

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
DIVISION OF COMMERCIAL LICENSING
1511 PONTIAC AVENUE, BLDG. 69-1
CRANSTON, RHODE ISLAND 02920**

CONCISE EXPLANATORY STATEMENT

The purposes of the amendments are to align the Regulation with changes to the qualification criteria for appraisal certification and licensure made by the Appraisal Qualifications Board (AQB) of the Appraisal Foundation and update existing guidelines and procedures for the certification and licensure of appraisers.

The AQB is an independent board of the Appraisal Foundation. Under the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), the AQB establishes the minimum education, experience and examination requirements for real property appraisers to obtain a state certification. Pursuant to R.I. Gen. Laws § 5-20.7-25, the Department of Business Regulation (“Department”) is required to comply with the *Federal Financial Institutions Reform, Recovery & Enforcement Act of 1989* (FIRREA), 12 U.S.C. § 3331, *et seq.*

The Department received one (1) response to its request for public comment from the Rhode Island Affiliate, American Civil Liberties Union. This commentator objected to Section 16 of the Regulation, which provides:

Any licensee who is convicted of any felony or misdemeanor, or who is disciplined by any governmental agency in connection with any other occupational license, shall file with the Department a written report of such conviction or disciplinary action within sixty (60) days of the final judgment or final order in the case.

The Rhode Island ACLU argues that Section 16 constitutes “continued punishment and disenfranchisement of persons with past convictions...” The Department rejects this notion. Pursuant to R.I. Gen. Laws § 5-20.7-6(a)(6), the Department shall establish any rules and regulations that are necessary for the implementation of Chapter 20.7. Here, Section 16 serves the public interest by providing a notice mechanism so that the Department can administer its oversight regulatory function pursuant to Title 5, Chapter 20.7. Specifically, R.I. Gen. Laws § 5-20.7-19 provides that a state certified or licensed real estate appraiser must comply with the Uniform Standards of Professional Appraisal Practice (USPAP) promulgated by the Appraisal Standards Board of the Appraisal Foundation. Under USPAP’s Ethics Rule, an appraiser “must not engage in criminal conduct.”

The Rhode Island ACLU also believes that there is a lack of “disqualifying criteria” and “the simple due process right to a hearing before any action is taken.” While it is not clear to the Department what “disqualifying criteria” means in this context, the Administrative Procedures Act, Title 42, Chapter 35, requires due process via notice and a hearing in order for the Department to act on a license or a license application.

For these reasons, the Department is overruling the considerations urged by the Rhode Island ACLU against Section 16's adoption. The actions and information required by this Regulation are hereby declared to be necessary and appropriate to the public interest.

A. Michael Marques, Director
Department of Business Regulation

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