



CLIFFORD OTTE

WISCONSIN STATE REPRESENTATIVE
27TH ASSEMBLY DISTRICT

October 30, 1998

To: The Members
Assembly Committee on Consumer Affairs

From: Representative Clifford Otte, Chair *C.O.*

MEMO

On October 30, 1998, the following clearinghouse rule was referred to the Assembly Committee on Consumer Affairs:

Clearinghouse Rule 98-132, relating to real estate appraisers.

The deadline for committee action on these rules is November 30, 1998. **If you are interested in requesting a hearing and/or submitting comments, please do so by November 16, 1998.**

A copy of the rule is attached.

Assembly

Committee Report

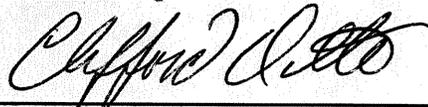
The committee on **Consumer Affairs**, reports and recommends:

Clearinghouse Rule 98-132

Relating to real estate appraisers.

Submitted by the Department of Regulation and Licensing.

November 30, 1998 - NO ACTION TAKEN



Representative Clifford Otte
Chair

Assembly

Record of Committee Proceedings

Committee on Consumer Affairs

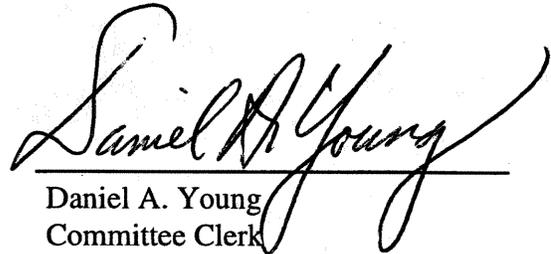
Clearinghouse Rule 98-132

Relating to real estate appraisers.

Submitted by the Department of Regulation and Licensing.

October 29, 1998 Referred to committee on Consumer Affairs.

November 30, 1998 **NO ACTION TAKEN**



Daniel A. Young
Committee Clerk

**STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING**

**IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION AND
DEPARTMENT OF REGULATION : LICENSING ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 98-132)**

TO: Scott Jensen
Speaker of the Assembly
Room 211 West, State Capitol
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the DEPARTMENT OF REGULATION AND LICENSING is submitting in final draft form proposed rules relating to real estate appraisers.

If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.



State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING



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Administrative Rules in Final Draft Form

Department of Regulation and Licensing

Rule: Chapters RL 80 to RL 87

Relating to: Real Estate Appraisers

Clearinghouse Rule: No. 98-132

Regulatory Boards

Accounting; Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors; Professional Geologists, Hydrologists and Soil Scientists, Auctioneer, Barbering and Cosmetology, Chiropractic, Controlled Substances; Dentistry; Dietitians, Funeral Directors; Hearing and Speech, Medical, Nursing; Nursing Home Administrator, Optometry, Pharmacy, Physical Therapists, Podiatry, Psychology, Real Estate, Real Estate Appraisers, Social Workers, Marriage and Family Therapists and Professional Counselors, and Veterinary

Committed to Equal Opportunity in Employment and Licensing

**STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING**

**IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE RULE 98-132
DEPARTMENT OF REGULATION : (s. 227.19 (3), Stats.)
AND LICENSING :**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

No new or revised forms are required by these rules.

III. FISCAL ESTIMATES:

These rules will have no significant impact upon state or local units of government.

IV. STATEMENT EXPLAINING NEED:

In this proposed rule-making order the Department of Regulation and Licensing amends and creates numerous provisions contained in chs. RL 80 to 87, relating to the regulation of certified and licensed appraisers. Significant changes to the current rules are as follows:

1. Section RL 80.03 is being revised to include a definition for the term "federal financial institutions regulatory agencies," "federally related transaction" and "non-federally related transaction."
2. Section RL 81.01 (2) (b), which relates to temporary registration, currently requires that written verification of appraiser licensure or certification be submitted by an authorized state official from each state in which an applicant holds an appraiser license or certification. This provision is being revised to reflect that written verification of licensure or certification must be submitted only by the states in which the applicant practices as an appraiser. In addition, the applicant must provide a written statement identifying any other state in which he or she holds a credential.
3. Section RL 81.04 is being created to include the requirements for obtaining a reciprocal credential.
4. Section RL 83.01 (3) (e) is being created to state that an individual applying for an appraiser credential may not claim more than 20% appraisal experience obtained from

the performance of limited appraisals or from the performance of appraisals in which the Departure provision of the Uniform Standards of Professional Appraisal Practice was invoked.

