



Federal Register

**Friday,
November 30, 2001**

Part IV

Department of Housing and Urban Development

24 CFR Part 200

**Appraiser Qualifications for Placement on
FHA Single Family Appraiser Roster;
Proposed Rule**

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

24 CFR Part 200

[Docket No. FR-4620-P-01]

RIN 2502-AH59

**Appraiser Qualifications for Placement
on FHA Single Family Appraiser Roster**

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would make several regulatory changes designed to strengthen the licensing and certification requirements for placement on the FHA Appraiser Roster. First, the proposed rule would require that appraisers on the Appraiser Roster must have professional credentials that are based on the minimum licensing/certification standards issued by the Appraiser Qualifications Board of the Appraisal Foundation. The proposed rule also clarifies that an appraiser may be removed from the Appraiser Roster if the appraiser loses his or her license or certification in any state due to disciplinary action, even if the appraiser continues to be licensed or certified in another state. Finally, the proposed rule provides that an appraiser who is licensed or certified in a single state and whose license or certification has expired, or has been revoked, suspended or surrendered as a result of a state disciplinary action, will be automatically suspended from the Appraiser Roster until HUD receives evidence demonstrating renewal or that the state imposed sanction has been lifted.

DATES: Comments Due Date: January 29, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 am and 5:30 pm weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Vance T. Morris, Director, Office of Single Family Program Development, Room 9266, U.S. Department of Housing and Urban Development, 451 Seventh

Street, SW., Washington, DC 20410-8000; telephone (202) 708-2121 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

HUD has taken various steps to ensure the integrity of Federal Housing Administration (FHA) appraisals. In August 1999, HUD launched dramatic and comprehensive reforms of the FHA appraisal process through its Homebuyer Protection Plan. The purpose of these reforms is to ensure that homebuyers seeking FHA-insured mortgages receive accurate and complete appraisals of the homes they seek to purchase. As part of the Homebuyer Protection Plan, HUD has established regulatory placement and removal procedures for the FHA Appraiser Roster. These procedures are codified in subpart G of HUD's regulations at 24 CFR part 200 (consisting of §§ 200.200—200.206).

HUD's Appraiser Roster lists those appraisers who are eligible to perform FHA single family appraisals. HUD maintains the Appraiser Roster to provide a means by which HUD can monitor the quality of appraisals performed on single family homes financed through the FHA single family programs and to ensure that appraisers performing FHA appraisals meet high competency standards. The Appraiser Roster is an important part of the FHA Single Family Mortgage Insurance program because accurate appraisals are vital to the success of the program and HUD's ability to protect the FHA Insurance Fund.

This proposed rule would make several regulatory changes that are designed to strengthen the FHA Appraiser Roster licensing and certification requirements. First, the proposed rule would amend § 200.202, which requires that an applicant for placement on the Appraiser Roster must be a state-licensed or state-certified appraiser. The proposed rule would require that the state licensed or certified appraiser have professional credentials that are based on the minimum licensing/certification standards issued by the Appraiser Qualifications Board (aqb) of the Appraisal Foundation. HUD believes that the proposed amendment will help to ensure that appraisers on the Appraiser Roster meet high competency standards, thereby improving the quality and accuracy of their FHA appraisals. For purposes of the rule, an

appraiser would not be deemed to have professional credentials based on aqb standards if the state licensing/certification requirements did not conform to aqb criteria at the time the appraiser obtained the license or certification. This is true even if the state has subsequently adopted aqb criteria and has "grandfathered" previously licensed or certified appraisers.

The proposed rule would also amend § 200.204, which describes the actions HUD may take against an appraiser on the Appraiser Roster that does not meet HUD's established guidelines for performance, education, competency, and other professional criteria. Specifically, the proposed rule clarifies that an appraiser may be removed from the Appraiser Roster if the appraiser loses his or her license or certification in any state due to disciplinary action, even if the appraiser continues to be licensed or certified in another state. The proposed rule would also provide that an appraiser who is licensed or certified in a single state and whose state license or certification has expired, or has been revoked, suspended or surrendered as a result of a state disciplinary action, will be automatically suspended from the Appraiser Roster and prohibited from conducting FHA appraisals until HUD receives evidence demonstrating renewal or that the state imposed sanction has been lifted.

II. Findings and Certifications

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review*. OMB determined that this proposed rule is a "significant regulatory action" as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes made to this rule as a result of that review are identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410-0500.

Public Reporting Burden

The information collection requirements for the FHA Appraiser Roster have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and have been assigned OMB control number 2502-0538. In accordance with the Paperwork Reduction Act, HUD may not

conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Environmental Impact

This proposed rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this proposed rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Regulatory Flexibility Act

The Secretary has reviewed this proposed rule before publication, and by approving it certifies, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule would not have a significant economic impact on a substantial number of small entities. The reasons for HUD's determination are as follows.

