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TITLE 876 INDIANA REAL ESTATE COMMISSION

Proposed Rule LSA Document #06-40

DIGEST

Amends 876 IAC 3-6-2 to incorporate by reference the 2006 edition of the Uniform Standards of Professional Appraisal Practice (USPAP). Amends 876 IAC 3-6-3 to update the revisions to USPAP based upon the changes in the 2006 edition. Effective 30 days after filing with the Secretary of State.

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

Estimated Number of Small Businesses Subject to This Rule:

U.S. Census Bureau North American Standard Classification System 531320 Offices of Real Estate Appraisers

The Real Estate Appraiser Licensure and Certification Board (Board) has the authority to recommend to the Indiana Real Estate Commission (Commission) rules governing the real estate appraisers licensed and certified under IC 25-34.1-3-8. Under IC 25-34.1-2-5.1, the Commission also has the authority to promulgate rules establishing standards for the competent practice of the various occupations regulated in IC 25-34.1. There are 2,945 appraisers licensed in the state of Indiana. Although the proposed rule affects the practices of appraisers specifically, the small business for which these appraisers are employed will also be affected because of the licensees' compliance. The number of small businesses affected by this proposed rule will be less than that; however, the Board is unable to determine the actual number of small businesses. This rule also applies to real estate brokers doing appraising in Indiana. There are approximately 26,735 real estate brokers and real estate business entities licensed in Indiana. Although the proposed rule affects the practices of broker performing appraisals specifically, the small business for which these brokers are employed will also be affected because of the licensees' compliance. The estimated number of small businesses affected by this rule is 26,235, which includes the following: 18 partnerships, 79 professional corporations, 645 limited liability companies, 1,544 corporations, and 6,033 independent brokers (sole proprietors). The costs imposed on these small businesses are because the licensed and certified appraisers and real estate broker that are directly affected by this rule will have to comply with the most recent Uniform Standard of Professional Appraisal Practice (USPAP) requirements.

Estimated Average Annual Administrative Costs That Small Businesses Will Incur:

The Board and Commission estimate that there will be no annual reporting. The 2006 USPAP that is being incorporated in the Board and Commission's proposed rule requires some record keeping requirements. The Board and Commission estimate that there will be no administrative costs incurred by small businesses to comply with this rule.

Estimated Total Annual Economic Impact on Small Businesses:

The Board and Commission estimate that there will be an impact on small businesses as a result of compliance with this rule. In order to comply with this proposed rule, an appraiser may have to replace 2005 USPAP edition with the 2006 USPAP edition. Assuming all appraisers purchase the book, the cost the purchase the book is \$30, which will cost all licensed or certified appraisers in Indiana approximately \$88,350 (2,945 licensed and certified appraisers × \$30). Compliance with the new 2006 edition of the USPAP is not intend to have or will have minimal compliance costs because appraisers and broker doing appraisals

- Justification of Requirements or Costs on Small Businesses Where Rule Is Not Expressly Required by Law: The Uniform Standards of Professional Appraisal Practice is the national standard for professional appraisal practice that appraisers are expected to follow. The Board and Commission are incorporating these standards in their rules to keep current with the national standards. In addition, the federal government requires appraisers to use and comply with the Uniform Standards of Professional Appraisal Practice as a requirement for federal agencies.

- Supporting Data, Studies, or Analyses: The Board and Commission have not relied on any studies in reaching these estimates.

Regulatory Flexibility Analysis of Alternative Methods:

The proposed rule was permitted by IC 25-34.1-3-8 for 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 brokers. The Board and Commission have not analyzed alternatives to this proposed rule.

A. Establishment of less stringent compliance or reporting requirements for small businesses.

The Board is incorporating these standards in their rules to keep current with the national standards. In addition, the federal government requires appraisers to use and comply with the Uniform Standards of Professional Appraisal Practice as a requirement

for federal agencies. The standards established by USPAP are for all appraisers and brokers doing appraising in Indiana no matter the size of the business.

B. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

Because there are no reporting requirements, there was no need to establish less stringent schedules or deadlines for small business compliance.

C. Consolidation or simplification of compliance or reporting requirements for small businesses.

There are no other reporting requirements imposed by the proposed rule. The standards established by USPAP are for all appraisers and brokers doing appraising in Indiana no matter the size of the business.

D. Establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.

The standards imposed by this rule were developed by the Appraisal Foundation's Appraisal Standards Board. The standards established by USPAP are for all appraisers and brokers doing appraising in Indiana no matter the size of the business.

E. Exemption of small businesses from part or all of the requirements or costs imposed by the rule.

This proposed rule does not impose additional reporting requirements or costs. The standards established by USPAP are for all appraisers and brokers doing appraising in Indiana no matter the size of the business.

876 IAC 3-6-2

876 IAC 3-6-3

SECTION 1. 876 IAC 3-6-2, AS AMENDED AT 28 IR 2717, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

876 IAC 3-6-2 Uniform Standards of Professional Appraisal Practice

Authority: IC 25-34.1-3-8

Affected: IC 4-22-2; IC 25-34.1

Sec. 2. (a) That certain document being titled Uniform Standards of Professional Appraisal Practice, ~~2005~~ **2006** edition, as published by the Appraisal Standards Board of the Appraisal Foundation, ~~1029 Vermont Avenue, 1155 15th Street, NW, Suite 900, 1111, Washington, D.C. 20005, copyright 2005, 2006,~~ is hereby incorporated by reference as if fully set out in this rule except for the revisions stated in section 3 of this rule. The Statements on Appraisal Standards are adopted as part of this rule. The Advisory Opinions are not adopted as part of this rule. The Comments are adopted as part of this rule.

(b) No subsequent editions, amendments, supplements, or releases of the Uniform Standards of Professional Appraisal Practice will be in effect in Indiana or adopted by the commission except by following the rulemaking provisions of IC 4-22-2.

(c) As used in this article, "appraiser" refers to the following:

- (1) Indiana licensed trainee appraiser.
- (2) Indiana licensed residential appraiser.
- (3) Indiana certified residential appraiser.
- (4) Indiana certified general appraiser.

(Indiana Real Estate Commission; 876 IAC 3-6-2; filed Sep 24, 1992, 9:00 a.m.: 16 IR 748; filed Dec 8, 1993, 4:00 p.m.: 17 IR 781; filed Apr 10, 1995, 10:00 a.m.: 18 IR 2124; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1766; filed May 10, 1999, 12:42 p.m.: 22 IR 2879; filed Apr 24, 2000, 12:48 p.m.: 23 IR 2243; filed May 25, 2001, 2:42 p.m.: 24 IR 3068; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238; filed May 13, 2002, 2:05 p.m.: 25 IR 3181; filed May 1, 2003, 12:15 p.m.: 26 IR 3043; filed Apr 8, 2004, 3:25 p.m.: 27 IR 2738; filed Apr 18, 2005, 2:30 p.m.: 28 IR 2717)

SECTION 2. 876 IAC 3-6-3, AS AMENDED AT 28 IR 2717, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

876 IAC 3-6-3 Deletions from the Uniform Standards of Professional Appraisal Practice

Authority: IC 25-34.1-3-8

Affected: IC 25-1-11-5; IC 25-34.1

Sec. 3. (a) Standards 6 through 10 are deleted.

(b) The references to Standards 6 through 10 of the Uniform Standards of Professional Appraisal Practice are deleted or revised as follows:

