

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULE-MAKING : ORDER OF THE DEPARTMENT
PROCEEDINGS BEFORE THE : OF SAFETY AND PROFESSIONAL
DEPARTMENT OF SAFETY AND : SERVICES ADOPTING RULES
PROFESSIONAL SERVICES : (CLEARINGHOUSE RULE 10-135)

ORDER

An order of the Department of Safety and Professional Services to amend RL 80.03 (10), the Note following 81.02 (8), the Note following 81.03 (2) (d), the Note following 81.04 (1) (a), 81.05 (1) and (2), 82.01 (1) and (6), 83.01 (3) (f), 83.01 (4) (intro.) and the Note following (4) (c), the Note following 84.01 (1), 85.01 (6), the Note following 85.02 (2), 86.01 (10) and (11); to repeal and recreate RL 84.02, 84.03 and 84.04; and to create RL 81.04 (1) (c) 4., 83.01 (3) (g), 83.02 (7), 84.01 (7) (f) and (g), (13) and (14), 85.02 (8) (f) and (g), (11) and (12), and 86.01 (12), (13) and (14), relating to licensure and certification requirements if licensed in another state or territory, approved instructors for educational programs and continuing education, examination requirements, rules of professional conduct, and “FIRREA” and AQB criteria.

Analysis prepared by the Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 458.03, 458.06, 458.08, 458.085, 458.10, 458.13 and 458.24, Stats.

Statutory authority:

Sections 227.11 (2), 458.03 (1) (b), 458.06, 458.08, 458.085, 458.10, 458.13 and 458.24, Stats.

Explanation of agency authority:

The Department of Safety and Professional Services is granted rule-making authority pursuant to s. 227.11, Stats., and is specifically granted rule-making authority pursuant to ss. 458.03, 458.06, 458.08, 458.085, 458.13 and 458.24, Stats.

Related statute or rule:

There are no other statutes and rules other than those listed.

Plain language analysis:

Changes are being made as delineated to be consistent with Federal Institutions Reform, Recovery, and Enforcement Act (FIRREA) and Appraiser Qualifications Board (AQB) Criteria, to clarify department references, to clarify certification scopes, to simplify the process for applying for licensure and certification in Wisconsin if licensed in another state or territory, to expand the approved instructors for educational programs and continuing education courses, to clarify credit for such courses, and to expand the rules of professional conduct.

SECTION 1 amends the rule to clarify the meaning of “mass appraisal.” The statutory cite was removed as well as the word “assessor” because professionals other than assessors can do mass appraisals and the definition should not be limited to assessors.

SECTIONS 2, 3, 4, 10, 12 and 16 amend the Notes relating to where applications and information are available.

SECTION 5 creates a rule to simplify the process for applying for licensure or certification in Wisconsin if the applicant is already licensed in another state or territory.

SECTION 6 amends rules to clarify the scope of practice of certified general appraisers and certified residential appraisers.

SECTION 7 amends rules to clarify the requirements for examination.

SECTION 8 amends rules to change the experience requirements.

SECTION 9 creates rules to clarify what proof of experience appraisers must provide to qualify for credentials as licensed appraiser, certified residential appraiser, or certified general appraiser.

SECTION 11 creates rules to simplify the licensing and certification process for applicants who are licensed or certified in other states or territories.

SECTION 11m creates rules to define CLEP.

SECTION 13 creates rules to expand available educational instructors and educational courses and to clarify the granting of credit for such courses.

SECTION 14 repeals and recreates rules to clarify the educational course requirements to become a licensed appraiser, a certified residential appraiser, and a certified general appraiser. The current rule states the number of hours that needs to be completed before January 1, 2008 and then the number of hours that needs to be completed after that date. This proposed rule clarifies the requirements post January 1, 2008.

SECTION 15 adds a comma in the first sentence.

SECTION 17 creates rules to expand who is qualified to teach continuing education courses and approval for the courses already approved by another state or territory, and clarifies credit for courses that qualify for both continuing education and certification.

SECTION 18 amends the rules of professional conduct to shorten the time to respond to investigation requests and to clarify a reference to state to mean to the state of Wisconsin.

SECTION 19 creates rules of professional conduct adding three new circumstances which may be considered unprofessional conduct.

