

8/3/92

**STATE OF MINNESOTA
DEPARTMENT OF COMMERCE**

In the Matter of the Proposed
Rules Governing Licensing and
Education of Real Estate Appraisers

STATEMENT OF NEED
AND REASONABLENESS
OF PROPOSED RULES

STATEMENT OF AUTHORITY

Minnesota Statutes §§ 82B.13, subd. 3. and 82B.19, subd. 2., allows the Commissioner of Commerce to adopt rules to carry out the pre-licensing education, examination and continuing education requirements for licensure of real estate appraisers under Minnesota Statutes Chapter 82B as well as assuring that those persons who receive licenses "will provide a high degree of service and protection to (the) public". These rules are proposed pursuant to that authority. The purpose of the rules is to provide procedures for the operation of Minnesota's real estate appraiser licensing law as required by the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (Public Law 100-73, Title XI) ("FIRREA") - Real Estate Appraisal Reform Amendments.

Specifically, these proposed rules set forth procedures for the authorization of appraiser prelicensing education, verification of education, verification of experience requirements, examination of applicants, collection of fees, issuance, suspension, revocation and denial of licenses, and standards of conduct. With regard to prelicensing education, the statute mandates that "[these rules must, to the extent practicable, conform to the rules adopted for real estate and insurance education." Minn. Stat. § 82B.13, subd. 3. For appraiser continuing education, the rules must coordinate "with real estate

The Legislative Commission to
Review Administrative Rules

AUG 21 1992

continuing education requirements." Minn. Stat. § 82B.19, subd. 2 (3).

Giving attention to these directives, the rules have been drafted to conform in style and content as closely as possible to the rules governing the education and licensing of real estate and insurance licensees.

Minnesota Statutes § 82B.05 provides for the creation of a real estate appraiser advisory board appointed by the commissioner. The board is responsible for making recommendations to the commissioner, upon the Commissioner's request, on, among other things,

"(1) rules with respect to each category of licensed real estate appraiser, the type of educational experience, appraisal experience, and equivalent experience that will meet the requirements of this chapter;...

(3) rules with respect to each category of licensed real estate appraiser, the continuing education requirements for the renewal of licensing...

Minn. Stat. § 82B.06. The fifteen members of the advisory board have been provided copies of the rules in their various stages of development and copies of these proposed rules and have been given opportunity to comment and make recommendations. The rules as published incorporate the input of the board.

In addition to the real estate advisory board the department created two additional panels to provide their perspective on what was needed in regard to these rules. The two panels were composed of "consumers" of appraiser services. One panel consisted of persons dealing in the commercial real estate area, the other in the residential area. These groups were very useful in pointing out where current practices did not give them adequate information or protection. The standards of conduct in particular reflect attempts to deal with their concerns.

Input by the consumer groups was considered to be of extreme importance because the two federal entities that have authority for creating licensing standards are composed almost exclusively of representatives of the various appraiser groups.

The savings and loan crisis as well as similar experiences in other fields resulted in FIRREA's real estate appraiser licensing requirement. Whether fairly or not, appraisals performed either by incompetent appraisers or by appraisers whose appraisal reports showed property values that were dictated by the person who employed the appraiser and not market forces, were seen as significant factors in the crisis. Accordingly reform was mandated.

These rules consist of two parts, education and examination of appraisers which sets minimum entrance requirements to the profession, and the standards of conduct which govern their activities once in the profession.

FACTS ESTABLISHING NEED AND REASONABLENESS

As more specifically set forth below, the proposed rules are necessary to implement Minnesota's real estate appraiser licensing law. State licensing of appraisers was mandated by the United States Congress through FIRREA in 1989. Under that Act, all states are required to establish procedures for the education and licensing of appraisers who conduct appraisals of real property financed through financial institutions regulated by one of six agencies of the federal government. All appraisals on "federally-related transactions" performed after January 1, 1993 must be conducted by a state licensed or certified appraiser.

Guidance in the development of Minnesota's real estate appraiser

licensing law was provided by the Federal Appraisal Subcommittee (FAS) of the Federal Financial Institutions Examinations Council and the Appraisal Foundation. These entities were designated under FIRREA to provide guidance to the states in the development of appraiser licensing statutes and monitor their implementation and operation. Information published by the FAS and the Appraisal Foundation, as well as information gained through direct inquiry of these entities, was incorporated into these proposed rules. Every effort was made to assure that Minnesota's appraiser licensing law and rules conform to the federal requirements and guidelines without unduly limiting the ability of appraisers to exercise their profession.

ANALYSIS

Part 2808.0100 DEFINITIONS.

Part 2808.0100 defines terms as they relate to real estate appraiser education, examination, licensing, continuing education and standards of conduct. These definitions clarify the terms used in the body of the rules.

Subp. 2. Applicant. This subpart defines the reference to individuals who apply for licensure as a real estate appraiser. It specifies that applicant must be the person seeking to be licensed. No one else can make the application. See also Rules Part 2725.000 subp. 1a.

Subp. 3. Appraisal foundation or foundation. This subpart defines the term "Appraisal Foundation" to make certain that the terms applies to the Appraisal Foundation specified in under Public Law 100-73 § 1121(9) (FIRREA).

Subp. 4. Appraisal standards board. This subpart defines the board of the Appraisal Foundation responsible for establishing federal appraisal standards as set forth in the Uniform Code of Professional Appraisal Practice. This definition specifically references the entity identified under Minn. Stat. § 82B.02, subd. 12, which is responsible for promulgation of these professional practice standards. Licensees are required to be knowledgeable in these standards and conduct appraisals consistent with them. Minn. Stat. §§ 82B.12, Subdivisions 1 and 2, and 82B.20, subd. 2 (13).

Subp. 5. Appraiser qualifications board. This subpart identifies the federally authorized entity responsible for determining the requirements for state licensure and certification of appraisers. It is also responsible for approval of the uniform real estate appraiser examination used in Minnesota and other states to assure consistency of knowledge among appraisers across the United States.

Subp. 6. Certified federal residential real property appraiser. This subpart restates the definition set forth the Minn. Stat. § 82B.11, subd. 4.

Subp. 7. Certified federal general real property appraiser. This subpart restates the definition set forth in Minn. Stat. § 82B.11, subd. 5.

Subp. 8. Classroom hour. This subpart defines "classroom hour". It is consistent with the definition used in real estate, insurance and other types of continuing education under the Department's authority and presumes that each classroom hour consists of 60 minutes of classroom instruction.

Subp. 9. Commissioner. This subpart restates the definition set forth in Minn. Stat. § 82B.02, subd. 7.

Subp. 10. Coordinator. This definition identifies the person responsible for monitoring appraisal education offerings as opposed to a teacher, instructor or other persons who might otherwise have responsibility for oversight of the educational offering. It is similar to the definition used for real estate continuing education. Part 2800.7400 and insurance continuing education Part 2725.0000 subp. 2.

Subp. 11. Federal appraisal subcommittee. This definition is adopted from Public Law 100-73, § 1121 (2), and refers to the entity required under federal statute to guide and monitor the implementation of Title XI of FIRREA - the Real Estate Appraisal Reform Amendments.

Subp. 12. Federal financial institutions regulatory agency. The subpart defines the various federal agencies responsible for regulation of financial institutions as identified in Public Law 1000-73, § 1121 (6).

Subp. 13. Federal residential real property appraiser. This subpart restates the definition set forth in Minn. Stat. § 82B, subd. 3.

Subp. 14. Federally related transaction. This subpart adopts the

definition set forth in Public Law 100-73, § 1121 (4).

Subp. 15. Foundation appraisal organization. This subpart identifies the professional appraisal organizations that constitute the Appraisal Foundation.

Subp. 16. Instructor. This subpart's broad definition is designed to include anyone who lectures in an appraisal prelicensing education or continuing education offering thereby requiring all such persons to comply with the licensing statutes and these rules. It is consistent with the definitions used for insurance and real estate education instructors. See Parts 2800.7500 & 2725.0000. It is designed to remove any question as to whether a person appearing before students is a lecturer.

