

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Labor, Licensing, and Regulation
(DLS Control No. 16-058)**

Overview and Legal and Fiscal Impact

This regulation alters the standards under which the State Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors may issue a reciprocal license for a real estate appraiser who is licensed in another state.

The regulation presents no legal issues of concern.

There is no fiscal impact on State or local agencies

Regulation of COMAR Affected

Department of Labor, Licensing, and Regulation:

Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors – Real Estate Appraisers: Temporary Permits and Reciprocity:
COMAR 09.19.08.02

Legal Analysis

Background

Chapter 594 of 1990 established the commission (formerly the State Commission of Real Estate Appraisers) to implement and administer a real estate appraiser licensing and certification program that complies with the federal Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA). Title XI of FIRREA is the legal framework controlling national uniform appraisal standards and state appraiser licensing bodies. Commission authority was later expanded to include home inspectors (2001) and appraisal management companies (2011).

Generally, an individual must be licensed by the commission before the individual may provide real estate appraisal services in the State. “Provide real estate appraisal services” means to make for consideration an appraisal of real estate or prepare or sign an appraisal report in connection with a federally related transaction, as defined in FIRREA.

The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council was created in 1989 by FIRREA and oversees the real estate appraisal process as it relates to federally related transactions. Pursuant to authority granted to ASC under Title XI of FIRREA, ASC adopted [revised Policy Statements](#), generally effective June 1, 2013, to provide states with

the necessary information to maintain their programs in compliance with Title XI. Chapter 121 of 2015 implemented Policy Statement 5, which addressed the issue of state reciprocity.

Summary of Regulation

This action further implements ASC's Policy Statement 5 by conforming COMAR 09.19.08.02 to the corollary statutory provisions relating to reciprocal licensing and certification of real estate appraisers. Specifically, the action:

- substitutes a reference to a "valid" license or certificate in another state for a former reference to an "active" license or certificate;
- repeals the specification that the license or certificate of another state be "in good standing";
- adds the specification that the licensing or certification requirements in the other state may exceed the Maryland requirements for the equivalent license or certification;
- repeals the specification that the individual must meet the qualifications otherwise required for licensing or certification;
- adds the specification that the individual must be certified by a state that is in compliance with Title XI of FIRREA, as determined by ASC; and
- repeals the specification that the commission may issue a reciprocal license or certificate only if the state in which the applicant is certified or licensed waives the examination requirement to the same extent for applicants from this State who apply for a reciprocal license or certificate in that state.

Legal Issues

This regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The Department of Labor, Licensing, and Regulation cites §§ 16-216, 16-220, 16-305, and 16-507 of the Business Occupations and Professions Article as statutory authority for the regulation. Section 16-216, in part, generally authorizes the commission to adopt any regulation to carry out the provisions of Title 16 of the Business Occupations and Professions Article. Section 16-220 specifies that regulations adopted under Title 16 that are applicable to the provision of real estate appraisal services are required to comply with the requirements of FIRREA. Section 16-305 specifies the circumstances under which the commission may grant a waiver for the examination requirement for licensure as a real estate appraiser. Section 16-507 specifies the circumstances under which the commission may grant a waiver for the examination requirement for certification as a real estate appraiser.

Although the department does not cite §§16-302 and 16-503 of the Business Occupations and Professions Article, these provisions of law specify an additional requirement for licensure or certification for non-resident applicants. This requirement is the only requirement referenced in COMAR 09.19.08.02 that is not referenced in any of the statutes cited as authority for the regulation. The regulation, however, does not alter the reference to non-resident applicants in the regulation, so the provisions do not need to be cited as authority for the regulation.

This authority is correct and complete. The regulation complies with the legislative intent of the law.

Technical Corrections and Special Notes

The Department of Legislative Services has notified the department of, and the department has agreed to make, several necessary corrections. First, for consistency with § 16-305(b)(2)(i) of the Business Occupations and Professions Article and references in the regulation to reciprocal licenses and certificates, the reference in (3) should be broadened to apply to an individual who “is licensed or certified by a state”. Second, the reference in (3) to the “Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989” should be altered to make “federal” appear in lower case letter for consistency with standard drafting convention. Third, the tabulation “A” should be repealed, because the action repeals the only other provision on the same level of tabulation.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulation has minimal or no impact on State or local governments. The Department of Legislative Services concurs and notes that the regulation conforms to statutory requirements for reciprocal licensing and certification of real estate appraisers as altered by Chapter 121 of 2015 (House Bill 1227). The fiscal and policy note for House Bill 1227 indicated that the bill did not materially affect special fund revenues for the State Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors Fund.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs and notes that the regulation conforms to statutory requirements for reciprocal licensing and certification of real estate appraisers as altered by Chapter 121 of 2015 (House Bill 1227). The fiscal and policy note for House Bill 1227 indicated that the bill had minimal or no impact on small businesses.

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