Summary of, and comparison with, existing or proposed federal regulation:

FIRREA

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, the Appraisal Subcommittee of the Federal Financial Institutions Examination Council is required to monitor state appraiser certifying and licensing agencies for the purpose of determining whether a state agency’s policies, practices, and procedures are consistent with the federal law. The Appraisal Subcommittee may not recognize appraiser certifications and licenses from states whose appraisal policies, practices and procedures are found to be inconsistent with FIRREA. Before refusing to recognize a state’s appraiser certifications or licenses, the Appraisal Subcommittee must provide that state’s certifying and licensing agency with a written notice of its intention not to recognize the state’s certified or licensed appraisers and ample opportunity to provide rebuttal information or to correct the conditions causing the refusal. A decision of the Subcommittee to refuse to recognize a state’s appraiser certifications or licenses is subject to judicial review. 12 U.S.C. 3331 et seq.

In 1997, the Appraisal Subcommittee adopted the *Policy Statements Regarding State Certification and Licensing of Real Estate Appraisers*, which all states must comply with. [The Appraisal Subcommittee’s Policy Statements are available at: <http://www.asc.gov>.]

Appraisal 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 AQB of the Appraisal Foundation. The minimum qualifications criteria established by the AQB are set forth in the *Real Property Appraiser Qualification Criteria and Interpretations of the Criteria* (“Criteria”). The AQB Criteria includes the minimum experience,

examination, qualifying education and continuing education requirements that must be satisfied by an individual in order to obtain and maintain a certified appraiser credential. [The AQB Criteria is available on the Internet at <http://www.appraisalfoundation.org>.]

Under FIRREA, the states may establish their own qualifications and requirements for licensed appraiser credentials. The states are not obligated to adopt the minimum experience, examination, education and continuing education requirements recommended by the AQB for the licensure of real estate appraisers. However, the Appraisal Subcommittee recommends that all states adopt the AQB Criteria established for the licensure of real estate appraisers.

Comparison with rules in adjacent states:

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.”

Under FIRREA, all states, including Illinois, Iowa, Michigan and Minnesota, that certify real estate appraisers for purposes of conducting appraisals in federally related transactions must assure compliance with the AQB Criteria. Currently, Illinois, Iowa, Michigan and Minnesota are in 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.

Summary of factual data and analytical methodologies:

The department and board reviewed the current federal statutes as well as the rules in adjacent states. The board determined that the current rules needed to be aligned with FIRREA as well as comply with the AQB Criteria for licensure of real estate appraisers. The department and board considered the suggestions of the Appraisal Subcommittee and board legal counsel to make changes to the current rules.

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

The proposed changes will have an effect on small business. The rule will have a positive impact on small businesses that would like to bring in a real estate appraiser currently licensed in another state. Instead of verifying all of their reports with Wisconsin, the applicant will now be able to have written verification sent from their state of licensure. The businesses will benefit from the increased efficiency of the licensure process which outweighs the additional cost of requesting the verification.

Additionally, the changes will make it easier for licensed appraisers and trainees to meet their educational requirements. These changes increase the number of approved courses

and instructors available to licensed appraisers as well as individuals pursuing their licensure. It also lowers the educational requirements for a licensed appraiser or certified residential appraiser to become a certified general appraiser. These educational changes will make it easier for those seeking licensure or for those seeking to upgrade their credential to a certified residential appraiser or certified general appraiser.

The other proposed changes in the rule clarify or eliminate unnecessary sections of the current rules. Therefore, the proposed changes will have little effect, if not a positive effect, on small business.

Section 227.137, Stats., requires an “agency” to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Safety and Professional Services is not included as an “agency” in this section.

Anticipated costs incurred by private sector:

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal estimate:

Ongoing cost:

These rule changes will increase reciprocal discipline and thus caseloads with the following additional impact to the department:

520 Attorney hours @ \$59 per hour	= \$30,680
595 Paralegal hours @ \$33 per hour	= \$19,635
520 Investigator hours @ \$31 per hour	= \$16,120
520 LTE appraiser hours @ \$35 per hour	= \$18,200
35 Operations Program Assoc. hours @ \$31 per hour	= \$ 1,085
4 Program Associate Supervisor hours @ \$23 per hour	= \$ 92

Total ongoing costs:

\$85,812

Effect on small business:

These proposed rules were reviewed by the department’s Small Business Review Advisory Committee to determine if the rules will have a significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. It was determined that the rules will not have a significant economic impact on a substantial number of small businesses. The Department’s Regulatory Review Coordinator may be contacted by email at John.Murphy@wisconsin.gov, or by calling 608-266-8608.

