



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 130-20 – Real Estate Appraiser Board Regulations
Department of Professional and Occupational Regulation
June 21, 2007

Summary of the Proposed Amendments to Regulation

The Virginia Real Estate Appraiser Board (Board) proposes to make the following changes to the regulations: (1) reword the definitions of “Certified residential real estate appraiser” and “Licensed residential real estate appraiser” to ensure that appraisers provide review appraisals only for those properties for which they are licensed to appraise, (2) amend application requirements for prelicensure courses and instructors to require that submitted applications be completed within 12 months of the date of receipt of the application and fee, (3) require that licensees produce documents requested by the Board within ten working days of the request and broaden the definition of documents to include workfiles and electronic records, (4) repeal the requirement that the records be made available only at the licensee’s place of business, (5) require that the licensee respond—within 21 days—to any inquiry made by the Board and not just the complaints requested under 18 VAC 130-20-180.H.1, (6) require that a licensee *not* provide false, misleading, or incomplete information in the investigation of a complaint filed with the Board, and (7) no longer allow credit for licensing to be awarded for prelicensure courses completed by challenge examination without classroom attendance.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

U.S. Title 11 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) 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 Appraisal Qualifications Board (AQB) and the Appraisal Standards Board (ASB). The AQB sets the 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 regulations. Section 54.1-2013 of the Code of Virginia states that the Board “may do...all things required or expected of a state appraiser certifying and licensing agency under Title 11 of the FIRREA of 1989.”

Real estate appraisers conduct both appraisals and review appraisals. A review appraisal consists of an examination of another appraiser’s report to determine whether the conclusions are consistent with the data reported and other generally known information. A review appraiser does not necessarily personally inspect the real estate, but does review and analyze relevant facts assembled by fee/staff appraisers and forms objective conclusions as to the validity of the initial appraisal. In the current regulation, the required qualifications for review appraisals are not clear and therefore the Board has discovered review appraisals conducted by people who were not themselves qualified to appraise the property¹. These amendments to the definitions of “Certified residential real estate appraiser” and “Licensed residential real estate appraiser” clarify that licensees may provide review appraisals only for those properties that they are qualified to appraise. According to the Department of Professional and Occupational Regulation, approximately five percent of the complaints that are filed include a review appraisal conducted by an “unqualified” appraiser. Of course, because the Department only knows about the unqualified review appraisal if it is included in a filed complaint, we have no way of knowing the exact percentage of appraisers engaging in this practice.

This amendment could have an adverse economic impact on those appraisers whose business includes providing review appraisals for properties that they are not qualified to appraise. The affected appraisers would at least initially lose business, and would also need to spend the time and money to become certified for the next level of real estate appraisal if they wished to do the higher-level review appraisals going forward. To become a licensed residential real estate appraiser, an applicant must successfully complete 90 hours of Board-approved real estate appraisal courses and have a minimum of 2,000 hours of appraisal experience; meanwhile

¹ Source: Department of Professional and Occupational Regulation

to become a certified residential real estate appraiser, an applicant must successfully complete 120 hours of Board-approved real estate appraiser courses and have a minimum of 2,500 hours of appraisal experience obtained during no fewer than 24 months. To become a certified general real estate appraiser, an applicant must successfully complete 180 hours of Board-approved real estate appraiser courses, complete an advanced level appraisal course of at least 30 hours in the appraisal of nonresidential properties, and have a minimum of 3,000 hours of appraisal experience obtained during no fewer than 30 months, at least 50 percent of which must be in nonresidential appraisal assignments and assignments which demonstrate the use and understanding of the income approach. If a licensed residential real estate appraiser (who is licensed to appraise residential units where the transaction value is less than \$1 million) wanted to continue to review appraise the work of a certified residential real estate appraiser's appraisal of a \$3 million, four-unit building, she would have to obtain 30 more hours of classroom experience and 500 more hours of appraisal experience. This additional training could be costly to the appraiser, both in time taken away from her practice and in classroom fees. Assuming the relevance and importance of the federal and Virginia qualification requirements for the different levels of appraiser, however, the benefit of the public assurance that appraisals and review appraisals are conducted by qualified appraisers, and the increased efficiency that will accompany this assurance, will outweigh the cost to appraisers. In addition, it is likely that any cost to unqualified appraisers in lost business will be made up for by increased business for qualified appraisers.

Pursuant to the mandate of Title 11 of FIRREA 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. In addition, all educational offerings submitted for prelicensure and continuing education credit shall be approved by the Board. Currently, incomplete applications for instructor and course certification can be submitted to the department without any specified time requirements on completion. In other words, incomplete applications can remain indefinitely. This imposes a cost on the Board both in storage and in the efficient use of staff time. The proposed regulation will require license applications to be completed within twelve months of the date of receipt of the application and fee by the department. Given that this proposal should not impose any additional costs on

applicants and will assist with the department's fiscal responsibility, this proposed change offers a net economic benefit.

