



FEDERAL RESERVE BANK
OF DALLAS

ROBERT D. McTEER, JR.
PRESIDENT
AND CHIEF EXECUTIVE OFFICER

July 10, 1991

DALLAS, TEXAS 75222

Notice 91-56

TO: The Chief Executive Officer of each member bank and others concerned in the Eleventh Federal Reserve District

SUBJECT

**Federal Financial Institutions Examination Council
Appraisal Subcommittee Revised Guidelines Regarding
State Certification and Licensing of Appraisers**

DETAILS

The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council has adopted the attached Revised Guidelines to assist states in establishing effective certification and licensing procedures for real estate appraisers involved in federally related transactions. Under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, state-certified or -licensed appraisers generally must be used for federally related transactions beginning January 1, 1992.

These Revised Guidelines include changes based on comments received in response to the original publication of the guidelines on January 24, 1990 (55 F.R. 2409). Subsequent ASC advisories, opinions, and clarifications also are incorporated in the Revised Guidelines.

ATTACHMENT

A copy of the ASC's notice as it appears on pages 26088-94, Vol. 56, No. 109, of the Federal Register dated June 6, 1991, is attached.

MORE INFORMATION

For more information, please contact Jane Anne Schmoker at (214) 651-6228. For additional copies of this Bank's notice, please contact the Public Affairs Department at (214) 651-6289.

Sincerely yours,

licensing of real estate appraisers. These Revised Guidelines are intended to assist the States, territories and the District of Columbia ("States") in establishing effective certification and licensing procedures for real estate appraisers involved in federally related transactions.¹ Certified or licensed appraisers must be used for certain transactions starting January 1, 1992.² The Revised Guidelines include changes based on comments received on their original issuance and also incorporate later Subcommittee advisories and opinions.³

SUPPLEMENTAL INFORMATION: States are authorized to establish procedures under title XI of FIRREA ("title XI")⁴ for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions, including a code of professional responsibility. Title XI and the subsequent establishment of the Subcommittee, as well as the adoption of appraisal regulations by the federal financial institutions regulatory agencies, are intended to protect federal financial and public policy interests in real estate-related financial transactions requiring the services of an appraiser. Additionally, title XI at a minimum requires an appraisal performed in connection with a federally related transaction to meet the standards set forth in the Uniform Standards of Professional Appraisal Practice ("USPAP"),⁵ as adopted by the

Appraisal Standards Board ("ASB") of the Appraisal Foundation.⁶

Section 1102 of title XI, 12 U.S.C. 3310, established the Subcommittee and placed it within the FFIEC. The Subcommittee consists of a representative appointed by the heads of each FFIRA and the Department of Housing and Urban Development. The Subcommittee has permanent staff to assist the Subcommittee and provide advice to the States and to carry out Subcommittee rules, interpretations, policies and directives.

The Subcommittee has several statutory duties under title XI. First, the subcommittee must monitor the appraisal regulations adopted by the FFIRAs and the RTC. Those regulations set out appraisal standards for federally related transactions and define those federally related transactions requiring the services of a State certified or State licensed appraiser. Second, the Subcommittee must monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation. Third, the subcommittee must monitor each State's certification and licensing programs for real estate appraisers. In that regard, each State with an appraiser certifying and licensing agency is responsible for transmitting to the subcommittee a roster of these individuals, along with an annual registry fee. The subcommittee must maintain a national registry of all state certified and licensed appraisers who are eligible to perform appraisals in federally related transactions. The subcommittee also must review each State's compliance with the requirements of title XI and is authorized by title XI to take action against non-complying States.⁷

These Revised Guidelines are intended to assist each State in its efforts to establish and maintain a real estate appraiser regulatory system conforming with title XI. More specifically, the Revised Guidelines are intended to: (1) Facilitate the timely implementation of State certification and licensing programs, (2) promote the independence of State appraisal regulatory functions, (3) reduce the potential for conflicts of interest, and (4) address concerns regarding, among other things, exemptions, grandfathering, mandatory dual licensing, discrimination and reciprocity.

⁶ The Appraisal Foundation was incorporated in Illinois on November 30, 1987, by several professional appraisal organizations as a not-for-profit corporation to enhance the quality of professional appraisals. The Foundation is headquartered in Washington, DC.

