

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

Form #7

Do Not Mark In This Box
Filing Date

2013 JUN 27 PM 3:00

SECRETARY OF STATE

Effective Date

NOTICE OF AN EMERGENCY RULE

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

CITE AUTHORITY: W.Va. Code §§30-38-5, 30-38-6, 30-38-7, 30-38-9

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 2

TITLE OF RULE BEING AMENDED: Requirements for Licensure and Certification

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

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

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

(See attached.)

Use additional sheets if necessary

Jandy Kern
Authorized Signature



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 25, 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

RE: Emergency Rule Title 190 Series 2

Dear Ms. Cooper:

The West Virginia Real Estate Appraiser Licensing and Certification Board is proposing an emergency rule change to Legislative Rule Title 190 Series 2. Enclosed are the required documents to file the proposed rule change with the Secretary of State.

Thank you for your assistance in this matter.

Sincerely,

Sandy Kerns
Executive Director

Enclosures: Notice of Emergency Filing
Facts and Circumstances Constituting the Emergency Rule
Emergency Rule Questionnaire
Fiscal Note for Proposed Rules
Title 190 Series 2 with Strikethroughs and Underlines
Statutory Authority: W.Va. Code 30-38
H.B. 2730 and Bill History amending W.Va. Code 30-38
Title XI of FIRREA
Title XI of FIRREA as amended by Dodd-Frank
Appraisal Subcommittee Policy Statement No. 5

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

**Facts and Circumstances Constituting the Emergency Rule
Related to the Filing of Emergency Rule for Title 9 Series 2
"Requirements for Licensure and Certification"**

Statutory Authority:

- W.Va. Code §§ 30—38-5, 30-38-6, 30-38-7, 30-38-9
- FIRREA Title XI § 1122 (b), 12 U.S.C. 3351, as amended by the Dodd-Frank Act;
- FIRREA Title XI § 1122 (b), 12 U.S.C. 3351
- Appraisal Subcommittee (ASC) Policy Statement 5

The West Virginia Real Estate Appraiser and Licensing and Certification Board is monitored by the Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC).

The ASC was created on August 9, 1989, pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI). Title XI's purpose is to "provide that Federal financial and public policy interests in real estate 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."

In general, the ASC oversees the real estate appraisal process as it relates to federally related transactions, as defined in Section 1121(4) of Title XI(1). The ASC is an FFIEC subcommittee. The FFIEC was established pursuant to Title X of the Financial Institutions Regulatory and Interest Rate Control Act of 1978. The FFIEC is an interagency body empowered to set uniform principles for the examination of federally regulated financial institutions.

Section 1103 of Title XI sets out the ASC's general responsibilities:

- Monitor the requirements for the certification and licensing of appraisers established by the States, Territories, and the District of Columbia (States). The ASC reviews each State's compliance with the requirements of Title XI and is authorized to take action against non-complying States;
- Monitor the requirements established by the Federal financial institutions regulatory agencies regarding appraisal standards for federally related transactions;
- Maintain a national registry of State licensed and certified appraisers (Registry) who may perform appraisals in connection with federally related transactions; and
- Monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation (Foundation).

The ASC reviews each State's compliance with the requirements of Title XI and is authorized by Title XI to take action against non-complying states, such as non-recognition of the appraisers licensed or certified by a non-complying state.

On July 21, 2010, the President signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) which includes amendments to Title XI. These statutory amendments expanded the ASC's general responsibilities within each of the aforementioned areas. One such area was that of "reciprocity."

"Reciprocity" enables a certified or licensed appraiser in one State to obtain a permanent certificate or license from another State, without having to meet all of the other State's certification or licensing standards. The other State essentially honors the appraiser's satisfaction of his or her home State standards. Title XI requires the ASC to encourage reciprocity among the States.

State licensing and certification boards received their first bulletin regarding implementation of the new reciprocity requirement from the ASC on March 18, 2011. The ASC issued a memorandum restating the

policy and providing examples to states on January 6, 2012. This was done in an attempt to "assist states in implementing reciprocity in a manner that complies with Title XI."

Changes in the Title 190, Series 2 Rules required a statute change. This process began in the summer of 2012. Legislation was introduced as H.B. 2730 on February 26, 2013. The Committee Substitute for H.B. 2730 completed legislative action and was signed by the Governor on May 2, 2013. The statute change amending § 30-38-5 of the Code of West Virginia becomes effective July 12, 2013. However, the Board is required to honor the new federal policy on reciprocity July 1, 2013 and is therefore, requesting an emergency rule change. The Board filed for a regular rule change on June 21, 2013.

Specifically, this emergency rule amends § 190-2-8, relating to qualifications for licensure or certification by reciprocity. By amending § 30-38-5 of the Code of West Virginia, the Board came into partial compliance with federal requirements. Amending § 190-2-8 will bring the Board into compliance with its own amended statute and federal requirements.



EMERGENCY RULE QUESTIONNAIRE

DATE: June 26, 2013

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: *(Agency Name, Address & Phone No.)* WV Real Estate Appraiser Licensing and Certification Board
2110 Kanawha Boulevard, East, Suite 101; Charleston, WV 25311; 304-558-3919

EMERGENCY RULE TITLE: Requirements for Licensure and Certification

1. Date of filing June 26, 2013

2. Statutory authority for promulgating emergency rule:
W.Va. Code §§30-38-5, 30-38-6, 30-38-7, 30-38-9 (Amended effective July 12, 2013)

3. Date of filing of proposed legislative rule: June 26, 2013

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

5. Has the same or similar emergency rule previously been filed and expired?
No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.

Please see attachment - facts and circumstances.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

FIRREA Title XI § 1122 (b), 12 U.S.C. 3351, as amended by the Dodd-Frank Act;
~~FIRREA, Title XI § 1122 (b), 12 U.S.C. 3351; ASC Policy Statement 6. All states and territories to comply by July 1, 2013.~~

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

Please refer to question/answer No. 6.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Requirements for Appraiser Licensure and Certification

Rule Title: _____

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Real Estate Appraiser Licensing and Certification Board

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

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

§190-2-8 states the qualifications for licensure or certification by reciprocity. Recent changes in federal statutes encourage reciprocity, or a more "open door policy" among states. WV's new statute and rules, in conjunction with the likely increase in temporary permit fees, will make it possible that non-resident appraisers may seek a reciprocal license as opposed to getting the two allowed temporary permits. However, the cost of one annual certified general license and two temporary permits are close enough to be considered revenue neutral. The year that an applicant applied for his/her license would generate income at \$125 per application. Therefore, if 15 individuals applied, it would generate \$1,875.

There are no associated costs to the board and state.

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	1,875.00

Requirements for Appraiser 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 above estimated yearly revenue is based upon 15 new reciprocal applicants the first years. It is estimated this would decrease over the following years as those who wanted/needed them would have gotten them initially. It is estimated that we would receive an average of 8-10 new reciprocal applicants per year after the first year.

We have also applied for a fee increase in the application fee from \$125 to \$150. Given 15 applications per year, this would be an increase of \$375 per year. Given 10 applications per year, this would be an increase of \$250 per year.

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 16, 2013

Signature of Agency Head or Authorized Representative

Jamdy Korne

2013 JUN 27 PM 3:00

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

**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 §§~~30-38-5~~; 30-38-6; 30-38-7; 30-38-9.

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

1.4. Effective Date. -- ~~July 1, 2010.~~

§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~~ apply for a West Virginia real estate appraiser license or certification that is the same as the out-of-state license or certification provided that:

8.1.a. The appraiser licensing program of the other state is in compliance with the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 {2U.S.C.3331-3351} as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010;

8.1.b. The other state has credentialing requirements that meet or exceed those of West Virginia, 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.~~ 8.2.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. 8.2.b.~~ 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. 8.2.c.~~ 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.d. Be identified on The National Registry of The Appraisal Subcommittee as an active licensed or certified real property appraiser that currently conforms to the AOB criteria.

8.2.e. Complete an application approved by the board.

~~8.2.h. 8.2.f.~~ 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.

WEST VIRGINIA CODE

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 38. THE REAL ESTATE APPRAISER LICENSING AND CERTIFICATION ACT.

§30-38-1. Real estate appraiser license required; exceptions.

(a) It is unlawful for any person, for compensation or valuable consideration, to prepare a valuation appraisal or a valuation appraisal report relating to real estate or real property in this state without first being licensed or certified as provided in this article. This section shall not be construed to apply to persons who do not render significant professional assistance in arriving at a real estate appraisal analysis, opinion or conclusion. Nothing in this article may be construed to prohibit any person who is licensed to practice in this state under any other law from engaging in the practice for which he or she is licensed.

(b) No person other than a person licensed or certified under this article may use the title of licensed appraiser or certified appraiser or any title, designation or abbreviation likely to create the impression that the person is licensed or certified by the state.

(c) This article does not apply to:

(1) A real estate broker or salesperson licensed by this state who, in the ordinary course of his or her business, gives an opinion to a potential seller or third party as to the recommended listing price of real estate or an opinion to a potential purchaser or third party as to the recommended purchase price of real estate, when this opinion as to the listing price or the purchase price is not to be referred to as an appraisal, no opinion is rendered as to the value of the real estate and no fee is charged;

(2) A casual or drive-by inspection of real estate in connection with a consumer loan secured by the real estate, when the inspection is not referred to as an appraisal, no opinion is rendered as to the value of the real estate and no fee is charged for the inspection;

(3) An employee who renders an opinion as to the value of real estate for his or her full-time employer, for the employer's internal use only and performed in the regular course of the employee's position, when the opinion is not referred to as an appraisal and no fee is charged;

(4) Appraisals of personal property, including, but not limited to, jewelry, household furnishings, vehicles and manufactured homes not attached to real estate;

(5) Any officer or employee of the United States, or of the state of West Virginia or a political subdivision thereof, when the employee or officer is performing his or her official duties: *Provided*, That such individual does not furnish advisory service for compensation to the public or act as an independent contracting party in West Virginia or any subdivision thereof in connection with the appraisal of real estate or real property: *Provided, however*, That this exception shall not apply with respect to federally related transactions as defined in Title XI of the United States Code, entitled "Financial Institutions Reform, Recovery, and Enforcement Act of 1989"; or

(6) Any evaluation of the value of real estate serving as collateral for a loan made by a financial institution insured by the federal deposit insurance corporation: *Provided*, That: (A) The amount of the loan is equal to or less than two hundred fifty thousand dollars; (B) the evaluation is used solely by the lender in its records to document the collateral value; (C) the evaluation clearly indicates on its face that it is for the lender's internal use only; (D) the evaluation is not labeled an appraisal; and (E) the evaluation is on a form approved by the board. Individuals performing these evaluations may be compensated for their services. The lender shall notify its customer if it intends to use an unlicensed evaluator and give the customer the opportunity to elect an evaluation, by a certified or licensed appraiser, the cost of which will be paid as agreed between the lender and the customer.

