

Standing Committee

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**The Connecticut Bar Association
Standing Committee on Residential Real
Estate Certification**

Applicant's Bulletin

30 Bank Street, New Britain, CT 06051
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APPLICANT'S BULLETIN

I. Regulations governing Certification as Specialist in the field of residential real estate.

1. See Regulations, revised July 2018 and adopted by the Legal Specialization Screening Committee. They are on file at the offices of the Connecticut Bar Association, 30 Bank Street, New Britain, Connecticut 06051.

II. Important Notes

1. This Bulletin is intended for use by applicants filing for certification as a specialist in the field of residential real estate. The Bulletin describes the exam content, administration and scoring system with respect to such certification. The Regulations may be amended from time to time. This Bulletin is accurate at the time of publication. However, applicants are advised to check with the Standing Committee on Residential Real Estate Certification to determine if there have been any amendments subsequent to publication.

2. The fee to apply for certification is \$50.00 for the pre-application fee and \$250.00 for the application fee. The pre-application fee shall be credited to the application fee. All fees are not refundable except in the event the application is deemed lapsed under Section 15.2 of the Regulations in which case 50% of such fee shall be refunded. An examination fee of \$250.00 is due after the applicant has been notified of eligibility to take the exam. All certified attorneys shall pay an annual fee of \$150.00 to the standing committee to help defray the costs of the certification program.

3. Certification examination date: **March 8, 2024** (Snow date: March 15, 2024).

4. **Application filing deadline**

The application must be filed by 5:00 p.m. on **December 15, 2023** or postmarked no later than **December 15, 2023**.

III. Examining Committee of the Standing Committee on Residential Real Estate Certification

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IV. Administrative Office

Tom Genung, Director of Continuing Legal Education and Section Programming, c/o CBA, 30 Bank Street, New Britain, Connecticut 06051, Telephone: (860) 612-2033, Email: tgenung@ctbar.org, Facsimile (860) 223-0538.

V. Qualification for Certification from the Regulations.

The following requirements are necessary for Certification:

4.1 Substantial Involvement

a. The applicant shall demonstrate substantial involvement in the practice of residential real property law throughout the five-year period immediately preceding application for certification or re-certification; provided however, that an interruption in continuous practice of up to one year for a sabbatical or leave of absence shall be permitted so long as the applicant has otherwise demonstrated such substantial involvement in the continuous practice of residential real property law for at least five years exclusive of the interruption.

b. For purposes of this section, substantial involvement means the engagement by the applicant in the provision of legal services on a full-time 40 hour week basis in the course of which the applicant has annually devoted at least 25 percent of his or her time to matters for which the applicant has been primarily responsible in which issues of residential real property were significant factors. For part-time practice, the equivalent annual hours are required. Such experience shall include work in at least six of the following areas, and must include work in areas (a) and (b):

- a. Real estate transactions related to the acquisition, ownership, participation, leasing, financing, use, development, management, transfer and/or disposition of residential real estate, including drafting of residential real estate related documentation;
- b. Residential real estate title examinations, title opinions and/or title insurance;
- c. Residential real estate leases;

- d. Easements, servitudes, and or covenants ;
- e. Zoning or other land use controls;
- f. Residential real estate financing;
- g. Residential real estate securities;
- h. Foreclosure and or forfeiture proceedings;
- i. Real estate-related controversies, either in court or in arbitration and including, but not limited to quiet title, slander or title, or ownership disputes;
- j. Eminent domain and condemnation;
- k. Condominiums, cooperatives, and or planned unit developments;
- l. Subdivisions;
- m. Landlord/tenant;
- n. Homeowner associations;
- o. Real estate taxation;
- p. Water law;
- q. Mineral rights;
- r. Historic preservation ;
- s. Boundaries including, but not limited to, encroachments, party walls, fences; and
- t. Agency, and fiduciary relationship related to other areas listed herein.

4.2 Good Standing

The applicant seeking certification or re-certification shall have been engaged in the practice of law in Connecticut for at least five years preceding application for certification or re-certification. The applicant shall be a member in good standing of each jurisdiction in which the applicant is admitted. Confirmation of the same must accompany the application. The Standing Committee does not require that an applicant be a member of the Connecticut Bar Association. For purposes of this section "engaged in the practice of law" shall mean substantive legal work done primarily for the purposes of rendering legal advice or representation. Employment by the government or a corporation or other business shall constitute the practice of law if (1) the work performed was legal in nature and was performed primarily for the purpose of rendering legal advice to, or representation of, such governmental agency, corporation, or other business; and (2) the applicant was required as a condition of such employment to be admitted to the bar of any state.

4.3 Professional Ethics and Disciplinary Review

- a. An applicant for certification or re-certification shall demonstrate adherence to a high standard of professional responsibility and ethical conduct. The applicant shall verify by affidavit the following information for each jurisdiction in which the applicant is admitted: (1) any grievances filed against the applicant or disciplinary action taken against the applicant as the result of any such grievance or for any other reason, including any sanction or conditions imposed pursuant to Section 2-37 of the Connecticut Rules for the Superior Court; and (2) any malpractice actions brought against the applicant alleging malpractice on the part of the applicant. The Standing Committee shall consider the seriousness of the underlying facts of the grievance or malpractice action and will consider the passage of time since the grievance or malpractice action was filed or such discipline was imposed, as well as the applicant's experience since that time. The information contained in the affidavit shall be stated with sufficient particularity to enable the Standing Committee to conduct its investigation. Failure

to disclose any information required by this section shall be a material misrepresentation and may be cause for denial of an application, suspension, or revocation of certification, or any other appropriate action.

