 6.1.i.9.C. Report Options and USPAP Compliance; and
- 6.1.i.9.D. Case Studies;

6.1.i.10. Thirty (30) hours of appraisal subject matter electives.

6.1.j. Prior to January 1, 2008, for the state certified residential classification, the board may credit various appraisal courses toward the classroom hours required by subdivision 6.1.b. of this section if an applicant can show that his or her education involved coverage of all topics listed below with particular emphasis on the appraisal of one to four unit residential properties:

6.1.j.1. Influences on real estate value, including but not limited to:

- 6.1.j.1.A. Physical and environmental;
- 6.1.j.1.B. Economic;
- 6.1.j.1.C. Governmental and legal; and
- 6.1.j.1.D. Social;

6.1.j.2. Legal considerations in appraisal, including but not limited to:

- 6.1.j.2.A. Real estate vs. real property;
- 6.1.j.2.B. Real estate vs. personal property;
- 6.1.j.2.C. Limitations on real estate ownership;
- 6.1.j.2.D. Legal rights and interests;
- 6.1.j.2.E. Forms of property ownership;

6.1.j.2.F. Legal descriptions; and

6.1.j.2.G. Transfer of title;

6.1.j.3. Types of value, including but not limited to:

6.1.j.3.A. Market Value or Value in Exchange;

6.1.j.3.B. Price;

6.1.j.3.C. Cost;

6.1.j.3.D. Investment Value;

6.1.j.3.E. Value in Use;

6.1.j.3.F. Assessed Value; and

6.1.j.3.G. Insurable Value;

6.1.j.4. Economic principles, including but not limited to:

6.1.j.4.A. Anticipation;

6.1.j.4.B. Balance;

6.1.j.4.C. Change;

6.1.j.4.D. Competition;

6.1.j.4.E. Conformity;

6.1.j.4.F. Contribution;

6.1.j.4.G. Increasing and decreasing returns;

6.1.j.4.H. Opportunity Cost;

6.1.j.4.I. Substitution;

6.1.j.4.J. Supply and demand; and

6.1.j.4.K. Surplus productivity;

6.1.j.5. Real estate markets and analysis, including but not limited to:

6.1.j.5.A. Characteristics of real estate markets;

6.1.j.5.B. Absorption analysis;

- 6.1.j.5.C. Role of money and capital markets; and
- 6.1.j.5.D. Real estate financing;
- 6.1.j.6. Valuation process, including but not limited to:
 - 6.1.j.6.A. Definition of the problem;
 - 6.1.j.6.B. Collection and analysis of data;
 - 6.1.j.6.C. Analysis of highest and best use;
 - 6.1.j.6.D. Application and limitations of each approach to value;
 - 6.1.j.6.E. Reconciliation and final value estimate; and
 - 6.1.j.6.F. The appraisal report;
- 6.1.j.7. Property description, including but not limited to:
 - 6.1.j.7.A. Site description;
 - 6.1.j.7.B. Improvement description; and
 - 6.1.j.7.C. Basic construction and design;
- 6.1.j.8. Highest and best use analysis, including but not limited to:
 - 6.1.j.8.A. Four tests;
 - 6.1.j.8.B. Vacant site or as if vacant;
 - 6.1.j.8.C. As improved; and
 - 6.1.j.8.D. Interim use;
- 6.1.j.9. Appraisal math and statistics, including but not limited to:
 - 6.1.j.9.A. Compound interest concepts; and
 - 6.1.j.9.B. Statistical concepts used in appraisal;
- 6.1.j.10. Sales comparison approach, including but not limited to:
 - 6.1.j.10.A. Research and selection of comparables;
 - 6.1.j.10.B. Elements of comparison;
 - 6.1.j.10.C. Adjustment process; and

