

PROPOSED RULEMAKING

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 32]

[L-2017-2604692]

Minimum Insurance Requirements for Motor Carriers of Passengers

The Pennsylvania Public Utility Commission (Commission), on February 8, 2018, adopted a proposed rulemaking order to amend § 32.11 to increase the minimum required insurance on passenger carriers of less than 16 passengers from \$30,000 for bodily injury and \$5,000 for property damage (\$35,000 split coverage) to \$100,000 for bodily injury and \$25,000 for property damage (\$125,000 split coverage).

Executive Summary

Commission regulation requires motor carriers utilizing vehicles capable of transporting fewer than 16 passengers to maintain at least \$35,000 in “split coverage,” of up to \$30,000 for bodily injury/death (up to \$15,000 per person) and up to \$5,000 for property damage. 52 Pa. Code § 32.11. This amount is much lower than the minimum insurance requirements on passenger carriers capable of transporting fewer than 16 passengers in Maryland, Michigan, New York, Ohio, and federal/interstate jurisdiction. It is also lower than the minimum insurance requirements for Transportation Network Company vehicles. See 66 Pa.C.S. § 2603.1. The Commission believes that the minimum insurance requirement for passenger carriers in the Commonwealth, operating vehicles capable of transporting fewer than 16 passengers, should be raised to \$125,000 split coverage consisting of up to \$100,000 for bodily injury/death per accident (up to \$50,000 per person) and up to \$25,000 for property damage. The Commission believes this increased insurance coverage better protects the public and is in the public interest.

Public Meeting held
February 8, 2018

Commissioners Present: Gladys M. Brown, Chairperson; Andrew G. Place, Vice Chairperson; Norman J. Kenard; David W. Sweet; John F. Coleman, Jr.

*Rulemaking Pertaining to Minimum Insurance
Requirements for Motor Carriers of Passengers,
52 Pa. Code Chapter 32; L-2017-2604692*

Proposed Rulemaking Order

By the Commission:

The Pennsylvania Public Utility Commission (Commission) proposes to amend its regulations governing minimum insurance coverage requirements for motor carriers of passengers. 52 Pa. Code Chapter 32. By way of background, on June 14, 2017, the Commission entered an Advanced Notice of Proposed Rulemaking Order wherein we invited comments on certain existing motor common carrier regulations that may need to be updated or revised in response to changing market conditions. These proposals would be in addition to the changes previously approved by the Commission in Temporary Regulations

for the Taxi and Limousine Industries at Docket No. L-2016-2556432.¹

Specifically, we sought comments in this proceeding concerning the following areas: fuel surcharge; fines and assessments; provisional authority; web-based training; motor-carrier insurance; safety code for transportation of property and passengers; policy statements found at Chapter 41 of our regulations; property carrier regulation, group and party carrier regulation; and any other issues commentators deemed relevant.

The Commission received comments from BestDarnMovers, Clarion County Taxi, Safe Transportation Group, Pennsylvania Moving and Storage Associates, Pennsylvania Bus Association, Billtown Cab, K-Cab, Suburban Transit Network, Willow Grove Yellow Cab, Easton Coach Company, Tri-County Transit Service, Bucks County Transport, Rasier-PA LLC, and Robert Ely (collectively “Commentators”). Having reviewed the comments, the Commission now proposes to amend the minimum insurance coverage requirements for motor common carriers of passengers at 52 Pa. Code § 32.11. However, before addressing this regulatory proposal, we will discuss the comments received to the advanced notice of proposed rulemaking.

A. Advanced Notice of Proposed Rulemaking

Commentators provided comments on the following topics, which we address ad seriatim:

1. Fuel Surcharge

Some commentators suggested that a fuel surcharge should be applied to other carriers in addition to household goods carriers, which is the only carrier group which has a fuel surcharge currently established. See Fuel Cost Recovery Surcharge Special Permission, Docket No. SP-28207 (Order entered April 17, 2003) and Extension of the Fuel Cost Recovery Surcharge Special Permission 28207, Docket No. R-2009-2094616 (Order entered May 4, 2017). Commentators submitted that monthly tariff adjustments to reflect fuel price changes are difficult and costly for the Commission and carriers to implement. Commentators recommended that we should consider quarterly adjustments for the Commission to publish so each carrier could incorporate it into their individual tariff on one day’s notice. One commentator also suggested that the fuel surcharge on household goods carriers should stay the same because it directly affects operating costs. Finally, there was a comment recommending that the Commission should allow a flexible tariff to allow the use of a surcharge as needed.

The Commission notes that it has recently implemented tariff regulations for limousine and taxi carriers, allowing those industries greater flexibility. See Temporary Regulation for Taxi and Limousine Industries, Docket No. L-2016-2556432 (Order entered December 23, 2016). The Commission believes that limousine and taxi carriers have sufficient flexibility in setting rates to account for market factors without having to add a specific fuel surcharge. Additionally, other carrier types such as paratransit, airport transfer, and scheduled route carriers, did not request any change to the Commission’s regulations to account for fuel pricing. Therefore, the Commission declines to implement a regulation providing for a fuel surcharge.

¹ Those temporary regulations addressed, inter alia, use of electronic log sheets, use of driver owned or leased vehicles, flexible tariff rates. Pursuant to Act 164 of 2016, amending Act 85 of 2016, the temporary regulations will expire upon the promulgation of final-form regulations or November 4, 2018 whichever is later. As such, absent a new rulemaking on these topics, these temporary regulations remain in place and are enforceable.

2. Fines and Assessments

Commentators recommended that the Commission enhance its means to collect fines by other means such as wage garnishment and liens. One commentator proposed that the Commission institute a “diamond system” like the Taxi and Limousine Commission in New York City. It was suggested that every motor carrier should be required to register with the Commission and receive a “diamond” for each vehicle indicating they have paid their assessment and met other requirements.

In the Commission’s judgment, sufficient measures are currently in place to ensure fine and assessment collection, and no change needs to be made. We do not have a significant delinquency issue regarding fines and assessments. The total delinquent amount for fines on taxi and limousine service in 2017 was \$19,062, and the total delinquent assessments for taxi and limousine service for 2017-2018 was \$351,785. The Commission will pursue satisfaction of these delinquencies through available tools, up to and including cancellation of carrier certificates of public convenience. Additionally, the “diamond system” proposed is not feasible since the Commission does not certificate motor common carriers on a per-vehicle basis. Furthermore, implementing such a system would be costly and cumbersome. Given that the current collection process is sufficient, we decline to adopt this proposal.

3. Provisional Authority

The Commission received one comment from a household goods carrier suggesting provisional authority to allow applicants to operate during the pendency of the application process, asserting that protests only serve to protect monopoly interests of certificated movers. In contrast, several commentators noted that provisional authority should not be granted. They opined that provisional authority would allow applicants with poor safety records, inadequate financial capability, and lack of operational experience to prey upon the public. It was also recommended that provisional authority should not be granted until the process for certification is complete. One commentator recommended that the Commission should adopt a “conditional” status to accommodate single-vehicle operators upon which permanent authority can be granted after an operator satisfies all conditions. It was suggested that if the Commission were to adopt provisional authority, a very high burden on the applicant should be imposed to demonstrate that provisional authority is in the public interest.

The Commission has regulations in place governing emergency temporary authority and temporary authority.² See 52 Pa. Code § 3.383. Those regulations permit service while an application for permanent authority is pending. We believe that these provisions allow sufficient flexibility to provide immediate transportation during the pendency of an application for permanent authority, while ensuring those services are provided safely. Significantly, no protests are permitted to an application for emergency temporary authority. Additionally, since we no longer allow protests on the basis of lack of public need applications for permanent authority should be much less cumbersome. See Final Rulemaking Amending 52 Pa. Code Chapters 1, 3, 5, 23 and 29, Docket No. L-2015-2507592 (Order entered October 27, 2016). Under these circumstances, we decline to propose new regulations providing

² Our authority to grant temporary authority stems from Section 1103 of the Public Utility Code. 66 Pa.C.S. § 1103. There is no provision in the Code governing provisional authority. Temporary authority is available in an emergency situation, which is defined as “[a] situation which presents a clear and present danger to life or property or which is uncontested and requires action prior to the next scheduled public meeting.” 52 Pa. Code § 3.1.

for provisional authority, since our current processes provide adequate flexibility to respond to immediate transportation needs.

4. Web-Based Training

Commentators suggested that web-based training should be provided to include skill-based programs for stakeholders. The topics recommended were:

- How to register for intrastate operating authority (the steps a carrier should take, including who to contact, forms, cost, etc.);
- The responsibility of a motor carrier when an accident occurs;
- What a carrier can expect from a roadside/destination stop;
- A primer on Commission and FMCSA Regulations (including a discussion as to how the Commission regulations compare to the FMCSA regulation);
- Commission motor carrier compliance issues, including the scheduling of inspections by Commission enforcement officers; and
- Training that condenses the motor carrier regulations that are applicable to the charter bus industry.

The Commission believes that web-based training can serve as a benefit to motor common carriers. However, we believe that web-based training should be voluntary and administered through the Bureau of Technical Utility Services and Bureau of Investigation and Enforcement. Therefore, we decline to propose regulations making web-based training mandatory. Rather, we plan to develop current training modules that will be available to the industry to enhance service.

5. 52 Pa. Code Chapter 32—Motor Carrier Insurance

Several commentators suggested that the current minimum insurance coverage limits are very low given the level of potential liability for property damage and bodily injury that can be incurred in motor carrier accidents and, therefore, that the Commission should look at the minimum limits required by other state and local agencies to determine appropriate coverage limits. Commentators submitted that most states require minimum coverages of \$1 million (and up to \$5 million). However, one commentator suggested that any cost increase on motor common carriers occasioned by higher mandated insurance levels would cripple existing conventional carriers and hurt rural and suburban carriers, except for TNCs. Another commentator suggested that the insurance minimum should not increase on vehicles that transport more than 28 passengers unless the Commission conducts a study that demonstrates that an increase would benefit the public safety and is in the public interest.

With respect to how proof of insurance is tendered to the Commission, it was recommended that only insurance carriers should be permitted to file the Form E certificate with the Commission to avoid fraud. Commentators also argued that Form E requirements should remain the same so that motor carriers cannot misrepresent their coverage. Commentators stated that changing this rule would abrogate important oversight, and advised that the Commission should check other jurisdictions on whether carriers are permitted to self-file their own Form E.

We believe that the current procedure requiring insurers to file Form E certificates directly with the Commission does not require any changes. However, appropriate insurance levels should be addressed in a rulemaking and we will do so herein.

6. *52 Pa. Code Chapter 37—Safety Code for Transportation of Property and Passengers*

The Commission received comments pertaining to the Safety Code for Transportation of Property and Passengers. One commentator recommended that the safety regulations should not depart from the FMCSA regulations to keep the riding public safe. A comment was also made with respect to TNC safety, suggesting that TNC drivers should be given an online test on applicable regulations and that a separate license should be issued to TNC drivers.

The Commission will not propose any changes to the safety code for transportation of property and passengers. We note that the Commission's regulations already incorporate the safety regulations from the FMCSA. See 52 Pa. Code § 37.204. We also note that Act 164 has expressly stated that a separate license may not be required for a TNC driver and the Commission cannot require a separate TNC driver license. See 66 Pa.C.S. § 2605. Therefore, we will not propose any changes to Chapter 37.

7. *52 Pa. Code Chapter 41—General Orders, Policy Statement and Guidelines on Transportation Utilities*

A few Commentators suggested that current guidelines offer little in terms of concrete metrics for reviewing applications. Other Commentators, however, believe that existing fitness guidelines should remain in effect and be administered according to the Public Utility Code.

The Commission is currently addressing its policy statement at 52 Pa. Code § 41.14 at Docket No. M-2017-2629722, to reflect the change in evidentiary criteria that motor carrier applicants are required to present to the Commission for a certificate of public convenience. Further, we believe there is sufficient information to guide applicants in the policy statement concerning motor carrier application criteria. There is a necessary flexibility attached to those criteria, evidencing that applicants do not lend themselves to a "one-size-fits-all approach." Therefore, we decline to address those guidelines at this time.

8. *P-00940884; Regulation of Property Carriers, And P-00981458; Regulation of Group and Party Carriers*

The Commission did not receive any comments on regulations at dockets P-00940884 or P-00981458. Accordingly, the Commission will not make any updates or changes with respect to these dockets.

B. Rulemaking

The Commission has considered all the comments it received at this docket and will open a rulemaking to consider appropriate insurance requirements for passenger motor carriers. 52 Pa. Code § 32.11.

The Commission's regulation at Section 32.11 currently provides:

§ 32.11. Passenger carrier insurance.

(a) A common carrier or contract carrier of passengers may not engage in intrastate commerce and a certificate or permit will not be issued, or remain in force, except as provided in § 32.15 (relating to applications to self-insure) until there has been filed with and approved by the Commission a certificate of insurance by an insurer authorized to do business in this Commonwealth, to provide for the payment of valid accident claims against the insured for bodily injury to or the death of a person, or the loss of or damage to property of others resulting from the

operation, maintenance or use of a motor vehicle in the insured authorized service.

(b) The liability insurance maintained by a common or contract carrier of passengers on each motor vehicle capable of transporting fewer than 16 passengers shall be in an amount not less than \$35,000 to cover liability for bodily injury, death or property damage incurred in an accident arising from authorized service. The \$35,000 minimum coverage is split coverage in the amounts of \$15,000 bodily injury per person, \$30,000 bodily injury per accident and \$5,000 property damage per accident. This coverage shall include first party medical benefits in the amount of \$25,000 and first party wage loss benefits in the amount of \$10,000 for passengers and pedestrians. Except as to the required amount of coverage, these benefits shall conform to 75 Pa.C.S. §§ 1701—1799.7 (relating to Motor Vehicle Financial Responsibility Law). First party coverage of the driver of certificated vehicles shall meet the requirements of 75 Pa.C.S. § 1711 (relating to required benefits).

(c) The liability insurance maintained by a common or contract carrier of passengers on each motor vehicle capable of transporting 16 to 28 passengers shall be in an amount not less than \$1 million to cover liability for bodily injury, death or property damage incurred in an accident arising from authorized service. Except as to the required amount of liability coverage, this coverage shall meet the requirements of 75 Pa.C.S. §§ 1701—1799.7.

(d) The liability insurance maintained by a common or contract carrier of passengers on each motor vehicle capable of transporting more than 28 passengers shall be in an amount not less than \$5 million to cover liability for bodily injury, death or property damage incurred in an accident arising from authorized service. Except as to the required amount of liability coverage, this coverage shall meet the requirements of 75 Pa.C.S. §§ 1701—1799.7.

(e) The limits in subsections (b)—(d) do not include the insurance of cargo.

The last time the Commission amended Section 32.11 was on May 11, 2000. Rulemaking Re: Passenger Carrier Insurance Regulation to Clarify Coverage Requirements 52 Pa. Code § 32.11, Docket No. L-00970124 (Order May 11, 2000). The Independent Regulatory Review Commission noted that the minimum requirement of \$35,000 per accident may be inadequate coverage for passenger carriers of less than 16 passengers. *Id.* at 3. We addressed this comment and reasoned that:

in addition to ensuring that the public is adequately covered in the event of an accident, the Commission must also take into consideration the high cost of insurance for taxicab companies. We are mindful that our goal is not to make getting and maintaining insurance an insurmountable burden on taxicab companies. We must balance the interest of protecting the public with the interests of making it financially feasible for taxicab companies to continue providing adequate, safe and reasonable service to the public.