⁷ See title XI, Section 1118, 12 U.S.C. 3347.

¹ The term "federally related transaction" means any real estate-related financial transaction which a federal financial institutions regulatory agency ("FFIRA") or the Resolution Trust Company ("RTC") engages in, contracts for, or regulates, and which requires the services of an appraiser. The FFIRAs are the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Office of Thrift Supervision and the National Credit Union Administration. Title XI, Section 1121(6), 12 U.S.C. 3350(6).

² The Subcommittee extended this effective date from July 1 to December 31, 1991, pursuant to Section 1119(a)(2) of title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), 12 U.S.C. 3348(a)(2), 56 FR 20002 (May 1, 1991).

³ The Subcommittee originally issued these Guidelines for public comment on January 18, 1990, as Docket AS90-1, 55 FR 2409 (January 24, 1990) ("Initial Guidelines"). Clarifications were issued on February 28, 1990, August 8, 1990 (Advisory 90-1), November 28, 1990 (Advisory 90-2), and January 25, 1991 (Advisory 91-1).

⁴ Public Law No. 101-73, 103 Stat. 511 (1989); 12 U.S.C. 3310, 3331-3351.

⁵ The FFIRAs and the RTC published pertinent portions of USPAP as an appendix to their respective appraisal regulations. See 55 FR 53610 (December 31, 1990).

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS91-1]

Appraisal Subcommittee; Revised Guidelines Regarding State Certification and Licensing of Appraisers

AGENCY: Appraisal Subcommittee, Federal Financial Institutions Examination Council.

ACTION: Notice of Revised Guidelines.

SUMMARY: The Appraisal Subcommittee ("Subcommittee") of the Federal Financial Institutions Examination Council ("FFIEC") today issued Revised Guidelines for state certification and

EFFECTIVE DATE: June 6, 1991.

FOR FURTHER INFORMATION CONTACT:

Edwin W. Baker, Executive Director, or Marc L. Weinberg, General Counsel; Appraisal Subcommittee, Federal Financial Institutions Examination Council; 1776 G Street, NW.; suite 850B; Washington, DC 20006; (202) 357-0133.

SUMMARY OF COMMENTS: On January 18, 1990, the subcommittee solicited public comment on its Initial Guidelines to the States regarding certification and licensing of real estate appraisers. The subcommittee received 163 comments from interested individuals and organizations, including 44 individual appraisers and appraisal firms, 27 members of Congress, 23 state regulatory agencies, and 24 appraiser trade groups. The remaining 45 comments were submitted by real estate brokers and broker associations, banks and bank trade associations, savings and loan associations, attorneys and law firms, an accounting trade group, a federal agency and a federal department. The principal issues raised by the respondents are discussed below.

Authority, Purpose and Scope

A few respondents suggested the subcommittee had exceeded its authority in title XI when it issued the Initial Guidelines. Respondents believed the Guidelines mandated the structure of State appraiser regulatory schemes, therefore exceeding the subcommittee's limited statutory role of monitoring State compliance with title XI.⁸ The subcommittee's Initial and now-Revised Guidelines are not requirements. They provide each State with an understanding of how the Subcommittee will evaluate the State's compliance with title XI. Additionally, consistent with title XI and the intent of Congress, the Guidelines promote the establishment of uniformity and a level regulatory playing field among the States.

Location of Agency

Forty-one respondents questioned the need for a State's real estate appraiser regulatory agency ("Appraiser Agency") to be totally independent from existing State regulatory agencies having responsibilities over affected industries.⁹ Most respondents believed

that the appraiser function could be supervised by an umbrella regulatory agency or real estate commission, provided that adequate safeguards existed to minimize the potential for undue influence. To comply with this Guideline, some States determined their laws and constitutions would require amendment, which they indicated would be a costly and burdensome process (particularly for less populous States).

The subcommittee's Initial and Revised Guidelines strongly encourage States to create a totally independent Appraiser Agency. The Subcommittee, however, recognizes that this may not be possible for every State because of fiscal or other appropriate reasons. When such reasons exist, the subcommittee expects the State to structure its Appraisal Agency to eliminate undue influence by any affected industry.¹⁰

Appointment of the Agency Head

The Initial Guidelines stated that the appointment of an Appraiser Agency head or members of the appraiser board should be made by an individual or committee not associated with an affected industry. All fifteen respondents, including appraisers and appraisal firms, supported this position, and the subcommittee has included it in the Revised Guidelines.