Subp. 17. Person. This subpart adopts the insurance continuing education rules, Part 2725.0100 Subp. 7 definition of "person" provided in Minn. Stat. § 60A.02, subd. 7, general insurance powers; Minnesota Statutes § 82.17, subd. 2., real estate statutes, real estate rules, Part 2800.0100 subpart 7 to make this definition consistent with those statutes as required under the consistency mandate of appraiser rules promulgation authority. The definition covers both natural persons and a wide variety of business entities that are likely to come under these rules.

Subp. 18. Real estate appraiser or real property appraiser. This subpart adopts the definition set forth in Minn. Stat. § 82B.02, subd. 8.

Subp. 19. Real estate-related financial transaction. This subpart incorporates the board definition set forth in Public Law 100-73, § 1121 (5). It is designed to cover all types of transactions which, under federal law, require the services of a state licensed or certified appraiser. Likewise, it is consistent with the definition of "real estate" and "real property" set forth in Minn. Stat.

§ 82B.02, Subdivisions 10 and 11.

Subp. 20. Sponsor. Sponsor is defined as any "person" offering or providing real estate appraisal education of any type. This is an expansive definition designed to remove any doubt that anyone offering any type of real estate appraisal education comes within the scope of these rules.

Subp. 21. State real property appraiser. This subpart adopts the definition set forth in Minn. Stat. § 82B.02, subd. 8.

LICENSING

Part 2808.1000 PAYMENT OF FEES

The requirements of Parts 2808.1000 to .1700 duplicate similar provisions found in the rules governing the licensing of insurance agents (1991 Rules of Minnesota, § 2795.0100 et. seq.) and real estate brokers and agents (1991 Rules of Minnesota, § 2800.0100 et. seq.). In doing so, it is the intention of the Department of Commerce to not only comply with the consistency mandate for development of rules under Minn. Stat. § 82B, but to make the rules governing similar professional activities more accessible and easier to understand.

Subpart 1. Cash not accepted. This subpart specifies the methods that an applicant may use to tender the required fees for licensure. The methods allowed are generally available to the public. Cash is not allowed so as to reduce the potential for mishandling of proceeds and to make proof of payment easier to verify. The real estate rules contain a similar provision. See Real Estate Rules Part 2800.1100.

Subp. 2. Overpayment of fees. Within six months of payment and upon a written request, an applicant may receive a refund of any overpayment

of licensing fees. This provision allows a reasonable time for discovering an overpayment and making a request for a refund before forfeiture is required. The real estate rules contain a similar provision. See Real Estate Rules Part 2800.1100.

Subp. 3. Fee to federal appraisal subcommittee. Federal activities related to the monitoring of state appraiser licensing agencies are to be financed through appraiser registration fees. Public Law 100-73, § 1109, requires state appraiser licensing agencies to annually collect and transmit to the Federal Appraisal Subcommittee a registration fee of not more than \$25 per individual conducting appraisals. This subpart authorizes the commissioner to collect and transmit these required fees which is also authorized by §82B.23.

Part 2808.1100 LICENSE.

Subpart 1. Application for real estate appraiser license. Applicants are allowed one year from the date of completion of the required examination to make application for a license. This period allows an applicant sufficient time to apply for a license while not requiring the department to maintain extensive files on individuals who may never wish to further their application process. More importantly it means that the education and proof of competency by means of passing the examination are current reflections of the applicant's abilities at the time of licensing. If repeats the requirement of §82B.10 subd. 4 as well as Real Estate Rules Part 2800.1300 Subp. 1.

Subp. 2. Cancellation of license. Minn. Stat. § 82B.19 requires each licensee to complete 15 hours of continuing education during the year preceding license renewal or the Commissioner cannot renew their license. The ten day time period for return of a canceled license allows the licensee sufficient time to comply without subjecting the public to extensive exposure to persons who are

not in compliance with the law. This is similar to the real estate rules Part 2800.1300 subp. 1.

Subp. 3. Reinstatement of license. This subpart allows for reinstatement of a license after cancellation without requiring the former licensee to submit to re-examination. The licensee must complete appropriate requirements for reinstatement including finishing all outstanding continuing education, filing an application and paying the required fees. The two-year time frame allows a former licensee sufficient time to achieve reinstatement without allowing an individual to conduct appraisals after having been out of the profession for an extensive period of time. The individual's experience and education are still current enough to protect the public without the necessity of an examination. It also follows the practices of the real estate and insurance statute rules. (See Minnesota Statute §60A.17, Subd. 1(10)(7), §82.22 Subd. 3). This is also the standard of §82B.10, Subd. 10.

Part 2808.1200 CHANGE OF INFORMATION; NOTICE TO THE COMMISSIONER

This subpart allows the commissioner to maintain current records on appraiser licensees by requiring them to file changes of information with the department within 10 days. It paraphrases §82B.08, Subd. 6 and is similar to §82.20 Subd. 11 and Minnesota Rules Part 2800.1600 Subp. 2 for Real Estate Agents.

Part 2808.1300 NONRESIDENT APPOINTMENT OF COMMISSIONER FOR SERVICE OF PROCESS.

Subpart 1. Requirement for appointment. Nonresident licensees are required to appoint the commissioner to receive service of process in actions or proceedings to which the licensee may be a party. This requirement facilitates

the public's access licensee for service and overcomes most questions regarding appropriate jurisdiction that could arise under legal action. This is identical to the requirements for real estate and insurance licenses (§82.31, Subd. 1 and 60A.17, Subd. 1(a) (c) (2)) and §82B.15, Subd. 1.

Subp. 2. Form for consent to service of process. This subpart sets forth the standard format used by the department for appointment of the commissioner for service of process in other license situations.

Part 2808.1400 WITHDRAWAL OF LICENSE OR APPLICATION.

This part provides a procedure for a licensee to resign a license or an applicant to withdraw an application. Resignation or withdrawal becomes effective immediately upon receipt of a written request by the commissioner. However, a license or application may not be withdrawn if a proceeding to revoke, suspend or deny license is pending. This allows the commissioner's authority to continue over appraisers or applicants in situations where those person's professional activities have or could prove injurious to the public. Likewise, the commissioner retains authority to institute an administrative action against a licensee or applicant for one year after withdrawal. Both of these reservations of authority help to assure that the commissioner is properly empowered to maintain the integrity of the appraisal profession within the state. Without these provisions a licensee who had caused significant harm to the public could resign their license and then reapply later and legitimately say that they had never had administration actions taken against them, that they had a clean record.

Part 2808.1500 FAILURE TO RENEW LICENSE.

This part maintains the commissioner's authority to institute administrative proceedings against an appraiser who conducts business without having fulfilled

the legal requirements for continued licensure. This reservation of authority assures that the commissioner is properly empowered to maintain the integrity of the appraisal profession within the state.

Part 2808.1600 REVOCATIONS.

This part sets forth a number of conditions under which the commissioner is empowered to revoke an appraiser license or deny an application. The commissioner's authority extends to situations where an individual is judged incompetent or under the legal control of another and, therefore, unable to properly perform appraisals.

Likewise, the commissioner may revoke or deny an application for housekeeping purposes in situations where an appraiser ceases to do business or cannot be located.

Part 2808.1700 COURSE COMPLETION CERTIFICATES FOR REAL ESTATE APPRAISER LICENSE.

Subpart 1. Submitting to commissioner. This subpart sets forth a procedure for applicants to provide the commissioner with evidence of course completion as required by Minn. Stat. § 82B.13.

Subp. 2. Forms. For consistency and ease of processing, applicants are required to use standard forms developed by the commissioner when submitting evidence of prelicensing education course completion.

Subp. 3. Copies to be maintained. To assure backup evidence of course completion, this subpart requires students to maintain copies of their course completion certificates.

EXAMINATION AND EXPERIENCE

Part 2808.1000 PASSING GRADE FOR EXAMINATION

This part requires that an applicant receive a grade of 75 percent or better to pass a licensing examination. This score is consistent with the score required to pass an insurance or real estate licensing test. Likewise, it is within the range acceptable to the Appraisal Qualification Board for passing the uniform national examination as a demonstration of minimum competency.

The part also specifically prohibits cheating on examinations to ensure the integrity and fairness of the testing program and assure that applicants have at least a minimum amount of the knowledge required to conduct sound appraisals. The penalty for cheating is denial of the application for licensure. Since integrity is an essential qualification cheating is an indication that the applicant lacks that quality.

