

## California Bureau of Real Estate Appraisers

### FINAL STATEMENT OF REASONS

**Hearing Date:** None.

**Subject Matter of Proposed Regulations:** License Requirements

**Section(s) Affected:** Amend Section 3541 of Article 3 and Section 3568 of Article 4 of Chapter 6.5 of Title 10 the California Code of Regulations (CCR)<sup>1</sup>

#### **Effective Date**

The California Bureau of Real Estate Appraisers (Bureau) requests that this regulatory proposal become effective upon filing. Recently, the Appraisal Qualification Board (AQB) adopted the Practical Applications of Real Estate Appraisal (PAREA) program to partially or completely satisfy the experience requirement for licensed residential and certified residential appraisers. As Business and Professions Code section 11314 requires the Bureau's license requirements to, at a minimum, meet the AQB's minimum criteria, the Bureau proposes to also allow applicants to partially or completely satisfy its license experience requirements by completing the program.

The Bureau further anticipates that this change will benefit applicants, especially those without connections to appraisers, by providing them with a new pathway to gain experience. On May 18, 2023, the AQB approved the first PAREA program, belonging to the Appraisal Institute (AI). Beginning September 2023, AI is expected to open registration for PAREA with other educational organizations and programs to follow.

Therefore, to coincide as much as possible with the timing of the first AQB approved PAREA program, the Bureau seeks an effective upon filing date to provide PAREA participants confidence that they will partially or completely satisfy their license experience requirements by completing the program and to avoid a potential backlog of PAREA applicants.

#### **Updated Information**

The Initial Statement of Reasons (ISOR) is included in the rulemaking file. The information contained therein is updated as described below.

This regulatory proposal was noticed on June 2, 2023. The 45-day public comment period also began on June 2, 2023. As not all parties were properly noticed, the

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<sup>1</sup> All CCR references are to Title 10 unless otherwise noted.

Bureau extended the final date of the public comment period from July 18, 2023 to July 21, 2023.

Because the Bureau determined that modifications should be made, a Notice of Modified Text was posted and sent on July 24, 2023. The 15-day public comment period on the modifications ran from July 24, 2023, through August 8, 2023.

Subsequently, the Bureau determined that further modifications should be made so a Notice of Second Modified Text was posted and sent on October 20, 2023. The 15-day comment period on the modifications ran from October 20, 2023, through November 4, 2023.

Due to a document relied upon in the Second Modified Text, the Bureau posted a Notice of Addition of Document to Rulemaking File that made available the document titled: Resources, Educators, Practicum (Copyright ©2021) The Appraisal Foundation <<https://www.appraisalfoundation.org/imis/TAF/Resources/Educators/Practicum/TAF/Practicum.aspx?hkey=7365ceba-dc1d-4e89-a849-3a4d6d7dfcc8>> (as of November 8, 2023, 12:09PM). The Notice of Addition of Document and the document was posted and sent on November 8, 2023. The 15-day comment period on the document ran from November 8, 2023, through November 23, 2023.

The Bureau did not hold a public hearing as none was scheduled or requested. During the 45-day public comment period, the Bureau received one comment. Subsequently, during the first 15-day public comment period, one comment was received and it was a non-substantive comment from Scott DiBiasio, Manager of State and Industry Affairs at the Appraisal Institute, that stated, "We have no comments on the modified language and urge the timely adoption of the full rulemaking package." Two comments were received during the second 15-day public comment for the second modified text. One comment was a non-substantive comment from Scott DiBiasio. The second comment is addressed below. No comments were received during the third comment period related to the additional document relied upon.

The changes discussed below were either noticed as part of the 15-day Notice or were otherwise nonsubstantive/grammatical changes made by the Bureau.

1. Section 3541(e). The Bureau added the below text to cover and clarify additional practicum course requirements in order to promote an equitable system of appraisal and uniform standards and qualifications.

(3) The Bureau will audit random AQB-approved or Bureau-approved practicum courses to ensure appraisal compliance with USPAP and may provide suggestions to the practicum course if any USPAP noncompliance is identified.

2. Section 3541(f)(4). The Bureau added the below text to cover and clarify additional PAREA program requirements to promote an equitable system of appraisal and uniform standards and qualifications.

(4) The Bureau will audit random PAREA programs to ensure appraisal compliance with USPAP and may provide suggestions to the program if any USPAP noncompliance is identified.