Independence From Affected Industries

The Initial Guidelines called for the individual head of the Appraiser Agency to be independent from the appraisal profession and affected industries while in office and for a reasonable time thereafter. For an Appraiser Agency headed by a board or commission, the Initial Guidelines also indicated that board or commission-led Appraiser Agencies should represent the broad public interest and should not be dominated by any one industry or profession.

A majority of the 94 respondents on this issue believed that the Initial Guidelines precluded the best source of appraisal expertise from serving on appraiser regulatory boards or commissions. The Subcommittee recognizes that significant appraiser representation on an appraiser regulatory board or commission can help to ensure that the regulatory body has adequate knowledge and experience. This type of representation has long been allowed on other professional and industry regulatory

boards. In fact, on February 28, 1990, the subcommittee issued a clarification of the Initial Guidelines to reflect that an appraiser board or commission comprised of a majority of appraisers likely would not result by itself in subcommittee disapproval or rejection of a State's appraiser regulatory system.¹¹ The subcommittee has incorporated this clarification into the Revised Guidelines. The subcommittee continues its strong view that, as a matter of sound public policy, state appraiser boards or commissions should adequately represent the broad public interest and should include meaningful public representation.

Independence of Decision Making

The Initial Guidelines stressed that decisions of an Appraiser Agency should not be made by the same officials responsible for decisions regarding affected industries. Thirty-five respondents addressed this point, several being States with either umbrella regulatory schemes or real estate commissions. Most respondents indicated that sufficient safeguards exist to ensure the integrity of decisions made by the appraiser regulatory body.

The Subcommittee continues its strong preference that the State appraiser regulatory function be established as a totally independent agency answerable to a high ranking state official, *e.g.*, a State cabinet level officer, who has no regulatory responsibility over realty related activities. The subcommittee, however, understands that this could be a burden on some States. As a result, the Revised Guidelines permit other administrative structures so long as adequate safeguards exist to eliminate the influences of affected industries.

The Initial Guidelines also stated that the appraiser regulatory body's decisions should be final and subject only to judicial review. While most respondents agreed with this position, many believed that some existing State laws that dictate the State's regulatory structure may conflict with this aspect of the Guidelines. In this regard, the subcommittee believes that any State regulatory structure allowing any affected industry regulatory body to have "veto power" over the actions of the Appraiser Agency would adversely

⁸ Title XI provides the States with a great deal of flexibility in structuring their regulatory programs.

⁹ An "affected industry" includes entities that have a direct or indirect pecuniary interest in appraisals, such as real estate brokers, financial institutions, and construction companies.

¹⁰ An example of undue influence by an affected industry would be if the majority members on the Appraiser Agency were real estate brokers or representatives of the real estate financing industry.

¹¹ The Revised Guidelines contain the clarification that the subcommittee generally will evaluate each State's system for regulating appraisers in its entirety, including the adequacy of safeguards to prevent conflicts of interest, before considering any adverse action against a particular State's appraisal regulatory system.

affect the independence of the decision-making power of the Appraiser Agency and would be inconsistent with title XI.

Requirements for Certified and Licensed Appraisers

Under title XI, States may establish requirements for individuals obtaining real estate appraiser certification or licensure. Each State's certification requirements must meet the minimum standards adopted by the Appraiser Qualifications Board ("AQB") of the Appraisal Foundation, and each State certified appraiser must pass a suitable State examination. The examination must be endorsed by the AQB and must follow the AQB's Uniform State Certification Examination Outline.

Licensing is treated differently. While each State may establish its own licensing requirements, the subcommittee believes that, to comply with the spirit and intent of title XI, States should include meaningful education, testing, experience, and continuing education requirements.¹² As guidance to the States, the subcommittee has indicated that the AQB's qualifications for "Licensed Real Property Appraiser" are acceptable as meaningful standards for licensing.

Several respondents pointed out that some State's appraiser classification terms differ from those used by the subcommittee. Moreover, a few States with a significant quantity of very high priced single family homes have expressed the need for a "residential certified appraiser" classification.

