



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

8/30/2024 11:50:53 AM

Office of West Virginia
Secretary Of State

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

AGENCY: Real Estate Appraiser Licensing And Certification Board TITLE-SERIES: 190-03
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 190-03 Renewal of Licensure or Certification

PRIMARY CONTACT

NAME: Jeff Burrell
ADDRESS: 405 Capitol St
Suite 906
Charleston, WV 25301
EMAIL: jeffrey.b.burrell@wv.gov
PHONE NUMBER: 304-558-3919

CITE STATUTORY AUTHORITY: §30-38

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

The Board has statutory authority within §30-38-7 and §30-38-9 to define by rule the continuing education requirements for the renewal of certifications and licenses including experience, education, continuing education requirements and approval of courses; and any other purpose to carry out the requirements of §30-38 and §30-38A

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/27/2024

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 8/27/2024

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

No hearing conducted. Notice of request for written comments submitted/published with the Secretary of State.

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

The purpose of the rule is to set requirements for renewal of licensure or certification of appraisers.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

Changes to AQB Criteria for renewal of licensure require amendments to the rule to meet the Board's statutory requirement to meet or exceed AQB criteria. The proposed rule amends education requirements of the AQB of The Appraisal Foundation; eliminates the requirement of the WV Law course as a continuing education requirement; and amends requirements for instructors of continuing education courses

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

The rule has no impact on revenues of state government.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

The rule has no impact on special revenue accounts.

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

There is no economic impact of the rule on the state or its residents.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2024 Increase/Decrease (use "-")	2025 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

The proposed rule has no fiscal impact.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Jeffrey B Burrell -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

190CSR3

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

SERIES 3
RENEWAL OF LICENSURE OR CERTIFICATION

§190-3-1. General.

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

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

1.3. Filing Date. -- ~~April 8, 2022~~

1.4. Effective Date. -- ~~April 8, 2022~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, 2029.

§190-3-2. 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 Credit Practices of Designated Educational Institutions, published by the American Association of Collegiate Registrars and Admissions Officers.

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

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

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

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

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

2.7. "Licensee" means a person who holds a current valid license as a state licensed residential real estate appraiser, a certification as a state certified residential real estate appraiser or a certification as a state certified general real estate appraiser issued under the provisions of the W. Va. Code §30-38-1 et seq., or an apprentice permit issued under the provisions of the board's rule, "Requirements for Licensure

and Certification”, 190CSR2, subdivision 11.

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

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

2.10. “Uniform Standards of Professional Appraisal Practice” means the Uniform Standards of Professional Appraisal Practice (USPAP), published by The Appraisal Foundation.

§190-3-3. Renewal Term.

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

3.2. Renewals received either by US mail or via on-line submission after September 30 are subject to a delinquent fee pursuant to Legislature Rule 190CSR2, “Requirements for Licensure and Certification”.

§190-3-4. Qualifications for Renewal.

___ Continuing education requirements:

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

4.1.a. As a condition of renewal, a licensee shall complete the seven (7) hour Uniform Standards of Professional Appraisal Practice (USPAP) update course, every two years and within eight (8) months of a newly adopted version of USPAP, effective cycle. When an update course is made available by an approved education provider prior to the effective date of the newly adopted version of standards, a licensee may take and utilize the course towards renewal of their license in the licensing cycle.

4.1.b. Effective January 1, 2025, appraisers must successfully complete a seven (7) hour course which meets the content requirements of the Valuation Bias and Fair Housing Laws and Regulations Outline by December 31, 2025. After completion of the initial seven (7) hour course, and as a condition of subsequent license renewals, appraisers must complete a four (4) hour course meeting the same AQB content requirements every two years beginning January 1, 2026.

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

4.1.~~c~~b.1. Ad valorem taxation;

4.1.~~c~~b.2. Arbitration, dispute resolution;

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

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

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

- 4.1.cb.6. Land use planning and zoning;
- 4.1.cb.7. Management, leasing;
- 4.1.cb.8. Property developmental, partial interest;
- 4.1.cb.9. Real estate law, easements, and legal interests;
- 4.1.cb.10. Real estate law and Fair Housing;
- 4.1.cb.11. Real estate litigation, damages, and condemnation;
- 4.1.cb.12. Real estate financing and investment;
- 4.1.cb.13. Real estate appraisal related computer applications;
- 4.1.cb.14. Real estate securities and syndication;
- 4.1.cb.15. Developing opinions of real property value in appraisals that also include personal property and/or business value;
- 4.1.cb.16. Seller concessions and impact on value; and/or
- 4.1.cb.17. Energy efficient items and “green building” appraisals.

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

~~4.2. Effective January 1, 2015, licensees applying for renewal shall successfully complete a 3-hour West Virginia law course, with exam, every four (4) years. The passing score shall be determined by the board. This shall be in addition to the required 14 hours of continuing education for the renewal cycle.~~

~~4.32. A course provider shall issue notice of satisfactory course completion to any licensee who attended a minimum of 90% of the required classroom hours of approved course instruction. The licensee applying for renewal is responsible for documenting all required education with his or her application for renewal. All renewals are subject to random audit by the board.~~

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

4.45. The board may grant credit for up to seven (7) hours of a licensee’s continuing education requirement to a licensee who teaches appraisal courses which the board has approved and for which the board grants credit.

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

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

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

5.2. The board may grant credit towards the classroom hour requirement only when the length of the course is a minimum of ~~three~~ two (32) hours.

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

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

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

5.5.-a. Instructors must meet at least one of the following qualifications or be otherwise approved by the Board based on the instructor's experience in the subject matter of the course:

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

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

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

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

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

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

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

5.6. The board shall determine whether or not a course meets the equivalency of an approved course based upon the topic of the course as it relates to the area of real estate appraisal and the amount of time which the course uses for instruction. The course provider shall provide to the board the information on

190CSR3

the subject matter, the instructor, and length of the program. The board shall make a ~~case-by-case~~ case-by-case determination of the equivalency value of the program.

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

§190-3-6. Procedures for Renewal.

6.1. Prior to the expiration date of the license or certification, the board shall mail via US Postal Service or electronically a renewal application form to the address on file of each licensee. A licensee who does not receive the renewal application form is not relieved of the obligation to renew his or her license or certification if he or she desires to retain his or her license or certification.

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

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

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