

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 42.18.206, 42.18.207, and) PROPOSED AMENDMENT
42.18.208 pertaining to certification)
testing requirements for department)
property appraisers)

TO: All Concerned Persons

1. On August 18, 2016, at 11 a.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment of the above-stated rules. The hearing room is most readily accessed by entering through the east doors of the building from Sanders Street.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5 p.m. on August 8, 2016, to advise us of the nature of the accommodation you need. Please contact Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov.

3. The rules proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

42.18.206 RESIDENTIAL PROPERTY APPRAISER CERTIFICATION

(1) remains the same.

(2) Training and testing criteria shall be as follows:

(a) remains the same.

(b) Employees shall attend the first next available residential training session offered by the department after commencement of employment. Satisfactory completion of the residential training session shall include successful completion of the written IAAO residential examination. If the employee fails to successfully complete the first written examination, attendance at the next residential IAAO training session shall be required. Failure to successfully complete the second written IAAO examination may result in the immediate termination of employment. The department may choose to demote the employee to a property valuation specialist, if the position is available and the individual is qualified to perform in that position. The employee will be notified of exam results directly by IAAO.

(c) Employees voluntarily attending training not required for their current position will be required to adhere to all training class rules and procedures and take the exam, but they will not be subject to personnel action for failing to pass the exam.

(3) Upon beginning employment with the department as a residential

appraiser, the employee shall undertake a one-year period of on-the-job residential appraisal work during which time the employee will begin the process of meeting the requirements set forth in (1) and (2). For employees new to state government, this one-year period will run concurrently with and in addition to the automatic probation period set forth in department policy 3.1.4. The beginning of the one-year experience requirement will coincide with the employee's notification of being ~~assessed~~ assigned residential appraisal responsibilities. All work will be supervised by the department. Failure to perform the appraisal work satisfactorily at any time during the one-year period may result in immediate termination of employment. The department may choose to demote the employee, ~~to a property valuation specialist position if the~~ if a position is available and the individual is qualified ~~certified~~ to perform in that position.

(4) The department may waive the criteria set forth in (2) if sufficient ~~proof~~ evidence is provided within six months of hire that the employee has previously fulfilled ~~those~~ the requirements set out in that section. Specific Evidence of fulfilling the requirements ~~evidence~~ may include, but is not limited to ~~providing proof of having~~ documentation showing that the individual has successfully completed a course of instruction from a professional appraisal and real estate related organization, provided that the organization is a member of The Appraisal Foundation as defined in 37-54-102, MCA. The course must be equal to or greater in complexity than that of IAAO course 101. An employee who is a Licensed Real Estate Appraiser through the Board of Real Estate Appraisers of the Business and Occupational Licensing Bureau of the Montana Department of Labor and Industry or another state in accordance to the Appraisal Qualifications Board (AQB) ~~is also~~ may be eligible for a waiver under this ~~rule~~ section.

(5) remains the same.

(6) Uniform Standards of Professional Appraisal Practice (USPAP) training will be offered annually if funding is available and if there are sufficient numbers of staff who require the course.

(a) Employees shall attend the next available USPAP 15-hour training session offered by the department after commencement of employment. Satisfactory completion of the USPAP training session shall include attending the 15-hour course as provided by a USPAP certified instructor.

(b) Employees shall attend the next available USPAP 7-hour training session offered by the department within five years of satisfactory completion of the 15-hour training in (a).

(c) If an employee has physical limitations that prevent them from attending the USPAP courses identified in (a) and (b), the department may waive their requirement to attend the USPAP training sessions in person. If waived, the employee shall be responsible for thoroughly reading and comprehending the required material. The employee's manager shall verify and document in the employee's personnel file the employee's successful completion and comprehension of the material.

AUTH: 15-1-201, MCA

IMP: 15-7-107, 15-7-111, MCA

REASON: The department proposes amending ARM 42.18.206(2)(b) to provide for situations where the required training session may be full prior to the new employee being hired, which would not allow them to attend the "first" training session. The proposed amendment will allow the employee flexibility in attending a subsequent training session available after employment begins.

Subsection (2)(c) is proposed to be amended to allow employees who are not required to take the training the option to still voluntarily participate in the training sessions for informational purposes or for future employment advancement. All voluntary training participants will be subject to the same rules and procedures so as not to interfere with other employees in attendance that are required to take and pass the exam as a condition of their employment.

Section (3) is proposed to be amended to correct a wording error and to remove the reference to a specific position an employee can be demoted to as there may be other jobs that the employee is certified to perform. This will allow the department to retain an employee who may have worked for the department in other positions where the department and the employee can still benefit from their experience and knowledge in another capacity.

As proposed, new (6) defines the training required for employees to adhere to the Uniform Standards of Professional Appraisal Practice (USPAP) - mass appraisal standard and jurisdictional exception. The proposed new language delineates the process for employees to receive the required training. Subsection (6)(c) further provides for a waiver to employees who may have physical limitations that would prevent them from attending the training sessions in person, while still requiring the employee to learn and understand the department's requirements.

42.18.207 AGRICULTURAL PROPERTY APPRAISER CERTIFICATION

(1) remains the same.

(2) Training and testing criteria shall be as follows:

(a) remains the same.

(b) The employee shall attend the ~~first~~ next available scheduled Agricultural Land Classification/Appraisal (ALCA) training session after being assigned ALCA responsibilities. Satisfactory completion of the ALCA training session shall include successful completion of the written examination conducted at the conclusion of the ALCA training session. If the employee fails to successfully complete the first written examination, attendance at the next ALCA training session shall be required. Failure to successfully complete the second written examination may result in immediate termination of employment. The department may choose to demote the employee to a residential appraisal position, if the position is available and the individual is certified to perform in that position. The employee will be notified of exam results within one month of completion of the exam.

(c) Employees voluntarily attending training not required for their current position will be required to adhere to all training class rules and procedures and take the exam, but they will not be subject to personnel action for failing to pass the exam.

(3) Upon beginning employment with the department as an agricultural appraiser, the employee shall undertake a one-year period of on-the-job agricultural appraiser work during which time the employee will begin the process of meeting the

requirements set forth in (2). For employees new to state government, this one-year period will run concurrently with and in addition to the automatic probation period set forth in department policy 3.1.4. The beginning of the one-year experience requirement will coincide with the employee's notification of being assigned ALCA responsibilities. All work will be supervised by the department. Failure to perform the classification/appraisal work satisfactorily at any time during the one-year period may result in immediate termination. The department may choose to demote the employee ~~to a residential appraisal position if the~~ if a position is available and the individual is certified to perform in that position.

(4) The department may waive the criteria set forth in (2) if sufficient proof is ~~presented~~ provided within six months of hire that the employee has previously fulfilled such criteria. ~~Evidence of fulfilling the requirements~~ Specific evidence may include but is not limited to ~~providing proof of having~~ documentation showing that the individual has successfully completed a course of instruction from a professional appraisal and real estate related organization, provided that the organization is a member of The Appraisal Foundation as defined in 37-54-102, MCA. The course must be equal to or greater in complexity than that of the department's ALCA course. An employee who is a Certified Residential Appraiser through the Board of Real Estate Appraisers of the Business and Occupational Licensing Bureau of the Montana Department of Labor and Industry or in another state in accordance to the Appraisal Qualifications Board (AQB), is also may be eligible for a waiver under this ~~subsection~~ section.

(5) remains the same.

(6) Uniform Standards of Professional Appraisal Practice (USPAP) training will be offered annually if funding is available and if there are sufficient numbers of staff who require the course.

(a) Employees shall attend the next available USPAP 15-hour training session offered by the department after commencement of employment. Satisfactory completion of the USPAP training session shall include attending the 15-hour course as provided by a USPAP certified instructor.

(b) Employees shall attend the next available USPAP 7-hour training session offered by the department within five years of satisfactory completion of the 15-hour training in (a).

(c) If an employee has physical limitations that prevent them from attending the USPAP courses identified in (a) and (b), the department may waive their requirement to attend the USPAP training sessions in person. If waived, the employee shall be responsible for thoroughly reading and comprehending the required material. The employee's manager shall verify and document in the employee's personnel file the employee's successful completion and comprehension of the material.

AUTH: 15-1-201, MCA

IMP: 15-7-107, 15-7-111, MCA

REASON: The department proposes amending ARM 42.18.207(2)(b) to provide for situations where the required training session may be full prior to the new employee being hired, which would not allow them to attend the "first" training

session. The proposed amendment will allow the employee flexibility in attending a subsequent training session available after employment begins.

Subsection (2)(c) is proposed to be amended to allow employees who are not required to take the training the option to still voluntarily participate for informational purposes or for future employment advancement. All voluntary training participants will be subject to the same rules and procedures so as not to interfere with other employees in attendance that are required to take and pass the exam as a condition of their employment.

Section (3) is proposed to be amended to remove the reference to a specific position an employee can be demoted to as there may be other jobs that the employee is certified to perform. This will allow the department to retain an employee who may have worked for the department in other positions where the department and the employee can still benefit from their experience and knowledge in another capacity.

As proposed, new (6) defines the training required for employees to adhere to the Uniform Standards of Professional Appraisal Practice (USPSP) - mass appraisal standard and jurisdictional exception. The proposed new language delineates the process for employees to receive the required training. Subsection (6)(c) further provides for a waiver to employees who may have physical limitations that would prevent them from attending the training sessions in person while still requiring the employee to learn and understand the department's requirements.

42.18.208 COMMERCIAL PROPERTY APPRAISER CERTIFICATION

(1) remains the same.

(2) Training and testing criteria shall be as follows:

(a) remains the same.