5. Sections RL 85.01, 87.01 and 87.02 are being amended to reflect that starting with the January 1, 2000, renewal date appraisers will be required to report completion of 28 hours of continuing education instead of 20 hours, as required under current law.

6. RL 86.01 (2) is being amended to reflect that all appraisals performed in conjunction with federally related transactions and non-federally related transactions shall conform to the Uniform Standards of Professional Appraisal Practice.

V. NOTICE OF PUBLIC HEARING:

A public hearing was held on September 30, 1998. There were no appearances at the public hearing nor were any written comments received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 2.c. In s. RL 81.04 (1) (c), "has done all of the following" should be inserted before the colon.

Response: The language as written is appropriate.

Comment 5.d. Section RL 84.01 (10) states that an appraisal course approved by the appraiser qualifications board of the appraisal foundation *may be* approved by the department without receipt of an application for course approval from the course provider. Use of the word "may" means that the department has discretion over whether to approve a course without an application from the course provider. Is that the department's intent? The same question pertains to the language in s. RL 85.02 (11).

Response: The proposed language, as written, accurately reflects the department's intent.

All of the remaining recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION AND
DEPARTMENT OF REGULATION : LICENSING ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 98-132)

PROPOSED ORDER

An order of the Department of Regulation and Licensing to *renumber* RL 80.03 (10a); to *renumber and amend* RL 81.04; to *amend* RL 81.03 (2) (b), 84.01 (1) and (6) (intro.), 85.01 (1) and Note and (6), 85.02 (1) and (8) (intro.), 86.01 (2), 87.01 (1), 87.02 (1) and (2) (intro.); to *create* RL 80.03 (8ag), (8ar) and (10r), 81.03 (2) (e), 81.04, 83.01 (3) (e), 84.01 (7) (c) and (d) and (10), 85.01 (3), and 85.02 (9) (d) and (11), relating to real estate appraisers.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 227.11 (2) and 458.03 (1) (b) and (e), Stats., and s.458.085, Stats., as amended by 1997 Wisconsin Act 225.

Statutes interpreted: ss. 458.06 (3) (b), 458.06 (4) (b) and (4m), 458.08 (3) (c) and (4), 458.095, 458.11, 458.13, 458.24 and 458.26, Stats.

In this proposed rule-making order the Department of Regulation and Licensing amends and creates numerous provisions contained in chs. RL 80 to 87, relating to the regulation of certified and licensed appraisers. Significant changes to the current rules are as follows:

1. Section RL 80.03 is being revised to include a definition for the term "federal financial institutions regulatory agencies," "federally related transaction" and "non-federally related transaction."

2. Section RL 81.01 (2) (b), which relates to temporary registration, currently requires that written verification of appraiser licensure or certification be submitted by an authorized state official from each state in which an applicant holds an appraiser license or certification. This provision is being revised to reflect that written verification of licensure or certification must be submitted only by the states in which the applicant practices as an appraiser. In addition, the applicant must provide a written statement identifying any other state in which he or she holds a credential.

3. Section RL 81.04 is being created to include the requirements for obtaining a reciprocal credential.

4. Section RL 83.01 (3) (e) is being created to state that an individual applying for an appraiser credential may not claim more than 20% appraisal experience obtained from the performance of limited appraisals or from the performance of appraisals in which the Departure provision of the Uniform Standards of Professional Appraisal Practice was invoked.

5. Sections RL 85.01, 87.01 and 87.02 are being amended to reflect that starting with the January 1, 2000, renewal date appraisers will be required to report completion of 28 hours of continuing education instead of 20 hours, as required under current law.

6. RL 86.01 (2) is being amended to reflect that all appraisals performed in conjunction with federally related transactions and non-federally related transactions shall conform to the Uniform Standards of Professional Appraisal Practice.