- 6.1.j.10.D. Application of sales comparison approach;
- 6.1.j.11. Site Value, including but not limited to:
 - 6.1.j.11.A. Sales comparison;
 - 6.1.j.11.B. Land residual;
 - 6.1.j.11.C. Allocation;
 - 6.1.j.11.D. Extraction; and
 - 6.1.j.11.E. Plottage and assemblage;
- 6.1.j.12. Cost approach, including but not limited to:
 - 6.1.j.12.A. Steps in Cost Approach; and
 - 6.1.j.12.B. Application of the Cost Approach;
- 6.1.j.13. Income approach, including but not limited to:
 - 6.1.j.13.A. Gross rent multiplier analysis;
 - 6.1.j.13.B. Estimation of income and expenses;
 - 6.1.j.13.C. Operating expense ratios; and
 - 6.1.j.13.D. Direct capitalization;
- 6.1.j.14. Valuation of partial interests, including but not limited to:
 - 6.1.j.14.A. Life estates;
 - 6.1.j.14.B. Undivided interest in commonly held property;
 - 6.1.j.14.C. Easements;
 - 6.1.j.14.D. Timeshares;
 - 6.1.j.14.E. Cooperatives;
 - 6.1.j.14.F. Leased fee estate; and
 - 6.1.j.14.G. Leasehold estate;
- 6.1.j.15. Appraisal standards and ethics; and
- 6.1.j.16. Narrative Report writing.

6.1.k. Effective January 1, 2008, the Board shall only credit appraisal courses completed by an applicant for state certified residential classification, and required by subdivision 6.1.b. of this section, if the applicant can show that his or her education involved coverage of all of the following topics and all minimum corresponding hours attendant with each topic thereof, with particular emphasis on the appraisal of one to four unit residential properties:

6.1.k.1. Thirty (30) hours of basic appraisal principles, of which course hours may be evidenced by the following educational subtopics:

6.1.k.1.A. Real Property Concepts and Characteristics, including, but not limited to:

6.1.k.1.A.1. Basic Real Property Concepts;

6.1.k.1.A.2. Real Property Characteristics; and

6.1.k.1.A.3. Legal Description;

6.1.k.1.B. Legal Consideration, including, but not limited to:

6.1.k.1.B.1. Forms of Ownership;

6.1.k.1.B.2. Public and Private Controls;

6.1.k.1.B.3. Real Estate Contracts; and

6.1.k.1.B.4. Leases;

6.1.k.1.C. Influences on Real Estate Values, including, but not limited to:

6.1.k.1.C.1. Governmental;

6.1.k.1.C.2. Economic;

6.1.k.1.C.3. Social; and

6.1.k.1.C.4. Environmental, Geographic and Physical;

6.1.k.1.D. Types of Value, including, but not limited to:

6.1.k.1.D.1. Market Value;

6.1.k.1.D.2. Other Value Types; and

6.1.k.1.E. Economic Principles, including, but not limited to:

6.1.k.1.E.1. Classical Economic Principles; and

6.1.k.1.E.2. Application and Illustrations of the Economic Principles;

6.1.k.1.F. Overview of Real Estate Markets and Analysis, including, but not limited to:

6.1.k.1.F.1. Market Fundamentals, Characteristics, and Definitions;

6.1.k.1.F.2. Supply Analysis;

6.1.k.1.F.3. Demand Analysis; and

6.1.k.1.F.4. Use of Market Analysis;

6.1.k.1.G. Ethics and How They Apply in Appraisal Theory and Practice

6.1.k.2. Thirty (30) hours of basic appraisal procedures, of which course hours may be evidenced by the following educational subtopics:

6.1.k.2.A. Overview of Approaches to Value;

6.1.k.2.B. Valuation Procedures, including, but not limited to:

6.1.k.2.B.1. Defining the Problem;

6.1.k.2.B.2. Collecting and Selecting Data;

6.1.k.2.B.3. Analyzing;

6.1.k.2.B.4. Reconciling and Final Value Opinion; and

6.1.k.2.B.5. Communicating the Appraisal;

6.1.k.2.C. Property Description, including, but not limited to:

6.1.k.2.C.1. Geographic Characteristics of the Land/Site;

6.1.k.2.C.2. Geologic Characteristics of the Land/Site;

6.1.k.2.C.3. Location and Neighborhood Characteristics;

6.1.k.2.C.4. Land/Site Considerations for Highest and Best Use; and

6.1.k.2.C.5. Improvements -- Architectural Styles and Types of Construction;

6.1.k.2.D. Residential Applications;

6.1.k.3. Successful completion of the fifteen (15) hour National Uniform Standards of Professional Appraisal Practice Course, or its equivalent;

6.1.k.4. Fifteen (15) hours of residential market analysis and highest and best use, of which course hours may be evidenced by the following educational subtopics:

6.1.k.4.A. Residential Markets and Analysis, including, but not limited to:

