

NOTICE IS HEREBY GIVEN that the Director of the Office of Real Estate Appraisers (OREA) proposes to amend regulations relative to the practice of real estate appraisal for purposes of clarity and to implement specific requirements for licensure adopted by the Appraiser Qualifications Board of the Appraisal Foundation. The Director proposes to amend California Code of Regulations, Title 10, Chapter 6.5 of Sections 3525, 3527, 3541, 3542, 3543, 3544, 3561, 3563, 3566, 3568, 3569, 3570, 3583, 3602, 3603, 3661, 3722, and Article 15 (Conflict of Interest Code).

A public hearing for the collection of comments about this proposal has not been scheduled. However, any interested person or his or her duly authorized representative may present statements, arguments or conclusions in writing. In addition, a public hearing will be held if, no later than 15 days prior to the close of the written comment period, an interested person or his or her duly authorized representative submits in writing to OREA a request that a hearing be held.

Any written comments on the proposed regulations must be received no later than 5:00 P.M. on June 7, 2010, which is hereby designated as the close of the written comment period. Please submit written comments to:

Office of Real Estate Appraisers
1102 Q Street, Suite 4100
Sacramento, CA 95811

CONTACT: Inquiries concerning the action described in this Notice may be directed to Bob Clark, Director, at (916) 440-7878 or to Greg Harding, Chief of Licensing and Enforcement, at (916) 440-7874.

AUTHORITY AND REFERENCE: Pursuant to the authority vested in the Director of the Office of Real Estate Appraisers by Business and Professions Code, Sections 11302, 11310, 11313, 11314, 11325, 11327, 11328, 11340, 11360, 11361 and 11400 and to implement, interpret or make specific Public Law 101-73, Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Director of OREA is proposing amendments to California Code of Regulations, Title 10, Chapter 6.5.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The U.S Congress enacted Title XI of FIRREA in 1989, mandating all states to license real estate appraisers who appraise real property for federally related real estate transactions as defined. In response to the federal mandate, the California Legislature passed the Real Estate Appraisers' Licensing and Certification Law [Stats. 1990, c.491, (AB 527), amended by Stats. 1990, c. 1062 (SB 910), Stats. 1991, c. 84 (SB 1028), Stats.1993, c. 331 (SB 914), Stats. 1993, c. 343 (SB 173), Stats. 1993, c.940 (AB 1723), Stats. 1993, c. 941 (AB 387), Stats. 1994, c. 837 (AB 2634), Stats. c. 439 (SB 1316), Stats. 1997, c. 790 (SB 1348), Stats. 1998, c. 366 (AB 2244), Stats. 1999, c. 974 (AB 431), Stats. 2007, c. 291 (SB 223), and Stats. 2009, c. 173 (SB 237)]. The law charged OREA with licensing real estate appraisers in California and enforcing ethical and

professional standards and qualifications. Regulations previously adopted by OREA to carry out these federal and state statutory requirements are being amended as follows:

1. Section 3525. Temporary Practice Permit

The Appraisal Subcommittee (ASC), OREA's federal oversight agency, has recommended clarification in the regulations regarding the term of issuance of Temporary Practice Permits, specifically what happens if a Temporary Practice Permit holder's issuing state appraisal license expires less than one year from OREA's issuance of a Temporary Practice Permit. The Director of OREA proposes clarification to the Information field of form REA 3009 (Rev. 5/8/00) Request for Temporary Practice Permit, and to this Section of the regulations to comply with said recommendation.

2. Section 3527. Personal Information or Contact Change

The Director of OREA proposes additional language to Section 3527(b) that clarifies physical address requirements.

3. Section 3541. Minimum Experience Requirements

Subsection (d)

Current regulations provide that licensed real estate brokers who apply for the residential licensed real estate appraiser license must have at least 1,000 of the minimum 2,000 hours of real estate appraisal experience. The Director of OREA proposes adding a statement clarifying that licensees who do not have the minimum 2,000 hours of experience required for the residential real estate appraiser license are not in compliance with the minimum requirements established by the Appraiser Qualifications Board (AQB) and will be listed on the National Registry maintained by the ASC as not being in compliance with minimum AQB licensing criteria until they have provided verification of having met the minimum qualifications.

4. Section 3542. Acceptable Categories of Experience and Criteria for Each Category

Subsection (a)(2)

Section 3542 clarifies the experience requirements for appraisals performed for estimating value for property tax purposes. Current regulations specify that, among other requirements, appraisers who appraise property for tax purposes must demonstrate their use of techniques similar to those used for appraisals for other purposes. The Director of OREA proposes amending Section 3542 to require that appraisers who appraise property for tax purposes use appraisal methods, such as sales comparison, income or cost approaches, appropriate to the property type being appraised, and to perform all appraisals in conformance with the Uniform Standards of Professional Practice (USPAP).