Id. at 3-4.

Given the concerns that \$35,000 split coverage per accident may be insufficient and that the Commission received comments suggesting the minimum insurance coverage is insufficient the Commission opens a rulemaking to consider increasing this amount. The Commission has reviewed the minimum liability insurance limits

in Maryland, Michigan, New York, and Ohio as well as federal requirements for motor common carriers of passengers.

Based on that review, it is apparent that the minimum liability insurance limits for motor common carriers of passengers with a capacity under 16 passengers in the Commonwealth is significantly lower by comparison to these jurisdictions. In Maryland, passenger carriers of seven passengers or less are required to have at least a \$120,000 combined single limit liability insurance policy. See Md. Code Regs. 20.95.01.18. Passenger carriers in Michigan with a seating capacity under nine passengers requires at least a \$300,000 combined single limit liability insurance policy. Mich. Comp. Laws Ann. § 257.2121 (West). In New York, passenger carriers carrying less than 12 passengers under the jurisdiction of the New York Department of Transportation are required to maintain at least \$100,000 for personal injury or death to one person, \$300,000 for personal injury or death to all persons in one accident with a maximum of \$100,000 for each person; and property damage in the amount of \$50,000. N.Y. Comp. Codes R. & Regs. Title 17, § 750.1. The Public Utilities Commission in Ohio directs its motor common carriers to maintain liability insurance on vehicles with a capacity of less than 16 passengers in the amount of \$1.5 million. Ohio motor common carriers with a seating capacity of 16 or more passengers are required to maintain at least \$5 million in liability insurance. Ohio Admin. Code 4901:2-13-03. Finally, the federal regulations provide that any motor common carrier operating vehicles with a passenger capacity less than 16 (except for taxis that can carry up to seven passengers) must have at least \$1.5 million in liability insurance. Motor common carriers under federal jurisdiction with passenger capacity of 16 or more must have at least \$5 million in liability insurance. 49 C.F.R. § 387.31.

Considering other jurisdictions' requirements for liability insurance on motor common carriers of passengers, the Commission believes it is in the public interest that the minimum level of liability insurance for motor common carriers of passengers operating vehicles with a capacity of less than 16 passengers should be raised to \$100,000 for bodily injury and \$25,000 for property damage. This amount of minimum required liability insurance will ensure that the public is adequately protected in the event of an accident while not imposing an insurmountable burden on passenger carriers operating smaller vehicles. We propose that this coverage amount will be split coverage of \$50,000 for death or bodily injury per person, \$100,000 for death or bodily injury per incident, and \$25,000 for property damage. Additionally, we propose maintaining current first party medical benefits of \$25,000 and first party wage loss benefits of \$10,000 for passengers and pedestrians. We note that this proposed coverage is consistent with coverage amounts and types required for vehicles used in transportation network service that are available for service but not engaged in a ride.

Finally, we do not propose any changes to the current insurance requirements for motor carriers operating vehicles with seating capacities of 16 passengers or more. As noted, those limits are \$1 million for carriers transporting 16 to 28 passengers and \$5 million for carriers transporting over 28 passengers.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on June 22, 2018, the Commission submitted a copy of this proposed rulemaking and a copy

of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Consumer Affairs Committee and the Senate Consumer Protection and Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Commission, the General Assembly and the Governor of comments, recommendations or objections raised.

Accordingly, under sections 501, 512 and 2502 of the Public Utility Code (66 Pa.C.S. §§ 501, 512 and 2502) sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2 and 7.5; section 204(b) of the Commonwealth Attorneys Act (71 P.S. § 732.204(b)); section 5 of the Regulatory Review Act (71 P.S. § 745.5); and section 612 of The Administrative Code of 1929 (71 P.S. § 232), and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231—7.234, we propose adopting the regulation set forth in Annex A; *Therefore,*

It Is Ordered That:

1. A rulemaking be opened to consider the regulations set forth in Annex A.
2. The Law Bureau shall submit this rulemaking order and Annex A to the Office of Attorney General for review as to form and legality and to the Governor's Budget Office for review of fiscal impact.
3. The Law Bureau shall submit this rulemaking order and Annex A for review and comments to the Independent Regulatory Review Commission and the Legislative Standing Committees.
4. The Law Bureau shall deposit this rulemaking order and Annex A with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.
5. Original written comments referencing Docket Number L-2017-2604692 be submitted within 30 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn: Secretary, Commonwealth Keystone Building, 2nd Floor, 400 North Street, Harrisburg, PA 17120.
6. A copy of this rulemaking order and Annex A shall be served on the Commission's Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Office of Small Business Advocate.
7. The contact person for legal matters on this rulemaking is Joseph P. Cardinale, Jr., Assistant Counsel, Law Bureau, (717) 787-5558. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Alyson Zerbe, Regulatory Review Coordinator, Law Bureau, (717) 772-4597.

ROSEMARY CHIAVETTA,
Secretary

Fiscal Note: 57-320. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart B. CARRIERS OF PASSENGERS OR PROPERTY

CHAPTER 32. MOTOR CARRIER INSURANCE

Subchapter B. INSURANCE REQUIREMENTS

§ 32.11. Passenger carrier insurance.

* * * * *

(b) The liability insurance maintained by a common or contract carrier of passengers on each motor vehicle capable of transporting fewer than 16 passengers [shall] **must** be in an amount not less than [\$35,000] **\$125,000** to cover liability for bodily injury, death or property damage incurred in an accident arising from authorized service. The [\$35,000] **\$125,000** minimum coverage is split coverage in the amounts of [\$15,000] **\$50,000** bodily injury per person, [\$30,000] **\$100,000** bodily injury per accident and [\$5,000] **\$25,000** property damage per accident. This coverage [shall] **must** include first party medical benefits in the amount of \$25,000 and first party wage loss benefits in the amount of \$10,000 for passengers and pedestrians. Except as to the required amount of coverage, these benefits [shall] **must** conform to 75 Pa.C.S. §§ 1701—1799.7 (relating to Motor Vehicle Financial Responsibility Law). First party coverage of the driver of certificated vehicles [shall] **must** meet the requirements of 75 Pa.C.S. § 1711 (relating to required benefits).

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[Pa.B. Doc. No. 18-1032. Filed for public inspection July 6, 2018, 9:00 a.m.]

STATE BOARD OF CERTIFIED
REAL ESTATE APPRAISERS

[49 PA. CODE CH. 36]

Federally-Mandated Revisions

The State Board of Certified Real Estate Appraisers (Board) proposes to amend Chapter 36 to read as set forth in Annex A.

Effective Date

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

Purpose

This proposed rulemaking would amend and clarify requirements regarding applications, initial education, experience, examinations, continuing education and supervisory appraiser experience to be consistent with Federal criteria that are binding on the Board under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (Pub.L. No. 101-73, 103 Stat. 183) (12 U.S.C.A. §§ 3331—3356).

Statutory Authority

Section 5(1) of the Real Estate Appraisers Certification Act (act) (63 P.S. § 457.5(1)) authorizes the Board to pass upon the qualifications and fitness of applicants for

certification or licensure and to adopt and revise rules and regulations requiring applicants for certification to pass examinations regarding qualifications for certification. Section 5(2) of the act authorizes the Board to adopt and revise rules and regulations as may be necessary to carry out the act. Under section 6 of the act (63 P.S. § 457.6), the Board is authorized to issue certificates to real estate appraisers who meet the minimum education and experience criteria established by the Appraiser Qualifications Board (aqb) of The Appraisal Foundation under FIRREA. The aqb publication establishing the minimum education, experience, examination and continuing education requirements for real property appraisers is *The Real Property Appraiser Qualification Criteria* (aqb Qualification Criteria).

The act of July 7, 2016 (P.L. 474, No. 72) (Act 72) amended the act to implement Federally-mandated minimum qualification criteria, including minimum requirements for licensed appraiser trainees. Additionally, section 4 of Act 72 added section 10(b.2) of the act (63 P.S. § 457.10(b.2)), which provides that licensed appraiser trainees are subject to the same continuing education requirements for licensure renewal as residential and general appraisers. Thus, licensed appraiser trainees shall comply with the aqb Qualification Criteria for continuing education.

Description of this Proposed Rulemaking

This proposed rulemaking would incorporate the mandated Federal amendments, including updates for college education, supervisory appraiser criteria and continuing education for licensed appraiser trainees. This proposed rulemaking would also require applicants to submit an official criminal history record information check.

Historically, the Board has promulgated regulations by adopting the aqb Qualification Criteria almost verbatim in the regulations. The Board has determined that having two separate standards (the aqb Qualification Criteria and the regulations that restate the minimum qualification criteria) causes confusion among licensees and is difficult for the Board to administer. When Federal law changes or the aqb evaluates and modifies its minimum qualification criteria, the regulations are not immediately reflective of the new aqb Qualification Criteria because the Board must amend its regulations. In January 2015, the aqb updated its minimum qualification criteria, which included changes in education criteria. Shortly after the new criteria were adopted, the aqb began entertaining potential areas of change to the criteria. After issuing a concept paper, having a public hearing and issuing several versions of exposure drafts proposing changes to the criteria, the aqb modified again the minimum criteria for certification of real property appraisers, which included changes in education and experience criteria that were effective May 1, 2018. Thus, this proposed rulemaking implements the May 1, 2018, minimum qualification criteria. Given the foregoing, the Board determined that it is more efficient and prudent to adopt and incorporate the aqb Qualification Criteria by reference, when practicable. By adopting and incorporating the aqb Qualification Criteria by reference, the Board will eliminate the need to amend its regulations when the aqb updates or modifies the minimum qualification criteria. When the Board wishes to maintain or propose regulations that are more stringent than the Federal minimum standards, this proposed rulemaking would adopt the aqb Qualification Criteria by reference, but would also maintain or propose the Board's more stringent standards.

The Board has incorporated another Federal standard by reference in the same way the Board proposes to adopt the AQB Qualification Criteria in this proposed rulemaking. In § 36.51 (relating to compliance with USPAP), the Board adopted by reference The Uniform Standards of Professional Appraisal Practice (USPAP) promulgated by the Appraisal Standards Board of The Appraisal Foundation.

The Board will take steps to ensure that its licensee population has easy access to the AQB Qualification Criteria. In addition to providing The Appraisal Foundation web site in this proposed rulemaking, the Board will place a link on its web site to The Appraisal Foundation and the AQB Qualification Criteria.

§ 36.1. Definitions

The Board proposes six amendments to § 36.1 (relating to definitions). The Board proposes amendments to the definition of “AQB”—to provide additional information regarding the role of the AQB in establishing the minimum education, experience, examination and continuing education requirements for appraisers. The Board proposes to add a definition of “AQB Qualification Criteria” because the Board proposes adopting this criteria by reference throughout this proposed rulemaking. The Board also proposes to add a definition of “ASC.” The Board proposes an amendment to the definition of “Board” to clarify that the Board operates within the Bureau of Professional and Occupational Affairs in the Department of State. The Board proposes to add “[e]xcept as otherwise required by the AQB Qualification Criteria” to the definition of “distance education.” Because FIRREA requires real estate appraisers and licensed appraiser trainees to adhere to the AQB Qualification Criteria for distance education, the Board proposes to add this phrase to ensure that licensees understand that they are also required to adhere to the AQB Qualification Criteria in addition to the act and Chapter 36, Subchapter A (relating to general provisions).

The Board also proposes to add a definition of “in good standing” because proposed amendments to § 36.54 (relating to duties of supervisory appraiser) include a requirement that the supervisor be in good standing for at least 3 years immediately preceding the supervisory appraiser’s notification to the Board. For that reason, the Board finds it necessary to clarify what it means to be “in good standing.”

§ 36.2. Application process

Application form

The Board proposes to reformat and make three amendments to § 36.2(a) (relating to application process) to clarify the Board’s requirements for applications. The Board proposes to amend § 36.2(a) by requiring an official criminal history record information check from the State Police or other state agency for every state in which the candidate has lived or worked during the past 5 years. Under section 6(c) of the act, the Board is required to determine whether all applicants are of “good moral character.” Under section 11(a) of the act (63 P.S. § 457.11(a)), the Board is authorized to deny an application for certification or licensure, or limit or restrict a license or certification for being convicted of or pleading guilty to crimes substantially related to the qualifications, functions and duties of a person developing real property appraisals and communicating real property appraisal to others. Under section 5(11) of the act, to the extent required by standards and regulations for the qualifications of appraisers promulgated under FIRREA, the

Board may consider criminal history record information of convictions and arrests that do not result in a conviction. Additionally, section 6(c)(3) the act requires applicants for certification and licensure to satisfy requirements for dissemination to the Board of criminal history record information required by the AQB Qualification Criteria.

Effective January 1, 2017, the AQB Qualification Criteria requires background checks for all applicants for a real property appraiser credential to determine whether the applicants possess a background that would call into question public trust. In implementing the required background check, the Board is required to obtain sufficient information and documentation to determine applicants’ fitness for licensure or certification. Under the 2017 amendments to the AQB Qualification Criteria, applicants are not eligible for a real property appraiser credential if, during at least the 5-year period immediately preceding the date of the application for licensing or certification, the applicant has been convicted of or pled guilty or nolo contendere to a crime that would call into question the applicant’s fitness for licensure. Thus, it is imperative under the act and the Federal standards to obtain criminal history record information for applicants to determine criminal history, good moral character and fitness for licensure or certification. The Board determined that requiring the official criminal history record information check will enable the Board to meet its State and Federal obligations.

The Board proposes to amend subsection (a) by adding a provision that applicants shall satisfy all the requirements for licensure or certification, including the requirements set by the AQB Qualification Criteria. Including this provision in the application process will put applicants on notice that applications must contain sufficient information to show compliance with all of the requirements for licensure or certification.

The Board further proposes to amend subsection (a) by deleting the requirement to submit notarized applications. Until recently, the notarization requirement was required under section 6(c) of the act. Act 72 amended the act and this requirement was deleted.

Application fee

The Board proposes to reformat and make one amendment to § 36.2(b) to clarify application procedures. The Board proposed to add electronic payment as an acceptable method for payment of application fees. The Bureau of Professional and Occupational Affairs has the technical capability to accept electronic payments and encourages licensees to use the electronic payment option.

Approved applications

The Board proposes to reformat and amend § 36.2(c)(1) to clarify the effect of approval of the application. Proposed paragraph (2) clarifies that an approval by the Board of an application for licensed appraiser trainee, certified residential real estate appraiser and certified general real estate appraiser under section 7 of the act (63 P.S. § 457.7), pertaining to reciprocity, shall constitute approval to issue a license or certificate to the applicant.

Disapproved applications

The Board proposes to reformat and make minor amendments to § 36.2(d) to clarify procedures regarding disapproved applications.