6.1.k.4.A.1. Market Fundamentals, Characteristics and Definitions;

6.1.k.4.A.2. Supply Analysis;

6.1.k.4.A.3. Demand Analysis; and

6.1.k.4.A.4. Use of Market Analysis;

6.1.k.4.B. Highest and Best Use, including, but not limited to:

6.1.k.4.B.1. Test Constraints;

6.1.k.4.B.2. Application of Highest and Best Use;

6.1.k.4.B.3. Special Considerations;

6.1.k.4.B.4. Market Analysis; and

6.1.k.4.B.5. Case Studies;

6.1.k.5. Fifteen (15) hours of residential appraiser site valuation and cost approach, of which course hours may be evidenced by the following educational subtopics:

6.1.k.5.A. Site Valuation, including, but not limited to:

6.1.k.5.A.1. Methods; and

6.1.k.5.A.2. Case Studies;

6.1.k.5.B. Cost Approach, including, but not limited to:

6.1.k.5.B.1. Concepts and Definitions;

6.1.k.5.B.2. Replacement/ Reproduction Cost New;

6.1.k.5.B.3. Accrued Depreciation;

6.1.k.5.B.4. Methods of Estimating Accrued Depreciation; and

6.1.k.5.B.5. Case Studies;

6.1.k.6. Thirty (30) hours of residential sales comparison and income approaches, of which course hours may be evidenced by the following educational subtopics:

6.1.k.6.A. Valuation Principles & Procedures -- Sales Comparison Approach;

6.1.k.6.B. Valuation Principles & Procedures -- Income Approach;

6.1.k.6.C. Finance and Cash Equivalency;

6.1.k.6.D. Financial Calculator Introduction;

6.1.k.6.E. Identification, Derivation and Measurement of Adjustments;

6.1.k.6.F. Gross Rent Multipliers;

6.1.k.6.G. Partial Interests;

6.1.k.6.H. Reconciliation; and

6.1.k.6.I. Case Studies and Applications;

6.1.k.7. Fifteen (15) hours of residential report writing and case studies, of which course hours may be evidenced by the following educational subtopics:

6.1.k.7.A. Writing and Reasoning Skills;

6.1.k.7.B. Common Writing Problems;

6.1.k.7.C. Form Reports;

6.1.k.7.D. Report Options and USPAP Compliance; and

6.1.k.7.E. Case Studies;

6.1.k.8. Fifteen (15) hours in statistics, modeling and finance, of which course hours may be evidenced by the following educational subtopics:

6.1.k.8.A. Statistics;

6.1.k.8.B. Valuation Models (AVM's and Mass Appraisal); and

6.1.k.8.C. Real Estate Finance;

6.1.k.9. Fifteen (15) hours in advanced residential applications and case studies, of which course hours may be evidenced by the following educational subtopics:

6.1.k.9.A. Complex Property, Ownership and Market Conditions;

6.1.k.9.B. Deriving and Supporting Adjustments;

6.1.k.9.C. Residential Market Analysis; and

6.1.k.9.D. Advanced Case Studies;

6.1.k.10. Twenty (20) hours in appraisal subject matter electives.

6.1.l. An applicant shall submit to the board a listing of courses, which he or she claims meet the education credit requirement, on a form approved by the board. An applicant shall submit proof of the completion of a course claimed for credit.

6.1.m. Effective January 1, 2008, an applicant for the Certified Residential real estate appraiser

certification shall have an associates degree, or higher, from an accredited college, junior college, community college or university. In lieu of an associates degree, or higher, from an accredited college, junior college, community college or university, an applicant for the Certified Residential real estate appraiser certification shall successfully pass and complete a minimum number of twenty one (21) semester hours, of which the following courses taken from an accredited college, junior college, community college or university are required:

- 6.1.m.1. English composition;
- 6.1.m.2. Principles of economics (micro or macro);
- 6.1.m.3. Finance;
- 6.1.m.4. Algebra, geometry, or higher mathematics;
- 6.1.m.5. Statistics;
- 6.1.m.6. Introduction to computers, such as word processing or spreadsheets; and
- 6.1.m.7. Business or real estate law.

6.1.n. Effective January 1, 2008, an applicant for the Certified General real estate appraiser certification shall have a bachelors degree, or higher, from an accredited college or university. In lieu of a bachelors degree, or higher, from an accredited college or university, an applicant for the Certified General real estate appraiser certification shall successfully pass and complete a minimum number of thirty (30) semester hours, of which the following courses taken from an accredited college, junior college, community college or university are required:

- 6.1.n.1. English composition;
- 6.1.n.2. Micro economics;
- 6.1.n.3. Macro economics;
- 6.1.n.4. Finance;
- 6.1.n.5. Algebra, geometry, or higher mathematics;
- 6.1.n.6. Statistics;
- 6.1.n.7. Introduction to computers, such as word processing or spreadsheets;
- 6.1.n.8. Business or real estate law; and
- 6.1.n.9. Two (2) elective courses in accounting, geography, ageconomics, business management, or real estate.

6.2. Experience.

- 6.2.a. An applicant for the state certified residential classification shall have two thousand five

hundred (2,500) hours of appraisal experience over a period of not less than 24 months. While the number of experience hours may be cumulative, a period of no less than 24 months wherein such experience is acquired must accrue before an applicant may be certified.

6.2.b. An applicant for the state certified general classification shall have a minimum of three thousand (3,000) hours of appraisal experience over a period of not less than 30 months. At least one-half (1,500) of the hours of the required experience shall be in non-residential assignments. While the number of experience hours may be cumulative, a period of no less than 30 months wherein such experience is acquired must accrue before an applicant may be certified.

6.2.c. As a part of the application for license or certification, an applicant shall execute an affidavit attesting to his or her experience in the field of real estate appraisal. In addition, an applicant shall provide, on forms provided by the board, a detailed list of the real estate appraisal reports or file memoranda for each year for which experience is claimed. Upon request, an applicant shall provide the board a sample of appraisal reports which the applicant has prepared. Experience obtained after January 1, 1991, shall comply with the Uniform Standards of Professional Appraisal Practice (USPAP).

6.2.d. A licensed or certified residential real estate appraiser may assist a certified general real estate appraiser in the appraisal of non-residential property valued over one hundred thousand dollars (\$100,000) and accumulate the experience hours required in subdivision 6.2.b. of this rule. He or she shall work under the direct supervision of a state certified general real estate appraiser and view the property and participate in the appraisal process in order to sign the report and receive credit for the experience hours.

6.3. Examination.

6.3.a. Before the board issues an initial certification, an applicant shall successfully complete a written national examination administered by the board or by a testing service acting on behalf of the board. The passing score shall be determined by the board based upon the recommendation of the testing service.

6.3.b. Before the board issues an initial certification, an applicant shall successfully complete a written state examination covering the sections of the West Virginia Code that regulate the practice of real estate appraising. The passing score shall be determined by the board.

§190-2-7. Procedure for Calculation of Experience by the Board.

7.1. As provided for in Sections 5 and 6 of this rule, an applicant for residential real estate appraiser licensing or certification shall provide evidence satisfactory to the board that the applicant possesses the required amount of appraisal experience. The board may award maximum experience hours for residential real estate appraisals as follows:

7.1.a. A maximum of twelve hours of credit for a complex residential appraisal; and

7.1.b. A maximum of six hours of credit for a non-complex residential appraisal.

7.2. As provided for in subdivision 6.2.b. of this rule, an applicant for general real estate appraiser certification shall provide evidence satisfactory to the board that the applicant possesses the required amount of appraisal experience. At least one-half of the hours of the required experience shall be in non-residential appraisal assignments. The board may award maximum experience credits for non-residential real estate appraisals as follows:

7.2.a. A maximum of thirty-two (32) hours of credit for a complex non-residential appraisal; and

7.2.b. A maximum of eight (8) hours of credit for a non-complex non-residential appraisal.

7.3. If an applicant for licensure or certification feels that he or she has performed any real estate appraisals under unique circumstances, or that he or she has expended a greater amount of hours in the performance of an appraisal than the provisions of this section allow, the applicant may provide the board with a log detailing the amount of actual hours spent on the appraisals, with sufficient details of the hours of experience for which he or she is requesting experience credit.

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

7.4.a. There is an active market of essentially identical properties;

7.4.b. Adequate data is available to the appraiser;

7.4.c. 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

7.4.d. For residential property, the contract price falls within the market norm (median sales price) of homes in the neighborhood.

