

Ken Lawson, Secretary

Rick Scott, Governor

**Minutes of
THE FLORIDA REAL ESTATE APPRAISAL BOARD
March 12, 2015
Special Teleconference Meeting**

Chair Roy Pechillo called this special teleconference meeting of the Florida Real Estate Board to order at approximately 9:10 a.m., in Orlando, Florida, on this Thursday, the 12th of March, 2015.

The following Board members were present via telephone: Chair Roy Pechillo, Vice-Chair Clay Ketcham, Members Benjamin Bush, Armando del Valle, Tamara McKee, Evalyn "Fran" Oreto, Michael Roy, Chris Sante, and Matthew Simmons. Senior Assistant Attorney General Michael Flury appeared as counsel for the Board. Counsel Flury declared a quorum present.

Department and Division staff present at the meeting: Juana Watkins, Director; Allison McDonald, Deputy Chief Attorney; Jocelyn Pomales, Education Coordinator; Janice Taylor and Beverly Ridenauer, Government Analysts. Also appearing by telephone from Tallahassee were Andrew Fier, Chief Attorney and Board Counsel Michael Flury, Senior Assistant Attorney General. American Court Reporting, Inc. (407.896.1813) provided court reporter services.

General Session - Rules Discussion

Board Counsel Flury reminded the Board that these rule changes are being made as a result of the findings of Appraisal Subcommittee Policy Manager Jenny Tidwell during the recent Field Review.

Mr. Flury presented the changes made to the text of Rules 61J1-2.004 and commented that the Board had voted to approve this language at the February 9th meeting. The rule is being put before them to provide an opportunity to review the amendment as approved.

A. 61J1-2.004 Exemption of Spouses of Members of Armed Forces from Renewal Provisions

The amended text of the rule is:

61J1-2.004 Exemption of Spouses of Members of Armed Forces from Renewal Provisions.

A registered trainee appraiser who is the spouse of a member of the Armed Forces of the United States now or hereafter on active duty and who is absent from the State of Florida because of the spouse's duties with the Armed Forces shall be exempt from renewal provisions under the Rules of the Florida Real Estate Appraisal Board provided he or she is not engaged in his or her licensed profession or vocation in the private sector for profit. The exemption shall last during the absence from the state because of the spouse's duties with the Armed Forces and for a period of six months after returning to the state.

Specific Authority 455.02, 475.614 FS. Law Implemented 455.02 FS. History—New 10-15-91, Formerly 21VV-2.004, Amended 12-4-06,_____.

B. 61J1-2.005 Inactive Registration

Mr. Flury advised the Board that they had not voted on the proposed changes to Rule 61J1-2.005 Inactive Registration. He presented the amended text. Following discussion Mr. Sante moved; Mr. Simmons seconded; motion carried unanimously to approve the amended text of the rule.

Mr. Flury asked the Board to review the Checklist for the Statement of Estimated Regulatory Cost (SERC). Following discussion, Mr. Pechillo moved, seconded by Mr. Bush to find the proposed changes will not have an adverse impact on small business or increase regulatory costs by \$200,000.00 within a year and are mandated by a Statutory requirement to comply with the Appraisal Qualifications Board (AQB) Criteria. The motion carried without dissent.

The amended text of the rule is:

61J1-2.005 Inactive Registration.

(1) An applicant for registration as an appraiser, who has otherwise met the registration requirements, may obtain the registration without the necessity of having designated a ~~licensed or certified~~ appraiser as a primary supervisor. The registration shall be designated inactive upon being issued.

(2) At any time after obtaining registration as an appraiser, the registrant may request inactive status by submitting to the Board DBPR form FREAB 14 found in Rule 61-35.026, F.A.C. ~~DBPR RE 2060 or DBPR form DBPR RE 2065, which are incorporated by reference.~~ The fee to change licensure status is found in Rule 61J1-2.001, F.A.C.

