



**Appraisal
Institute®**

*Professionals Providing
Real Estate Solutions*

200 W. Madison St.
Suite 1500
Chicago, IL 60606

T 312-335-4100
F 312-335-4400
www.appraisalinstitute.org

July 11, 2014

Mr. Wayne R. Miller, MAI
Chair, Appraiser Qualifications Board
The Appraisal Foundation
1155 15th Street, NW, Suite 1111
Washington, DC 20005

Via Email to: aqbcomments@appraisalfoundation.org

Dear Mr. Miller:

The 22,000-plus members of the Appraisal Institute (AI) appreciate the opportunity to comment on the Appraiser Qualifications Board's (AQB) Second Exposure Draft of a "**Proposed Revision to the 2015 Real Property Appraiser Qualification Criteria.**"

The Appraisal Institute supports the AQB's clarification that, as part of the minimum state certification and licensing criteria, states are only required to conduct background checks on new applicants for an appraiser credential that are not currently credentialed in another state. We also support the AQB's removal of references to the Federal Bureau of Investigation with regard to the background check requirements. And, lastly, we strongly support the removal of the language that previously encouraged states to perform background checks on existing credential holders, including for purposes of renewing an existing credential, obtaining a credential via reciprocity or obtaining a temporary practice permit.

In addition to the favorable changes contained in the Second Exposure Draft, we call upon the AQB also to remove the requirement for applicants to submit fingerprints. The governmental agency or entity that performs the background check should be able to determine and set the process necessary to perform the background checks. A state appraiser certifying and licensing agency should be able to verify an applicant's identity via less intrusive methods, and some states may be able to conduct a satisfactory state and national background check without fingerprints. We do not see the value in requiring that appraisers submit their fingerprints to a national fingerprint database. If an appraiser was to commit a crime in relation to their work as an appraiser, it is highly unlikely that the crime would be of a nature that a law enforcement agency could identify the perpetrator by comparing a set of fingerprints to those in a national database. We see no purpose or value in states collecting and maintaining appraiser fingerprints.

We also call upon the states to limit the application of the background check requirement only to the minimum number of appraisers required in the *Real Property Appraiser Qualification Criteria* (i.e., new applicants only). We do not believe that it is necessary or appropriate for states to conduct background checks on applicants for licensure via reciprocity or for a temporary practice permit, if the

Appraisal Institute Comments on Second Exposure Draft

July 11, 2014

Page 2

applicant is in good standing in their “home” state, and they either have previously undergone a background check or have attested to their criminal history at the time they last renewed their license (discussed below). This is not required by the Second Exposure Draft, and we call upon states to clarify that they do not intend to conduct a background check on any existing credential holder, either domiciled or out-of-state.

However, if a state chooses to consider applicants for first-time licensure, via reciprocity, as “new applicants,” we request that the state delay the implementation of these requirements until such time as there is a system in place to conduct the background checks via the National Mortgage Licensing System (NMLS) or comparable system. This delay is appropriate, as the nature of the appraisal business today is such that appraisers often operate in multiple states. According to our Research Department, 30 percent of all licensed appraisers carry a license in two or more states. These professionals should not be required to complete voluminous forms and submit multiple sets of fingerprints to satisfy background check requirements in multiple states. State appraiser certifying and licensing agency participation in the NMLS is discussed in greater detail below.

As it relates to appraisers who are currently licensed in a state (either because it is their “home” state or they have obtained a reciprocal license), and are applying for renewal of that license, we request that states not impose any background check requirements on these appraisers. Instead, we call upon states to allow renewing appraisers to attest that there has not been any change in their background since the last time their license was issued or renewed. We submit that states should retain the authority to “spot check” these renewing appraisers (much as states currently do for continuing education attestations) and require that they undergo a comprehensive background check only if there is reasonable suspicion to believe that the renewing appraiser has not been truthful in their attestation.

Further, we call upon states to participate in the National Mortgage Licensing System (NMLS) for the purpose of managing background checks for all applicants as soon as it is available. We believe that participation in the NMLS would allow appraisers to submit their information and a single set of fingerprints (if necessary) that then may be utilized to satisfy the background check requirements (if any) in multiple states in which the appraiser wishes to obtain a license via reciprocity. We also call upon states to transition their entire appraiser licensing and certification programs to the NMLS as soon as it is available for these purposes.

We also request that the AQB reconsider the following issues that have been discussed previously:

- Section (B)(1) – Clarify that an appraiser who has had a credential revoked is ineligible to obtain a new appraiser credential only if that revocation was for disciplinary, rather than administrative reasons. Some states will “revoke” an appraiser’s license for non-payment of fees or for not completing continuing education in a timely manner. We do not believe that these revocations should disqualify an appraiser from obtaining a license in another jurisdiction, if their credential in their “home” state has been reinstated.

Appraisal Institute Comments on Second Exposure Draft

July 11, 2014

Page 3

- Section (B)(2) – Define “moral turpitude” as: “An act that is contrary to justice, honesty or good morals, (e.g., crimes of violence, fraud, larceny and/or intent to harm persons or things).”
- Section (B)(2) – Remove references to “domestic or foreign court”.
- Section (C)(2) – Remove references to specific crimes or types of crimes that would be disqualifying. Instead, substitute “moral turpitude”, as it is defined in B(2).

The Exposure Draft bars individuals convicted of felonies involving moral turpitude in the past five years and permits consideration of such felonies that are at least five years old. Yet, crimes of dishonesty, breach of trust and money laundering are only listed as crimes that may be considered in whether to bar someone. Our suggestion for a definition of moral turpitude and of deleting the types of crimes should help address these inconsistencies.

However, we wonder whether an absolute five-year line is appropriate. We can see how it may be viewed as easier to enforce from a government agency perspective, but such a “bright line” test may also be unfair to individuals in certain situations. Our experience with reviewing cases of moral turpitude and moral character cases indicates a wide range of seriousness and relevance.

Additionally, issues of what constitutes “moral turpitude” may vary quite significantly from country to country. We can envision a scenario of an appraiser being convicted of a crime involving moral turpitude in a foreign country that, from our perspective, involves only “free speech.” We are not sure use of the term “felony” is going to apply where the conviction occurred in another country, as crime classification systems may vary widely.

Further, line #23 addresses “felonies” involving moral turpitude in the past five years, but line #33 addresses “crimes” of moral turpitude greater than five years. Felonies and crimes may be different; therefore, the line that the AQB attempts to draw at five years could be between “apples and oranges” and does not appear to work. We urge the AQB to consider reevaluating the efficacy of a five-year line taking into consideration these and other scenarios involving fairness to the individual appraiser.

We appreciate the opportunity to provide these comments. Please do not hesitate to contact Bill Garber, Director of Government and External Relations, at (202) 298-5586 or bgarber@appraisalinstitute.org with any questions.

Sincerely,



Ken P. Wilson, MAI, SRA
2014 President