

VOLUME 47, ISSUE 8
ISSUE DATE: **APRIL 20, 2015**
RULE ADOPTIONS

LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
State Board of Real Estate Appraisers

Adopted New Rules and Repeals: N.J.A.C. 13:40A-7.6, 7.7, and 8.1

Adopted New Rules: N.J.A.C. 13:40A-2.6, 2A.6, 3.5, and 7.8

State Board of Real Estate Appraisers Rules

Readoption with Amendments: N.J.A.C. 13:40A

Proposed: October 20, 2014, at 46 N.J.R. 2086(a).

Adopted: February 24, 2015, by the State Board of Real Estate Appraisers, Joseph Palumbo, President.

Filed: March 20, 2015, as R.2015 d.062, **without change**.

Authority: N.J.S.A. 45:14F-8.

Effective Dates: March 20, 2015, Readoption;

April 20, 2015, Amendments, Repeals, and New Rules.

Expiration Date: March 20, 2022.

Summary of Public Comment and Agency Response:

The official comment period ended on December 19, 2014. In order to ensure compliance with P.L. 2013, c. 259, the comment period was extended through January 5, 2015. **The Board of Real Estate Appraisers (Board) received no comments on the notice of proposal.**

Federal Standards Statement

A Federal standards analysis is not required because the readopted rules with amendments, repeals, and new rules do not exceed, and in some cases, incorporate by reference, standards and requirements set forth by the Appraiser Qualification Board of the Appraisal Foundation, which may be viewed as establishing and setting forth Federal standards and requirements.

The Federal Financial Institutions Examination Council's Appraisal Subcommittee's (ASC)

Policy Statement 5 precludes states from imposing additional impediments to issuance of reciprocal credentials. Therefore, in implementing, P.L. 2013, c. 182, with respect to reciprocity, the Board did not impose any minimum length of practice requirement for applicants seeking licensure by reciprocity.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 13:40A.

Full text of the adopted amendments and new rules follow:

SUBCHAPTER 2. CERTIFICATION OF GENERAL REAL ESTATE APPRAISERS

13:40A-2.6 Credit towards certification as a general real estate appraiser for education, training, and experience received while serving as a member of the Armed Forces

(a) An applicant who has served in the Armed Forces of the United States (Armed Forces) and who does not meet all of the training, education, and experience requirements for certification under N.J.A.C. 13:40A-2 may apply to the Board for recognition of the applicant's training, education, and/or experience received while serving as a member of the Armed Forces, which the Board shall consider, together with any training, education, and/or experience obtained outside of the Armed Forces, for determining substantial equivalence to the training, education, and experience required for certification.

(b) The Board shall issue a certification as a general real estate appraiser to the applicant if the applicant presents evidence to the Board that:

1. The applicant has been honorably discharged from active military service;
2. The relevant training, experience, and education the applicant received in the military, together with any training, education, and experience obtained outside of the Armed Forces, is substantially [page=803] equivalent in scope and character to the training, experience, and education required for certification under N.J.A.C. 13:40A-2.
 - i. An applicant seeking credit for military training and experience shall submit to the Board the applicant's Verification of Military Experience and Training (VMET) Document, DD Form 2586 or a successor form, as amended and supplemented.
 - ii. An applicant seeking credit for education courses and/or training completed while in the military that are not approved by the AQB's Course Approval Program shall submit to the Board a Joint Services Transcript of his or her education/training for a determination that the education courses and/or training completed are substantially equivalent in level, scope, and intent to the courses and/or training approved by the AQB's Course Approval Program as required for certification under N.J.A.C. 13:40A-2.3. For the purpose of determining substantial equivalence of the applicant's military education and/or training, the Board shall consider only those education courses and/or training relevant to the practice of real estate appraising that have been evaluated by the American Council on Education for substantial equivalence to civilian postsecondary curricula.
 - iii. An applicant seeking credit for education courses and/or training completed while in the

military that are not part of a degree program in real estate from an accredited degree-granting college or university whose curriculum was reviewed and approved by the AQB shall submit to the Board a Joint Services Transcript of his or her education/training for a determination that the education courses and/or training completed are substantially equivalent in level, scope, and intent to those in a degree program in real estate from an accredited degree-granting college or university whose curriculum was reviewed and approved by the AQB as required for certification under N.J.A.C. 13:40A-2.3. For the purpose of determining substantial equivalence of the applicant's military education and/or training, the Board shall consider only those education courses and/or training relevant to the practice of real estate appraising that have been evaluated by the American Council on Education for substantial equivalence to civilian postsecondary curricula; and