- (1) Under the fourth paragraph of the Preamble, in the ~~sixth~~ **seventh** bullet point, delete “ten” from the first sentence and the last three (3) sentences.
- (2) In the third sentence in the Ethics Rules, delete “Standards 1 through 10” and insert “Standards 1 through 5”.
- (3) In the second Comment under the Ethics Rule, delete the comma after “5-3” and “~~6-8~~; **6-9**, 8-3, and 10-3” and before “5-3”, insert “and”.
- (4) In the second Comment under the Management category of the Ethics Rule, delete the comma after “5-3” and “~~6-8~~; **6-9**, 8-3, or 10-3” and before “5-3”, insert “or”.
- (5) In the last paragraph of the Comment under the Record Keeping category under the Ethics Rule, delete “STANDARDS 2 and 8” and insert “STANDARD 2”, delete “or an Appraisal Report (for assignments under STANDARD 10)”, and delete the comma after “~~2-2(c)(ix)~~” “**2-2(c)(viii)**” and “~~8-2(c)(ix)~~”, “**8-2(c)(viii)**”, and 10-2(b)(ix)”.
~~(6) In the third to last paragraph of the Comment following the Departure Rule, delete “6-7(p); 8-2(a)(xi); 8-2(b)(xi); 8-2(c)(xi); 10-2(a)(x); and 10-2(b)(x)” and before “2-2(c)(xi)”, insert “and”.~~
- ~~(7) In the next to last paragraph of the Comment following the Departure Rule, delete the comma after “5-3” and “6-1; 6-3; 6-6; 6-7; 6-8; 7-1; 7-2; 7-5; 7-6; 8-1; 8-2; 8-3; 9-1; 9-2; 9-3; 9-5; 10-1; 10-2, and 10-3” and before “5-3”, insert “and”.~~
- (6) In the comment under the Problem Identification category under the Scope of Work Rule, delete “SR 6-2, SR 7-2, and SR 9-2” and, before “SR 4-2”, insert “and”.**
- ~~(8) (7) In the Comment under Standards Rule 1-4(g), delete “(See Standard 7)” and “(See Standard 9)”.~~
- ~~(9) (8) In the last paragraph of the Comment under Standard 3, delete the comma after “5-3” and “6-8; “6-9, 8-3, and 10-3” and before “5-3”, insert “and”.~~
- ~~(10) (9) In two (2) locations that appear in the Comment under Standard 3-1(c), delete “(STANDARD 1, 3, 4, 6, 7, or 9)” and insert “(STANDARD 1, 3, or 4)”.~~
- ~~(11) (10) Delete the last sentence in the Comment under Standard 3-2(d) and insert the following: “However, data and analyses provided by the reviewer to support a different value conclusion must match, at a minimum, the reporting requirements for a Summary Appraisal Report for real property appraisal (SR 2-2(b)) and an appraisal consulting report for real property appraisal consulting (SR 5-2).”.~~
- ~~(12) (11) Any references to Standards 6 through 10 in the Statements on Appraisal Standards are deleted and shall not apply.~~

(c) In the Definitions, delete the title and text of the Comment under Real Property.

(d) Delete the third paragraph of the Preamble.

(e) Add the following sentences to the end of the text of the Supplemental Standards Rule, “Any such supplemental standard shall not be considered part of this title. However, this does not preclude the possibility of disciplinary sanctions under IC 25-1-11-5(a)(3) where appropriate.”. *(Indiana Real Estate Commission; 876 IAC 3-6-3; filed Sep 24, 1992, 9:00 a.m.: 16 IR 748; filed Dec 8, 1993, 4:00 p.m.: 17 IR 781; filed Apr 10, 1995, 10:00 a.m.: 18 IR 2124; errata filed May 8, 1995, 4:30 p.m.: 18 IR 2262; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1767; filed May 10, 1999, 12:42 p.m.: 22 IR 2880; errata, 22 IR 3420; filed Apr 24, 2000, 12:48 p.m.: 23 IR 2244; filed May 25, 2001, 2:42 p.m.: 24 IR 3068; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238; filed May 13, 2002, 2:05 p.m.: 25 IR 3181; filed May 1, 2003, 12:15 p.m.: 26 IR 3044; filed Apr 8, 2004, 3:25 p.m.: 27 IR 2739; filed Apr 18, 2005, 2:30 p.m.: 28 IR 2717)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on May 25, 2006 at 10:30 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 12, Indianapolis, Indiana the Indiana Real Estate Commission will hold a public hearing on proposed amendments to incorporate by reference the 2006 edition of the Uniform Standards of Professional Appraisal Practice (USPAP) and to update the revisions to USPAP based upon the changes in the 2006 edition.

The Real Estate Appraiser Licensure and Certification Board (Board) has the authority to recommend to the Indiana Real Estate Commission (Commission) rules governing the real estate appraisers licensed and certified under IC 25-34.1-3-8. The Commission also has the authority to promulgate rules establishing standards for the competent practice of the various occupations regulated in IC 25-34.1. The proposed rule simply incorporates the 2006 edition of USPAP and updates the exclusions based on the 2006 edition. USPAP is the national standard for professional appraisal practice that appraisers are expected to follow. The Board is incorporating these standards in their rules to keep current with the national standards. In addition, the federal government requires appraisers to use and comply with the Uniform Standards of Professional Appraisal Practice as a requirement for federal agencies. The Board has not relied upon any data, studies, or analyses in determining the imposition of requirement or cost.

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W072 and

Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency