

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

Form #2

Do Not Mark In This Box

2013 JUN 21 PM 5:03

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Real Estate Appraiser Licensing & Certification Board TITLE NUMBER: 190

RULE TYPE: Legislative CITE AUTHORITY: W.Va. Code §30-38-7;30-38-9;30-38-11,

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 3

TITLE OF RULE BEING AMENDED: Renewal of Licensure or Certification

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 22, 2013 AT 9 am ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

WV Appraiser Board

2110 Kanawha Boulevard, East, Suite 101

Charleston, WV 25311

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Sandra R. Roney
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

BRIEF SUMMARY OF THE RULE
Title 190 Series 3 - Renewal of Licensure or Certification

Title 190 Series 3 in general establishes the procedures and qualifications for the renewal of a Licensed Residential Real Estate Appraiser license, a Certified Residential Real Estate Appraiser certification, a Certified General Real Estate Appraiser certification and an apprentice permit. All proposed rule changes would have an effective date of January 1, 2015.

§§ 190-3-2. Definitions. The proposed modification to this legislative rule establishes the definition for classroom hour of distance education and adds language to clarify the definition of classroom hour to differentiate between the two types of education.

§§ 190-3-3. Renewal Term. The proposed modification to this rule clarifies the date when renewals are due and when the licensee will be subject to a delinquent license fee.

§§ 190-3-4. Qualifications for Renewal. The proposed modification for this rule will allow licensees to receive credit for additional topics in continuing education. Approved topics are set at a national level by the Appraiser Qualifications Board of the Appraisal Foundation and are being revised with an effective date of January 1, 2015. Several existing course names are receiving minor revisions.

A second proposed modification to this rule is the requirement that licensees be required to successfully complete a three-hour West Virginia law course every four years. During the board's investigations of complaints and other communications with licensees, it became apparent licensees are unfamiliar with the laws and rules that regulate their profession. The board believes it would be beneficial for licensees to be more familiar with their professional law and rules. Pennsylvania currently requires such a course every two years. Kentucky is in the process of developing a course. The course will be developed as an on-line course.

A third proposed modification to this rule is in response to the legislature's request to comply with House Bill 4037, which passed March 1, 2012. A licensee on active duty with the Armed Forces of the United States will be allowed to be placed on active status after returning from active duty outside West Virginia for a period of up to ninety (90) days pending the completion of all continuing education requirements.

HB4037 requests a longer time waiver and also a spousal waiver; however the Appraisal Subcommittee (ASC), the agency that provides federal oversight to state appraisal regulatory boards, cited in a November 16, 2012 letter to our board, that our agency must follow national credentialing requirements, which includes up to a 90 day waiver. The ASC does not provide for a spousal waiver, therefore we cannot provide this accommodation.

§§ 190-5. Policies and Procedures of the Board for Approving Continuing Education Courses. The proposed modification for this rule establishes the additional requirements that to be an instructor of the Uniform Standards of Professional Appraisal Practice (USPAP), one must be a state certified appraiser in good standing. This is a requirement of the Appraiser Qualifications Board of the Appraisal Foundation.

FACTS AND CIRCUMSTANCES OF THE RULE
Title 190 Series 3 – Renewal of Licensure or Certification

Statutory References for this rule includes the following:

- AQB Real Property Appraiser Qualification Criteria
- W.Va. Code §§30-38-7; 30-38-9; 30-38-11

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 minimum education experience requirements for appraisers, of which the Board must adhere to. In this regard, the states must adopt and/or implement all relevant Appraiser Qualifications Board's Appraiser Qualification Criteria. Title XI § 1116(a), 12 U.S.C. § 3345; Title XI § 1118(a), 12 U.S.C. § 3347; and AQB Real Property Appraiser Qualification Criteria.

Sections §§30-38-7; 30-38-9; and 30-38-11 of the W.Va. Code cite legislative authority given to the Board for:

- General duties, such as defining by rule the type of educational experience that will meet the statutory requirements of §§ 30-38;
- Establish examination specifications;
- Define by rule continuing education requirements for the renewal of certifications and licenses;
- Propose by rules for legislative approval in accordance with §§29A-3 of the W.Va. Code;
- Licensure and certification requirements, including requirements for applications and examinations;
- Experience, education and continuing education requirements and approval of courses; and
- Applications for renewals.

