Notice of Agency Rule-making Proposal

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Real Estate Appraisers

CHAPTER NUMBER AND TITLE: Chapter 220, Educational Course Requirements

PROPOSED RULE NUMBER (*leave blank; assigned by Secretary of State*):

CONTACT PERSON FOR THIS FILING: Carol Leighton, Board Administrator, Office of Licensing and Registration, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8520, email: carol.j.leighton@maine.gov

CONTACT PERSON FOR SMALL BUSINESS INFORMATION (if different): Carol Leighton

PUBLIC HEARING (if any): January 3, 2012, 9:00 a.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: January 13, 2012

BRIEF *SUMMARY: This amendment to Chapter 220 implements PL 2011, c. 286, sec. L-2 by establishing a continuing education course approval mechanism that will be administered by the board. This amendment will provide an alternate pathway for the approval of continuing education programs in Maine in addition to the national program approval process offered by the (federal) Appraisal Qualifications Board. The proposed rule may be downloaded from OPOR's web site at www.maine.gov/professionallicensing.

IMPACT ON MUNICIPALITIES OR COUNTIES (if any): None

STATUTORY AUTHORITY FOR THIS RULE: 32 MRSA §14012; 32 MRSA §14027, as amended by PL 2011, c. 286, sec. L-2

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED 12 USC §3345 (Title XI of the Financial Institutions Recovery, Reform and Enforcement Act of 1989, as amended, Real Estate Appraisal Reform Amendments, Section 1116)

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: jeffrey.m.frankel@maine.gov

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** Check one of the following two boxes.*

☐ *The above summary is for use in both the newspaper and website notices.*

☑ *The above summary is for the newspaper notice only. A more detailed summary / basis statement is attached.*

Please approve bottom portion of this form and assign appropriate AdvantageME number.

APPROVED FOR PAYMENT_____ DATE:_____
(*authorized signature)*

FUND	AGENCY	ORG	APP	JOB	OBJT	AMOUNT

Notice of Agency Rule-making Proposal

DETAILED BASIS STATEMENT / SUMMARY: This amendment to Chapter 220 implements PL 2011, c. 286, sec. L-2 by establishing a continuing education course approval mechanism that will be administered by the board. This amendment will provide an alternate pathway for the approval of continuing education programs in Maine in addition to the national program approval process offered by the (federal) Appraisal Qualifications Board ("AQB").

The amendment contains criteria for program approval, application procedures, and enforcement provisions. Approval is limited to programs of no less than 2 hours of actual instructional time that are taught "live" in a traditional classroom or seminar setting. Approval will be valid for a 1-year period and will permit the sponsor to offer unlimited repeat presentations of the approved program during the 1-year approval period. The application fee for program approval will be set by the Director of the Office of Licensing and Registration in a separate rulemaking proceeding.

The AQB requires that certified residential and certified general real property appraisers complete the 7-hour National USPAP Update Course every 2 years, and complete 14 hours of overall continuing education annually. See Appraisal Qualifications Board Real Property Appraiser Qualifications Criteria (Revised January 1, 2008), Criteria Applicable to all Appraiser Classifications, Section III(F)(8) and (11).

Prior to July 21, 2011, the effective date of P.L. 111-203, Title XIV, Subtitle F, §1473(j), amending 12 USC §3345(c) and (e), the AQB only has statutory authority to recommend, but not require, license qualification or renewal standards for licensed residential real property appraisers and trainee real property appraisers. Effective July 21, 2011, the AQB license qualification and renewal standards are binding on licensed residential real property appraisers and trainee real property appraisers. See notes following 12 USCS §3345 and 15 USCS §1601. In this chapter, the board accordingly requires all licensees to complete the USPAP Update Course biennially, and to complete a total of 14 hours of continuing education each year.

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Licensing and Registration, Board of Real Estate Appraisers

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Carol Leighton, Board Administrator, Office of Licensing and Registration, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8520, email carol.j.leighton@maine.gov

CHAPTER NUMBER AND RULE TITLE: Chapter 220, Educational Course Requirements

STATUTORY AUTHORITY: 32 MRSA §14012; 32 MRSA §14027, as amended by PL 2011, c. 286, sec. L-2

DATE AND PLACE OF PUBLIC HEARING: January 3, 2012, 9:00 a.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: January 13, 2012

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: To provide an alternate pathway for the approval of continuing education programs in Maine in addition to the national program approval process offered by the (federal) Appraisal Qualifications Board ("AQB").