(3) At any time after obtaining registration as an appraiser the registrant does not have on record with the Department of Business and Professional Regulation the name of a licensed or certified appraiser as a primary supervisor, the registration shall be designated inactive.

(4) Pursuant to Section 475.618(3), F.S., any registration not renewed at the end of the registration period shall be designated inactive.

(5) A registered appraiser, whose registration is designated inactive pursuant to subsection (1), (2) or (3), may request an active registration on DBPR form FREAB 14 ~~DBPR RE 2060 or DBPR form DBPR RE 2065~~. If the inactive duration is less than 2 years and does not extend beyond 1 biennial renewal cycle (registration period), no additional education or fee is required.

(6) A registered appraiser, whose registration is designated inactive pursuant to subsection (4), or whose inactive status extends beyond the biennial renewal cycle, shall comply with the education and fee requirements of Rule 61J1-4.007, Florida Administrative Code, in order to request an active registration.

(7) Any registration which exceeds 4 years in the inactive status shall automatically expire, and the person must meet all the requirements for initial registration.

Specific Authority 475.614, 475.619 FS. Law Implemented 475.613(2), 475.618, 475.619 FS. History—New 9-22-93, Amended 7-5-94, 5-8-06, _____.

C. 61J1-4.009 Post Licensing Education for Registered Trainee Appraisers

Mr. Flury presented the rule noting that the Board made major changes to the text at the February 9th meeting. The rule is being put forth for additional changes.

The Board discussed the proposed changes. Following discussion Mr. Simmons moved; Ms. Oreto seconded; motion carried unanimously to approve the proposed amended language.

Mr. Flury asked the Board to review the Checklist for the Statement of Estimated Regulatory Cost (SERC). Following discussion, Ms. Oreto moved, seconded by Mr. Roy to find the proposed changes will not have an adverse impact on small business or increase regulatory costs by \$200,000.00 within a year and are mandated by a Statutory requirement to comply with the Appraisal Qualifications Board (AOB) Criteria. The motion carried without dissent.

The amended text of the rule is:

61J1-4.009 Post Licensing Education for Registered Trainee Appraisers.

(1) All post-licensing education for registered trainee appraisers shall, unless otherwise provided for in this subsection, conform to the standards for continuing education provided in Rules 61J1-4.003 and 61J1-4.005, F.A.C. Board prescribed or approved courses shall be offered by a nationally or state recognized appraisal organization, accredited universities, colleges, community colleges, area vocational-technical centers, state or federal agencies or commissions, and proprietary real estate schools registered pursuant to Section 475.451, F.S.

(a) All registered trainee appraisers must satisfactorily complete one or more Board approved courses which must total at least ~~40~~ 45 classroom hours, without duplication of material, inclusive of examination in subjects including: influences on real estate value, legal considerations in appraisal, types of value, economic principles, real estate markets and analysis, valuation process, property description, highest and best use analysis, appraisal statistical concepts, sales comparison approach, site value, cost approach, income approach, valuation of partial interests, and appraisal standards and ethics. ~~All post-licensing courses shall consist of a minimum of 15 classroom hours. Post-licensing education shall consist of at least 30 hours of pre-certification education, a 7-hour National USPAP update course or its equivalent which must be taught by an AOB certified instructor, and a 3-hour Florida Laws and Rules Course.~~ A classroom hour is defined as 50 minutes of each 60-minute segment. The examination may not be open book, and must be administered by a permitted instructor.

~~(b) 15 classroom hours of the 45-hour post-licensing requirement must be the 15-hour National USPAP course or its equivalent inclusive of examination, and must be taught by an AOB certified USPAP instructor.~~

~~(2) In addition to the 45-hour requirement all registered trainee appraisers must satisfactorily complete a minimum of 3 hours strictly dedicated to an update of the Florida Real Estate Appraisal License Law and Board Rules.~~ All required hours must be completed within the same renewal period. Post-~~licensing~~licensure education must be taken during a single renewal period and all other continuing education for licensure renewal must be taken during other renewal periods.