7.5. For the purpose of this section only, a complex appraisal:

7.5.a. For non-residential property is one that relies to any significant degree on all three approaches to value (cost, sales comparison and income) or does not have the characteristics of a non-complex appraisal; and

7.5.b. For residential property is one that relies to any significant degree on at least two of the three approaches to value, with one approach being the sales comparison approach, or does not have the characteristics of a non-complex appraisal.

7.6. All appraisals submitted or claimed for experience credit are subject to verification by the board. An applicant may not claim experience hours for appraisals which are not supported by written reports or file memoranda. On request, an applicant shall furnish the board copies of appraisal reports and file memoranda supporting the experience hours sought by the applicant. The board shall treat all appraisal reports and file memoranda submitted to the board as confidential to the extent permitted by law.

§190-2-8. Qualifications for Licensure or Certification by Reciprocity.

8.1. An applicant 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 he or she has met educational, experience and examination requirements that are substantially equivalent to those required in West Virginia for the appropriate level of license or certification: Provided, that the other jurisdiction extends the same reciprocal consideration to all West Virginia licensed or certified real estate appraisers in good standing in this state. All reciprocal applicants shall pass the West Virginia appraiser law section of the licensing examination prior to license or certification and pay the appropriate fees provided for in Section 10 of this Rule.

8.2. Each applicant for a license or certification by reciprocity shall:

8.1.a. Be at least 18 years of age;

8.2.b. 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 rules of the board;

8.2.c. Be in good standing as a real estate appraiser in every jurisdiction where he or she is licensed or certified. The applicant's license or certification may not be suspended, revoked or surrendered in connection with a disciplinary action. The applicant may not have been or currently be the subject of disciplinary action in any jurisdiction;

8.2.d. Have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate appraiser in a manner that safeguards the interest of the public; and,

8.2.e. Not have been convicted or pled guilty, regardless of adjudication, in any jurisdiction, of a misdemeanor involving moral turpitude or of any felony. Any plea of nolo contendere is considered a conviction for purposes of this subdivision. The record of a conviction authenticated in a form that is admissible in evidence under the laws of the jurisdiction where convicted is admissible as prima facie evidence of the conviction.

8.2.f. Submit to a criminal background investigation for the purpose of determining whether an applicant has been charged with, indicted for, or convicted of a crime that may have bearing upon the applicant's fitness to hold a license. The applicant shall complete and submit to the board, on a form provided by the board, a form that relates to the release of information and waiver of confidentiality of records. The applicant will also submit a full set of fingerprints to facilitate a criminal background check and the board will request the state police to submit the fingerprints and identifying information to the Federal Bureau of Investigation for a national criminal history record check. The results of the fingerprint check will be returned to the board.

8.2.f.1. The applicant will reimburse the board for all fees or charges that are incurred by the board for the background investigation.

8.2.g. Provide to the board, on forms provided by the board, a detailed list of the real estate appraisal reports performed by the applicant during the year preceding the date of the application. The board or upgrades committee will choose an appraisal from the list, of which the applicant shall submit to the board a copy of such appraisal and corresponding work file. The upgrades committee shall review the appraisal to determine compliance with the Uniform Standards of Professional Appraisal Practice and W. Va. Code §30-38-1, et seq. Based upon the appraiser's compliance with the Uniform Standards of Professional Appraisal Practice and W. Va. Code §30-38-1, et seq., as reflected from a review of the appraisal submitted by the appraiser, or failure of compliance thereof, the upgrades committee shall recommend and submit to the Board for final determination, whether to approve or disapprove the application of the applicant.

8.2.h. On forms provided by the board, sign a pledge to comply with the standards of professional appraisal practice and the ethical rules that are established by the board. Each applicant shall also certify that he or she understands the types of misconduct as described in W. Va. Code §30-38-1 et seq. and that disciplinary proceedings may be initiated against him or her for that misconduct.

8.3. The Board may consider applicants for license or certification who do not meet the requirements set forth in subdivision 8.2.c. or subdivision 8.2.e. of this section.

§190-2-9. Qualifications for Temporary Permit as a Licensed Residential Real Estate Appraiser, Certified Residential or Certified General Real Estate Appraiser.