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (PRIMARY SOURCES): Appraisal Qualifications Board Course Approval Program Policies & Procedures (Revised January 1, 2011); Appraisal Qualifications Board Real Property Appraiser Qualification Criteria (Revised January 1, 2008); Maine sponsors of continuing education programs for real estate appraisers; professional judgment.

ANALYSIS AND EXPECTED OPERATION OF THE RULE: This amendment to Chapter 220 implements PL 2011, c. 286, sec. L-2 by establishing a continuing education course approval mechanism that will be administered by the board. The amendment contains criteria for program approval, application procedures, and enforcement provisions. Approval is limited to programs of no less than 2 hours of actual instructional time that are taught "live" in a traditional classroom or seminar setting. Approval will be valid for a 1-year period and will permit the sponsor to offer unlimited repeat presentations of the approved program during the 1-year approval period. The application fee for program approval will be set by the Director of the Office of Licensing and Registration in a separate rulemaking proceeding.

The AQB requires that certified residential and certified general real property appraisers complete the 7-hour National USPAP Update Course every 2 years, and complete 14 hours of overall continuing education annually. See Appraisal Qualifications Board Real Property Appraiser Qualifications Criteria (Revised January 1, 2008), Criteria Applicable to all Appraiser Classifications, Section III(F)(8) and (11).

Prior to July 21, 2011, the effective date of P.L 111-203, Title XIV, Subtitle F, §1473(j), amending 12 USC §3345(c) and (e), the AQB only has statutory authority to recommend, but not require, license qualification or renewal standards for licensed residential real property appraisers and trainee real property appraisers. Effective July 21, 2011, the AQB license qualification and renewal standards are binding on licensed residential real property appraisers and trainee real property appraisers. See notes following 12 USCS §3345 and 15 USCS §1601. In this chapter, the board accordingly requires all licensees to complete the USPAP Update Course biennially, and to complete a total of 14 hours of continuing education each year.

FINDINGS UNDER CRITERIA CONTAINED IN EXECUTIVE ORDER 20 FY 11/12 (August 24, 2011):

A. The proposed rule will not negatively impact job growth or creation. The proposed rule may positively impact job growth or creation by providing continuing education providers a low-cost mechanism for course approval that does not currently exist.

B. and C. There will be no cost to licensees to comply with the proposed rule. Continuing education providers will need to apply for course approval and pay a course approval fee. The amount of the fee must be set by the Director of the Office of Licensing and Registration in a rulemaking proceeding that has not yet begun. However, the amount of the fee will be far lower than the course approval fee charged by the AQB. The AQB operates the only continuing education course approval mechanism that is currently available.

D. The AQB Course Approval Program operates as a voluntary, national standard for qualifying education and continuing education for real estate appraisers. Some Maine-based small business education providers offer continuing education courses to Maine appraisers as "approved secondary providers" under the AQB approval process. However, the AQB's $1,500 fee for initial approval of the most common categories of continuing education courses may be prohibitive for small-course, local offerings of short duration (i.e., 3 hours).[1] The state-approval mechanism contained in the proposed rule will enable some Maine-based sponsors to offer continuing education programs that are not economically feasible at present due to the $1500 AQB initial course approval fee.

E. Effective July 21, 2011, (see discussion above), the AQB requires all licensed real estate appraisers to complete the 7-Hour National USPAP Update Course every 2 years, and to complete 14 hours of overall continuing education annually in accordance with Appraisal Qualifications Board Real Property Appraiser Qualifications Criteria (Revised January 1, 2008), Criteria Applicable to all Appraiser Classifications, Section III(F)(8) and (11).

[1] The renewal fee is $400.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF $1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

298 BOARD OF REAL ESTATE APPRAISERS

Chapter 220: EDUCATIONAL COURSE REQUIREMENTS

Summary: This chapter requires that qualifying education be approved by the Appraisal Qualifications Board and that continuing education be approved by the Appraiser Qualifications Board or the Board of Real Estate Appraisers.