Agency contact person:

Sharon Henes, Paralegal, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 116, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-2377; email at Sharon.Henes@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Sharon Henes, Paralegal, Department of Safety and Professional Services, Division of Board Services, 1400 E. Washington Ave., Room 116, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email to Sharon.Henes@wisconsin.gov. Comments must be received on or before February 28, 2011 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. RL 80.03 (10) is amended to read:

RL 80.03 (10) “Mass appraisal” means an appraisal performed ~~by an assessor, as defined in s. 458.09 (1), Stats.,~~ in accordance with Standard 6 of the ~~uniform standards of professional appraisal practice~~ USPAP.

SECTION 2. The Note following RL 81.02 (8) is amended to read:

Note: Applications for certification or licensure are available from the Department of Safety and Professional Services, ~~Bureau of Business and Design Professions,~~ Division of Professional Credentialing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin ~~53708~~ 53708-8935 or from the department’s website at: <http://dsps.wi.gov>.

SECTION 3. The Note following RL 81.03 (2) (d) is amended to read:

Note: Applications for temporary registration are available from the Department of Safety and Professional Services, ~~Bureau of Business and Design Professions,~~ Division of Professional Credentialing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin ~~53708~~ 53708-8935 or from the department’s website at: <http://dsps.wi.gov>.

SECTION 4. The Note following RL 81.04 (1) (a) is amended to read:

Note: Application forms are available on request to the Department of Safety and Professional Services, ~~Bureau of Business and Design Professions,~~ Division of Professional Credentialing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935 or from the department’s website at: <http://dsps.wi.gov>.

SECTION 5. RL 81.04 (1) (c) 4. is created to read:

RL 81.04 (1) (c) 4. Has satisfied the experience requirements under ch. RL 83. In lieu of submitting verification of appraisal experience under s. RL 83.02, an applicant may arrange for the other state or territory to forward written verification directly to the department stating that the applicant's appraisal experience has been reviewed for and is compliant with the ~~Uniform Standards of Professional Appraisal Practice~~ USPAP.

SECTION 6. RL 81.05 (1) and (2) are amended to read:

RL 81.05 (1) **CERTIFIED GENERAL APPRAISER.** A certified general appraiser may conduct appraisals of 1-to 4 family residential real estate and commercial real estate without regard to transaction value.

(2) **CERTIFIED RESIDENTIAL APPRAISER.** A certified residential appraiser may conduct appraisals of 1-to-4 family residential real estate without regard to transaction value and of commercial real estate having a transaction value of not more than \$250,000.

SECTION 7. RL 82.01 (1) and (6) are 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, as appropriate, and the state examination on Wisconsin statutes and rules governing appraisers.

(6) The only prerequisite to take the state and national examinations required under sub. (1) is ~~the submission of an application for licensure or certification under s. RL 81.02 and~~ successful completion of the education class hours required under s. RL 84.02, 84.03 or 84.04, as appropriate.

SECTION 8. RL 83.01 (3) (f) is amended to read:

RL 83.01 (3) (f) ~~If obtained prior to January 1, 2008, include no more than one-third of appraisal experience gained for appraisal work performed without a client. If obtained after January 1, 2008, include~~ Include no more than 50% of appraisal experience gained for appraisal work performed without a client. Case studies or practicum courses that are approved by the appraiser qualifications board of the appraisal foundation may be claimed to satisfy non-client experience. All non-client appraisal experience may be reviewed by the department for compliance with the USPAP.

SECTION 9. RL 83.01 (3) (g) is created to read:

RL 83.01 (3) (g) Demonstrate the same level of proficiency in appraisal principles, techniques and skills as that demonstrated by appraisers practicing under Standard 1 of the USPAP.

SECTION 10. RL 83.01 (4) (intro.) and the Note following (4) (c) are amended to read:

RL 83.01 (4) (intro.) An applicant applying for certification or licensure under subs. (1), (1a) and (2) shall submit on forms provided by the department:

Note: Application forms required for certification or licensure may be obtained from the Department of Safety and Professional Services, ~~Bureau of Business and Design Professions, Division of Professional Credentialing~~, 1400 East Washington Avenue, P.O. Box 8935, Madison, WI ~~53708~~ 53708-8935 or from the department's website at: <http://dsps.wi.gov>.

SECTION 11. RL 83.02 (7) is created to read:

RL 83.02 (7) If applying for a license or certification on the basis of a credential granted by another state or territory of the United States, in lieu of submitting verification of appraisal experience under subs. (1) to (5), an applicant may arrange for the other state or territory to forward written verification directly to the department stating that the applicant's appraisal experience has been reviewed for and is compliant with the USPAP.

SECTION 11m. RL 84.001 is created to read:

RL 84.001. In this chapter CLEP means college level examination program.