9.1. An individual who is currently licensed or certified as a real estate appraiser in another jurisdiction may apply for a temporary permit as provided for in Title XI of the United States Code entitled "Financial Institutions Reform, Recovery and Enforcement Act of 1989". Each applicant shall sign an irrevocable consent to service form consenting to the service of process by means of delivery to the Secretary of State if, in the event of an action which results from his or her activities as a real estate appraiser in the State, a Plaintiff, in the exercise of due diligence, cannot effect personal service upon the temporary permit holder.

9.2. The board shall recognize the appraiser's certification or license issued by another state as equivalent to a West Virginia license or certification provided that:

9.2.a. The applicant's business is of a temporary nature, and is limited to one specific assignment;

9.2.b. The board considers the education, experience and general examination requirements completed in the jurisdiction of original licensure or certification to be substantially equivalent to those required for the appropriate level of licensure or certification in West Virginia;

9.2.c. The applicant signs, as part of the application, an affidavit certifying that the appraiser shall read and comply with the law and the rules of the West Virginia Real Estate Appraiser Board;

9.2.d. The applicant is in good standing as a licensed or certified real estate appraiser in every jurisdiction where he or she is licensed or certified. The applicant's license or certification may not have been suspended, revoked, or surrendered in connection with a disciplinary action. The applicant may not have been or currently be the subject of disciplinary action in any jurisdiction;

9.2.e. The applicant has a good reputation for honesty, truthfulness, and fair dealing, and is competent to transact business of a real estate appraiser in a manner that safeguards the interest of the public;

9.2.f. The applicant has not been 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 is considered a conviction for purposes of this subdivision. The record of a conviction authenticated in a form that is admissible in evidence under the laws of the jurisdiction where convicted is admissible as prima facie evidence of the conviction; and

9.2.g. The applicant is at least 18 years of age.

9.3. The board may consider and approve for a temporary permit an applicant who does not meet the requirements set forth in subdivisions 9.2.d. and 9.2.f. of this section.

9.4. The temporary permit issued under the provisions of this section is expressly limited to the authority of the permit holder to perform the specific contract of appraising which is the basis for the temporary permit.

9.5. Each temporary permit expires upon the completion of the appraisal work which is the basis of the permit or after a period of six (6) months, whichever occurs first.

§190-2-10. Licensure, Certification and Other Fees.

10.1. All licensure and certification fees for licenses and certifications are non-refundable.

10.2. The fees charged by the board are as follows:

- 10.2.a. A license application fee of one hundred twenty-five dollars (\$125);
- 10.2.b. An annual state licensed residential license fee of two hundred sixty-five dollars (\$265);
- 10.2.c. A delinquent license fee of an additional one hundred dollars (\$100);
- 10.2.d. A temporary permit fee of one hundred fifty dollars (\$150) for a non-residential appraisal and one hundred fifty dollars (\$150) for a residential appraisal;
- 10.2.e. A certification application fee of one hundred twenty-five dollars (\$125);
- 10.2.f. An annual state certified general license fee of four hundred sixty-five dollars (\$465);
- 10.2.g. An annual state certified residential license fee of three hundred fifteen dollars (\$315);
- 10.2.h. A delinquent certification fee of an additional one hundred dollars (\$100);
- 10.2.i. An annual inactive status fee of one hundred dollars (\$100);
- 10.2.j. An apprentice permit fee of one hundred ninety dollars (\$190);
- 10.2.k. A Certificate of Good Standing: twenty dollars (\$20);
- 10.2.l. Copy fees: fifty cents (\$.50) per page;
- 10.2.m. An Upgrade application fee: one hundred twenty-five dollars (\$125);
- 10.2.n. An Exemption from Supervisory Accompaniment Application fee: one hundred twenty-five dollars (\$125);
- 10.2.o. One roster: twenty-five dollars (\$25); Roster subscription fee: forty dollars (\$40) per year; previous issues of roster: ten dollars (\$10);
- 10.2.p. A copy of current Uniform Standards of Professional Appraisal Practice (USPAP): twenty dollars (\$20);
- 10.2.q. A duplicate wall certificate: twenty-five dollars (\$25);
- 10.2.r. A duplicate pocket card: twenty-five dollars (\$25);
- 10.2.s. A continuing education and qualifying education course approval fee: fifty dollars (\$50), per course, per educational course provider.

10.3. The board shall collect from licensed and certified real estate appraisers an annual registry fee which is established by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council and shall submit the registry fees to the Federal Financial Institutions Examination Council on an annual basis.