3. The applicant complies with all other requirements for certification, including successful completion of the examination as set forth in N.J.A.C. 13:40A-2.1.

(c) It is the applicant's responsibility to provide timely and complete evidence of the education, training, and/or experience gained in the military for review and consideration.

(d) If the applicant's military training, education, and/or experience, or a portion thereof, is not deemed to be substantially equivalent to that required for certification, the Board shall credit whatever portion of the military training, education, and/or experience that is substantially equivalent towards meeting the requirements under N.J.A.C. 13:40A-2.4 for the issuance of the certification as a general real estate appraiser.

(e) Satisfactory evidence of such education, training, and/or experience shall be assessed on a case-by-case basis.

SUBCHAPTER 2A. CERTIFICATION OF RESIDENTIAL REAL ESTATE APPRAISERS

13:40A-2A.5 Temporary visiting certificate; certified residential real estate appraiser

(a) (No change.)

(b) An appraiser certified by another jurisdiction may apply for no more than three temporary certificates within one calendar year, except that the Board may waive the limitation based on a showing of good cause by the applicant.

(c)-(e) (No change.)

13:40A-2A.6 Credit towards certification as a residential real estate appraiser for education, training, and experience received while serving as a member of the Armed Forces

(a) An applicant who has served in the Armed Forces of the United States (Armed Forces) and who does not meet all of the training, education, and experience requirements for certification under N.J.A.C. 13:40A-2A may apply to the Board for recognition of the applicant's training, education, and/or experience received while serving as a member of the Armed Forces, which the Board shall consider, together with any training, education, and/or experience obtained outside of the Armed Forces, for determining substantial equivalence to

the training, education, and experience required for certification.

(b) The Board shall issue a certification as a residential real estate appraiser to the applicant if the applicant presents evidence to the Board that:

1. The applicant has been honorably discharged from active military service;

2. The relevant training, experience, and education the applicant received in the military, together with any training, education, and experience obtained outside of the Armed Forces, is substantially equivalent in scope and character to the training, experience, and education required for certification under N.J.A.C. 13:40A-2A.

i. An applicant seeking credit for military training and experience shall submit to the Board the applicant's Verification of Military Experience and Training (VMET) Document, DD Form 2586 or a successor form, as amended and supplemented.

ii. An applicant seeking credit for education courses and/or training completed while in the military that are not approved by the AQB's Course Approval Program shall submit to the Board a Joint Services Transcript of his or her education/training for a determination that the education courses and/or training completed are substantially equivalent in level, scope, and intent to those approved by the AQB's Course Approval Program as required for certification under N.J.A.C. 13:40A-2A.3. For the purpose of determining substantial equivalence of the applicant's military education and/or training, the Board shall consider only those education courses and/or training relevant to the practice of real estate appraising that have been evaluated by the American Council on Education for substantial equivalence to civilian postsecondary curricula.

iii. An applicant seeking credit for education courses and/or training completed while in the military that are not part of a degree program in real estate from an accredited degree-granting college or university whose curriculum was reviewed and approved by the AQB, shall submit to the Board a Joint Services Transcript of his or her education/training for a determination that the education courses and/or training completed are substantially equivalent in level, scope, and intent to those in a degree program in real estate from an accredited degree-granting college or university whose curriculum was reviewed and approved by the AQB as required for certification under N.J.A.C. 13:40A-2A.3. For the purpose of determining substantial equivalence of the applicant's military education and/or training, the Board shall consider only those education courses and/or training relevant to the practice of real estate appraising that have been evaluated by the American Council on Education for substantial equivalence to civilian postsecondary curricula; and

3. The applicant complies with all other requirements for certification, including successful completion of the examination as set forth in N.J.A.C. 13:40A-2A.1.