§30-38-2. Short title.

This article is known and may be cited as the "Real Estate Appraiser Licensing and Certification Act."

§30-38-3. Definitions.

As used in this article, the following terms have the following meanings:

(a) "Appraisal" means an analysis, opinion or conclusion prepared by a real estate appraiser relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate or identified real property. An appraisal may be classified by the nature of the assignment as a valuation appraisal, an analysis assignment or a review assignment.

(b) "Analysis assignment" means an analysis, opinion or conclusion prepared by a real estate appraiser that relates to the nature, quality or utility of identified real estate or identified real property.

(c) "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.

(d) "Appraisal report" means any communication, written or oral, of an appraisal. An appraisal report may be classified by the nature of the assignment as a "valuation report", "analysis report" or "review report". For the purposes of this article, the testimony of an appraiser dealing with the appraiser's analyses, conclusions or opinions concerning identified real estate or identified real property is considered an oral appraisal report.

(e) "Board" means the real estate appraiser licensing and certification board established by the provisions of this article.

(f) "Certified appraisal report" means a written appraisal report that is certified by a state licensed or certified real estate appraiser. When a real estate appraiser identifies an appraisal report as "certified", the real estate appraiser must indicate the type of licensure or certification he or she holds. By certifying an appraisal report, a state licensed residential real estate appraiser, a state certified general real estate appraiser or a state certified residential real estate appraiser, represents to the public that the report meets the appraisal standards established by this article.

(g) "Certified real estate appraiser" means a person who holds a current, valid certification as a state certified residential real estate appraiser or a state certified general real estate appraiser issued to him or her under the provisions of this article.

(h) "Complex appraisal" means an appraisal that: (1) For nonresidential property, relies on all three approaches to value, being the cost approach, the income approach and the sales comparison approach, or does not have the characteristics of a noncomplex appraisal; and (2) for residential property, 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 noncomplex appraisal.

(i) "Cost approach" means an approach to valuing real estate which requires an appraiser to: (1) Develop an opinion of site value by an appropriate appraisal method or technique; (2) analyze comparable cost data as are available to estimate the cost new of the improvements if any; and (3) analyze comparable data as are available to estimate the difference between cost new and the present worth of the improvements, also called accrued depreciation.

(j) "Income approach" means an approach to valuing real estate which requires an appraiser to: (1) Analyze comparable rental data as are available to estimate the market rental of the property; (2) analyze comparable operating expense data as are available to estimate the operating expenses of the property; (3) analyze comparable data as are available to estimate rates of capitalization or rates of discount; and (4) base projections of future rent and expenses on reasonably clear and appropriate evidence.

(k) "Licensed real estate appraiser" means a person who holds a current, valid license as a state licensed

residential real estate appraiser issued to him or her under the provisions of this article.

(l) "Noncomplex appraisal" means an appraisal for which: (1) There is an active market of essentially identical properties; (2) adequate data is available to the appraiser; (3) 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 (4) for residential properties, the contract sales price falls within the market norm or median sales price for homes or lots within the same area.

(m) "Real estate" means an identified parcel or tract of land, including improvements, if any.

(n) "Real estate appraisal activity" means the act or process of making an appraisal of real estate or real property and preparing an appraisal report.

(o) "Real estate appraiser" means a person who engages in real estate appraisal activity for a fee or other valuable consideration.

(p) "Real property interests" means one or more defined interests, benefits or rights inherent in the ownership of real estate.

(q) "Review assignment" means an analysis, opinion or conclusion prepared by a real estate appraiser that forms an opinion as to the adequacy and appropriateness of a valuation appraisal or an analysis assignment.

(r) "Sales comparison approach" means an approach to valuing real estate which requires an appraiser to analyze such comparable sales data as are available to indicate a value conclusion.

(s) "Valuation appraisal" means an analysis, opinion or conclusion prepared by a real estate appraiser that estimates the value of an identified parcel of real estate or identified real property at a particular point in time.

§30-38-4. Classifications of licensure and certification; authority of appraisers; classification and license or certificate number required on all documents; corporations.

(a) The three classifications of real estate appraisers are state licensed residential real estate appraiser, state certified residential real estate appraiser and state certified general real estate appraiser.

(b) A state licensed residential real estate appraiser is authorized to conduct appraisals of: (1) Complex residential real estate of one to four units having a value of less than two hundred fifty thousand dollars; (2) noncomplex residential real estate of one to four units having a value of less than one million dollars; and (3) nonresidential real estate having a value of less than one hundred thousand dollars.

(c) A state certified residential real estate appraiser is authorized to conduct appraisals of residential real estate of one to four units without regard to value or complexity, and nonresidential real estate when the value is less than one hundred thousand dollars.

(d) A state certified general real estate appraiser is authorized to conduct appraisals of all types of real estate.

(e) The board is authorized to establish by legislative rule other classifications of appraiser licensing not prohibited by applicable federal law.

(f) An appraiser shall indicate his or her classification and license or certificate number, on all appraisals, statements of qualification, contracts and other instruments, including advertising media.

(g) A license or certificate may not be issued under the provisions of this article to a corporation, partnership, firm or group.

(h) Nothing contained in this article prohibits any person licensed or certified under this article from engaging in

the practice of real estate appraising as a professional corporation in accordance with the provisions of the professional service corporation act of this state.

§30-38-5. Licensure and certification of nonresidents; consent to service of process; temporary registration; license by reciprocity.

(a) A nonresident of this state who has complied with the provisions of subsection (b) of this section may obtain a license or certification as a real estate appraiser in this state by complying with all of the provisions of this article relating to the licensing or certification of real estate appraisers.

(b) Each nonresident applicant for licensure or certification and each nonresident registrant for temporary practice within this state shall submit, with his or her application, an irrevocable consent that service of process upon him or her may be made by delivery of the process to the secretary of state if, in an action against the applicant in a court of this state arising out of the applicant's activities as a real estate appraiser in this state, the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant.

(c) A nonresident of this state who is not licensed by this state but who is licensed in another state, district or territory, may perform one specific assignment relating to the appraisal of real estate or real property in this state, after being approved by the board in accordance with the rule for temporary registration and complying with the provisions of subsection (b) of this section.

(d) If the board determines that another state or territory or the District of Columbia has substantially equivalent licensure or certification laws for real estate appraisers, an applicant for licensure or certification in this state who is licensed or certified under the laws of the other state, territory or district may obtain a license or certificate as a real estate appraiser in this state upon the terms and conditions set by the board: *Provided*, That the laws of such state, territory or district accord substantially equal reciprocal rights to a licensed or certified real estate appraiser in good standing in this state, and that disciplinary proceedings are not pending against the applicant in his or her state of licensure or certification.

§30-38-6. Board created; appointments, qualifications, terms, oath, removal of members; quorum; meetings; disqualification from participation; compensation; records; employing staff.

(a) The West Virginia real estate appraiser licensing and certification board, which consists of nine members appointed by the governor with the advice and consent of the Senate, is continued. Each member shall be a resident of the state of West Virginia. Four members shall be certified real estate appraisers having at least five years' experience in appraisal as a principal line of work immediately preceding their appointment, and shall remain certified real estate appraisers throughout their terms. Two members shall have at least five years' experience in real estate lending as employees of financial institutions. Three members may not be engaged in the practice of real estate appraisal, real estate brokerage or sales or have any financial interest in these practices. No member of the board may concurrently be a member of the West Virginia real estate commission. Not more than two appraiser members may be appointed from each congressional district.

(b) Members will be appointed for three-year terms, which are staggered in accordance with the initial appointments under prior enactment of this act. No member may serve for more than three consecutive terms. Before entering upon the performance of his or her duties, each member shall subscribe to the oath required by section five, article four of the constitution of this state. The governor shall, within sixty days following the occurrence of a vacancy on the board, fill the vacancy by appointing a person who meets the requirements of this section for the unexpired term. Any member may be removed by the governor in case of incompetency, neglect of duty, gross immorality or malfeasance in office.

(c) The board shall elect a chairman. A majority of the members of the board constitutes a quorum.

(d) The board shall meet at least once in each calendar quarter on a date fixed by the board. The board may, upon its own motion, or shall upon the written request of three members of the board, call additional meetings of the board upon at least twenty-four hours' notice. No member shall participate in a proceeding before the board to which a corporation, partnership or unincorporated association is a party, and of which he or she is or was at any time in the preceding twelve months a director, officer, owner, partner, employee, member or stockholder. A member may disqualify himself or herself from participation in a proceeding for any other cause

the member considers sufficient.

(e) The appointed members will receive compensation and expense reimbursement in accordance with the provisions of section eleven, article one of this chapter.

(f) The board may employ staff as necessary to perform the functions of the board, to be paid out of the board fund created by the provisions of this article. Persons employed by any real estate agent, broker, appraiser or lender, or by any partnership, corporation, association or group engaged in any real estate business, may not be employed by the board.

§30-38-7. General powers and duties.

The board shall:

(a) Define by rule the type of educational experience, appraisal experience and equivalent experience that will meet the statutory requirements of this article;

(b) Establish examination specifications as prescribed herein and provide for appropriate examinations;

(c) Approve or disapprove applications for certification and licensure;

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

(e) Censure, suspend or revoke licenses and certification as provided in this article;

(f) Hold meetings, hearings and examinations;

(g) Establish procedures for submitting, approving and disapproving applications;

(h) Maintain an accurate registry of the names and addresses of all persons certified or issued a license to practice under this article;

(i) Maintain accurate records on applicants and licensed or certified real estate appraisers;

(j) Issue to each licensed or certified real estate appraiser a pocket card with the appraiser's name and license or certification number. Pocket cards are the property of the state of West Virginia and, upon suspension or revocation of the license to practice pursuant to this article, will be returned immediately to the board;

(k) Deposit all fees collected by the board to the credit of the West Virginia appraiser licensing and certification board fund established in the office of the state treasurer. The board shall disburse moneys from the account to pay the cost of board operation. Disbursements from the account may not exceed the moneys credited to it;

(l) Keep records and make reports as required by article one of this chapter; and

(m) Perform any other functions and duties necessary to carry out the provisions of this article.

