

Clearinghouse Rule 21-037

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT
DEPARTMENT OF SAFETY AND : ADOPTING RULES
PROFESSIONAL SERVICES : (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the department to amend SPS 85.115, relating to the Uniform Standards of Professional Appraisal Practice.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

None.

Statutory authority:

Section 458.24, Stats.

Explanation of agency authority:

Section 458.24, Stats., provides that “[t]he department may promulgate rules establishing standards for appraisal practice. In promulgating rules under this section, the department shall consider including as part or all of the standards part or all of the ‘Uniform Standards of Professional Appraisal Practice’ established by the appraisal standards board of the appraisal foundation. The department shall periodically review the ‘Uniform Standards of Professional Appraisal Practice’ and, if appropriate, revise the rules promulgated under this section to reflect revisions to the ‘Uniform Standards of Professional Appraisal Practice.’”

Related statutes or rules:

Section 458.19, Stats., provides requirements for appraisal practice. Specifically, an appraiser is required to include all of the following in each appraisal report prepared by the appraiser:

- If the appraiser has not conducted an on-site inspection of the real estate for which the appraisal report is prepared, a statement must be included that the appraiser has not done so.
- If any buildings or dwelling units are located on the real estate for which the appraisal report is prepared and the appraiser has not conducted an on-site inspection of both the exterior and the interior of each building or dwelling unit, a statement must be included that the appraiser has not done so.

- If the appraisal report pertains to residential real estate, the appraiser’s opinion of the highest and best use of the real estate must be included.

Plain language analysis:

Section SPS 85.115 is updated to incorporate by reference into chs. SPS 85 to 87 the Uniform Standards of Professional Appraisal Practice (USPAP) issued by the Appraisal Standards Board of The Appraisal Foundation with an effective date of January 1, 2023. It is anticipated this version of USPAP will be finalized in October 2022, at which time it will be reviewed by the Attorney General as required under s. 227.21 (2), Stats.

Summary of, and comparison with, existing or proposed federal statutes and regulations:

The Financial 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.”

Under FIRREA, all appraisals conducted in connection with federally related transactions must be written appraisals 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 subject to appropriate review for compliance with the Uniform Standards of Professional Appraisal Practice.

The regulations in the proposed rule will comply with the provisions of FIRREA.

Comparison with rules in adjacent states:

Illinois: Rules of the Illinois Department of Financial and Professional Regulation address the practice of real estate appraisal in Illinois (68 Ill. Adm. Code 1455). The rules incorporate by reference with no later amendments or editions the 2020-2021 Uniform Standards of Professional Appraisal Practice issued by the Appraisal Standards Board of The Appraisal Foundation [68 Ill. Adm. Code 1455.240].

Iowa: Rules of the Iowa Real Estate Appraiser Examining Board address the practice of real estate appraisal in Iowa [193F IAC 1 to 17]. The rules provide the Board has adopted the Uniform Standards of Professional Appraisal Practice issued by The Appraisal Foundation [193F IAC 1.1(1)].

Michigan: Rules of the Michigan Department of Licensing and Regulatory Affairs address the practice of real estate appraisal in Michigan [Mich Admin Code, R 339.23101 to R 339.23405]. The rules reference the Uniform Standards of Professional Appraisal Practice, and specifically provide [Mich Admin Code, R 339.23104] the following individuals are exempt from the appraisal review and development requirements of Standard 3:

- A member of the Board of Real Estate Appraisers who is performing an investigation or testifying at an adjudicatory hearing on behalf of the Department.

- A member of the Board of Real Estate Appraisers who is serving in the capacity of a reviewer while reviewing the work experience of an applicant for licensure.
- An investigator employed by or retained by the Department who is performing an investigation or testifying at an adjudicatory hearing.

Minnesota: The Minnesota Statutes, Sections 82B.021 to 82B.24, address the practice of real estate appraisal in Minnesota. The statutes define “standards of professional practice” to mean the Uniform Standards of Professional Appraisal Practice of the Appraisers Standards Board of The Appraisal Foundation in effect as of January 1, 1991, or other version of the standards designated by the Commissioner of the Department of Commerce (Minnesota Statutes, Section 82B.021, Subdivision 26).

Summary of factual data and analytical methodologies:

The proposed rules were developed, in consultation with the Real Estate Appraisers Board, by reviewing the most current version of the Uniform Standards of Professional Appraisal Practice (USPAP).

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The proposed rules will be posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals.

Effect on small business:

These rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator, Dan Hereth, may be contacted by calling (608) 267-2435.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. SPS 85.115 is amended to read:

SPS 85.115 Adoption of standards. The Uniform Standards of Professional Appraisal Practice, ~~2020-2021~~, issued by the Appraisal Standards Board of The Appraisal Foundation with an effective date of January 1, 2023, are incorporated by reference into chs. SPS 85 to 87.

SECTION 2. EFFECTIVE DATE. The rules adopted in this order shall take effect on January 1, 2023, pursuant to s. 227.22 (2) (b), Stats.

 (END OF TEXT OF RULE)
