

6-29

Secretary of State
Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES
A Statement of Need and Justification accompanies this form..

I certify that the attached copies* are true, full and correct copies of the TEMPORARY Rule(s) adopted on June 28, 2006 by the
Date prior to or same as filing date

Appraiser Certification and Licensure Board OAR 161
Agency and Division Administrative Rules Chapter Number
Karen Turnbow 1860 Hawthorne Ave NE, Suite 200, Salem OR 97303 (503) 485-2555
Rules Coordinator Address Telephone

to become effective July 1, 2006 through December 28, 2006
Date Upon Filing or Later A maximum of 180 days including the effective date.

RULE CAPTION

To adopt latest edition of Uniform Standards of Professional Appraisal Practice (USPAP) which takes effective July 1, 2006.
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately, 000-000-0000.

ADOPT:

AMEND: OAR 161-002-0000 and 161-025-0060

SUSPEND:

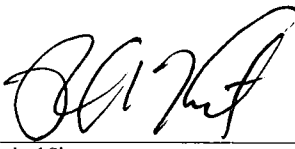
ORS 183.355(1)(a) and ORS 674.305(7) and ORS 674.310(2)
Stat. Auth.: ORS

Title XI of the Federal Financial Reform, Recovery and Enforcement Act of 1989 (12 USC 3310 et seq.)
Other Authority

ORS 674.305(7), and 674.310(2)
Stats. Implemented: ORS

RULE SUMMARY

Proposed changes to Division 2 regarding definitions, and Division 25 regarding Appraisal Standards and USPAP.


Authorized Signer

Robert A. Keith 6-29-06
Printed name Date

*With this original and Statement of Need, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules.

STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Appraiser Certification and Licensure Board

OAR Chapter 161

Agency and Division

Administrative Rules Chapter Number

In the Matter of the amendment of rules relating to the adoption of the 2006 Edition of Uniform Standards of Professional Appraisal Practice (USPAP).

Rule Caption: To adopt latest edition of Uniform Standards of Professional Appraisal Practice (USPAP) effective July 1, 2006.

Statutory Authority: ORS 183.355(1)(a) and ORS 674.305(7) and ORS 674.310(2)

Other Authority: Title XI of the Federal Financial Reform, Recovery and Enforcement Act of 1989 (12 USC 3310 et seq.)

Stats. Implemented: ORS 674.305(7) and ORS 674.310(2)

Need for the Temporary Rule(s): To comply with Federal mandate to adopt the 2006 Edition of Uniform Standards of Professional Appraisal Practice.

Documents Relied Upon, and where they are available: ORS 674, The Guidelines of the Appraisal Standards Board of the Appraisal Foundation, Title XI of FFIREA (12 U.S.C. 3310 et. seq.) that are available for review on-line or at the office of the Oregon Appraiser Certification and Licensure Board.

Justification of Temporary Rule(s): The Appraisal Standards Board of the Appraisal Foundation adopted changes to the Uniform Standards of Professional Appraisal Practice (USPAP). Real Estate Appraisal Regulatory agencies that have adopted USPAP are required to conform to these changes.



Authorized Signer

Robert A. Keith

Printed name

6-29-06

Date

DIVISION 2
DEFINITIONS

161-002-0000 Definitions

As used in OAR 161-01-005 to 161-50-050, the following terms (whether capitalized or not) shall have the following meanings:

