

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING : ORDER OF THE
PROCEEDINGS BEFORE THE :DEPARTMENT OF REGULATION AND
DEPARTMENT OF REGULATION : LICENSING
ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 01-100)

ORDER

An order of the Department of Regulation and Licensing to repeal RL 80.03 (2a), 81.03 (2) (b), 82.03 (2), the Note following RL 83.01 (3) (d), 83.02 (2), the Note following RL 84.01 (7) (d), 84.01 (8), the Note following 84.02 (2), the Note following RL 84.04 (2), the Note following RL 85.01 (1), 85.02 (8) and the Note following RL 85.02, and 86.01 (6); to renumber RL 81.03 (2) (c) and (d), 82.03 (1), 83.02 (7), 84.01 (9) and (10), 85.02 (11), 85.02 (9); to renumber and amend RL 81.03 (2) (e), 83.02 (3), (4), (5), (6) (intro.) and (7) and 85.02 (10); to amend RL 80.03 (1a), (2), (3), (8a), (8b), (8d), (9), (12), (13) and (14), 81.03 (1) (c), 82.01 (1) and the Note following RL 82.01 (1), 84.01 (1), 84.02 (2), 84.03 (2) (a), 84.04 (2), 85.01 (1), (4) and (5), 85.02 (title), (1) to (4), and (6), 86.01 (4), 86.02 (1), 87.01 (1) to (3) and 87.02 (intro.), (2) (intro.) and (2) (a); to repeal and recreate RL 80.03 (10r), 84.01 (6) and the Note following RL 84.01 (6) and 85.02 (5) and (7); and to create RL 80.03 (7g) and (8bg), 84.01 (7) (e) and (g), (9) and (10), a Note following RL 84.01 (12), 84.01 (13), 85.02 (11) and 86.01 (10), relating to real estate appraisers.

Analysis prepared by the Department of Regulation and Licensing

ANALYSIS

Statutes authorizing promulgation: ss. 227.11 (2), 458.03 and 458.085, Stats.

Statutes interpreted: ss. 458.06, 458.08, 458.13, 458.24 and 458.26, Stats.

In this rule-making order the Department of Regulation and Licensing amends, renumbers, repeals and recreates 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 revised to create definitions for “distance education,” “FIRREA” and “non-federally related transaction.” Several definitions, “ad valorem tax appraisal,” “appraisal analysis,” “appraisal experience,” “feasibility analysis,” “fee and staff appraisal,” “highest and best use,” and “real estate counseling” are being revised to delete references to the applicable version of USPAP. This information is already identified in s. RL 83.01 (3) (a), which provides that work claimed for appraisal experience must be in compliance with the USPAP “as in effect at the time the appraisals were prepared.”

2. Section RL 81.03 (2) (b) is being repealed because in the future the department will obtain written verification of current licensure or certification of appraisers from the Federal Registry established by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council. Under s. RL 81.03 (2) (d) an applicant will be required to submit a written statement identifying each

state in which he or she practices as an appraiser.

3. Section RL 82.03 is being repealed because the department now reports examination results to candidates as “pass/fail.”

4. Section RL 83.02 (2) is being repealed because the department no longer accepts teaching experience as appraisal experience. Section RL 83.02 (3) is also being amended to reflect that teaching experience is no longer acceptable as appraisal experience.

5. Section RL 84.01 (7) is repealed and recreated. Section RL 85.02 (8) is being repealed. These revisions are being made to reflect the changes to the requirements for distance education set forth in the Real Property Appraiser Qualification Criteria adopted by the Appraiser Qualifications Board of the Appraisal Foundation.

6. Section RL 86.01 is being repealed because it is not consistent with the Competency Rule contained in USPAP. Section RL 86.01 (6) states that a certified or licensed appraiser shall not offer to perform, nor perform, services which he or she is not competent to perform through education or experience. The Competency Rule provides that prior to accepting an assignment or entering into an agreement to perform any assignment, an appraiser must properly identify the problem to be addressed and have the knowledge and experience to complete the assignment competently, or alternatively, must do all of the following:

- a. Disclose the lack of knowledge and/or experience to the client before accepting the assignment.
- b. Take all steps necessary or appropriate to complete the assignment competently.
- c. Describe the lack of knowledge and/or experience and the steps taken to complete the assignment competently in the report.