TEXT OF RULE

SECTION 1. RL 80.03 (8ag) and (8ar) are created to read:

RL 80.03 (8ag) "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.

(8ar) "Federally related transaction" means any real estate related financial transaction which a federal financial institutions regulatory agency engages in, contracts for or regulates and requires the services of an appraiser.

SECTION 2. RL 80.03 (10a) is renumbered RL 80.03 (10g).

SECTION 3. RL 80.03 (10r) is created to read:

RL 80.03 (10r) "Non-federally related transaction" means:

(a) Any real estate related transaction in which federal law requires the use of a licensed or certified appraiser.

(b) Any real estate related transaction which is performed at the request of or on behalf of the owner of real estate or performed pursuant to a court order.

SECTION 4. RL 81.03 (2) (b) is amended to read:

RL 81.03 (2) (b) Written verification of current appraiser licensure or certification submitted by an authorized state official for each state ~~wherein the applicant holds an appraiser license or certification~~ in which the applicant practices as an appraiser.

SECTION 5. RL 81.03 (2) (e) is created to read:

RL 81.03 (2) (e) A written statement identifying each state in which the applicant holds an appraiser license or certification.

SECTION 6. RL 81.04 is renumbered RL 81.05 and as renumbered RL 81.05 (intro.) is amended to read:

RL 81.05 SCOPE OF APPRAISAL PRACTICE. (intro.) Except as permitted by state or federal law, licensed and certified appraisers are authorized to conduct appraisals in conjunction with federally related and non-federally related transactions as follows:

SECTION 7. RL 81.04 is created to read:

RL 81.04 RECIPROCAL LICENSURE AND CERTIFICATION. (1) An individual applying for licensure or certification as an appraiser on the basis of a license or certification in another state or territory of the United States shall do all of the following:

(a) Submit an application on a form provided by the department.

Note: Application forms are available on request to the department at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935.

(b) Pay the fee specified in s. 440.05 (2), Stats.

(c) Submit evidence satisfactory to the department that he or she has done all of the following:

1. Holds a current appraiser license or certification in another state or territory of the United States which was granted in accordance with the requirements set forth under the financial institutions reform, recovery, and enforcement act of 1989, 12 USC 3331 et seq.

2. Has passed the examination on Wisconsin statutes and rules governing appraisers, as provided under s. RL 82.01.

3. Subject to ss. 111.321, 111.322 and 111.335, Stats., does not have an arrest or conviction record.

(2) In determining whether to grant a reciprocal license or certification, the department shall consider whether the requirements for a license or certification in the other state or territory are substantially equivalent to the requirements for licensure or certification as an appraiser in this state. For purposes of reciprocity, the department shall consider the requirements for a license or certification in effect in the other state or territory at the time a credential was granted by the other state or territory rather than at the time of the filing of an application in this state.

SECTION 8. RL 83.01 (3) (e) is created to read:

RL 83.01 (3) (e) Include no more than 20% appraisal experience obtained from the performance of limited appraisals or from the performance of appraisals in which the departure provision of the uniform standards of professional appraisal practice was invoked.

SECTION 9. RL 84.01 (1) and (6) (intro.) are amended to read:

RL 84.01 (1) ~~All~~ Except as provided in sub. (10), all educational courses designed to meet the requirements in s. 458.06 (2) (d), (3) (b) or (4) (b), Stats., s. 458.08 (3) (c), Stats., and this chapter, shall be submitted to the department for approval.

(6) (intro.) Credit may be allowed for a correspondence course, video or remote television presentation which is approved by the appraiser qualifications board of the appraisal foundation or which satisfies all of the following requirements:

SECTION 10. RL 84.01 (7) (c) and (d) and (10) are created to read:

RL 84.01 (7) (c) Be an instructor of assessor education courses who is approved by the department of revenue to teach assessor education programs.

(d) Be an instructor who teaches appraisal courses approved by the appraiser qualifications board of the appraisal foundation.

Note: To obtain information about courses approved by the Appraiser Qualifications Board of the Appraisal Foundation write to: 1029 Vermont Avenue, NW, Suite 900, Washington, D.C. 20005-3517.

