



## Final Regulation Agency Background Document

<b>Agency name</b>	Real Estate Appraiser Board
<b>Virginia Administrative Code (VAC) citation</b>	18 VAC 130 -20
<b>Regulation title</b>	Real Estate Appraiser Board Regulations
<b>Action title</b>	Amending regulations to incorporate needed changes
<b>Date this document prepared</b>	December 6, 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

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.*

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. There were no changes to the final regulation from publication of the proposed regulation.

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

The Real Estate Appraiser Board reviewed and adopted the final regulations, entitled "Real Estate Appraiser Board Regulations," on November 27, 2007.

## 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 numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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Section 54.1-2013 of the Code of Virginia states that the Real Estate Appraiser Board (the 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](http://www.appraisalfoundation.org).

## Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

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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 identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the “All changes made in this regulatory action” section.*

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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 there are no disadvantages to the public or the Commonwealth, please 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.

**Changes made since the proposed stage**

*Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.*

Section number	Requirement at proposed stage	What has changed	Rationale for change

No changes were made to the text of the proposed regulation.

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.*

Commenter	Comment	Agency response

No public comments were received.

**All changes made in this regulatory action**

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

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

		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.	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 Occupational Regulation or its agent.</u>  <i>Currently, appraiser pre-license instructor applications can remain incomplete indefinitely. Amending the regulation will establish consistency with the requirements for all other 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. <del>These records shall be made available at the licensee's place of business during regular business hours.</del> <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-		<u>A licensee shall not provide false, misleading</u>

	180.K.8		<p><u>or incomplete information in the investigation of a complaint filed with the board.</u></p> <p><i>Regulation being amended to require licensees to cooperate with the board.</i></p>
130-20-200		<p>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 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>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 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, appraiser prelicense course 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>
130-20-230.E		<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>

**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.*

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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.

### 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.*

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