(c) It is the applicant's responsibility to provide timely and complete evidence of the education, training, and/or experience gained in the military for review and consideration.

(d) If the applicant's military training, education and/or experience, or a portion thereof, is not deemed to be substantially equivalent to that required for certification, the Board shall credit whatever portion of the military training, education, and/or experience that is

substantially equivalent towards meeting the requirements under N.J.A.C. 13:40A-2A.4 for the issuance of the certification as a residential real estate appraiser.

(e) Satisfactory evidence of such education, training, and/or experience shall be assessed on a case-by-case basis.

SUBCHAPTER 3. LICENSING OF RESIDENTIAL REAL ESTATE APPRAISERS

13:40A-3.5 Credit towards licensure as a residential real estate appraiser for education, training, and experience received while serving as a member of the Armed Forces

(a) An applicant who has served in the Armed Forces of the United States (Armed Forces) and who does not meet all of the training, education, and experience requirements for licensure under N.J.A.C. 13:40A-3 may apply to the Board for recognition of the applicant's [page=804] training, education, and experience received while serving as a member of the Armed Forces, which the Board shall consider together with any training, education, and experience obtained outside of the Armed Forces, for determining substantial equivalence to the training, education, and experience required for licensure.

(b) The Board shall issue a license as a residential real estate appraiser to the applicant if the applicant presents evidence to the Board that:

1. The applicant has been honorably discharged from active military service;
2. The relevant training, experience, and education the applicant received in the military, together with any training, education, and experience obtained outside of the Armed Forces, is substantially equivalent in scope and character to the training, experience, and education required for certification under N.J.A.C. 13:40A-3.
 - i. An applicant seeking credit for military training and experience shall submit to the Board the applicant's Verification of Military Experience and Training (VMET) Document, DD Form 2586 or a successor form, as amended and supplemented.
 - ii. An applicant seeking credit for education courses and/or training completed while in the military that are not approved by the AQB's Course Approval Program shall submit to the Board a Joint Services Transcript of his or her education/training for a determination that the education courses and/or training completed are substantially equivalent in level, scope, and intent to those approved by the AQB Course Approval Program as required for certification under N.J.A.C. 13:40A-3.3. For the purpose of determining substantial equivalence of the applicant's military education and/or training, the Board shall consider only those education courses and/or training relevant to the practice of real estate appraising that have been evaluated by the American Council on Education for substantial equivalence to civilian postsecondary curricula.
 - iii. An applicant seeking credit for education courses and/or training completed while in the military that are not part of a degree program in real estate from an accredited degree-granting college or university whose curriculum was reviewed and approved by the AQB shall submit to the Board a Joint Services Transcript of his or her education/training for a determination that the education courses and/or training completed are substantially

equivalent in level, scope, and intent to those in a degree program in real estate from an accredited degree-granting college or university whose curriculum was reviewed and approved by the AQB as required for licensure under N.J.A.C. 13:40A-3.3. For the purpose of determining substantial equivalence of the applicant's military education and/or training, the Board shall consider only those education courses and/or training relevant to the practice of real estate appraising that have been evaluated by the American Council on Education for substantial equivalence to civilian postsecondary curricula; and

3. The applicant complies with all other requirements for licensure, including successful completion of the examination as set forth in N.J.A.C. 13:40A-3.1.

(c) It is the applicant's responsibility to provide timely and complete evidence of the education, training, and/or experience gained in the military for review and consideration.

(d) If the applicant's military training, education, and/or experience, or a portion thereof, is not deemed to be substantially equivalent to that required for licensure, the Board shall credit whatever portion of the military training, education, and/or experience that is substantially equivalent towards meeting the requirements under N.J.A.C. 13:40A-3.4 for the issuance of the license as a residential real estate appraiser.

