

VIRGINIA REAL ESTATE APPRAISER BOARD
REGULATORY REVIEW COMMITTEE MINUTES

DRAFT

The Real Estate Appraiser Board (REAB) Regulatory Review Committee (Committee) met on Thursday, April 21, 2011, at the Department of Professional & Occupational Regulation in Richmond.

Committee Members present: H. Glenn James, Chair
Betsy Critzer
Richard Pruitt

Board Members present: Laura Sanchez del Solar
Diane Quigley
Michael Miller

Staff Members present: Christine Martine, Executive Director
Kevin Hoeft, Board Administrator
Elizabeth Peay, Assistant Attorney
General

Chairman James called the meeting to order at 2:10 p.m.

The agenda was approved unanimously.

Public Comment

Pat Turner, former Board Member and Virginia Certified Residential Appraiser, stated that the Interim Final Rules from the Federal Reserve will allow the Board to address items contained in the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank). Mr. Turner pointed out that North Carolina now licenses and regulates Appraisal Management Companies (AMCs). North Carolina set a \$3600 AMC license fee, requires a certified residential appraiser be responsible for the appraisals performed by the AMC, and the AMC must operate from a physical building located in North Carolina. He stated that prior to this regulation there were approximately 3500 AMCs in North Carolina. Since this regulation has been in effect, there are now only about 90 AMCs in North Carolina. Mr. Turner mentioned that a formal complaint will likely be filed in Virginia against Land Safe related to the "Hold Harmless" clause that is part of its standard agreement with appraisers. Mr. Turner recommended that the \$250,000 limit for the appraisal of non-residential properties by Certified Residential appraisers should be increased to \$1 million as the \$250,000 limit

was set many years ago and is outdated. He also advised that on-line education should not become the major source of continuing education for Virginia appraisers who renew their licenses.

Summary of Regulatory Review Process

Board Executive Director Christine Martine explained the Standard Regulatory Review Process that the Board will be undertaking. The process consists of three stages: Stage 1 - Notice of Intended Regulatory Action (NOIRA); Stage 2 - Proposed Regulation; and Stage 3 - Final Regulation. This process usually takes between 18-36 months to complete. It is important that the Board include all of its proposed regulatory changes in the NOIRA submission as it is extremely difficult to include proposed changes after the NOIRA is submitted.

Review of Board's Regulations

The Committee then discussed possible regulatory changes. Mr. James submitted a document entitled, "Preliminary Proposal for Changes in Regulations," for Committee review and discussion. This document included ten topics for proposed regulatory changes and explained the problem with each current regulation and provided rationale for the proposed change (document attached).

Recommended change Number 1 addressed the problem of licensees appraising property outside of the limits of their license class. Some confusion has resulted from the definition of "Transaction value" and how it should be applied to appraisal assignments. After discussion, the Committee proposed amending the definitions of "Certified residential real estate appraiser" and "Licensed residential real estate appraiser" in 18 VAC 130-20-10. (Definitions) of the Board's Regulations as follows:

"Certified residential real estate appraiser" means an individual who meets the requirements for licensure for the appraisal of or the review 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 or provide a review appraisal of nonresidential properties with a transaction value or market value as defined by USPAP up to \$250,000, whichever is the lesser. The Committee took no action in regard to increasing the value cap from \$250,000 to \$1,000,000 as was suggested during the Public Comment period.

"Licensed residential real estate appraiser" means an individual who meets the requirements for licensure for the appraisal of or the review appraisal of any noncomplex, residential real estate or real property of one to four residential units, including federally related transactions, where the transaction value or market value as

defined by USPAP is less than \$1 million. Licensed residential real estate appraisers may also appraise or provide a review appraisal of noncomplex, nonresidential properties with a transaction value or market value as defined by USPAP up to \$250,000, whichever is the lesser.

Recommended change Number 2 addressed the problem that many business entities that provide appraisal services in Virginia are not registered with the Board.

After discussion, the Committee proposed amending 18 VAC 130-20-20. (Requirement for registration) of the Board's Regulations as follows:

~~A All business entity entities, both domestic (in-state) and foreign (out-of-state) seeking to provide~~ing appraisal services shall register with the board by completing an application furnished by the board describing the location, nature and operation of its practice, and the name and address of the registered agent, an associate, or a partner of the business entity. Along with a completed application form, domestic corporations and limited liability companies shall provide a copy of the Certificate ~~of Incorporation~~ as issued by the State Corporation Commission, foreign (out-of-state) corporations and limited liability companies shall provide a copy of the Certificate ~~of Authority~~ from the State Corporation Commission, partnerships shall provide a copy of the certified Partnership Certificate, and other business entities trading under a fictitious name shall provide a copy of the certificate filed with the clerk of the court where business is to be conducted.

Recommended change Number 3 addressed the problem that many business entities that provide appraisal services in Virginia may not be adequately training and supervising their employees who are licensed by the Board. After discussion, the Committee concluded that it would be sufficient that one Board licensee serve as the contact person for the business entity and proposed amending 18 VAC 130-20-20. (Requirement for registration) of the Board's Regulations as follows:

A business entity seeking to provide appraisal services shall register with the board by completing an application furnished by the board describing the location, nature and operation of its practice, and the name and address of the registered agent, an associate, or a partner of the business entity. Along with a completed application form, domestic corporations shall provide a copy of the Certificate of Incorporation as issued by the State Corporation Commission, foreign (out-of-state) corporations shall

provide a copy of the Certificate of Authority from the State Corporation Commission, partnerships shall provide a copy of the certified Partnership Certificate, and other business entities trading under a fictitious name shall provide a copy of the certificate filed with the clerk of the court where business is to be conducted. Every business entity providing appraisal services shall provide the name and license number of a Board licensee who shall receive communications and notices from the Board which may affect the business entity or any licensee affiliated with the business entity.

