

TITLE 876 INDIANA REAL ESTATE COMMISSION**Economic Impact Statement**

LSA Document #07-338

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

LSA Document #07-338 is a proposed rule to comply with Title XI of the Financial Institutions Recovery, Reform, and Enforcement Act of 1989 (12 U.S.C. 3331-3351), (Title XI) and changes made by SEA 377 regarding continuing education for real estate appraisers.

The licensing of appraisers is regulated at the federal level by two main entities. The Appraisal Qualifications Board (AQB) is a division of the Appraisal Foundation, which is authorized by Congress as the source of appraisal standards and appraiser qualifications. The Appraisal Foundation is the architect of the education requirement changes, and the Appraisal Subcommittee (ASC) enforces Title XI to ensure state's licensing programs meet the Financial Institutions Recovery, Reform, and Enforcement Act of 1989 (12 U.S.C. 3331-3351).

LSA Document #07-338 achieves:

- Compliance with SEA 377 by requiring defining what continuing education courses will be approved by the Real Estate Appraiser Licensure and Certification Board or the Appraisal Qualifications Board. The Board made the determination that any course less than or equal to seven hours in length will be able to seek approval from the Board. All other courses must seek approval from the AQB.
- Compliance with SEA 377 by repealing the requirement for providers of continuing education programs to seek approval from the Board.
- Compliance with the Financial Institutions Recovery, Reform, and Enforcement Act of 1989 (12 U.S.C. 3331-3351), (Title XI) by repealing the ability for appraisers to use continuing education hours for their real estate broker's license to count towards the continuing education requirement for their appraiser license.
- Compliance with the Financial Institutions Recovery, Reform, and Enforcement Act of 1989 (12 U.S.C. 3331-3351), (Title XI) by establishing guidelines for reactivating an inactive real estate appraiser license pursuant to guidelines established under Title XI.
- Permitting Internet and distance based continuing education provided the course is approved by the Appraisal Qualifications Board.

The Indiana Professional Licensing Agency has determined that this proposed rule will impose requirements and costs on small businesses as described herein.

1. Estimated number of small businesses, classified by industry sector, that will be subject to the proposed rule:

NAICS CODE 531320	Offices of Real Estate Appraising
	Appraiser Trainees needing continuing education: 76
	Licensed Real Estate Appraisers: 689
	Certified Residential Appraisers: 1,035
	Certified General Appraisers: 689
	Number of Continuing Education Providers: 23

IC 4-22-2.1-4 provides that "small business" means any person, firm, corporation, limited liability company, partnership, or association that:

- (1) is actively engaged in business in Indiana and maintains its principal place of business in Indiana;
- (2) is independently owned and operated;
- (3) employs one hundred (100) or fewer full-time employees; and
- (4) has gross annual receipts of five million dollars (\$5,000,000) or less.

Most of the licensees associated with this rule are continuing education providers. Under LSA Document #07-338, there will no longer be an approval process for education providers. Only courses will need approval. The number of education providers cannot be projected. However, at this time there are 23 registered providers of continuing education programs. Of the 23 providers, only 12 are small businesses under IC 4-22-2.1-4.

Providers of continuing education courses greater than seven hours in length must seek AQB approval for their courses and will be required to pay a fee to the AQB to have their course reviewed. Any course less than seven hours in length may seek approval from the Board, which does not have a fee schedule, but is not required to do so and can seek AQB approval regardless of content or hour length.

Of the 2,608 appraisers in Indiana required to complete continuing education, staff of the Real Estate Appraiser Licensure and Certification Board estimates that all of the appraisers meet the definition of small businesses. All of these licensees are required to complete continuing education to renew their license.

2. Estimate of the average annual reporting, record keeping, and other administrative costs that small

business will incur to comply with the proposed rule.

Small business will incur reporting costs and record keeping and other administrative costs. Most of these costs will be associated with completing applications for the approval of continuing education programs and requiring licensees to maintain copies of the continuing education certificates.

3. Estimate of the total annual economic impact that compliance with the proposed rule will have on all small businesses subject to this rule.

Small businesses will be required to pay the Appraisal Qualification Board a fee for their courses to be reviewed and approved.

The minimum estimated calculable cost to small business cannot be accurately calculated. An appraiser is required to have 14 hours of continuing education per year. The AQB's current fee schedule for review and approval of continuing education courses is as follows:

Courses two hours to 13 hours in length - \$1,100.

Courses 14 to 29 hours in length - \$1,500.

Courses 30+ hours in length - \$1,600.

The costs associated with having courses approved by the AQB or the Board will have less than a \$500,000 economic impact.

LSA Document #07-338 will not require the approval of providers; therefore, we cannot determine how many courses will seek approval. However, if we assume that only the 23 education providers remain as the sole providers of continuing education and each of them have 14 two-hour courses approved, the total economic impact to providers would be a maximum of \$184,800.

14 two-hour courses approved at \$1,100 = \$15,400 * 12 providers = \$184,800

It is possible that an entire 28 hour continuing education program could be approved by the AQB for a minimum of \$1,500 and a maximum of \$15,400.