(b) The employee shall attend the ~~first~~ next available scheduled commercial training session after being assigned commercial appraisal responsibilities. Satisfactory completion of the commercial training session shall include successful completion of the written IAAO commercial examination conducted at the conclusion of the commercial training session. If the employee fails to successfully complete the first written IAAO examination, attendance at the next IAAO commercial training session shall be required. Failure to successfully complete the second written IAAO examination may result in immediate termination of employment. The department may choose to demote the employee to a residential appraisal position or a residential/agricultural appraisal position, if such a position is available and the individual is certified to perform the duties necessary for that position. The employee will be notified directly of the exam results by IAAO.

(c) Employees voluntarily attending training not required for their current position will be required to adhere to all training class rules and procedures and take the exam, but they will not be subject to personnel action for failing to pass the exam.

(3) Upon beginning employment with the department as a commercial appraiser, the employee shall undertake a one-year period of on-the-job commercial appraisal work during which time the employee will begin the process of meeting the requirements set forth in (2). For employees new to state government, this one-year period will run concurrently with and in addition to the automatic probation period set

forth in department policy 3.1.4. The beginning of the one-year experience requirement will coincide with the employee's notification of being assigned commercial appraisal responsibilities. All work will be supervised by the department. Failure to perform the appraisal work satisfactorily shall result in immediate termination, ~~or demotion to a residential appraisal position or residential/agricultural appraisal position if such~~ The department may choose to demote the employee if a position is available and the individual is certified to perform the duties necessary for that position.

(4) The department may waive the criteria set forth if sufficient proof is ~~presented~~ provided within six months of hire that the employee has previously fulfilled such criteria. ~~Evidence of fulfilling the requirements~~ Specific evidence may include, but is not limited to providing ~~proof of having~~ documentation showing that the individual has successfully completed a course of instruction from a professional appraisal and real estate related organization, provided that the organization is a member of The Appraisal Foundation as defined in 37-54-102, MCA. The course must be equal to or greater in complexity than that of IAAO course 102. An employee who is a Certified General Appraiser through the Board of Real Estate Appraisers of the Business and Occupational Licensing Bureau of the Montana Department of Labor and Industry or another state in accordance to the Appraisal Qualifications Board (AQB), ~~is also~~ may be eligible for a waiver under ~~this subsection~~ section.

(5) remains the same.

(6) Uniform Standards of Professional Appraisal Practice (USPAP) training will be offered annually if funding is available and if there are sufficient numbers of staff who require the course.

(a) Employees shall attend the next available USPAP 15-hour training session offered by the department after commencement of employment. Satisfactory completion of the USPAP training session shall include attending the 15-hour course as provided by a USPAP certified instructor.

(b) Employees shall attend the next available USPAP 7-hour training session offered by the department within five years of satisfactory completion of the 15-hour training in (a).

(c) If an employee has physical limitations, the department may waive their requirement to attend the USPAP training sessions in person. If waived, the employee shall be responsible for thoroughly reading and comprehending the required material. The employee's manager shall verify and document in the employee's personnel file the employee's successful completion and understanding and comprehension of the material.

AUTH: 15-1-201, MCA

IMP: 15-7-107, 15-7-111, MCA

REASON: The department proposes amending ARM 42.18.208(2)(b) to provide for situations where the required training session may be full prior to the new employee being hired, which would not allow them to attend the "first" training session. The proposed amendment will allow the employee flexibility in attending a subsequent training session after employment begins.

Subsection (2)(c) is proposed to be amended to allow employees who are not required to take the training the option to still voluntarily participate for informational purposes or for future employment advancement. All voluntary training participants will be subject to the same rules and procedures so as not to interfere with other employees in attendance that are required to take and pass the exam as a condition of their employment.

Section (3) is proposed to be amended to remove a specific position an employee may be demoted to as there may be other jobs that the employee is certified to perform. This will allow the department to retain an employee who may have worked for the department in other positions where the department and employee can still benefit from their experience and knowledge in another capacity.

As proposed, new (6) defines the training required for employees to adhere to the Uniform Standards of Professional Appraisal Practice (USPSP) - mass appraisal standard and jurisdictional exception. The proposed new language delineates the process for employees to receive the required training. Subsection (6)(c) further provides for a waiver to employees who may have physical limitations that would prevent them from attending the training sessions in person while still requiring the employee to learn and understand the department's requirements.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov and must be received no later than September 2, 2016.

5. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct this hearing.

6. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding a particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in 4 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

7. An electronic copy of this notice is available on the department's web site at revenue.mt.gov. The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses. Documentation of the department's determination is available at revenue.mt.gov or upon request from the person in 4.

/s/ Laurie Logan

Laurie Logan
Rule Reviewer

/s/ Mike Kadas

Mike Kadas
Director of Revenue

Certified to the Secretary of State July 11, 2016