

Notice of Proposed Rule

BOARD OF TRUSTEES OF INTERNAL IMPROVEMENT TRUST FUND

RULE NO.: RULE TITLE:

18-1.002: Definitions

18-1.004: Title

18-1.005: Appraisal Map and Survey

18-1.006: Appraisal Procedures, Report Requirements and Determining Maximum Amounts

18-1.007: Appraiser Eligibility and Selection

18-1.013: Donations

PURPOSE AND EFFECT: To remove or revise definitions and terminology to reflect accurate terms; to update and incorporate the supplemental standards; to provide for waivers of certain survey standards if warranted by certain conditions; and to allow for limited waiver of evidence of marketable title in accordance with statutes.

SUMMARY: Remove and revise definitions and terminology for redundancy, accuracy, and clarity; remove all references to the Uniform Standards of Professional Appraisal Practice (USPAP) since appraisals must be completed by State Certified Appraisers who must follow USPAP procedures and practices; update and incorporate the Supplemental Appraisal Standards for Board of Trustees; tie evidence of marketable title to statutory provisions setting forth those requirements; allow the Department to waive any portion of Supplemental Standards on land valued at \$100,000 or less if best professional judgment demonstrates it would not be detrimental to credible assignment result; add the requirement for an appraiser's eligibility and selection to submit one appraisal report demonstrating such competence and expertise for one of the specialty property types, and also to demonstrate general appraisal competence by submission of an appraisal report that includes sales comparison, cost, and income approaches; allow approved appraisers to request reaffirmation to remain on the approved appraisers list every two years rather than every year; remove reward of additional points for professional appraisal designation by approved appraisal organization; remove requirement for Standard 3 review from Rule, as this is an internal procedural matter not suited for rule; allow for limited waiver of evidence of marketable title in accordance with statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Ratification is not required on any of the proposed rules because the proposed changes are largely for clarity or to streamline processes, including streamlining how and when appraisers must follow the supplemental standards and, as such, there is no adverse impact or regulatory costs of the rule that exceed any of the criteria established in Section 120.541(2)(a), F.S., based on a review conducted in association with the "Proposed Rule: Is a SERC Required?" checklist.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: [253.03](#), [253.025](#), [259.041](#)

LAW IMPLEMENTED: [253.025](#), [259.041](#), [373.139](#)

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Elaine Mann, Division of State Lands, Department of Environmental Protection, 850-245-2564, Elaine.Mann@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

18-1.002 Definitions.

When used in this chapter, the following shall have the indicated meaning unless the context clearly indicates otherwise:

(1) No change.

(2) ~~“Appraisal foundation” means the non-profit, educational corporation established in Washington, D. C. by the American appraisal industry to foster professionalism by promoting the Uniform Standards of Professional Appraisal Practice.~~

(3) renumbered (2) No change.

~~(3)(4) “Appraisal services” means valuation work in the form of an appraisal, or appraisal review, or appraisal consulting assignment, as outlined in the USPAP.~~

~~(5) “Appraiser” means one who is expected to perform appraisal services competently and in a manner that is independent, impartial and objective.~~

~~(4)(6) “Approved appraisal” means an appraisal service that has been approved by the Chief Appraiser, Bureau of Appraisal, Division of State Lands, or designee as in compliance with USPAP, the Supplemental Standards, this chapter, and the specific assignment requirements.~~

~~(7) “Approved appraisal organization” means an organization that is a member of the Appraisal Foundation, a foundation authorized by the United States Congress as the source of appraisal standards and appraiser qualifications.~~

(8) through (17) renumbered (5) through (14) No change.

~~(18) “Fee appraiser” means the person performing an appraisal of property.~~

(19) through (26) renumbered (15) through (22) No change.

~~(23)(27) “Supplemental Standards” means the Supplemental Appraisal Standards for Board of Trustees Land, effective date dated _____ June 15, 2010, hereby adopted by reference, and made available on the internet at <https://www.flrules.org/Gateway/reference.asp?No=Ref-06292> or <http://www.dep.state.fl.us/lands/appraisal.htm> or by sending a request to: Department of Environmental Protection, Bureau of Appraisal, 3900 Commonwealth Boulevard, M.S. 110, Tallahassee, Florida 32399-3000 or by phone at (850) 245-2658 or by fax at (850) 245-2668. The Supplemental Standards which contain contains appraisal requirements that establish public policy and add procedures and practices, including those outlined in Chapters 253 and 259, F.S., that are to be used in addition to the standard appraisal procedures and practices of the appraisal profession, as regulated by Part II of Chapter 475, F.S., for the development and reporting of all appraisal services, including those outlined in Chapters 253 and 259, F.S., adopted by the Board of Trustees of the Internal Improvement Trust Fund, available on the internet at: <http://www.dep.state.fl.us/lands/appraisal> or by sending a request to: Department of Environmental Protection, Bureau of Appraisal, 3900 Commonwealth Boulevard, M.S. 110, Tallahassee, Florida 32399-3000 or by phone at (850) 245-2658 or by fax at (850) 245-2668.~~

(28) renumbered (24) No change.

