



Proposed Regulation Agency Background Document

Agency name	Real Estate Appraiser Board
Virginia Administrative Code (VAC) citation	18 VAC 130 -20
Regulation title	Real Estate Appraiser Board Regulations
Action title	Amending regulations to incorporate needed changes
Date this document prepared	May 25, 2007

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The regulations are being amended to make clarifying changes to the definitions, the approval of courses, and to the standards of professional practice to reflect current industry standards.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Section 54.1-2013 of the Code of Virginia states that the Real Estate Appraiser Board “may do all things necessary and convenient for carrying into effect the provisions of this chapter and all things required or expected of a state appraiser certifying and licensing agency under Title 11 of the FIRREA of 1989. The Board shall promulgate necessary regulations.” The Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) was passed by Congress in 1989 as a result of the savings and loan crisis and requires the state licensing of real estate appraisers. FIRREA created the Appraisal Subcommittee

which monitors and reviews the practices, procedures, activities, and organizational structure of the Appraisal Foundation. The Appraisal Foundation consists of the Appraiser Qualifications Board (AQB) and the Appraisal Standards Board (ASB). The AQB sets minimum qualifications all states must use in licensing appraisers. The ASB promulgates the Uniform Standards of Professional Appraisal Practice (USPAP) which are incorporated into the Board's regulations. AQB Qualifications Criteria and USPAP can be found at www.appraisalfoundation.org.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

The goal of amending the regulations is to make clarifying changes, to ensure consistency with State law and to make other changes which may result from the periodic review of the regulations. The amendments are needed to ensure that the regulations conform to the most current standards of practice in the industry, which are necessary to protect the health, safety and welfare of the citizens.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

The definitions for certified residential and licensed residential real estate appraiser were amended to clarify the requirements for review appraisals.

The requirements for certification of appraisal education instructors and the approval of educational offerings were revised to clarify the length of time an application and fee are valid.

Standards of professional practice were revised to specify record keeping requirements and actions deemed to be unworthy of licensed appraisers.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The proposed changes provide clarification and guidance to the regulants so that they can give better service to both the public and other licensees. The proposed regulations address the changing work environment and are needed to keep up with industry standards.

The primary advantage to the agency will be that the agency can better protect the health, welfare and safety of the citizens of the Commonwealth by having regulations which reflect current industry standards.

The regulatory action poses no disadvantages to the public or the Commonwealth.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

No requirements exceed applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

None

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email or fax to Christine Martine, DPOR, Real Estate Appraiser Board, 3600 West Broad Street Richmond, VA 23230, 804-367-8552, Fax 804-367-6946, reappraisers@dpor.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last date of the public comment period.

A public hearing will be held and notice of the public hearing may appear on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	See below
Projected cost of the regulation on localities	See below
Description of the individuals, businesses or other entities likely to be affected by the regulation	See below
Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	See below
All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.	See below

Summary:

This proposed regulatory change clarifies definitions, general qualifications for licensure and approval of courses, and the standards of professional practice reflecting industry standards.

All costs incurred in support of board activities and regulatory operations are paid by the department and funded through fees paid by applicants and licensees. All boards within the Department of Professional and Occupational Regulation must operate within the Code provisions of the Callahan Act (54.1-113), and the general provisions of 54.1-201. Each regulatory program's revenues must be adequate to support both its direct costs and a proportional share of agency operating costs. The department allocates costs to its regulatory programs based on consistent, equitable, and cost-effective methodologies. The board has no other source of income.

Fiscal Impact:

	FY 2007	FY 2008	FY2009	FY2010
Fund	NGF (0900)	NGF (0900)	NGF (0900)	NGF (0900)
Program/Service Area	560 46	560 46	560 46	560 46

Impact of Regulatory Changes:				
One-Time Costs	0	0	2,600	0
Ongoing Costs	0	0	0	0
Total Fiscal Impact	0	0	2,600	0
FTE	0.00	0.00	0.00	0.00

Description of Costs:

One-Time: One time costs are expected in FY 2009 related to printing new regulation booklets and a postcard mailing that will notify regulants about the regulatory changes.

Ongoing: No ongoing costs are expected as a result of this regulatory change.

Cost to Localities: No change anticipated.

Description of Individuals, Businesses, or Other Entities Impacted: All currently licensed real estate appraiser individuals, firms, educational providers, and instructors are affected by the changes. This includes approximately 4,800 licensees.

Estimated Number of Regulators: None

Projected Cost to Regulators: No change in licensing fees is anticipated as a result of these regulatory changes.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

Failure to adopt these changes will result in regulations which do not clearly state the requirements for reviewing appraisals, providing documents to the Board and the length of time that an application is valid. No viable alternatives could be determined.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5)

the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The agency considers the proposed changes as the least burdensome and no other alternatives were identified. The proposed regulations do not impact small businesses any differently than other businesses.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response

No comments were received.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed changes are not expected to have an impact on families.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
130-20-10		"Certified residential real estate appraiser" means	"Certified residential real estate appraiser" means an individual who meets