3. Section 3541(f)(5). The Bureau added the below text to explain and clarify that, like practicum courses, appraisals completed through AQB-approved PAREA programs are exempt from the AQB requirement that only appraisals performed for a business purpose typically meet minimum experience requirements.

(5) Only appraisals performed for a business purpose (e.g., loans, litigation, etc.) may be credited for purposes of meeting the minimum experience requirements, except for experience gained through PAREA programs that are approved by the AQB.

The changes discussed below were either noticed as part of the second 15-day Notice or were otherwise nonsubstantive/grammatical changes made by the Bureau.

1. Section 3541(d)(1). The Bureau changed the reference to Business and Professions Code section 11302(r) to subsection (s) as a minor nonsubstantive change.
2. Section 3541(e)(2). The Bureau changed the text from “courses” to “programs” for clarity and consistency.
3. Section 3541(e)(3). The Bureau moved the text from this section to a newly added section, discussed below, for formatting clarity. The Bureau changed the text from “courses” to “programs” for clarity and consistency.
4. Section 3541(f)(1)(A) – (C) and 3541(f)(2)(A) – (C). The Bureau changed the language “will receive up to” to “shall receive” to remove discretion to the Bureau and clarify how the percent of hours will be awarded.
5. Section 3541(f)(4). The Bureau moved the text from this section to a newly added section, discussed below, for formatting clarity.
6. Section 3541(f)(5). This subdivision was renumbered as a result of the moved section above.
7. Section 3541(h). The Bureau merged the previously named sections, 3541(e)(3) and 3541(f)(4), into subsection (h) for formatting clarity.

8. Section 3568(b)(1). The Bureau changed the period to a semicolon as a minor nonsubstantive change as a result of the prior subsection changes.
9. 3568(d). As minor nonsubstantive changes and to clarify the responsibilities of a supervising appraiser, the Bureau amended this text as:

~~(e)(d)~~ **The sSupervising appraisers** shall **be required to**:

10. 3568(d)(4). The Bureau added “and” at the end of this subsection as a minor nonsubstantive change as a result of the prior subsection changes.
11. 3568(d)(5). The Bureau changed the semicolon to a period as a minor nonsubstantive change as a result of the prior changes.
12. 3568(e). The Bureau added the following section to clarify the requirements of a supervising appraiser:

**(e) Supervising appraisers shall meet the following requirements:**

13. Section 3568(e)(6) – (10). The Bureau changed these subsections to (e)(1) – (e)(5) as minor nonsubstantive changes as a result of the prior changes.

## **Comments Received During 45-Day Public Comment Period and Responses**

**Comments from: Scott DiBiasio, Manager of State and Industry Affairs, Appraisal Institute on July 20, 2023**

### **Summary of Comment related to Section 3541 (PAREA) and Section 3568**

The commenter offered overall support of the changes proposed in the originally proposed text pertaining to both Section 3541 and Section 3568.

Additionally, the commenter requested that Section 3541(f)(1) and (2) be modified to replace “up to” from the originally proposed text with “will satisfy”, as follows:

3541(f)(1): “Completing an approved licensed residential PAREA program ~~up to~~ *will satisfy* 100 percent of the experience requirement for the licensed residential license and 67 percent of the certified residential license.”

3541(f)(2) Completing an approved certified residential program ~~up to~~ *will satisfy* 100 percent of the experience requirement for the licensed residential license and the certified residential license and 50 percent of the certified general license.”

**Response:**

As to the replacement of “up to” with “will satisfy”, as stated above, the Bureau is revising the language to “shall receive” to remove discretion to the Bureau and clarify how the percent of hours will be awarded. The commenter’s recommendations are accommodated by making these revisions.

**Comments Received During the 15-Day Modified Text Public Comment Period (July 24, 2023 to August 8, 2023)**

**Comment from: Scott DiBiasio, Manager of State and Industry Affairs, Appraisal Institute on August 4, 2023**

The commenter stated, “The Appraisal Institute has reviewed the modified language contained in the **“NOTICE OF AVAILABILITY OF MODIFIED TEXT REGULATORY ACTION CONCERNING: License Requirements”** dated July 24, 2023.

We have no comments on the modified language and urge the timely adoption of the full rulemaking package.