Compliance with new requirements

The Board proposes throughout this proposed rulemaking to incorporate the AQB Qualification Criteria by

reference with respect to applicants for certification as residential real estate appraisers, certification as general real estate appraisers and licensure as appraiser trainees. Additionally, § 36.2(e) currently requires compliance with any increased education or experience requirements that take effect between the applicant's filing of an initial application and the applicant's passing the certification examination, except as otherwise provided by §§ 36.11 and 36.12 (relating to qualifications for certification as residential real estate appraiser; and qualifications for certification as general real estate appraiser). For consistency and clarification, the Board proposes to amend § 36.2(e) to clarify that applicants for appraiser trainees shall comply with any increased education requirement, except as otherwise provided in § 36.12a (relating to qualifications for licensure as appraiser trainee) or as required by the AQB Qualification Criteria. The Board also proposes to reformat § 36.2(e) for clarity.

§ 36.3. Examinations

The Board proposes to make minor amendments to this section to clarify the required examinations. The Board proposes to delete the name of the examination and proposes a more general approach, without a specific name of an examination. Thus, if the name of the examination changes in the future, the Board will not have to make further amendments. The current and proposed regulation require the AQB-approved National examination for certification. Therefore, the proposed amendment does not substantively change the examination requirements. Additionally, the Board proposes to delete the web site address. The web site address is readily available and accessible to licensees.

§ 36.11. Qualifications for certification as residential real estate appraiser

Overview

The Board proposes to reformat and amend § 36.11(a) to clarify the requirements for certification. The Board proposes to amend subsection (a) by specifically requiring that applicants for certification as a residential real estate appraiser satisfy all the requirements set by the AQB Qualification Criteria. The Board also proposes to delete the following sentence from § 36.11(a): "Neither a real estate salesperson's license nor a real estate broker's license issued under the Real Estate Licensing and Registration Act (63 P.S. § 455.101—455.902) is a prerequisite to certification as a residential real estate appraiser." The Board proposes to delete this sentence because it is not necessary to indicate that other licenses are not a prerequisite to licensure. The act and the regulations clearly set forth what criteria are required for certification as a residential real estate appraiser. Thus, this information is superfluous.

Appraisal classroom hours

The Board proposes to amend § 36.11(b) to require applicants for certification as a residential real estate appraiser to submit evidence showing completion of the classroom hours required by the AQB as of the date of the application. Because the current regulation, which requires 200 classroom hours, is the same requirement as the AQB Qualification Criteria for classroom hours, this proposed rulemaking does not make a substantive change to the classroom hours required for certification. The Board's purpose in proposing this amendment is to incorporate the Federally-mandated minimum qualification criteria by reference. Incorporating the AQB Qualification Criteria by reference will alleviate future need to amend its regulations when the AQB modifies or updates its

minimum qualification criteria regarding classroom hours. The Board also proposes deletion of the provision that provides an exception for applicants who submitted applications prior to January 1, 2013, because this date has passed, and applicants are no longer eligible to apply for certification under this provision.

Length of classroom hour requirement

The Board proposes to amend the heading of § 36.11(b)(1) from "Length of classroom hour requirement" to "Length of classroom hour and courses; course examination requirement" to more accurately describe the scope of this paragraph. The Board proposes to delete the current specific requirements regarding classroom hours (50 minutes of each 60-minute segment) and courses (length of course is at least 15 hours), which are the current AQB requirements. The Board proposes to amend this paragraph by incorporating the AQB Qualification Criteria by reference. This proposed amendment does not substantively change the requirements of the current regulation. Incorporating the AQB Qualification Criteria by reference will alleviate future need to amend the regulations when the AQB modifies or updates its minimum qualification criteria regarding classroom hour or course examination requirements. Additionally, the Board proposes to reformat this paragraph to clarify the requirements for classroom hours and course examinations.

Providers of appraisal courses

The Board proposes to amend § 36.11(b)(2) to specifically require that credit for the classroom hour requirement may be obtained only from providers in the AQB Qualification Criteria. This proposed amendment does not change the current regulations. The Board proposes to amend this paragraph by incorporating the AQB Qualification Criteria by reference. Incorporating the AQB Qualification Criteria by reference will alleviate future need to amend its regulations when the AQB modifies or updates its minimum qualification criteria.

Distance education

The Board proposes to amend § 36.11(b)(3) by specifically requiring compliance with the requirements in the AQB Qualification Criteria. The current regulations comport with the minimum qualification criteria set by the AQB. Therefore, the proposed amendment does not substantively change the current regulation. The Board is proposing to amend this paragraph by incorporating the AQB Qualification Criteria by reference to alleviate future need to amend the regulations when the AQB modifies or updates its minimum qualification criteria.

Content of appraisal education

The Board proposes to delete § 36.11(c)(1), which sets forth the content of appraisal education required for applicants subject to the 120 classroom hour requirement. The Board proposes to delete this paragraph because applicants are no longer eligible to apply for certification under this provision.

The Board also proposes to amend subsection (c) by specifically requiring compliance with the qualifying education requirements in the AQB Qualification Criteria and as specified in the Required Core Curriculum of the AQB Qualification Criteria. Additionally, the Board proposes to adopt and incorporate Guide Note 1 (AQB Guidance for Required Core Curriculum Content) (Required Core Curriculum) of the AQB Qualification Criteria by reference. The Required Core Curriculum is Federally-mandated curriculum for the content of appraisal education. While AQB Guide Note 1 is not binding

on the Board, in promulgating regulations for the content of appraisal education, the Board has in the past adopted verbatim the Required Core Curriculum and Guide Note 1. The current regulations comport with Required Core Curriculum. However, the AQB added additional categories to Guide Note 1. Because the Board is required to adhere to and enforce the Required Core Curriculum and has determined that Guide Note 1 provides the basis for the required content of appraisal education, the Board proposes to adopt and incorporate these Federal standards by reference and proposes to delete the verbatim text in the current regulations. Incorporating the AQB Qualification Criteria by reference will alleviate future need to amend the regulations when the AQB modifies or updates its minimum qualification criteria.

Postsecondary education

The Board proposes to amend § 36.11(d) by specifically requiring compliance with the postsecondary education requirements set by the AQB Qualification Criteria. The current regulations, which require an associate's degree or completion of 21 semester credit hours in certain college-level subjects, are noncompliant with Federal requirements and must be amended to reflect the AQB Qualification Criteria, which were adopted on May 1, 2018. Under the May 1, 2018, AQB Qualification Criteria, applicants have the following six educational options to satisfy the postsecondary education requirements, including: option 1) a bachelor's degree from an accredited college or university; option 2) an associate's degree in a field of study related to business administration, accounting, finance, economics or real estate; option 3) successful completion of 30 semester hours of college-level course that cover each of the following specific topic areas and hours—English composition; microeconomics; macroeconomics; finance; algebra, geometry or higher math; statistics; computer science; business law or real estate law; and two elective courses in any of the previously listed topics, or in accounting, geography, agricultural economics, business management or real estate (3 hours each); option 4) successful completion of at least 30 hours of College Level Examination Program® examinations that cover each of the specific topic areas in option 3; option 5) any combination of options 3 and 4 that includes all of the topics identified; and option 6) no college-level education required. This option applies to appraisers who have held a licensed residential credential for a minimum of 5 years and have no record of adverse, final and nonappealable disciplinary action affecting the licensed residential appraiser's legal eligibility to engage in appraisal practice within the 5 years immediately preceding the date of application for a certified residential real estate appraiser credential.

Because the Board is required to adhere to and enforce the AQB Qualification Criteria postsecondary education requirements, the Board proposes to adopt and incorporate the Federal standards by reference. The Board's purpose in proposing this amendment is to become compliant with Federal standards and, in the future, expeditiously effectuate Federally-mandated amendments with regard to the AQB Qualification Criteria. Additionally, the Board wishes to alleviate future need to amend the regulations when the AQB updates its minimum qualification criteria regarding the postsecondary education requirements. The Board also proposes to delete § 36.11(d)(2) because applicants are no longer eligible to apply for certification under this provision.

Experience

The Board proposes to amend § 36.11(e)(1) by incorporating the AQB Qualification Criteria for experience by reference. The Board's purpose in proposing this amendment is to ensure compliance with Federal standards. This proposed amendment will expeditiously effectuate Federally-mandated amendments with regard to the AQB Qualification Criteria. Additionally, the Board wishes to alleviate future need to amend the regulations when the AQB modifies or updates its minimum qualification criteria regarding experience requirements.

Incorporating the Federal standards into the regulations changes the experience requirements for the certified residential real estate appraiser credential. For the certified residential real estate appraiser credential, the proposed rulemaking would change the required hours of experience from "2,500 hours of acceptable appraisal experience during a period of at least 24 months" to 1,500 hours of experience in no fewer than 12 months. In deciding to adopt the minimum qualification criteria over the current regulations, which reflect a more stringent standard, the Board considered the National concerns about the appraisal profession, including shortages of appraisers and insufficient number of trainees entering the profession as well as concerns about the graying of the profession. In this Commonwealth, there are approximately 1,380 general real estate appraisers, 1,776 residential real estate appraisers and 359 licensed appraiser trainees. The median and average ages are as follows: general real estate appraiser (median: 58; average: 56.79); residential real estate appraiser (median: 57; average: 56.86); licensed appraiser trainee (median: 36; average: 38.49). Given the National concerns as well as the data for the licensing population in this Commonwealth, the Board believes that adopting the AQB Qualification Criteria is appropriate and prudent.

Although the Board proposes to adopt the AQB Qualification Criteria by reference, in § 36.11(e)(2) the Board proposes to maintain its current requirement that at least 50% of the total number of hours of the experience acquired by the applicant shall be in the actual preparation of real estate appraisal reports, which includes physical inspections of the interior and exterior of the subject properties. This provision is not an AQB requirement, but the Board continues to believe that appraisal report writing is a critical component of experience and thus has determined that this requirement is appropriate. In current § 36.11(e)(1), the number of hours is expressed in an actual figure (1,250 hours), which represents 50% of the total number of the current experience hours. In the proposed rulemaking, the Board proposes using a percentage figure (50%) instead of a specific figure based upon the current number of required experience hours. The Board's adoption of the AQB Qualification Criteria for experience (from 2,500 hours to 1,500 hours) will change the number of hours in actual preparation of real estate appraisal reports from 1,250 to 750 hours. The Board believes changing to a percentage is prudent because the AQB periodically amends the minimum qualification criteria. While the AQB recently change experience hours on May 1, 2018, there is ongoing discussion within the profession regarding the appropriate number of experience hours. Proposed to amend the regulations to a percentage will alleviate the need to amend the regulations in the event the AQB Qualification Criteria changes in this regard.

The Board proposes to amend § 36.11(e)(2) by renumbering it to § 36.11(e)(3) and by making minor amend-

ments to the second sentence of this paragraph for clarity. The Board also proposes to add an additional requirement. This provision would make the Commonwealth more stringent than the AQB Qualification Criteria and would require applicants for residential real estate appraisers to possess licensure as an appraiser trainee to obtain experience credit. The Board proposes this amendment because it wants to ensure that the experience credit obtained by applicants is reflective of current appraisal standards and that applicants have learned basic appraisal principles and procedures as well as USPAP prior to obtaining experience. Additionally, requiring licensure as an appraiser trainee prior to obtaining experience will provide more mentoring and training of future valuation professionals. The Board proposes to delay the implementation until January 1, 2020, to give sufficient notice to applicants who may wish to use experience credit obtained prior to becoming a licensed appraiser trainee.

The acceptable categories of appraisal experience are included in proposed paragraph (4). The AQB Qualification Criteria for experience is less specific than the regulations. Although the current and proposed regulations incorporate the existing AQB Qualification Criteria, the Board determined that the acceptable categories of appraisal experience in the current regulation are instructive and provide additional guidance to applicants. Because the categories of experience are consistent with the AQB requirements, the Board determined it was not necessary or appropriate to delete these categories. The Board also proposes to make minor amendments to § 36.11(e)(4)(ii) for clarification. The Board proposes to amend the reference from “appraiser” to “applicant” because ad valorem tax appraisals do not have to be performed by an appraiser.

§ 36.12. Qualifications for certification as general real estate appraiser

Overview

The Board proposes to amend and reformat § 36.12(a) to clarify the requirements for certification. The Board proposes to amend subsection (a) by specifically requiring that applicants for certification as a general real estate appraiser satisfy all the requirements in the AQB Qualification Criteria. The Board also proposes to delete the following sentence from subsection (a): “Neither a real estate salesperson’s license nor a real estate broker’s license issued under the Real Estate Licensing and Registration Act (63 P.S. §§ 455.101–455.902) is a prerequisite to certification as a general real estate appraiser.” The Board proposes to delete this sentence because it is not necessary to indicate that other licenses are not a prerequisite to licensure. The act and the regulations clearly set forth what criteria are required for certification as a general real estate appraiser. Thus, this information is superfluous.

Appraisal classroom hours

The Board proposes to amend § 36.12(b) to require applicants for certification as a general real estate appraiser to submit evidence showing completion of the classroom hours required by the AQB as of the date of the application. Because the current regulation, which requires 300 classroom hours, is the same requirement as the AQB Qualification Criteria for classroom hours, the Board’s proposed rulemaking does not make a substantive change to the classroom hours required for certification. The Board’s purpose in proposing this amendment is to incorporate the Federally-mandated minimum qualifica-

tion criteria by reference. Incorporating the AQB Qualification Criteria by reference will alleviate future need to amend the regulations when the AQB modifies or updates its minimum qualification criteria regarding classroom hours. The Board also proposes to delete the provision that provides an exception for applicants who submitted applications prior to January 1, 2013, because this date has passed and applicants are no longer eligible to apply for certification under this provision.

Length of classroom hour requirement

The Board proposes to amend the heading of § 36.12(b)(1) from “Length of classroom hour requirement” to “Length of classroom hour and courses; course examination requirement” to more accurately describe the scope of this paragraph. The Board proposes to delete the current specific requirements regarding classroom hours (50 minutes of each 60-minute segment) and courses (length of course is at least 15 hours), which are the current AQB requirements. The Board proposes to amend this paragraph to specifically reference and require compliance with the AQB Qualification Criteria. This proposed amendment does not substantively change the requirements of the current regulation. Incorporating the AQB Qualification Criteria by reference will alleviate future need to amend the regulations when the AQB modifies or updates its minimum qualification criteria regarding classroom hour or course examination requirements. Additionally, the Board proposes to reformat this paragraph to clarify the requirements for classroom hours and course examinations.

Providers of appraisal courses

The Board proposes to amend § 36.12(b)(2) to specifically require that credit for the classroom hour requirement may be obtained only from the providers in the AQB Qualification Criteria. This proposed amendment does not substantively change the current regulations. The Board proposes to amend this paragraph by incorporating the AQB Qualification Criteria by reference to alleviate future need to amend the regulations when the AQB modifies or updates its minimum qualification criteria.

Distance education

The Board proposes to amend § 36.12(b)(3) by specifically requiring compliance with the requirements in the AQB Qualification Criteria. The current regulations comport with the minimum qualification criteria set by the AQB. Therefore, the proposed amendment does not substantively change the current regulation. The Board proposes to amend this paragraph by incorporating the AQB Qualification Criteria by reference to alleviate future need to amend the regulations when the AQB modifies or updates its minimum qualification criteria.