Part 2808.1200 EXAMINATIONS

Subpart 1. State real property appraiser examination. This subpart sets forth the examination requirements for licensure as a state real property appraiser as provided in Minn. Stat. § 82B.12. An applicant must successfully complete a uniform real estate appraiser examination, Level I, that tests the person's knowledge of terms, principles, theories, and ethics. The subpart references the Appendix A which incorporates the examination content outline approved by the Appraisal Qualifications Board of the Appraisal Foundation which is the norm that all states will need to satisfy. The outline details the subject matter to be covered in the examination and the amount of weight and the level of difficulty each matter is assigned. Minnesota has chosen to use the national uniform appraiser examination approved by the Appraisal Qualifications Board both to reduce the expense of preparing its own

examination and to maintain consistency in the level of knowledge required of appraisers throughout the nation.

Subp. 2. Federal residential real property appraiser examination.

This subpart sets forth the examination requirements for licensure as a federal residential real property appraiser as provided in Minn. Stat. § 82B.12. An applicant must successfully complete a uniform real estate appraiser examination, Level I, that tests the person's knowledge of terms, principles, theories, and ethics. The subpart references the Appendix A which incorporates the examination content outline approved by the Appraisal Qualifications Board of the Appraisal Foundation. The outline details the subject matter to be covered in the examination and the amount of weight and the level of difficulty each matter is assigned. Minnesota has chosen to use the national uniform appraiser examination approved by the Appraisal Qualifications Board both to reduce the expense of preparing its own examination and to maintain consistency in the level of knowledge required of appraisers throughout the nation.

Subp. 3. Certified federal residential real property appraiser examination. This subpart sets forth the examination requirements for licensure as a certified federal residential real property appraiser as provided in Minn. Stat. § 82B.12. An applicant must successfully complete a uniform real estate appraiser examination, Level I, that tests the person's knowledge of terms, principles, theories, and ethics. The subpart references the Appendix A which incorporates the examination content outline approved by the Appraisal Qualifications Board of the Appraisal Foundation. The outline details the subject matter to be covered in the examination and the amount of weight and the level of difficulty each matter is assigned. Minnesota has chosen to use the

national uniform appraiser examination approved by the Appraisal Qualifications Board both to reduce the expense of preparing its own examination and to maintain consistency in the level of knowledge required of appraisers throughout the nation.

Subp. 4. Certified federal general real property appraiser examination. This subpart sets the examination requirements for licensure as a certified federal general real property appraiser as provided in Minn. Stat. § 82B.12. An applicant must successfully complete a uniform real estate appraiser examination, Level I, that tests the person's knowledge of terms, principles, theories, and ethics. The subpart references the Appendix A which incorporates the examination content outline approved by the Appraisal Qualifications Board of the Appraisal Foundation. The outline details the subject matter to be covered in the examination and the amount of weight and the level of difficulty each matter is assigned. Minnesota has chosen to use the national uniform appraiser examination approved by the Appraisal Qualifications Board both to reduce the expense of preparing its own examination and to maintain consistency in the level of knowledge required of appraisers throughout the nation.

Part 2808.2200 EXPERIENCE REQUIREMENTS.

Public Law 100-73, § 1116, delegated the authority for setting minimum experience requirements for state certified appraisers to the Appraisal Qualifications Board of the Appraisal Foundation. The Board has determined that certification to perform appraisals on federally-related transaction properties that are complex or have values of over \$1,000,000 requires that the applicant have at least two years of appraisal experience. In addition, the Board has determined that persons licensed by the state to conduct appraisals on all other

federally-related transaction properties must also have a "meaningful" amount of experience. It is the Board's position that a "meaningful" amount of experience for this purpose must be at least two years. Minn. Stat. § 82B.14 was amended by the legislature in 1991 to reflect these requirements.

Subpart 1. Verification of experience. This subpart reiterates the requirement of Minn. Stat. § 82B.14 that where applicable applicants for licensure provide evidence of experience to the commissioner prior to receiving a license.

Subp. 2. Acceptable appraisal experience. The Appraisal Qualifications Board has prescribed the types of activities that may qualify as meeting the experience requirement for licensure by the state. The list set forth in this subpart is inclusive of all type of eligible experience recognized by the Board. The department believes that the activities listed encompass a range of meaningful experiences that is broad enough to allow applicants to gain credit for their efforts.

Subp. 3. Education may not substitute. The Appraisal Qualifications Board in its Interpretations/Clarifications of the Appraiser Qualification Criteria, August 14, 1991, specifically prohibits the approval of education activities, except teaching, as a substitute for experience in meeting this requirement. This subpart reiterates that federal restriction.

Subp. 4. One year equivalent. This subpart specifies that for purposes of the appraiser experience requirement, one year's experience is equivalent to 1,000 hours. This standard is consistent with the guidelines published by the Appraisal Qualifications Board in its Interpretations/Clarifications of the Appraiser Qualification Criteria, August 14, 1991.

Subp. 5. State real property appraiser. Minn. Stat. § 82B.14 sets

forth the experience requirement of at least two years for applicants seeking licensure as other than state real property appraisers. This is consistent with the standards established by the Appraisal Qualifications Board for licensees who conduct appraisals on federally-related transaction properties. State real property appraisers are restricted from conducting these types of appraisals and, therefore, need no experience to qualify for such a license. This subpart clearly articulates that evidence of experience is not required to qualify for this class of license which is intended to be used as an entry level license which can be used to gain the experience required for other licenses.

Subp. 6. Federal residential real property appraiser. The Appraisal Qualifications Board as determined that individuals conducting appraisals on federally-related transaction properties must have the equivalent of at least two years' experience prior to licensure. The Board provided no limitation on the time period during which such experience may be acquired. The legislature concurred in this requirement through amendments adopted in 1991 and 1992 to Minn. Stat. § 82B.14. This subpart reiterates the two year experience requirement set forth under the statute.

Subp. 7. Certified federal residential real property appraiser. The Appraisal Qualifications Board has determined that individuals conducting appraisals on federally-related transaction properties must have the equivalent of at least two years' experience prior to licensure. The Board provided no limitation on the time period during which such experience may be acquired. The legislature concurred in this requirement through amendments adopted in 1991 and 1992 to Minn. Stat. § 82B.14. This subpart reiterates the two year experience requirement set forth under the statute.

Subp. 8. Certified federal general real property appraiser. The

Appraisal Qualifications Board has determined that individuals conducting appraisals on federally-related transaction properties must have the equivalent of at least two years' experience prior to licensure. The Board provided no limitation on the time period during which such experience may be acquired. The legislature concurred in this requirement through amendments adopted in 1991 and 1992 to Minn. Stat. § 82B.14. This subpart reiterates the two year experience requirement set forth under the statute. Because federal general real property appraisers are allowed to conduct appraisals on all types of property, the subpart also adds the requirement that at least half of an applicants experience be acquired through work on non-residential properties. This provision is, therefore, also consistent with the standard set by the Board for this class of license.

PRELICENSING EDUCATION

Part 2808.3000 PRELICENSING EDUCATION REQUIREMENTS.

The Appraisal Qualifications Board of the Appraisal Foundation has prescribed minimum educational requirements for persons who apply for licensure to conduct appraisals on properties financed by federally regulated financial institutions. The Minnesota legislature has adopted requirements its 1991 amendments to Minn. Stat. § 82B.13. The state has also taken the position appraisers who may be restricted from working on federally-related transaction properties must still have basic training in the appraisal field as a requirement for licensing. In addition, and in all cases, the education of appraisers must contain a 15-hour component on the standards of professional appraisal practice.

Subpart 1. State real property appraiser. This subpart reiterates the

educational requirement that an applicant must meet before receiving a license as provided in Minn. Stat. § 82B.13. By statute, an applicant must successfully complete 60 hours of education in general real estate appraisal principles and 15 hours related to the standards of professional appraisal practice and the legal requirements for appraising in Minnesota. The total of 75 hours of prelicensing education is consistent with the minimum amount required by the Appraisal Qualifications Board for federal residential real property appraisers. With regard to state real property appraisers, the legislature set the same standard for both classes of licensees.

This subpart also references Appendix C which lists the topics that must be covered in the 75 hours of prelicensing instruction. The contents of this appendix includes all those topic areas that the Appraisal Qualifications Board has determined must be included in an applicant's prelicensing education course of study. The topics to be covered must include:

- (a) Influences on Real Estate Value
- (b) Legal Considerations in Appraisal
- (c) Types of Value
- (d) Economic Principles
- (e) Real Estate Markets and Analysis
- (f) Valuation Process
- (g) Property Description
- (h) Highest and Best Use Analysis
- (i) Appraisal Statistical Concepts
- (j) Sales Comparison Approach
- (k) Site Value
- (l) Cost Approach
- (m) Income Approach
 - Gross Rent Multiplier Analysis
 - Estimation of Income and Expenses
 - Operating Expense Ratios
- (n) Valuation of Partial Interests
- (o) Appraisal Standards and Ethics

Subp. 2. Federal residential real property appraiser. This subpart reiterates the educational requirement that an applicant must meet before receiving a license as provided in Minn. Stat. § 82B.13. By statute, an applicant must successfully complete 60 hours of education in general real estate appraisal principles and 15 hours related to the standards of professional appraisal practice and the legal requirements for appraising in Minnesota. The total of 75 hours of prelicensing education is consistent with the minimum amount required by the Appraisal Qualifications Board. Likewise, the topics to be covered in the applicant's prelicensing course of study are consistent with the Board's requirements and are set forth in Appendix C to the rules.

The Board also requires that prelicensing education course work be successfully completed as a prerequisite to taking a licensing examination. This subpart simply restates this requirement.

Subp. 3. Certified federal residential real property appraiser. This subpart restates the education requirement for licensure as set forth in Minn. Stat. § 82B.13, subd. 4. Consistent with the requirement of the Appraisal Qualifications Board for this class of license, the minimum course of study must include 165 classroom hours with particular emphasis on the appraisal of one-to-four family residential properties. In addition to the topics to be covered as listed in Appendix C, Appendix D includes coverage of Narrative Report Writing.

Subp. 3a. Education requirement prior to January 1, 1994. This subpart restates an exception to the prelicensing education requirement enacted by the legislature in 1991 Laws of Minnesota, Chapter 97, § 16. The exception requires that an applicant for licensure as a certified federal residential real property appraiser need only complete 105 hours of study prior to sitting for a

licensing examination. This statutory exception is consistent with the recommendation of the Appraisal Qualifications Board. An applicant must cover all pertinent topics of study required for this class of license prior to testing however, the time spent in study may be reduced. This exception is no longer available to applicants after January 1, 1994.

Subp. 4. Certified federal general real property appraiser. This subpart restates the education requirement for licensure as set forth in Minn. Stat. § 82B.13, subd. 5. Consistent with the requirement of the Appraisal Qualifications Board for this class of license, the minimum course of study must include 165 classroom hours with particular emphasis on the appraisal of non-residential properties. In addition to the topics to be covered as listed in Appendix C, Appendix D includes coverage of Narrative Report Writing.

Subp. 5. Approval of course offerings. This subpart requires that sponsors must submit their materials to the commissioner at least 30 days prior to the date on which the course is to be taught. This period allows the commissioner sufficient time to review the course, the sponsors and the instructors and advise the sponsors as to any problems so that they can be corrected in a timely fashion. The 30-day period is a minimum. Sponsors may submit courses for approval prior to this deadline. Additional information pertaining to the approval of instructors must accompany an application if those persons have not be previously approved to teach the course. Applicants must use forms prescribed by the commissioner to assure that all necessary information is provided and to assist in the expeditious process of applications. This is similar to the procedures in real estate and insurance education.

Subp. 6. Approval of subsequent course offerings. As a means of reducing the burden of course approval for sponsors and the department, this

subpart allows subsequent offerings of previously approved education courses upon the submission of a "notice of subsequent course offering" to the commissioner. As with initial approvals, the notice must be filed at least 30 days before the course is taught. This period allows the department time to reconsider its prior approval if problems have subsequently arisen. This is similar to the procedures in real estate and insurance education.

Subp. 7. Approval of courses not submitted for approval. In certain instances, potential appraisal applicants may attend courses sponsored by parties that have not sought the approval of the commissioner. If such a course would otherwise meet the requirements for a portion of the prelicensing education course work requirement, this subpart offers a procedure by which the applicant may submit a request for approval and be granted course credit. Applicants must use forms prescribed by the commissioner to assure that all necessary information is provided and to assist in the expeditious process of applications.

Subp. 8. Successful completion of prelicensing education. This subpart sets out the requirements for successful completion of prelicensing education courses. To gain the maximum exposure to topics covered, students are required to be in full-time attendance throughout the term of the course, complete readings and assignments. In addition, to determine whether students understand the material present, they must pass an examination that fully tests their comprehension of the topics covered. This is similar to the procedures in real estate and insurance education.

Subp. 9. Additional course content. This subpart allows for flexibility in the material covered in prelicensing education courses but assures that course of study includes at least the information required for a basic understanding of appraisal practice. This is similar to the procedures in real estate and insurance

education.

Subp. 10. Textbooks. This subpart requires that students be provided with at least a minimum of written study materials. Textbooks approved by the commissioner are preferred however, at least some form of written material must be made available to supplement classroom instruction. The commissioner reserves the right to prescribe additional written materials if those submitted for approval with the course offering do not adequately address the topics to be covered. This requirement is designed to assure that students gain an adequate understanding of appraisal practice sufficient to assure their ability to conduct sound appraisals. This is similar to the procedures in real estate and insurance education.

Subp. 11. Prelicensing education courses; access. This subpart is designed to prevent discrimination and increase the access of students to prelicensing education courses. It requires that courses offered by any entity, such as a particular appraisal organization, must be open to all students, including those who may not chose to become a member of the organization. Provision is made, however, for restricting class size to allow for an educational experience conducive to good learning. This is similar to the procedures in real estate and insurance education.

Subp. 12. Fees; refunds. This subpart articulates the basic premise that all information provided to students regarding fees must be clear and understandable. Likewise, the fees charged must be reasonable in regard to the courses offered. Discounts are allowed but, they must also be reasonable. The basis for any discounts is not set forth in the rule to allow sponsors a wide latitude that should help keep the market for courses competitive and provide a good value to students. Because the refund process can lead to numerous

complaints in regard to how promptly the fees for cancellation of a course are returned, this rule specifies that under all circumstances fees must be returned no later than 30 days after cancellation. To allow students better scheduling options in the case of postponement of a course, the choice of attending the rescheduled course or receiving a tuition refund must be provided. The refund must be made within 30 days of the postponement to protect the rights of the students and preclude sponsors and others offering courses from withholding fees that students may need as tuition for alternative courses for an undue length of time. This subpart also requires that a sponsor must have a refund policy regarding the student's cancellation or failure to complete a course. The policy must be fully disclosed to potential students to reduce possible misunderstandings and problems in advance by informing the students of what they have a right to expect.

Subp. 13. Adequate facilities to be used. This subpart states that classrooms and other locations where courses are offered must provide a conducive atmosphere for learning. It is the intent of these rules that students receive what they pay for, namely a good learning environment. Noisy, poorly ventilated or poorly lighted facilities are considered unacceptable. Sponsors will not be allowed to sacrifice learning opportunities to reduce costs. This is similar to the procedures in real estate and insurance education.

Subp. 14. Limitation on use toward continuing education. This subpart is intended to reinforce the purpose of continuing education, namely to keep licensees current and knowledgeable of trends and developments in the appraisal field. Taking the same courses time after time will not accomplish this objective. However, the subpart does acknowledge that basic skills can be refreshed and new techniques learned through participation in prelicensing

education after a reasonable period has passed from the initial instruction.

Part 2808.3100 CERTIFICATION OF COURSE COMPLETION.

Subpart 1. Forms. This subpart restates the requirements of Minn. Stat. §§ 82B..08 and .13 that require applicants to present evidence of completion of their prelicensing education requirement when they apply for licensure. To assure that all the required information is provided and to provide consistency in its presentation, certification of course completion must be presented on forms prescribed by the commissioner.