In the current regulation, a licensee must produce any document, book, or record 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. The Board proposes to further require that the documentation be produced within ten working days of the request (allowing that the Board may extend the time frame given extenuating circumstances) and that workfiles or electronic records may also be requested. Although the consequences of not filing documentation within ten days are not specified, the time specification should not impose excessive cost on the licensee and will allow the Board to complete its investigation in a more timely manner. The addition of electronic records simply reflects the change in technology since the regulation was initially written and should have no economic impact. Finally, the proposed regulation deletes the specification that the licensee is required only to make the documentation available at his/her place of business during regular business hours. Although this might impose a cost on the licensee in mailing documentation that is not available electronically, the reduction in cost to the Board (whose costs are covered by fees paid by applicants and licensees) of visiting the businesses of licensees across the state will lead to a net economic benefit.

Under 18 VAC 130-20-180.H.1, appraisers are required to respond to complaints pertaining to their individual practice. On many appraisals, however, there can be review appraisers, trainees, or other individuals involved in the appraisal. The Board proposes to require all licensees to respond to any Board inquiry about an appraisal that the licensee was involved in, no matter his/her role in the appraisal. In addition, the licensee must respond within 21 days of the inquiry. Although this could impose additional cost on the licensees who are not the primary appraiser on a piece of real estate, the benefit of the Board's ability to respond to problems quickly and efficiently should outweigh the cost. If the Board starts to require an excess of unwarranted or redundant documentation, however, such that a licensee must take significant, valuable time away from his/her productive activities to respond to Board inquiries, this regulation should be reconsidered or clarified.

Finally, the existing regulation allows credit for prelicensure courses completed by challenge examination without classroom attendance. This section is now obsolete as all

appraisers do—and, in fact, must, by federal law—both take the courses and pass the challenge examinations for licensure. Thus, the proposed amendment will have no impact.

Businesses and Entities Affected

The proposed amendments affect the approximately 4,800 licensed real estate appraiser individuals, firms, educational providers, instructors, trainees, and temporary license holders in Virginia.² This includes 3,657 licensed appraisers in Virginia, as well as the 235 appraiser course instructors certified by the Commonwealth.³ In order to set up an appraisal business, a licensee must register with the Board, and there are currently 442 appraisal businesses registered.⁴ Most of these business are small businesses, as most have between one and five employees and almost all have less than twenty employees.⁵

Localities Particularly Affected

The proposed amendments will affect localities throughout the Commonwealth.

Projected Impact on Employment

Although those appraisers and appraisal businesses who are conducting review appraisals on property they are not qualified to appraise (approximately five percent of those against whom complaints are filed⁶) could lose some of their workload and therefore suffer employment losses, that loss should be offset by the gain in employment to qualified appraisers. Therefore, these amendments are not likely to significantly impact employment.

Effects on the Use and Value of Private Property

Should the documentation requirements of the Board become onerous, this could adversely impact appraisers who are required to produce the documentation. In addition, these amendments will decrease the value of the practices of those appraisers who are conducting review appraisals for properties that they are not qualified to appraise. It will also increase the value of the practices of the qualified appraisers who can now conduct the review appraisals that unqualified appraisers had been conducting.

² Source: Department of Professional and Occupational Regulation

³ Source: Department of Professional and Occupational Regulation, http://www.dpor.virginia.gov/dporweb/reg_pop.pdf

⁴ Source: Department of Professional and Occupational Regulation, http://www.dpor.virginia.gov/dporweb/reg_pop.pdf

⁵ Source: Department of Professional and Occupational Regulation

Small Businesses: Costs and Other Effects

Most of the 442 registered appraiser businesses are small businesses with fewer than twenty employees. If the documentation requirements of the Board become onerous, then the proposed amendments could adversely affect small appraiser businesses. These businesses will not only have to respond to more inquiries, but they will also have to incur the mailing costs.

Small businesses could also be adversely impacted by the specification that appraisers can review appraise only properties for which they are certified/licensed to appraise, if the business is currently providing review appraisals for properties that it is not qualified to appraise. On the other hand, qualified appraisers in small businesses who can take the review appraisals from the unqualified appraisers will be positively impacted.

Small Businesses: Alternative Method that Minimizes Adverse Impact

No alternative method will achieve the stated policy goals more efficiently. If, however, the Board begins to require excessive amounts of documentation from licensees, a clarification of the exact types of inquiries or requests that the Board can make of licensees might reduce adverse impact on licensees.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the

⁶ Source: Department of Professional and Occupational Regulation

type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.