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1. Qualifying Education

Class hours required for licensure as a trainee real property appraiser, licensed residential real property appraiser, certified residential real property appraiser and certified general real property appraiser must be earned in courses approved by the Appraiser Qualifications Board. The Board of Real Estate Appraisers will not recognize non-approved courses for licensing purposes.

2. Continuing Education

~~Continuing education programs and courses must be submitted for review and approval to the Appraiser Qualifications Board under the criteria established by the Appraiser Qualifications Board. The Board of Real Estate Appraisers will not recognize continuing education programs and courses that are not approved by the Appraiser Qualifications Board.~~

1. Continuing Education Requirement Generally

   At time of renewal, each licensee of the board shall certify to completion of 14 hours of continuing education during the preceding license term.

2. Course in National Uniform Standards of Professional Appraisal Practice

   As part of the 14 required hours of continuing education described in subsection 1, each licensee shall, during even-numbered years, satisfactorily complete the 7-hour National Standards of Uniform Professional Appraisal Practice course approved by the Appraisal Qualifications Board.

3. Approved Programs

   Continuing education must be earned in programs approved by the Appraisal Qualifications Board or the Board of Real Estate Appraisers. The Board of Real Estate Appraisers will not recognize unapproved programs for continuing education credit.

4. Criteria for Program Approval by Board of Real Estate Appraisers

   Continuing education programs that have not been approved by the Appraisal Qualifications Board must meet the following criteria for approval.

A. The program must consist of no less than 2 hours of actual instructional time, exclusive of meals, breaks, and non-instructional presentations or activities.

B. The program must be taught "live" in a traditional classroom or seminar setting such that the attendees are in the actual physical presence of the instructor. No form of distance education or recorded presentation will be approved.

C. The material to be taught may include subjects not directly related to real estate appraisal. However, only material that is directly related to real estate appraisal will be recognized for continuing education credit.

D. The program sponsor must distribute an evaluation form provided by the board and certificates of completion to attendees at the conclusion of the program. The sponsor must retain completed evaluations for one year following conclusion of the program and must promptly provide the evaluations to the board upon request. The sponsor must retain the roster of attendees for two years following completion of the program.

5. Approval of Continuing Education Programs by the Board of Real Estate Appraisers

Continuing education programs that have not been approved by the Appraisal Qualifications Board must be submitted to the Board of Real Estate Appraisers for review and approval as set forth in this subsection.

A. The program sponsor or a prospective attendee shall apply for continuing education program approval on forms provided by the board. Incomplete applications will not be reviewed.

[NOTE: A prospective attendee applying for program approval need not show that the program sponsor will distribute evaluation forms and certificates of completion and abide by the retention requirements as set forth in subsection 4(D).]

B. The complete application must be submitted sufficiently in advance of the start date of the program to permit review by the board prior to the start date. Applications submitted on or after the start date of the program will not be considered.

C. The application must include the following information:

(1) The title of the program, a general overview of the material to be covered, and a detailed syllabus, including a timed outline;

(2) Demonstration that the program meets the criteria for approval set forth in subsection 4;

(3) The names and qualifications of the instructors;

(4) The fee required by Chapter 10, Section 34 of the rules of the Office of Licensing and Registration, entitled "Establishment of License Fees;" and

(5) Such other information as the board may require.

D. The board shall review program applications under the criteria set forth in subsection 4 ("Criteria for Program Approval by the Board of Real Estate Appraisers"); for sufficiency of the application under this subsection 5 ("Approval of Continuing Education Programs by the Board of Real Estate Appraisers"); for program quality; and for instructor qualifications.

E. Program approval is valid for a period of one year from the date of approval and includes any repeat presentations of the approved program during the 1-year approval period. Any proposed change to the course content, instructor, or other information submitted in or with the application must be reported to the board for review and approval in advance of the change;

F. Any deviation from the application that has not been approved as described in paragraph E, any failure to comply with any conditions included in the board's approval, or poor program quality may result in suspension of the sponsor's approved program offerings, denial of future approval requests by the sponsor, or both.

STATUTORY AUTHORITY: 32 MRSA §§ 14012; 32 MRSA §14027, as amended by PL 2011, c. 286, sec. L-2

EFFECTIVE DATE:
September 18, 1999

REPEALED AND REPLACED:
January 1, 2008 – filing 2007-465