SECTION 12. The Note following RL 84.01 (1) is amended to read:

Note: Information relating to course approval is available from the Department of Safety and Professional Services, ~~Bureau of Business and Design Professions~~, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin ~~53708~~ 53708-8935.

SECTION 13. RL 84.01 (7) (f) and (g), (13) and (14) are created to read:

RL 84.01 (7) (f) Be an instructor who teaches an appraiser or assessor course approved by another state of the United States that is relevant to appraisal practice.

(g) Be an instructor who, in the judgment of the department, is qualified to teach course work that is relevant to appraisal practice.

(13) An appraisal course approved by another state or territory of the United States, which complies with the real property appraiser qualification criteria established by the appraiser qualifications board of the appraisal foundation, shall be

approved by the department without receipt of an application for course approval from the other state or territory.

(14) Credit awarded for the class hour requirement when a licensed appraiser seeks a certified appraiser certification, or a certified residential appraiser seeks a certified general appraiser certification, may also be awarded for the continuing education requirement of the license or certification held.

SECTION 14. RL 84.02, 84.03 and 84.04 are repealed and recreated to read:

RL 84.02 Licensed appraiser course requirements. An individual who applies for a license as an appraiser shall submit evidence satisfactory to the department that he or she has successfully completed the required 150 class hour core curriculum established by the appraiser qualifications board of the appraisal foundation that consists of all of the following subject areas and corresponding class hours:

- (1) Basic appraisal principles – 30 hours.
- (2) Basic appraisal procedures – 30 hours.
- (3) The 15-hour national USPAP course or its equivalent – 15 hours.
- (4) Residential market analysis and highest and best use – 15 hours.
- (5) Residential appraiser site valuation and cost approach – 15 hours.
- (6) Residential sales comparison and income approaches – 30 hours.
- (7) Residential report writing and case studies – 15 hours.

RL 84.03 Certified residential appraiser course requirements. (1) An individual who applies for certification as a certified residential appraiser shall submit evidence satisfactory to the department that he or she has successfully completed all of the following:

(a) The required 200 class hour core curriculum established by the appraiser qualifications board of the appraisal foundation that consists of the following subject areas and corresponding class hours:

1. Basic appraisal principles – 30 hours.
2. Basic appraisal procedures – 30 hours.
3. The 15-hour national USPAP course or its equivalent – 15 hours.
4. Residential market analysis and highest and best use – 15 hours.

5. Residential appraiser site valuation and cost approach – 15 hours.
6. Residential sales comparison and income approaches – 30 hours.
7. Residential report writing and case studies – 15 hours.
8. Statistics, modeling and finance – 15 hours.
9. Advanced residential applications and case studies – 15 hours.
10. Appraisal subject matter electives that may include hours over the minimum required in the subject areas described in subds. 1. to 9. – 20 hours.

(b) An associate degree, in any field of study, or equivalent education from an accredited college or university. Equivalent education shall consist of at least 21 semester credit hours successfully completed at an accredited college or university, or completed through the CLEP, that covers all of the following subject matter courses:

1. English composition.
2. Principles of micro or macro economics.
3. Finance.
4. Algebra, geometry, or higher mathematics.
5. Statistics.
6. Introduction to computers including word processing and spreadsheets.

(2) A licensed appraiser who applies for a certified residential appraiser credential shall complete all of the following class hour courses identified under par. (a) and the college-level educational requirements under sub. (1) (b):

- (a) Statistics, modeling and finance – 15 hours.
- (b) Advanced residential applications and case studies – 15 hours.
- (c) Appraisal subject matter electives, as provided in par. (a) – 20 hours.

RL 84.04 Certified general appraiser course requirements. (1) An individual who applies for certification as a certified general appraiser shall submit evidence satisfactory to the department that he or she has successfully completed all of the following:

(a) The required 300 class hour core curriculum established by the appraiser qualifications board of the appraisal foundation that consists of all of the following subject areas and corresponding class hours:

1. Basic appraisal principles – 30 hours.
2. Basic appraisal procedures – 30 hours.
3. The 15-hour national USPAP course or its equivalent – 15 hours.
4. General appraisal market analysis and highest and best use – 30 hours.
5. Statistics, modeling and finance – 15 hours.
6. General appraiser sales comparison approach – 30 hours.
7. General appraisal site valuation and cost approach – 30 hours.
8. General appraiser income approach – 60 hours.
9. General appraiser report writing and case studies – 30 hours.
10. Appraisal subject matter electives that may include the minimum required in the subject areas described in subsds. 1. to 9. – 30 hours.