~~(29) “USPAP” means the Uniform Standards of Professional Appraisal Practice, effective January 1, 2010, which contains the generally accepted standards of the appraisal profession that deal with the procedures to be followed in developing an appraisal, analysis, or opinion and the manner in which such appraisal, analysis, or opinion is communicated, as promulgated by the Appraisal Foundation, available on the internet at: <http://www.appraisalfoundation.org> or by directing your request to: The Appraisal Foundation, 1155 15th Street, N.W., Suite 1111, Washington, DC 20005.~~

~~Rulemaking Authority 253.03, 253.025, 259.041 FS. Law Implemented 253.025, 259.041 FS. History–New 6-16-86, Amended 4-6-89, 1-29-90, 10-30-91, 4-14-08, 6-15-10, _____.~~

18-1.004 Title.

(1) Initial Title Report. In order for the Division to obtain appraisals, a title report, including an adequate legal description of the property to be acquired sufficient to inform the Division and the fee appraisers of the status of ownership, encumbrances, exceptions, reservations, previous ownership history, and tax assessment history shall be obtained. If an acquiring agency has initiated the acquisition or the acquisition is for the benefit of an acquiring agency, then the title report shall be furnished to the Division by the acquiring agency.

(2) Evidence of Marketability.

(a) No change.

~~(b) The Board may waive the requirement of the evidence of marketability for acquisition of property assessed by the county property appraiser at \$10,000 or less, where the Division finds, based upon such review of the title records as is reasonable under the circumstances, that there is no apparent impediment to marketability, or to management of the property by the state. Evidence of marketable title shall be provided or waived in accordance with Sections 253.025 or 259.041, F.S., as applicable.~~

(3) No change.

~~Rulemaking Authority 253.025, 259.041 FS. Law Implemented 253.025, 259.041 FS. History–New 6-16-86, Amended 4-6-89, 1-29-90, 4-14-08, _____.~~

18-1.005 Appraisal Map and Survey.

(1) For each project or parcel of property, the Division shall provide for use by the ~~fee~~-appraisers, at acquiring agency's cost if an acquiring agency is involved in the acquisition, either a certified survey or appraisal map.

(2) No change.

Rulemaking Authority 253.03, 253.025, 259.041 FS. Law Implemented 253.025, 259.041 FS. History—New 6-16-86, Amended 10-30-91, 4-14-08,_____.

18-1.006 Appraisal Procedures, Report Requirements and Determining Maximum Amounts.

(1) The development and reporting of all appraisal services ~~by the fee appraiser~~ shall be consistent with the ~~USPAP~~, Supplemental Standards, this chapter, ~~and the specific assignment, and Part II of Chapter 475, F.S.~~ If the estimated value is \$100,000 or less, the Department shall waive any portion of the Supplemental Standards when best professional judgment demonstrates that it would not be detrimental to a credible assignment result.

(2) The acquiring agency shall provide, or coordinate through the Division, to the ~~fee~~-appraiser all pertinent title information developed, a specification of the rights to be acquired, a list of items, if any, considered to be noncompensable, minimum appraisal requirements that apply, required appraisal forms or formats, and a certified survey or appraisal map.

(3) The appraisal report shall state any extraordinary assumption or hypothetical condition made by the appraiser in determining market value and shall document and adequately support the ~~fee~~-appraiser's estimate or conclusion as to value.

(4) In accordance with Section 253.025(6)(f), F.S., the appraisal report shall be accompanied by a sales history of the parcel for the prior five years, with the following exceptions:

(a) through (b) No change.

(c) ~~The most recent just value, as determined by the county property appraiser, is \$75,000 or less ad valorem tax assessment for each parcel is \$75,000 or less, excluding tax exemptions.~~

(5) through (8) No change.

(9) When the Division requests the release of funds for appraising CARL, Save Our Coast, or Land Acquisition Trust Fund parcels, the Board shall be provided a status report indicating when negotiations for acquiring such parcels ~~were or will be~~ might be initiated.

Rulemaking Authority 253.025, 259.041 FS. Law Implemented 253.025, 259.041, 373.139 FS.

History—New 6-16-86, Amended 4-6-89, 1-29-90, 1-2-91, 10-30-91, 4-14-08, 6-15-10,_____.

18-1.007 Appraiser Eligibility and Selection.