§30-38-8. Board fund; disposition of funds.

(a) The West Virginia appraiser licensing and certification board fund established in the office of the state treasurer is continued.

(b) The disposition of all funds received by the board shall be governed by the provisions of section ten, article one of this chapter.

§30-38-9. Rulemaking.

(a) The board may propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, to provide for:

(1) Licensure and certification requirements, including requirements for applications, examinations, reciprocity, temporary permits, apprentice permits and reinstatement;

(2) Fees for licenses, renewals of licenses and other services provided by the board;

(3) Experience, education and continuing education requirements and approval of courses; and

(4) Any other purpose to carry out the requirements of this article.

(b) The rule governing appraiser qualifications must include requirements which meet or exceed the education, experience and examination requirements issued or endorsed by the appraisal qualifications board of the appraisal foundation.

(c) Any rules in effect as of the passage of this article will remain in effect until amended, modified, repealed or replaced, except that references to provisions of former enactments of this act are interpreted to mean provisions of this article.

§30-38-10. Civil liability for board members; liability limitations of professionals reporting to board.

(a) Members of the board will be immune from individual civil liability for actions taken in good faith and without malice, within the scope of their duties as board members.

(b) Any person licensed or certified by this board who reports or otherwise provides evidence of violations of this article or the board's rules by another person engaging in real estate appraisal activity to the board, is not liable for making the report if it is made without malice and in the reasonable belief that the report is warranted by the facts known to him or her at the time.

§30-38-11. Applications for license or certification; renewals.

(a) An individual who desires to engage in real estate appraisal activity in this state shall make application for a license, in writing, in a form as the board may prescribe. In addition to any other information required, the applicant's social security number will be recorded on the application.

(b) To assist the board in determining whether grounds exist to deny the issuance of a license to an applicant, the board may require the fingerprinting of every applicant for an original license.

(c) The payment of the appropriate fee must accompany all applications for original certification and renewal of certification and all applications to take an examination.

(d) At the time of filing an application for original certification or for renewal of certification, each applicant shall sign a pledge to comply with the standards of professional appraisal practice and the ethical rules to be observed by an appraiser. Each applicant shall also certify that he or she understands the types of misconduct, as set forth in this article, for which disciplinary proceedings may be initiated.

(e) To obtain a renewal of license or certification under this article, the holder of a current license or certification shall make application and pay the prescribed fee to the board no earlier than one hundred twenty days nor later than thirty days prior to the expiration date of the current license or certification. Each application for renewal must be accompanied by evidence in the form prescribed by the board that the applicant has completed the continuing education requirements for renewal specified in this article and the board's rules.

(f) If the board determines that an applicant for renewal has failed to meet the requirements for renewal of license or certification through mistake, misunderstanding, or circumstances beyond the control of the applicant, the board may extend the term of the applicant's license or certification for a period not to exceed

six months upon payment by the applicant of a prescribed fee for the extension. If the applicant for renewal of license or certification satisfies the requirements for renewal during the extension period, the beginning date of his or her renewal license or certificate shall be the day following the expiration of the certificate previously held by the applicant.

(g) If a state licensed or certified real estate appraiser under this article fails to renew his or her license or certification prior to its expiration or within any period of extension granted by the board pursuant to this article, the applicant may obtain a renewal of his or her license or certification by satisfying all of the requirements for renewal and filing an application for renewal, accompanied by a late renewal fee, within two years of the date that his or her certification expired.

(h) The board may deny the issuance or renewal of a license or certification for any reason enumerated in this article or in the rules of the board, or for any reason for which it may refuse an initial license or certification.

§30-38-12. Refusal to issue or renew license or certification; suspension or revocation; grounds for disciplinary action.

(a) The following acts or omissions are grounds for disciplinary action, and the board may refuse to issue or renew a license or certification, or after issuance may suspend or revoke a license or certification or impose disciplinary sanctions for:

(1) Procuring or attempting to procure license or certification under this article by knowingly making a false statement, submitting false information or making a material misrepresentation in an application filed with the board, or procuring or attempting to procure a license or certification through fraud or misrepresentation;

(2) Paying money other than the fees provided for by this article to any member or employee of the board to procure a license or certification under this article;

(3) An act or omission in the practice of real estate appraising which constitutes dishonesty, fraud or misrepresentation with the intent to substantially benefit the licensee or another person or with the intent to substantially injure another person;

(4) Entry of a final civil or criminal judgment against a licensee on grounds of fraud, misrepresentation or deceit in the making of an appraisal of real estate;

(5) Conviction, including a conviction based upon a plea of guilty or nolo contendere, of a crime which is substantially related to the qualifications, functions or duties of a person developing real estate appraisals and communicating real estate appraisals to others;

(6) Making a false or misleading statement in that portion of a written appraisal report that deals with professional qualifications or in any testimony concerning professional qualifications;

(7) Violation of any section of this article, or any rule of the board;

(8) Violation of the confidential nature of governmental records to which a licensee gained access through employment or engagement as an appraiser by a governmental agency;

(9) Acceptance of a fee that is or was contingent upon the appraiser reporting a predetermined analysis, opinion, or conclusion, or is or was contingent upon the analysis, opinion, conclusion or valuation reached, or upon the consequences resulting from the appraisal assignment;

(10) Failing to meet the minimum qualifications for state licensure or certification established by or pursuant to this article; or

(11) Failing or refusing without good cause to exercise reasonable diligence, or negligence or incompetence,

in developing an appraisal, preparing an appraisal report, or communicating an appraisal.

(b) Every person licensed or certified by the board has a duty to report to the board in a timely manner any known or observed violation of this article or the board's rules by any other person licensed or certified by the board.

§30-38-13. Disciplinary proceedings.

(a) The board may, upon its own motion, and shall, upon the written complaint of any aggrieved person, cause an investigation to be made with respect to an alleged violation of this article or the rules of the board.

(b) The board may revoke, suspend or refuse to renew the license or certificate or otherwise discipline an appraiser, or deny an application, for any of the acts or omissions set forth in this article or in the rules of the board.

(c) If an investigation indicates that an appraiser licensed or certified by the board has violated a law or rule, the board shall serve a formal complaint upon the appraiser. The accused party is required to file an answer within twenty days of the date of service.

(d) In responding to a complaint, the accused party may admit the allegations of the complaint, deny the allegations of the complaint or otherwise plead. Failure to make a timely response shall be considered an admission of the allegations of the complaint.

(e) The board may make informal disposition of the matter, including entering into a consent agreement, or taking one or more of the disciplinary actions set forth in the board's rules.

(f) In a disciplinary proceeding based upon a civil judgment, the licensee shall be afforded an opportunity to present matters in mitigation and extenuation but may not collaterally attack the civil judgment.

§30-38-14. Hearings; orders; entry of order without notice and hearing; judicial review; appeals to supreme court of appeals.

(a) Subject to the provisions of subsection (c) of this section, the board shall provide notice and hearing to the accused party in advance of the entry of any order. The hearing and the administrative procedures are governed by the provisions of article five, chapter twenty-nine-a of this code and the board's rules, and will be held at a time and place set by the board, but may not be held less than thirty or more than ninety days after the notice is given. A hearing may be continued by the board on its own motion or for good cause shown. At any hearing a party may represent himself or herself, or be represented by an attorney admitted to practice before any circuit court of this state.

(b) The board has the power and authority to issue subpoenas and subpoenas duces tecum, administer oaths and examine any person under oath in connection with any subject relating to duties imposed upon or powers vested in the board.

(c) If the board finds that extraordinary circumstances exist which require immediate action, it may without notice or hearing enter an order taking any action permitted by this article. Immediately upon the entry of the order, certified copies shall be served upon all persons affected, who upon demand are entitled to a hearing at the earliest practicable time.

(d) If, at the conclusion of the hearing, the board determines that an appraiser has violated any of the provisions of this article or the board's rules, it shall prepare a formal decision containing findings of fact, conclusions of law, and disciplinary actions to be taken.

(e) The board may elect to have an administrative law judge or hearing examiner conduct the hearing. If the board makes this election, the administrative law judge or hearing examiner shall present a decision containing recommended findings of fact, conclusions of law, and appropriate disciplinary actions to be taken.

The board may accept, reject or modify the decision of the administrative law judge or hearing examiner.

(f) Any party adversely affected by a final order or decision made by the board after a hearing is entitled to judicial review as provided in article five, chapter twenty-nine-a of this code.

(g) Any party adversely affected by a final judgment of a circuit court following judicial review may seek review by appeal to the supreme court of appeals in the manner provided in article six, chapter twenty-nine-a of this code.

§30-38-15. Penalties.

(a) Any person engaging in real estate appraisal activity in this state who is not licensed under this article is guilty of a misdemeanor and, upon conviction, shall be fined not less than five hundred dollars nor more than one thousand dollars and shall be ineligible to obtain a license for a period of one year from the date of his or her conviction of such offense: *Provided*, That the board, at its discretion, may grant a license within a period of one year upon a finding of extenuating circumstances, and after an administrative hearing.

(b) Any person acting or purporting to act as a certified real estate appraiser who is not certified under this article is guilty of a misdemeanor and, upon conviction, shall be fined not more than two thousand five hundred dollars or imprisoned in the county or regional jail for not more than one year, or both.

(c) If any person receives any money or the equivalent as a fee, commission, compensation or profit by or in consequence of a violation of any provision of this article, he or she shall, in addition to the penalties prescribed above, be subject to a penalty of not less than the sum of money so received nor more than three times the sum as may be determined by the court, which penalty may be recovered in a court of competent jurisdiction by any person aggrieved as a result of any such violation.

§30-38-16. Collection of appraisal fees.

No person engaged in the business of real estate appraising in this state or acting in the capacity of a real estate appraiser in this state may bring or maintain any action in any court of this state to collect compensation for the performance of real estate appraisal services for which a license is required by this article without alleging and proving that he or she was the holder of a valid real estate appraiser license in this state at all times during the performance of such services.