Content of appraisal education

The Board proposes to delete § 36.12(c)(1), which sets forth the content of appraisal education required for applicants subject to the 180-classroom hour requirement. The Board proposes to delete this paragraph because applicants are no longer eligible to apply for certification under this provision.

The Board also proposes to amend § 36.12(c) by specifically requiring compliance with the qualifying education requirements in the AQB Qualification Criteria and as specified in the Required Core Curriculum of the AQB Qualification Criteria. Additionally, the Board proposes to adopt and incorporate by reference Guide Note 1 of the AQB Qualification Criteria. The Required Core Curriculum is Federally-mandated curriculum for the content of

appraisal education. While the AQB Guide Note 1 is not binding on the Board, in promulgating regulations for the content of appraisal education, the Board has adopted verbatim the Required Core Curriculum and Guide Note 1. The current regulations comport with Required Core Curriculum. However, the AQB added additional categories to Guide Note 1. Because the Board is required to adhere to and enforce the Required Core Curriculum and has determined that Guide Note 1 provides the basis for the required content of appraisal education, the Board proposes to adopt and incorporate these Federal standards by reference and proposes to delete the verbatim text in the current regulations. Incorporating the AQB Qualification Criteria by reference will alleviate future need to amend the regulations when the AQB modifies or updates its minimum qualification criteria.

Postsecondary education

The Board proposes to amend § 36.12(d) by specifically requiring compliance with the postsecondary education requirements in the AQB Qualification Criteria. The current regulations, which require a bachelor's degree or completion of 30 semester credit hours in certain college-level subjects, are noncompliant with Federal requirements and must be amended to require a bachelor's degree, or higher, from an accredited college or university. Because the Board is required to adhere to and enforce the postsecondary education requirements, the Board proposes to adopt and incorporate the AQB Qualification Criteria by reference. The Board's purpose in proposing this amendment is to become compliant with Federal standards and, in the future, expeditiously effectuate Federally-mandated amendments with regard to the AQB Qualification Criteria. Additionally, the Board wishes to alleviate future need to amend the regulations when the AQB updates its minimum qualification criteria regarding the postsecondary education requirements. The Board also proposes to delete § 36.12(d)(2) because applicants are no longer eligible to apply for certification under this paragraph.

Experience

The Board proposes to amend § 36.12(e) by incorporating the AQB Qualification Criteria for experience by reference. Incorporating the Federal standards into the regulations changes the experience requirement for the certified general real estate appraiser credential. The Board's purpose in proposing this amendment is to ensure compliance with Federal standards. This amendment will expeditiously effectuate Federally-mandated amendments with regard to the AQB Qualification Criteria. Additionally, the Board wishes to alleviate future need to amend the regulations when the AQB modifies or updates its minimum qualification criteria regarding experience requirements.

For the certified general real estate appraiser, the proposed rulemaking will not change the number of hours of experience required (3,000). However, the time to complete the experience hours will change from "in no fewer than 30 months" to in no fewer than 18 months. In deciding to adopt the minimum qualification criteria over the current regulations, which reflect a more stringent standard, the Board considered the National concerns about the appraisal profession, including shortages of appraisers and insufficient number of trainees entering the profession as well as concerns about the graying of the profession. As noted previously, in this Commonwealth, there are approximately 1,380 general real estate appraisers, 1,776 residential real estate appraisers and 359 licensed appraiser trainees. The median and average

ages are as follows: general real estate appraiser (median: 58; average: 56.79); residential real estate appraiser (median: 57; average: 56.86); licensed appraiser trainee (median: 36; average: 38.49). Given the National concerns as well as the data for this Commonwealth's licensing population, the Board believes that adopting the AQB Qualification Criteria is appropriate and prudent.

Although the Board proposes to adopt the AQB Qualification Criteria by reference, in § 36.12(e)(2) the Board proposes to maintain its current requirement that at least 1,500 hours of the experience acquired by the applicant shall be in the actual preparation of real estate appraisal reports, which includes physical inspections of the interior and exterior of the subject properties. This provision is not an AQB requirement, but the Board continues to believe that appraisal report writing is a critical component of experience and thus has determined that this requirement is appropriate. The Board requires a minimum of 1,500 hours in the preparation of appraisal reports, which is 50% of the total experience required, under current § 36.12(e)(1). In proposed § 36.12(e)(2), the Board proposes to amend the minimum number of hours from 1,500 hours to 50% of the total amount of experience hours required by the AQB Qualification Criteria. The proposed amendment does not substantively change the regulation because the 1,500 is based upon 50% of the current AQB Qualification Criteria, which requires 3,000 hours of experience. Using a percentage figure instead of a figure based upon the current number of required experience hours will prevent the Board from having to revise its regulations in the event the AQB changes its experience requirement. The Board believes this amendment is necessary because it will alleviate the need to amend the regulations when the AQB Qualification Criteria is amended.

The Board proposes to renumber current paragraph (2) to paragraph (3) and making minor amendments to the second sentence of this paragraph to clarify the regulation. The Board also proposes to add an additional requirement to proposed paragraph (3). This provision makes the Commonwealth more stringent than the AQB Qualification Criteria and will require applicants for general real estate appraisers to possess licensure as an appraiser trainee or certification as a residential real estate appraiser to obtain experience credit. The Board proposes this amendment because it wants to ensure that the experience credit obtained by applicants is reflective of current appraisal standards and that applicants have learned basic appraisal principles and procedures as well as USPAP prior to obtaining experience. Additionally, requiring licensure as an appraiser trainee prior to obtaining experience will provide more mentoring and training of future valuation professionals. The Board proposes to delay the implementation of this proposed amendment until January 1, 2020, to give sufficient notice to applicants who may wish to use experience credit obtained prior to becoming a licensed appraiser trainee.

The Board proposes to move the acceptable categories of appraisal experience to proposed § 36.12(e)(4). The AQB Qualification Criteria for experience is less specific than the regulations. Although the current regulation and the proposed rulemaking incorporate the existing AQB Qualification Criteria, the Board determined that the acceptable categories of appraisal experience in the current regulation are instructive and provide additional guidance to applicants. Because the categories of experi-

ence are consistent with the AQB requirements, the Board determined it was not necessary or appropriate to delete these categories.

The Board proposes to make minor amendments in § 36.12(e)(4)(ii) for clarification. The Board proposes to amend the reference from “appraiser” to “applicant” because ad valorem tax appraisals do not have to be performed by an appraiser.

§ 36.12a. Qualifications for licensure as appraiser trainee
Overview

The Board proposes to amend and reformat § 36.12a(a) to clarify the requirements for licensure. The Board proposes to amend § 36.12a(a) by specifically requiring that applicants for licensure as an appraiser trainee satisfy all the requirements in the AQB Qualification Criteria. The proposed amendment also adds the AQB requirement that an applicant shall complete a course that, at a minimum, complies with the specifications for course content established by the AQB, which is specifically oriented to the requirements and responsibilities of supervisory appraisers and licensed appraiser trainees. The Board also proposes to delete the following sentence from § 36.12a(a): “Neither a real estate salesperson’s license nor a real estate broker’s license issued under the Real Estate Licensing and Registration Act (63 P.S. § 455.101—455.902) is a prerequisite for licensure as an appraiser trainee.” The Board proposes to delete this sentence because it is not necessary to indicate that other licenses are not a prerequisite to licensure. The act and the regulations clearly set forth what criteria are required for certification as a general real estate appraiser. Thus, this information is superfluous.

Appraisal classroom hours

The Board proposes to amend § 36.12a(b) to require applicants for licensure as an appraiser trainee to submit evidence showing completion of the classroom hours required by the AQB Qualification Criteria. Because the current regulation, which requires 75 classroom hours, is the same requirement as the AQB Qualification Criteria for classroom hours, the proposed amendment does not make a substantive change to the classroom hours required for licensure. The Board’s purpose in proposing this amendment is to expeditiously effectuate Federally-mandated amendments with regard to the AQB Qualification Criteria. Additionally, the Board wishes to alleviate future need to amend the regulations when the AQB updates its minimum qualification criteria regarding classroom hours. The Board also proposes to delete the provision that provides an exception for applicants who satisfied the education requirement for certification as a residential real estate appraiser that was in effect as of December 31, 2007, because applicants are no longer eligible to apply under this provision.

Content of appraisal education

The Board proposes to amend § 36.12a(b)(1) by specifically requiring compliance with the qualifying education requirements in the AQB Qualification Criteria and as specified in the Required Core Curriculum of the AQB Qualification Criteria. Additionally, the Board proposes to adopt and incorporate Guide Note 1 of the AQB Qualification Criteria by reference. The Required Core Curriculum is Federally-mandated curriculum for the content of appraisal education. While the AQB Guide Note 1 is not binding on the Board, in promulgating regulations for the content of appraisal education, the Board has in the past adopted verbatim the Required Core Curriculum and Guide Note 1. The current regulations comport with

Required Core Curriculum. However, the AQB added additional categories to Guide Note 1. Because the Board is required to adhere to and enforce the Required Core Curriculum and has determined that Guide Note 1 provides the basis for the required content of appraisal education, the Board proposes to adopt and incorporate these Federal standards by reference and proposes to delete the verbatim text in the current regulations. Incorporating the AQB Qualification Criteria by reference will alleviate future need to amend the regulations when the AQB modifies or updates its minimum qualification criteria.

Examination requirement; length of classroom hour

The Board proposes to amend the heading of § 36.12a(b)(2) from “Examination requirement; length of classroom hour” to “Length of classroom hour and courses; course examination requirement” to more accurately describe the scope of this paragraph. The Board proposes to delete the current specific requirement regarding classroom hours (50 minutes of each 60-minute segment), which is the current AQB requirement. The Board proposes to amend this paragraph to specifically reference and require compliance with the AQB Qualification Criteria. This proposed amendment does not substantively change the requirements of the current regulation. Incorporating the AQB Qualification Criteria by reference will alleviate future need to amend the regulations when the AQB modifies or updates its minimum qualification criteria regarding classroom hour or course examination requirements. Additionally, the Board proposes to reformat this subsection to clarify the requirements for classroom hours and course examinations.

Providers of appraisal courses

The Board proposes to amend § 36.12a(b)(3) to specifically require that credit for the classroom hour requirement may be obtained only from providers in the AQB Qualification Criteria. This proposed amendment does not substantively change the current regulations. The Board proposes to amend this paragraph by incorporating the AQB Qualification Criteria by reference to alleviate future need to amend the regulations when the AQB modifies or updates its minimum qualification criteria for providers of appraisal courses.

Distance education

The Board proposes to amend § 36.12a(b)(4) by specifically requiring compliance with the requirements set by the AQB. The current regulations comport with the AQB Qualification Criteria. Therefore, the proposed amendment does not substantively change the current regulation. The Board proposes to amend this paragraph by incorporating the AQB Qualification Criteria by reference to alleviate future need to amend the regulations when the AQB modifies or updates its minimum qualification criteria for distance education.

§ 36.13. Experience options for preparation of appraisal reports; experience logs

The Board proposes to amend § 36.13(b) (relating to experience options for preparation of appraisal reports; experience logs) by adding the date that appraisal assistants were required to obtain an appraiser trainee license, October 1, 2010, to clarify that only experience acquired as an assistant before October 1, 2010, can be counted towards experience. Additionally, the Board proposes to clarify that for experience acquired before October 1, 2010, an assistant to a certified general real estate appraiser or certified residential real estate appraiser

shall comply with the experience requirements in the regulations. The Board also proposed to amend § 36.13(c) and (d) for clarity.

The Board proposes to add § 36.13(d)(5). This proposed paragraph requires a residential real estate appraiser and a general real estate appraiser to jointly maintain an appraisal experience log on forms provided by the Board. This is not an AQB requirement. However, the Board has historically instructed residential real estate appraisers to utilize the Board's experience logs when submitting experience to the Board. For licensed appraiser trainees, the AQB Qualification Criteria does require the trainee and the supervisory appraiser to jointly maintain an appraisal experience log. Therefore, the Board also proposes to add subsection (e) to require that licensed appraiser trainees to jointly maintain an appraisal experience log on forms provided by the Board. Proposed amendments to subsection (e) further require that appraisal experience logs comply with the AQB Qualification Criteria. The Board also proposes to amend the heading of § 36.13 from "Experience options for preparation of appraisal reports" to "Experience options for preparation of appraisal reports; experience logs" to more accurately describe the scope of this section.

§ 36.41. *Continuing education requirement*

The Board proposes to amend § 36.41(a) and (b) (relating to continuing education requirement) by adding licensed appraiser trainees to the continuing education requirement. Effective January 1, 2015, licensed appraiser trainees were required to comply with the AQB continuing education requirements. Although this is a new provision in the regulations, this is a current AQB requirement which the Board implemented effective January 1, 2015. The Board notified licensed appraiser trainees of this AQB requirement by letter on October 8, 2014, and notice on the Board's web site. Act 72 added section 10(b.2) to the act, which requires licensed appraiser trainees to complete the same continuing education requirements for licensure renewal as residential and general appraisers. Because the Board is required to adhere to and enforce the AQB Qualification Criteria regarding continuing education, the Board proposes to delete the verbatim AQB Qualification Criteria in the current regulation, and instead adopt and incorporate the AQB Qualification Criteria regarding continuing education by reference. The current regulations mirror the AQB's current standards except that the Board requires at least 2 hours of continuing education on the act, the Board's continuing education regulations and the policies of the Board. Therefore, the Board's proposed rulemaking incorporates the AQB Qualification Criteria for continuing education by reference, but also maintains the additional 2-hour continuing education requirement on the act, the Board's continuing education regulations and the policies of the Board. The Board's purpose in proposing this amendment is to become compliant with current Federal standards and, in the future, expeditiously effectuate Federally-mandated amendments with regard to the AQB Qualification Criteria.

§ 36.42. *Subject matter and sources of continuing education*

The Board proposes to amend the heading of § 36.42 from "Continuing education subject matter" to "Subject matter and sources of continuing education" to more accurately reflect the scope of this section. The Board proposes to amend subsection (a) by generally requiring continuing education to comply with the AQB Qualification Criteria. The Board proposes to delete language in

subsection (b), regarding classroom hours, and delete subsection (e), regarding activities which may be granted credit, because those standards are contained in the AQB Qualification Criteria regarding continuing education requirements. The Board further proposes to amend subsection (b) to incorporate the acceptable continuing education subject matter in the AQB Qualification Criteria by reference. The Board is also making necessary amendments to cross-references due to the reorganization of the section. The Board's purpose in proposing this amendment is to expeditiously effectuate Federally-mandated amendments with regard to the AQB Qualification Criteria. Additionally, the Board wishes to alleviate future need to amend the regulations when the AQB updates its minimum qualification criteria on continuing education.

§ 36.43. *Distance education*

The Board proposes to amend § 36.43 (relating to distance education) by specifically requiring compliance with the requirements in the AQB Qualification Criteria. Because the current regulations comport with the AQB Qualification Criteria, the proposed amendment does not substantively change the current regulation. The Board's purpose in proposing this amendment is to expeditiously effectuate Federally-mandated amendments with regard to the AQB Qualification Criteria. Additionally, the Board wishes to alleviate future need to amend the regulations when the AQB updates its minimum qualification criteria on distance education courses for continuing education.