(b) A bachelor's degree, in any field of study, or equivalent education from an accredited college or university. Equivalent education shall consist of at least 10 semester credit hours successfully completed at an accredited college or university, or completed through the CLEP, that covers all of the following subject matter courses:

1. English composition.
2. Micro economics.
3. Macro economics.
4. Finance.
5. Algebra, geometry, or higher mathematics.
6. Statistics.
7. Introduction to computers including word processing and spreadsheets.
8. Business or real estate law.

9. Two elective courses in accounting, geography, agricultural economics, business management or real estate.

(2) A licensed appraiser who applies for a certified general appraiser credential shall complete all of the following 150 hour course work, which is identified in the core curriculum under sub. (1) (a), and the college-level educational requirements under sub (1) (b):

- (a) General appraiser market analysis and highest and best use – 15 hours.
- (b) Statistics, modeling and finance – 15 hours.
- (c) General appraiser sales comparison approach – 15 hours.
- (d) General appraiser site valuation and cost approach – 15 hours.
- (e) General appraiser income approach – 45 hours.
- (f) General appraiser report writing and case studies – 15 hours.
- (g) Appraisal subject matter electives as provided in par. (a) – 30 hours.

(3) A certified residential appraiser who applies for a certified general appraiser credential shall complete all of the following 100 hour course work, which is identified in the core curriculum under sub. (1) (a), and the college-level educational requirements under sub. (1) (b):

- (a) General appraiser market analysis and highest and best use – 15 hours.
- (b) General appraiser sales comparison approach – 15 hours.
- (c) General appraiser site valuation and cost approach – 15 hours.
- (d) General appraiser income approach – 45 hours.
- (e) General appraiser report writing and case studies – 10 hours.

SECTION 15. 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 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 16. The Note following RL 85.02 (1) is amended to read:

Note: Applications for course approval are available from the Department of Safety and Professional Services, ~~Bureau of Business and Design Professions~~, Division of Professional Credentialing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin ~~53708~~ 53708-8935.

SECTION 17. RL 85.02 (8) (f) and (g), (11) and (12) are created to read:

RL 85.02 (8) (f) Be an instructor who teaches an appraiser or assessor course approved by another state of the United States that is relevant to appraisal practice.

(g) Be an instructor who, in the judgment of the department, is qualified to teach course work that is relevant to appraisal practice.

(11) An appraisal course approved by another state or territory of the United States, which complies with the real property appraiser qualification criteria established by the appraiser qualifications board of the appraisal foundation, shall be approved by the department without receipt of an application for course approval from the other state or territory.

(12) Credit awarded for the classroom hour requirement when a licensed appraiser seeks a certified appraiser certification, or a certified residential appraiser seeks a certified general appraiser certification, may also be awarded for the continuing education requirement of the license or certification held.

SECTION 18. RL 86.01 (10) and (11) are amended to read:

RL 86.01 (10) After a request for information made by the board, a certified or licensed appraiser shall cooperate in a timely manner with the board's investigation of a complaint filed against the licensed or certified appraiser or of a complaint filed against an individual who practiced real estate appraising under the supervision of the licensed or certified appraiser. There is a rebuttable presumption that a licensed or certified appraiser who takes longer than ~~30 calendar~~ 10 business days to respond to a request for information by the board has not acted in a timely manner under this subsection.

(11) All certified and licensed appraisers shall comply with state Wisconsin and federal laws that substantially relate to the practice of real estate appraising including, but not limited to, the financial institutions reform, recovery, and enforcement act of 1989, and all appraisal related federal regulations promulgated by the federal financial institutions regulatory agencies, as defined in s. RL 80.03 (8ag).

SECTION 19. RL 86.01 (12), (13) and (14) are created to read:

RL 86.01 (12) No certified or licensed appraiser may violate, or aid and abet the violation of any law, the circumstances of which substantially relate to the practice of a real estate appraiser.

(13) No certified or licensed appraiser may engage in conduct which reflects adversely on his or her fitness to practice as a real estate appraiser, including engaging in any unprofessional or unethical conduct in the course of any real estate or appraisal transaction.

(14) A certified copy of any order, consent agreement, or similar document issued by the regulatory authority of another jurisdiction which finds a violation of any law or administrative rule administered by that regulatory authority by any person who is certified or licensed as an appraiser in this state shall constitute conduct reflecting adversely on the appraiser's fitness to practice as a real estate appraiser in this state.

(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 _____

Dave Ross, Secretary
Department of Safety and Professional Services