Recommended change Number 4 addressed the problem of certified general real estate appraiser license applicants with inadequate experience in the development of the income approach. The current regulations allows for such applicants to qualify for the certified general license "by performing two or more appraisals on properties in association with a certified general appraiser which include the use of the income approach."

After discussion, the Committee proposed amending 18 VAC 130-20-30.8.c (General qualifications for licensure) of the Board's Regulations as follows:

Applicants for a certified general real estate appraiser license shall have a minimum of 3,000 hours of appraisal experience obtained during no fewer than 30 months. Hours may be treated as cumulative in order to achieve the necessary 3,000 hours of appraisal experience. At least 50% of the appraisal experience required (1,500 hours) must be in nonresidential appraisal assignments and include assignments which demonstrate the use and understanding of the income approach. An applicant whose nonresidential appraisal experience is predominately in such properties which do not require the use of the income approach may satisfy this requirement by performing two or more appraisals on properties in association with a certified general appraiser which include the use of the income approach. The applicant must have substantially contributed to the development of the income approach in such reports and shall provide evidence or verification of their contribution.

Recommended change Number 5 addressed the problem of appraiser license applicants having no recent experience in performing appraisal reports. The current regulations allow applicants to receive appraisal experience for USPAP-compliant reports completed after January 30, 1989.

After discussion, the Committee proposed amending 18 VAC 130-20-30.8 (General qualifications for licensure) of the Board's Regulations as follows:

The applicant shall, as part of the application for licensure, verify his experience in the field of real estate appraisal. All applicants must submit, upon application, sample appraisal reports as specified by the board. In addition, all experience must be acquired within the five-year period immediately preceding the date application is made and be supported by adequate written reports or file memoranda which shall be made available to the board upon request.

Recommended change Number 6 addressed the idea of eliminating the Licensed Residential Real Estate Appraiser class of license. After discussion, the Committee determined that since §§ 54.1-2009 and 54.1-2017 of the *Code of Virginia* authorize the issuance of the Licensed Residential Real Estate Appraiser License, the Board's Regulations cannot be amended to eliminate this class of license.

Recommended change Number 7 addressed the idea of taking into account or holding responsible an appraiser license applicant who, prior to being licensed as an appraiser of any type, was named as a party to a disciplinary action against a licensed real estate appraiser. After discussion, the Committee determined that the Board's Regulations cannot be amended to accomplish this as the Board has no jurisdiction over or authority to assign fault to an unlicensed individual who was only named as a party to a disciplinary action against a licensed appraiser.

Recommended change Number 8 addressed the problem of improperly using the term "valuation" instead of "evaluation."

After discussion, the Committee proposed amending 18 VAC 130-20-180.C.2.a (Standards of professional practice) of the Board's Regulations as follows:

An appraiser may provide market analysis studies or consulting reports, which do not constitute appraisals of market value provided such reports, studies or evaluations shall contain a conspicuous statement that such reports, studies or evaluations are not an appraisal as defined in § [54.1-2009](#) of the Code of Virginia.

Recommended change Number 9 addressed the idea of more efficiently taking disciplinary action against a Certified Appraisal Instructor who is also a licensed appraiser, and whose appraiser license has been the subject of disciplinary action. The Board's Regulations currently only allow the Board to deny such instructors to renew their certification.

After discussion, the Committee proposed amending 18 VAC 130-20-190. (Standards of conduct for certified appraiser education instructors) of the Board's Regulations by adding a new Section F to include provisions from the "Unworthiness" section of the "Standards of Professional Practice" in 18 VAC 130-20-180.K of the Board's Regulations as follows:

F. Unworthiness.

1. A certified instructor shall act as a certified general real estate appraiser, certified residential real estate appraiser or licensed residential real estate appraiser in such a manner as to safeguard the interests of the public, and shall not engage in improper, fraudulent, or dishonest conduct.
2. A certified instructor may not have been convicted, found guilty or pled guilty, regardless of adjudication, in any jurisdiction of the United States of a misdemeanor involving moral turpitude or of any felony there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this subdivision. A certified copy of a final order, decree, or case decision by a court with the lawful authority to issue such order, decree, or case decision shall be admissible as prima facie evidence of such guilt.
3. A certified instructor shall inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty, regardless of adjudication, of any felony or of a misdemeanor involving moral turpitude.
4. A certified instructor may not have had a license or certification as a real estate appraiser which was suspended, revoked, or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction.
5. A certified instructor shall inform the board in writing within 30 days of the suspension, revocation or surrender of an appraiser license or certification in connection with a disciplinary action in any other jurisdiction, and a licensee shall inform the board in writing within 30 days of any appraiser license or certification which has been the subject of discipline in any jurisdiction.

6. A certified instructor, which is also a licensed appraiser shall perform all appraisals in accordance with Virginia Fair Housing Law, § [36-96.1](#) et seq. of the Code of Virginia.
7. A certified instructor shall respond to an inquiry by the board or its agents within 21 days.
8. A certified instructor shall not provide false, misleading or incomplete information in the investigation of a complaint filed with the board.