(10) An appraisal course approved by the appraiser qualifications board of the appraisal foundation may be approved by the department without receipt of an application for course approval from the course provider.

SECTION 11. RL 85.01 (1) and Note are amended to read:

RL 85.01 (1) Every certified and licensed appraiser shall complete at least ~~20~~ 28 hours of continuing education in each biennial renewal period, at least 4 of which shall include instruction in the professional standards and code of ethics applicable to appraisers.

Note: ~~For the January 1, 1998 renewal period, credential holders will be required to submit proof of completion of 20 hours of continuing education. Commencing with the January 1, 2000 renewal period, an applicant~~ credential holders must submit proof of completion of ~~the 4 hours of~~ 28 hours of continuing education, at least 4 of which shall include instruction in the professional standards and code of ethics applicable to appraisers ~~and each biennial renewal period thereafter. In February, 1994, the Appraiser Qualifications Board of the Appraisal~~

~~Foundation adopted a requirement that increases the continuing education hours for certified and licensed appraisers from 20 to 28, effective January 1, 1998. This change will not affect the January 1, 1998 reporting requirements in Wisconsin.~~

SECTION 12. RL 85.01 (3) is created to read:

RL 85.01 (3) To obtain credit for continuing education hours, a licensed or certified appraiser shall sign a statement on the renewal application certifying that he or she has completed, within the 2 years immediately preceding the date on which the application is submitted, 28 hours of continuing education approved by the department.

Note: Renewal applications are provided by the department prior to each renewal date.

SECTION 13. RL 85.01 (6) is amended to read:

RL 85.01 (6) To audit for compliance the department may require any certified or licensed appraiser to submit evidence of completion of ~~20~~ 28 hours of continuing education for the biennium preceding the renewal. Every certified and licensed appraiser shall retain records of continuing education credits for at least 5 years.

SECTION 14. RL 85.02 (1) and (8) (intro.) are amended to read:

RL 85.02 (1) ~~To~~ Except as provided in sub. (11), to obtain approval of a continuing education program, the program provider shall submit an application on forms provided by the department at least 45 days prior to the first date the program is offered. The program provider shall include a general description of the subject, name, and outline, name and qualifications of the instructor, date, time segments, and location. The department shall notify the provider whether the program has been approved or denied within 20 business days from the date the application is received.

(8) (intro.) A correspondence course, video or remote television presentation which is approved by the appraiser qualifications board of the appraisal foundation or which satisfies all of the following requirements may be approved:

SECTION 15. RL 85.02 (9) (d) and (11) are created to read:

RL 85.02 (9) (d) Be an instructor who teaches appraisal courses approved by the appraiser qualifications board of the appraisal foundation.

Note: To obtain information about courses approved by the Appraiser Qualifications Board of the Appraisal Foundation write to: 1029 Vermont Avenue, NW, Suite 900, Washington, D.C. 20005-3517.

(11) An appraisal course approved by the appraiser qualifications board of the appraisal foundation may be approved by the department without receipt of an application for course approval from the course provider.

SECTION 16. RL 86.01 (2) is amended to read:

RL 86.01 (2) All appraisals performed in conjunction with federally related transactions and non-federally related transactions shall conform to the uniform standards of professional appraisal practice set forth in Appendix I.

SECTION 17. RL 87.01 (1) is amended to read:

RL 87.01 (1) Applications for renewal shall be submitted prior to the applicable renewal date specified under s. 440.08 (2) (a), Stats., on a form provided by the department, along with the renewal fee specified under s. 440.08 (2) (a) 11., 11m. and 12., Stats., as appropriate, and proof of completion of ~~20~~ 28 hours of continuing education coursework as required under s. RL 85.01.

SECTION 18. RL 87.02 (1) and (2) (intro.) are amended to read:

RL 87.02 (1) If applying less than 5 years after the renewal date, submitting proof of completion of ~~20~~ 28 hours of continuing education as required under s. RL 85.01 and paying the renewal fees specified in s. 440.08 (2) (a) 11., 11m. and 12. and (3), Stats.