TEXT OF RULE

SECTION 1. RL 80.03 (1a) and (2) are amended to read:

RL 80.03 (1a) “Ad valorem tax appraisal” means a mass appraisal performed by an assessor, as defined in s. 458.09 (1), Stats., in accordance with ~~standard~~ Standard 6 of the uniform ~~Standards~~ standards of professional appraisal practice, ~~as in effect at the time the appraisal was prepared.~~

(2) “Appraisal analysis” means a market analysis performed in accordance with Standards 4 and 5 of the uniform standards of professional appraisal practice ~~as specified in Appendix I.~~

SECTION 2. RL 80.03 (2a) is repealed.

SECTION 3. RL 80.03 (3) is amended to read:

RL 80.03 (3) “Appraisal experience” means experience obtained by the performance of fee and staff appraisals, ad valorem tax appraisals, technical review appraisals, condemnation appraisals,

appraisal analyses, highest and best use studies, real estate consulting assignments or real estate broker's market analyses in accordance with the uniform standards of professional appraisal practice, ~~at the time the experience was obtained.~~

SECTION 4. RL 80.03 (7g) is created to read:

RL 80.03 (7g) "Distance education" means:

(a) For purposes of qualifying education, an educational course presented through an alternative delivery method, such as the internet or by teleconferencing that provides some form of interaction between the learner and the instructor.

(b) For purposes of continuing education, an educational course presented through an alternative delivery method, such as the internet or by teleconferencing.

SECTION 5. RL 80.03 (8a) and (8b) are amended to read:

RL 80.03 (8a) "Feasibility analysis" means a study of the cost-benefit relationship of an economic endeavor conducted in accordance with Standards 4 and 5 of the uniform standards of professional appraisal practice, ~~as in effect at the time the study was conducted.~~

(8b) "Fee and staff appraisal" means a real property appraisal developed and reported in accordance with Standards 1 and 2 of the uniform standards of professional appraisal practice, ~~as in effect at the time the appraisal was prepared.~~

SECTION 6. RL 80.03 (8bg) is created to read:

RL 80.03 (8bg) "FIRREA" means the financial institutions reform, recovery, and enforcement act of 1989.

SECTION 7. RL 80.03 (8d) and (9) are amended to read:

RL 80.03 (8d) "Highest and best use study" means a study of the highest and best use of real estate conducted in accordance with Standards 4 and 5 of the uniform standards of professional appraisal practice, ~~as in effect at the time the study was conducted.~~

(9) "Hour of appraisal experience" means 60 minutes of verifiable time spent in performing tasks as identified in s. RL 83.01 (3) (b) in accordance with the uniform standards of professional appraisal practice, as in effect at the time the tasks were performed, ~~or in the case of teaching experience, 50 minutes of verifiable time spent providing instruction in an approved course.~~

SECTION 8. RL 80.03 (10r) is repealed and recreated to read:

RL 80.03 (10r) "Non-federally related transaction" means any real estate related transaction other than a federally related transaction.

SECTION 9. RL 80.03 (12), (13) and (14) are amended to read:

RL 80.03 (12) “Real estate broker’s market analysis” means a market analysis performed by a real estate broker or a real estate salesperson prepared in conformity with Standards 1 and 2 of the uniform standards of professional appraisal practice as specified in Appendix I, which demonstrates the use of techniques similar to those employed by appraisers to value real property, and which effectively utilizes the appraisal process.

(13) “Real estate consulting” means the performance of consulting services in accordance with Standards 4 and 5 of the uniform standards of appraisal practice as specified in Appendix I.

(14) “Supervision” means direct, personal and active oversight by a certified or licensed appraiser of ~~employees~~ employees or associates who assist in the preparation of appraisals.

SECTION 10. RL 81.03 (1) (c) is amended to read:

RL 81.03 (1) (c) The appraiser completes ~~the~~ an application and pays the fee specified in s. 440.05 (2), Stats.

SECTION 11. RL 81.03 (2) (b) is repealed.

SECTION 12. RL 81.03 (2) (c) and (d) are renumbered RL 81.03 (2) (b) and (c).

SECTION 13. RL 81.03 (2) (e) is renumbered RL 81.03 (2) (d) and amended to read:

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

SECTION 14. RL 82.01 (1) and the Note following RL 82.01 (1) are amended to read:

RL 82.01 Examination. (1) ~~Prior to issuance of~~ In order to obtain a residential or general ~~appraiser’s appraiser certification or appraiser’s license~~ a certificate of licensure as an appraiser, an applicant shall pass the national examination required for certification as a residential appraiser or general appraiser or for licensure, and the examination on Wisconsin statutes and rules governing appraisers.