The subcommittee prefers that States use the same designation terms as title XI, *i.e.*, "State Certified" and "State Licensed." Nevertheless, the subcommittee, in Advisory 91-1, agreed to accept the "certified residential appraiser" classification if a State determines it necessary. The subcommittee reaffirms the Advisory by incorporating it in the Revised Guidelines, and notes that a State adopting this second certification classification must follow the AQB's "Certified Residential Real Property Appraiser" qualification standards.¹³ The State also must require applicants to pass an examination that is endorsed by the AQB.

Appraiser Qualifications Criteria

Thirty-four respondents had several concerns about the AQB's qualifications criteria for certification and licensing.

¹² In general, the subcommittee encourages the States to adopt meaningful, but not overly restrictive, licensing requirements.

¹³ The residential certification standards were adopted by the AQB on March 27, 1991.

First, some commented that the AQB failed to provide adequate due process safeguards for establishing and modifying its criteria. The subcommittee does not agree with the respondents. The AQB went through a detailed, public proceeding in arriving at the criteria. On July 24, 1990, the AQB issued its standards for "Residential Real Property Appraiser" and "General Real Property Appraiser."¹⁴ Over the next several months, the AQB worked closely with its members and the subcommittee to refine the criteria, and, on December 20, 1990, the AQB issued several exposure drafts proposing revised criteria for comment. After consideration of comments received from interested members of the public and the subcommittee, the AQB, on March 27, 1991, adopted its revised standards for the certified general and certified residential classifications and its recommendations for the licensed real property appraiser classification.

Second, respondents questioned the number of classroom hours required to meet the education criteria, as well as a person's ability to sit for the examination before completing the required course work. The Revised Guidelines incorporate Advisory 90-2, in which the subcommittee expressed its willingness to recognize, on a transitional basis, State licensed appraisers who: (1) Have passed the examination; and (2) have met either the experience or the education requirements established by the States. Licensed appraisers, however, would need to satisfy the missing requirement within no more than two years after passing the appropriate test and being provisionally licensed by the State. The subcommittee urges each State to limit the issuance of transitional licenses to the first two years after implementation of its licensing program.¹⁵

Third, many respondents questioned the appraiser experience requirements, including the acceptability of real estate related experience. The subcommittee addressed these comments when it issued Advisory 90-2. There, the subcommittee advised the States that real estate related experience (such as real estate lending or real estate brokering) should be considered

¹⁴ In its Initial Guidelines, the subcommittee endorsed the "General Real Property Appraiser" qualifications criteria as the minimum standard for a state certified appraiser and the "Residential Real Property Appraiser" qualifications criteria as meaningful standards for a state licensed appraiser.

¹⁵ The Revised Guidelines clarify that State transitional certification provisions are inconsistent with title XI because the AQB's certification criteria compel the completion of all education requirements before a person can take the certification examination.

acceptable for licensure, if that experience included the actual performance or professional review of appraisals. The subcommittee has incorporated this Advisory into the Revised Guidelines.

Exemptions and Grandfathering

The Initial Guidelines stated that no group of individuals should be exempt from meeting the certification or licensing criteria. Twenty-five respondents had a wide range of views on this subject. Some indicated that no groups of certified or licensed appraisers should be "grandfathered," while others thought that a grandfathering provision for licensed appraisers would be appropriate.

The subcommittee's position on not allowing exemptions and grandfathering remains unchanged. States, however, can carry over an individual or group's existing certification or licensure status, if the person or group satisfies the State's certification or licensing requirements and those requirements are consistent with title XI.

Mandatory Dual Licensing

The Revised Guidelines reiterate the subcommittee's position that State laws should not require any applicant for appraisal certification or licensing to hold another professional license as a condition for obtaining an appraisal license or certification. The majority of respondents agreed with this position.

Code of Professional Responsibility

Several respondents agreed with the subcommittee's Initial Guidelines that each State should include an appropriate code of professional responsibility in its certification and licensing requirements. The Revised Guidelines refer specifically to the Ethics Provision of the USPAP, as adopted by the ASB, as being an appropriate code of professional responsibility.

Other Issues

Several respondents raised various items that were not discussed in the Initial Guidelines such as: Reciprocity among States, discrimination, the role of the Appraisal Foundation, USPAP, title XI implementation costs, and States' rights. Where appropriate, the subcommittee has addressed these comments at various points in the preamble and the Revised Guidelines.