The Board will continue approving courses that are equal to or less than seven hours in length and does not have a fee schedule for the approval of continuing education courses. It should be noted that while continuing education has an economic impact, the adoption of these rules will not result in a significant impact on practitioners as continuing education is not a new requirement under LSA Document #07-338 and has always been required for appraisers by state and federal rules. Appraisers need to have 28 hours of continuing education to renew their license.

If an appraiser chooses to complete all of their continuing education through a provider that is providing Internet-based programs approved by the AQB, they could obtain all of their hours for approximately \$200 per year (\$16 per hour). A locally based provider of classroom based continuing education currently charges appraisers and is expecting to continue charging approximately \$16 per hour after seeking AQB approval. Therefore, there does not appear to be a cost difference to appraisers in selecting courses that are and are not approved by the AQB.

Providers will probably pass the cost of their AQB approval onto the appraiser taking their course.

Using these figures it would cost an appraiser approximately \$400 to complete all of their 28 hours of continuing education over a two-year period or \$200 per year.

There are 689 certified general appraisers, 1,033 certified residential appraisers, 817 licensed residential appraisers, and 195 trainee appraisers required to complete continuing education (only licensees who have been a trainee for more than five years must complete CE) = 2,608 appraisers.

If every appraiser completed 14 hours of continuing education per year, it would cost licensees in the industry approximately \$521,600 to complete continuing education. However, given past history, approximately 77% of appraisers do not renew their license.

During the last renewal cycle 2,021 out of 2,608 appraisers (77%) renewed their license, which would have cost all renewing appraisers a total of \$404,200 per year in continuing education costs.

If this trend continues into the next renewal cycle, then we would expect 1,916 (77% of 2,489) appraisers to renew their license for a total annual continuing education cost of \$383,200.

Because LSA Document #07-338 will also require a licensee who has had their license in inactive status, they must make up continuing education for every year their license was in inactive status before reactivating their license. In the last year, only one licensee out of 635 eligible licensees has requested to reactivate their inactive license that was inactive for more than one renewal cycle.

In regards to allowing appraisers to substitute their continuing education for their real estate broker's license, this economic estimate is included in the annual estimate of \$200 per year for appraiser continuing education requirements.

4. Regulatory Flexibility Analysis of Alternative Methods. Consideration of alternative methods of achieving the purpose of the proposed rule:

The proposed rule is authorized by [IC 25-34.1-3-8](#) to allow the Board to enforce and administer its article and by [IC 25-34.1-2-5.1](#) to establish the standards of the competent practice of real estate appraisers. The Board and

Commission have analyzed alternatives to this proposed rule.

Although permitted by SEA 377, the Board could continue approving continuing education courses regardless of course hour. Given the federal regulatory requirements governing the approval process for continuing education, the Board has determined they do not have the infrastructure to appropriately and adequately review and approve continuing education courses greater than seven hours in length to ensure Indiana's compliance with Title XI.

By requiring courses to be approved by the AQB, the state of Indiana will deflect a significant cost and liability of risking the decertification of our appraiser licensure program by the ASC. If the state had to review and approve courses, the state would need to hire an education consultant, most likely one with a PhD, to meet consistently changing federal education guidelines. This would require the state to increase application fees.

There are no flexibility options available for the prohibiting the use of real estate broker continuing education or the continuing education requirements regarding the reinstatement of an inactive license as these are required by the Financial Institutions Recovery, Reform, and Enforcement Act of 1989 (12 U.S.C. 3331-3351).

The ASC has consistently questioned and scrutinized the validity of continuing education approved by state licensing boards, including Indiana. Their debate of the validity of our programs could cause the ASC to derecognize Indiana's appraiser program. A November 13, 2007, letter from the ASC highlights the gravity and importance of ensuring the implementation of LSA Document #07-338:

"In a May 15, 2007 response letter, the IPLA and the Board stated that their acceptance of these (real estate broker) continuing education courses was consistent with State law and therefore appropriate. In our June 25th letter responding to the State's May 15th letter, we again instructed the Board and IPLA to comply with Title XI and AQB continuing education certification requirements. . . We informed the State that, while the certified appraiser credentials renewed . . . unacceptable education might be compliant with State law, appraisers holding those credentials could not legally perform appraisals in connection with federally related transactions and certain real estate related financial transactions under Federal law. We also advised IPLA and the Board that their continued approval of such courses would put Indiana's entire appraiser regulatory program in jeopardy under Title XI.

. . .

ASC staff will return within six months to review the corrective actions taken by the Board and IPLA. Should ASC staff find during this follow-up field review that the State failed to make sufficient progress towards remedying the first deficiency discussed below, the ASC will consider whether to initiate a non-recognition proceeding against the State under § 1118 of Title XI.

If the Appraisal Subcommittee initiated nonrecognition proceedings that resulted in the nonrecognition of Indiana's appraiser program, federally insured financial institutions would not be able to use appraisers certified or licensed by Indiana. Further, the Department of Housing and Urban Development's FHA Program would not be able to insure loans supported by appraisals performed by Indiana appraisers. Fannie Mae and Freddie Mac would not be able to purchase loans supported by appraisals performed by Indiana appraisers. The result on the Indiana economy would be devastating.

5. Supporting Data, Studies, or Analyses

SEA 377

Appraisal Qualifications Board
McKissock School of Real Estate
Education Resource, LLC
Appraiser Board Chairman

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