

Memorandum

To: Mr. David J. Gau
Executive Director, (MIC: 73)

Date: May 11, 2016

From:  Randy Ferris
Chief Counsel

Subject: **Board Meeting, May 24-26, 2016**
Item J - Chief Counsel's Rulemaking Calendar
Property Tax Rule 282, *Temporary Certification*
Property Tax Rule 283, *Permanent Certification*

We request your approval to place proposed changes to Property Tax Rules 282, *Temporary Certification*, and 283, *Permanent Certification*, on the Chief Counsel's Rulemaking Calendar for the May 24-26, 2016, Board meeting. The proposed changes: (1) clarify cross-references in Rules 282 and 283 to other rules; and (2) update Rule 283 to reflect organizational changes in state government and the Board.

Rule 283, subdivision (a)(3)(B) refers to a person's experience as "a real estate licensee, licensed by the California Department of Real Estate, engaged in buying, selling, leasing, or managing real estate." However, the Governor's Reorganization Plan No. 2 replaced the Department of Real Estate with the Bureau of Real Estate as the entity that issues real estate licenses, operative July 1, 2013. Also, Assembly Bill No. (AB) 1317 (Stats. 2013, ch. 352) amended Business and Professions Code (BPC) sections 10004 and 10005 to implement the change made by the Governor's reorganization plan by defining the term "Bureau" to mean the Bureau of Real Estate and providing that statutory references to "bureau," "department," and "Department of Real Estate" in part 1 of division 4 of the BPC regarding real estate licenses now mean the Bureau of Real Estate. Therefore, staff proposes to change "Department" to "Bureau" in Rule 283, subdivision (a)(3)(B) to reflect the amendments to BPC sections 10004 and 10005 made by AB 1317 to implement the Governor's reorganization plan.

Rule 283, subdivision (a)(3)(C) and (D) refers to a person's experience as an appraiser aide or appraiser trainee or other type of employee in the "property taxes department of the Board." However, the Board recently created a new "Property Tax Department." Therefore, staff proposes to update Rule 283, subdivision (a)(3)(C) and (D) to refer to the "Board's Property Tax Department," instead of referring to the "property taxes department of the Board," to reflect the Board's recent organizational change.

Rule 282, subdivisions (a) and (b) cross-reference "regulation 281" and "regulation 283," respectively, and Rule 283, subdivision (b) cross-references "regulation 282" in two places.

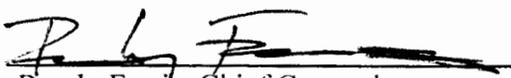
However, Government Code section 15606 authorizes the Board to prescribe “rules for its own government and the transaction of its business” (italics added), including the assessment of state-assessed property for property tax purposes, as well as “rules and regulations” (italics added) governing county assessors when assessing and local boards of equalization when equalizing for property tax purposes, under division 1 of the Revenue and Taxation Code (RTC). And, as a result, the regulations the Board has adopted to implement, interpret and make specific the property tax laws codified in division 1 of the RTC are commonly referred to as “Property Tax Rules” or “Rules,” rather than property tax regulations or regulations, including Rules 281, 282, and 283. (See, e.g., the “Property Tax Rules” published in the Board’s Property Tax Law Guide.) Therefore, staff proposes to replace “regulation” with “Rule” in the cross-references in Rule 282, subdivisions (a) and (b) and Rule 283, subdivision (b) so that the rules more clearly refer readers to Rules 281, 282, and 283.

Staff will request the Board’s authorization to make the changes to Rules 282 and 283 under California Code of Regulations, title 1, section (Rule) 100, without the normal notice and public hearing process. The changes are appropriate for processing under Rule 100 because the changes: (1) update Rule 283 to reflect organizational changes in state government and the Board; (2) make minor grammatical changes to two cross-references in each of the rules; and (3) do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

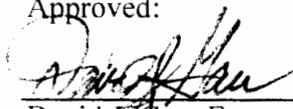
Attached are strikeout and underline versions of the rules illustrating the proposed changes.

If you have any questions regarding this request, please let me know or contact Mr. Bradley Heller at 916-323-3091.