Item Number 10 recommended no change. Instead, it addressed the matter of licensees who complete distance education courses to meet the continuing education license renewal requirement. Often these licensees complete distance education courses in less than the minimum hours required. For example, a licensee may complete an approved distance education version of the 7-hour National USPAP Update Course in five hours. Should the licensee be required to spend seven hours online engaged in the educational process to receive seven hours of credit or should the licensee be able to finish the course in less than seven hours if all course components are completed?

The Board's Regulations address this matter in 18 VAC 130-20-10(Definitions), 18 VAC 130-20-110 (Qualifications for renewal), 18 VAC 130-20-220 (Standards for the approval of appraisal educational offerings for continuing education credit), and 18 VAC 130-20-230 (Procedures for awarding prelicense & continuing education credits).

According to the International Distance Education Certification Center (IDECC), only one state appraiser board (New York) requires its licensees to spend 50 minutes online engaged in the educational process to receive one hour of appraiser CE credit. It is likely that almost all other states do not have this "seat time" requirement but instead accept completion of any distance education CE course that has IDECC approval or some other widely recognized distance education course certification - whether the course was completed in more or less than 50 minutes per one hour of CE credit awarded.

Counsel from the Attorney General's Office advised that requiring course timers on online courses may be a moot point for the Board as it does not certify and regulate appraisal proprietary schools, which are the entities that would be required to set timers on its courses.

The Committee also discussed whether the Board can place a limitation on the amount of distance education hours an applicant or licensee may complete to receive or renew a license. There is no limitation currently. Appraiser Qualifications Board (AQB) staff advised that states may create requirements that are greater than, or more stringent than, the minimums established by the AQB, and that the Board could place a limitation on the amount of distance education hours completed to receive or renew a license. Appraisal Subcommittee (ASC) staff affirmed AQB advice but cautioned that such limitations may create entry barriers or hardships due to the scarcity of approved classroom appraisal courses. Board staff also expressed concerns about whether the Department of Planning and Budget and the Governor's Office would allow a regulatory change that may be interpreted as being burdensome to applicants and licensees. Counsel from the Attorney General's Office advised that the Board has the authority to require that a certain percentage of education is completed in a classroom setting rather than on-line.

The Virginia Real Estate Board's approved proprietary schools that offer online courses must place timers on these courses requiring real estate licensees to spend at least 50 minutes online engaged in the educational process to receive one hour of real estate continuing education credit.

The Committee then discussed an item brought to the attention of Ms. Quigley by licensee J. Craig Sewell, concerning a Kentucky requirement that all Kentucky licensed/certified appraisers shall complete the 7-hour National USPAP Update Course between January 1st and June 30th of each even number year (e.g., 2012, 2014, etc.). Discussion ensued regarding the Appraiser Qualifications Board (AQB) of The Appraisal Foundation issuing new language that would require licensees to take the 7-hour National USPAP Update Course within six months of any revisions to USPAP. No action was recommended by the Committee as this issue would likely be addressed on a national level by the AQB.

The Committee then discussed whether the filing of a "frivolous" complaint by one licensee against another licensee could be determined to be a violation of the Board's Regulations. The Committee determined that it would be impossible for the Board to determine the criteria for a "frivolous" complaint. This type of matter could only be addressed and resolved in civil court. No action was recommended by the Committee.

The Committee then discussed amending 18 VAC 130-20-60. (Qualifications for Licensure as an appraiser trainee) of the Board's Regulations to include that the applicant must be 18 years of age and allowed to request a licensing hearing before the Board

if all entry requirements are not met. The Committee recommended the Board's Regulation be amended as follows:

An applicant for licensure as an appraiser trainee shall meet the following educational, experience, and examination requirements in addition to those set forth in subdivisions 1 through ~~5~~ 6 and 9 and 10 of [18VAC130-20-30](#).

Adjourn

There being no further business, the meeting was adjourned at 4:05 p.m.

Attachment

**Virginia Real Estate Appraiser Board
Regulatory Review Committee
Preliminary Proposal for Changes in Regulations**

This preliminary proposal for changes in regulations will be guided by Governor McDonnell's Executive Order 14, *Development and Review of Regulations Proposed by State Agencies*, which states in part, "All regulatory activity should be undertaken with the least possible intrusion in the lives of the citizens of the Commonwealth consistent with public health, safety and welfare. Proposed and final regulations shall reflect the Governor's initiative that state government operate more efficiently and effectively." Moreover, based on advice from DPOR Staff and the Office of the Attorney General (OAG), the Committee will not attempt to incorporate the appraisal-related changes within the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (HR 4173 – signed into law on July 21, 2010) in the standard regulatory review process. Instead, these changes should be incorporated in the Board's Regulations through an Exempt Regulatory Review action after the Board receives official guidance from the ASC and after any required legislation, if necessary, is passed by the General Assembly.

For each topic presented herein, the following protocol will be followed:

Step 1: Identify the problem or issue.

Step 2: Quote the existing regulation that presently applies.

Step 3: Cite the recommended change in language.

Step 4: Provide the rationale for making the change (how the public will be better-protected, why licensees will be better-served, etc.).

This preliminary proposal will only involve sections of the Virginia Administrative Code - 18 VAC 130-20-10 through 130-20-250 (effective November 1, 2009). No changes in Virginia's appraiser statutes (Code of Virginia, Title 54.1, Chapter 20.1; §§54.1-2009 - 54.1-2019) will be recommended as this is beyond the scope of the Regulatory Review Committee's involvement.