(3) No change.

(4) A copy of the course shall be submitted to the Board for evaluation at least 90 days prior to use. The provider must submit two complete copies of the course materials, a detailed course timeline, learning objectives and end-of-course examinations. The provider must also submit a copy of the course in the format in which the student will use it. The course and examination, shall comply with "course approval criteria" as follows:

(a) A grade of 75% or higher on the Board prescribed end-of-course examination constitutes satisfactory course completion. The provider shall develop at least two forms of the end-of-course examinations and submit them for approval with a detailed course syllabus. The answer key must be unique for each form of the examination and reference the page numbers containing the information on which each question and correct answer is based. Examinations must test the material. At least 70% of the questions on each examination form shall be application oriented. Application level means the ability to use the learned material in a completely new and concrete situation. It usually involves the application of rules, policies, methods, computations, laws, theories, or any other relevant and available information. No more than 10% of the questions on each form of the test shall be at the knowledge level. Knowledge level means the recall of specific fact, patterns, methods, terms, rules, dates, formulas, names or other information that should be committed to memory. A provider offering prescribed courses must maintain a sufficient bank of questions to assure examination validity. A course that is 30 hours or less, that does not include the 7-hour National USPAP update, shall contain a minimum of 50 items. All questions shall be multiple choice with 4 answer choices each. The order of the examination questions may not follow the sequence of the course content. No examination shall contain more than 20% duplication of questions. The examination shall comply with the Item Writing Guidelines as of January 29, 2004, incorporated herein by reference.

(4) (b)-(e) No change.

~~(f) All post-licensing education courses may be completed through in-person classroom instruction or distance education. All courses taken for purpose of post-licensing credit must be taken completely within a classroom and may not be taken through distance education unless the licensee cannot, due to hardship, as defined by subsection (5) of this section, complete the course within a classroom. Any person desiring to complete the education course by means of distance education shall make a request to the Board in writing, setting forth the basis of the alleged hardship. The Board shall require said request to be supported by statements of doctors and other persons having knowledge of the facts.~~

~~(g) The Board shall allow an additional 6-month period after the second renewal following initial licensure for registered trainees who cannot, due to hardship, as defined by subsection (5) of this section, complete the course or courses within the required time. Any person desiring to complete the education course by means of distance education shall make a request to the Board in writing, setting forth the basis of the alleged hardship. The Board shall require said request to be supported by statements of doctors and other persons having knowledge of the facts.~~

~~(5) Hardship, for purposes of this rule Chapter 61J1-4, F.A.C., shall be defined as an inability, due to the licensee's own physical disability, to complete the post-licensing education requirements. to attend the place where classes are conducted.~~

~~(6) Distance Education courses, containing the same subject matter and requiring substantially the same assignment work, will be prescribed by the Board for any person who by reason of hardship cannot attend the place for classroom instruction for continuing education or post-licensing education. The scholastic standards and other related requirements will be substantially the same as the courses offered by classroom instruction, having due regard, however, to the different method of presentation.~~

~~(7)(a) Any registered trainee appraiser, licensed after July 1, 2003, must complete the 45-hour post licensure education, and the 3-hour review and update of the Florida Real Estate Appraisal License Law and Board Rules before the second renewal period following the trainee's most recent licensure as a trainee, and shall be exempt from the continuing education of that renewal period.~~

~~(b) Any registered trainee appraiser, licensed after July 1, 2003, who does not complete these Board prescribed post-licensure educational requirements and the 3-hour Florida Real Estate Appraisal Law update prior to the second renewal following initial registration and who does not prove that he or she failed to complete the post-licensure education requirements as a result of a hardship, as defined by subsection (5) of this section, is void without further administrative action. Such person may qualify to practice as a registered trainee appraiser only by retaking the required education and complying with all other requirements of law to be registered as a registered trainee appraiser.~~

