

## **Notice of Proposed Action**

### **Title 10: Bureau of Real Estate Appraisers**

NOTICE IS HEREBY GIVEN that the Bureau of Real Estate Appraisers (“Bureau” or “BREA”) is proposing to take the action described in the informative digest below. Any interested person may present statements or arguments relevant to the action proposed, orally or in writing, at a hearing to be held at:

Department of Consumer Affairs  
1747 North Market Blvd.  
1<sup>st</sup> Floor Hearing Room  
Sacramento, CA 95834

Date: April 3, 2017  
Time: 10:00 a.m.

Written comments including those sent by mail, facsimile, or email to the address listed under “Contact Person” in this Notice, must be received by the Bureau at its office not later than 5:00 p.m. on March 31, 2017 or must be received by the Bureau at the hearing.

The Bureau, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 11313, 11314, and 11340 Business and Professions Code and to implement, interpret and make specific Section 11340 of the Business and Professions Code, the Bureau is considering revising sections 3541 to Title 10 of the California Code of Regulations as described in this Notice.

### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Title 10, Section 3541 of the California Code of Regulations (“CCR”) states, among other things, the minimum experience required to become a licensed real estate appraiser. Currently, the law requires continuous experience. The word “continuous” means without interruption. However, it is difficult to determine how long of an interruption disqualifies the applicant. Further, federal law does not require continuous experience, but rather only a cumulative number of hours. Therefore, the Bureau proposes to change the word “continuous” to “cumulative” to add clarity, conform to federal law, and remove the ambiguity of “continuous.”

## **ANTICIPATED BENEFITS**

The benefit is clarity by removing the ambiguity of the word “continuous” for potential licensees or licensees. This will assist both licensees and the Bureau in determine who meets the minimum experience requirements.

## **CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS**

During the process of developing these regulations, the Bureau has conducted a search of any similar regulations on this topic and has determined that there is no reasonable interpretation of any state regulation that is inconsistent or incompatible with the proposed action.

## **FISCAL IMPACT ESTIMATES**

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Cost to, or mandate imposed on, any Local Agency or School District for Which Government Code Section 17500-17630 Require Reimbursement: None

Business Impact: The Bureau initially determines that the proposed regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses: None

Cost Impact on Representative Private Person or Business: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

Effect on Small Businesses: None. This minor change does not effect any business as it simply clarifies existing law by exchanging ambiguous language for a clear language.

## **RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

Impact on Jobs/New Businesses: There will be no creation or elimination of jobs, businesses nor will it affect the expansion of existing businesses.

Benefits: The benefit is clarity by removing the ambiguity of the word “continuous” for potential licensees or licensees. This will assist both licensees and the Bureau in determine who meets the minimum experience requirements.

Occupations/Businesses Impacted: None

Reporting Requirements: There will be no new reporting.

Comparable Federal Regulations: None

### **CONSIDERATION OF ALTERNATIVES**

The Bureau must determine that no reasonable alternative considered by the Bureau or that has otherwise been identified and brought to the attention of the Bureau would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above mentioned hearing.

### **INITIAL STATEMENT OF REASONS AND INFORMATION**

The Bureau has prepared an initial statement of reasons which contains the purpose, rationale, and necessity for the proposed action.

The proposed text, this notice, the statement of reasons, and any other relevant documents are on the Bureau's website at [www.brea.ca.gov](http://www.brea.ca.gov). Click the "Laws" tab at the top of the page. Under the heading "Rulemaking Notifications" find the documents associated with this rulemaking subject: "Cumulative Experience."

### **AVAILABILITY AND LOCATON OF THE STATEMENT OF REASONS, TEXT OF PROPOSED REGULATION AND RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below. As of the date this notice is published in the Notice of Register, the rulemaking file consists of this notice, the proposed text of the regulation and the initial statement of reasons. Copies may be obtained by contacting person named below or by accessing the website as provided above.

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After holding the hearing and considering all timely and relevant comments received, BREA may adopt the proposed regulation substantially, as described in this notice. If BREA makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before BREA adopts the regulations as revised. Please send requests for copies of any modified regulation to the attention of the contact person named below. BREA will accept written

comments on the modified regulation for 15 days after the date on which they are made available.

**AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the person named below.

**CONTACT PERSON**

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Kyle Muteff, Legal Counsel  
1102 Q Street, Suite 4100  
Phone: 916-341-6126  
FAX: 916-440-7406  
[kyle.muteff@orea.ca.gov](mailto:kyle.muteff@orea.ca.gov)

The backup person is:  
Thu Tran  
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**Bureau of Real Estate Appraisers  
Initial Statement of Reasons**

**Hearing Date: April 3, 2017**

**Subject Matter of Proposed Regulations: Cumulative Experience**

**Sections Affected:** Amend Section 3541 of Title 10 of the California Code of Regulations

**Background/Problem Addressed**

Currently, Section 3541 requires continuous experience in order to qualify for licensure. The word “continuous” requires continuation without interruption. However, it is difficult to determine how long of an interruption disqualifies the applicant. Further, federal law<sup>1</sup> does not require continuous experience, but rather only a cumulative number of hours. Therefore, the Bureau proposes to change the word “continuous” to “cumulative” to add clarity, conform to federal law, and remove the ambiguity of “continuous.”

**Factual Basis/Rationale**

California Code of Regulations, Title 10, Section 3541(a) is proposed to be amended as follows:

To meet the minimum experience requirements, applicants for certified general shall have a minimum of 3,000 hours of real property appraisal experience obtained cumulatively ~~continuously~~ over a period of not less than 30 months in one or more of the categories listed in Section 3542. Of the 3,000 hours, certified general applicants must have a minimum 1,500 hours of non-residential appraisal experience in one or more of the categories listed in Section 3542.