Note: The examination on Wisconsin statutes and rules is administered by the Department of Regulation and Licensing ~~and the~~ The national examination is administered by a provider approved by the ~~Department of Regulation and Licensing~~ department.

SECTION 15. RL 82.03 (1) is renumbered RL 82.03.

SECTION 16. RL 82.03 (2) is repealed.

SECTION 17. The Note following RL 83.01 (3) (d) is repealed.

SECTION 18. RL 83.02 (2) is repealed.

SECTION 19. RL 83.02 (3) is renumbered RL 83.02 (2) and amended to read:

RL 83.02 (2) Employment records provided by an employer which verify the applicant's experience as an appraiser, or assessor, ~~or appraisal course instructor~~. Employment records shall include an affidavit which verifies the number of hours employed, the type of experience, and a description of the applicant's duties.

SECTION 20. RL 83.02 (4), (5) and (6) (intro.) are renumbered RL 83.02 (3), (4) and (5) (intro.), and RL 83.02 (5) (b) (intro.), as renumbered, is amended to read:

RL 83.02 (5) (b) (intro.) Documents ~~which~~ that demonstrate the applicant's performance of the following components of the mass appraisal process in accordance with Standard 6 of the uniform standards of professional appraisal practice, ~~as in effect at the time the components were prepared:~~

SECTION 21. RL 83.02 (7) is renumbered RL 83.02 (6).

SECTION 22. RL 84.01 (1) is amended to read:

RL 84.01 Course approval. (1) Except as provided in ~~sub. (10)~~ subs. (12) and (13), 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.

SECTION 23. RL 84.01 (6) and the Note following RL 84.01 (6) are repealed and recreated to read:

RL 84.01 (6) Credit may be granted for a distance education course that satisfies one of the following:

(a) The course is presented by an accredited college or university that offers distance education programs in other disciplines and satisfies all of the following:

1. Requires the learner to successfully complete a written examination proctored by an official approved by the college or university.
2. Relates to one or more subject areas identified under s. RL 84.02 (3), 84.03 (3) or 84.04 (3).
3. Meets all requirements for qualifying education established by the appraiser qualifications board of the appraisal foundation.

(b) The course is approved for college credit by the American council on education or approved by the appraiser qualifications board of the appraisal foundation under its course approval program and satisfies all of the following:

1. Requires the learner to successfully complete a written examination proctored by an official approved by the presenting entity.
2. Relates to one or more subject areas identified under s. RL 84.02 (3), 84.03 (3) or 84.04 (3).

3. Meets all requirements for qualifying education established by the appraiser qualifications board of the appraisal foundation.

Note: The American Council on Education may be contacted at: One DuPont Circle, NW, Washington, D.C., 20036, (202) 939-9300.

SECTION 24. The Note following RL 84.01 (7) (d) is repealed.

SECTION 25. RL 84.01 (7) (e) is created to read:

RL 84.01 (7) (e) Be an instructor who teaches appraisal courses approved for college credit by the American council on education.

SECTION 26. RL 84.01 (7g) is created to read:

RL 84.01 (7g) Credit may be granted for teaching an approved appraisal course.

SECTION 27. RL 84.01 (8) is repealed.

SECTION 28. RL 84.01 (9) and (10) are renumbered RL 84.01 (11) and (12).

SECTION 29. RL 84.01 (9) and (10) are created to read:

RL 84.01 (9) The course provider shall retain records of attendance of qualifying education programs for a period of 5 years that shall include all of the following:

- (a) The name of the course.
- (b) The date the course was offered.
- (c) The names and addresses of individuals who completed the course.
- (d) The number of hours of instruction.
- (e) If administered, the examination results for each individual.

(10) The course provider shall monitor attendance by requiring each participant to sign an attendance sheet at the beginning and end of each program and shall furnish each participant with written evidence of having completed the course.

SECTION 30. A Note following RL 84.01 (12) is created to read:

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.

SECTION 31. RL 84.01 (13) is created to read:

RL 84.01 (13) An appraisal course that relates to one or more subject areas identified under s. RL 84.02 (3), 84.03 (3) or 84.04 (3) and has received approval for college credit by the American council on education may be approved by the department without receipt of an application for course approval.