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

**SERIES 3
RENEWAL OF LICENSURE OR CERTIFICATION**

APR 26 2010 5:03 PM
STATE

§190-3-1. General.

1.1. Scope. -- This legislative rule establishes the procedures and qualifications for the renewal of a Licensed Residential Real Estate Appraiser license, a Certified Residential Real Estate Appraiser certification, a Certified General Real Estate Appraiser certification and an Apprentice Permit by the West Virginia Real Estate Appraiser Licensing and Certification Board.

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

1.3. Filing Date. -- April 26, 2010.

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

§190-3-2. Definitions.

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

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

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

2.4. "Classroom hour of distance education" means the allotted course time approved by the International Distance Education Certification Center (IDECC) delivery certification, the Appraiser Qualifications Board (AQB) and the board.

~~2.4.~~ 2.5. "Course" means an educational course, seminar, program or offering approved by the board.

~~2.5.~~ 2.6. "Course provider" means any of the following: accredited colleges or universities; community or junior colleges; real estate appraisal or real estate related organizations; local, state or federal agencies, boards or commissions; proprietary schools; adult distributive or marketing education programs; and any other entity which has received prior approval by the board.

~~2.6.~~ 2.7. "Licensee" means a person who holds a current valid license as a state licensed residential real estate appraiser, a certification as a state certified residential real estate appraiser or a certification as a state certified general real estate appraiser issued under the provisions of the W. Va. Code §30-38 et seq., or an apprentice permit issued under the provisions of the board's rule, "Requirements for Licensure and Certification", 190CSR2, subdivision 11.2.

~~2.7.~~ ~~2.8.~~ "Local, state or federal government agency, board or commission" means an entity established by any local, federal or state government to protect or promote the health, safety and welfare of its domain.

~~2.8.~~ ~~2.9.~~ "Proprietary school" means a privately owned school, under the authority of a local, state or federal government agency, board or commission, offering appraisal related courses.

~~2.9.~~ ~~2.10.~~ "Uniform Standards of Professional Appraisal Practice" means the Uniform Standards of Professional Appraisal Practice (USPAP), published by The Appraisal Foundation.

§190-3-3. Renewal Term.

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

3.2. License renewals are due 30 days prior to September 30. Renewals received after this date will subject to a delinquent license fee.

§190-3-4. Qualifications for Renewal.

Continuing education requirements:

4.1. As a condition of renewal, all licensees shall satisfactorily complete continuing education courses offered by board approved course providers of not less than fourteen (14) classroom hours during each renewal term. With the exception of the 7- hour USPAP course, a licensee must wait a period of three (3) years before receiving credit for completion of the same continuing education course offering.

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

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

4.1.b.1. Ad valorem taxation;

4.1.b.2. Arbitration, dispute resolution;

4.1.b.3. Business courses related to the practice of real estate appraisal or consulting;

4.1.b.4. ~~Construction~~ Development in cost estimating;

4.1.b.5. Ethics and standards of professional practice, USPAP;

4.1.b.6. Land use planning, zoning ~~and taxation~~;

4.1.b.7. Management, leasing, ~~brokerage and~~ timesharing;

4.1.b.8. Property development, partial interest;

4.1.b.9. Real estate ~~appraisal; (valuations/evaluations)~~ law, easements, and legal interests;

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

4.1.b.11. Real estate litigation, damages, condemnation;

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

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

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

~~4.1.b.15. Real property exchange.~~

4.1.b.15. Developing opinions of real property value in appraisals that also include personal property and/or business value;

4.1.b.16. Seller concessions and impact on value; and/or

4.1.b.17. Energy efficient items and "green building" appraisals.

4.1.c. A licensee is not required to complete the required amount of classroom hours of continuing education as a condition for initial license or certification renewal if the time between the effective date on the initial license or certification as a licensee and the beginning of the first renewal term is less than one hundred and eighty (180) days.

4.2. As a condition of renewal, beginning in 2015, licensees shall successfully complete a 3-hour West Virginia law course, with exam, every four (4) years. The passing score shall be determined by the board. This shall be in addition to the required 14 hours of continuing education for the renewal cycle.

