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INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

July 26, 2006

Robert F. McRae, Chairman
State Board of Certified Real Estate Appraisers
2601 North 3rd Street
Harrisburg, PA 17110

Re: Regulation #16A-7014 (IRRC #2537)
State Board of Certified Real Estate Appraisers
Federally Mandated Education Criteria

Dear Chairman McRae:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at www.irrc.state.pa.us. If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman
Executive Director
wbg
Enclosure

cc: Honorable Robert M. Tomlinson, Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Thomas P. Gannon, Majority Chairman, House Professional Licensure Committee
Honorable William W. Rieger, Democratic Chairman, House Professional Licensure Committee
Honorable Pedro A. Cortes, Secretary, Department of State

Comments of the Independent Regulatory Review Commission

on

State Board of Certified Real Estate Appraisers Regulation #16A-7014 (IRRC #2537)

Federally Mandated Education Criteria

July 26, 2006

We submit for your consideration the following comments on the proposed rulemaking published in the May 27, 2006 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the State Board of Certified Real Estate Appraisers (Board) to respond to all comments received from us or any other source.

1. Section 36.2. Application process. – Implementation procedure; Reasonableness.

Subsection (e) Compliance with new requirements

This subsection states, "...an applicant shall comply with any increased education or experience requirements that take effect between the applicant's filing of an initial application and the applicant's passing the certification examination." Candidates pay an application fee and if the Board approves the application, the candidate is limited to a one-year period to pass the examination.

We have four questions. First, if an applicant pays a fee and is approved by the Board to take the examination, why is it reasonable to impose additional requirements? Second, what notice would an approved applicant have of an increase in education or experience requirements in order to comply with this provision before scheduling an examination? Third, what action would the Board take if an applicant could not acquire increased education or experience before the expiration of the one-year period to take the examination? Finally, given the requirements for education and experience in Sections 36.11 and 36.12, why is Subsection (e) needed?

2. Section 36.11. Qualifications for certification as residential real estate appraiser. – Reasonableness; Clarity.

Subsection (b)(2) Teaching credit

This subsection permits teachers of appraisal courses to receive credit for classroom time for the classes that they teach. The Approval Subcommittee (ASC) stated that the language in this subsection is potentially confusing. We agree. We also note that the Preamble is clear with regard to the Board's intent when it states "...the teacher may request credit for either the classroom hour requirement or the appraisal experience requirement but not both." The language in this subsection should be amended to be more consistent with the Preamble. The same concern applies to Section 36.12(b)(2).

Subsection (b)(4) Distance education

The Pennsylvania Association of Realtors (PAR) notes that this subsection appears to deal with primary providers of distance education courses. Further, PAR questions how the Board intends to address courses taught by secondary providers. The Board should explain whether this provision applies to all qualified distance education providers. If the intent is to distinguish between providers, the regulation should be amended to clearly reflect that intent. The same concern applies to Section 36.12(b)(4).

Subsection (b)(4)(i)(B)

The House Professional Licensure Committee believes that the term “International Distance Education Certification Center” should be defined. We agree and recommend that the Board add the definition to Section 36.1 (relating to Definitions).

Also, this subsection as well as Sections 36.12(b)(4)(i)(B), 36.43(1)(iii), 36.224(1)(ii) and 36.263(1)(iii), require approved course providers. Is a list of approved course providers available for those who wish to use distance education to meet the classroom education requirements? If so, where can this list be found?

Subsection (b)(4)(ii)

This subsection requires the applicant to successfully complete a written examination “proctored” by an official approved by the course provider. PAR notes that on-line courses usually are designed with on-line examination functions. We agree that this subsection of the regulation would limit the availability of courses.

Are on-line courses acceptable to the Board? If so, the regulation should be amended to specifically allow these courses. If not, the Board should explain why it does not recognize on-line courses unless the courses include a written examination proctored by an official approved by the course provider. The same concerns apply to Sections 36.12(b)(4)(ii), 36.43(2), 36.224(2) and 36.263(2).

Subsection (c) Content of appraisal education

Subsection (c)(2) states that an applicant “shall demonstrate that the classroom hours satisfy the following curriculum requirements....” The regulation should specify the manner by which the applicant is required to demonstrate that these classroom hours meet the requirements. The same clarification should be made in Section 36.12(c)(2).

Subsection (e)(1)

This subsection and Section 36.12(e)(1) state that an applicant for certification must submit evidence of undergoing 2,500 hours of acceptable appraisal experience within the past 24 months. At least 50% of the required hours must be in the “actual preparation of real estate appraisal reports....”

Our concern is that a percentage is used. For example, if an applicant otherwise meets this requirement, but has more than 2,500 hours of acceptable appraisal experience, the applicant would have to ensure that at least 50% of the additional hours are spent in preparation of reports. It would be more practical to set a minimum number of hours in the actual preparation of appraisal reports, such as 1,250, rather than requiring a percentage of all hours.

Subsection (e)(2)

This subsection states “Experience acquired after January 1, 1991, must comply with USPAP [Uniform Standards of Professional Appraisal Practice]” and further states that experience gained after August 2, 1993, must meet certain other requirements. ASC suggests that the Board revise the language in this subsection to state that all appraisal experience must be obtained after January 30, 1989, and must be compliant with the USPAP. Did the Board consider including language that requires appraisal experience to be obtained after January 30, 1989? The same question applies to Section 36.12(e)(2).

3. Section 36.54. Supervision of appraisal assistant. – Reasonableness; Clarity.

Subsection (1)

Under this subsection, is email an acceptable method of written notification?

Subsection (3)(i)

This subsection states that the certified appraiser must accompany a non-certified appraisal assistant for at least 300 hours before the assistant could work without being accompanied by the certified appraiser. How did the Board determine that 300 hours is the appropriate amount of time? Why doesn't the certified appraiser accompany the appraisal assistant until the assistant is certified?

Facsimile Cover Sheet

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To: Cynthia Montgomery
Tom Blackburn
Agency: Department of State
Licensing Boards and Commissions
Phone: 7-2628
Fax: 7-0251
Date: July 26, 2006
Pages: 5

Comments: We are submitting the Independent Regulatory Review Commission's comments on the State Board of Certified Real Estate Appraisers' regulation #16A-7014 (IRRC #2537). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by: *Cynthia K. Montgomery* Date: 7/26/06