(e) Satisfactory evidence of such education, training, or/and experience shall be assessed on a case-by-case basis.

13:40A-3.6 Temporary visiting licenses

(a) (No change.)

(b) An appraiser licensed by another jurisdiction may apply for no more than three temporary licenses within one calendar year, except that the Board may waive the limitation based on a showing of good cause by the applicant.

(c)-(e) (No change.)

SUBCHAPTER 5. CONTINUING PROFESSIONAL EDUCATION

13:40A-5.4 Special course requirement(s)

(a) All licensed and certified real estate appraisers shall be required to complete the seven-hour National Update Course on the Uniform Standards of Professional Appraisal Practice or its equivalent at least once every 24 months.

(b) All licensed and certified real estate appraisers shall be required to complete a two-hour course on New Jersey law and rules governing the practice of real estate appraising. The course, at a minimum, shall include: the origin and history of the Real Estate Appraisers Act, the Board composition, scope of practice, mixed practice conflicts of interest, continuing education requirements and criteria, temporary visiting certificates, trainee and supervisor requirements, appraisal reporting and common deficiencies, and the complaint process.

13:40A-5.6 Acceptable course topics

(a) The Board shall approve only those continuing education activities and course topics as are deemed by the Board to be consistent with the purpose of continuing education. Examples of such course topics may include, but are not limited to: changes in the Uniform Standards of Professional Appraisal Practice; ad valorem taxation; arbitration; business courses related to practice of real estate appraisal; construction estimating; land use planning; zoning and taxation; management, leasing, brokerage, timesharing; property development; State law and rules governing the practice of real estate appraising; real estate appraisal (valuation/evaluations), law, litigation, financing, and investment; real estate appraisal related computer applications; real estate securities and syndication; real property exchange; green building; seller concessions; and developing opinions on real estate value in appraisals that also include personal property and/or business value.

(b)-(c) (No change.)

13:40A-5.9 Responsibilities of continuing education providers

(a) All providers of continuing education courses shall:

1. (No change.)

2. Submit, on forms provided by the Board, for each course for which approval is sought, the following for evaluation by the Board:

i.-v. (No change.)

vi. The name of the instructor(s) proposed to teach the course or seminar;

3. Monitor the attendance at each approved course; and

4. Retain accurate records of attendance for a four-year period and shall submit such documentation to the Board upon request.

SUBCHAPTER 7. GENERAL PROVISIONS

13:40A-7.6 License or certification renewal

(a) The Board shall send a notice of renewal to each licensee or certificate holder, at least 60 days prior to the expiration of the license or certification. The notice of renewal shall explain inactive renewal and advise the licensee or certificate holder of the option to renew as inactive. If the notice to renew is not sent 60 days prior to the expiration date, no monetary penalties or fines shall apply to the licensee or certificate holder for failure to renew, provided that the license or certification is renewed within 60 days from the date the notice is sent or within 30 days following the date of license or certification expiration, whichever is later.

(b) A licensee or certificate holder shall renew his or her license or certification for a period of two years from the last expiration date. The licensee or certificate holder shall submit a renewal application to the Board, along with the renewal fee set forth in N.J.A.C. 13:40A-

7.1, prior to the date of license or certification expiration.

(c) A licensee or certificate holder may renew his or her license or certification by choosing inactive status. A licensee or certificate holder electing to renew his or her license or certification as inactive shall not engage in the practice of real estate appraising, or hold himself or herself out as eligible to engage in the practice of real estate appraising in New Jersey, until such time as the license or certification is returned to active status.

[page=805] (d) If a licensee or certificate holder does not renew his or her license or certification prior to its expiration date, the licensee or certificate holder may renew the license or certification within 30 days of its expiration by submitting a renewal application, a renewal fee, and a late fee as set forth in N.J.A.C. 13:40A-7.1. During this 30-day period, the license or certification shall be valid and the licensee or certificate holder shall not be deemed practicing without a license or certification, as applicable.