§30-38-17. Standards of professional appraisal practice.

Each real estate appraiser licensed or certified under this act shall comply with generally accepted standards of professional appraisal practice and generally accepted ethical rules to be observed by a real estate appraiser. Generally accepted standards of professional appraisal practice are currently evidenced by the uniform standards of professional appraisal practice promulgated by the appraisal foundation. The board may, after a public hearing or public comment period held in accordance with provisions of article three, chapter twenty-nine-a of this code, adopt revised versions or make modifications of or additions to the uniform standards of professional appraisal practice.

§30-38-18. Attorney general opinions and duties.

At the request of the board, the state attorney general shall render to the board an opinion with respect to all questions of law arising in connection with the administration of this article and shall act as attorney for the board in all actions and proceedings brought by or against the board under, or pursuant to, any of the provisions of this article. All fees and expenses of the attorney general arising out of such duties shall be paid out of the special fund created under this article to pay the expenses of the administration of this article.

§30-38-19.

Repealed.

Acts, 2010 Reg. Sess., Ch. 32.

Note: WV Code updated with legislation passed through the 2012 1st Special Session

Bill Status - 2013 Regular Session

House Bill 2730

Legislative Session: 2013(RS)

LAST ACTION:

Effective Ninety Days from Passage - (July 12, 2013)

SUMMARY:

Relating to the Real Estate Appraisal Board

LEAD SPONSOR:

Morgan

SPONSORS:

Stephens, Azinger, Diserio, Ferns, Jones, Paxton, Perry, Poling, D., Romine, Swartzmiller

BILL TEXT:

[Bill Definitions ?](#)

[\[PDF\] BILLS - FINAL ?](#)

[Committee Substitute File Updated - \(03/29/2013\)](#)

[BILL DRAFTING BILLS ?](#)

[Committee Substitute - html | wpd](#)

[Enrolled Version - Final Version - html | wpd](#)

[Introduced Version - html | wpd](#)

CODE AFFECTED:

[§30 - 38 - 5 \(Amended Code\)](#)

[§30 - 38 - 19 \(New Code\)](#)

COM. AMENDMENTS:

[Com Amend Definitions ?](#)

[HB2730 H GO AM 3-21.htm](#)

[HB2730 H GO AMT 3-21.htm](#)

SUBJECT(S):

[Real Property](#)

[Boards and Commissions](#)

ACTIONS:

	Description	Date	Journal Page
Effective Ninety Days from Passage - (July 12, 2013)			
H	Chapter 155, Acts, 2013	05/15/13	
H	Approved by Governor 5/2/13	05/02/13	
H	Approved by Governor 5/2/13 - House Journal	04/17/13	3161
S	Approved by Governor 5/2/13 - Senate Journal	04/17/13	45
H	To Governor 5/1/13	05/01/13	
H	To Governor 5/1/13 - House Journal	04/17/13	3150
S	To Governor 5/1/13 - Senate Journal	04/17/13	39
H	House received Senate message	04/13/13	2533
S	Completed legislative action	04/13/13	
S	Communicated to House	04/13/13	67
S	Passed Senate (Roll No. 29)	04/13/13	66
S	Read 3rd time	04/13/13	66
S	On 3rd reading	04/13/13	
S	Read 2nd time	04/12/13	310
S	On 2nd reading	04/12/13	
S	Read 1st time	04/11/13	135
S	On 1st reading	04/11/13	

S	Reported do pass	04/10/13	73
S	<u>To Government Organization</u>	04/04/13	16
S	Introduced in Senate	04/04/13	16
S	House Message received	04/04/13	16
H	Communicated to Senate	04/03/13	1277
H	<u>Passed House (Roll No. 167)</u>	04/03/13	1277
H	Read 3rd time	04/03/13	1277
H	On 3rd reading, Special Calendar	04/03/13	
H	Read 2nd time	04/02/13	1232
H	On 2nd reading, Special Calendar	04/02/13	
H	Read 1st time	04/01/13	1201
H	From House Calendar, 1st reading, placed on Special Calendar	04/01/13	
H	By substitute, do pass	03/29/13	1150
H	<u>To House Judiciary</u>	03/22/13	914
H	With amendment, do pass, but first to Judiciary	03/22/13	914
H	<u>To House Government Organization</u>	02/26/13	475
H	Introduced in House	02/26/13	475
H	<u>To Government Organization then Judiciary</u>	02/26/13	
H	<u>Filed for introduction</u>	02/26/13	

QUERIES 531 ms **CFDIRS 31 ms** **OUTPUT 390 ms** **TABLE 0 ms** **ALL 968 ms**

COMMITTEE SUBSTITUTE

for

H. B. 2730

(BY DELEGATE(S) MORGAN, STEPHENS, AZINGER,
DISERIO, FERNS, JONES, PAXTON, PERRY, D. POLING,
ROMINE AND SWARTZMILLER)

(Originating in the Committee on the Judiciary)

[March 29, 2013]

A BILL to amend and reenact §30-38-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-38-19, all relating to requirements to perform appraisals; providing requirements for licensure or certification by reciprocity; and clarifying the requirements for temporary permits.

Be it enacted by the Legislature of West Virginia:

That §30-38-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §30-38-19, all to read as follows:

**ARTICLE 38. THE REAL ESTATE APPRAISER LICENSING AND
CERTIFICATION ACT.**

§30-38-5. Reciprocal credentialing.

1 ~~(a) A nonresident of this state who has complied with the~~
2 ~~provisions of subsection (b) of this section may obtain a license~~
3 ~~or certification as a real estate appraiser in this state by~~
4 ~~complying with all of the provisions of this article relating to the~~
5 ~~licensing or certification of real estate appraisers.~~

6 ~~(b) Each nonresident applicant for licensure or certification~~
7 ~~and each nonresident registrant for temporary practice within~~
8 ~~this state shall submit, with his or her application, an irrevocable~~
9 ~~consent that service of process upon him or her may be made by~~
10 ~~delivery of the process to the Secretary of State if, in an action~~
11 ~~against the applicant in a court of this state arising out of the~~
12 ~~applicant's activities as a real estate appraiser in this state, the~~
13 ~~plaintiff cannot, in the exercise of due diligence, effect personal~~
14 ~~service upon the applicant.~~

15 ~~(c) A nonresident of this state who is not licensed by this~~
16 ~~state but who is licensed in another state, district or territory;~~
17 ~~may perform one specific assignment relating to the appraisal of~~
18 ~~real estate or real property in this state, after being approved by~~
19 ~~the board in accordance with the rule for temporary registration~~
20 ~~and complying with the provisions of subsection (b) of this~~
21 ~~section.~~

22 ~~(d) If the board determines that another state or territory or~~
23 ~~the District of Columbia has substantially equivalent licensure~~
24 ~~or certification laws for real estate appraisers, an applicant for~~
25 ~~licensure or certification in this state who is licensed or certified~~
26 ~~under the laws of the other state, territory or district may obtain~~
27 ~~a license or certificate as a real estate appraiser in this state upon~~
28 ~~the terms and conditions set by the board: *Provided*, That the~~
29 ~~laws of such state, territory or district accord substantially equal~~
30 ~~reciprocal rights to a licensed or certified real estate appraiser in~~
31 ~~good standing in this state, and that disciplinary proceedings are~~
32 ~~not pending against the applicant in his or her state of licensure~~
33 ~~or certification.~~

34 The board shall issue a reciprocal license or certification to
35 an applicant from another state if the applicant holds a valid
36 license or certification from a state whose licensing and
37 certification program:

38 (1) Is in compliance with the provisions of Title XI of the
39 Financial Institutions Reform, Recovery and Enforcement Act of
40 1989 [12 U.S.C. 3331-3351] as amended by the Dodd-Frank
41 Wall Street Reform and Consumer Protection Act of 2010; and

42 (2) That has credentialing requirements that meet or exceed
43 those of West Virginia.

§30-38-19. Temporary permit.

1 (a) The board may issue a temporary permit to perform one
2 specific assignment relating to the appraisal of real estate or real
3 property in this state to an applicant who:

4 (1) Completes an application;

5 (2) Pays a nonrefundable application fee;

6 (3) Provides an irrevocable consent that service of process
7 upon him or her may be made by service of process to the
8 Secretary of State if, in an action against the applicant in a court
9 of this state arising out of the applicant's activities as a real
10 estate appraiser in this state, the plaintiff cannot, in the exercise
11 of due diligence, effect personal service upon the applicant; and

12 (4) Meets the requirements for a temporary permit as
13 established by the board by legislative rule.

14 (b) The temporary permit is subject to the terms, conditions
15 and limitations set forth by the board by legislative rule.

[Home](#) > [Legal Framework](#) > [Title XI of FIRREA](#)

[Home](#)

[Resources For](#)

[About the ASC](#)

[Resources and Records](#)

[National Registry](#)

[Legal Framework](#)

[Statutes, Rules, & Policies](#)

[Dodd-Frank Wall Street Reform and Consumer Protection Act](#)

[Title XI of FIRREA](#)

[Operations](#)

[ASC Rules](#)

[ASC Policy Statements](#)

[State Appraiser Regulatory Programs](#)

[Frequently Asked Questions](#)

[About this Site](#)

[Appraisal Complaint National Hotline](#)

Title XI of FIRREA

The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC) was created on August 9, 1989, pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI). In response to the "Savings and Loan Crisis," Congress adopted Title XI to address the problem of unregulated persons performing incompetent and/or fraudulent appraisals for federally regulated financial institutions. Title XI's purpose is to "provide that Federal financial and public policy interests in real estate 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."

To carry out the purposes of Title XI, Congress empowered the ASC to:

1. Monitor the requirements established by the States, territories, and the District of Columbia (States) and their appraiser regulatory agencies (State agencies) for the certification and licensing of appraisers. The ASC reviews each State's compliance with the requirements of Title XI and is authorized by Title XI to take action against non-complying States. Other than persuasion, the ASC can issue a non-recognition order after a formal hearing. Such an order would prohibit the Agencies and many other Federal instrumentalities from recognizing the licenses or certifications issued by the non-complying State. The ASC has formal rules in the Code of Federal Regulations governing those proceedings;
2. Monitor the requirements established by the Agencies regarding appraisal standards for federally related transactions and determinations of which federally related transactions will require the services of State licensed or State certified appraisers. The ASC performs this duty primarily through its Board members who are employed by those Agencies;
3. Maintain a National Registry of State licensed and certified appraisers who may perform appraisals in connection with federally related transactions; and
4. Monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation (Foundation). ASC staff actively monitors all activities of the Foundation. The ASC is also authorized to grant funds to the Foundation to support Title XI-related activities of the Foundation's Appraiser Qualifications Board and Appraisal Standards Boards.