The topics in this preliminary proposal are listed in order as presented in the regulations and are summarized as follows:

- Topic #1 - Licensees appraising property outside of their license class - 18 VAC 130-20-10.
- Topic #2 - Registration of business entities engaged in appraisal practice - 18 VAC 130-20-20.
- Topic #3 - Supervision of licensees when employed by business entities - 18 VAC 130-20-20.
- Topic #4 - Applicants submitting inadequate experience credits - 18 VAC 130-20-30.8
- Topic #5 - Applicants with no recent appraisal experience - 18 VAC 130-20-30.8
- Topic #6 - Status of licensed residential license- 18 VAC 130-20-30.8.a
- Topic #7 - Supervision of unlicensed persons preparing appraisal reports - 18 VAC 130-20-60
- Topic #8 - Evaluations versus Valuations - 18 VAC 130-20-180. C. 2
- Topic #9 - Standards of conduct for certified appraisal instructors - - 18 VAC 130-20-190
- Topic #10 - Bypassing requirements of Continuing Education - 18 VAC 130-20-220. A. 3

TOPIC #1

1. Problem.

Based on actual cases that have recently come before the Board, some licensees have been appraising real property outside of the limits of their license class. For example, licensed residential real estate appraisers have written appraisal reports on commercial buildings valued well in excess of \$250,000, and certified residential real estate appraisers have written appraisal reports on complex commercial properties valued well in excess of \$1 million. In both cases, the licensees thought that they were doing nothing wrong, because there is no “transaction” (sale) involved. It appears that licensees are misinterpreting the term “transaction value.” The definition of “transaction value” appears to be inadequate, but because that definition is taken from applicable banking regulations, it may not be advisable to “tinker” with it. The term only covers appraisals for (1) loans or other extensions of credit, (2) for sales, leases, purchases and investments in or exchanges of real property, and (3) for the pooling of loans or interests in real property for resale or purchase. Nevertheless, there are many other uses of real estate appraisals. Should the regulations allow licensed residential appraisers to value a \$2 million shopping center for a divorce case, and should the regulations allow a certified residential appraiser to value a high-rise office building for the purpose of appealing a tax assessment? Neither divorce nor tax appeals, for example, are referenced in the definition of transaction value.

2. Existing regulation.

In *18 VAC 130-20-10* (Definitions) page 6, the term “transaction value” is defined as follows:

“Transaction value” means the monetary amount of a transaction which may require the services of a certified or licensed appraiser for completion. The transaction value is not always equal to the market value of the real property interest involved. For loans or other extensions of credit, the transaction value equals the amount of the loan or other extensions of credit. For sales, leases, purchases and investments in or exchanges of real property, the transaction value is the market value of the real property interest involved. For the pooling of loans or interests in real property for resale or purchase, the transaction value is the amount of the loan or the market value of real property calculated with respect to each such loan or interest in real property.

The term “transaction value” is not defined in USPAP; nevertheless, it is defined in 12 CFR Part 34.42(m) and amended in 59 Federal Register 29499, June 7, 1994

The term “transaction value” is used in two other paragraphs in the regulations, specifically:

TOPIC #1 (continued)

18 VAC 130-20-10, Page 2: “***Certified residential real estate appraiser***” means an individual who meets the requirements for licensure for the appraisal of or the review 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 or provide a review appraisal of nonresidential properties with a transaction value up to \$250,000. (Page 2).

18 VAC 130-20-10, Page 5: “***Licensed residential real estate appraiser***” means an individual who meets the requirements for licensure for the appraisal of or the review 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 or provide a review appraisal of noncomplex, nonresidential properties with a transaction value up to \$250,000. (Page 5)

3. Recommended change.

18 VAC 130-20-10, Page 2: “***Certified residential real estate appraiser***” means an individual who meets the requirements for licensure for the appraisal of or the review 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 or provide a review appraisal of nonresidential properties with a transaction value **or market value** up to \$250,000, **whichever is the lesser**.

18 VAC 130-20-10, Page 5: “***Licensed residential real estate appraiser***” means an individual who meets the requirements for licensure for the appraisal of or the review appraisal of any noncomplex, residential real estate or real property of one to four residential units, including federally related transactions, where the transaction value **or market value** is less than \$1 million. Licensed residential real estate appraisers may also appraise or provide a review appraisal of noncomplex, nonresidential properties with a transaction value **or market value** up to \$250,000, **whichever is the lesser**.

4. Rationale.

It is not in the best interests of the public to have unqualified appraisers perform complex assignments that are beyond their professional abilities. Appraisers who inappropriately perform such work may discredit the appraisal profession and thus harm the reputation of appraisers in general. As revealed by actual cases that have come before the Board, some licensees are apparently confused by the application of the term “transaction value.” Although the official definition of “transaction value” should remain as-is, language regarding the capabilities of licensees should be amended, instead, to cure the problem.

TOPIC #2

1. Problem.

Research by DPOR staff has discovered that many business entities which provide appraisal services are not registered with the Board. The system for registering business entities is substantially different for appraisers than for real estate brokers, for example.

2. Existing Regulation.

18 VAC 130-20-20. Requirement for registration.

A business entity seeking to provide appraisal services shall register with the board by completing an application furnished by the board describing the location, nature and operation of its practice, and the name and address of the registered agent, an associate, or a partner of the business entity. Along with a completed application form, domestic corporations shall provide a copy of the Certificate of Incorporation as issued by the State Corporation Commission, foreign (out-of-state) corporations shall provide a copy of the Certificate of Authority from the State Corporation Commission, partnerships shall provide a copy of the certified Partnership Certificate, and other business entities trading under a fictitious name shall provide a copy of the certificate filed with the clerk of the court where business is to be conducted.