(e) A licensee or certificate holder who fails to submit a renewal application within 30 days of license or certification expiration shall have his or her license or certification suspended without a hearing.

(f) A licensee or certificate holder who continues to engage in the practice of real estate appraising with a suspended license or certification shall be deemed to be engaging in the unauthorized practice of real estate appraising and shall be subject to action consistent with N.J.S.A. 45:1-14 et seq., even if no notice of suspension has been provided to the individual.

13:40A-7.7 License or certification reactivation

(a) A licensee or certificate holder who holds an inactive license or certification pursuant to N.J.A.C. 13:40A-7.6(c) may apply to the Board for reactivation of the inactive license or certification. A licensee or certificate holder seeking reactivation of an inactive license or certification shall submit:

1. A renewal application;
 2. A certification of employment listing each job held during the period of the inactive license or certification, which includes the name, address, and telephone number of each employer;
 3. The renewal fee for the biennial period for which reactivation is sought as set forth in N.J.A.C. 13:40A-7.1; and
 4. Evidence of having completed all continuing education credits for the current biennial registration period that were required to be completed within two years prior to the beginning of the renewal period for which reactivation is sought, consistent with the requirements set forth in N.J.A.C. 13:40A-5.
- i. An applicant who holds a valid, current license or certification in good standing issued by another state to engage in the practice of real estate appraising and submits proof of having satisfied that state's continuing education requirements for that license or certification

during the biennial period immediately prior to the renewal period for which reactivation is sought, shall be deemed to have satisfied the requirements of (a)4 above. If the other state does not have any continuing education requirements, the requirements of (a)4 above apply.

(b) If a Board review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reactivation, the Board may require the applicant to submit to and successfully pass an examination or an assessment of skills, a refresher course, or other requirement(s) as determined by the Board prior to reactivation of the license or certification. If the examination or assessment identifies deficiencies or educational needs, the Board may require the applicant, as a condition of reactivation of licensure or certification, to take and successfully complete any education or training or to submit to any supervision, monitoring, or limitations, as the Board determines are necessary to assure that the applicant practices with reasonable skill. The Board in its discretion may restore the license or certification subject to the applicant's completion of the training within a period of time prescribed by the Board following the restoration of the license or certification. In making its determination whether there are practice deficiencies requiring remediation, the Board shall consider the following, but not limited to:

1. Length of duration license or certification was inactive;
2. Employment history;
3. Professional history;
4. Disciplinary history and any action taken against the applicant's license or certification by any licensing board;
5. Actions affecting the applicant's privileges taken by any institution, organization, or employer related to the practice of real estate appraising or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;
6. Pending proceedings against a professional or occupational license or certification issued to the licensee or certificate holder by a professional board in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and
7. Civil litigation related to the practice of real estate appraising or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

13:40A-7.8 License or certification reinstatement

(a) A licensee or certificate holder who has had his or her license suspended pursuant to N.J.A.C 13:40A-7.6(e) above may apply to the Board for reinstatement. A licensee or certificate holder applying for reinstatement shall submit:

1. A reinstatement application;

2. A certification of employment listing each job held during the period of suspended license or certification, which includes the name, address, and telephone number of each employer;

3. The renewal fee for the biennial period for which reinstatement is sought;

4. The past due renewal fee for the biennial period immediately preceding the renewal period for which reinstatement is sought;

5. The reinstatement fee set forth in N.J.A.C. 13:40A-7.1; and

6. Evidence of having completed all continuing education credits for the current biennial registration period that were required to be completed during the biennial period immediately prior to the renewal period for which reinstatement is sought, consistent with the requirements set forth in N.J.A.C. 13:40A-5.

i. An applicant who holds a valid, current license or certification in good standing issued by another state to engage in the practice of real estate appraising and submits proof of having satisfied that state's continuing education requirements for that license or certification, shall be deemed to have satisfied the requirements of (a)6 above. If the other state does not have any continuing education requirements, the requirements of (a)6 above shall apply.