Subp. 2. Certification after completion. To avoid fraud or the failure of a student to complete all required prelicensing coursework, this subpart restricts sponsors from issuing certification of completion prior to the end of the class.

Subp. 3. Records maintained. To assure that accurate records of student participation in prelicensing education courses are available to the commissioner, this subpart requires sponsors to maintain evidence of student grades and attendance for a reasonable period of time. This procedure provides the commissioner with a mechanism for checking records should questions subsequently arise regarding the accuracy of the information provided by applicant or licensee. Likewise, requiring that records be maintained allows students the ability to recover this information should their records be lost or destroyed.

Subp. 4. Examinations maintained. As in subpart 3, this subpart is designed to allow the commissioner a reasonable time to access course materials should questions arise as to the accuracy of information provided by an applicant or licensee.

Part 2808.3200 PRELICENSING EDUCATION COORDINATORS.

This subpart requires that each course have one coordinator who is responsible for assuring compliance with the laws and rules governing prelicensing education. The coordinator is accountable in all respects for assuring that the course is delivered in an appropriate and legal manner. The requirements imposed on prelicensing education course coordinators are the same as those for continuing education coordinators as discussed in Part 2808.4100.

Part 2808.3300 PRELICENSING EDUCATION INSTRUCTORS.

Subpart 1. General requirement. To assure the quality of course content and presentation, this subpart allows the department to determine the competence of instructors and mandates that only qualified instructors will be allowed to teach prelicensing education courses. Except as otherwise provided in this subpart, course approval will be withdrawn an approved instructors does not present the course.

The subpart, however, does make provision for continued course approval in instances where an approved instructor is unavailable and withdrawal of course approval could work a hardship on students. The department must be notified of the unavailability of the approved instructor within 15 days of presentation of course material by an unapproved instructor. In addition, students must be informed prior to commencement of the course that course approval may be in jeopardy, a full refund is available for students choosing to withdraw, and that a refund will automatically be given is the course attended is later disapproved by the department. This procedure allows the students to decide if they wish to continue in the course and also assures that their tuition is not wasted on courses for which no credit can be given.

Subp. 2. Instructor qualifications. This subpart requires that

prelicensing education instructors personally have at least the amount of knowledge and experience required of a licensed appraiser for the level of prelicensing course they intend to teach. To assure that this requirement is met, each instructor must be a licensed appraiser and be experienced in the appraisal field. For more advanced levels of licensing, instructors are required to have extra experience beyond the minimum required for licensure. It is the intent of this subpart to assure a quality education for students by requiring that instructors demonstrate their competence through training and experience.

Subp. 3. Responsibilities. This subpart describes the responsibilities of instructors in broad, yet sensible, terms. The intent is to ensure competent instruction and a sound educational experience for students by placing an onus on instructors to maintain a good learning environment. At a minimum, and as an example to their students, instructors must comply with the laws and rules pertaining to appraiser prelicensing education. To assure that the knowledge imparted to students is of value, instructors must provide them with current and accurate information and be available to answer questions related to the subject being taught. These are basic tenets for sound instruction in any good classroom setting and must be provided to students of the appraisal profession as well.

Subp. 4. Waiver. This subpart recognizes that the ability to teach may also come through other forms of training or experience. It allows the commissioner to approve instructors who may not meet the specific requirements of these rules but who possess equivalent qualifications. For instance, persons who teach appraisal courses throughout the country may be highly skilled and knowledgeable in appraisal practices but not hold a current appraiser license. This subpart would allow the commissioner to approve such

an instructor if the instructor was otherwise qualified to teach.

REAL ESTATE APPRAISER CONTINUING EDUCATION
Part 2808.4000 GENERAL CONTINUING EDUCATION
REQUIREMENTS.

Subpart 1. Continuing education requirements. The purpose of appraiser continuing education is to assure that licensees remain current in and knowledgeable of developments in the real estate appraisal field. This subpart restates the requirement of Minn. Stat. § 82B.19 which provides that as a condition of continued licensing appraiser licensees must successfully complete 15 hours of classroom continuing education study each year.

Subp. 2. Courses approved for continuing education credit. Minn. Stat. § 82B.19, subd. 2, sets forth the criteria restricting course approval to only those courses that impart substantive and procedural knowledge relating to the real estate appraisal field. This subpart is a restatement of the principles set forth in that statute. That criteria is reiterated for the purpose of clarifying the course to be approved as opposed to those set forth in subpart 2 which will not be approved for credit.

Subp. 3. Courses not approved for continuing education. Minn. Stat. § 82B.19, subd. 2, limits continuing education offerings to courses that provide licensees with "current knowledge of real property appraisal theories, practices and techniques that provide a high degree of service and protection" to the public. Likewise, courses approved for appraiser continuing education credit must be coordinated with the real estate continuing education so that the same courses may be used to satisfy the requirements for licensees in both fields. The subject areas excluded in this subpart will not improve a licensee's

knowledge or ability to serve the public. Also, these same types of courses are prohibited from being accredited under the rules governing real estate continuing education.

This subpart specifically restrict the approval of courses that are designed to improve a licensee's office operations, sales skills, motivation and business skills. In addition, because the statute requires "classroom" instruction, correspondence courses are prohibited. The commissioner can disapprove courses not specifically identified herein but which do not offer substantive knowledge in the field or real estate appraisal.

Subp. 4. Approval of course offerings. This subpart requires that sponsors must submit their materials to the commissioner at least 30 days prior to the date on which the course is to be taught. This period allows the commissioner sufficient time to review the course, the sponsors and the instructors and advise the sponsors as to any problems so that they can be corrected in a timely fashion. The 30-day period is a minimum. Sponsors may submit courses for approval prior to this deadline. Additional information pertaining to the approval of instructors must accompany an application if those persons have not be previously approved to teach the course. Applicants must use forms prescribed by the commissioner to assure that all necessary information is provided and to assist in the expeditious process of applications.

Subp. 5. Approval of subsequent offerings. As a means of reducing the burden of course approval for sponsors and the department, this subpart allows subsequent offerings of previously approved education courses upon the submission of a "notice of subsequent course offering" to the commissioner. As with initial approvals, the notice must be filed at least 30 days before the course is taught. This period allows the department time to reconsider its prior

approval if problems have subsequently arisen.

Subp. 6. Approval of continuing education courses not submitted for approval. In certain instances, licensees may attend courses sponsored by parties that have not sought the approval of the commissioner. If such a course would otherwise meet the requirement for a portion of the continuing education coursework requirement, this subpart offers a procedure by which the licensee may submit a request for approval and be granted course credit. Licensees must use forms prescribed by the commissioner to assure that all necessary information is provided and to assist in the expeditious process of applications.

Subp. 7. Credit hours. To help assure that time spent in continuing education classes is meaningful and promotes a licensee's knowledge in the appraisal field, this subpart sets out guidelines for the amount of credit to be given for the time spent in the classroom. A one-half hour minimum is required to assure that the coursework is more than a mere adjunct to other types of meetings or engagements. Likewise, a licensee will only receive credit for attending a course in its entirety even if this is accomplished by attending more than one presentation of the same course.

As with other types of continuing education, instructors are allowed additional credit for the time spent in course preparation. This recognizes the additional time spent and understanding gained by instructors in preparing to teach others.

Also, to assure that the objectives of increasing licensee's knowledge and keeping them current on changes in the appraisal field are met, neither student or instructors may earn credit for taking or teaching the same course repeatedly during a three-year period.

Subp. 8. Examinations. This subpart clarifies that course examinations

are not required for continuing education courses but also that they are not prohibited.

Subp. 9. Textbooks. This subpart clarifies that textbooks are not mandatory for continuing education courses. However, if textbooks are not used, certain criteria are set forth to assure that the students obtain the maximum benefit from the course. As a minimum requirement certain information including the course title, times and dates of the course offering, names and addresses or telephone numbers of the course coordinator and instructor, and an outline of the subject matter to be covered is required. The textbook or syllabus must be available for each individual student's use during the course. This precludes sharing of materials and other inconveniences that might reduce the educational value of the course. Also, any textbook used must be as accurate and current as to the subject matter being taught.