(1) Approved Appraiser List – Eligibility and Selection.

(a) The Chief Appraiser shall maintain on the Department's website, at http://www.dep.state.fl.us/lands/appraisal/pdfs/Approved_AppraiserList_Application_04192013.pdf, information for annually send an announcement to each approved appraisal organization and to the Florida Real Estate Appraisal Board (FREAB) for publication in their respective newsletters, inviting for interested appraisers to apply for placement on the approved appraiser list.

(b) An appraiser shall be considered eligible and will be placed on the list when he has complied with all the following criteria:

1. through 2. No change.

3. The appraiser is an appraiser ~~licensed to do business in Florida and~~ certified by the ~~FREAB~~ Florida Department of Business and Professional Regulation.

4. The appraiser demonstrates a level of general appraisal competence through past appraisal experience. An acceptable level of general appraisal competence and quality shall be demonstrated by the submission of an appraisal report(s) that includes sales comparison, cost, and income approaches ~~report~~ prepared for a business client within the previous two years ~~that substantially complies with the USPAP.~~

5. The appraiser identifies any specialty property types, as outlined in the Supplemental Standards, for which he professes appraisal expertise and competence, and submits one appraisal report demonstrating such competence and expertise for one of the specialty property types in accordance with the USPAP.

(c) The Chief Appraiser will request that the appraiser submit ~~biennial-annual~~ reaffirmation of interest in and update his documentation in order to remain on the list of approved appraisers.

(d) Removal of the appraiser's name from the list of approved appraisers shall be made at the appraiser's request, by failure to submit ~~biennial-annual~~ reaffirmation of interest or updated documentation after notice, for unsatisfactory performance, for disciplinary action given by the Florida Real Estate Appraisal Board (FREAB), ~~FREAB~~ or for material non-compliance with contract terms. If an appraiser's name is removed from the list pursuant to this rule, he must comply with the requirements of this rule to be placed back on the list of approved

appraisers and if disciplined by the FREAB, supply evidence that he has fulfilled all requirements of the disciplinary action.

(2) Multiple Year Appraiser Contracts Eligibility and Selection. For cost and time efficiency regarding future appraisal services, appraisers will be selected and placed under multi-year contracts. Selection procedures shall be as follows:

(a) through (b) No change.

(c) When the Bureau of Appraisal has received proposals and after the invitation closing date, the appraisers' proposals will be evaluated for the purpose of awarding future multi-year contracts according to the following criteria listed in order of importance and scored based on a point system maintained by the Bureau of Appraisal:

1. No change.

~~2. Attainment of professional appraisal designations awarded by approved appraisal organizations. For a commercial designation 9 points are awarded and for a residential designation 4 points are awarded, for a possible total of 13 points.~~

3. through 4. renumbered 2. through 3. No change.

(d) through (f) No change.

(3) through (4) No change.

(5) Appraisal reviews are appraisal services that will be conducted for each assignment by qualified review appraisers ~~in accordance with the USPAP competency requirements~~. Appraisal review reports shall be submitted to the Chief Appraiser or his designee for approval.

(a) For acquisition parcels with values greater than \$500,000 an appraisal review will be developed and reported according to ~~the requirements of Standard 3 of the USPAP~~, the Supplemental Standards, this chapter, and the specific requirements of the assignment. For acquisition parcels with values of \$500,000 or less, a cursory review by the Bureau of Appraisal or appraisal review will be conducted for assurance that requirements of the assignment were met. ~~For every 20th appraisal for conservation land acquisition with a value of \$500,000 or less, a Standard 3 review, as described above, will be developed and reported for quality assurance purposes.~~

(b) No change.

(6) Appraisers to be solicited for appraisal review assignments, as identified in paragraph (5)(a), above, will be from those on the approved appraiser list, under a multiple year contract and who possess competency for review work ~~in accordance with the USPAP~~.

Rulemaking Authority 253.03, 259.041 FS. Law Implemented 259.041 FS. History—New 6-16-86, Amended 1-29-90, 10-30-91, 4-14-08, 6-15-10,_____.

18-1.013 Donations.

(1) The Board will consider accepting donations of land if the following conditions are met:

(a) No change.

(b) Evidence of marketable title must be supplied either by the landowner, the Division, or the acquiring or managing agency or waived in accordance with Sections 253.025 or 259.041, F.S., as applicable.

(c) through (e) No change.

(2) through (3) No change.

Rulemaking Authority 253.025, 259.041 FS. Law Implemented 253.025, 259.041 FS. History—New 6-16-86, Amended 4-6-89, 1-29-90, 4-14-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Scott Woolam, Senior Program Analyst, Division of State Lands

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Trustees of the Internal Improvement Trust Fund

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 27, 2015

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: July 1, 2015