Title XI created a unique, complementary relationship between the States, the private sector, and the Federal government. Title XI recognized that the States were in the best administrative position to certify and license real estate appraisers and to supervise their appraisal-related activities. Title XI authorized the private sector — the Appraisal Foundation and its two independent boards, the Appraiser Qualifications Board and the Appraisal Standards Board — to establish uniform minimum appraiser qualifications standards and uniform standards of professional appraisal practice. Title XI created the ASC to oversee the activities of the States and the Appraisal Foundation. Title XI also authorized the Federal financial institutions regulatory agencies — the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency and National Credit Union Administration — and the U.S. Department of Housing and Urban Development (HUD) to adopt regulations regarding real estate appraisals made in connection with federally related transactions, including, when appraisals are required, who must perform the appraisals, and the manner in which appraisals must be performed.

Title XI Red-Line Version as amended by the Dodd-Frank Act 

[FAQs](#) [Contact Us](#) [Terms Of Use](#) [Privacy Notice](#) [Email Notifications](#)

1401 H Street N.W. • Suite 760 • Washington, D.C. 20005

You are entering an official United States government system that may be used only for authorized purposes. Unauthorized modification of any information stored on this system may result in criminal prosecution. The government may monitor and audit use of this system, and all persons using this system consent to such monitoring and auditing.



Advanced Search

Search FDIC



Each depositor insured to at least \$250,000 per insured bank

[Home](#) | [Deposit Insurance](#) | [Consumer Protection](#) | [Industry Analysis](#) | [Regulations & Examinations](#) | [Asset Sales](#) | [News & Events](#) | [About FDIC](#)[Bank Examinations](#) | [Laws & Regulations](#) | [Resources for Bank Officers & Directors](#) | [FDICconnect](#) | [Required Financial Reports](#) | [Examiner Training Programs](#)[Home](#) > [Regulation & Examinations](#) > [Laws & Regulations](#) > [FDIC Law, Regulations, Related Acts](#)

FDIC Law, Regulations, Related Acts

[\[Table of Contents\]](#) [\[Previous Page\]](#) [\[Next Page\]](#) [\[Search\]](#)

8000 - Miscellaneous Statutes and Regulations

FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989

AN ACT

To reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE IX — REGULATORY ENFORCEMENT AUTHORITY AND CRIMINAL ENHANCEMENTS

SEC. 951. CIVIL PENALTIES.

(a) IN GENERAL—

Whoever violates any provision of law to which this section is made applicable by subsection (c) of this section shall be subject to a civil penalty in an amount assessed by the court in a civil action under this section.

(b) MAXIMUM AMOUNT OF PENALTY—

(1) GENERALLY—

The amount of the civil penalty shall not exceed \$1,000,000.

(2) SPECIAL RULE FOR CONTINUING VIOLATIONS—

In the case of a continuing violation, the amount of the civil penalty may exceed the amount described in paragraph (1) but may not exceed the lesser of \$1,000,000 per day or \$5,000,000.

(3) SPECIAL RULE FOR VIOLATIONS CREATING GAIN OR LOSS—

(A) If any person derives pecuniary gain from the violation, or if the violation results in pecuniary loss to a person other than the violator, the amount of the civil penalty may exceed the amounts described in paragraphs (1) and (2) but may not exceed the amount of such gain or loss.

(B) As used in this paragraph, the term "person" includes the Bank Insurance Fund, the Savings Association Insurance Fund and after the merger of such funds, the Deposit Insurance Fund, and the National Credit Union Share Insurance Fund.

(c) VIOLATIONS TO WHICH PENALTY IS APPLICABLE

This section applies to a violation of, or a conspiracy to violate—

(1) section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of Title 18; or

(2) section 287, 1001, 1032, 1341 or 1343 of Title 18 affecting a federally insured financial institution.

This section shall apply to violations occurring on or after August 10, 1984.

(d) ATTORNEY GENERAL TO BRING ACTION--

A civil action to recover a civil penalty under this section shall be commenced by the Attorney General.

(e) BURDEN OF PROOF--

In a civil action to recover a civil penalty under this section, the Attorney General must establish the right to recovery by a preponderance of the evidence.

(f) ADMINISTRATIVE SUBPOENAS--

(1) IN GENERAL--

For the purpose of conducting a civil investigation in contemplation of a civil proceeding under this section, the Attorney General may--

(A) administer oaths and affirmations;

(B) take evidence; and

(C) by subpoena, summon witnesses and require the production of any books, papers, correspondence, memoranda, or other records which the Attorney General deems relevant or material to the inquiry. Such subpoena may require the attendance of witnesses and the production of any such records from any place in the United States at any place in the United States designated by the Attorney General.

(2) PROCEDURES APPLICABLE

The same procedures and limitations as are provided with respect to civil investigative demands in subsections (g), (h), and (i) of section 1968 of Title 18 apply with respect to a subpoena issued under this subsection. Process required by such subsections to be served upon the custodian shall be served on the Attorney General. Failure to comply with an order of the court to enforce such subpoena shall be punishable as contempt.

(3) LIMITATION--

In the case of a subpoena for which the return date is less than 5 days of service, no person shall be found in contempt for failure to comply by the return date if such person files a petition under paragraph (2) not later than 5 days after the date of service.

(g) STATUTE OF LIMITATIONS--

A civil action under this section may not be commenced later than 10 years after the cause of action accrues.

[Codified to 12 U.S.C. § 1833a]

[Source: Section 951 of title IX of the Act of August 9, 1989 (Pub. L. No. 101-73; 103 Stat. 498; sections 2533 and 2596(d) of title XXV of the Act of November 29, 1990 (Pub. L. No. 101-647; 104 Stat. 4882 and 4908), effective November 29, 1990; section 330003(g) of title XXXIII of the Act of September 13, 1994 (Pub. L. No. 103-22; 108 Stat. 2141), effective retroactive to November 29, 1990; section 9(g)(1) of the Act of February 15, 2006 (Pub. L. No. 109-173; 119 Stat. 3618), effective February 15, 2006]

TITLE XI--REAL ESTATE APPRAISAL REFORM AMENDMENTS

SEC. 1103. FUNCTIONS OF APPRAISAL SUBCOMMITTEE.

(a) IN GENERAL.--The Appraisal Subcommittee shall--

(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;

(2) monitor the requirements established by the Federal financial institutions regulatory agencies 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) transmit an annual report to the Congress not later than January 31 of each year which describes the manner in which each function assigned to the Appraisal Subcommittee has been carried out during the preceding year.

(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.

(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.

[Codified to 12 U.S.C. 3332]

[Source: Section 1103 of title XI of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 512), effective August 9, 1989; section 1473(b) and (f)(1) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111--203; 124 Stat. 2190, 2191, and 2192), effective July 21, 2010]

SEC. 1104. CHAIRPERSON OF APPRAISAL SUBCOMMITTEE; TERM OF CHAIRPERSON; MEETINGS.

(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. 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.

[Codified to 12 U.S.C. 3333]

[Source: Section 1104 of title XI of the Act of August 9, 1989 (Pub. L. No. 101-73; 103 Stat. 512), effective August 9, 1989; section 1473(c) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111-203; 124 Stat. 2191), effective July 21, 2010]

SEC. 1105. OFFICERS AND STAFF.

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.

[Codified to 12 U.S.C. 3334]

[Source: Section 1105 of title XI of the Act of August 9, 1989 (Pub. L. No. 101-73; 103 Stat. 512), effective August 9, 1989]

SEC. 1106. POWERS OF APPRAISAL SUBCOMMITTEE.

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.

[Codified to 12 U.S.C. 3335]

[Source: Section 1106 of title XI of the Act of August 9, 1989 (Pub. L. No. 101-73; 103 Stat. 512), effective August 9, 1989; section 1473(d) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111-203; 124 Stat. 2191), effective July 21, 2010]

SEC. 1107. PROCEDURES FOR ESTABLISHING APPRAISAL STANDARDS AND REQUIRING THE USE OF CERTIFIED AND LICENSED APPRAISERS.

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.

[Codified to 12 U.S.C. 3336]

[Source: Section 1107 of title XI of the Act of August 9, 1989 (Pub. L. No. 101-73; 103 Stat. 513), effective August 9, 1989]

SEC. 1108. STARTUP FUNDING.

(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. Thereafter, expenses of the subcommittee shall be funded through the collection of registry fees from certain certified and licensed appraisers pursuant to section 1109 or, if required, pursuant to section 1122(b) of this title.

(b) **ADDITIONAL FUNDS.**—Except as provided in section 1122(b) of this title, 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.

(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.

[Codified to 12 U.S.C. 3337]

[Source: Section 1108 of title XI of the Act of August 9, 1989 (Pub. L. No. 101-73; 103 Stat. 513), effective August 9, 1989; as amended by section 2212 of title II of the Act of September 30, 1996 (Pub. L. No. 104-208; 110 Stat. 3009-411), effective September 30, 1996]

SEC. 1109. ROSTER OF STATE CERTIFIED OR LICENSED APPRAISERS; AUTHORITY TO COLLECT AND TRANSMIT FEES.

(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;

(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

(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 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 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.

(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;

(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

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

[Codified to 12 U.S.C. 3338]

[Source: Section 1109 of title XI of the Act of August 9, 1989 (Pub. L. No. 101-73; 103 Stat. 513), effective August 9, 1989; section 1473(g), 1473(h)(1)(A) and (B), (h)(2) and (i) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111-203; 124 Stat. 2194-2195), effective July 21, 2010]

Note

(2) **INCREMENTAL REVENUES.**—Incremental revenues collected shall be placed in a separate account at the United States Treasury, entitled the "Appraisal Subcommittee Account".

[Codified to 12 U.S.C. 3338 Note]

[Source: Section 1473(h)(2) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111-203; 124 Stat. 2195), effective July 21, 2010]

SEC. 1110. FUNCTIONS OF THE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES RELATING TO APPRAISAL STANDARDS.