Conclusion

In response to public comment received on the Initial Guidelines, the subcommittee is now issuing the

Revised Guidelines. The Revised Guidelines replace the Initial Guidelines and clarifications.¹⁶

The subcommittee, as necessary, may release new Advisories clarifying the Revised Guidelines.

Dated: May 29, 1991.

Fred D. Finke,

Chairman, Appraisal Subcommittee, Federal Financial Institutions Examination Council.

Introduction

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA")¹⁷ established the Appraisal Subcommittee ("subcommittee") of the Federal Financial Institutions Examination Council ("FFIEC"). The purpose of title XI is to protect federal financial and public policy interests in real estate-related financial transactions¹⁸ requiring the services of an appraiser. Among other duties, the subcommittee must monitor the requirements established by the States, territories, and the District of Columbia ("States") for certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions.¹⁹ The subcommittee also must monitor the activities of the FFIRAs and the RTC, the States, and the Appraisal Foundation in meeting the requirements of title XI.

In exercising its oversight responsibilities over the States, the subcommittee must review each State's overall regulatory scheme to determine compliance with title XI. This does not mean that all matters must be covered by legislative enactment. Many can be a matter of regulation, procedure, and practice. Conversely, an otherwise adequate set of statutes or regulations can be invalidated by inadequate

implementation. Consequently, while the subcommittee will continue to review and give comments on State regulatory programs, its comments are not and cannot be taken as a formal approval or disapproval. Any State scheme is valid unless the subcommittee formally rejects or disapproves the State regulatory scheme using the procedures in title XI.

In addition to establishing the Subcommittee, major aspects of title XI include:

- The requirement that the FFIRAs and the RTC set real estate appraisal standards for federally related transactions;
- A framework in which each State may establish a real estate appraiser certification and licensing scheme;
- The establishment of the Uniform Standards of Professional Appraisal Practice ("USPAP") by the Appraisal Standards Board ("ASB") of the Appraisal Foundation as the minimum standards for real estate appraisals for federally related transactions; and
- The establishment of minimum qualification requirements by the Appraiser Qualifications Board ("AQB") of the Appraisal Foundation for certified real estate appraisers as well as the requirement that appraisals for all federally related transactions over \$1 million be performed by a state certified appraiser.

Purpose

The Guidelines were originally issued for comment in January 1990 ("Initial Guidelines"), with subsequent Advisories and clarifications in February 1990, August 1990, November 1990, and January 1991. Based on public comments and Subcommittee interpretations, the Subcommittee has adopted these Revised Guidelines to assist the States further in implementing title XI. The Subcommittee is issuing these Revised Guidelines to assist the States in establishing appropriate organizational and regulatory structures for the certification and licensing of real estate appraisers. The Revised Guidelines reflect the general framework that the Subcommittee will use in reviewing a State's program for compliance with title XI. The Initial Guidelines, Advisories and clarifications are obsolete and rescinded.

State Regulatory Structure

The Subcommittee does not intend to impose any particular organizational structure upon the States. It recognizes that each State has fiscal, regulatory or

other valid constraints that could influence the structure and location of a real estate appraiser regulatory agency. The legislative history of title XI indicates, however, that States should adopt an organizational structure for implementing their appraiser licensing, certification and supervision functions in a manner to avoid potential conflicts of interest. Any state choosing to locate its appraiser regulatory function in a department that regulates real estate licensing, promotion, development, or financing functions ("realty related activities") must ensure that adequate safeguards exist to protect the independence of the appraiser regulatory function.

Real Estate Appraiser Regulatory Agency

A State's real estate appraiser regulatory body ("Agency") may be a board, commission, or individual. The organizational structure should provide maximum insulation for the Agency from the influence of any industry or organization whose members have a direct or indirect financial interest in the outcome of the Agency's decisions.

Agency Location Within State Government

The subcommittee believes each State should establish a totally independent Agency. The Agency should be answerable only to the governor or to a cabinet level officer who has no regulatory responsibility for realty related activities. If, due to fiscal or other appropriate constraints, a totally independent Agency is not feasible, the State may choose to locate the Agency within an existing state regulatory body. Adequate safeguards, however, must exist to eliminate any possible influence from realty related activities.