~~(8)(a) Any registered trainee appraiser, licensed before July 1, 2003, must complete the 45-hour post licensure education, and the 3-hour review and update of the Florida Real Estate Appraisal License Law and Board Rules before the second renewal period following July 1, 2003, and shall be exempt from the continuing education requirements of that renewal period.~~

~~(6) (b) Any registered trainee appraiser, licensed before July 1, 2003, who does not complete these Board prescribed post-licensing licensure educational requirements and the 3-hour Florida Real Estate Appraisal Law update prior to the end of the second renewal following initial registration July 1, 2003, and who does not prove that he or she failed to complete the post-licensure education requirements as a result of a hardship, as defined by subsection (5) of this section, is void without further administrative action. Any registered trainee appraiser Such person whose license is null and void pursuant to s. 475.6175(2), F.S. may qualify to practice as a registered trainee appraiser only by retaking the required education and complying with all other requirements of law to be registered as a registered trainee appraiser.~~

~~(7) (9) Registered trainee appraisers may not satisfy any requirement of this rule with any course they have instructed.~~

Specific Authority 475.614 FS. Law Implemented 475.6175 FS. History—New 2-16-04, Amended 10-27-05, 12-4-06,_____.

D. 61J1-4.010 Supervision and Training of Registered Trainee Appraisers

Mr. Flury presented the amended rule and reminded the Board that they have already approved this language. It's being provided today just to give them the opportunity to see it in writing.

The Board discussed the possibility of placing a requirement for an update of the Supervisory and Trainee Course after a certain period of time. The rule will be brought back before the Board after the current revisions have been fully adopted for additional consideration.

The amended text of the rule is:

61J1-4.010 Supervision and Training of Registered Trainee Appraisers.

(1) All registered trainee appraisers shall be subject to direct supervision by a supervisory appraiser. In order to qualify as a supervisory appraiser and be responsible for the direct supervision of registered trainee appraisers, not to exceed three (3), the following conditions must be met:

(a) No change;

(b) A supervisory appraiser must be a current certified general or certified residential appraiser in good standing with the Board and shall not have been subject to any disciplinary action in any jurisdiction within the last three (3) years that affects the supervisory appraiser's legal eligibility to engage in appraisal practice. In addition, an appraiser who is currently under probation may not act as a supervisory appraiser.

(c) Supervisory appraisers shall have been state-certified for a minimum of four (4) years prior to being eligible to become a supervisory appraiser. Supervisory appraisers shall be in good standing in the same jurisdiction in which the trainee appraiser practices for a minimum of four (4) years. Effective December 10, 2010, a supervisory appraiser must have been certified as a residential or general appraiser for at least 48 months;

(d) Prior to registering as a supervisor to any registered trainee appraiser, a certified appraiser shall complete a board approved supervisory course of a minimum of three (3) hours. The course must comply with the course content adopted by the Appraiser Qualifications Board of the Appraisal Foundation on December 9, 2011 pursuant to Section 475.615(2), F.S. Trainee appraisers who took the course to qualify for the trainee appraiser registration will not be required to complete the course once certified in order to supervise. A supervisory appraiser must not have had a registration or certification, suspended by the Board or have been disciplined by the Board in two (2) or more disciplinary cases in the past five (5) years; and

~~(e) A supervisory appraiser's registration, certification, or license must not be currently subjected to discipline or practice restrictions by the Board. A supervisory appraiser who is currently subjected to discipline may not act as a supervisory appraiser until he or she successfully completes all disciplinary terms and conditions.~~

(2) The supervisory appraiser shall be responsible for the training and direct supervision of the registered trainee appraiser ~~trainee~~ by:

(a) through (b) No change.

(c) Personally inspecting each appraised property with the registered trainee appraiser ~~trainee~~ for a minimum of the first twelve (12) months of the registered trainee's initial registration, and thereafter until the registered trainee appraiser is competent in accordance with the Competency Rule of the Uniform Standards of Professional Appraisal Practice, as required by Rule 61J1-9.001, F.A.C. This provision shall not be construed to require that the registered trainee appraiser attend all inspections.