Subp. 10. Continuing education courses; access. This subpart is designed to prevent discrimination increase the access of students to continuing education courses. It requires that courses offered by any entity, such as a particular appraisal organization, must be open to all students, including those who may chose not to become a member of the organization. This requirement, therefore, will increase the availability of courses to licensees.

Subp. 11. Fees. This subpart articulates the basic premise that all information provided to students regarding fees must be clear and understandable. Likewise, the fees charged must be reasonable in regard to the courses offered. Discounts are allowed but, they must also be reasonable. The basis for any discounts is not set forth in the rule to allow sponsors a wide latitude that should help keep the market for courses competitive and provide a good value to students. Because the refund process can lead to numerous

complaints in regard to how promptly the fees for cancellation of a course are returned, this rule specifies that under all circumstances fees must be returned no later than 10 days after cancellation. To allow students better scheduling options in the case of postponement of a course, the choice of attending the rescheduled course or receiving a tuition refund must be provided. The refund must be made within 30 days of the postponement to protect the rights of the students and preclude sponsors and others offering courses from withholding fees that students may need as tuition for alternatives courses for an undue length of time. This subpart also requires that a sponsor must have a refund policy regarding the student's cancellation or failure to complete a course. The policy must be fully disclosed to potential students to reduce possible misunderstandings and problems in advance by informing the students of what they have a right to expect.

Subp. 12. Adequate facility to be used. This subpart states that classrooms and other locations where courses are offered must provide a conducive atmosphere for learning. It is the intent of these rules that students receive what they pay for, namely a good learning environment. Noisy, poorly ventilated or poorly lighted facilities are considered unacceptable. Sponsors will not be allowed to sacrifice learning opportunities to reduce costs.

Subp. 13. National examination preparatory course. This subpart recognizes education obtained through coursework developed and presented for accreditation with various national appraisal organizations can provide licensees with valuable knowledge. However, approval for continuing education credit for these courses must be obtained in the same manner set forth in these rules for all other courses.

Subp. 14. Extensions. This subpart recognizes that extenuating

circumstances can arise which make timely completion of a licensee's continuing education requirement difficult or impossible. Sickness, injury, incapacity or financial hardship are possible examples. The commissioner is allowed the authority to extend the period within which the requirement must be met by 90 days. The commissioner must be provided with a request for an extension by June 1 of the year due and an explanation of the basis for the request. However, loss of income from attendance or license cancellation for failure to satisfy the requirement are not to be considered valid reasons for extension. To allow otherwise would open this provision up to the potential for considerable abuse.

Subp. 15. Waiver of continuing education classroom requirement.

Consistent with the concept of extenuating circumstances under subpart 14, this subpart provides the commissioner with the authority to waive the classroom attendance requirement where a licensee has a demonstrable physical disability or other inability to attend class. However, to assure that the licensee meets the objectives of the continuing education requirement, the commissioner can require alternative study arrangements and approve credit consistent with similar classroom coursework. The waiver is not on-going but may be granted annually upon reapplication by the licensee.

Part 2808.4100 CONTINUING EDUCATION COURSE COORDINATOR.

Subpart 1. General requirement. This subpart mandates that each course have one coordinator who is responsible for assuring compliance with the laws relating to continuing education. This person is the one accountable in all respects regarding the course and its compliance with the applicable statutes and rules. This subpart allows for assistants to be hired but does not remove the ultimate responsibility from the coordinator.

Subp. 2. Qualifications. The qualifications of the course coordinators are enumerated as follows:

A. Minimum of five years as an active licensed real estate appraiser. This assures that the coordinator has working knowledge of the practical aspects of what the licensees are facing and accordingly can better relate the course materials to their concerns than someone who has no knowledge of what the licensees are.

B. At least three years full time experience in the administration of an education program. This assures that a coordinator has a practical education background and is not merely someone who decided he or she could offer a course. The coordinator will thus have some skills which will allow him to make sure that the education is actually imparted to the students in a useful manner.

C. A degree in education plus at least two years appraisal experience is an alternative to meeting the requirements of A and B. A combination of the two would meet the needs expressed in regard to A and B above.

Subp. 3. Applications; forms. The commissioner's ability to prescribe the forms for coordinator approval is necessary to ensure that the applications contain all relevant information to access the individual's qualifications. Likewise, standardization of these forms also helps to assure timely approval.

Subp. 4. Responsibilities. Since the coordinator is responsible for the conducting of the course offering, this subpart is necessary to set standards by which the courses must be conducted. It reiterates the coordinator's responsibility to assure compliance with all laws and rules pertaining to real estate appraiser continuing education. To ensure that the commissioner has current and accurate information relating to course approval, coordinators are

required to notify the commissioner of any changes in information previously submitted. Several sections of this subpart pertain to the coordinator's responsibility to students taking courses. The coordinator must monitor to courses to assure that the information provided these students is current and accurate and, therefore, of benefit and use to them. The coordinator to required to supervise the courses and instructors and to evaluate both to assure that students actually receive the information they are advised will be provided. To assure this the commissioner is allowed to request written evaluation of the courses and instructors either by the students or the coordinators themselves.

The coordinator is also the person to whom written complaints may be made regarding the course offerings and instructors. The coordinator is charged with the duty of forwarding the same to the department of commerce regardless of their merit. The general intent of these requirements is to make the coordinator a guarantor of the quality of the courses and the instructors and to clarify that it is their responsibility is to do this rather than only assure the profitability of the course. In this regard, the coordinator is charged with maintaining appropriate records relevant to these rules and the responsibilities the rules impose.

A mechanism for transferring records is provided for students. The commissioner is specifically prohibited from acting as custodian of the records to assure that he is an impartial party in regard to the activities of the coordinator and not involved in any manner with the coordinator. The responsibilities of the coordinator in addition to those already set forth require that the coordinator be available to the instructors and students throughout the time of the course offerings and that information be provided as to the coordinator's name and telephone number. This helps assure access by

interested persons to the person ultimately responsible for the course presented.

As a final requirement, coordinators are charged with providing course completion certificates to students. Certificates must be provided within 30 days of course completion, provided that the coordinator may require payment of outstanding tuition to providing a certificate. This provides the means for verification of student attendance and completion of the course but does not preclude the sponsor from obtaining payment.

Part 2808.4200 CONTINUING EDUCATION INSTRUCTORS.

Subpart 1. General requirements. To assure the quality of course content and presentation, this subpart allows the department to determine the competence of instructors and mandates that only qualified instructors will be allowed to teach prelicensing education courses. Except as otherwise provided in this subpart, course approval will be withdrawn an approved instructors does not present the course.

The subpart, however, does make provision for continued course approval in instances where an approved instructor is unavailable and withdrawal of course approval could work a hardship on students. The department must be notified of the unavailability of the approved instructor within 15 days of presentation of course material by an unapproved instructor. In addition, students must be informed prior to commencement of the course that course approval may be in jeopardy, a full refund is available for students choosing to withdraw, and that a refund will automatically be given is the course attended is later disapproved by the department. This procedure allows the students to decide if they wish to continue in the course and also assures that their tuition is not wasted on courses for which no credit can be given.

Subp. 2. Instructor qualifications. This subpart sets forth the specific qualifications for instructors. Because of the wide range of potential course content and the need for an adequate number of qualified instructors, it is necessary to allow for different categories of qualifications. These criteria consider advanced education and/or significant practical experience to suffice as basic qualifications for ensuring competent instruction. A degree and two years of experience is considered a necessary minimum for qualification as an instructor. Five years of recent experience in the subject area being taught is considered a necessary minimum when the instructor has no formal education in the topic area. A college or graduate degree is also presumed sufficient to assure a basic understanding of a subject area. Finally, as an alternative to these qualifications criteria, it is believed that three years of experience as a licensee and 60 hours of course work are an adequate equivalency to ensure the ability of the instructor to impart worthwhile information to the students.