(b) If a Board review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reinstatement, the Board may require the applicant to submit to and successfully pass an examination or an assessment of skills, a refresher course, or other requirements as determined by the Board, prior to reinstatement of the license or certification. If the examination or assessment identifies deficiencies or educational needs, the Board may require the applicant as a condition of reinstatement of licensure to take and successfully complete any education or training or to submit to any supervision, monitoring, or limitations, as the Board determines are necessary to assure that the applicant practices with reasonable skill. The Board in its discretion may restore the license or certification subject to the applicant's completion of the training within a period of time prescribed by the Board following the restoration of the license or certification. In making its determination whether there are practice deficiencies requiring remediation, the Board shall consider the following, but not limited to:

1. Length of duration license or certification was suspended;

2. Employment history;

3. Professional history;

4. Disciplinary history and any action taken against the applicant's license or certification by any licensing board;

5. Actions affecting the applicant's privileges taken by any institution, organization, or employer related to the practice of real estate appraising, or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;

6. Pending proceedings against a professional or occupational license or certification issued to a licensee or certificate holder by a professional board in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and

7. Civil litigation related to the practice of real estate appraising or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

Recodify existing 13:40A-7.8 and 7.9 as 7.9 and 7.10 (No change in text.)

[page=806] 13:40A-7.11 Notification of change of address; service of process

(a) Every licensee and certificate holder shall give notice to the Board of any change of his or her address of record within 10 days of such change. For purposes of this section "address of record" means an address designated by a licensee or certificate holder which is part of the public record and which may be disclosed upon request. "Address of record" may be a licensee or certificate holder's home, business or mailing address, but shall not be a post office box, unless the licensee or certificate holder also provides another address that includes a street, city, state, and zip code.

(b) (No change.)

SUBCHAPTER 8. CERTIFICATION OR LICENSURE BY RECIPROCITY

13:40A-8.1 Certification or licensure by reciprocity

(a) Upon receipt of a completed application, application fee, consent to a criminal history record background check, and requisite fee for such a check, the Board shall issue a real estate appraiser license or certification to any person who documents that the person holds a valid, current corresponding license or certification in good standing issued by another state, if:

1. The Board determines that the state that issued the license or certification has or had at the time of issuance, education, training, and examination requirements for licensure or certification substantially equivalent to the current standards of this State; and

2. The requirements of (b) below are satisfied.

(b) Prior to the issuance of the license or certification, the Board shall have received:

1. Documentation reasonably satisfactory to the Board that the applicant's license or certification in the other state is in good standing;

2. The results of a criminal history record background check of the files of the Criminal Justice Information Services Division in the Federal Bureau of Investigation and of the State Bureau of Identification in the Division of State Police do not disclose a conviction for a disqualifying crime; and

3. Designation of an agent in this State for service of process, if the applicant is not a State

resident and does not have an office in this State.

(c) For purposes of this section, "good standing" means that:

1. No action has been taken against the applicant's license or certification by any licensing board;
2. No action adversely affecting the applicant's privileges to practice real estate appraising has been taken by any out-of-State institution, organization, or employer;
3. No disciplinary proceeding is pending that could affect the applicant's privileges to practice real estate appraising;
4. All fines levied by any out-of-State board have been paid; and
5. There is no pending or final action by any criminal authority for violation of law or regulation, or any arrest or conviction for any criminal or quasi-criminal offense under the laws of the United States, New Jersey, or any other state, including but not limited to: criminal homicide; aggravated assault; sexual assault, criminal sexual contact, or lewdness; or any offense involving any controlled dangerous substance or controlled dangerous substance analog.

(d) For purposes of this section, a "substantially equivalent" examination need not be identical to the current examination requirements of this State, but such examination shall be nationally recognized and of comparable scope and rigor.

(e) The Board, after the licensee has been given notice and an opportunity to be heard, may revoke any license or certification based on a license or certification issued by another state obtained through fraud, deception, or misrepresentation.