- (1) **"Administrator"** means the administrator of the Board appointed by the Board.
- (2) **"Affiliate"** means a business organization sharing with a financial institution or insurance company some aspect of common ownership and control.
- (3) **"Appraisal" or "Real Estate Appraisal"** means "appraisal" as defined in USPAP.
- (4) **"Appraisal Foundation"** means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois.
- (5) **"Appraisal Report"** means "report" as defined in USPAP.
- (6) **"Appraiser Assistant" or "AA"** means a person who is not licensed or certified as an appraiser, but is registered as an appraiser assistant under ORS 674.310, and who assists with real estate appraisal activity under the direct supervision of a certified or licensed appraiser.
- (7) **"Appraisal Subcommittee"** means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (FFIEC) established pursuant to the Federal Act.
- (8) **"Board" or "ACLB"** means the Appraiser Certification and Licensure Board established under ORS Chapter 674.
- (9) **"Certificate"** means the document issued by the Board indicating that the person named thereon has satisfied the requirements for certification as a state certified residential or state certified general appraiser.
- (10) **"Classroom hour"** as used in reference to qualifying and continuing education means 50 minutes out of each 60 minute segment.
- (11) **"Completion"** means interpreting, analyzing and reconciling data or compiled data, including reviewing and adopting another person's interpretations and reconciliations as one's own.
- (12) **"Complex one-to-four family residential property appraisal"** means an appraisal in which the property to be appraised, market conditions, or form of ownership is atypical. For example, atypical factors may include, but are not limited to:
 - (a) Architectural style;
 - (b) Age of improvements;
 - (c) Size of improvements;
 - (d) Size of lot;
 - (e) Neighborhood land use;
 - (f) Potential environmental hazard liability;
 - (g) Property interests;
 - (h) Limited readily available comparable sales data; or
 - (i) Other unusual factors.
- (13) **"Continuing Education"** means education that is creditable toward the education requirements that must be satisfied to renew a license, certificate or appraiser assistant registration.
- (14) **"Direct Supervision"** of an appraiser assistant means:
 - (a) disclosing in the appraisal report that the supervising appraiser has inspected the subject property both inside and out, and has made an exterior inspection of all comparables relied upon in the appraisal or disclose that the supervising appraiser did not inspect the subject property both inside and out, and did not inspect the exterior of comparables relied upon in the appraisal; and
 - (b) reviewing the appraiser assistant's appraisal report(s) to ensure research of general and specific data has been adequately conducted and properly reported, application of appraisal principles and methodologies has been properly applied, that any analysis is sound and adequately reported, and that any analysis, opinions, or conclusions are adequately developed and reported so that the appraisal report is not misleading; and
 - (c) reviewing the appraiser assistant's work product and discussing with the appraiser assistant any edits, corrections or modifications that need to be made to that work product to satisfy OAR 161-002-0000(14)(b); and
 - (d) accepting sole and total responsibility for the appraisal report by signing the appraisal report and certifying that the appraisal report has been prepared in compliance with the current edition of the Uniform Standards of Professional Appraisal Practice.

- (15) **"Federal Act"** means Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C 3310 et seq.).
- (16) **"Federal Financial Institution Regulatory Agency"** means:
- (a) The Board of Governors of the Federal Reserve System;
 - (b) The Federal Deposit Insurance Corporation;
 - (c) The Office of the Comptroller of the Currency;
 - (d) The Office of Thrift Supervision; or
 - (e) The National Credit Union Administration.
- (17) **"Financial Institution"** means an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act or an insured credit union as defined in section 101 of the Federal Credit Union Act.
- (18) **"Good Standing"** means the status of a person whose license, certificate or registration is not currently suspended or been revoked.
- (19) **"Issuance"** means the act of communicating the opinion of value either in writing or orally.
- (20) **"License"** means the document issued by the Board indicating that the person named thereon has satisfied all requirements for licensure as a state licensed appraiser.
- (21) **"Licensee"** means any person who holds an active or inactive Oregon appraiser license, certified residential appraiser certificate, or certified general appraiser certificate.
- (22) **"Mortgage banker"** has the meaning defined in ORS 59.840.
- (23) **"Non-residential"** appraising means to render a value on real property other than one-to-four family residential properties.
- (24) **"One-to-four family residential property"** means a property that includes one to four residential units and is residential in character, i.e., zoning, land use.
- (25) **"Preparation"** means compiling data, including reviewing and adopting such compiled data as one's own.
- (26) **"Prerequisite education"** means the initial qualifying educational requirements to become licensed or certified with the Board.
- (27) **"Professional real estate activity"** has the meaning defined in ORS 696.010.
- (28) **"Qualifying Education"** means education that is creditable toward the education requirements for initial licensure or certification under one or more of the three real estate appraiser classifications.
- (29) **"Real estate appraisal activity"** has the meaning defined in ORS 674.100.
- (30) **"Real Estate"** or **"Real Property"** means an identified parcel or tract of land, together with any improvements, that includes easements, rights-of-way, undivided or future interests or similar rights in a tract of land, but does not include mineral rights, timber rights, growing crops, water rights or similar interests severable from the land when the transaction does not involve the associated parcel or tract of land.
- (31) **"State Certified General Appraiser"** or **"SCGA"** means an individual who has been certified as a state certified general appraiser by the Board.
- (32) **"State Certified Residential Appraiser"** or **"SCRA"** means an individual who has been certified as a state certified residential appraiser by the Board.
- (33) **"State Licensed Appraiser"** or **"SLA"** means an individual who has been licensed as a state licensed appraiser by the Board.
- (34) **"Transaction Value"** means:
- (a) For loans or other extensions of credit, the amount of the loan or extension of credit; and
 - (b) For sales, leases, purchases and investments in or exchange of real property, the market value of the real property interest involved; and
 - (c) For the pooling of loans or interest in real property for resale or purchase, the amount of the loan or market value of the real property calculated with respect to each such loan or interest in real property.
 - (d) For determinations of the transaction value of real property or interests in real property in circumstances other than described in the proceeding (a) to (c) of this section, the market value of the real property interest involved.
 - (e) In condemnation or partial taking actions, the transaction value is deemed to be the value of the larger parcel before the taking.
- (35) **"Uniform Standards of Professional Appraisal Practice"** or **"USPAP"** means the standards adopted and published by the Appraisal Standards Board of the Appraisal Foundation dated April 27, 1987, as amended July 1, 2006.
- (36) **"Workfile"** means "workfile" as defined in USPAP.