Subp. 3. Responsibilities. This subpart describes the responsibilities of instructors in broad, yet sensible, terms. The intent is to ensure competent instruction and a sound educational experience for students by placing an onus on instructors to maintain a good learning environment. At a minimum, and as an example to their students, instructors must comply with the laws and rules pertaining to appraiser continuing education. To assure that the knowledge imparted to students is of value, instructors must provide them with current and accurate information and be available to answer questions related to the subject being taught. These are basic tenets for sound instruction in any good classroom setting and must be provided to students of the appraisal profession as well.

Subp. 4. Waiver. This subpart recognizes that the ability to teach may

also come through other forms of training or experience. It allows the commissioner to approve instructors who may not meet the specific requirements of these rules but who possess equivalent qualifications.

Subp. 5. Guest lecturers. Individuals who may not otherwise qualify as instructors may be able to impart useful and timely information to licensee. This subpart recognizes the value of these persons and allows an option for including them in continuing education courses. To assure that courses involving guest lecturers meet the overall objectives of continuing education, no more than one-third of any course may be taught by such a person. In addition, the onus remains on the course coordinator to assure that this requirement and all others pertaining to continuing education are met.

GENERAL REQUIREMENTS FOR PRELICENSING AND CONTINUING EDUCATION

Part 2808.5000 ADVERTISING OF COURSES.

Subpart 1. Truth in advertising. This subpart provides a general requirement that all continuing education advertising must be truthful, clear and not deceptive or misleading. Licensees may spend a substantial funds on such courses and must attend the same to ensure their continued licensure. Accordingly, they must be able to rely on the veracity of the information upon which they base their decisions regarding course attendance.

Subp. 2. Approval statement. This subpart provides guidelines for the advertising of approved courses and is intended to provide a disclosure to potential students regarding approval and the credit to be given. Prospective students should know whether the course is approved and how many hours of credit may be received. This subpart also requires that advertising materials

contain a statement disclosing that the course has been approved by the commissioner of commerce for real estate or real estate appraiser continuing education credit as well as setting forth the hours for which the course has been approved for credit. This information allows the licensee who may wish to attend the course to be fully cognizant of the number of credit hours for which the course has been approved and more importantly that, in fact, the course has been approved for credit. Licensees, thus, can choose not attend a course or pay for a course for which they are going to receive less credit than they believe they or no credit at all.

Subp. 3. Course hours approved. Consistent with the requirements of subpart 2, this subpart reiterates that course advertising materials must clearly state the number of hours of continuing education credit that have been approved or are pending. As important, however, is the requirement that courses involving attendance beyond the hours of approved for credit must clearly state that credit will not be earned for the entire course. This is necessary to assure that students have adequate information for making decisions that involve expenditures of their time and money.

Subp. 4. Advertising pending approval. Brochures and other materials are often printed far in advance of the date of the course and prior to when the courses may be submitted to the commissioner for approval. This subpart provides a mechanism by which a sponsor may advertise prior to approval being received if, in fact, the course has been submitted to the commissioner for approval. The term "approval pending" puts the appraiser on notice that checking on the status of the course prior to attending it is the prudent thing to do.

Subp. 5. Nonapproved courses to be distinguished. This subpart further articulates the general requirement that advertising materials be truthful and not misleading. To assure that students can distinguish accredited courses from those providing no credit in sponsor advertising, the materials must clearly identify this difference.

Part 2808.5100 MANDATORY NOTICE TO STUDENTS.

As an additional measure for assuring that students know the number of approved credit hours for each prelicensing or continuing education course they are attending, a specific notice is required to be read at the beginning of each course stating the number of hours for which the course has been approved. The notice also clarifies that students have the right to make comments about the course offerings to the commissioner of commerce and gives the address of the commissioner.

Part 2808.5200 EDUCATION REPORTING REQUIREMENTS.

Subpart 1. Requirement; forms. To assure that students provide consistent and complete information regarding their education, the commissioner will prescribe forms to be used by students in supplying this data. Likewise, to reduce the potential for unnecessary reviews by the department, students are limited to submitting these form until after all required hours have been accomplished. To assist students in providing this information to the commissioner, the forms may be submitted as soon as the requirement is completed.

Subp. 2. Continuing education reporting deadlines. To facilitate the processing of license renewals, this subpart requires that continuing education reporting forms be submitted by August 31, the day before all licenses must be

renewed. Forms submitted prior to August 1 and which include the appropriate fees for license renewal result in the presumption that the submitting appraiser is continuously licensed even if a renewal license is not received before September 1 of the renewal year.

Subp. 3. New licensees; waiver of reporting requirement. Provision is made in this subpart for new licensees who receive a license after June 1, three months prior to the required renewal date of September 1. The department believes that doing otherwise would place an inappropriate and costly burden on new licensee.

Part 2808.5300 FALSIFICATION OF REPORTS.

This part considers falsification of an education report to the commissioner reflects upon the honesty and integrity of the appraiser sufficient to provide grounds for suspension or revocation of their license. The reporting system provided under these rules is an honor system essentially relying upon the truthfulness and honesty of the licensees as an alternative to a more rigid, cumbersome and expensive approach. Activities which undermine this system of necessity must be severely penalized or confidence in it could be easily eroded. Additionally, falsification of reports to the licensing authority is reasonable grounds to presume questionable conduct in the performance of an appraiser's duty to the appraiser's clients, which is the most basic reason for the licensing statute and rules in the first place.

Part 2808.5400 GENERAL POWERS OF COMMISSIONER.

Subpart 1. Action against approval. To insure the integrity of the appraisal profession and the educational requirements provided by statute, it is necessary that the commissioner have the authority to penalize those who violate those statutes and these rules. This subpart expands upon the authority

of the commissioner set forth in Minn. Stat. § 82B.20 to deny, suspend or revoke appraiser licenses by providing the same right of action against those approved to train and educate applicants and licensees. Likewise, for educators who have demonstrated previous misconduct through violation of the statute or rules, the commissioner may refuse to approve future course offerings for real estate appraiser education.

Subp. 2. Right to audit. This part allows the commissioner to audit courses. It is necessary so that the commissioner may determine compliance with these rules. On occasion the commissioner may wish to determine compliance without notice so a more accurate picture may be seen. The possibility of an audit, announced or otherwise, places sponsors, coordinators and instructors on notice of the risk on not complying with the statutes, rules and the disclosures governing education offerings.

Part 2808.5500 MANAGEMENT RESPONSIBILITY OF SPONSORS.

This part specifically sets forth the ultimate obligation of course sponsors for the actions of those in their employ. This rule is designed to assure that sponsors employ ethical and responsible coordinators and instructors at the risk of losing their authority to provide approved courses.

Part 2808.5600 PROHIBITED PRACTICES FOR SPONSORS, COORDINATORS, AND INSTRUCTORS.

Subpart 1. Prohibitions. This subpart specifies conduct that is prohibited on the part of the education course sponsors, coordinators and instructors. Prelicensing and continuing education are meant to provide instruction to licensees regarding real estate appraisal related principles and practices. It has also been established to ensure that appraisers provide sound services to their clients. Therefore, the educational setting may not be used as

a recruiting, promotion or sales tool for any particular appraisal firm or organization. Allowing sponsors, coordinators and instructors to require students to participate in other services or programs as a condition to attending a required course must be prohibited as this serves no purpose other than the benefit of the sponsor, coordinator and instructor.

Likewise, to insure the integrity of the licensing examination process, sponsors, coordinators and instructors are restricted from taking these tests without the approval of the commissioner and from discovering test questions, answers or information that may be passed on to student. Just as applicants are restricted from cheating on examinations, educators will not be allowed to engage in activities that promote dishonest conduct or undermine the integrity of the licensing examination.

Subp. 2 Notification of misconduct. This subpart is designed to assure that the commissioner is provided with current, pertinent information regarding licensees. The subpart requires those approved as education course coordinators and instructors to provide information to the commissioner regarding significant criminal convictions of licensees. Because such a conviction may result in loss of license, reporting by coordinators and instructors provides a "fail safe" mechanism for obtaining information that might not otherwise be reported by a licensee.

In addition, as with the requirement placed on licensees to keep the commissioner current with regard to applications submitted to the department, coordinators and instructors must report changes in the information they submitted for approval of the status.

STANDARDS OF APPRAISER CONDUCT

Part 2808.6000 STANDARD OF CONDUCT.