5. Section 3543. Minimum Basic and Continuing Education Requirements

Subsections (a)(2), (a)(4), (b)(2)

Current regulations provide that basic and advanced appraisal courses given by real estate schools that have been approved by the California Department of Real Estate as part of the requirement for a broker license are exempt from accreditation requirements specified in Section 3543. The Director of OREA proposes amending the section to delete the provision that specifies that basic and advanced appraisal courses that have been approved by the California Department of Real Estate are acceptable to meet the basic and continuing education requirements. The amended section would require all basic and advanced appraisal courses given by real estate schools that have been approved by the California Department of Real Estate to meet the minimum course approval requirements as established by the AQB.

6. Section 3544. Credit for Teaching Appraisal Courses

Current regulations provide that instructors of appraisal courses may receive credit for up to one-half of their basic or continuing education requirements for licensing, but not both. Effective January 1, 2008, the AQB no longer allows such credit for basic education qualification, so the Director of OREA proposes amending this section to delete the provision that allows the basic education credit.

7. Section 3561. Application for Licensing

Subsection (c)

Current regulations specify that applicants for licensing must submit, in addition to other forms, a completed form REA 3002 (Rev. 5/8/00) Basic Education Attachment. Form REA 3002 (Rev. 5/8/00) lists on page 1 in an area of the form identified as “For OREA Use Only” specific course topics that meet the basic education requirements. The Director proposes modifying form REA 3002 (Rev. 5/8/00) to eliminate the listing of basic education topics to comply with current AQB requirements for basic education that specify education needed to qualify for licensure must meet specific course content rather than specific topics, and to amend the revision date for form REA 3002 (Rev. 5/8/00).

The Director also proposes amending current regulations to specify revision dates for forms REA 3001 (Rev. 5/8/00) Initial Application, REA 3003 (Rev. 5/8/00) Experience Log Summary and REA 3004 (Rev. 5/8/00) Log of Appraisal Experience.

8. Section 3563. Evidence of Experience Qualifications

Subsections (b)(2), (b)(3), (b)(4)

Current regulations specify the acceptable forms of documentation needed to verify the required experience for licensure. In addition to submission of a log of appraisal experience, applicants with ad valorem appraisal experience pursuant to Section 3542(a)(2) may submit a certification from the applicant’s employer under penalty of perjury that the applicant’s experience was in real property appraisal. Current regulations also specify that substantiation of experience setting forth opinions of value of real property for tax purposes as an employee of a California county assessor’s office or the California Board of Equalization under Section 3542(a)(9) must include a certification

from the applicant's supervisor, under penalty of perjury, that the applicant's experience was in real property appraisals and must include a complete description of the applicant's role in preparation of appraisals, including the time worked and the types of properties appraised. The Director of OREA proposes eliminating the provisions allowing applicant's to submit certifications from employers or supervisors and requiring them instead to document work experience through submission of form REA 3004 (Rev. 5/8/00) Log of Appraisal Experience, form REA 3003 (Rev. 5/8/00) Experience Log Summary, and samples of completed appraisals as selected by OREA

The Director proposes amending current regulations to modify form REA 3003 (Rev. 5/8/00) Experience Log Summary and form REA 3004 (Rev. 5/8/00) Log of Appraisal Experience to clarify existing experience requirements and ensure consistency with regulations.

The Director of OREA also proposes to amend Section 3563 to specify that the Office will select samples of completed appraisals for review from logs of appraisal experience submitted with applications for licensure.

9. Section 3566. Challenge Courses

Current regulations provide that challenge courses are acceptable to meet basic education requirements for licensing if they were completed prior to July 1, 1990. The AQB no longer allows such credit for basic education qualification, so the Director of OREA proposes amending this section to clearly state that challenge courses are not acceptable to satisfy basic education licensing requirements.

10. Section 3568. Provisional Licenses; Trainee Licenses and Supervising Appraiser Responsibilities **Subsection (b)(2)**

Current regulations specify that to accrue acceptable experience, trainee licensees must work under the direct supervision of supervisors who are licensed and in good standing. The Director of OREA proposes to amend Section 3568 to clarify that trainee licensees must work under supervisors who are licensed at the certified level to accrue acceptable work experience. OREA ceased issuing provisional licenses after December 31, 1993, so the Director of OREA proposes deleting the reference to this classification.

The Director proposes amending Section 3568 to reflect proposed date of revision of form REA 3004 (Rev. 5/8/00) Log of Appraisal Experience.

11. Section 3569. Reciprocity

Existing regulations reference form REA 3002 (Rev. 5/8/00) Basic Education Summary, form REA 3003 (Rev. 5/8/00) Experience Log Summary, and form REA 3004 (Rev. 5/8/00) Log of Appraisal Experience as revised on 5/8/00. The Director of OREA

proposes amending Section 3569 to reflect the proposed date of revision consistent with these regulations.