§ 36.54. *Duties of supervisory appraiser*

The Board proposes to amend § 36.54(b) by specifically requiring compliance with the requirements in the AQB Qualification Criteria. The Board's purpose in proposing this amendment is to expeditiously effectuate Federally-mandated amendments with regard to the AQB Qualification Criteria. Unlike most of the Board's proposed amendments, this proposed amendment incorporates by reference the AQB Qualification Criteria and also sets forth the current AQB Qualification Criteria within the proposed rulemaking. The new AQB Qualification Criteria are incorporated in proposed § 36.54(b)(2), (5), (5)(ii), (6), (7) and (12). The Board has drafted the proposed rulemaking in this fashion because the Board has current regulations that are consistent with but not incorporated in the AQB Qualification Criteria for supervisors. Including the current AQB Qualification Criteria along with the Board's regulatory requirements ensures that licensees understand the Federal and State standards. Additionally, adopting the AQB Qualification Criteria by reference also ensures that the regulations will include future updates to the AQB Qualification Criteria for supervisory appraisers.

As previously indicated, the AQB Qualification Criteria are minimum standards. However, the Commonwealth and the Board may impose more stringent requirements. For supervisory appraisers, the AQB Qualification Criteria currently require supervisory appraisers to be State-certified and in good standing for at least 3 years, while the act requires at least 5 years of experience. Additionally, the AQB Qualification Criteria require good standing in the training jurisdiction in which the licensed appraiser trainee practices, but do not require certification in the jurisdiction for a minimum period of time. Consistent with the act's more stringent 5-year experience requirement, the Board proposes to amend § 36.54(b)(4) and (5)(i) to require that supervisory appraisers be in good standing in this Commonwealth for at least 3 years. The Board believes having a jurisdictional requirement for a minimum period of time will ensure that supervi-

sory appraisers have sufficient knowledge and expertise when serving as a supervisory appraiser in this Commonwealth.

The Board also proposes to amend § 36.54(b)(3) to require that supervisory appraisers notify the Board, in writing, of the name and address of the licensed appraiser trainee before the trainee begins work for the appraiser. Currently, the Board's procedures require the notification to ensure adherence to Board regulations and the AQB Qualification Criteria for supervisors. Given the review necessary by Board staff to determine supervisory eligibility, it is necessary and appropriate to require written notification to the Board.

The Board also proposes several minor amendments that do not substantively change requirements. Throughout this section, the Board proposes to change "trainee" to "licensed appraiser trainee" for consistency and clarification.

Fiscal Impact and Paperwork Requirements

The proposed amendments reflect the AQB Qualification Criteria for postsecondary education standards for certified residential real estate appraiser. Prior to May 1, 2018, the AQB Qualification Criteria required applicants for certified residential real estate appraisers to hold a bachelor's degree, or higher, from an accredited college or university. The new AQB Qualification Criteria and the proposed rulemaking will lessen the financial burden on applicants for certified residential real estate appraiser credential due to decreased postsecondary education requirements. Current AQB Qualification Criteria for certified general real estate appraisers require applicants to hold a bachelor's degree, or higher. This Federal requirement represents an increase in education as compared to the Board's current regulations. However, because the bachelor's degree is Federally mandated, the Board implemented this requirement on January 1, 2015. The proposed amendments that require licensed appraiser trainees to obtain 28 classroom hours of continuing education reflect the amendments in Act 72 and the current AQB Qualification Criteria and are mandated for compliance with Federal requirements. The Board's proposed amendments also require an official criminal history record information check from the State Police or other state agency for every state in which the candidate has lived or worked during the past 5 years. This proposed rulemaking will have a fiscal impact on the regulated community due to the cost of continuing education for licensed appraiser trainees (annual cost of \$91,545) and criminal history record information checks (annual cost of \$7,920).

Regarding paperwork requirements, the Board has already revised its application forms to reflect the current Federal standards. Therefore, the Board does not anticipate additional paperwork requirements. The proposed rulemaking requires completion of experience logs for licensed appraiser trainees and certified residential real estate appraisers pursuing experience credit.

Sunset Date

The Board continuously monitors the cost and effectiveness of its regulations and will continue do so with respect to these regulations. Therefore, a sunset date has not been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on June 22, 2018, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory

Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review prior to final publication of the rulemaking by the Board, the General Assembly and the Governor.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Jacqueline A. Wolfgang, Counsel, State Board of Certified Real Estate Appraisers, P.O. Box 69523, Harrisburg, PA 17106-9523, ra-stregulatorycounsel@pa.gov within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference Regulation No. 16A-7022, Federally-Mandated Revisions, on comments.

D. THOMAS SMITH,
Chairperson

Fiscal Note: 16A-7022. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 36. STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS

Subchapter A. GENERAL PROVISIONS
GENERAL PROVISIONS

§ 36.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

[**AQB—The Appraiser Qualifications Board of the Appraisal Foundation.**]

AQB—The Appraiser Qualifications Board of The Appraisal Foundation—The independent board of The Appraisal Foundation that establishes the minimum education, experience, examination and continuing education requirements for real property appraisers under Title XI of FIRREA (12 U.S.C.A. §§ 3331—3356). The term includes any successor organization as designated by the United States Congress or the ASC.

AQB Qualification Criteria—The AQB publication, The Real Property Appraiser Qualification Criteria, establishing the minimum education, experience, examination and continuing education requirements for real property appraisers to obtain a state license or certification. The publication may be accessed at The Appraisal Foundation web site at www.appraisalfoundation.org.

ASC—The Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Act—The Real Estate Appraisers Certification Act (63 P.S. §§ 457.1—457.19).

Ad valorem tax appraisal—Valuation for tax purposes involving the appraisal of real estate, its analysis, opinions and conclusions regarding taxation.

Applicant—A natural person.

Appraisal—A written analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real property, for or in expectation of compensation.

Appraisal review—An analysis of a completed appraisal report to determine if it conforms to specific requirements and guidelines and to [insure] **ensure** that the report is consistent and mathematically correct.

Board—The State Board of Certified Real Estate Appraisers **within the Bureau of Professional and Occupational Affairs in the Department of State** of the Commonwealth.

Certified broker/appraiser—A person who holds a certificate issued under authority of section 6(a)(3) of the act (63 P.S. § 457.6(a)(3)) and who is authorized to perform appraisals of all types of real property in non-Federally-related transactions.

Certified general real estate appraiser—A person who holds a certificate issued under authority of section 6(a)(2) and (e) of the act and § 36.12 (relating to qualifications for certification as general real estate appraiser) and who is authorized to perform appraisals of all types of real property in all transactions, whether Federally-related or non-Federally-related.

Certified real estate appraiser—A certified broker/appraiser, certified residential real estate appraiser or certified general real estate appraiser.

Certified residential real estate appraiser—A person who holds a certificate issued under authority of section 6(a)(1) and (d) of the act and § 36.11 (relating to qualifications for certification as residential real estate appraiser) and who is authorized to perform appraisals of residential properties of one-to-four dwelling units in all transactions, whether Federally-related or non-Federally-related.

Distance education—[**An**] **Except as otherwise required by the AQB Qualification Criteria, an** educational process based on the geographical separation of the learner and instructor, which provides interaction between the learner and instructor and includes testing. Examples include [**CD or DVD ROM**] **CD-ROM or DUD-ROM**, on-line learning, correspondence courses, video conferencing, and video and remote television courses.

FIRREA—The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [, **the act of August 9, 1989**] (Pub.L. **No.** 101-73, 103 Stat. 183).

Feasibility analysis—A study of the cost-benefit relationship of an economic endeavor.

Federally-related transaction—A real estate-related financial transaction which a Federal financial institution regulatory agency or the Resolution Trust Corporation engages in, contracts for or regulates, and which requires the services of an appraiser.

Highest and best use analysis—A study which represents the reasonable and probable use that results in the highest present value of the land or improved property after considering all legally permissible, physically possible and economically feasible uses.

IDECC—International Distance Education Certification Center.

In good standing—

(i) When referring to an individual certified or licensed by the Board to perform appraisals, an individual who is authorized under the act to perform appraisals or to act as a licensed appraiser trainee.

(ii) The term includes an individual who has an active, unrestricted certificate or license, or a certificate or license that is on probation or subject to a restriction ordered by the Board.

(iii) The term does not include an individual who holds a certificate or license that is inactive, expired, suspended or revoked.

Licensed appraiser trainee—A person who holds a license issued under section 6(a.1) of the act and § 36.12a (relating to qualifications for licensure as appraiser trainee) and who is authorized to assist a certified residential real estate appraiser or certified general real estate appraiser in the performance of an appraisal.

Real estate counseling—Providing, for a fee, disinterested and unbiased advice, professional guidance and judgment in the broad field of real estate, involving all segments of the business, including marketing, leasing, managing, planning, financing, appraising, providing testimony and other similar services. Real estate counseling is a specialty area in which the counselor clearly identifies the real estate problem to be solved, determines the most satisfactory solutions and, where appropriate, follows through on the implementation.

Real estate-related financial transaction—A transaction involving the following:

(i) Sale, lease, purchase, investment in or exchange of real property, including interests in property or the financing thereof.

(ii) Refinancing of real property or interests in real property.

(iii) Use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

Review appraiser—A person who performs an appraisal review.

USPAP—The Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of [**the**] **The Appraisal Foundation.**

§ 36.2. Application process.

[(a) Application form. A person interested in becoming a licensed appraiser trainee, a certified residential real estate appraiser or a certified general real estate appraiser shall complete and file with the Board a notarized application form and an application fee. Application forms may be obtained by visiting the Board's website at www.dos.state.pa.us/real or by writing, telephoning, or e-mailing the Board at Post Office Box 2649, Harrisburg, PA 17105-2649, (717) 783-4866, or ST-APPRAISE@state.pa.us, respectively.

(b) *Application fee.* The application fee for licensure as an appraiser trainee or certification as a residential real estate appraiser or general real estate appraiser is set forth in § 36.6 (relating to fees). Application fees are nonrefundable. Payments must be in the form of a personal check or money order made payable to the “Commonwealth of Pennsylvania.”

(c) *Approved applications.* Subject to the provisions of subsection (e), an approved application for certification as a residential real estate appraiser or general real estate appraiser will be valid for 1 year from the date of approval. If an applicant does not pass the certification examination within this 1-year period, the applicant’s application will be considered to have been withdrawn. If the applicant wishes to take the examination after 1 year from the date of approval, a new application, along with the required fee, shall be submitted to the Board.]

(a) Application form. An individual who applies for licensure as a licensed appraiser trainee or for certification as a certified residential real estate appraiser or a certified general real estate appraiser shall do all of the following:

(1) Submit an application to the Board on a form provided by the Board.

(2) Submit an official criminal history record information check from the State Police or other state agency for every state in which the candidate has lived or worked during the past 5 years. A report must be dated within 90 days of the date of application.

(3) Pay the required application fee in the amount prescribed § 36.6 (relating to fees).

(4) Satisfy the requirements for licensure or certification in this subchapter.

(5) Satisfy the requirements in the AQB Qualification Criteria.

(b) Application fee. The payment of a fee for processing an application is nonrefundable and must satisfy all of the following conditions:

(1) The application fee must be in the amount in § 36.6.

(2) Payment of the application fee must be in the form of a personal check or money order payable to “Commonwealth of Pennsylvania” or an electronic payment in a form or method approved by the Commissioner of Professional and Occupational Affairs.

(c) Approved applications. Residential real estate appraiser and general real estate appraiser certification applications approved by the Board are subject to all of the following conditions:

(1) Approval by the Board of an initial application for certification as a residential real estate appraiser or a general real estate appraiser constitutes approval to take the examination approved by the AQB with all of the following limitations:

(i) Approval of the application will be valid for 1 year from the date of approval.

(ii) Approval of the application will be subject to subsection (e).

(iii) If an applicant does not pass the certification examination approved by the AQB within 1 year of the date of approval, the application will be deemed to be withdrawn.

(iv) If an applicant wishes to take the certification examination approved by the AQB more than 1 year after the date of approval of an application, the applicant shall file a new application that complies with subsections (a) and (b).

(2) Approval by the Board of an application for licensure as an appraiser trainee, certification as a residential real estate appraiser or certification as a general real estate appraiser under section 7 of the act (63 P.S. § 457.7), regarding reciprocity, constitutes approval to issue a license or certificate to the applicant.

(d) *Disapproved applications.* Subject to [the provisions of] subsection (e), an applicant for licensure as an appraiser trainee, certification as a residential real estate appraiser[,] or certification as a general real estate appraiser whose application has been disapproved by the Board will be notified in writing of the reasons for the disapproval, and will have 1 year from the date of disapproval to correct the deficiencies or to file a request for reconsideration.

(1) A request for reconsideration must give the reason for the applicant’s request, must be accompanied by documentary materials not previously submitted which the applicant wishes the Board to consider and may include a request for an informal interview with the Board.

(2) If a request for reconsideration is denied or, subject to [the provisions of] subsection (e), an applicant is unable to correct the deficiencies which resulted in the disapproval of the application within 1 year from the date of disapproval, a new application, along with the required fee, shall be submitted to the Board.

(e) *Compliance with new requirements.*

(1) Residential real estate appraiser and general real estate appraiser applicants. Except as otherwise provided in §§ 36.11 and 36.12 (relating to qualifications for certification as residential real estate appraiser; and qualifications for certification as general real estate appraiser) or as required by the AQB Qualification Criteria, an applicant for certification as a residential real estate appraiser or general real estate appraiser shall comply with any increased education or experience requirements that take effect between the applicant’s filing of an initial application and the applicant’s passing the certification examination.

[An] (2) Appraiser trainee applicants. Except as otherwise provided in § 36.12a (relating to qualifications for licensure as appraiser trainee), or as required by the AQB Qualification Criteria, an applicant for licensure as an appraiser trainee shall comply with any increased education requirement that takes effect between the applicant’s filing of an application that is disapproved and the applicant’s filing of a new application.

§ 36.3. Examinations.

(a) [The examination required for certification as a residential real estate appraiser is the AQB-Endorsed Uniform State Certified Residential Real Property Appraiser Examination or its equivalent. The examination required for certification as a

general real estate appraiser is the AQB-endorsed Uniform State Certified General Real Property Appraiser Examination or its equivalent.] The examination required for certification as a residential real estate appraiser or a general real estate appraiser is the AQB-approved National examination for the certification for which an applicant is applying. The certification examinations are administered by a professional testing organization under contract with the Board at times and places established by the professional testing organization. An examination is not required for licensure as an appraiser trainee.

(b) Interested persons may obtain information about the certification examinations from the professional testing organization. Contact information for the professional testing organization appears on the Board's [[website at www.dos.state.pa.us/real](http://www.dos.state.pa.us/real)] web site.

QUALIFICATIONS FOR CERTIFICATION OR LICENSURE

§ 36.11. Qualifications for certification as residential real estate appraiser.