		<p>an individual who meets the requirements for licensure for the appraisal of any residential real estate or real property of one to four residential units regardless of transaction value or complexity. Certified residential real estate appraisers may also appraise nonresidential properties with a transaction value up to \$250,000.</p>	<p>the requirements for licensure for the appraisal of <u>or the review appraisal of</u> any residential real estate or real property of one to four residential units regardless of transaction value or complexity. Certified residential real estate appraisers may also appraise <u>or provide a review appraisal of</u> nonresidential properties with a transaction value up to \$250,000.</p> <p><i>Definition amended for clarification to ensure properly licensed individuals not only appraise property they are qualified to appraise but also review appraisals of property for which they are qualified.</i></p>
130-20-10		<p>"Licensed residential real estate appraiser" means an individual who meets the requirements for licensure for the appraisal of any noncomplex, residential real estate or real property of one to four residential units, including federally related transactions, where the transaction value is less than \$1 million. Licensed residential real estate appraisers may also appraise noncomplex, nonresidential properties with a transaction value up to \$250,000.</p>	<p>"Licensed residential real estate appraiser" means an individual who meets the requirements for licensure for the appraisal of <u>or the review appraisal of</u> any noncomplex, residential real estate or real property of one to four residential units, including federally related transactions, where the transaction value is less than \$1 million. Licensed residential real estate appraisers may also appraise <u>or provide a review appraisal of</u> noncomplex, nonresidential properties with a transaction value up to \$250,000.</p> <p><i>Definition amended for clarification to ensure properly licensed individuals not only appraise property they are qualified to appraise but also review appraisals of property for which they are qualified.</i></p>
130-20-70		<p>Pursuant to the mandate of Title 11 of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, and § 54.1-2013 of the Code of Virginia, instructors teaching prelicense educational offerings who are not employed or contracted by accredited colleges, universities, junior and community colleges, adult distributive or marketing education programs are required to be certified by the board. Effective January 1, 2003 all Uniform Standards of Professional Appraisal</p>	<p>Pursuant to the mandate of Title 11 of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, and § 54.1-2013 of the Code of Virginia, instructors teaching prelicense educational offerings who are not employed or contracted by accredited colleges, universities, junior and community colleges, adult distributive or marketing education programs are required to be certified by the board. Effective January 1, 2003 all Uniform Standards of Professional Appraisal Practice courses taught for prelicense and continuing education credit must be taught by instructors certified by the Appraiser Qualifications Board. <u>Applications received by the department or its agent must be complete within 12 months of the date of the receipt of the license application and fee by the Department of Professional and</u></p>

		Practice courses taught for prelicense and continuing education credit must be taught by instructors certified by the Appraiser Qualifications Board.	<u>Occupational Regulation or its agent.</u> <i>Currently, applications can remain incomplete indefinitely. Amending the regulation will establish consistency with the requirements for individual applications and assist with the department's fiscal responsibility.</i>
130-20-180.H.1		A licensee or registrant of the Real Estate Appraiser Board shall, upon request or demand, promptly produce to the board or any of its agents any document, book, or record in a licensee's possession concerning any appraisal which the licensee performed, or for which the licensee is required to maintain records for inspection and copying by the board or its agents. These records shall be made available at the licensee's place of business during regular business hours.	A licensee or registrant of the Real Estate Appraiser Board shall, upon request or demand, promptly produce to the board or any of its agents <u>within 10 working days of the request</u> , any document, book, or record, <u>workfile or electronic record</u> in a licensee's possession concerning any appraisal which the licensee performed, or for which the licensee is required to maintain records for inspection and copying by the board or its agents. These records shall be made available at the licensee's place of business during regular business hours. <u>The board or any of its agents may extend such time frame upon a showing of extenuating circumstances prohibiting delivery within such 10-day period.</u> <i>Regulation being amended to include electronic records and workfiles, which are more prevalent in the industry. Also, regulation being amended to require the registrant to submit the documents instead of the board's agents reviewing them at the place of business to make more efficient use of the board's resources.</i>
130-20-180.K	130-20-180.K.7		<u>A licensee shall respond to an inquiry by the Board, other than requested under 18 VAC 130-20-180.H.1 or its agents, within 21 days.</u> <i>Regulation being amended to require licensees to respond to any board inquiry not just those involving complaints filed against them. The current regulation requires licensees to respond only to complaints pertaining to their individual practice.</i>
	130-20-180.K.8		<u>A licensee shall not provide false, misleading or incomplete information in the investigation of a complaint filed with the board.</u> <i>Regulation being amended to require licensees to cooperate with the board.</i>
130-20-200		Pursuant to the mandate of Title 11 of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, §	Pursuant to the mandate of Title 11 of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, § 54.1-2013 of the Code of Virginia, and the qualifications criteria set forth by the

		<p>54.1-2013 of the Code of Virginia, and the qualifications criteria set forth by the Appraisal Qualifications Board of the Appraisal Foundation, all educational offerings submitted for prelicensure and continuing education credit shall be approved by the board. Educational offerings that have been approved by the Appraiser Qualifications Board shall be considered to have met the standards for approval set forth in this chapter.</p>	<p>Appraisal Qualifications Board of the Appraisal Foundation, all educational offerings submitted for prelicensure and continuing education credit shall be approved by the board. Educational offerings that have been approved by the Appraiser Qualifications Board shall be considered to have met the standards for approval set forth in this chapter. <u>Prelicense course applications received by the department or its agent must be complete within 12 months of the date of the receipt of the license application and fee by the Department of Professional and Occupational Regulation or its agent.</u></p> <p><i>Currently, applications can remain incomplete indefinitely. Amending the regulation will establish consistency with the requirements for individual applications and assist with the department's fiscal responsibility.</i></p>
<p>130-20-230.E</p>		<p>Credit may be awarded for prelicensure courses completed by challenge examination without classroom attendance, if such credit was granted by the course provider prior to July 1, 1990, and provided that the board is satisfied with the quality of the challenge examination that was administered by the course provider.</p>	<p>Section (E) to be deleted and the sections following it are being re-numbered to correspond.</p> <p><i>Section E is being deleted as it is now obsolete. This section was needed when the program was first regulated but is no longer necessary.</i></p>