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

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

4.5. Licensees on active duty with the Armed Forces of the United States may be placed on active status after returning from active duty outside the State of West Virginia for a period of up to ninety (90) days pending completion of all continuing education requirements.

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

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

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

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

5.4. The board shall determine whether the subject matter covered by the course is an approved topic listed in the board's rule, "Requirements for Licensure and Certification", 190CSR2, subdivisions 5.1.g., 6.1.h., or 6.1.i., subdivision 4.1.b. of this rule, or other appropriate topic relating to the area of real estate appraisal activity.

5.5. The board shall approve or disapprove courses and instructors after a determination that the course provider does or does not meet the standards of the board. The board shall maintain and provide licensees access to a list of approved courses.

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

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

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

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

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

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

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

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

5.6. The board shall determine whether or not a course meets the equivalency of an approved course based upon the topic of the course as it relates to the area of real estate appraisal and the amount of time which the course uses for instruction. The course provider has the responsibility of providing to the board the information on the subject matter, the instructor and length of the program. The board shall make a case by case determination of the equivalency value of the program.

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

§190-3-6. Procedures for Renewal.

6.1. Prior to the expiration date of the license or certification, the board shall mail a renewal application form to the address on file of each licensee. A licensee who does not receive the renewal

application form is not relieved of the obligation to renew his or her license or certification if he or she desires to retain his or her license or certification.

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

7.1. The board may deny the renewal of a license or certification on any grounds enumerated in this rule or in the board's rule, "Requirements for Licensure and Certification", 190CSR2. The board may deny renewal for the same reasons as it may refuse an initial license or certification. The board may also deny renewal consistent with the provisions of Section 4 of this rule.

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

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Renewal of Licensure or Certification

Type of Rule: Legislative Interpretive Procedural

Agency: WV Real Estate Appraiser Licensing & Certification Board

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

Phone Number: 304-558-3919 Email: kemss@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.

§ 190-3-4.2 is the section of the series that will have a fiscal impact on the board and state. The proposed rule change would require licensees to take a West Virginia Law Course every four years. If the number of licensees remains relatively stable (625), it would increase revenue every 4 years by \$28,125 (will budget as an average of \$7,031.25 per fiscal year). However, the number of appraisers is declining nationwide and that is expected to also occur in West Virginia. It is hopeful this course will result in savings in legal fees as a result of appraisers being more familiar with the laws and rules governing their profession.

The initial cost to our agency would \$750 for IDECC (International Distance Education Certification Center) approval.

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	-750.00	0.00	750.00
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			7,031.00

Renewal of Licensure or Certification

Rule Title: _____

Rule Title: _____

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

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

The estimated total revenue will be based upon how the proposed requirement is implemented. For example, if phased in versus requirement that all licensees complete the course in the first year.

Possible scenarios include:

- A. Phase in over 4 years, with 25% of licensees taking course each year: \$7,031 per fiscal year
- B. Licensees take course in conjunction with their 2 year USPAP cycle: \$14,062 every other fiscal year
- C. Require all licensees to take course first year and then every 4 years, \$28,125 every 4 fiscal years.

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.

Date: June 20, 2013

Signature of Agency Head or Authorized Representative

Sandy Renna



STATE OF WEST VIRGINIA

REAL ESTATE APPRAISER LICENSING AND CERTIFICATION BOARD

Sandra S. Kerns, Executive Director
2110 Kanawha Blvd., East Suite 101
Charleston, West Virginia 25311
304-558-3919 Fax 304-558-3983

Karen Hudson
Executive Assistant

June 20, 2013

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, Administrative Law Division

2013 JUN 21 PM 5:03
STATE

RE: Legislative Rule Title 190 Series 3

Dear Ms. Cooper:

The West Virginia Real Estate Appraiser Licensing and Certification Board is proposing rule changes to Legislative Rule Title 190 Series 3. Enclosed are the required documents to file the proposed rule changes with the Secretary of State for a public comment period.

Please accept this letter and the enclosed documents as Approval of Filing for the public comment period of proposed rule changes.

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 Jullan, Fairmont **Virginia Shaw**, New Haven **David Shields**, Bluefield
Glenn Summers, Clendenin **Linda York**, Morgantown