

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION
DEPARTMENT OF REGULATION : AND LICENSING ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 04-007)

ORDER

An order of the Department of Regulation and Licensing to renumber RL 81.01; to amend RL 82.01 (1), 83.01 (2) and 85.01 (1); and to create RL 81.01, 82.01 (4), (5) and (6), relating to applications, examinations, appraisal experience and continuing education (Real Estate Appraisers Board).

Analysis prepared by the Department of Regulation and Licensing

ANALYSIS

Statutes authorizing promulgation: ss. 227.11 (2), 440.03 (1), 458.03 (1) (b) and 458.085 (2) and (3), Stats.

Statutes interpreted: ss. 458.06 (2) (d), 458.08 (2) (d), 458.09, 458.10 and 458.13, Stats.

In this rule-making order, the Department of Regulation and Licensing amends, renumbers, and creates several provisions contained in chs. RL 81, 82, 83 and 85, rules of the Real Estate Appraisers Board.

Section RL 81.01 is renumbered RL 81.02.

Section RL 81.01 is created as a prerequisite to submit an application for a licensed or certified real estate appraiser credential. Currently, an applicant can file an application at any time and then the application will “sit” idly until the person, if he or she even does, completes the necessary experience and education work. Under this new section, the individual must complete the education hours first before completing an application.

Section RL 82.01 includes the word “state” to clarify that it is issued by the state of Wisconsin.

Section RL 82.01 (4), (5) and (6) are created to comply with the Appraiser Qualification Board’s (AQB) Real Property Appraiser Qualification Criteria, Section IV of its most recent exposure draft.

Section RL 83.01 (2) changes the minimum number of hours of an applicant seeking licensure as an appraiser to 2,000 hours of experience obtained over a period of not less than 12 months. This change reflects the requirements currently imposed by the AQB. The Appraisal Subcommittee of the Federal Institutions Examination Council is authorized to 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. The Appraisal Subcommittee is required to maintain a national registry of state certified and licensed appraisers who are eligible to perform appraisals in federally related transactions. One of the new requirements for placement on the roster is that an individual must be a state licensed or certified appraiser with credentials based on the minimum licensing or certification criteria issued by the AQB. An appraiser is not deemed to have credentials based on AQB standards if the state licensing and/or certification requirements did not conform to the AQB criteria at the time the appraiser obtained the license or certification.

Section RL 85.01 is amended so that the credential holder, when taking their 7-hour uniform standards of professional appraisal practice course (USPAP) for continuing education, no longer is required to take the USPAP examination. This reflects the AQB's most recent exposure draft.

COMPARISON OF EXISTING FEDERAL AND STATE REGULATIONS

I. Federal Regulations

A. Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA").

In general: The Federal Institutions Reform, Recovery, and Enforcement Act ("FIRREA"), 12 U.S.C. 3331 et seq., (Title XI) was enacted in 1989. Under FIRREA, insured financial institutions and insured credit unions are required to obtain the services of a state certified or licensed appraiser for appraisals conducted in connection with "federally related transactions."

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council is authorized under FIRREA to 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. The Appraisal Subcommittee is required to maintain a national registry of state certified and licensed appraisers who are eligible to perform appraisals in federally related transactions. Each state with an appraiser certifying and licensing agency is required to transmit to the Appraisal Subcommittee, no less than annually, a roster listing individuals who have received a state certification or license. In addition, information relating to disciplinary actions taken against appraisers must be submitted with the state's monthly, or more frequent, registry data submission. [The Appraisal Subcommittee's *Policy Statements Regarding State Certification and Licensing of Appraisers* are available at: <http://www.asc.gov>.]

Appraiser Qualifications – Under FIRREA, the state criteria for the qualifications of certified real estate appraisers must meet the minimum qualifications criteria for certification established by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation in the Real Property Appraiser Qualification Criteria. The AQB Criteria includes the minimum experience, examination, education and continuing education requirements that must be satisfied by an individual in order to obtain and maintain a certified appraiser credential. The states are not obligated to adopt the minimum experience, examination, education and continuing education requirements recommended by AQB for the licensure of real estate appraisers. Under FIRREA, the states may establish their own qualifications and requirements for licensed appraiser

credentials. However, the Appraisal Subcommittee recommends that all states adopt the AQB Criteria established for licensed appraisers. Except for the number of experience hours, the Department of Regulation and Licensing has adopted substantial portions of the AQB Criteria established for the licensure of real estate appraisers. In reference to experience hours, the Department requires licensed appraisers to submit evidence of completion of 500 hours of appraisal experience rather than the 2000 hours of appraisal experience recommended by the AQB in its Criteria. The adoption of the rule included in this order changes the appraisal experience requirement for licensed appraisers from 500 to 2000 hours, as recommended by the Appraisal Subcommittee. [The AQB Real Property Appraiser Criteria is available on the Internet at <http://www.appraisalfoundation.org>]

Reporting Requirements – The Appraisal Subcommittee is required to maintain a national registry of state certified and licensed appraisers who are eligible to perform appraisals in federally related transactions. Each state is required to transmit to the Appraisal Subcommittee, no less than annually, a roster listing individuals who have received a state certification or license. The states must also report, on a monthly basis, any information relating to disciplinary actions taken against appraisers. Information reported to the national registry is available to state licensing and certifying agencies as well as to lenders and other users of appraisal services who rely upon the information when making employment and assignment decisions.