[(a) *Overview.* An applicant for certification as a residential real estate appraiser shall be of good moral character, meet the following education and experience requirements prior to examination, and pass an examination for certification as a residential real estate appraiser. Neither a real estate salesperson's license nor a real estate broker's license issued under the Real Estate Licensing and Registration Act (63 P.S. § 455.101—455.902) is a prerequisite to certification as a residential real estate appraiser.

(b) *Appraisal classroom hours.* Effective January 1, 2008, an applicant shall submit evidence to the Board of having completed 200 classroom hours in the appraisal curriculum set forth in subsection (c)(2). This requirement does not apply to an applicant who submits an otherwise qualifying application before January 1, 2013, that shows evidence of the applicant's having completed 120 classroom hours of courses related to real estate appraisal, including the 15-hour National USPAP Course or equivalent course approved by the AQB, together with coverage of the topics listed in subsection (c)(1), before January 1, 2008.

(1) *Length of classroom hour requirement.* Credit toward the classroom hour requirement will only be granted when the length of the course is at least 15 hours, and the applicant successfully completes an examination pertinent to the course. A classroom hour is defined as 50 minutes out of each 60 minute segment.

(2) *Providers of appraisal courses.* Credit for the classroom hour requirement may be obtained from accredited colleges or universities and community or junior colleges. Subject to Board approval under § 36.31 (relating to provider registration/appraisal courses), credit for the classroom hour requirement may also be obtained from real estate appraisal or real estate related organizations, State or Federal agencies or commissions, proprietary schools and other providers.]

(a) *General qualifications.* An applicant for certification as a residential real estate appraiser shall:

(1) Be of good moral character.

(2) Satisfy the education and experience requirements in this section prior to the date of examination.

(3) Pass an AQB-approved examination for certification as a residential real estate appraiser.

(4) Satisfy the requirements in the AQB Qualification Criteria for certification as a residential real estate appraiser.

(b) *Appraisal classroom hours.* An applicant for certification as a residential real estate appraiser shall submit evidence to the Board of having completed the classroom hours required by the AQB Qualification Criteria as of the date of the application.

(1) *Length of classroom hour and courses; course examination requirement.*

(i) The length of classroom hours and courses must comply with the requirements in the AQB Qualification Criteria.

(ii) Credit toward the classroom hour requirement will be granted only if the applicant successfully completes an examination pertinent to the course and attends at least the minimum length of time, as required by the AQB Qualification Criteria, to receive course credit.

(iii) The course examination must comply with the requirements in the AQB Qualification Criteria.

(2) *Providers of appraisal courses.* Credit for the classroom hour requirement may be obtained from types of providers in the AQB Qualification Criteria subject to the following:

(i) Credit for the classroom hour requirement may be obtained from accredited colleges or universities and community or junior colleges.

(ii) Real estate appraisal or real estate related organizations, State or Federal agencies or commissions, proprietary schools and other providers are subject to Board approval under § 36.31 (relating to provider registration/appraisal courses).

(3) *Distance education.* Distance education courses must comply with the requirements in the AQB Qualification Criteria. A distance education course is acceptable to meet the classroom hour requirement if the course is approved by the Board and meets all of the following conditions:

(i) The course is presented by one of the following:

(A) An accredited (Commission on Colleges or a regional accreditation association) college or university that offers distance education programs in other disciplines.

(B) A course provider that has received approval for course design and delivery mechanism from the IDECC and approval for course content from the Board or from the AQB through its Course Approval Program.

(ii) The applicant successfully completes a written examination proctored by an official approved by the college, university or other course provider.

(iii) The length and content of the course meet the requirements of paragraph (1) and subsection (c), respectively.

[(c) *Content of appraisal education.* The content of an applicant's appraisal education must be as follows:

(1) An applicant who is subject to the 120-classroom hour requirement in subsection (b) shall demonstrate that the classroom hours included coverage of the following topics, with particular emphasis on the appraisal of one-to-four unit residential properties:

- (i) Influences in real estate value.
 - (A) Physical and environmental.
 - (B) Economic.
 - (C) Governmental and legal.
 - (D) Social.
- (ii) Legal considerations in appraisal.
 - (A) Real estate versus real property.
 - (B) Real property versus personal property.
 - (C) Limitations on real estate ownership.
 - (D) Legal rights and interests.
 - (E) Forms of property ownership.
 - (F) Legal descriptions.
 - (G) Transfer of title.
- (iii) Type of values.
 - (A) Market value or value in exchange.
 - (B) Price.
 - (C) Cost.
 - (D) Investment value.
 - (E) Value in use.
 - (F) Assessed value.
 - (G) Insurable value.
- (iv) Economic principles.
 - (A) Anticipation.
 - (B) Balance.
 - (C) Change.
 - (D) Competition.
 - (E) Conformity.
 - (F) Contribution.
 - (G) Increasing and decreasing returns.
 - (H) Opportunity cost.
 - (I) Substitution.
 - (J) Supply and demand.
 - (K) Surplus productivity.
- (v) Real estate markets and analysis.
 - (A) Characteristics of real estate markets.
 - (B) Absorption analysis.
 - (C) Role of money and capital markets.
 - (D) Real estate financing.
- (vi) Valuation process.
 - (A) Definition of the problem.
 - (B) Collection and analysis of data.
 - (C) Analysis of highest and best use.

(D) Application and limitations of each approach to value.

- (E) Reconciliation and final value estimate.
- (F) The appraisal report.
- (vii) Property description.
 - (A) Site description.
 - (B) Improvement description.
 - (C) Basic construction and design.
- (viii) Highest and best use analysis.
 - (A) Four tests.
 - (B) Vacant site or as if vacant.
 - (C) As improved.
 - (D) Interim use.
- (ix) Appraisal math and statistics.
 - (A) Compound interest concepts.
 - (B) Statistical concepts used in appraisal.
- (x) Sales comparison approach.
 - (A) Research and selection of comparables.
 - (B) Elements of comparison.
 - (C) Adjustment process.
 - (D) Application of sales comparison approach.
- (xi) Site value.
 - (A) Sales comparison.
 - (B) Land residual.
 - (C) Allocation.
 - (D) Extraction.
 - (E) Plottage and assemblage.
- (xii) Cost approach.
 - (A) Steps in cost approach.
 - (B) Application of the cost approach.
- (xiii) Income approach.
 - (A) Gross rent multiplier analysis.
 - (B) Estimation of income and expenses.
 - (C) Operating expense ratios.
 - (D) Direct capitalization.
- (xiv) Valuation of partial interests.
 - (A) Life estates.
 - (B) Undivided interest in commonly held property
 - (C) Easements.
 - (D) Timeshares.
 - (E) Cooperatives.
 - (F) Leased fee estate.
 - (G) Leasehold estate.
- (xv) Appraisal standards and ethics.
- (xvi) Narrative report writing.

(2) An applicant who is subject to the 200-classroom hour requirement in subsection (b) shall demonstrate that the classroom hours satisfy the following curriculum requirements:

- (i) Basic appraisal principles (30 hours).
 - (A) Real property concepts and characteristics.
 - (I) Basic real property concepts.
 - (II) Real property characteristics.
 - (III) Legal description.
 - (B) Legal considerations.
 - (I) Forms of ownership.
 - (II) Public and private controls.
 - (III) Real estate contracts.
 - (IV) Leases.
 - (C) Influences on real estate.
 - (I) Governmental.
 - (II) Economic.
 - (III) Social.
 - (IV) Environmental, geographic and physical.
 - (D) Types of value.
 - (I) Market value.
 - (II) Other value types.
 - (E) Economic principles.
 - (I) Classical economic principles.
 - (II) Application and illustrations of the economic principles.
 - (F) Overview of real estate markets and analysis.
 - (I) Market fundamentals, characteristics and definitions.
 - (II) Supply analysis.
 - (III) Demand analysis.
 - (IV) Use of market analysis.
 - (G) Ethics and how they apply in appraisal theory and practice.
 - (ii) Basic appraisal procedures (30 hours).
 - (A) Overview of approaches to value.
 - (B) Valuation procedure.
 - (I) Defining the problem.
 - (II) Collecting and selecting the data.
 - (III) Analyzing.
 - (IV) Reconciling and final value opinion.
 - (V) Communicating the appraisal.
 - (C) Property description.
 - (I) Geographic characteristics of the land/site.
 - (II) Geologic characteristics of the land/site.
 - (III) Location and neighborhood characteristics.
 - (IV) Land/site considerations for highest and best use.
 - (V) Improvements—architectural styles and types of construction.
 - (D) Residential applications.

(iii) National USPAP Course or equivalent (15 hours).

- (A) Preamble and ethics rules.
- (B) Standard 1.
- (C) Standard 2.
- (D) Standards 3 to 10.
- (E) Statements and advisory opinions.
 - (iv) Residential market analysis and highest and best use (15 hours).
 - (A) Residential markets and analysis.
 - (I) Market fundamentals, characteristics and definitions.
 - (II) Supply analysis.
 - (III) Demand analysis.
 - (IV) Use of market analysis.
 - (B) Highest and best use.
 - (I) Test constraints.
 - (II) Application of highest and best use.
 - (III) Special considerations.
 - (IV) Market analysis.
 - (V) Case studies.
 - (v) Residential appraiser site valuation and cost approach (15 hours).
 - (A) Site valuation.
 - (I) Methods.
 - (II) Case studies.
 - (B) Cost approach.
 - (I) Concepts and definitions.
 - (II) Replacement/reproduction cost new.
 - (III) Accrued depreciation.
 - (IV) Methods of estimating accrued depreciation.
 - (V) Case studies.
 - (vi) Residential sales comparison and income approaches (30 hours).
 - (A) Valuation principles and procedures—sales comparison approach.
 - (B) Valuation principles and procedures—income approach.
 - (C) Finance and cash equivalency.
 - (D) Financial calculator introduction.
 - (E) Identification, derivation and measurement of adjustments.
 - (F) Gross rent multipliers.
 - (G) Partial interests.
 - (H) Reconciliation.
 - (I) Case studies and applications.
 - (vii) Residential report writing and case studies (15 hours).
 - (A) Writing and reasoning skills.
 - (B) Common writing problems.
 - (C) Form reports.
 - (D) Report options and USPAP compliance.

- (E) Case studies.
- (viii) Statistics, modeling and finance (15 hours).
- (A) Statistics.
- (B) Valuation models (AVMs and mass appraisal).
- (C) Real estate finance.
- (ix) Advanced residential applications and case studies (15 hours).
- (A) Complex property, ownership and market conditions.
- (B) Deriving and supporting adjustments.
- (C) Residential market analysis.
- (D) Advanced case studies.
- (x) Appraisal subject matter electives (20 hours).
- (d) *Postsecondary education.*

(1) Effective January 1, 2008, an applicant shall submit evidence to the Board of having satisfied one of the following requirements:

- (i) Possession of an associate’s degree, or higher, from an accredited college or university.
- (ii) Completion of 21 semester credit hours in the following college-level subjects at an accredited college or university:
 - (A) English composition.
 - (B) Principles of economics (micro or macro).
 - (C) Finance.
 - (D) Algebra, geometry or higher mathematics.
 - (E) Statistics.
 - (F) Computer science.
 - (G) Business or real estate law.

(2) This requirement does not apply to an applicant who submits an otherwise qualifying application before January 1, 2012, that shows evidence of the applicant’s having completed 120 classroom hours of courses related to real estate appraisal, including the 15-hour National USPAP Course or equivalent course approved by the AQB, together with coverage of the topics listed in subsection (c)(1), before January 1, 2008.]

(c) Content of appraisal education.

(1) The content of an applicant’s appraisal education must comply with the qualifying education requirements in the AQB Qualification Criteria and as specified in the Required Core Curriculum in the AQB Qualification Criteria.

(2) All courses must consist of instruction in the subject areas in Guide Note 1 of the AQB Qualification Criteria or any successor Guide Note.

(d) Postsecondary education. An applicant for certification as a residential real estate appraiser shall satisfy the postsecondary education requirements in the AQB Qualification Criteria.

(e) Experience. An applicant’s experience must comply with all of the following:

[(1) In addition to meeting the education requirements, an applicant shall submit evidence to the Board of having acquired 2,500 hours of acceptable appraisal experience during a period of at least 24 months. At least 1,250 hours of the experi-

ence acquired by an applicant must be in the actual preparation of real estate appraisal reports, which includes physical inspections of the interior and exterior of the subject properties, in accordance with § 36.13 (relating to experience options regarding preparation of appraisal reports). Hours may be treated as cumulative to achieve the necessary 2,500 hours of appraisal experience. Cumulative is defined to mean that experience may be acquired over any time period in excess of 24 months. There is no minimum number of hours which must be acquired in any 12 months. The following will serve as an example:

Year 1	400 Hours
Year 2	800 Hours
Year 3	200 Hours
Year 4	500 Hours
Year 5	600 Hours
Total	2,500 Hours]

(1) An applicant for certification as a residential real estate appraiser shall satisfy the experience requirements in the AQB Qualification Criteria.

(2) At least 50% of the total experience requirement shall be in the actual preparation of real estate appraisal reports, which includes physical inspections of the interior and exterior of the subject properties in accordance with § 36.13 (relating to experience options for preparation of appraisal reports; experience logs).

[(2)] (3) Effective January 1, 2008, experience must be acquired after January 30, 1989, and must comply with USPAP. Experience acquired after August 2, 1993, will not be accepted unless the applicant [has first] completed 45 classroom hours of appraisal education, including 15 hours on USPAP prior to acquiring the experience. Effective January 1, 2020, experience credit may be obtained only by individuals who possess a license as an appraiser trainee.

(4) Acceptable categories of appraisal experience include **all of the following:**

- (i) Fee and staff appraisals.
- (ii) Ad valorem tax appraisals, if the [appraiser can demonstrate that the appraiser used techniques to value properties similar to those used by other appraisers and that the appraiser] applicant can demonstrate that the applicant used techniques to value properties similar to those used by appraisers and that the applicant effectively used the appraisal process.
- (iii) Review appraisals.
- (iv) Appraisal analysis (synonymous with an appraisal).
- (v) Real estate counseling, if the counselor can satisfactorily demonstrate that:

- (A) The client clearly asked for counseling services.
- (B) The client was informed that the counselor’s time would be devoted to counseling services, which are separate from other real estate functions such as appraising, sales management and mortgage lending.

(C) A file memorandum was prepared on each assignment indicating the nature of the assignment, recommendations and disposition.

(D) Compensation for the counseling services was separate from other real estate services rendered.

(vi) Highest and best use analysis.

(vii) Feasibility analysis/study.

(viii) Real estate related experience such as that of an officer of a lending institution, if the experience consists of the actual performance or professional review of real estate appraisals.

(ix) Evaluations under FIRREA in accordance with requirements of Federal financial institution regulatory agencies.

(x) Case studies or practicum courses that are approved by the AQB Course Approval Program.

§ 36.12. Qualifications for certification as general real estate appraiser.

[(a) *Overview.* An applicant for certification as a general real estate appraiser shall be of good moral character, meet the following education and experience requirements prior to examination, and pass an examination for certification as a general real estate appraiser. Neither a real estate salesperson's license nor a real estate broker's license issued under the Real Estate Licensing and Registration Act (63 P.S. §§ 455.101—455.902) is a prerequisite to certification as a general real estate appraiser.