3. Recommended change.

18 VAC 130-20-20. Requirement for registration.

A **All** business ~~entity~~ **entities, both domestic (in-state) and foreign (out-of-state)**, seeking to provide appraisal services shall register with the board by completing an application furnished by the board describing the location, nature and operation of its practice, and the name and address of the registered agent, an associate, or a partner of the business entity. Along with a completed application form, domestic corporations **and limited liability companies** shall provide a copy of the Certificate of ~~Incorporation~~ **of Authority** as issued by the State Corporation Commission, foreign (out-of-state) corporations **and limited liability companies** shall provide a copy of the Certificate of Authority from the State Corporation Commission, partnerships shall provide a copy of the certified Partnership Certificate, and other business entities trading under a fictitious name shall provide a copy of the certificate filed with the clerk of the court where business is to be conducted.

TOPIC #2 (continued)

4. Rationale #1.

In order to limit professional liability, many appraisers operate their practice via corporations and limited liability companies. In order to protect the public from potential wrong-doing, the Board needs to know the contact information of these firms. Current regulations do not mention limited liability companies which constitute the majority of new businesses; language in this regard needs to be updated. Licenses issued by the Commonwealth to individuals are generally registered at their home address. Accordingly, the Board is unaware of the location from which the actual appraisal business is conducted. Moreover, the Commonwealth has not been collecting registration fees for many of these businesses, and means needs to be instituted to enhance the ability to collect such fees.

4. Rationale #2.

Instead of the recommended language cited above, it may be beneficial to bring the appraiser regulations in line with those of the Real Estate Board (REB). Some licensed appraisers are also licensed as real estate brokers or salespersons. Uniformity of the regulations would simplify enforcement and reduce confusion. However, this may require a change in the underlying statute. The following are excerpts from the applicable REB regulations:

18 VAC 135-20-20. Necessity for license.

PART II. ENTRY

Refer to § 54.1-2106.1 of the Code of Virginia.

- A. Sole proprietor (principal broker owner). A real estate broker's license shall be issued to an individual trading under an assumed or fictitious name, that is, a name other than the individual's full name, only after the individual signs and acknowledges a certificate provided by the board, setting forth the name under which the business is to be organized and conducted, the address of the individual's residence, and the address of the individual's place of business. Each certificate must be attested by the clerk of court of the county or jurisdiction wherein the business is to be conducted. The attention of all applicants and licensees is directed to §§ 59.1- 69 through 59.1-76 of the Code of Virginia.

TOPIC #2 (continued)

- B. Sole proprietor (non-broker owner), partnership, association, limited liability company, or corporation. Every sole proprietor (non-broker owner), partnership, association, limited liability company, or corporation must secure a real estate license for its firm before transacting real estate business. This license is separate and distinct from the individual broker license required of each partner, associate, manager of a limited liability company, and officer of a corporation who is active in the firm's brokerage business. Each applicant for such license shall disclose, and the license shall be issued to, the name under which the applicant intends to do or does business and holds itself out to the public. Each applicant shall also disclose the business address of the firm. The board will consider the application of any partnership, association, corporation or limited liability company only after the entity is authorized to conduct business in accordance with §§ 59.1-69 through 59.1-76 of the Code of Virginia.
- C. Branch office license. If a real estate broker maintains more than one place of business within the state, a branch office license shall be issued for each place of business maintained. Application for the license shall be made on forms provided by the board and shall reveal the name of the firm, the location of the branch office, and the name of the supervising broker for that branch office. The branch office license shall be maintained at the branch office location.

TOPIC #3

1. Problem.

Actual cases that have recently come before the Board have indicated that some firms providing appraisal services do not adequately supervise and train their employees who are licensees of the Board. This has resulted in licensees being found in violation of Board regulations, which possibly could have been prevented if those employees had proper supervision.

2. Existing Regulation.

18 VAC 130-20-20. Requirement for registration.

A business entity seeking to provide appraisal services shall register with the board by completing an application furnished by the board describing the location, nature and operation of its practice, and the name and address of the registered agent, an associate, or a partner of the business entity. Along with a completed application form, domestic corporations shall provide a copy of the Certificate of Incorporation as issued by the State Corporation Commission, foreign (out-of-state) corporations shall provide a copy of the Certificate of Authority from the State Corporation Commission, partnerships shall provide a copy of the certified Partnership Certificate, and other business entities trading under a fictitious name shall provide a copy of the certificate filed with the clerk of the court where business is to be conducted.

3. Recommended change.

18 VAC 130-20-20. Requirement for registration.

A business entity seeking to provide appraisal services shall register with the board by completing an application furnished by the board describing the location, nature and operation of its practice, and the name and address of the registered agent, an associate, or a partner of the business entity. Along with a completed application form, domestic corporations shall provide a copy of the Certificate of Incorporation as issued by the State Corporation Commission, foreign (out-of-state) corporations shall provide a copy of the Certificate of Authority from the State Corporation Commission, partnerships shall provide a copy of the certified Partnership Certificate, and other business entities trading under a fictitious name shall provide a copy of the certificate filed with the clerk of the court where business is to be conducted. **Every business entity seeking to provide appraisal services shall identify the name and license number of a licensee of this Board who shall be responsible for the supervision of the appraisal services provided by the firm.**

TOPIC #3 (continued)

4. Rationale.

The registration of appraisal business entities is substantially different from the registration of real estate sales and leasing firms where the naming of a supervising broker is required, and with that individual's broker license associated with the firm license. Registration of appraisal firms should be substantially similar to that of real estate brokerage firms. This would serve to protect the public in a manner similar to that of real estate brokerage firms and would make regulations of similar boards more uniform.