(2) (intro.) If applying 5 years or more after the renewal date, submitting proof of completion of ~~20~~ 28 hours of continuing education as required under s. RL 85.01, paying the renewal fees specified in s. 440.08 (2) (a) 11., 11m. and 12. and (3), Stats., and submitting proof of one or more of the following, as determined by the department to ensure protection of the public health, safety and welfare:

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated _____

Agency _____

Marlene A. Cummings, Secretary
Department of Regulation and Licensing

FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

FINAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

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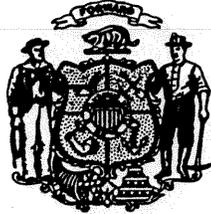
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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 98-132

AN ORDER to renumber and amend RL 81.04; to amend RL 81.03 (2) (b), 84.01 (1) and (6) (a), 85.01 (1) and Note and (6), 85.02 (1) and (8) (a), 86.01 (2), 87.01 (1) and 87.02 (1) and (2) (intro.); to create RL 80.03 (8bm), (8bn) and (10n), 81.03 (2) (e), 81.04, 83.01 (3) (e), 84.01 (7) (c) and (d) and (10), 85.01 (3) and 85.02 (9) (d) and (11), relating to real estate appraisers.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

09-02-98 RECEIVED BY LEGISLATIVE COUNCIL.

10-01-98 REPORT SENT TO AGENCY.

RNS:PS:kjf;ksm

WISCONSIN LEGISLATIVE COUNCIL STAFF

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CLEARINGHOUSE RULE 98-132

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. In the fifth item in the analysis, "87.02" should replace "8702".

b. According to s. 1.01 (7) (a), Manual, definitions are supposed to be arranged alphabetically. However, in SECTION 1 of this rule, the newly created definitions for "federal financial institutions regulatory agencies" and "federally related transaction" are inserted out of alphabetical order. They should be moved to precede the definition of "fee and staff appraisal," presently located in s. RL 80.03 (8b). The definition of "federal financial institutions regulatory agencies" should be located in s. RL 80.03 (8ag) and the definition of "federally related transaction" should be placed in s. RL 80.03 (8ar).

It is also suggested that the definition of "non-complex 1-to-4 family residential property appraisal," currently located in s. RL 80.03 (10a) be renumbered to (10g) and the newly created definition of "non-federally related transaction" should be placed in sub. (10r), rather than in sub. (10n). This will assist in making any future insertions.

c. In s. RL 81.04 (1) (intro.), "do all of the following" should be inserted before the colon. In s. RL 81.04 (1) (c), "has done all of the following" should be inserted before the colon.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. RL 80.03 (8bm), there are two periods at the end of the sentence, one of which should be deleted.

b. In s. RL 81.04 (2), the word "will" on line 4 should be changed to "shall."

c. In s. RL 83.01 (3) (e), the letters "BC" on line 1 should be changed to "RL." Also in that provision, is the term "limited appraisals" generally understood in the field or should a definition be provided?

d. Section RL 84.01 (10) states that an appraisal course approved by the appraiser qualifications board of the appraisal foundation *may be* approved by the department without receipt of an application for course approval from the course provider. Use of the word "may" means that the department has discretion over whether to approve a course without an application from the course provider. Is that the department's intent? The same question pertains to the language in s. RL 85.02 (11).

e. Section RL 85.01 (3) states that to obtain credit for continuing education hours, a licensed or certified appraiser must sign a statement at the time of each renewal certifying that he or she has completed the requisite number of continuing education hours. Is there or should there be a form to serve as the "statement" required by this provision? If so, the existence of the form should be noted, as well as information on how to obtain the form. If not, the rule should specify how and where the "statement" is to be made. For example, will it appear on the application for renewal?



CLIFFORD OTTE

WISCONSIN STATE REPRESENTATIVE
27TH ASSEMBLY DISTRICT

October 30, 1998

To: The Members
Assembly Committee on Consumer Affairs

From: Representative Clifford Otte, Chair *C.O.*

MEMO

On October 30, 1998, the following clearinghouse rule was referred to the Assembly Committee on Consumer Affairs:

Clearinghouse Rule 98-132, relating to real estate appraisers.

The deadline for committee action on these rules is November 30, 1998. **If you are interested in requesting a hearing and/or submitting comments, please do so by November 16, 1998.**

A copy of the rule is attached.