Stat. Auth.: ORS 674.305 & 674.310

Hist.: ACLB 2-1991(Temp), f. & cert. ef. 7-1-91; ACLB 7-1991, f. & cert. ef. 12-23-91; ACLB 1-1993(Temp), f. & cert. ef. 3-3-93; ACLB 1-1994, f. & cert. ef. 2-1-94; Renumbered from 161-10-000; ACLB 4-1994, f. & cert. ef. 7-27-94; ACLB 4-1994,f. & cert. ef. 7-27-94; ACLB 1-1995, f. & cert. ef. 8-1-95; ACLB 1-1996, f. & cert. ef. 2-1-96

DIVISION 25
SCOPE OF PRACTICE AND PROCEDURES

161-025-0060 Appraisal Standards and USPAP

- (1) All licensees must develop and communicate each appraisal assignment in compliance with these administrative rules and USPAP.
- (2) A licensee employed by a group or organization that conducts itself in a manner that does not conform to USPAP Standards must take steps that are appropriate under the circumstances to ensure compliance with the Standards.
- (3) All licensees must certify to what extent they personally inspected the property that is the subject of the appraisal assignment. Each report must clearly state that the subject property was: inspected both inside and out; inspected from the exterior only; or was not personally inspected by the licensee.
- (4) In addition to certifying as to the extent of the subject's inspection, all licensees must also certify to what extent each of the comparable sales relied upon in the appraisal were personally inspected.
- (5) All licensees testifying or presenting evidence in an administrative or judicial proceeding, must base their testimony or evidence only upon a written report on the appraisal or on an appraisal report that was prepared and documented in compliance with USPAP and ORS 674.410.
- (6) The "Uniform Standards of Professional Appraisal Practice", 2006 Edition, approved and adopted by the Appraisal Standards Board of the Appraisal Foundation, dated April 27, 1987, as amended on July 1, 2006, are incorporated into the Administrative Rules of the Appraiser Certification and Licensure Board as the standards of professional conduct which shall guide the behavior of licensed and certified appraisers in the State of Oregon. Copies of the Uniform Standards of Professional Appraisal Practice may be obtained from the Appraisal Foundation located at 1029 Vermont Avenue, N.W., Suite 900, Washington D.C. 20005-3517.
- (7) All licensees must list their certificate or license number in each appraisal report.
- (8) All licensees must comply with USPAP in all valuation work as provided in ORS 674.100(2), (3).
- (9) Notwithstanding any other provision of these rules, a licensee acting in one of the following capacities is not subject to the requirements of Standard 3 of USPAP when examining an appraisal report and workfile as part of an official investigation being conducted by the Board:
 - (a) Board member;
 - (b) employee; or
 - (c) volunteer serving at the request of the Board.

Stat. Auth.: ORS 674-305(8) & ORS 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 4-1993(Temp), f. & cert. ef. 6-25-93; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 4-1994, f. & cert. ef. 7-27-1994; ACLB 2-1996, f. & cert. ef. 2-13-96; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-1999, f. 1-28-99, cert. ef. 3-31-99; ACLB 3-1999, f. 9-23-99, cert. ef. 1-1-00