Also see Rational #2 for Topic #2 above.

Item #4

1. Problem.

Actual cases have come before the Board involving applicants for a certified general real estate appraiser license who have had inadequate experience in the development of the income approach. Some of these applicants have been employees of government agencies, such as VDOT and local real estate assessor offices. These government employees frequently have insufficient experience with the income approach because their employment does not provide the opportunity to appraise income properties.

2. Existing Regulation.

18 VAC 130-20-30. General qualifications for licensure.

8. c. Applicants for a certified general real estate appraiser license shall have a minimum of 3,000 hours of appraisal experience obtained during no fewer than 30 months. Hours may be treated as cumulative in order to achieve the necessary 3,000 hours of appraisal experience. At least 50% of the appraisal experience required (1,500 hours) must be in nonresidential appraisal assignments and include assignments which demonstrate the use and understanding of the income approach. An applicant whose nonresidential appraisal experience is predominately in such properties which do not require the use of the income approach may satisfy this requirement by performing two or more appraisals on properties in association with a certified general appraiser which include the use of the income approach.

3. Recommended change.

18 VAC 130-20-30. General qualifications for licensure.

8. c. Applicants for a certified general real estate appraiser license shall have a minimum of 3,000 hours of appraisal experience obtained during no fewer than 30 months. Hours may be treated as cumulative in order to achieve the necessary 3,000 hours of appraisal experience. At least 50% of the appraisal experience required (1,500 hours) must be in nonresidential appraisal assignments and include assignments which demonstrate the use and understanding of the income approach. An applicant whose nonresidential appraisal experience is predominately in such properties which do not require the use of the income approach may satisfy this requirement by performing two or more appraisals on properties in association with a certified general appraiser which include the use of the income approach. **The Applicant must have substantially contributed to the development of the income approach in such reports and shall provide evidence or verification of their contribution.**

TOPIC #4 (continued)

4. Rationale.

Government employees are not required to obtain real estate appraisal licenses to perform their official duties. Some government employees intend to provide appraisal services to the general public after their retirement or separation from government service. Those government employees who do apply for a license are sometimes at a significant disadvantage in submitting the necessary appraisal experience. The nature of their employment does not necessarily provide the government employee with the opportunity to appraise income properties. For example, VDOT employees have submitted applications for a certified general license that only included simple form appraisal reports for vacant land. Existing regulations provide an alternate means of submitting the necessary experience by participating in the authorship of two appraisal reports containing the income approach. The public expects a holder of the certified general real estate appraiser license to be knowledgeable in the application of the income approach. To protect the public, the Board needs sufficient verification from these applicants that they have understanding of the income approach as required by this section. Merely co-signing two appraisal reports with a certified general appraiser is insufficient. Proper verification of their understanding in the application of the income approach is needed.

Item #5

1. Problem.

Actual cases have come before the Board with applicants who have had no ***recent*** experience in performing appraisal reports. In one instance, the experience logs provided by an applicant for the required hours of experience indicated appraisal work done more than a decade ago. Other states do not permit the submission of such “stale” experience. In fact, the North Carolina Appraiser Board rejected the application of a North Carolina resident, but then referred the applicant to Virginia to obtain a license because Virginia did not have a limit on the age of experience. After obtaining a Virginia license, the applicant could then get a North Carolina license by reciprocity, thereby bypassing North Carolina’s regulations.

2. Existing Regulation.

18 VAC 130-20-30. General qualifications for licensure.

8. The applicant shall, as part of the application for licensure, verify his experience in the field of real estate appraisal. All applicants must submit, upon application, sample appraisal reports as specified by the board. In addition, all experience must be supported by adequate written reports or file memoranda which shall be made available to the board upon request.

a. Applicants for a licensed residential real estate appraiser license shall have a minimum of 2,000 hours appraisal experience, in no fewer than 12 months. Hours may be treated as cumulative in order to achieve the necessary 2,000 hours of appraisal experience.

b. Applicants for a certified residential real estate appraiser license shall have a minimum of 2,500 hours of appraisal experience obtained during no fewer than 24 months. Hours may be treated as cumulative in order to achieve the necessary 2,500 hours of appraisal experience.

c. Applicants for a certified general real estate appraiser license shall have a minimum of 3,000 hours of appraisal experience obtained during no fewer than 30 months. Hours may be treated as cumulative in order to achieve the necessary 3,000 hours of appraisal experience. At least 50% of the appraisal experience required (1,500 hours) must be in nonresidential appraisal assignments and include assignments which demonstrate the use and understanding of the income approach. An applicant whose nonresidential appraisal experience is predominately in such properties which do not require the use of the income approach may satisfy this requirement by performing two or more appraisals on properties in association with a certified general appraiser which include the use of the income approach.

TOPIC #5 (continued)

3. Recommended change.

18 VAC 130-20-30. General qualifications for licensure.

8. The applicant shall, as part of the application for licensure, verify his experience in the field of real estate appraisal. All applicants must submit, upon application, sample appraisal reports as specified by the board. In addition, all experience must be **acquired within the five-year period immediately preceding the date application is made and** be supported by adequate written reports or file memoranda which shall be made available to the board upon request.