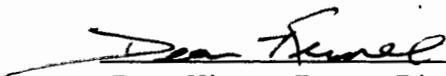
Recommendation by:

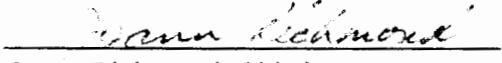

 Randy Ferris, Chief Counsel

Approved:


 David J. Gau, Executive Director

Approved:


 Dean Kinnee, Deputy Director
 Property Tax Department

BOARD APPROVED
 At the 3/23/16 Board Meeting

 Joann Richmond, Chief
 Board Proceedings Division

Attachments

- cc: Mr. Robert Tucker (MIC:82)
- Ms. Joann Richmond (MIC:80)
- Mr. Dean Kinnee (MIC:64)
- Mr. Richard Moon (MIC:82)
- Mr. Bradley M. Heller (MIC:82)
- Ms. Glenna Schultz (MIC:64)

Proposed Changes to Property Tax Rule 282

282. Temporary Certification.

(a) A person shall not perform the duties of an appraiser, as defined in ~~Rule~~ ~~regulation~~ 281, unless the person has been issued a temporary or permanent certificate by the Board, nor shall the person continue to perform such duties for more than a year (excluding any break in service as an appraiser of less than six months which is reported to the Board) without having been permanently certified.

(b) The Board shall issue a temporary certificate to any other person employed to perform the duties of an appraiser for property tax purposes in the service of the state, a county, a city and county, or an appraisal commission if the person meets the minimum qualifications set out in subsection (a) of ~~Rule~~ ~~regulation~~ 283 or has equivalent qualifications which, in the opinion of both the assessor and the Board, demonstrate that the person is competent to perform the work of an appraiser. The assessor shall submit such qualifications to the Board on a form supplied by the Board.

(c) No later than 30 days after taking office, any person who has been elected or appointed as assessor shall request and the Board shall issue a temporary certificate to such individual.

(d) A temporary certificate is suspended when the person to whom it was issued ceases to perform the duties of an appraiser for property tax purposes but is automatically reinstated when the person again performs such duties with less than a six months' break in service. When there is a break in service of six months or more, another temporary certificate must be issued, under the provisions of subsection (b), and such certificate shall be valid for one year thereafter.

Note: Authority cited: Section 15606, Government Code. Reference: Section 24002.5, Government Code; and Sections 670 and 673, Revenue and Taxation Code.

Proposed Changes to Property Tax Rule 283

283. Permanent Certification.

(a) The Board shall issue a permanent certificate to any person employed to perform the duties of an appraiser for property tax purposes in the service of the state, a county, a city and county, or an appraisal commission who, within one year of employment, attains a passing grade on a certification examination prepared or approved by the Board and who meets the following minimum qualifications:

(1) The person is currently employed by, or has a bona fide employment offer from, the Board, a county assessor, a city and county assessor, or an appraisal commission, and

(2) Either the person is a graduate of an accredited four-year institution of higher education, or

(3) The person has graduated from high school (or has the equivalent of a high school education as determined by the taking of a general educational development test approved by the California Department of Education) and has four years of relevant experience. "Relevant experience" means employment experience within the last ten years in any of the following occupations:

(A) an accountant, auditor, real property appraiser, building cost estimator, engineer, real estate loan agent, real estate loan underwriter, right-of-way agent, licensed building contractor, or

(B) a real estate licensee, licensed by the California ~~Bureau~~Department of Real Estate, engaged in buying, selling, leasing, or managing real estate, or

(C) an appraiser aide or appraiser trainee in an assessor's office or in the Board's Property Tax Department~~property taxes department of the Board~~, or

(D) an employee, other than an appraiser, appraiser aide, or appraiser trainee, of an assessor's office or of the Board's Property Tax Department~~property taxes department of the Board~~, except that such employment time shall be limited to qualifying for only 2/3 of the four-year experience requirement. The remaining 1/3 of time shall be accumulated by other relevant experience as described in subparagraphs (A), (B), and (C) above or by education in an accredited institution of higher education.

Four years of relevant experience or any combination of relevant experience and of education in an accredited institution of higher education totaling four years can be substituted for the educational requirement in subsection (a)(2). When fewer than four years of education in an accredited institution of higher education are used to meet the minimal qualifications, the number of qualifying years or fractions thereof shall be determined by the number of units in which passing grades were received. One year of education requirement shall consist of either 30 semester units or 45 quarter units. The qualifications of the person seeking permanent certification in this manner shall be submitted on a form supplied by the Board when the person files the application.

(b) When a person has been temporarily certified under subsection (b) of ~~Rule~~ regulation 282 by reason of equivalent qualifications or under subsection (c) of ~~Rule~~ regulation 282 by reason of election or appointment as assessor, the person shall be admitted to the examination referred to in subsection (a). Upon receiving a passing grade in the examination, the person shall be issued a permanent certificate by the Board.

(c) A permanent certificate is suspended when the person to whom it was issued terminates employment with the Board, a county assessor, a city and county assessor, or an appraisal commission, but it is automatically reinstated when the person is again employed to perform the duties of an appraiser for property tax purposes in the service of any of these offices.

Note: Authority cited: Section 15606, Government Code. Reference: Sections 670 and 673, Revenue and Taxation Code; and Section 24002.5, Government Code.