(d) through (f) No change.

(3) through (4) No change.

(5) An appraisal experience log shall be maintained jointly by the supervisory appraiser and the registered trainee appraiser. It is the responsibility of both the supervisory appraiser and the registered trainee appraiser to ensure the experience log is accurate, current and complies with the requirements of the registered trainee

~~appraiser's credentialing jurisdiction. Separate appraisal logs shall be maintained by both the registered trainee appraiser and the supervisory appraiser through use of DBPR Form RE 2300, entitled Appraisal Experience Log, effective 1-14-10, hereby incorporated by reference and available at http://www.myfloridalicense.com/dbpr/re/documents/RE_23002_Page.pdf.~~

(6) A supervisory appraiser may not be employed by a registered trainee appraiser or by a corporation, partnership, firm, or group in which the registered trainee appraiser has a controlling interest.

(7) through (9) No change.

(10) A registered trainee appraiser may not sign an appraisal certification within the first twelve (12) months of his or her registration as a trainee appraiser.

(11) A supervisory appraiser must include the following statement in any report in which a registered trainee appraiser contributed to the development of the appraisal or the writing of the appraisal report.

"I, the supervisory appraiser of a registered trainee appraiser ~~trainee~~ who contributed to the development or communication of this appraisal, hereby accepts full and complete responsibility for any work performed by the registered appraise trainee named in this report as if it were my own work."

Rulemaking Authority 475.614 FS. Law Implemented 475.611, 475.6221, 475.6222 FS. History—New 2-16-04, Amended 3-1-06, 12-4-06, 8-12-07, 11-25-07, 5-3-10, 12-11-11, 6-3-13, _____.

Board Business

E. Association of Appraiser Regulatory Officials (AARO) Spring Conference

Director Watkins provided the Board with information about the upcoming AARO Spring Conference. She reported that the budget for the remainder of the fiscal year will provide sufficient funds for two Board members to attend fully paid, or three members to attend partially paid. She asked the Board to consider how they want to proceed with that opportunity. Following discussion it was decided that Ms. Oreto and Mr. Simmons will attend the conference. Ms. Watkins thanked the Board for their guidance and agreed to move forward with the arrangements.

Director's Comments

Director Watkins provided a legislative update. She reported the Department has two real estate bills, Senate Bill 608 and House Bill 707, which include the appraisal language, moving along through the legislative process.

She also reported that the Department has received the Preliminary Findings letter from the ASC. It is as expected, with reference to the items Ms. Tidwell identified in our Statutes and Rules. The letter states that if Florida can successfully pass the Senate Bill that was provided while they were here, it will cure that area of noncompliance. The letter also notes the rule language that is already being revised.

The Department is fairly sure the noncompliance for the rule language can be cured before a response is necessary, but will request an extension to respond to the letter for two reasons:

- The response letter is due the first of May and Staff will be traveling at that time.
- The Department would like to hold off until the end of Legislative Session to ensure the Real Estate Bill, with the appraisal language passes and is signed by Governor Scott.

Ms. Watkins thanked the Board Members for agreeing to hold this teleconference for the rules because even though there is a meeting in a couple of weeks, the extra time being very helpful for those who process our rules.

Chair's Comments


Chair Pechillo commented that with rule making, the teleconference calls are a good tool. He thanked the Board for their support in nominating him for the position of Chair for this year.

The Chair commended Director Watkins and her team for making Florida an example of a well-run program.

Adjournment

There being no other business, the Chair adjourned the meeting at approximately 9:50 a.m. The next general meeting of the Florida Real Estate Appraisal Board will be Tuesday, April 7, 2015 at: 8:30 a.m. in Orlando. Florida

ATTEST:



Roy Pechillo, Chair
Florida Real Estate Appraisal Board



Juana Watkins, Executive Director
Florida Real Estate Appraisal Board