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;

(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.

[Codified to 12 U.S.C. 3339]

[Source: Section 1110 of title XI of the Act of August 9, 1989 (Pub. L. No. 101-73; 103 Stat. 514), effective August 9, 1989; section 1473(e)(1) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111-203; 124 Stat. 2191), effective July 21, 2010]

SEC. 1111. TIME FOR PROPOSAL AND ADOPTION OF STANDARDS.

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.

[Codified to 12 U.S.C. 3340]

[Source: Section 1111 of title XI of the Act of August 9, 1989 (Pub. L. No. 101-73; 103 Stat. 514), effective August 9, 1989]

SEC. 1112. FUNCTIONS OF THE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES RELATING TO APPRAISER QUALIFICATIONS.

(a) IN GENERAL.—

Each Federal financial institutions regulatory agency and the Resolution Trust Corporation shall prescribe, in accordance with sections 3342 and 3343 of this title, which categories of federally related transactions should be appraised by a State certified appraiser and which by a State licensed appraiser under this chapter.

(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, 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 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) of this section, 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.

[Codified to 12 U.S.C. 3341]

[Source: Section 1112 of title XI of the Act of August 9, 1989 (Pub. L. No. 101-73; 103 Stat. 514), effective August 9, 1989; as amended by section 954, of title IX of the Act of October 28, 1992 (Pub. L. No. 102-550; 106 Stat. 3894), effective October 28, 1992; section 106(g) of title I of the Act of October 19, 1996 (Pub. L. No. 104-316; 110 Stat. 3831), effective October 19, 1996; section 9(g) (2) of the Act of February 15, 2006 (Pub. L. No. 107-193; 119 Stat. 3617), effective date shall take effect on the date of the merger of the Bank Insurance Fund and the Savings Association Insurance Fund pursuant to the Federal Deposit Insurance Reform Act of 2005; section 1473(a) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111-203; 124 Stat. 2190), effective July 21, 2010]

SEC. 1113. TRANSACTIONS REQUIRING THE SERVICES OF A STATE CERTIFIED APPRAISER.

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 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.

[Codified to 12 U.S.C. 3342]

[Source: Section 1113 of title XI of the Act of August 9, 1989 (Pub. L. No. 101-73; 103 Stat. 514), effective August 9, 1989; section 1473(e)(2) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111-203; 124 Stat. 2191), effective July 21, 2010]

SEC. 1114. TRANSACTIONS REQUIRING THE SERVICES OF A STATE LICENSED APPRAISER.

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

[Codified to 12 U.S.C. 3343]

[Source: Section 1114 of title XI of the Act of August 9, 1989 (Pub. L. No. 101-73; 103 Stat. 514), effective August 9, 1989]

SEC. 1115. TIME FOR PROPOSAL AND ADOPTION OF RULES.

As appropriate, rules issued under sections 1113 and 1114 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.

[Codified to 12 U.S.C. 3344]

[Source: Section 1115 of title XI of the Act of August 9, 1989 (Pub. L. No. 101-73; 103 Stat. 515), effective August 9, 1989]

SEC. 1116. CERTIFICATION AND LICENSING REQUIREMENTS.

(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) **DEFINITION.**—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) **MINIMUM QUALIFICATION REQUIREMENTS.**—Any requirements established for individuals in the position of "Trainee Appraiser" and "Supervisory Appraiser" shall meet or exceed the minimum qualification requirements of the Appraiser Qualifications Board of The Appraisal Foundation. The Appraisal Subcommittee shall have the authority to enforce these requirements.

[Codified to 12 U.S.C. 3345]

[Source: Section 1116 of title XI of the Act of August 9, 1989 (Pub. L. No. 101-73; 103 Stat. 515), effective August 9, 1989; as amended by section 701(a) of title VII of the Act of December 12, 1991 (Pub. L. No. 102-233; 105 Stat. 1792), effective December 12, 1991; section 472(a) of title IV of the Act of December 19, 1991 (Pub. L. No. 102-242; 105 Stat. 2386), effective December 19, 1991; section 1473(j) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111-203; 124 Stat. 2195-2196), effective July 21, 2010]

SEC. 1117. ESTABLISHMENT OF STATE APPRAISER CERTIFYING AND LICENSING AGENCIES.

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 the appraisal management companies and the addition of information about the appraisal management company to the national registry.

[Codified to 12 U.S.C. 3346]

[Source: Section 1117 of title XI of the Act of August 9, 1989 (Pub. L. No. 101-73; 103 Stat. 515), effective August 9, 1989; section 1473(f)(3) of title XIV of the

Act of July 21, 2010 (Pub. L. No. 111-203; 124 Stat. 2193), effective July 21, 2010]

SEC. 1118. MONITORING OF STATE APPRAISER CERTIFYING AND LICENSING AGENCIES.

(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, 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.

[Codified to 12 U.S.C. 3347]

[Source: Section 1118 of the Act of title XI of August 9, 1989 (Pub. L. No. 101-73; 103 Stat. 515), effective August 9, 1989; section 1473(k) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111-203; 124 Stat. 2196), effective July 21, 2010]

SEC. 1119. RECOGNITION OF STATE CERTIFIED AND LICENSED APPRAISERS FOR PURPOSES OF THIS TITLE.

(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, 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 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.

[Codified to 12 U.S.C. 3348]

[Source: Section 1119 of title XI of the Act of August 9, 1989 (Pub. L. No. 101-73; 103 Stat. 516), effective August 9, 1989; as amended by section 701(b) of title VII of the Act of December 12, 1991 (Pub. L. No. 102-233; 105 Stat. 1792), effective December 12, 1991; section 472(b) of title IV of the Act of December 19, 1991 (Pub. L. No. 102-242; 105 Stat. 2386), effective December 19, 1991; section 1473(t)(1) of the Act of July 21, 2010 (Pub. L. No. 111-203; 124 Stat. 2199), effective July 21, 2010]

SEC. 1120. VIOLATIONS IN OBTAINING AND PERFORMING APPRAISALS IN FEDERALLY RELATED TRANSACTIONS.

(a) **VIOLATIONS.**—Except as authorized by the Appraisal Subcommittee in exercising its waiver authority pursuant to section 1119(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) 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, as appropriate.

(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.

[Codified to 12 U.S.C. 3349]

[Source: Section 1120 of title XI of the Act of August 9, 1989 (Pub. L. No. 101-73; 103 Stat. 517), effective August 9, 1989]

SEC. 1121. DEFINITIONS.

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, 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 or an insured credit union as defined in section 101 of the Federal Credit Union Act.

(8) **CHAIRPERSON.**--The term "Chairperson" means the Chairperson of the Appraisal Subcommittee selected by the Council.

(9) **FOUNDATION.**--The terms "Appraisal Foundation" and "Foundation" means 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.

[Codified to 12 U.S.C. 3350]

[Source: Section 1121 of title XI of the Act of August 9, 1989 (Pub. L. No. 101-73; 103 Stat. 517), effective August 9, 1989; sections 1473(f)(4) and 1473(t)(1)-(3) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111-203; 124 Stat. 2193 and 2199), effective July 21, 2010]

SEC. 1122. MISCELLANEOUS PROVISIONS.

(a) **TEMPORARY PRACTICE.**--(1) **TEMPORARY PRACTICE.**--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.**—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 Financial Institutions Examination Council to support the 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 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 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, 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.

(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.

[Codified to 12 U.S.C. 3351]

[Source: Section 1122 of title XI of the Act of August 9, 1989 (Pub. L. No. 101–73; 103 Stat. 518), effective August 9, 1989; as amended by section 315 of title III of the Act of September 23, 1994 (Pub. L. No. 103–325; 108 Stat. 2222), effective September 23, 1994; sections 1473(l)–(o), and (t)(4)(A) of the Act of July 21, 2010 (Pub. L. No. 111–203; 124 Stat. 2197 and 2199), effective July 21, 2010]

SEC. 1123. EMERGENCY EXCEPTION FOR DISASTER AREAS.

(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 Emergency Assistance Act, 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, has determined that a major disaster exists.

[Codified to 12 U.S.C. 3352]

[Source: Section 1123 of title XI of the Act of August 9, 1989 (Pub. L. No. 101–73; 103 Stat. 518), effective August 9, 1989; section 2 of the Act of October 23, 1992 (Pub. L. No. 102–485; 106 Stat. 2771), effective October 23, 1992]

SEC. 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 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.

[Codified to 12 USC 3353]

[Source: Section 1124 added by section 1473(f)(2) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111-203; 124 Stat. 2192), effective July 21, 2010]

SEC. 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
- (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.

[Codified to 12 USC 3354]

[Source: Section 1125 added by section 1473(q) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111–203; 124 Stat. 2198), effective July 21, 2010]

SEC. 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).

[Codified to 12 USC 3355]

[Source: Section 1126 added by section 1473(r) of title XIV of the Act of July 21, 2010 (Pub. L. No. 111–203; 124 Stat. 2198), effective July 21, 2010]

TITLE XII — MISCELLANEOUS PROVISIONS

SEC. 1206. COMPARABILITY IN COMPENSATION SCHEDULES.**(a) IN GENERAL**

The Federal Deposit Insurance Corporation, the Comptroller of the Currency, the National Credit Union Administration Board, the Federal Housing Finance Board, the Office of Financial Research, and the Bureau of Consumer Financial Protection, the Farm Credit Administration, in establishing and adjusting schedules of compensation and benefits which are to be determined solely by each agency under applicable provisions of law, shall inform the heads of the other agencies and the Congress of such compensation and benefits and shall seek to maintain comparability regarding compensation and benefits.

(b) COMMODITY FUTURES TRADING COMMISSION--

In establishing and adjusting schedules of compensation and benefits for employees of the Commodity Futures Trading Commission under applicable provisions of law, the Commission shall--

- (1) inform the heads of the agencies referred to in subsection (a) of this section and Congress of such compensation and benefits; and
- (2) seek to maintain comparability with those agencies regarding compensation and benefits.

