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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

August 3, 2001

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Catherine Reardon, Director  
Alaska Department of Community and Economic Development  
Division of Occupational Licensing  
P.O. Box 110806  
Juneau, AK 99811-0806

Dear Ms. Reardon:

Thank you for your June 12, 2001 letter responding to our March 21, 2001 letter regarding Alaska's recent increase in its "courtesy license" fee (*i.e.*, temporary practice fee) from \$100 to \$250. As discussed below, Alaska's \$250 temporary practice fee does not comply with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI"), as implemented in ASC Policy Statement 5. That Policy Statement implements Title XI's intent that appraisers be allowed to practice on a national basis without undue burden or excessive cost imposed by States. Policy Statement 5 establishes that a fee above \$150 is excessive.

In your letter, you stated that the Division does not believe that the increased temporary practice fee is in violation of federal law. You base your opinion on Alaska law AS 08.01.065 that requires that the Board of Certified Real Estate Appraisers must be 100% program receipt funded. Further, you stated that because Alaska only has a small number of certified real estate appraisers, each appraiser's program costs are high, with biennial credential/renewal fees at \$515, and that the \$250 temporary practice fee is just under 50% of the full fee. It is your position that full licensees should not be required to subsidize the cost of temporary/courtesy license regulation and that each category of licensee should pay its share of the cost of regulating the profession. We note, however, that the \$515 biennial credential/renewal pays for two years (the equivalent of \$128.75 per six-month period), while the \$250 courtesy/temporary practice fee pays for only six months. Additionally, the effort required to review and approve a temporary practice application should be less than the issuance or renewal of full licensees because the State relies on the temporary practitioner's home State to ensure compliance with education, experience, and examination provisions. It appears from this analysis that temporary practice holders may be subsidizing full licensees.

You also assert the reasonableness of the \$250 fee by comparing a number of States' full credential fees to their temporary practice fees. On this basis, you stated that Alaska's courtesy fee is defensible and in compliance with federal law which prohibits excessive fees. Our review of the 56 jurisdictions subject to Title XI reveals that the average temporary practice fee is \$77.

You recommended that we review the \$150 temporary practice fee ceiling in ASC Policy Statement 5. We agree with your recommendation and will do so. The ASC adopted Policy Statement 5, including the \$150 maximum fee, only after extensive public notice and comment under the Administrative Procedures Act, 5 U.S.C. 553, with the publication of a concept release, proposed policies, and final policies in the *Federal Register*. During that proceeding, the ASC

considered several methods for determining whether temporary practice fees are excessive and concluded that excessive would best be defined by any fee exceeding \$150.

Any changes to Policy Statement 5 must be made in compliance with the Administrative Procedures Act. We will consider Alaska's situation in determining whether we should propose revisions to Policy Statement 5 for public comment. To assist with our evaluation and to support your claim that your new temporary practice fee is not excessive, please provide us written documentation to support your analysis of Alaska's appraiser fee structure and the need to assess a temporary practice fee of \$250. Your analysis should be as detailed as possible and should include the rationale for your decisions, including a breakdown of all costs associated with providing temporary practice. Two of our staff will conduct an on-site review of Alaska's appraiser regulatory program in August. They will be available to discuss this documentation with you during the review. Additionally, they will be reviewing related information for inclusion in their report to the Appraisal Subcommittee.

While we consider your support for the increased fee and potential revision to ASC Policy Statement 5, you should refrain from collecting more than \$150 from appraisers seeking temporary practice authority in Alaska.

If you have any questions, please contact Ben Henson, Executive Director, by telephone at 202-872-7520, by email at [ben@asc.gov](mailto:ben@asc.gov), or by correspondence at the address on this letterhead.

Sincerely,

Thomas E. Watson, Jr.  
Chairman

cc: Carol Whelan, Licensing Supervisor  
Wanda Fleming, Licensing Examiner  
Vince J. Coan, Chairperson,  
Board of Certified Real Estate Examiners