10.4. The board shall deposit all fees and revenues collected pursuant to this rule in a special fund that the board shall use solely for the purposes of paying the expenses incurred in connection with the administration of W. Va. Code §30-38-1 et seq.

§190-2-11. Qualifications for Apprentices, Apprentice Supervisors, Apprentice Permits.

11.1. This section establishes a real estate appraiser apprentice permit program for persons who desire to acquire the appraisal experience required by subdivisions 5.2.a., 6.2.a. and 6.2.b. of this rule in order to be licensed or certified.

11.2. Participation in the apprentice program is a prerequisite to licensure or certification except in cases of reciprocity or issuance of a temporary permit as required by §30-38-5.

11.3. Application for apprentice permit; requirements and qualifications. An applicant for an apprentice permit shall submit: a completed application form; the permit fee; and, the name and address of his or her supervising appraiser. An applicant shall:

11.3.a. Be at least eighteen (18) years of age;

11.3.b. Have a good reputation for honesty and truthfulness as required by subdivisions 4.1.a. and 4.1.d. of this rule;

11.3.c. Have a high school diploma or its equivalent

11.3.d. Have successfully completed the classroom hours required by subdivision 5.1.a. of this rule in subjects related to real estate appraisal in accordance with subsection 5.1. of this rule; and

11.3.e. Cause his or her supervising appraiser to submit a copy of an appraisal completed by the supervisor to the upgrades committee of the board for review. Such appraisal completed by the supervisor and submitted to the Board shall have been performed within three (3) months preceding the submission of the apprentice application. The upgrades committee shall review the appraisal of the supervisor to determine compliance with the Uniform Standards of Professional Appraisal Practice and W. Va. Code §30-38-1, et seq. Based upon the supervisor's compliance with the Uniform Standards of Professional Practice and W. Va. Code §30-38-1, et seq., as reflected from a review of the appraisal submitted by the supervisor, or failure of compliance thereof, the upgrades committee shall recommend and submit to the Board for final determination, whether to approve or disapprove the supervisor from acting in the capacity of supervisor to the apprentice. In the event the Board disapproves a supervisor from acting in the capacity of supervisor to an apprentice, the application of the applicant for apprentice shall be denied.

11.3.f. Submit to a criminal background investigation for the purpose of determining whether an applicant has been charged with, indicted for, or convicted of a crime that may have bearing upon the applicant's fitness to hold a license. The applicant shall complete and submit to the board, on a form provided by the board, a form that relates to the release of information and waiver of confidentiality of records. The applicant will also submit a full set of fingerprints to facilitate a criminal background check and the board will request the state police to submit the fingerprints and identifying information to the Federal Bureau of Investigation for a national criminal history record check. The results of the fingerprint check will be returned to the board.

11.3.f.1. The applicant will reimburse the board for all fees or charges that are incurred by the board for the background investigation.

11.4. The apprentice shall attend, when offered by the board, an apprentice orientation program within sixty (60) days immediately following the issuance of the apprentice permit.

11.5. Annual Apprentice Permit Renewal.

An apprentice may renew his or her annual permit upon submission to the board of a renewal application, the annual permit fee, and proof of fourteen (14) hours continuing education as defined in the Rule of the board entitled "Renewal of Licensure for Certification", 190CSR3.

11.6. Responsibilities of Apprentice.

11.6.a. The apprentice shall work under the direct supervision of a ~~state licensed or state certified~~ real estate appraiser.

11.6.b. The apprentice shall maintain an experience log on a form provided by the Board. Experience hours shall be calculated in accordance with Section 7 of this rule. Separate experience logs shall be maintained for each supervising appraiser.