[Codified to 12 U.S.C. § 1833b]

[Source: Section 1206 of title XII of the Act of August 9, 1989 (Pub. L. No. 101-73; 103 Stat. 523), effective August 9, 1989; section 302(a) of title III of the Act of December 12, 1991 (Pub. L. No. 102-33; Stat. 1767), effective February 1, 1992; section 8(d)(3) of the Act of January 16, 2002 (Pub. L. No. 107-123; 115 Stat. 2400), effective October 1, 2002; section 10702(b) of title X of the Act of May 13, 2002 (Pub. L. No. 107-171; 116 Stat. 516), effective May 13, 2002; section 152(d)(3) of title I of the Act of July 21, 2010 (Pub. L. No. 111-203; 124 Stat. 1414); section 367(8) of title III of the Act of July 21, 2010 (Pub. L. No. 111-203; 124 Stat. 1557), effective July 21, 2010]

SEC. 1213. COMPTROLLER GENERAL AUDIT AND ACCESS TO RECORDS.**(a) AUDIT OF AGENCIES OR OTHER PERSONS PERFORMING FUNCTIONS UNDER BANKING LAWS--****(1) IN GENERAL--**

Except as provided in paragraph (2), all agencies, corporations, organizations, and other persons of any description which perform any function or activity under this Act, or any other Act which is amended by this Act, shall be subject to audit by the Comptroller General of the United States with respect to such functions or activity.

(2) EXCEPTIONS--

Paragraph (1) shall not apply to--

- (A) any function or activity of the Board of Governors of the Federal Reserve System or the Federal Reserve banks that is described in any paragraph of section 714(b) of Title 31; and
- (B) any function or activity of the Federal National Mortgage Association, except as provided in section 1723a(j) of this title.

(b) AUDIT OF PERSONS PROVIDING CERTAIN GOODS OR SERVICES--

All persons and organizations which, by contract, grant, or otherwise, provide goods or services to, or receive financial assistance from, any agency or other person performing functions or activities under this Act shall be subject to audit by the Comptroller General with respect to such provision of goods or services or

receipt of financial assistance.

(c) PROVISIONS APPLICABLE TO AUDITS UNDER THIS SECTION--

(1) NATURE AND SCOPE OF AUDIT--

The Comptroller General shall determine the nature, scope, and terms and conditions of audits conducted under this section.

(2) COORDINATION WITH OTHER PROVISIONS OF LAW--

The authority of the Comptroller General under this section shall be in addition to any audit authority available to the Comptroller General under other provisions of this Act or any other law.

(3) RIGHTS OF ACCESS, EXAMINATION, AND COPYING

The Comptroller General, and an duly authorized representative of the Comptroller General, shall have access to, and the right to examine and copy, all records and other recorded information in any form, and to examine any property, within the possession or control of any agency or person which is subject to audit under this section which the Comptroller General deems relevant to an audit conducted under this section.

(4) ENFORCEMENT OF RIGHT OF ACCESS--

The Comptroller General's right of access to information under this section shall be enforceable pursuant to section 716 of Title 31.

(5) MAINTENANCE OF CONFIDENTIAL RECORDS--

The provisions of section 716(e) of Title 31 shall apply to information obtained by the Comptroller General under this section.

[Codified to 12 U.S.C. § 1833c]

[Source: Section 1213 of title XII of the Act of August 9, 1989 (Pub. L. No. 101-73: 103 Stat. 528), effective August 9, 1989]

SEC. 1216. EQUAL OPPORTUNITY.

(a) IN GENERAL--

For purposes of this Act, Executive Order Numbered 11478, providing for equal employment opportunity in the Federal Government, shall apply to--

- (1) the Comptroller of the Currency;
- (2) the Federal Housing Finance Agency; and
- (3) the Federal Deposit Insurance Corporation;

(b) AFFIRMATIVE PROGRAM FOR EQUAL EMPLOYMENT OPPORTUNITY--

For purposes of this Act, sections 1 and 2 of Executive Order Numbered 11478, providing for the adoption and implementation of equal employment opportunity, shall apply to Federal Home Loan Banks, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

(c) SOLICITATION OF CONTRACTS--

The Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Federal Housing Finance Agency shall each prescribe regulations to establish and oversee a minority outreach program within each such agency to ensure inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts entered into by the agency with such persons or

entities, public and private, in order to manage the institutions and their assets for which the agency is responsible or to perform such other functions authorized under any law applicable to such agency.

(d) REPORT TO CONGRESS—

BEFORE THE END OF THE 180-DAY PERIOD BEGINNING ON AUGUST 9, 1989—

- (1) the Federal Deposit Insurance Corporation;
- (2) the Comptroller of the Currency;
- (3) the Federal Housing Finance Board;
- (4) the Federal Home Loan Mortgage Corporation; and
- (5) the Federal National Mortgage Association,

shall each submit to the Congress a report containing a complete description of the actions taken by such agency pursuant to subsections (a) and (b) of this section and such recommendations for administrative and legislative action as each such agency may determine to be appropriate to carry out the purposes of such subsection.

[Codified to 12 U.S.C. § 1833e]

[Source: Section 1216 of title XII of the Act of August 9, 1989 (Pub. L. No. 101-73: 103 Stat. 529), effective August 9, 1989; section 302(a) of title III of the Act of December 12, 1991 (Pub. L. No. 102-33; 105 Stat. 1767), effective February 1, 1992; section 1216(g) of title II of the Act of July 30, 2008 (Pub. L. No. 110-289; 122 Stat. 2793), effective July 30, 2008; section 367(9) of title III of the Act of July 21, 2010 (Pub. L. No. 111-203; 124 Stat. 1557), effective July 21, 2010]

[\[Table of Contents\]](#) — [\[Previous Page\]](#) — [\[Next Page\]](#) — [\[Search\]](#)

Last updated February 28, 2013

regs@fdic.gov

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;

Unofficial ASC staff "redlined" version of Title XI
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.

*Unofficial ASC staff "redlined" version of Title XI
as amended by the Dodd-Frank Reform Act [text in red indicates amendments].*

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.

*Unofficial ASC staff "redlined" version of Title XI
as amended by the Dodd-Frank Reform Act [text in red indicates amendments].*

(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

*Unofficial ASC staff "redlined" version of Title XI
as amended by the Dodd-Frank Reform Act [text in red indicates amendments].*

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

*Unofficial ASC staff “redlined” version of Title XI
as amended by the Dodd-Frank Reform Act [text in red indicates amendments].*

(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 USCS §§ 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,

*Unofficial ASC staff "redlined" version of Title XI
as amended by the Dodd-Frank Reform Act [text in red indicates amendments].*

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.

*Unofficial ASC staff "redlined" version of Title XI
as amended by the Dodd-Frank Reform Act [text in red indicates amendments].*

§ 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

Unofficial ASC staff “redlined” version of Title XI
as amended by the Dodd-Frank Reform Act [text in red indicates amendments].

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,

Unofficial ASC staff “redlined” version of Title XI
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 the Appraisal Subcommittee, 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

*Unofficial ASC staff "redlined" version of Title XI
as amended by the Dodd-Frank Reform Act [text in red indicates amendments].*

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.

*Unofficial ASC staff "redlined" version of Title XI
as amended by the Dodd-Frank Reform Act [text in red indicates amendments].*

(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, 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.

*Unofficial ASC staff “redlined” version of Title XI
as amended by the Dodd-Frank Reform Act [text in red indicates amendments].*

(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~~

*Unofficial ASC staff “redlined” version of Title XI
as amended by the Dodd-Frank Reform Act [text in red indicates amendments].*

~~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

*Unofficial ASC staff "redlined" version of Title XI
as amended by the Dodd-Frank Reform Act [text in red indicates amendments].*

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

*Unofficial ASC staff “redlined” version of Title XI
as amended by the Dodd-Frank Reform Act [text in red indicates amendments].*

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

*Unofficial ASC staff “redlined” version of Title XI
as amended by the Dodd-Frank Reform Act [text in red indicates amendments].*

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

*Unofficial ASC staff “redlined” version of Title XI
as amended by the Dodd-Frank Reform Act [text in red indicates amendments].*

(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).

*Unofficial ASC staff “redlined” version of Title XI
as amended by the Dodd-Frank Reform Act [text in red indicates amendments].*

[Home](#) > [Legal Framework](#) > [ASC Policy Statements](#) > [ASC Policy Statements](#)

[Home](#)

[Resources For](#)

[About the ASC](#)

[Resources and Records](#)

[National Registry](#)

[Legal Framework](#)

[Statutes, Rules, & Policies](#)

[Dodd-Frank Wall Street Reform and Consumer Protection Act](#)

[Title XI of FIRREA](#)

[Operations](#)

[ASC Rules](#)

[ASC Policy Statements](#)

[State Appraiser Regulatory Programs](#)

[Frequently Asked Questions](#)

[About this Site](#)

[Appraisal Complaint National Hotline](#)

ASC Policy Statements

Introduction and Purpose

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), as amended (Title XI) established the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC). The purpose of Title XI is to provide protection of Federal financial and public policy interests by upholding Title XI requirements for appraisals performed for federally related transactions. Specifically those appraisals shall be 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. Pursuant to Title XI, one of the ASC's core functions is to monitor the requirements established by the States for certification and licensing of appraisers qualified to perform appraisals in connection with federally related transactions. The ASC performs periodic Compliance Reviews of each State appraiser regulatory program (Program) to determine compliance, or lack thereof, with Title XI, and to assess the Program's implementation of the AQB Criteria as adopted by the Appraiser Qualifications Board (AQB).

Pursuant to authority granted to the ASC under Title XI, the ASC adopted revised Policy Statements, effective June 1, 2013 (unless otherwise stated therein), to provide States with the necessary information to maintain their Programs in compliance with Title XI. Policy Statements 1 through 7 correspond with the categories that are evaluated during the Compliance Review process and included in the ASC Compliance Review Report (Report) and Policy Statement 8 sets forth required procedures in the event that interim sanctions are imposed against a State by the ASC:

- Policy Statement 1 – *Statutes, Regulations, Policies and Procedures Governing State Programs*
- Policy Statement 2 – *Temporary Practice*
- Policy Statement 3 – *National Registry*
- Policy Statement 4 – *Application Process*
- Policy Statement 5 – *Reciprocity*
- Policy Statement 6 – *Education*
- Policy Statement 7 – *State Agency Enforcement*
- Policy Statement 8 – *Interim Sanctions*

Also included are two appendices. Appendix A, *Compliance Review Process*, provides an overview of State Compliance Reviews and contains a new rating system to provide greater gradation in the ASC Findings regarding State compliance. The new rating system will be used for Compliance Reviews commencing on or after June 1, 2013. Appendix B, *Glossary of Terms*, clarifies the meaning of terms as used in the Policy Statements.