(b) *Appraisal classroom hours.* Effective January 1, 2008, an applicant shall submit evidence to the Board of having completed 300 classroom hours in the appraisal curriculum set forth in subsection (c)(2). This requirement does not apply to an applicant who submits an otherwise qualifying application before January 1, 2013, that shows evidence of the applicant's having completed 180 classroom hours of courses related to real estate appraisal, including the 15-hour National USPAP Course or equivalent course approved by the AQB, together with coverage of the topics listed in subsection (c)(1), before January 1, 2008.

(1) *Length of classroom hour requirement.* Credit toward the classroom hour requirement will only be granted when the length of the course is at least 15 hours, and the applicant successfully completes an examination pertinent to the course. A classroom hour is defined as 50 minutes out of each 60 minute segment.

(2) *Providers of appraisal courses.* Credit for the classroom hour requirement may be obtained from accredited colleges or universities and community or junior colleges. Subject to Board approval under § 36.31 (relating to provider registration/appraisal courses), credit for the classroom hour requirement may also be obtained from real estate appraisal or real estate related organizations, State or Federal agencies or commissions, proprietary schools and other providers.

(3) *Distance education.* A distance education course is acceptable to meet the classroom hour requirement if the course is approved by the Board and meets the following conditions:

(i) The course is presented by one of the following:

(A) An accredited (Commission on Colleges or a regional accreditation association) college or university that offers distance education programs in other disciplines.

(B) A course provider that has received approval for course design and delivery mechanism from the IDECC and approval for course content from the Board or from the AQB through its Course Approval Program.

(ii) The applicant successfully completes a written examination proctored by an official approved by the college, university or other course provider.

(iii) The length and content of the course meet the requirements of paragraph (1) and subsection (c), respectively.

(c) *Content of appraisal education.* The content of an applicant's appraisal education must be as follows:

(1) An applicant who is subject to the 180-classroom hour requirement in subsection (b) shall demonstrate that the classroom hours included coverage of the following topics, with particular emphasis on the appraisal of nonresidential properties. Residential is defined as one to four residential units.

(i) Influences on real estate value.

(A) Physical and environmental.

(B) Economic.

(C) Governmental and legal.

(D) Social.

(ii) Legal considerations in appraisal.

(A) Real estate versus real property.

(B) Real property versus personal property.

(C) Limitations on real estate ownership.

(D) Legal rights and interests.

(E) Forms of property ownership.

(G) Legal descriptions.

(H) Transfer of title.

(iii) Type of values.

(A) Market value or value in exchange.

(B) Price.

(C) Cost.

(D) Investment value.

(E) Value in use.

(F) Assessed value.

(G) Insurable value.

(H) Going concern value.

(iv) Economic principles.

(A) Anticipation.

(B) Balance.

(C) Change.

(D) Competition.

(E) Conformity.

(F) Contribution.

(G) Increasing and decreasing returns.

(H) Opportunity cost.

(I) Substitution.

(J) Supply and demand.

- (K) Surplus productivity.
- (v) Real estate markets and analysis.
 - (A) Characteristics of real estate markets.
 - (B) Absorption analysis.
 - (C) Role of money and capital markets.
 - (D) Real estate financing.
- (vi) Valuation process.
 - (A) Definition of the problem.
 - (B) Collection and analysis of data.
 - (C) Analysis of highest and best use.
 - (D) Application and limitations of each approach to value.
 - (E) Reconciliation and final value estimate.
 - (F) The appraisal report.
- (vii) Property description.
 - (A) Site development.
 - (B) Improvement description.
 - (C) Basic construction and design.
- (viii) Highest and best use analysis.
 - (A) Four tests.
 - (B) Vacant site or as if vacant.
 - (C) As improved.
 - (D) Interim use.
- (ix) Appraisal math and statistics.
 - (A) Compound interest concepts.
 - (B) Statistical concepts used in appraisal.
- (x) Sales comparison approach.
 - (A) Research and selection of comparables.
 - (B) Elements of comparison.
 - (C) Adjustment process.
 - (D) Application of sales comparison approach.
- (xi) Site value.
 - (A) Sales comparison.
 - (B) Land residual.
 - (C) Allocation.
 - (D) Extraction.
 - (E) Ground rent capitalization.
 - (F) Subdivision analysis.
 - (G) Plottage and assemblage.
- (xii) Cost approach.
 - (A) Steps in cost approach.
 - (B) Application of the cost approach.
- (xiii) Income approach.
 - (A) Estimation of income and expenses.
 - (B) Operating statement ratios.
 - (C) Direct capitalization.
 - (D) Cash flow estimates (before tax only).
 - (E) Measures of cash flow.
 - (F) Discounted cash flow analysis (DCF).
- (xiv) Valuation of partial interests.

- (A) Interests created by a lease.
- (B) Lease provisions.
- (C) Valuation considerations.
- (D) Other partial interests.
- (xv) Appraisal standards and ethics.
- (xvi) Narrative report writing.
 - (2) An applicant who is subject to the 300-hour classroom requirement in subsection (b) shall demonstrate that the classroom hours satisfy the following curriculum requirements:
 - (i) Basic appraisal principles (30 hours).
 - (A) Real property concepts and characteristics.
 - (I) Basic real property concepts.
 - (II) Real property characteristics.
 - (III) Legal description.
 - (B) Legal considerations.
 - (I) Forms of ownership.
 - (II) Public and private controls.
 - (III) Real estate contracts.
 - (IV) Leases.
 - (C) Influences on real estate.
 - (I) Governmental.
 - (II) Economic.
 - (III) Social.
 - (IV) Environmental, geographic and physical.
 - (D) Types of value.
 - (I) Market value.
 - (II) Other value types.
 - (E) Economic principles.
 - (I) Classical economic principles.
 - (II) Application and illustrations of the economic principles.
 - (F) Overview of real estate markets and analysis.
 - (I) Market fundamentals, characteristics and definitions.
 - (II) Supply analysis.
 - (III) Demand analysis.
 - (IV) Use of market analysis.
 - (G) Ethics and how they apply in appraisal theory and practice.
 - (ii) Basic appraisal procedures (30 hours).
 - (A) Overview of approaches to value.
 - (B) Valuation procedure.
 - (I) Defining the problem.
 - (II) Collecting and selecting the data.
 - (III) Analyzing.
 - (IV) Reconciling and final value opinion.
 - (V) Communicating the appraisal.
 - (C) Property description.
 - (I) Geographic characteristics of the land/site.

- (II) Geologic characteristics of the land/site.
- (III) Location and neighborhood characteristics.
- (IV) Land/site considerations for highest and best use.
- (V) Improvements—architectural styles and types of construction.
 - (D) Residential applications.
- (iii) National USPAP Course or equivalent (15 hours).
 - (A) Preamble and ethics rules.
 - (B) Standard 1.
 - (C) Standard 2.
 - (D) Standards 3 to 10.
 - (E) Statements and advisory opinions.
- (iv) General appraiser market analysis and highest and best use (30 hours).
 - (A) Real estate markets and analysis.
 - (I) Market fundamentals, characteristics and definitions.
 - (II) Supply analysis.
 - (III) Demand analysis.
 - (IV) Use of market analysis.
 - (B) Highest and best use.
 - (I) Test constraints.
 - (II) Application of highest and best use.
 - (III) Special considerations.
 - (IV) Market analysis.
 - (V) Case studies.
- (v) General appraiser site valuation and cost approach (30 hours).
 - (A) Site valuation.
 - (I) Methods.
 - (II) Case studies.
 - (B) Cost approach.
 - (I) Concepts and definitions.
 - (II) Replacement/reproduction cost new.
 - (III) Accrued depreciation.
 - (IV) Methods of estimating accrued depreciation.
 - (V) Case studies.
- (vi) General appraiser sales comparison approach (30 hours).
 - (A) Value principles.
 - (B) Procedures.
 - (C) Identification and measurement of adjustments.
 - (D) Reconciliation.
 - (E) Case studies.
- (vii) General appraiser income approach (60 hours).
 - (A) Overview.
 - (B) Compound interest.
 - (C) Lease analysis.
 - (D) Income analysis.
 - (E) Vacancy and collection loss.
 - (F) Estimating operating expenses and reserves.
 - (G) Reconstructed income and expense statement.
 - (H) Stabilized net operating income estimate.
 - (I) Direct capitalization.
 - (J) Discounted cash flow.
 - (K) Yield capitalization.
 - (L) Partial interests.
 - (M) Case studies.
- (viii) General appraiser report writing and case studies (30 hours).
 - (A) Writing and reasoning skills.
 - (B) Common writing problems.
 - (C) Report options and USPAP compliance.
 - (D) Case studies.
- (ix) Statistics, modeling and finance (15 hours).
 - (A) Statistics.
 - (B) Valuation models (AVMs and mass appraisal).
 - (C) Real estate finance.
- (x) Appraisal subject matter electives (30 hours).
 - (d) *Postsecondary education*.
 - (1) Effective January 1, 2008, an applicant shall submit evidence to the Board of having satisfied one of the following requirements:
 - (i) Possession of a bachelor's degree, or higher, from an accredited college or university.
 - (ii) Completion of 30 semester credit hours in the following college-level subjects at an accredited college or university:
 - (A) English composition.
 - (B) Macroeconomics.
 - (C) Microeconomics.
 - (D) Finance.
 - (E) Algebra, geometry or higher mathematics.
 - (F) Statistics.
 - (G) Computer science.
 - (H) Business or real estate law.
 - (I) Two elective courses in accounting, geography, ag-economics, business management or real estate.
 - (2) This requirement does not apply to an applicant who submits an otherwise qualifying application before January 1, 2012, that shows evidence of the applicant's having completed 180 classroom hours of courses related to real estate appraisal, including the 15-hour National USPAP Course or equivalent course approved by the AQB, together with coverage of the topics listed in subsection (c)(1), before January 1, 2008.]

(a) General qualifications. An applicant for certification as a general real estate appraiser shall:

- (1) Be of good moral character.
- (2) Satisfy the education and experience requirements in this section as of the date of the examination.
- (3) Pass an AQB-approved examination for certification as a general real estate appraiser.
- (4) Satisfy all the requirements in the AQB Qualification Criteria for certification as a general real estate appraiser.

(b) Appraisal classroom hours. An applicant for certification as a general real estate appraiser shall submit evidence to the Board of having completed the classroom hours required by the AQB Qualification Criteria as of the date of application.

(1) Length of classroom hour and courses; course examination requirement.

- (i) The length of classroom hours and courses must comply with the requirements in the AQB Qualification Criteria.
- (ii) Credit toward the classroom hour requirement will be granted only if the applicant successfully completes an examination pertinent to the course and attends at least the minimum length of time, as required by the AQB Qualification Criteria, to receive course credit.
- (iii) The course examination must comply with the requirements in the AQB Qualification Criteria.

(2) Providers of appraisal courses. Credit for the classroom hour requirement may be obtained from the types of providers in the AQB Qualification Criteria subject to all of the following:

- (i) Credit for the classroom hour requirement may be obtained from accredited colleges or universities and community or junior colleges.
- (ii) Real estate appraisal or real estate related organizations, State or Federal agencies or commissions, proprietary schools and other providers are subject to Board approval under § 36.31 (relating to provider registration/appraisal courses).

(3) Distance education. Distance education courses must comply with the requirements in the AQB Qualification Criteria. A distance education course is acceptable to meet the classroom hour requirement if the course is approved by the Board, and meets all of the following conditions:

- (i) The course is presented by one of the following:
 - (A) An accredited (Commission on Colleges or a regional accreditation association) college or university that offers distance education programs in other disciplines.
 - (B) A course provider that has received approval for course design and delivery mechanism from the IDECC and approval for course content from the Board or from the AQB through its Course Approval Program.
- (ii) The applicant successfully completes a written examination proctored by an official approved by the college, university or other course provider.

(iii) The length and content of the course meet the requirements of paragraph (1) and subsection (c), respectively.

(c) Content of appraisal education.

(1) The content of an applicant's appraisal education must comply with the qualifying education requirements in the AQB Qualification Criteria and as specified in the Required Core Curriculum in the AQB Qualification Criteria.

(2) All courses must consist of instruction in the subject areas in Guide Note 1 of the AQB Qualification Criteria or any successor Guide Note.

(d) Postsecondary education. An applicant for certification as a general real estate appraiser shall satisfy the postsecondary education requirements in the AQB Qualification Criteria.

(e) Experience. An applicant's experience must comply with all of the following:

[(1) In addition to meeting the education requirements, an applicant shall submit evidence to the Board of having acquired 3,000 hours of acceptable appraisal experience, including 1,500 hours in nonresidential work, during a period of no less than 30 months. At least 1,500 hours of the experience acquired by an applicant shall be in the actual preparation of real estate appraisal reports, which includes physical inspections of the interior and exterior of the subject properties, in accordance with § 36.13 (relating to experience options regarding preparation of appraisal reports). Hours may be treated as cumulative to achieve the necessary 3,000 hours of appraisal experience. Cumulative is defined to mean that experience may be acquired over any time period in excess of 30 months. There is no minimum number of hours which must be acquired in any 1 year. The following will serve as an example:

Year 1	1,000 Hours
Year 2	800 Hours
Year 3	100 Hours
Year 4	1,000 Hours
Year 5	100 Hours
Total	3,000 Hours]

(1) An applicant for certification as a general real estate appraiser shall satisfy the experience requirements in the AQB Qualification Criteria.

(2) At least 50% of the total experience requirement must be in the actual preparation of real estate appraisal reports, which includes physical inspections of the interior and exterior of the subject properties, in accordance with § 36.13 (relating to experience options for preparation of appraisal reports; experience logs).

[(2)] (3) Effective January 1, 2008, experience must be acquired after January 30, 1989, and must comply with USPAP. Experience acquired after August 2, 1993, will not be accepted unless the applicant [has first] completed 45 classroom hours of appraisal education, including 15 hours on USPAP prior to acquiring the experience. Effective January 1, 2020, experience credit can be obtained only by individuals who possess a license as an appraiser trainee or a certification as a residential real estate appraiser.

(4) Acceptable categories of appraisal experience include:

- (i) Fee and staff appraisals.
- (ii) Ad valorem tax appraisals, if the [**appraiser can demonstrate that the appraiser used techniques to value properties similar to those used by other appraisers and that the appraiser] applicant can demonstrate that the applicant used techniques to value properties similar to those used by appraisers and that the applicant** effectively used the appraisal process.
- (iii) Review appraisals.
- (iv) Appraisal analysis (synonymous with an appraisal).
- (v) Real estate counseling, if the counselor can satisfactorily demonstrate that:
 - (A) The client clearly asked for counseling services.
 - (B) The client was informed that the counselor's time would be devoted to counseling services, which are separate from other real estate functions such as appraising, sales management and mortgage lending.
 - (C) A file memorandum was prepared on each assignment, indicating the nature of the assignment, recommendations and disposition.
 - (D) Compensation for the counseling services was separate from other real estate services rendered.
- (vi) Highest and best use analysis.
- (vii) Feasibility analysis/study.
- (viii) Real estate experience such as that of an officer of a lending institution, if the experience consists of the actual performance or professional review of real estate appraisals.
- (ix) Evaluations under FIRREA in accordance with requirements of Federal financial institution regulatory agencies.
- (x) Case studies or practicum courses that are approved by the AQB Course Approval Program.