12. Section 3570. Time Limits for Processing Applications

Existing regulations reference forms REA 3001 (Rev. 5/8/00) Initial Application, REA 3002 (Rev. 5/8/00) Basic Education Summary, REA 3003 (Rev. 5/8/00) Experience Log Summary, REA 3004 (Rev. 5/8/00) Log of Appraisal Experience, and REA 3009 (Rev. 5/8/00) Request for Temporary Practice Permit as revised on 5/8/00. The Director of OREA proposes amending Section 3570 to reflect the proposed date of revision consistent with these regulations. Existing regulations also improperly reference said forms as “REA Form 3001”, “REA Form 3002”, etc. The Director of OREA proposes several amendments to this Section to correctly reference said forms as “form REA 3001”, “form REA 3002”, etc.

13. Section 3583. Temporary Reduction in Issuance Fees

Existing regulations specify the amount of issuance fees required for licensure. The fees are the result of a temporary reduction in issuance fees that became operable on September 7, 2006, under the authority vested in the Director of OREA in Business and Professions Code, Division 4, Part 3, Section 11407. The preamble to current regulation in Section 3583 specifies that the reduction in issuance fees shall be operable through June 30, 2010 and will thereupon expire. The Director of OREA proposes that the expiration date for Section 3583 be extended to June 30, 2014.

14. Section 3602. Change in the Status of License

Existing regulations reference forms REA 3001 (Rev. 5/8/00) Initial Application, REA 3002 (Rev. 5/8/00) Basic Education Summary, REA 3003 (Rev. 5/8/00) Experience Log Summary, REA 3004 (Rev. 5/8/00) Log of Appraisal Experience as revised on 5/8/00. The Director of OREA proposes amending Section 3602 to reflect the proposed date of revision consistent with these regulations.

15. Section 3603. Converting a Trainee License to a Full License or Higher Classification

Existing regulations reference forms REA 3001 (Rev. 5/8/00) Initial Application, REA 3002 (Rev. 5/8/00) Basic Education Summary, REA 3003 (Rev. 5/8/00) Experience Log Summary and REA 3004 (Rev. 5/8/00) Log of Appraisal Experience as revised on 5/8/00. The Director of OREA proposes amending Section 3603 to reflect the proposed date of revision consistent with these regulations. Existing regulations also improperly reference forms as “REA Forms 3023 and 3001,” etc. The Director of OREA proposes several amendments to this Section to correctly reference said forms as “form REA 3023”, “form REA 3001”, etc.

16. Section 3661. General Requirements for Basic and Continuing Education Accreditation

The ASC has recommended clarification in the regulations regarding the amount of time OREA requires a participant to be present during an educational course offering, as the ASC requirement is less stringent than OREA's. The Director of OREA proposes additional language in Section 3661(a)(3) to clearly delineate the time requirement.

17. Section 3722. Criteria of Substantial Relationship

Existing regulations authorize the Director of OREA to take actions to discipline licensees or withhold licenses from persons who have been convicted of a felony or any crime that is substantially related to the qualifications, functions, or duties of the profession of real estate appraisal. Existing regulations establish criteria for OREA use in making determinations of substantial relationship of crimes or acts to the qualifications, functions, or duties of the profession of real estate appraisal when examining fitness for licensure. The Director of OREA proposes amending Section 3722 to clarify that specified crimes or acts are related to the qualifications, functions or duties of the real estate appraisal profession.

18. Article 15. Office of Real Estate Appraisers - Conflict of Interest Code

OREA's office location has changed since the last revision of the regulations; therefore, the Director of OREA proposes a change indicating the correct address.

FISCAL IMPACT

- Cost or Savings to Any State Agency: None
- Direct or indirect costs or savings in federal funding to the state: None
- Other nondiscretionary cost or savings imposed on local agencies: None
- Costs to any local agencies or school districts, or a mandate which requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code: None

DETERMINATIONS

The Office of Real Estate Appraisers has made an initial determination that the adoption/amendment/repeal of this regulation:

- Does not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with business in other states.
- Does not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- Does not have an effect on housing costs.
- Does not significantly affect: (1) the creation or elimination of jobs within the State of California; (2) the creation of new businesses, the expansion of business

or the elimination of existing businesses currently doing business within the State of California.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Office of Real Estate Appraisers is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Office of Real Estate Appraisers has prepared and has available for public review an Initial Statement of Reasons for the proposed changes in these regulations, the information upon which the proposed changes are based and the text of the proposed regulations, as changed. A copy of the Initial Statement of Reasons and a copy of the proposed regulation text are available upon request by writing to OREA at the address noted above, which will also be the location of public records, including reports, documentation and other materials related to the proposed regulations. The information may also be accessed on OREA's website at www.orea.ca.gov.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person(s) named in this notice or may be accessed on OREA's website at www.orea.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation, which is changed or modified from the express terms of the proposed action, will be made available by OREA at least 15 days prior to the date on which OREA adopts, amends or repeals the resulting regulations.

EFFECT ON SMALL BUSINESS

The Office of Real Estate Appraisers has determined that the adoption of these regulations will have a positive effect on small businesses by extending the reduction in license issuance fees for an additional four years.

CONSIDERATION OF ALTERNATIVES

The Office of Real Estate Appraisers has determined that no reasonable alternative considered or that has otherwise been identified and brought to the attention of OREA would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.