SECTION 32. RL 84.02 (2) is amended to read:

RL 84.02 (2) Any approved program of study for certified residential appraisers shall include not less than 15 hours of instruction in ~~professional standards and code of ethics applicable to appraisers~~ the uniform standards of professional appraisal practice and not less than 20 hours of instruction in commercial income approach as described in sub. (3) (r).

SECTION 33. The Note following RL 84.02 (2) is repealed.

SECTION 34. RL 84.03 (2) (a) is amended to read:

RL 84.03 (2) (a) Not less than 15 hours of instruction in ~~professional standards and code of ethics applicable to appraisers~~ the uniform standards of professional appraisal practice.

SECTION 35. RL 84.04 (2) is amended to read:

RL 84.04 (2) Any approved program of study for licensed appraisers shall include within the 90 hours, not less than 15 hours of instruction in ~~professional standards and code of ethics applicable to appraisers~~ the uniform standards of professional appraisal practice and not less than 20 hours of instruction in commercial income approach as described in sub. (3) (r).

SECTION 36. The Note following RL 84.04 (2) is repealed.

SECTION 37. RL 85.01 (1) is amended to read:

RL 85.01 Continuing education. (1) Every certified and licensed appraiser shall complete at least 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~~ uniform standards of professional appraisal practice.

SECTION 38. The Note following RL 85.01 (1) is repealed.

SECTION 39. RL 85.01 (4) is amended to read:

RL 85.01 (4) The number of hours of attendance at and completion of continuing education ~~programs or courses of study~~ required under s. 458.13 (1), Stats., shall be reduced by one hour for each hour of attendance and completion of, within the 2 years immediately preceding the date on which the renewal application is submitted, continuing education ~~programs or courses of study~~ that the applicant has attended and completed in order to continue to qualify for employment as an assessor and that the department determines is substantially equivalent to attendance at and completion of continuing education ~~programs or courses of study~~ for certified general appraisers, certified residential appraisers, or licensed appraisers, as appropriate.

SECTION 40. RL 85.01 (5) is amended to read:

RL 85.01 (5) Credit may be ~~allowed for appraiser course instruction provided by a course instructor in connection with an approved continuing education program~~ granted for teaching an approved appraisal course.

SECTION 41. RL 85.02 (title), (1) to (4) are amended to read:

RL 85.02 (title) **Approval of continuing education ~~programs~~ courses.** (1) Except as provided in ~~sub. (11)~~ subs. (10) and (11), to obtain approval of a continuing education ~~program~~ course, the ~~program~~ course provider shall submit an application on forms provided by the department at least 45 days prior to the first date the ~~program~~ course is offered. The ~~program~~ course 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~~ course has been approved or denied within 20 business days from the date the application is received.

(2) The ~~program~~ course shall relate to one or more of the subject areas described in s. RL 84.02 (3), 84.03 (3) or 84.04 (3) or other subject areas relevant to competent practice. If the subject area is not described in s. RL 84.02 (3), 84.03 (3) or 84.04 (3), the applicant shall include with the application a statement explaining how the subject area is relevant to competent practice and is consistent with the course content and criteria established by the appraiser qualifications board of the appraisal foundation.

(3) The ~~program~~ course shall be available to all certified and licensed appraisers regardless of membership in any organization.

(4) The ~~program~~ course shall be at least 2 hours in length.

SECTION 42. RL 85.02 (5) is repealed and recreated to read:

RL 85.02 (5) The course provider shall monitor attendance by requiring each participant to sign an attendance sheet at the beginning and end of each course and shall furnish each participant with written evidence of having completed the course.

SECTION 43. RL 85.02 (6) is amended to read:

RL 85.02 (6) ~~Program Course~~ providers may repeat a previously approved ~~program~~ course without reapplication, provided that the subject matter and instructor has not changed.

SECTION 44. RL 85.02 (7) is repealed and recreated to read:

RL 85.02 (7) Credit may be granted for a distance education course that meets any of the following:

(a) The course is presented to an organized group in an instructional setting with a person qualified and available to answer questions, provide information, and monitor attendance, and satisfies all of the following:

1. Relates to one or more subject areas identified under s. RL 84.02 (3), 84.03 (3) or 84.04 (3).

2. Meets all requirements for continuing education established by the appraiser qualifications board of the appraisal foundation.

(b) The course is presented by an accredited college or university that offers distance education programs in other disciplines and satisfies all of the following:

1. Requires the learner to successfully complete a written examination proctored by an official approved by the college or university.

2. Relates to one or more subject areas identified under s. RL 84.02 (3), 84.03 (3) or 84.04 (3).

3. Meets all requirements for continuing education established by the appraiser qualifications board of the appraisal foundation.

(c) The course is approved for college credit by the American council on education or approved by the appraiser qualifications board of the appraisal foundation under its course approval program and satisfies all of the following:

1. Requires the learner to successfully complete a written examination proctored by an official approved by the presenting entity or, if a written examination is not required for accreditation, requires the learner to complete the course mechanism required for accreditation.

2. Relates to one or more subject areas identified under s. RL 84.02 (3), 84.03 (3) or 84.04 (3).

3. Meets all requirements for continuing education established by the appraiser qualifications board of the appraisal foundation.

Note: The American Council on Education may be contacted at: One DuPont Circle NW, Washington, D.C. 20036, (202) 939-9300.

SECTION 45. RL 85.02 (8) and the Note following RL 85.02 (8) are repealed.

SECTION 46. RL 85.02 (9) is renumbered RL 85.02 (8).

SECTION 47. RL 85.02 (10) is renumbered RL 85.02 (9) and amended to read:

RL 85.02 (9) The ~~program~~ course provider shall retain records of attendance of ~~continuing~~ qualifying education programs for a period of 5 years: that shall include all of the following:

(a) The name of the course.

(b) The date the course was offered.

(c) The names and addresses of individuals who completed the course.

(d) The number of hours of instruction.

(e) If administered, the examination results for each individual.

SECTION 48. RL 85.02 (11) is renumbered RL 85.02 (10).

SECTION 49. RL 85.02 (11) is created to read:

RL 85.02 (11) An appraisal course that relates to one or more subject areas identified under s. RL 84.02 (3), 84.03 (3) or 84.04 (3) and has received approval for college credit by the American council on education may be approved by the department without receipt of an application for course approval.

SECTION 50. RL 86.01 (4) is amended to read:

RL 86.01 (4) A licensed appraiser who is not certified under s. 458.06, Stats., shall not use the title “Wisconsin licensed appraiser” on any appraisal report or agreement, except in conjunction with an appraisal performed within the scope of appraisal practice of a licensed appraiser as specified in s. ~~RL 84.04~~ 81.05.

SECTION 51. RL 86.01 (6) is repealed.

SECTION 52. RL 86.01 (10) is created to read:

RL 86.01 (10) After a request for information made by the board, failing to cooperate in a timely manner with the board’s investigation of complaints filed against the licensed or certified appraiser. There is a rebuttable presumption that a licensed or certified appraiser who takes longer than 30 calendar days to respond to a request for information by the board has not acted in a timely manner under this subsection.

SECTION 53. RL 86.02 (1) is amended to read:

RL 86.02 (1) Advertising by certified and licensed appraisers shall be truthful ~~and accurate~~ and may not deceive or mislead the public.

SECTION 54. RL 87.01 (1), (2) and (3) are amended to read:

RL 87.01 Renewal certificate. (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 28 hours of continuing education ~~coursework~~ course work as required under s. RL 85.01.

(2) An appraiser granted a certificate of certification under s. 458.06 (3) and (4), 1989 Stats., may renew the certificate by satisfying the requirements in sub. (1) and by submitting evidence

of completion of the educational ~~coursework~~ course work required under ss. RL 84.02 and 84.03, as appropriate.

(3) An appraiser granted a certificate of licensure under s. 458.08 (3), 1991 Stats., may renew the certificate by satisfying the requirements in sub. (1), and submitting evidence of completion of the experience or educational ~~coursework~~ course work required under ss. RL 83.01 (2) and 84.04, as appropriate.

SECTION 55. RL 87.02 (intro.), (2) (intro.) and (2) (a) are amended to read:

RL 87.02 Late renewal. (intro.) An appraiser who fails to renew a certificate by the renewal date may ~~restore~~ renew the certificate by submitting an application on a form provided by the department and satisfying the following requirements:

(2) (intro.) If applying 5 years or more after the renewal date, submitting proof of completion of 28 hours of continuing education as required under s. RL 85.01⁷; 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:

(a) Successful completion of educational ~~coursework~~ course work.

(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 _____

Oscar Herrera, Secretary
Department of Regulation and Licensing

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12/13/01