§ 36.12a. Qualifications for licensure as appraiser trainee.

[(a) *Overview.* An applicant for licensure as an appraiser trainee shall be of good moral character and meet the education requirements prescribed by this section. Neither a real estate salesperson's license nor a real estate broker's license issued under the Real Estate Licensing and Registration Act (63 P.S. § 455.101—455.902) is a prerequisite for licensure as an appraiser trainee.

(b) *Appraisal classroom hours.* An applicant shall submit evidence to the Board of having completed 75 classroom hours in the appraisal curriculum in paragraph (1), except that this requirement does not apply to an applicant who had satisfied the education requirement for certification as a residential real estate appraiser that was in effect as of December 31, 2007.

(1) *Content of appraisal education.* An applicant's classroom hours must satisfy the following curriculum requirements:

- (i) **Basic appraisal principles (30 hours).**
 - (A) **Real property concepts and characteristics.**
 - (I) **Basic real property concepts.**

- (II) **Real property characteristics.**
- (III) **Legal description.**
- (B) **Legal considerations.**
- (I) **Forms of ownership.**
- (II) **Public and private controls.**
- (III) **Real estate contracts.**
- (IV) **Leases.**
- (C) **Influences on real estate.**
 - (I) **Governmental.**
 - (II) **Economic.**
 - (III) **Social.**
 - (IV) **Environmental, geographic and physical.**
- (D) **Types of value.**
 - (I) **Market value.**
 - (II) **Other value types.**
- (E) **Economic principles.**
 - (I) **Classical economic principles.**
 - (II) **Application and illustrations of the economic principles.**
- (F) **Overview of real estate markets and analysis.**
 - (I) **Market fundamentals, characteristics and definitions.**
 - (II) **Supply analysis.**
 - (III) **Demand analysis.**
 - (IV) **Use of market analysis.**
- (G) **Ethics and how they apply in appraisal theory and practice.**
 - (ii) **Basic appraisal procedures (30 hours).**
 - (A) **Overview of approaches to value.**
 - (B) **Valuation procedure.**
 - (I) **Defining the problem.**
 - (II) **Collecting and selecting the data.**
 - (III) **Analyzing.**
 - (IV) **Reconciling and final value opinion.**
 - (V) **Communicating the appraisal.**
- (C) **Property description.**
 - (I) **Geographic characteristics of the land/site.**
 - (II) **Geologic characteristics of the land/site.**
 - (III) **Location and neighborhood characteristics.**
 - (IV) **Land/site considerations for highest and best use.**
 - (V) **Improvements—architectural styles and types of construction.**
 - (D) **Residential applications.**
- (iii) **National USPAP Course or equivalent (15 hours).**
 - (A) **Preamble and ethics rules.**
 - (B) **Standard 1.**
 - (C) **Standard 2.**
 - (D) **Standards 3 to 10.**
 - (E) **Statements and advisory opinions.**

(2) Examination requirement; length of classroom hour. Credit towards the classroom hour requirement will only be granted when the applicant successfully completes an examination pertinent to the course. A classroom hour is defined as 50 minutes out of each 60 minute segment.

(3) Providers of appraisal courses. Credit for the classroom hour requirement may be obtained from accredited colleges or universities and community or junior colleges. Subject to Board approval under § 36.31 (relating to provider registration/appraisal courses), credit for the classroom hour requirement may also be obtained from real estate appraisal or real estate related organizations, State or Federal agencies or commissions, proprietary schools and other providers.]

(a) General qualifications. An applicant for licensure as an appraiser trainee shall:

- (1) Be of good moral character.
- (2) Satisfy the education requirements in this section.
- (3) Complete a course that, at a minimum, complies with the specifications for course content established by the AQB Qualification Criteria, which is specifically oriented to the requirements and responsibilities of supervisory appraisers and licensed appraiser trainees.

(4) Satisfy the requirements in the AQB Qualification Criteria for licensure as an appraiser trainee.

(b) Appraisal classroom hours. An applicant for licensure as an appraiser trainee shall comply with the qualifying educational standards required by the AQB Qualification Criteria.

- (1) Content of appraisal education.
 - (i) The content of an applicant's appraisal education must comply with the qualifying education requirements in the AQB Qualification Criteria.
 - (ii) All courses must consist of instruction in the subject areas in Guide Note 1 of the AQB Qualification Criteria or any successor Guide Note.

(2) Length of classroom hour and courses; course examination requirement. The length of classroom hours and course requirements must comply with all of the following:

- (i) The length of classroom hours and courses must comply with the requirements in the AQB Qualification Criteria.
- (ii) Credit toward the classroom hour requirement will be granted only when the applicant successfully completes an examination pertinent to the course and attends at least the minimum length of time, as required by the AQB Qualification Criteria, to receive course credit.

(iii) The course examination must comply with the requirements in the AQB Qualification Criteria.

(3) Providers of appraisal courses. Credit for the classroom hour requirement may be obtained from the types of providers in the AQB Qualification Criteria subject to all of the following:

(i) Credit for the classroom hour requirement may be obtained from accredited colleges or universities and community or junior colleges.

(ii) Real estate appraisal or real estate related organizations, State or Federal agencies or commissions, proprietary schools and other providers are subject to Board approval under § 36.31 (relating to provider registration/appraisal courses).

(4) Distance education. Distance education courses must comply with the requirements in the AQB Qualification Criteria. A distance education course is acceptable to meet the classroom hour requirement if the course is approved by the Board and meets all of the following conditions:

- (i) The course is presented by one of the following:
 - (A) An accredited (Commission on Colleges or a regional accreditation association) college or university that offers distance education programs in other disciplines.
 - (B) A course provider that has received approval for course design and delivery mechanism from the IDECC and approval for course content from the Board or from the AQB through its Course Approval Program.
- (ii) The applicant successfully completes a written examination proctored by an official approved by the college, university or other course provider.
- (iii) The content and classroom hours of the course meet the requirements of paragraphs (1) and (2).

(c) Noneligibility for licensure. A certified real estate appraiser is not eligible to be licensed as an appraiser trainee.

(d) Limitation on license renewal. An appraiser trainee license may not be biennially renewed more than four times unless the Board, for good cause shown and on a case-by-case basis, should determine that one or more additional renewals is warranted.

§ 36.13. Experience options for preparation of appraisal reports; experience logs.

* * * * *

(b) [An] For experience acquired before October 1, 2010, an assistant to a certified general real estate appraiser or certified residential real estate appraiser shall [observe] comply with all of the following requirements when preparing an appraisal report:

* * * * *

(c) A licensed appraiser trainee shall [observe] comply with all of the following requirements when preparing an appraisal report for a certified general real estate appraiser or certified residential real estate appraiser:

* * * * *

(d) A certified residential real estate appraiser shall [observe] comply with all of the following requirements when preparing an appraisal report for a certified general real estate appraiser:

- (1) The residential appraiser shall perform an inspection of the interior and exterior of the property.
- (2) The residential appraiser may not arrive at an independent determination of value.
- (3) The residential appraiser shall comply with USPAP.

(4) The residential appraiser shall co-sign the appraisal report as set forth in § 36.52 (relating to use of certificate number and title) and ensure that the nature of his significant real property appraisal assistance is specified in the report.

(5) Jointly maintain an appraisal experience log with the general real estate appraiser on forms provided by the Board.

(e) The licensed appraiser trainee shall jointly maintain an appraisal experience log with the supervisory appraiser on forms provided by the Board. An appraisal experience log must comply with the requirements in the AQB Qualification Criteria.

CONTINUING EDUCATION

§ 36.41. Continuing education requirement.

(a) Continuing education for certified real estate appraisers **and licensed appraiser trainees** is necessary to ensure that they maintain and increase their skill, knowledge and competency in real estate appraising. Except as provided in subsection (b), **[a certified real estate appraiser shall complete 28 classroom hours of continuing education—including the 7-hour National USPAP Update Course, or an equivalent 7-hour course approved by the AQB, and] certified real estate appraisers and licensed appraiser trainees shall satisfy the continuing education requirements in the AQB Qualification Criteria, which must include** at least 2 hours on the act, this chapter and the policies of the Board [—] during each biennial renewal period as a condition of renewal of certification for the next biennial renewal period.

(b) A certified general real estate appraiser [or], residential real estate appraiser **or licensed appraiser trainee** whose initial certification **or license** becomes effective between January 1 and June 30 of a biennial renewal year will not be required to furnish proof of continuing education as a condition of renewal of certification in that biennial renewal year.

§ 36.42. [Continuing education subject matter.] Subject matter and sources of continuing education.

[(a) The following subjects are acceptable for continuing education:

- (1) Ad valorem taxation.
- (2) Arbitration.
- (3) Business courses related to the practice of real estate appraisal.
- (4) Development cost-estimating.
- (5) Ethics and standards of professional practice.
- (6) Land use planning, zoning and taxation.
- (7) Management, leasing, brokerage and time-sharing.
- (8) Property development.
- (9) Real estate appraisal.
- (10) Real estate financing and investment.
- (11) Real estate law.
- (12) Real estate litigation.
- (13) Real estate appraisal related computer applications.
- (14) Real estate securities and syndication.
- (15) Real property exchange.
- (16) Mass appraisal model building.
- (17) Mass appraisal model calibration.

(18) Assessment administration.

(19) Mapping.

(b) Credit toward the classroom hour requirement will be granted only when the length of the education offering is at least 2 hours. A classroom hour is defined as 50 minutes out of each 60 minute segment.]

(a) Continuing education subject matter and sources must comply with the requirements in the AQB Qualification Criteria.

(b) Subjects acceptable for continuing education include the subjects in the AQB Qualification Criteria.

(c) Credit for the classroom hour requirement may be obtained from colleges or universities and community or junior colleges. Subject to Board approval under § 36.31 (relating to provider registration/appraisal courses), credit for the classroom hour requirement may also be obtained from real estate appraisal or real estate related organizations, State or Federal agencies, or commissions, proprietary schools and other providers.

(d) Educational offerings which cover real estate appraisal related topics other than those [**listed in subsection (a)] in subsection (b)** may be acceptable for continuing education credit if the applicant can demonstrate to the Board that the topic or program contributed to the applicant's professional competence and is consistent with the purpose of continuing education as stated in § 36.41 (relating to [**purpose**] **continuing education requirement**).

[**(e) Continuing education credit may also be granted—up to 50% of the biennial requirement—for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted include teaching, program development, authorship of textbooks or similar activities which the applicant can demonstrate to the Board are equivalent to obtaining continuing education.]**

§ 36.43. Distance education.

Distance education courses must comply with the requirements in the AQB Qualification Criteria. A distance education course is acceptable for continuing education credit if it is approved by the Board and meets **all of** the following conditions:

(1) The course is presented by one of the following:

(i) A course provider that presents the course to an organized group in an instructional setting with a person qualified and available to answer questions, provide information and monitor attendance.

(ii) An accredited (Commission on Colleges or a regional accreditation association) college or university that offers distance education programs in other disciplines.

(iii) A course provider that has received approval for course design and delivery mechanism from the IDECC and approval for course content from the Board or from the AQB through its Course Approval Program.

(2) With regard to a course presented under paragraph (1)(ii) or (iii), the certified real estate appraiser **or the licensed appraiser trainee** either successfully completes a written examination proctored by an official approved by the college, university or other course provider or successfully completes the course mechanisms

required for course accreditation that evidence the learner's mastery and fluency of the course content.

(3) The content and length of the course meet the requirements of § 36.42 (relating to **[continuing education subject matter] subject matter and sources of continuing education**).

STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE

§ 36.54. Duties of supervisory appraiser.

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(b) A certified residential real estate appraiser or certified general real estate appraiser who utilizes a licensed appraiser trainee shall:

(1) Have at least 5 **[years'] years of** experience as a residential **real estate** or general **real estate** appraiser.

(2) Comply with the supervisory appraiser requirements in the AQB Qualification Criteria.

(3) Provide written notification to the Board of the name and address of the licensed appraiser trainee before the trainee begins work for the appraiser.

(4) Be a certified residential real estate appraiser or certified general real estate appraiser in this Commonwealth for at least 3 years immediately preceding the supervisory appraiser's notification to the Board.

(5) Be a certified residential real estate appraiser or certified general real estate appraiser in good standing in this Commonwealth.

(i) The supervisory appraiser shall be in good standing in this Commonwealth for at least 3 years immediately preceding the supervisory appraiser's notification to the Board.

(ii) The supervisory appraiser shall be in good standing while serving as a supervisor.

(6) Have not received from the Board or any jurisdiction any disciplinary action that affects or affected the supervisor's legal eligibility to engage in appraisal practice within 3 years immediately preceding the supervisory appraiser's notification to the Board.

(7) Prior to supervising a licensed appraiser trainee, complete a course, that, at a minimum, complies with the specifications for course content established by the AQB Qualification Criteria, which is specifically oriented to the requirements and responsibilities of supervisory appraisers and licensed appraiser trainees.

[(2)] (8) Supervise no more than three licensed appraiser trainees at one time.

[(3)] (9) Directly supervise and control the licensed appraiser trainee's work, assuming total responsibility for the contents of the appraisal report, including all value conclusions.

[(4)] (10) Accompany the licensed appraiser trainee during the physical inspection of the property until the licensed appraiser trainee has logged 300 hours of appraisal experience or until the supervising appraiser determines the licensed appraiser trainee is competent under USPAP to perform the physical inspection unaccompanied, whichever is the longer period.

[(5)] (11) Co-sign a Board-approved appraiser trainee checklist that has been completed by the licensed appraiser trainee, relates to the licensed appraiser trainee's work on the appraisal report and is made part of the appraisal report submitted to the client.

(12) Jointly maintain an appraisal experience log with the licensed appraiser trainee. An appraisal experience log must comply with the requirements in the AQB Qualification Criteria.

[(6)] (13) Provide a current or former licensed appraiser trainee who is applying for appraiser certification with copies of designated appraisal reports requested by the Board to verify the licensed appraiser trainee's experience.

(c) A certified general real estate appraiser who utilizes a certified residential real estate appraiser as an assistant for an appraisal of nonresidential property or an appraisal of residential property of more than four dwelling units shall:

(1) Directly supervise and control the residential appraiser's work, assuming total responsibility for the contents of the appraisal report, including all value conclusions.

(2) Accompany the residential appraiser during the physical inspection of the property until the general appraiser determines the residential appraiser is competent under USPAP to perform the physical inspection unaccompanied.

(3) Co-sign the appraisal report as set forth in § 36.52 and specify in the appraisal report the nature of the significant real property appraisal assistance rendered by the residential appraiser.

(4) Provide the residential appraiser, at the time of application for general appraiser certification, with copies of designated appraisal reports requested by the Board to verify the residential appraiser's experience.

(5) Jointly maintain an appraisal experience log with the general real estate appraiser on forms provided by the Board.

(6) Comply with the requirements in the AQB Qualification Criteria.

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