Subpart 1. Compliance with the uniform standards of professional appraisal practice. This subpart restates the requirement of Minn. Stat. § 82B.20, subd. 2 (13) that licensees must abide by the Uniform Standards of Professional Appraisal Practice ("USPAP") as published by the Appraisal Standards Board of the Appraisal Foundation. These standards are designed to guide the appraisal of all types of real property and the behavior of appraisers with regard to their clients and the public, generally. Violation of USPAP is considered a prohibited practice punishable through denial, revocation or suspension of an appraiser license. However USPAP was not viewed, especially by the consumer panels, as dealing with all the problem areas. USPAP is intended to guide appraisers in making their own decisions. As such, it has some shortcomings as an enforcement tool. Accordingly, restatements of subject matters dealt with in USPAP as well additional requirements were deemed necessary to protect the public and assure the proper level of professional conduct.

Subp. 2. Additional requirements. This subpart provides a number of specific disclosures that licensees are required to provide to better inform as to the licensee's ability, potential conflicts of interest, the basis for the valuation of the properties a licensee appraises and other matters which might affect the use of a licensee's appraisal reports. Disclosure must be made in a timely fashion to allow for the opportunity to require the withdrawal of the appraiser making the disclosures and to retain the services of another. Many of these provisions are a basic reiteration of the requirements set forth in the USPAP. However, they are considered significant enough to demand particular

restatement in these rules and to state them in as positive a manner as possible.

Many of these provisions are relatively simple and direct and would seem to be matters that any professional would do as a matter of course. However to be assured of compliance by all appraisers, they have been specifically set forth here.

Items A through C require the disclosure of who employed the appraiser and if the person employing them is not who the appraisal is being rendered for that person's identity must be disclosed as well. The purpose of the appraisal must be disclosed as there are differences between types of appraisals and the valuations that would result. A market value appraisal is one thing, a replacement or highest and best use appraisal, is something else. To adequately evaluate the appraisal you must know the basis upon which the appraisal is given.

Item D is all encompassing disclosure requirements of any conflict of interest. Specific examples of conflicts were given to make this requirement as clear as possible.

Item E requires licensees to disclose any relationship with the person employing the appraiser when the relationship generated more than ten percent of the appraiser's gross billings during the previous calendar year. Its purpose is to provide information to clients that might offer evidence of potential conflicts of interest. The two consumer panels were particularly interested in this information as it was felt that an appraiser who gets a significant amount of their entire business from a person is subject to pressure from that person as to what an appraisal report will say. Some of the financial institutions who were represented on the panels even have their own limitations on the number of appraisals that an appraiser can perform for any one of their employees.

Because it was hoped that most appraisers would not succumb to the pressure and because in some areas there are only a few appraisers, this is only a disclosure requirement. In other professions, situations like this could require withdrawal from the relationship. This rule merely requires that the relationship be made known and it is up to the client or other affected parties to determine what effect they believe the relationship has and to take action if they feel it is necessary.

10% was picked as the appropriate level because it was felt that it represented a significant amount of an appraiser's business so that its loss would not be treated lightly. Also 10% is used in tax and corporate matters as the threshold for determining a controlling interest.

Item F arises from a problem that comes up when the first appraisal may not validate the value required for the loan transaction. Oftentimes, there is a reappraisal done which hopefully results in the appropriate valuation. Because this is one of the areas where collusion or pressure may be brought to bear, the fact of the reevaluation must be made known and a justification for the difference between the two appraisals so that the various parties can evaluate the accuracy of two appraisals.

For the same reason information known in advance (Item G) as to what value is needed to make the loan transaction happen can influence an appraiser. Accordingly, whether the appraiser knew those values in advance or not is a fact someone evaluating the appraisal would take into account.

(Item H) From time to time, appraisers are called upon to perform appraisals for property of a type that they have never appraised before. Accordingly, the value of that appraisal is capable of being questioned. Appraisal of commercial property by someone who has never done a

commercial real estate appraisal may not be something that a lender or other person may want to place great reliance upon. However, that appraiser may also have adequate background and information to do the job. Accordingly, the information as to the ability of the appraiser to perform that appraisal is set forth for the client to use to make their decisions about the use of that appraiser.

(Item I) Disclosing the classification of licenses and types of appraisal that they are authorized to conduct once again is intended to make sure that everyone knows that the appraiser is legally capable of making the appraisal that has been requested.

Item J specifically reiterates a number of hopefully very obvious appraisal practices as to what should be done such as not including inaccurate or misleading data, not omitting negative factors about the community, not using information on the value of properties that they have not personally inspected, not using inappropriate comparable sales in coming up with the valuation, not using data that may be tainted because it comes from people who are financially interested in the property, not adjusting comparisons between other sales and the subject property when the two properties are not identical, not using valuation conclusions based upon prohibited factors such as race, color and other aspects about prospective owners of the property, and not developing conclusions that they don't have the data to support. All of these seem to be rather straight forward compulsions but since a part of the purpose of the standards of conduct is to clearly set forth, not only to the appraiser but also to the public, what the acceptable, or in this case, unacceptable practices are, it is important to state as many of them as possible.

Item K requires a current resume so that the persons considering

employing the appraiser are aware of what the appraiser's qualifications are and L is a caveat to that which requires a disclosure of any problems with the experience or training of the appraiser that could make the appraisal worthless or at least subject to the question.

Item M arises from the problem of the same appraiser doing repeat appraisals on the property. If there are inconsistencies in the values of the two appraisals, the latter appraisal can be challenged. Two appraisers may come up with different values on the same property but the same appraiser shouldn't, except of course for market value changes in the property. This provision protects consumer by allowing them to check the first appraisal against the second and if there are differences, ask the appraiser to explain them.

Hopefully, the only changes will be as a result of market conditions that can be easily explained. However, if there are more significant differences the consumer has the ability to go further and inquire into the circumstances and make whatever decision they would like about employing the appraiser or relying on the appraisal.

Item N is a requirement of full disclosure as to all things that the valuation is based upon. Once again, it allows someone to evaluate whether a consideration is missing that should have been included in the appraisal and take whatever appropriate action this information would suggest they should take.

Items O and P are just minimum requirements as to whether the property has been visited and if it is visited, what will be done in performing the appraisal.

Item Q is probably the best statement of what professionals should be required to do when they are placed under pressure to do unethical and

prohibited matters. It is stated as part of the rules so that this duty is clear to anyone. There should be no question as to what to do when someone asks that improper things be done.

Finally, item R is a relatively open ended requirement for the appraiser to disclose anything not already set forth in the preceding sections that might bring their impartiality or the ability to do the appraisal into question.

These standards of conduct are intended to carry out the purpose of FIRREA to make sure that appraisers act in a professional manner and, as in most professions, adhere to a high standard of conduct which will result in impartial and fair appraisals rather than appraisers being mere vendors of services at the behest and direction of those employing them.

SMALL BUSINESS CONSIDERATION

The department believes that virtually every appraiser subject to these rules will fall within the definition of a small business although there might be an isolated instance or two in which they would not. Accordingly, in regard to compliance with Minnesota Statutes Section 14.115, the impact on small businesses was considered at each and every stage and in regard to every requirement because we believed all of the entities to be small businesses.

As to the various items in subdivision 2; item a, the establishment of less stringent compliance requirements for small businesses was considered but decided against because all the requirements are believed to be applicable to appraisers who are small businesses.

As to item b, the establishment of less stringent schedules or deadlines for compliance for small businesses this was not determined to be appropriate

because all of the entities are deemed to be small businesses.

Item c, the consolidation or simplification of the compliance or reporting requirements for small businesses was deemed to be inappropriate, as all the entities were deemed to be small businesses.

As to item d, the establishment of performance standards for small business or the replacement of design or operational standards required in the rule; once again no separate consideration was given for small business as all appraisers are presumed to be small businesses.

As to item e, the exemption of small businesses for many and all requirements in the rules, it was once again not done because all of these entities are deemed to be small businesses.

To the greatest extent possible, through the consumers of appraisal services and the advisory board as well as various groups representing appraisers commentary and dialogue occurred about these rules. Notice of the fact that these rules would impact on small business was provided in the notice of intent to adopt rules originally published in this matter.