**Response:**

The Bureau has determined that no change to the text is necessary because this is a non-substantive comment in support of the rulemaking package.

**Comments Received During the Second 15-Day Modified Text Public Comment Period (October 20, 2023 to November 4, 2023)**

**Comment from: Scott DiBiasio, Manager of State and Industry Affairs, Appraisal Institute on October 24, 2023**

The commenter stated, “Thank you for sending this regulatory notice. The Appraisal Institute appreciates BREA’s incorporation of our recommended changes to § 3541 regarding the credit that an applicant will receive for completing a PAREA program.

We have no further comments on the proposed rules at this time other than to express our support and to urge expeditious adoption. We have no comments on

the modified language and urge the timely adoption of the full rulemaking package.”

**Response:**

The Bureau has determined that no change to the text is necessary because this is a non-substantive comment in support of the rulemaking package.

**Comment from: Aida Dedajic, Director of Engagement, The Appraisal Foundation on October 24, 2023**

The commenter stated, “Just a note that the Criteria calls it a practicum “course”, so the way you have it originally is correct. The word “program” is used for PAREA programs, while practicums are all practicum courses.”

**Response:**

The Bureau has determined that no change to the text is necessary. Business and Professions Code section 11314 requires the Bureau’s license requirements to, at a minimum, meet the AQB’s minimum criteria. As the commenter points out, the AQB Criteria refers to Practicum “course” throughout. (The Real Property Appraiser Qualification Criteria and Interpretation of the Criteria, January 2022, Pages 2,13,43,44). However, the Bureau chose to use the word “program” for clarity and consistency for the following reasons.

First, the AQB Criteria consistently refers to PAREA “program” and both PAREA and practicum are alternatives to the supervisor/supervisee model for gaining experience that utilize simulated, non-client experience which may result in up to 100% of experience hours.

Additionally, the AQB Criteria refers to the approval of practicum courses throughout their Course Approval Program, which further potentially confuses future practicum provider applicants as being approved as a “program” but labeled a “course.” (The Real Property Appraiser Qualifications Criteria and Interpretation of the Criteria, January 2022, Page 13, Generic Experience Criteria).

Moreover, the AQB Criteria does not define “program”, “practicum”, or “course”; however, the Appraisal Foundation, the author and publisher of the AQB Criteria, published resource material on their website titled “Practicum”<sup>2</sup> that refers to

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<sup>2</sup> Resources, Educators, Practicum (Copyright ©2021) The Appraisal Foundation  
<<https://www.appraisalfoundation.org/imis/TAF/Resources/Educators/Practicum/TAF/Practicum.aspx?hkey=>

practicum “program” interchangeably with “course” several times in the document. Therefore, the commenter’s statement that the use of “course” is correct contradicts the Appraisal Foundation’s published material that uses both “course” and “program” in published material intended to clarify practicum in lieu of defining it in the AQB Criteria.

Based on the above reasons, the Bureau continues to meet the minimum AQB Criteria because the word “program” is not in conflict or contradictory to the meaning of “course” and the two words are arguably synonyms in this context, which would make this a non-substantive change.

As such, no text is being altered in response to this comment.

### **Local Mandate**

A mandate is not imposed on local agencies or school districts.

### **Small Business Impact**

While the Bureau does not have, nor does it maintain, data to determine if any of its licensees (real estate appraisers) are a “small business,” as defined in Government Code section 11342.610, the Bureau has determined that the proposed regulations would not affect small businesses negatively compared to any other entity.

This regulation will not have a significant adverse economic impact on businesses, other than the businesses that will be created should new applicants choose to enter this career path as barriers to entry decrease. The initial determination is based on the following facts:

The amendments are intended to reduce barriers to licensure and anticipated to increase the number of appraisal trainee (AT), licensed residential (AL) and certified residential (AR) applicants per year. As a result, the proposed regulations will help to improve individual professional opportunities by increasing the AT, AL, and AR licensee populations.

### **Anticipated Benefits**

This regulatory proposal will allow those without access to appraisers outside of a PAREA program to become licensees and will encourage more individuals to apply for the AT license.

This regulatory proposal does not affect the health and welfare of California residents, worker safety, or the state’s environment.

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## **Nonduplication Statement - 1 CCR § 12**

None.

## **Consideration of Alternatives**

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.