In August 2003, the Appraisal Subcommittee notified all state appraiser regulatory agencies that they must submit information to the Appraisal Subcommittee certifying whether licensed and certified appraisers conform to the Real Property Appraiser Qualification Criteria established by the Appraiser Qualifications Board. The Appraisal Subcommittee also indicated in its notice that it had created a new data field in the national registry to reflect whether each appraiser listed conforms to the AQB Criteria. Future submissions to the national registry must include a certification stating the licensed and certified appraisers who are being added to the registry have completed qualification requirements that conform to the AQB Criteria.

Since Wisconsin requires 500 hours of experience, rather than the 2000 hours of appraisal experience recommended in the AQB Criteria, the Department must report to the national registry that Wisconsin licensed appraisers do not conform to the AQB Criteria. Adoption of the rule included in this order will remove any negative impact resulting from the Department's current qualification criteria and assure that licensed appraisers are not disadvantaged in the marketplace.

B. Regulations of the Department of Housing and Urban Development (HUD) – On May 16, 2003, the U.S. Department of Housing and Urban Development published a final rule, FR-4620-F-02, in the Federal Registry making several changes designed to strengthen the licensing and certification requirements for placement on the Federal Housing Administration (FHA) Appraiser Roster. One of the new requirements for placement on the Roster is that an individual must be a state licensed or certified appraiser with credentials based on the minimum licensing or certification criteria issued by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation. An appraiser is not deemed to have credentials based on AQB standards if the state licensing and/or certification requirements did not conform to the AQB criteria at the time the appraiser obtained the license or certification. The changes to the HUD eligibility requirements

became effective on June 16, 2003. Appraisers who were included on the FHA Appraiser Roster on June 16, 2003, but did not meet the minimum AQB licensing or certification criteria in effect on that date, have until June 16, 2004, to comply with the AQB criteria and submit evidence of compliance to HUD.

III. States Regulations – Under FIRREA, all states that certify appraisers for purposes of conducting appraisals in federally related transactions must assure compliance with the AQB Criteria. In addition, the Appraisal Subcommittee recommends that all states assure compliance with the AQB Criteria for the licensure of real estate appraisers. Wisconsin is one of six states which do not require appraisers to meet the AQB Criteria recommended for licensed appraisers. Wisconsin requires 500 hours of appraisal experience rather than 2000 hours of appraisal experience, as recommended in the AQB Criteria.

TEXT OF RULE

SECTION 1. RL 81.01 is renumbered RL 81.02.

SECTION 2. RL 81.01 is created to read:

RL 81.01 Prerequisite to submitting credential application. Prior to submitting an application for a licensed or certified real estate appraiser credential, an individual shall successfully complete the education hours required under s. RL 84.02 (1), 84.03 (1) or 84.04 (1), as appropriate.

SECTION 3. RL 82.01 (1) is amended to read:

RL 82.01 Examination. (1) In order to obtain a residential or general appraiser certification or 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 state examination on Wisconsin statutes and rules governing appraisers.

SECTION 4. RL 82.01 (4), (5) and (6) are created to read:

RL 82.01 (4) Individuals who apply for licensed and certified appraiser credentials have up to 24 months, after receiving authorization to sit for the examinations from the department, to take and pass the state and national examinations required under sub. (1).

(5) Successful completion of the state and national examinations required under sub. (1) is valid for a period not to exceed 24 months. An applicant who does not complete all requirements for a credential within 24 months after successful completion of the national examination shall do all of the following

- (a) Submit a new application for the appropriate credential.
- (b) Pay the fees required under s. RL 81.02 (1).

(c) Retake and pass the state and national examinations required under sub. (1).

(6) The only prerequisite to take the state and national examinations required under sub. (1) is the successful completion of the education hours required under s. RL 84.02 (1), 84.03 (1) or 84.04 (1), as appropriate.

SECTION 5. RL 83.01 (2) is amended to read:

RL 83.01 (2) An applicant seeking licensure as an appraiser shall submit evidence satisfactory to the department that the applicant has at least ~~500~~ 2,000 hours of appraisal experience obtained over a period of not less than 12 months.

SECTION 6. 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 period which shall include successful completion of the 7-hour uniform standards of professional appraisal practice course ~~and examination~~ or its equivalent that is approved by the appraiser qualifications board (AQB) of the appraisal foundation. Course equivalency shall be determined through the AQB course approval program or by an alternate method established by the AQB.

(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 _____
Secretary Donsia Strong Hill
Department of Regulation and Licensing

FISCAL ESTIMATE

This rule amendment requires candidates for Licensed Real Property Appraiser to gain 2,000 hours of qualifying appraisal experience over not less than 12 months in order to be eligible for licensure. The present requirement is for 500 hours of such experience.

Wisconsin licensed appraisers who did not meet the AQB experience requirement when they were licensed may be negatively impacted until their licenses are renewed with a certification that they now meet the experience requirement. The Department of Regulation and Licensing (DRL) does not have data to estimate how many such appraisers may need to be relicensed.

Reporting licensed appraisers to the national registry as they meet the AQB requirements will require DRL to modify IT data systems applications to reflect the increased experience requirements and to enable regular posting of AQB qualified appraisers to the national registry. This will require one-time IT programming of 80 hours at a value of programmer time of \$35 per hour—including salary and fringe at 38.92% of salary. The value of the programming time is \$2,800. In addition, DRL will incur one-time costs of \$500 to print and distribute the rule change.

FINAL REGULATORY FLEXIBILITY ANALYSIS

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

RL 81-87 CR04-007 (Appraisers) Final Draft for Adoption 06-09-04