

Dear Appraisal Subcommittee,

The Michigan Department of Licensing and Regulatory Affairs, Bureau of Commercial Services submits its comments on the Appraisal Subcommittee's Proposed Policy Statements.

First, proposed policy statement 4 requires States verify that an "applicant's claimed education courses are acceptable under AQB Criteria" and that an "applicant has successfully completed courses consistent with AQB Criteria." Additionally, proposed policy statement 7 requires that the person who analyzes complaints for USPAP compliance be knowledgeable about appraisal practice and USPAP. To have the expertise to make those determinations may require State agencies to employ certified general appraisers. This could cause a financial burden on State agencies.

Second, proposed policy statement 5 may be insufficient to fulfill the intent behind reciprocity, to move freely from one jurisdiction to another. The proposed policy statement requires a State to "have a reciprocity policy in place to issue a reciprocal credential if . . . the credentialing requirements of that State (as currently exist) meet or exceed those of the reciprocal credentialing State (as they currently exist)." This would require a State to make a determination on whether or not another State's credentialing requirements meet or exceed its own credentialing requirements. This is an unreasonable burden on State agencies. Additionally, it would allow some States to refuse reciprocity if their standards are higher than those of the home State, even if the home State is in compliance with the ASC. The policy statement should enable a certified or licensed appraiser in one State to obtain a permanent certificate or license from another State, without having to meet all of the other State's certification or licensing standards. For instance, the policy statement could require the other State to honor the appraiser's satisfaction of his or her home standards if the home State is in compliance with the requirements of the ASC.

Third, proposed policy statement 7 requires final administrative decisions regarding complaints be completed within one year (12 months) of the complaint filing date. This is too rigid. An individual has a property right in an occupational license and should be afforded due process when any action is taken regarding that license. There are many factors, outside the control of the agency, that may affect the adjudication process and influence the amount of time it takes to complete the process. We recommend the policy statement be amended to require the investigation and a determination, of whether or not the complaint file will be closed or if additional actions will be taken, be made within 12 months.

Last, the purpose and application of policy statement 8 should be further clarified. Proposed policy statement 8 provides the ASC with authority to "remove a State licensed or certified appraiser from the national registry on an interim basis." It is unclear if this is intended to permit removal of an individual appraiser from the register or if it should refer to removal of all a State's licensed or certified appraisers from the National Registry.



# Illinois Department of Financial and Professional Regulation

## Division of Professional Regulation

PAT QUINN  
Governor

SUSAN GOLD  
Acting Secretary

JAY STEWART  
Director  
Division of Professional Regulation

October 26, 2012

Appraisal Subcommittee  
Lori Schuster  
1401 H Street NW  
Suite 760  
Washington DC 20005

Ladies & Gentlemen;

We appreciate the opportunity to address long standing issues with some of the Policy Statements. Hopefully, other regulators and state boards will take the opportunity to address their own concerns.

### Policy Statement 2A:

This statement still fails to address the number of assignments covered under a Temporary Practice Permit. If it is more than 1 yet less than 10, we'd really like to know.

### Policy Statement 2B:

While I'm certain that the jurisdictions appreciate a *green light* to increase the "Temporary Practice" fees from \$150 to \$250, it still eludes us all as to where the authority came from to impose ANY jurisdictional processing fee upon a jurisdiction when neither the FFIEC nor the ASC ever had a hand in the actual process.

This has *always* been and continues to be a classic unfunded mandate.

### Policy Statement 3D:

*"States should establish routine ways to communicate with each other regarding matters of mutual interest, including the activities and status of persons who are certified or licensed in multiple states."* To this end, the National Registry should be able to collate that data more efficiently. The ASC has the resource; use it more effectively. Don't make the jurisdictions invent another wheel.

### Policy Statement 7:

Timely Enforcement, as defined in the current Policy Statement goes back to a time when caseloads were a fraction of what they *are* today and what they *will be* in the future. For some reason the FFIEC & the ASC labor under the profound misconception that "*investigation and prosecution*" co-exist on the same timeline like an episode of TV's Law & Order.

While there is an emphasis in fair and equitable treatment for appraisers, such treatment is impossible given the impractical rush to judgment that is required under an unrealistic twelve month resolution.

As to the twelve month resolution standard, we'd be interested to know from where such a standard originated. We can't think of a single legal model that serves as the template.

Interestingly, we find that even proposed **Policy Statement 8 – Interim Sanctions**...will not be a twelve-month endeavor.

Caseloads vary from jurisdiction to jurisdiction. Some states may only see 30 to 40 complaints in year while states such as Illinois routinely see 300 to 400. Still, the ASC continues to hold every jurisdiction to the same standard

without regard to *what* or *how* complaints are fielded. We can't even tell how many complaints are actually received by each jurisdiction. The ASC has been compiling this information for decades yet it doesn't appear to be relevant enough to be shared with the public.

- Eleven states require notarized complaints. Illinois does not.
- A number of states will not consider anonymous complaints. Illinois welcomes anonymous submissions.
- Some states have a three-year statute of limitation, many have a five-year statute, while others have none at all.