This amendment would remove the unnecessary and ambiguous “continuous” requirement and replace it with a “cumulative” requirement. This will remove the ambiguity of how long of a break constitutes an interruption of the continuous requirement.

California Code of Regulations, Title 10, Section 3541(b) is proposed to be amended as follows:

To meet the minimum experience requirements, applicants for certified residential shall have a minimum of 2,500 hours of real property appraisal experience obtained cumulatively ~~continuously~~ over a period of not less than 30 months in one or more of the categories listed in Section 3542.

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<sup>1</sup> The Appraisal Qualifications Board (AQB) sets the minimum qualifications for licensure. See Business and Professions Code section 11314. The AQB states “Hours may be treated as cumulative in order to achieve the necessary number of hours of appraisal experience.”

This amendment would remove the unnecessary and ambiguous “continuous” requirement and replace it with a “cumulative” requirement. This will remove the ambiguity of how long of a break constitutes an interruption of the continuous requirement.

California Code of Regulations, Title 10, Section 3541(c) is proposed to be amended as follows:

To meet the minimum experience requirements, applicants applying to be a state licensed real estate appraiser shall have 2,000 hours of real estate appraisal experience obtained cumulatively over a period of not less than 12 months in one or more of the categories listed in Section 3542.

To be consistent with the language used above for certified general and certified residential, the Bureau proposes to add the word “cumulatively” to the license level experience requirement.

### **Underlying Data**

The Bureau of Real Estate Appraisers (“Bureau” or “BREA”) relied on the Appraisal Qualification Board’s Real Property Appraiser Qualification Criteria revised in 2015. As stated in Business and Professions Code section 11313, the Bureau shall, at a minimum, meet the criteria established by the Appraiser Qualification Board (AQB) of the Appraisal Foundation. The AQB’s Criteria can be found at the following website address [https://appraisalfoundation.sharefile.com/share?cmd=d&id=s29bf22238394751b#/view/s29bf22238394751b?\\_k=0lyq9h](https://appraisalfoundation.sharefile.com/share?cmd=d&id=s29bf22238394751b#/view/s29bf22238394751b?_k=0lyq9h) and the cumulative experience section is discussed on page nine.

### **Fiscal Impact Analysis in General**

This proposal has no fiscal impact.

### **Economic Impact Analysis/Assessment**

The Bureau has made the initial determination that the proposed regulatory action would have no statewide adverse economic impact directly affecting California because the change merely clarifies current law.

- **Analysis of creation/elimination of jobs:** There will be no creation or elimination of jobs because the amendments will not affect jobs. This is because the proposed change will not change how many hours are counted and thus not change the experience requirement for applicants.
- **Analysis of creation/elimination of businesses:** There will be no creation or elimination of businesses because the amendments will not affect businesses. The change is regarding licensee, not registrant, experience requirements. Further, businesses that hire licensees will not be affected because the licensees’ experience requirement is not changing.

- **Analysis of expansion of business:** The proposed regulations are not expected to, directly or indirectly, lead to the expansion of new businesses within California because the amendments will not affect businesses.
- **Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:** There will be no benefit to the Health and Welfare of California Residents, Worker Safety, or the State's Environment because the amendments do not affect the Health and Welfare of California Residents, Worker Safety, or the State's Environment.

#### Significant Adverse Economic Impact on Business

The proposed action will not have a significant adverse economic impact on business. The Bureau supports this finding on the fact that the changing the word "continuous" to "cumulative" will not change how licensees' experience hours are counted. Thus, there will be no change to how the Bureau processes applications.

#### Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

#### Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of BREB would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to the affected parties than the proposed regulation.

**PROPOSED TEXT**  
**California Code of Regulations**  
**Title 10, Chapter 6.5, Article 4**

The text below represents existing language modified to show proposed changes. Proposed deletions are in ~~strikethrough~~. Proposed additions are in underline.

**§ 3541. Minimum Experience Requirements.**

(a) To meet the minimum experience requirements, applicants for certified general shall have a minimum of 3,000 hours of real property appraisal experience obtained cumulatively ~~continuously~~ over a period of not less than 30 months in one or more of the categories listed in Section 3542. Of the 3,000 hours, certified general applicants must have a minimum 1,500 hours of non-residential appraisal experience in one or more of the categories listed in Section 3542.

(b) To meet the minimum experience requirements, applicants for certified residential shall have a minimum of 2,500 hours of real property appraisal experience obtained cumulatively ~~continuously~~ over a period of not less than 30 months in one or more of the categories listed in Section 3542.

(c) To meet the minimum experience requirements, applicants applying to be a state licensed real estate appraiser shall have 2,000 hours of real estate appraisal experience obtained cumulatively over a period of not less than 12 months in one or more of the categories listed in Section 3542.

(d) To meet the minimum experience requirements, real estate brokers applying to be a residential licensed real estate appraiser shall have a valid California real estate brokers license and 1,000 hours of real estate appraisal experience in one or more of the categories listed in Section 3542.

(1) Appraisers licensed pursuant to subsection (d) who have not provided the Bureau with substantiation of the minimum 2,000 hours of experience are not in compliance with minimum AQB licensing criteria. Accordingly, such appraisers do not hold a federally recognized credential, are not authorized to perform federally related real estate appraisal activity as defined in Business and Professions Code section 11302(i), and will not be reported to ASC for inclusion on the National Registry.

(e) A maximum of 400 hours of experience in review of appraisals may be credited towards the minimum experience hours, no more than 50% of which may consist of desk reviews. Only those reviews performed after obtaining 1,600 hours of acceptable experience in other categories may be credited towards meeting minimum experience requirements.

(f) All experience claimed must be in conformance with USPAP and completed after January 30, 1989.