11.6.c. An apprentice shall view the property and participate in the appraisal process in order to sign the report and to receive credit for the hours spent. The report shall be signed by the apprentice as follows:

Assisted by: _____

Apprentice Number: _____

11.6.d. The apprentice shall ensure that the experience log is available at all times for inspection by the board;

11.6.e. When performing appraisal assignments, the apprentice shall carry on his or her person, the permit issued by the board;

11.7. Qualifications and Responsibilities of Supervisor.

A supervising appraiser shall be a state licensed or state certified real estate appraiser, shall have held an active and unencumbered ~~state licensed or state certified~~ real estate appraiser license for at least two (2) years immediately preceding the submission of an apprentice permit application to the board on behalf of any person, and has the following duties and responsibilities:

11.7.a. The supervisor is at all times responsible for and shall provide direct supervision of the work performed by the apprentice in accordance with the Uniform Standards of Professional Appraisal Practice, and, when offered by the board, attend the apprentice orientation program within sixty (60) days immediately following the issuance of the apprentice permit and supervisor approval, required by subsection 11.4. of this rule;

11.7.b. The supervisor shall, at least once a month, sign the experience log required to be kept by the apprentice and shall indicate his or her license or certification number;

11.7.c. The supervisor shall make available to the apprentice, a copy of any appraisal report that the apprentice signed that is requested for review by the board; and

11.7.d. After the apprentice successfully completes the licensing examinations required by subsection 5.3 of this rule and has obtained five hundred (500) hours of experience, the supervisor and the apprentice may jointly apply to the board for an exemption that would allow the supervisor to sign the appraisal report without viewing the property, provided the apprentice is competent to perform the inspection. In any application for exemption, the supervisor and the apprentice shall obtain from the board and complete an application for exemption from supervisory accompaniment, shall pay the appropriate fee as set forth in subsection 10.2 of this rule, and shall attach an experience log that reflects the apprentice has completed at least five hundred (500) hours of experience. The experience log shall be in chronological order, complete and signed by the supervisor.

11.8. An apprentice may take the licensing examination required by subsection 5.3. of this rule at any time during his or her apprenticeship.

11.9. This section is not intended to prohibit a person who does not have an apprentice permit from assisting or helping a licensed or certified appraiser as long as that person does not sign the report. However, the licensed or certified appraiser who uses such an assistant or helper shall conform with the duties and responsibilities as required in subdivision 11.5.a. of this section.

§190-2-12. Inactive Status.

12.1. Any licensed or certified real estate appraiser may place his or her license or certification on inactive status by completing a signed and sworn affidavit approved by the board and submitting the annual inactive status fee.

12.2. A licensed or certified real estate appraiser on inactive status may not engage in the practice of real estate appraisal, but may still consider himself or herself as an appraiser.

12.3. A licensed or certified real estate appraiser may remain on inactive status for an unlimited number of years as long as he or she submits the annual fee for inactive status to the board.

12.4. To reactivate a license or certification from inactive status, a licensed or certified real estate appraiser shall pay the fee established by the board at that time for an active license or certificate in his or her classification and verify to the board that he or she completed the required amount of hours of continuing education as defined in the board's rule "Renewal of License or Certification" 190CSR3. Prior to reactivation of license, the licensee shall provide all proper documentation to the Board that the licensee completed all applicable continuing educational hours for every licensure year the licensee's license was on inactive status.

§190-2-13. Licenses and Certifications.

13.1. The board shall issue to each licensed or certified real estate appraiser a document stating that the license or certification has been issued pursuant to W. Va. Code §30-38-7(j) and specifying the expiration date. The board shall issue a pocket card with the name and license or certification number of the respective licensee on a size and form provided by the board. A licensee governed by this rule shall place his or her respective title and license or certification number on any and all statements of qualifications, contracts or other instruments, including advertising media. The pocket card remains the property of the board and the licensee shall surrender it at any time upon request by the board.

13.2. Initial licenses and certifications expire on September 30 following the date of issue. Subsequent licenses and certifications are renewed for the period of October 1 to September 30 of the following year.

§190-2-14. Standards of Professional Appraisal Practice.

14.1. Each licensed or certified real estate appraiser shall comply with generally accepted standards of professional appraisal practice and generally accepted ethical rules to be observed by a real estate appraiser. The national Uniform Standards of Professional Appraisal Practice, as promulgated by the Appraisal Foundation, and adopted and incorporated by reference, shall constitute the minimum requirements to be observed by a real estate appraiser. The minimum standard of practice governing real estate appraisal activities shall be the edition of the Uniform Standards of Professional Appraisal Practice in effect on the date of the appraisal report. A copy of the Uniform Standards of Professional Appraisal Practice is maintained with the board and the office of the secretary of state for use by all appraisers in the preparation of appraisal reports. A copy of the Uniform Standards of Professional Appraisal Practice may be obtained from the Appraisal Foundation.