

Clearinghouse Rule 07-098

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION
DEPARTMENT OF REGULATION : AND LICENSING ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 07-)

PROPOSED ORDER

An order of the Department of Regulation and Licensing to amend ch. RL 87, Appendix I, relating to the uniform standards of professional appraisal practice (USPAP) for real estate appraisers.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes interpreted:

Sections 458.24 and 458.26 (3) (b), Stats.

Statutory authority:

Sections 227.11 (2) and 458.24, Stats.

Explanation of agency authority:

The Department of Regulation and Licensing is authorized under ss. 227.11 (2) and 458.24, Stats., to promulgate rules establishing the standards for appraisal practice for licensed and certified appraisers.

Related statutes or rules:

Section RL 86.01 (1) and (2).

Plain language analysis:

In this proposed rule-making order, the Department of Regulation and Licensing proposes to amend ch. RL 87, Appendix I, which incorporates by reference the 2006 edition of the Uniform Standards of Professional Appraisal Practice (USPAP). The department proposes to incorporate by reference the 2008 edition of USPAP.

SECTION 1. The department proposes to amend Appendix I, which incorporates by reference the 2006 edition of the USPAP, to incorporate by reference the 2008 edition of USPAP.

As required under Wis. Stats. § 227.21, the department has obtained the consent of the attorney general to the incorporation of the 2008 edition of USPAP into the rules by reference.

Summary of, and comparison with, existing or proposed federal regulation:

The Federal Institutions Reform, Recovery, and Enforcement Act (“FIRREA”), 12 U.S.C. 3331 et seq., (Title XI) was enacted in 1989. Under FIRREA, insured financial institutions and insured credit unions are required to obtain the services of a state certified or licensed appraiser for appraisals conducted in connection with “federally related transactions.”

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council is authorized under FIRREA to monitor the requirements established by the states for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions. *21 USC 3333; Appraisal Subcommittee – Policy Statements Regarding State Certification and Licensing of Appraisers.*

Under FIRREA, real estate appraisals performed in connection with federally related transactions are required to be performed in accordance with generally accepted appraisal standards as evidenced by the appraisal standards promulgated by the Appraisal Standards Board (ASB) of the Appraisal Foundation. *21 USC 3339; Appraisal Subcommittee – Policy Statements Regarding State Certification and Licensing of Appraisers, Statement 3.*

The appraisal standards promulgated by the ASB are contained in the Uniform Standards of Professional Appraisal Practice (USPAP). USPAP is available on the Appraisal Foundation’s website at: <http://www.appraisalfoundation.org>.

Comparison with rules in adjacent states:

Under FIRREA, all states, including Illinois, Iowa, Michigan and Minnesota, must assure that certified appraisers comply with the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board. In Wisconsin, USPAP has been incorporated by reference in Appendix I to ch. RL 87. See, also, s. 458.24, Stats.

Summary of factual data and analytical methodologies:

No study resulting in the collection of factual data was used relating to this rule. The primary methodology for revising the rule is the department’s and board’s analysis and determination that a rule change is necessary.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:

The proposed rule would change the standards for appraisal practice for licensed and certified appraisers licensed in Wisconsin. There are 839 licensed appraisers, 1,025 residential appraisers, and 650 certified general appraisers who are licensed in Wisconsin and would have to comply with the standards. Of the appraisers in Wisconsin with credentials, a majority of them probably work in small businesses.

Under the Federal Reform, Recovery and Enforcement Act (FIRREA), all states must assure that certified appraisers comply with the Uniform Standards of Appraisal Practice that are promulgated by the Appraisals Standards Board. This will be the latest update of practice standards and will not have an effect on small business.

Section 227.137, Stats., requires an “agency” to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an “agency” in this section.

Anticipated costs incurred by private sector:

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal estimate:

The department estimates that the proposed rule will have no significant fiscal impact.

Effect on small business:

These proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at larry.martin@drl.state.wi.us, or by calling (608) 266-8608.

Agency contact person:

Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935; telephone (608) 266-0495; email pamela.haack@drl.state.wi.us.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email at pamela.haack@drl.state.wi.us.

Comments must be received on or before November 22, 2007, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Ch. RL 87, Appendix I is amended to read:

Chapter RL 87

APPENDIX I

UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE

The ~~2005~~ 2008 edition of the Uniform Standards of Professional Appraisal Practice (USPAP) is hereby incorporated by reference into this Appendix. The ~~2005~~ 2008 edition of USPAP is effective January 1, ~~2005~~ 2008 to ~~June 30, 2006~~ December 31, 2009.

After January 1, ~~2005~~ 2008, copies of the ~~2005~~ 2008 edition of USPAP may be purchased from the Appraisal Standards Board of the Appraisal Foundation, 1155 15th Street, N.W., Suite 1111, Washington, D.C. 20005, and (202) 347-7722. After January 1, ~~2005~~ 2008, copies of the ~~2005~~ 2008 edition of USPAP may also be obtained, at no charge, from the Appraisal Foundation's website at <http://www.appraisalfoundation.org>. ~~The direct link to the electronic copy of the 2005 and prior year publications of the Uniform Standards of Professional Appraisal Practice is:~~
~~http://www.appraisalfoundation.org/html/standards.asp?FileName=current_uspap.~~

~~The 2006 edition of the Uniform Standards of Professional Appraisal Practice (USPAP) is hereby incorporated by reference into this Appendix. The 2006 edition of USPAP is effective July 1, 2006 to December 31, 2007.~~

~~After July 1, 2006, copies of the 2006 edition of USPAP may be purchased from the Appraisal Standards Board of the Appraisal Foundation, 1155 15th Street, N.W., Suite 1111, Washington, D.C. 20005, (202) 347-7722. After July 1, 2006, copies of the 2006 edition of USPAP may also be obtained, at no charge, from the Appraisal Foundation's website at: <http://www.appraisalfoundation.org>.~~

Note: As required under s. 227.21, Stats., the attorney general ~~and~~ revisor of statutes ~~have~~ has consented to the incorporation by reference of the ~~2005 and the 2006 editions~~ 2008 edition of the Uniform Standards of Professional Appraisal Practice. Copies of the ~~2005 and the 2006 editions~~ 2008 edition of the USPAP will be on file in the offices of the department, the secretary of state and the revisor of statutes.

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated: _____ Agency _____
Celia M. Jackson, Secretary
Department of Regulation and Licensing

Ch. RL 87 CR07- (Appendix I - USPAP) Draft to CH 10-18-07