Background

Policy Statements were initially adopted in 1993 by the ASC to assist States in developing and maintaining their Programs in compliance with Title XI and were substantively supplemented in 1997 to address issues related to temporary practice and reciprocity. Since 1997, the Policy Statements remained largely unchanged with the exception of amendments made in 2008 to Policy Statement 10, *Enforcement*. Passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) in 2010 and implementation of the ASC's revised Compliance Review process in 2009 necessitated revision of the Policy Statements to enhance guidance for States as they implement changes required by the Dodd-Frank Act.

Following are links to the Policy Statements, effective June 1, 2013, and the Federal Register Notice of Adoption:

[Policy Statements](#)

[Federal Register Notice](#)

Policy Statement documents provided for historical reference:

[2013 - ASC Policy Statements \(Revised\) - 2013](#)

[2013 - Press Release - ASC Revised Policy Statements](#)

[Superseded - 1997 - ASC Policy Statements](#)

[Superseded - 2000 - Ltr to All States - Policy Statements 1 and 10 - 2000](#)

[Superseded - 2007 - ASC Policy Statements](#)

[Superseded - 2007 - Comment Ltrs from States on Policy Statement 10G](#)

~~Superseded - 2007 - Ltr to All States - Policy Statement 10G~~

~~Superseded - 2007 - Ltr to All States - Policy Statement 10G~~

~~Superseded - 2008 - ASC Policy Statements~~

~~Superseded - 2008 - Ltr from AZ Board of Appraisal - comments on Policy Statement 10G~~

[FAQs](#) [Contact Us](#) [Terms Of Use](#) [Privacy Notice](#) [Email Notifications](#)

1401 H Street N.W. • Suite 760 • Washington, D.C. 20005

You are entering an official United States government system that may be used only for authorized purposes. Unauthorized modification of any information stored on this system may result in criminal prosecution. The government may monitor and audit use of this system, and all persons using this system consent to such monitoring and auditing.

POLICY STATEMENT 5

Reciprocity

A. Reciprocity Policy

Title XI contemplates the reasonably free movement of certified and licensed appraisers across State lines. Beginning July 1, 2013, the ASC will monitor Programs for compliance with the reciprocity provision of Title XI as amended by the Dodd-Frank Act.⁶⁴ Title XI requires that in order for a State's appraisers to be eligible to perform appraisals for federally related transactions, the State must have a policy in place for issuing reciprocal credentials IF:

- a. the appraiser is coming from a State (Home State) that is "in compliance" with Title XI as determined by the ASC; AND
- b. (i) the appraiser holds a valid credential from the Home State; AND
(ii) the credentialing requirements of the Home State (as they exist at the time of application for reciprocal credential) meet or exceed those of the reciprocal credentialing State (Reciprocal State) (as they exist at the time of application for reciprocal credential).

An appraiser relying on a credential from a State that does not have such a policy in place may not perform appraisals for federally related transactions. A State may be more lenient in the issuance of reciprocal credentials by implementing a more open door policy. However, States cannot impose additional impediments to issuance of reciprocal credentials.⁶⁵

For purposes of implementing the reciprocity policy, States with an ASC Finding⁶⁶ of "Poor" do not satisfy the "in compliance" provision for reciprocity. Therefore, States are not required to recognize, for purposes of granting a reciprocal credential, the license or certification of an appraiser credentialed in a State with an ASC Finding of "Poor."

⁶⁴ Title XI § 1122 (b), 12 U.S.C. § 3351.

⁶⁵ Effective July 1, 2013, States will be evaluated for compliance with this Title XI requirement.

⁶⁶ See Appendix A, *Compliance Review Process*, for an explanation of ASC Findings.

B. Application of Reciprocity Policy

The following examples illustrate application of reciprocity in a manner that complies with Title XI. The examples refer to the reciprocity policy requiring issuance of a reciprocal credential IF:

- a. the appraiser is coming from a State that is "in compliance"; AND
- b. (i) the appraiser holds a valid credential from that State; AND
(ii) the credentialing requirements of that State (as they currently exist) meet or exceed those of the reciprocal credentialing State (as they currently exist).

1. *Additional Requirements Imposed on Applicants*

State A requires that prior to issuing a reciprocal credential the applicant must certify that disciplinary proceedings are not pending against that applicant in any jurisdiction. Under b (ii) above, if this requirement is not imposed on all of its own applicants for credentialing, STATE A cannot impose this requirement on applicants for reciprocal credentialing.

2. *Credentialing Requirements*

An appraiser is seeking a reciprocal credential in STATE A. The appraiser holds a valid credential in STATE Z, even though it was issued in 2007. This satisfies b (i) above. However in order to satisfy b (ii), STATE A would evaluate STATE Z's credentialing requirements as they currently exist to determine whether they meet or exceed STATE A's current requirements for credentialing.

3. *Multiple State Credentials*

An appraiser credentialed in several states is seeking a reciprocal credential in State A. That appraiser's initial credentials were obtained through examination in the original credentialing State and through reciprocity in the additional States. State A requires the applicant to provide a "letter of good standing" from the State of original credentialing as a condition of granting a reciprocal credential. State A may not impose such a requirement since Title XI does not distinguish between credentials obtained by examination and credentials obtained by reciprocity for purposes of granting reciprocal credentials.

C. Appraiser Compliance Requirements

In order to maintain a credential granted by reciprocity, appraisers must comply with the

credentialing State's policies, rules and statutes governing appraisers, including requirements for payment of certification and licensing fees, as well as continuing education.⁶⁷

D. Summary of Requirements

1. Effective July 1, 2013, in order for a State's appraisers to be eligible to perform appraisals for federally related transactions, the State must have a reciprocity policy in place for issuing a reciprocal credential to an appraiser from another State under the conditions specified in Title XI.⁶⁸
2. States may be more lenient in the issuance of reciprocal credentials by implementing a more open door policy; however, States may not impose additional impediments to issuance of reciprocal credentials.⁶⁹

⁶⁷ A State may offer to accept continuing education (CE) for a renewal applicant who has satisfied CE requirements of a home State; however a State may not impose this as a requirement for renewal, thereby imposing a requirement for the renewal applicant to retain a home State credential.

⁶⁸ Title XI § 1122 (b), 12 U.S.C. § 3351.

⁶⁹ *Id.*

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Requirements for Licensure and Certification

Rule Title: _____
 Type of Rule: Legislative Interpretive Procedural
 Agency: West Virginia Real Estate Appraiser Licensing & Certification Board
 Address: 2110 Kanawha Boulevard, East, Suite 101
Charleston, WV 25311
 Phone Number: 305-558-3919 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.

Costs: Proposed modifications to Title 190 Series 2 will be of minimal costs to the board and state. The initial cost to the board will be \$750 for IDECC (International Distance Education Certification Center) approval.

Revenues: Only new apprentices will be required to take the WV law course. New reciprocal applicants will not be allowed to take the course under Dodd-Frank guidelines. We have averaged 9 apprentice permits per year, thus creating a revenue of @ \$405 at \$45/course). It is expected the number of temporary permits may decrease and reciprocal licences increase, thus being revenue neutral. The number of appraisers in WV, and nationwide, is decreasing. Therefore, although it's estimated that increases will increase revenues \$9,876, this may be high due to attrition in the profession.

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	
Current Expenses	0.00	0.00	
Repairs & Alterations	0.00	0.00	
Assets	0.00	0.00	
Other	0.00	0.00	
2. Estimated Total Revenues			9,126.00

Requirements for Licensure and Certification

Rule Title: _____

**Fiscal Note Worksheet for
Title 190 Series 2 - Requirements for Licensure and Certification**

Fee	Current	Proposed	Difference	FY 2013	FY 2012	FY 2011	Average # per Year	Average \$ Increase per Fiscal Year
License Application Fee	\$ 125.00	\$ 150.00	\$ 25.00	2	2	4	3	\$ 75.00
Annual State License Residential Fee	\$ 365.00	None						
Delinquent License Fee	\$ 100.00	None						
Temporary Permit Fee for Non-Residents	\$ 150.00	\$ 250.00	\$ 100.00	208	182	177	189	\$ 8,900.00
Certification Application Fee	\$ 125.00	\$ 150.00	\$ 25.00	6	4	7	6	\$ 150.00
Annual State Certified General License Fee	\$ 465.00	None						
Annual State Certified Residential License Fee	\$ 315.00	None						
Delinquent Certification Fee	\$ 100.00	None						
Annual Inactive Status Fee	\$ 100.00	\$ 150.00	\$ 50.00	50	55	49	51	\$ 2,550.00
Apprentice Permit Fee	\$ 190.00	None						
Certificate of Good Standing	\$ 20.00	\$ 25.00	\$ 5.00	20	17	29	22	\$ 110.00
Copy Fees	\$ 0.50	None						
Upgrade Application Fee	\$ 125.00	\$ 150.00	\$ 25.00	12	9	12	11	\$ 275.00
Exemption from Supervisory Accomplishment	\$ 125.00	\$ 150.00	\$ 25.00	2	3	0	2	\$ 50.00
Roster	\$ 25.00	\$ 35.00	\$ 10.00	3	2	1	2	\$ 20.00
Roster Subscription	\$ 40.00	\$ 50.00	\$ 10.00	0	0	0	0	-
Duplicate Wall Certificate	\$ 25.00	\$ 50.00	\$ 25.00	0	1	1	1	\$ 25.00
Duplicate Pocket Card	\$ 25.00	\$ 50.00	\$ 25.00	1	0	1	1	\$ 25.00
Education Course Approval Fee	\$ 50.00	\$ 75.00	\$ 25.00	67	94	23	84	\$ 2,100.00
Duplicate Renewal Application (new fee)	\$ -	\$ 25.00	\$ 25.00	0	0	0	0	\$ 125.00
Apprentice Application Permit Fee	\$ 125.00	\$ 150.00	\$ 25.00	12	7	9	9	\$ 225.00
West Virginia Law Course (new fee) - based on a four year phase-in, where one-quarter of licensees would be required to take course each year.								
TOTAL								\$ 9,876.00

*done by 10/10/10
amended 01-25-13*