How can every jurisdiction be fairly and realistically held to such a rigid standard?

Once a case enters the administrative court system any control that a jurisdiction may have had during the investigation phase evaporates.

Due process makes the respondent appraiser a *participant* in the resolution phase. In many cases the respondent is an *unwilling* and *uncooperative* participant. They may or may not have legal counsel. They may ask the court for extensions in which to answer. There are discovery deadlines. There can be amended complaints. New information may emerge. Experts on both sides may need to be engaged. Trial dates are mutually established. Testimony may take a number of days. Judicial delays are a fact of life and in many instances the delays originate with the respondent. Even after a case is sent to the Board for deliberation there can be delays. Delays can emerge in drafting the final order.

For twenty years the ASC has considered a case that has slogged its way through an administrative hearing process over a period of years no better than if the case had languished in an investigation file without any activity at all.

Should a jurisdiction find itself facing an *Interim Sanction* or a *non-recognition* over unsatisfactory enforcement as defined by the ASC, it will be in large measure due to respondent appraisers clogging the state's administrative legal system.

The one-size-fits-all standard to grading every jurisdiction's enforcement program has *never* been based in real world terms. Rather than offer up the same resolution timeframe that it has for the past 20 years, the ASC should directly engage each jurisdiction to learn how cases actually proceed; not how they imagine that they *should* proceed.

Investigation should be given a timeline separate from when a case enters a state's administrative court system.

Respectfully,



Brian Weaver – Appraisal Coordinator  
[Brian.Weaver@illinois.gov](mailto:Brian.Weaver@illinois.gov)  
Illinois Department of Financial and Professional Regulation  
Appraisal Unit  
James R. Thompson Center  
100 West Randolph Street – 9<sup>th</sup> Floor  
Chicago, IL 60601-3220

**From:** Andy Reisser [<mailto:awreisser@gmail.com>]  
**Sent:** Thursday, November 01, 2012 5:01 PM  
**To:** [webmaster@asc.gov](mailto:webmaster@asc.gov)  
**Subject:** Docket Number AS12-16

To Whom it May Concern:

I have a question in regard to

***Title XI***

***TITLE XI—REAL ESTATE APPRAISAL REFORM AMENDMENTS***

***Section 1122 Miscellaneous Provisions***

*(b) RECIPROCITY.--Notwithstanding any other provisions of this title, a federally related transaction shall not be appraised by a certified or licensed appraiser unless the State appraiser certifying or licensing agency of the State certifying or licensing such appraiser has in place a policy of issuing a reciprocal certification or license for an individual from another State when--*

*(1) the appraiser licensing and certification program of such other State is in compliance with the provisions of this title; and*

*(2) the appraiser holds a valid certification from a State whose requirements for certification or licensing **meet or exceed** the licensure standards established by the State where an individual seeks appraisal licensure.*

Is there some clarification or guidance as to what "meet or exceed" means in this case? The nature and intent of the section would seem to dictate that it is the number of hours of experience and education at question, e.g. if the state where I hold a credential requires the same amount of education and experience (or more), it would be understood that my current credentialing state's requirements "meet or exceed." At least, according to the nature and intent of the legislation, it would.

Unfortunately, without clarification, it seems that any state could claim that if education or experience were not gained in the right "place" (whether it be **where** the course work or the experience for licensure was gained), that it does not "meet" the requirements because the hours were not earned in a particular place or **how** (by a particular method)--even if the quality and quantity of the education and experience are approved and considered equivalent, per the AQB. This "loophole" may allow a jurisdiction to evade reciprocity compliance and deny reciprocity of a licensed/certified appraiser, from a compliant jurisdiction, based on the location or delivery method of the education or experience hours--even if it is the same, it was just not in the same place.

The AQB does not explicitly or implicitly discriminate according to the location or delivery method of experience, granting approval based on the quality and quantity of hours that are substantially equivalent, if not exactly the same. All AQB-approved methods of attaining the minimum requirements are considered equivalent, even though not exactly the

same. In essence, each educational and experiential element approved by the AQB is considered to MEET the requirement. Will each jurisdiction be held to the same categorical integrity?

In short, if the number of course hours and experience hours "meet or exceed", will the reciprocal credential be granted, regardless of the locational and/or contextual preference of each state? They should. If not, reciprocity becomes more chaotic than it was before the recent changes. Without clarifying the meaning of "meet or exceed," and closing the loophole, we are reverted to the whimsy of jurisdictional regulators' interpretation of Title XI, which would allow a state to demand that reciprocal applicants resubmit educational credentials, experience logs, test scores, etc. which is antithetical to the nature and intent of the changes to become effective July 2013.

Failure to clarify "meet or exceed" and compel jurisdictions to adhere to the legislative intent of this section, rendering the regulatory relevance of this section of Title XI but a tumbleweed in the "wild west" of jurisdictional legislation.

I eagerly look forward to guidance regarding this matter. July 2012 rapidly approaches.

Regards

--

Andy Reisser