... [followed by sub-paragraphs, a., b., and c].

4. Rationale.

The public is not protected when an application for an appraiser license is approved for an applicant who has not performed any appraisal reports in many years. Virginia should not facilitate applicants from other states to bypass their home state's appraiser regulations. The public would be better served by requiring applicants to have fresh experience in preparing appraisal reports. Virginia should follow the lead of many other states by requiring that applicants have recent experience in the authorship of appraisal reports when applying for a license.

This five-year requirement would be similar to that already required of licensed trainees:

18 VAC 130-20-60. Qualifications for licensure as an appraiser trainee.

2. **Within the five-year period immediately preceding application for licensure** [*emphasis added*], the applicant shall have successfully completed 75 hours of approved real estate appraisal courses from accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations. The classroom hours shall include the 15-hour National Uniform Standards of Professional Appraisal Practice course.

TOPIC #6

1. Problem.

Many of the disciplinary cases handled by the Board have involved Licensed Residential Appraisers. The entry requirements for this class of license are minimal. The trend in other states has been to eliminate this category of license.

2. Existing Regulation.

18 VAC 130-20-30. General qualifications for licensure.

8. a. Applicants for a licensed residential real estate appraiser license shall have a minimum of 2,000 hours appraisal experience, in no fewer than 12 months. Hours may be treated as cumulative in order to achieve the necessary 2,000 hours of appraisal experience.

8. b. Applicants for a certified residential real estate appraiser license shall have a minimum of 2,500 hours of appraisal experience obtained during no fewer than 24 months. Hours may be treated as cumulative in order to achieve the necessary 2,500 hours of appraisal experience.

3. Recommended change.

18 VAC 130-20-30. General qualifications for licensure.

Retire Paragraph 8. a. [thus eliminating the Licensed Residential Real Estate Appraiser class of license.]

4. Rationale.

The public would benefit by having more experienced and qualified appraisers in the marketplace. As noted by the existing regulation, the requirements for licensed residential real estate appraisers to upgrade to certified status are not burdensome. Most importantly, the Federal Housing Administration no longer allows licensed residential real estate appraisers to perform FHA appraisals. This has caused many licensed residential real estate appraisers to upgrade to certified status. This is clearly shown by the data in the table on the following page:

TOPIC #6 (continued)

Virginia Real Estate Appraiser Board Appraiser Licensee Population 2007 – 2010

	8/1/2007	8/1/2008	8/1/2009	8/1/2010
Certified General Active	931	984	1023	1021
Certified General Inactive		15	17	20
Certified Residential Active	1227	1453	1574	1729
Certified Residential Inactive		19	29	33
Licensed Residential Active	1550	1362	1210	882
Licensed Residential Inactive		22	26	41
Trainee Active	508	267	227	166
Trainee Inactive		4	7	7
Total	4216	4126	4113	3899

For reference, the following is excerpted from North Carolina's appraiser statute:

Chapter 93E North Carolina Appraisers Act, § 93E-1-14

After January 1, 2008, the North Carolina Appraisal Board will no longer issue a license for a licensed residential real estate appraiser. Any individual holding a license as a licensed residential real estate appraiser on that date shall be allowed to maintain the license so long as it is properly renewed in accordance with G.S. 93E-1-7.

Virginia should follow the lead of many other states by eliminating this license class, although allowing current license holders to maintain their status.

TOPIC #7

1. Problem.

Several recent disciplinary cases handled by the Board have involved unlicensed persons being involved in the appraisal process and being the perpetrators of violations. Because the appraisal report in question was signed by a licensed or certified appraiser, it was the supervising licensee who was sanctioned for the violations. The Board lacks jurisdiction over unlicensed persons who participate in the appraisal process. Past unlicensed perpetrators of violations have subsequently applied for, and been granted, licenses.

2. Existing Regulation.

18 VAC 130-20-30. General qualifications for licensure.

Every applicant to the Real Estate Appraiser Board for a certified general, certified residential, or licensed residential real estate appraiser license shall meet the following qualifications:

4. The applicant shall be in good standing as a real estate appraiser in every jurisdiction where licensed or certified; the applicant may not have had a license or certification which was suspended, revoked or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.

3. Recommended change.

18 VAC 130-20-30. General qualifications for licensure.

Every applicant to the Real Estate Appraiser Board for a certified general, certified residential, or licensed residential real estate appraiser license shall meet the following qualifications:

4. The applicant shall be in good standing as a real estate appraiser in every jurisdiction where licensed or certified; the applicant may not have had a license or certification which was suspended, revoked or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia. **The applicant may not have been named as a party to a disciplinary action against a licensed real estate appraiser prior to applying for licensure in Virginia.**

TOPIC #7 (continued)

4. Rationale.

The Board needs a “look back” provision to allow it to assess the nature of the involvement of an applicant, while an unlicensed person, in prior disciplinary proceedings. In one case, an unlicensed person used the digital signature of a licensed person without the knowledge and consent of the licensee. The appraisal prepared by the unlicensed person was found to have violations of USPAP and appraiser regulations. Only the licensee, whose digital signature was expropriated, received sanctions for wrongdoing perpetrated by the unlicensed person. The unlicensed person involved in this case later applied for, and was granted, a real estate appraiser license. The public would better protected if applicants with prior involvement in a disciplinary action against a licensed appraiser would be required to disclose their involvement prior to applying for a real estate appraiser license.

TOPIC #8

1. Problem.

The current regulations mischaracterize the term “evaluation.”