Agency Head and Member Appointment

Persons appointing the Agency head or members of an appraiser board or commission should not be associated or affiliated with an affected industry.²⁰ For example, an autonomous agency head, appointed by the governor and subject to confirmation by the state legislature, most likely would be considered an acceptable independent appointment.

Under a board or commission regulatory structure, the subcommittee believes that as a matter of sound public policy, state appraiser boards or

²⁰ An individual would be affiliated or associated with an affected industry if the individual has a direct or indirect financial interest in real estate licensing, promotion, development or financing.

¹⁶ See note 3 *supra*.

¹⁷ Public Law No. 101-73, 103 Stat. 511 (1989); 12 U.S.C. 3301, 3331-3351.

¹⁸ A "real estate-related financial transaction" means any transaction involving the sale, lease, purchase, investment in or exchange of real property, including interests in property, or financing thereof; the refinancing of real property or interest in real property; and the use of real property or interest in property as security for a loan or investment, including mortgage-backed securities.

¹⁹ The term "federally related transaction" means any real estate-related financial transaction which a federal financial institutions regulatory agency ("FFIRA") or the Resolution Trust Corporation ("RTC") engages in, contracts for, or regulates, and which requires the services of an appraiser. The FFIRAs are the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision. Title XI, Section 1121(6), 12 U.S.C. 3350(6).

commissions should adequately represent the broad public interest. With this in mind, an Agency should not be dominated in any way by any industry or profession.²¹ The Subcommittee, however, recognizes that members of the appraisal industry should be significantly represented on the appraiser board or commission. Indeed, the subcommittee believes that a board or commission may contain a majority of appraisers. Appraisers can help ensure that the Agency has sufficient expertise and resources to carry out its functions properly.

Agency Independence from Affected Industries

If an Agency is directed by an individual, the Agency head should not be actively engaged in the appraisal business or in any other realty related activities for the individual's term of appointment or employment, and for a reasonable period thereafter. If an Agency consists of a board or commission, its members should represent the broad public interest.

Independence of Agency Decision Making

The subcommittee strongly urges that Agency decisions, especially those relating to license or certification issuance, revocation, and disciplinary actions, should not be made by state officials who also are responsible for realty related activities. Additionally, such Agency decisions should be final administrative actions subject to appropriate judicial review.

Appraiser Qualification Criteria

Title XI requires that real estate appraisals performed in connection with federally related transactions be performed by competent individuals. To demonstrate competency, the subcommittee believes that appraisers subject to title XI must be qualified by meeting appropriate education, testing, and experience requirements.

The decision whether to engage a certified or a licensed appraiser for a specific federally related transaction is prescribed by each FFIRA and the RTC in their real estate appraisal regulations. Title XI, however, mandates that certified real estate appraisers perform all appraisals in connection with federally related transactions over \$1 million and complex 1-to-4 family residential properties.

²¹ The subcommittee believes that domination or majority control of the Agency by representatives of affected industries would be considered inappropriate and inconsistent with title XI.

The subcommittee recognizes a minimum of two classifications of appraisers: State licensed and state certified. These two designations are appropriate for most States. Some States with a significant quantity of 1-to-4 family residential transactions that are above \$1 million or of a complex nature, however, may want to have a second certification classification called "certified residential appraiser." The AQB on March 27, 1991, approved that designation, and the subcommittee has recognized it. If a State wants to use all three designations, it must develop and implement procedures to insure that each certification type is easily distinguished from the other. This will avoid confusion by appraiser users, regulators, and other interested persons.²²

State Certified General Appraiser

A state certified general appraiser is a person who: (1) Meets at least the minimum criteria for "Certified General Real Property Appraiser," which were adopted by the AQB on March 27, 1991; and (2) passes a state administered examination issued or endorsed by the AQB. The AQB criteria include 165 classroom hours in courses related to specified real estate appraisal matters²³, 2,000 hours of appraisal experience (with at least 50 percent in non-residential appraising) and 10 classroom hours of continuing education course work for each year during the period preceding certification renewal. Additional qualifications may be required by any State or FFIRA and the RTC that considers such qualifications necessary to carry out its responsibilities under title XI.

State Certified Residential Appraiser

A State choosing to establish this certification classification must at a minimum follow the "Certified Residential Real Property Appraiser"

²² The subcommittee is concerned about the potential for confusion and will pay particular attention to designations when reviewing state appraiser regulatory schemes.

²³ The AQB, on March 27, 1991, adopted an Interpretation/Clarification ("IC") of the education criteria that stated: "[C]orrespondence courses are not acceptable to meet the classroom requirement." This IC applies to the AQB's certification requirements and to its licensing recommendations.

A State may recognize credit for course work prior to July 1, 1990, where an appraiser obtains credit for a course through a challenge examination without actually attending the course. It has been common practice for appraisers to obtain education credits through the challenge examination method. An Agency should review the quality of each challenge examination to determine the acceptability of the course for credit. The AQB's certification and licensing criteria recognize this limited acceptability of challenge examinations.

qualifications criteria which were adopted by the AQB on March 27, 1991, and require individuals to pass an examination issued or endorsed by the AQB. The AQB criteria for this classification also include 2,000 hours of appraisal experience and 10 classroom hours of continuing education for each year during the period preceding certification renewal. Until January 1, 1994, 105 classroom hours of real estate appraisal education courses will be needed. After that date, an applicant will need 165 classroom hours of course work, just like a state certified general appraiser.

State Licensed Appraiser

States are free to establish meaningful, not overly restrictive, qualification criteria for licensed appraisers, including education, testing, experience, and continuing education requirements that demonstrate knowledge and competency. If States choose, they may base their licensing standards on the AQB's "Licensed Real Property Appraiser" classification and related ICs, which were adopted by the AQB on March 27, 1991. All States should require persons to pass a meaningful written test before receiving a license. Such a test may be one issued or endorsed by the AQB, but, in any event, should be independently reviewed and validated by a qualified source.²⁴

The Subcommittee considers the AQB's two-year experience recommendation for the "Licensed Real Property Appraiser", *i.e.*, a minimum of 2,000 hours, to be reasonable. It should help ensure that licensed individuals have sufficient appraisal experience.²⁵ Appraisal experience includes, but is not limited to: Fee and staff appraisals, *ad valorem* tax appraisals, review appraisals, appraisal analyses, real estate counseling, highest and best use analyses, feasibility analyses/studies and teaching of appraisal courses. A State, consistent with title XI, may choose to accept real estate related experience, *e.g.*, work as a real estate lending officer or a real estate broker, for some or all of its experience requirement. That type of experience, however, may be recognized only if it includes the actual performance or professional review of real estate

²⁴ The subcommittee believes the AQB's National Uniform Examination Content Outline for Residential Real Property Appraiser represents a useful guide to the States.

²⁵ The subcommittee notes that the time to achieve the necessary hours of experience is treated as cumulative and does not have to be obtained in a set time frame.

appraisals. Each State is expected to adopt adequate procedures to document and verify the experience used to satisfy the requirement.

The subcommittee, likewise, acknowledges that the AQB's education criterion for a "Licensed Real Property Appraiser" reflects meaningful education criteria for licensed appraisers. That standard currently is 75 classroom hours in specific subjects listed in the published criteria. A State may establish other appropriate education requirements, so long as they are consistent with title XI. The subcommittee will review each State's education requirements to ensure that they are meaningful, both as to the breadth of subject matter and length of required study. The subcommittee believes it important that States include continuing education as a licensing requirement. Continuing education should help to ensure that licensed appraisers maintain and enhance their appraisal skills and knowledge. The subcommittee is of the view that the AQB's continuing education recommendation for a licensed real property appraiser, which is 10 classroom hours for each year of the period preceding the renewal of the license, is meaningful and should be adopted by the States.

Transitional Licenses and Certifications

A State may issue transitional licenses to an applicant who has passed the appropriate test, but who lacks either the educational or the experience requirements adopted by the State. Transitionally-licensed appraisers, however, should satisfy the missing requirements within no more than two years after being tested and provisionally licensed by the State. The subcommittee urges each State to limit the issuance of such transitional licenses to the first two years after implementation of its licensing program. Each transitional license should indicate clearly its transitional nature, period of validity, and a non-extendable termination date.

Title XI requires that the States establish certification criteria that, at a minimum, are consistent with the AQB's certification qualifications. At this time, these qualifications compel persons to complete all education requirements before they can take a certification examination.

Other Guidelines

A State should consider the following subcommittee Guidelines when structuring its appraiser regulatory program.

Exemptions and Grandfathering

A State cannot exempt or "grandfather" any individual or group from meeting its certification or licensing criteria. States, however, can carry over an individual or group's existing certification or licensure status, if the person or group satisfies the State's certification or licensing requirements and those requirements are consistent with title XI.

Appraisal Standards

Title XI requires, at a minimum, that real estate appraisals for federally related transactions be performed in accordance with USPAP,²⁶ as adopted by the ASB. Moreover, each FFIRA and the RTC have issued under title XI additional appraisal standards as they deem appropriate.

Written Appraisal Reports

Title XI specifically mandates that all appraisals performed in connection with federally related transactions be in written form.²⁷ The written appraisal must adequately explain the certified or licensed appraiser's opinion of the property's value as of a specific date with a description of the property and presentation of the relevant market information with supporting analysis.

Temporary Practice and Reciprocity

Title XI requires a State appraisal regulatory agency to recognize on a temporary basis the certification or license of an appraiser from another State provided: (1) The property to be appraised is part of a federally related transaction; (2) the appraiser's business is of a temporary nature; and (3) the appraiser registers with the State appraisal regulatory agency in the State of temporary practice.²⁸

The Subcommittee believes that States should not require temporary practitioners to obtain a certification or license in the State of temporary practice. Instead, the State should recognize the certificate or license issued by the individual's State of permanent certification or licensure. A State, however, may establish meaningful and reasonable temporary practice and registration procedures.

²⁶ USPAP was originally released by the Ad Hoc Committee on Uniform Standards of the Appraisal Foundation on April 27, 1987. On January 30, 1989, the ASB established and adopted USPAP as its initial standards. On June 5, 1990, the ASB revised and amended USPAP's Ethics Provision, Preamble and Standards 1 through 5. The FFIRAs and the RTC published these revisions in the *Federal Register* as an appendix to their respective appraisal rules. 55 FR 53610 (December 31, 1990).

²⁷ Title XI, section 1101, 12 U.S.C. 3331; section 1110, 12 U.S.C. 3339; and 1121(10), 12 U.S.C. 3350(10).

²⁸ Title XI, section 1122(a); 12 U.S.C. 3351(a).

These procedures should measure "temporary" by specific appraiser assignments and not by a fixed time period or number of properties to be appraised.²⁹

Other than the temporary practice provisions, no federal requirements exist regarding permanent State reciprocity agreements. The Subcommittee encourages the States to consider permanent reciprocity arrangements to address the needs of appraisers who practice on a non-temporary, multi-state basis.

Prohibition Against Discrimination

Title XI and its legislative history express Congressional intent that certain discriminatory practices be avoided. In particular, Congress was concerned that applicants for licensing and certification might be discriminated against on the basis of membership or non-membership in certain appraisal organizations. Although the prohibition against discrimination provision in Title XI explicitly refers to conduct on the part of federal regulatory agencies,³⁰ the Subcommittee has determined that, under Title XI and its legislative history, such conduct also is inappropriate in the establishment and administration of a State's licensing and certification system. The Subcommittee urges States to adopt legislation or regulations specifically prohibiting such discriminatory practices. The Subcommittee will review the implementation of each State's system to ensure that the system prevents such discriminatory practices.

Codes of Professional Conduct

States should ensure that an appropriate code of professional responsibility is incorporated into their certification and licensing requirements. The States should refer to USPAP, which provides standards for appraiser conduct, management, confidentiality, and record keeping for guidance.

Registry Fees for State Certified or Licensed Appraisers

Each State must transmit to the Subcommittee a roster of individuals who have received State certification or licensure. Further instructions on the transmittal of the State's data on certified and licensed appraisers will be provided at a later time.

Each State also must collect an annual \$25.00 registry fee from each of its

²⁹ A State may choose to charge a reasonable fee for temporary registration.

³⁰ See title XI, section 1122(c); 12 U.S.C. 3351(c).

certified and licensed appraisers³¹ who perform or seek to perform appraisals in federally related transactions and must transmit this fee to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council. If an appraiser is licensed or certified in more than one State, or registry fee is due from each State in which the appraiser is licensed or certified on a non-temporary basis.

Clarifications and Amendments to These Guidelines

These Revised Guidelines will remain the position of the Subcommittee unless later amended by reissuance or clarified through publication of an "Advisory."

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