The proposed rule would require that appraisers on the Appraiser Roster have professional credentials that are based on the minimum licensing/certification standards issued by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation. An analysis of the FHA Appraiser Roster indicates that of the approximately 22,163 appraisers currently on the Roster, only approximately 330 do not have licensing in conformance with the standards issued by the AQB. In most instances, these appraisers already have some of the hours of education or experience required to meet the AQB criteria, thus further minimizing the impacts of the proposed rule. For example, most appraisers on the Roster have been listed on the Roster for some time, and thus few of these appraisers will have difficulty providing evidence to their state board demonstrating acceptable experience levels. With regards to the education requirements, the AQB standards only require 120 hours of education for certification. Given the few number of appraisers currently on the Roster who do not have a state designation based on AQB criteria and the relative low time and expense that would be required for most of these appraisers to meet AQB criteria, HUD believes that the proposed rule will not have a significant economic impact on small entities.

In addition to the new AQB standards, the proposed rule also clarifies that an appraiser may be removed from the Appraiser Roster if the appraiser loses his or her license or certification in any state due to disciplinary action, even if the appraiser continues to be licensed or certified in another state. The proposed rule would also provide that an appraiser who is licensed or certified in a single state and whose state license or certification has expired, or has been revoked, suspended or surrendered as a result of a state disciplinary action, will be automatically suspended from the Appraiser Roster and prohibited from conducting FHA appraisals until HUD receives evidence demonstrating renewal or that the state imposed sanction has been lifted. To the extent that these changes have an impact on small entities it will be as a result of actions taken by the appraisers themselves—that is, violation of applicable standards resulting in disciplinary action or otherwise failing to maintain their professional state licensing or certification.

Notwithstanding HUD's determination that this rule will not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This proposed rule would not have federalism implications and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and on the private sector. This proposed rule would not impose any Federal mandates on any state, local, or tribal governments, or on the private sector,

within the meaning of the Unfunded Mandates Reform Act of 1995.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Incorporation by reference, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

Accordingly, for the reasons discussed in the preamble, HUD proposes to amend 24 CFR part 200 as follows:

PART 200—INTRODUCTION TO FHA PROGRAMS

1. The authority citation for 24 CFR part 200 continues to read as follows:

Authority: 12 U.S.C. 1701–1715z–18; 42 U.S.C. 3535(d).

Subpart G—Appraiser Roster

2. Revise § 200.202(b)(1) to read as follows:

§ 200.202 How do I apply for placement on the Appraiser Roster?

* * * * *

(b) * * *

(1) You must be a state-licensed or state-certified appraiser with professional credentials based on the minimum licensing/certification criteria issued by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation (for purposes of this section, an appraiser is not deemed to have professional credentials based on AQB standards if the state licensing/certification requirements did not conform to AQB criteria at the time the appraiser obtained the license or certification. This is true even if the state has subsequently adopted AQB criteria and has "grandfathered" previously licensed or certified appraisers).

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3. Amend § 200.204 as follows:

- a. Revise paragraph (a)(1);
- b. Redesignate paragraphs (c) and (d) as paragraphs (d) and (e) respectively; and
- c. Add new paragraph (c):

§ 200.204 What actions may HUD take against unsatisfactory appraisers on the Appraiser Roster?

* * * * *

(a) * * *

(1) *Cause for removal.* Cause for removal includes, but is not limited to:

- (i) Significant deficiencies in appraisals, including non-compliance with Civil Rights requirements regarding appraisals;
- (ii) Losing standing as a state-certified or state-licensed appraiser due to disciplinary action in any state in which the appraiser is certified or licensed;
- (iii) Prosecution for committing, attempting to commit, or conspiring to commit fraud, misrepresentation, or any other offense that may reflect on the appraiser's character or integrity;
- (iv) Failure to perform appraisal functions in accordance with instructions and standards issued by HUD;

(v) Failure to comply with any agreement made between the appraiser and HUD or with any certification made by the appraiser;

- (vi) Being issued a final debarment, suspension, or limited denial of participation;
- (vii) Failure to maintain eligibility requirements for placement on the Appraiser Roster as set forth under this subpart or any other instructions or standards issued by HUD; or
- (viii) Failure to comply with HUD-imposed education requirements under paragraph (d) of this section within the specified period for complying with such education requirements.

* * * * *

(c) *Automatic suspension from Appraiser Roster.* An appraiser who is

licensed or certified in a single state and whose state licensing or certification has expired, or has been revoked, suspended or surrendered as a result of a state disciplinary action, is automatically suspended from the Appraiser Roster and prohibited from conducting FHA appraisals until HUD receives evidence demonstrating renewal or that the state imposed sanction has been lifted.

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Dated: September 10, 2001.

John C. Weicher,

Assistant Secretary for, Housing-Federal Housing Commissioner.

[FR Doc. 01-29681 Filed 11-29-01; 8:45 am]

BILLING CODE 4210-27-P