2. Existing Regulation.

18 VAC 130-20-180. Standards of Professional Practice.

C. 2. a. An appraiser may provide market analysis studies or consulting reports, which do not constitute appraisals of market value provided such reports, studies or evaluations shall contain a conspicuous statement that such reports, studies or valuations are not an appraisal as defined in § 54.1-2009 of the Code of Virginia.

3. Recommended change.

18 VAC 130-20-180. Standards of Professional Practice.

C. 2. a. An appraiser may provide market analysis studies or consulting reports, which do not constitute appraisals of market value provided such reports, studies or evaluations shall contain a conspicuous statement that such reports, studies or **evaluations** are not an appraisal as defined in § 54.1-2009 of the Code of Virginia.

4. Rationale.

Evaluations and valuations are not the same thing. Evaluation reports do not opine a value while reports involving valuations do. If a licensed appraiser prepares an evaluation and then opines a value, it is no longer an evaluation, but an appraisal and subject to USPAP. This change fixes an apparent typographical error. By changing the word “valuation” to “***evaluation***,” the problem is cured.

TOPIC #9

1. Problem.

The Board has had a disciplinary case involving a person who holds both a real estate appraiser license and an instructor certification. Indeed, in order to obtain a certification as an instructor, the applicant must be first licensed as an appraiser. In a case involving serious violations, the Board assessed sanctions against the appraiser license of an instructor. However, the Board lacks the authority to suspend or revoke the instructor certification of the same person who committed serious violations as an appraiser. The only action available to the Board is to deny renewal of the instructor certification, but this could take up two years. In the meantime, the appraiser with a suspended or revoked license, for example, can continue to instruct.

2. Existing Regulation.

18 VAC 130-20-80. Qualifications for the certification of instructors.

The applicant shall be in good standing as a real estate appraiser in every jurisdiction where licensed or certified; the applicant may not have had a license or certification which was suspended, revoked or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia, and shall have:

3. Seven years of active experience acquired in the appraisal field in the past 10 years, an appraisal license which has been in good standing for at least two years, and a current certified residential or certified general appraisal license appropriate for the level being instructed.

18 VAC 130-20-110. Qualifications for renewal.

E. Applicants for the renewal of a certificate as an instructor shall meet the standards for entry as set forth in [18VAC130-20-80](#).

3. Recommended change.

18 VAC 130-20-80. Qualifications for the certification of instructors.

4. Should the real estate appraiser license of the instructor not be in good standing, the instructor certification shall be suspended until the instructor's real estate appraiser license returns to a condition of good standing. [new paragraph]

TOPIC #9 (continued)

4. Rationale.

The Board needs a means to suspend or revoke an instructor's certification at the same time when the instructor's real estate license is suspended, revoked, or otherwise sanctioned. The public and applicants for a real estate appraiser license expect an appraisal instructor to be in good standing as a real estate appraiser. Failure to adhere to appropriate standards of conduct as an instructor sends the wrong message to students. The present regulations have a disconnect between the instructor certification and appraiser license.

TOPIC #10

1. Problem.

The Board's regulations for continuing education by existing licensees specify the minimum number of hours required. Some licensees have been avoiding the minimum hour requirements when "Distance Learning" is involved.

2. Existing Regulation.

18 VAC 130-20-110. Qualifications for renewal.

A. As a condition of renewal, and under § 54.1-2014 of the Code of Virginia, all active certified general real estate appraisers, certified residential real estate appraisers, and licensed residential real estate appraisers, resident or nonresident, shall be required to complete continuing education courses satisfactorily within each licensing term as follows:

1. All real estate appraisers must satisfactorily complete continuing education courses or seminars offered by accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations of not less than 28 classroom hours during each licensing term.

2. All real estate appraisers may also satisfy up to one half of an individual's continuing education requirements by participation other than as a student in educational processes and programs approved by the board to be substantially equivalent for continuing education purposes, including but not limited to teaching, program development, or authorship of textbooks.

3. Seven of the classroom hours completed to satisfy the continuing education requirements shall be the National Uniform Standards of Professional Appraisal Practice update course or its equivalent.

B. As a condition of renewal, all licensed real estate appraiser trainees shall meet the continuing education requirements set forth in subsection A of this section beginning with the second licensing term. Continuing education is not required to renew a real estate appraiser trainee license at the expiration of the first licensing term.

TOPIC #10 (continued)

18 VAC 130-20-220. Standards for the approval of appraisal educational offerings for continuing education credit.

A. Content.

2. Courses, seminars, workshops or conferences submitted for continuing education credit must indicate that the licensee participated in an educational program that maintained and increased his knowledge, skill and competency in real estate appraisal.

3. Credit toward the classroom hour requirement to satisfy the continuing education requirements shall be granted **only** where the length of the educational offering is at least two hours and **the licensee participated in the full length of the program** [*emphasis added*].

3. Recommended change.

None at this time.

4. Rationale.

This problem is also being faced by almost every board within DPOR. It is understood that the Regulatory Review Committee of the Real Estate Board (REB) is presently studying the situation and is working toward formulating an answer to the problem. This may involve a software solution to insure that students are spending the required amount of time at their computer when taking a distance learning course.

For the sake of uniformity of the regulations, the Real Estate Appraiser Board should hold this matter in abeyance until the Real Estate Board has rendered its decision.

Care must be taken to avoid conflict with the requirements of the International Distance Education Certification Center (IDECC) for course design and delivery mechanism