- b. Any applicant shall request the Statewide Grievance Committee or similar disciplinary body in other jurisdictions to provide the Standing Committee with a complete disciplinary history of the applicant including those grievances where there has been a finding of no probable cause.
- c. The Standing Committee may deny certification or re-certification, revoke certification, or take other appropriate action on a finding of a grievance committee, disciplinary authority, or court that an applicant or certified attorney has been guilty of professional misconduct or upon notice of the pendency of such proceedings. However, the Standing Committee shall consider the seriousness of the underlying fact of the grievance and will consider the passage of time since such discipline and the applicant's experience since that time. Failure to disclose any such information required by this section shall be a material misrepresentation and may be cause for rejection, revocation, or other appropriate action.
 - d. If a grievance, malpractice action, or discipline is imposed against any certified attorney, the attorney shall notify the Standing Committee within 30 days of the happening of any such event.

4.4 Peer Review

- a. Statement of References-Applicants for certification or re-certification shall provide the Standing Committee (on forms to be provided by Standing Committee) with favorable references from five attorneys or judges. A majority of whom have devoted at least 25 percent of their practice to the practice of residential real estate law and are knowledgeable about the applicant's practice and competence in the area of residential real property, as well as the applicant's character, ethics, and reputation for professionalism. No reference may be from an attorney who: (1) is related to the applicant; or (2) is or has been engaged in legal practice with the applicant at any time during the three-year period preceding the filing of the application for certification or re-certification, (3) is a member of either the Examining Committee or Standing Committee. After the first board-certified attorneys are appointed, one reference must be from a Board Certified Residential Real Estate Specialist. The Examining Committee shall send out all reference forms. In addition, the Examining Committee may seek and consider reference forms from persons of the Examining Committee's own choosing.
- b. Qualifications of References-All references shall be from Judges of the Connecticut Supreme, Appellate, and/or Superior Courts or from attorneys who are licensed to practice law in Connecticut and are currently in good standing.
- c. Evaluation of References-In evaluating applications, the Examining Committee shall consider the knowledge, experience, and reputation for ethical behavior in the field of residential real property law of the references and the nature of the dealings between the references and the applicant in evaluating applications.
- d. Confidentiality-All materials and information received or used by the Standing Committee in connection with the certification or re-certification process, including, but not

limited to, the application form and statements of reference, shall be confidential and shall not be subject to disclosure to any person, including the applicant. The applicant shall agree to this by the waiver signed on the application form.

4.5 Insurance

An applicant for certification or re-certification shall have and maintain an attorney's professional liability insurance policy issued by a licensed liability insurance company authorized to carry such risks in the state of Connecticut with minimum limits of \$1,000,000 per claim.

Confirmation by way of a properly executed certificate of insurance of the same shall accompany the application. The certificate shall name the Connecticut Bar Association as certificate holder. Said insurance must be maintained throughout the period of certification or re-certification. The Standing Committee, in its discretion, may waive the requirements of this section if they determine there is suitable alternative coverage or demonstration of financial responsibility for the protection of the applicant's clients. Applicants who are not engaged in the private practice of law but are employed by municipal, state, or federal governments; and applicants employed as staff or house counsel must demonstrate by some reliable evidence that they have adequate financial protection for their professional acts, through their employers or otherwise.

4.6 Continuing Legal Education

a. Each initial applicant shall demonstrate that during the three-year period preceding the filing of the application, the applicant has accumulated a minimum of 36 hours of continuing legal education in the area of residential real property. Six ethics credits (which may or may not be designated as ethics credits that are part of a course on residential real property) are required.

b. This requirement may be met by attendance at continuing legal education programs approved by either the Professionalism and CLE Committee of the CBA or by the Standing Committee, by participating as a panelist or speaker at any such program, attending via webcast, both live and prerecorded, listening to or reviewing tapes, CD-ROMS, or any other recordings of such programs and writing published books or articles in the area of residential real property. Credit shall be accrued as follows:

1. Applicants seeking credit for self-study must submit an affidavit attesting to the completion of the course of study, including review and study of the accompanying course material. Applicants shall include no more than 5 credits per calendar year by self-study.

2. Applicants seeking credit for participating as a panelist or speaker at an activity approved by either the Professionalism and CLE Committee of the CBA or by the Standing Committee may receive one hour of credit for each two hours of preparation, and one hour of credit for one hour of presentation. The maximum number of hours which may be assigned for preparation of a single seminar is six hours.

3. The applicant has the burden of establishing entitlement to credit for a particular activity, both initially and upon appeal. Applicants shall provide such evidence as reasonably required to verify attendance at continuing legal education programs.

4. The Standing Committee does not require an applicant seeking certification or re-certification to complete educational programs offered by any specific organization.

- c. Unless the activity is approved by the Professionalism and CLE Committee of the CBA, or the Standing Committee, credit will not normally be given:
 - 1. for speeches given at luncheons or banquets;
 - 2. for presentations to clients;
 - 3. for activities directed primarily to persons preparing for admission to practice law, but this provision shall not apply to presentations to persons seeking certification or re-certification;
 - 4. when the activity involves correspondence work or other informal self-study.

4.7 Examination

- a. There shall be an evaluation of the applicant's knowledge of the substantive and procedural law in the area of residential real property law as practiced in Connecticut. Certification applicants must pass a written exam that is practical, objective, and designed to demonstrate special knowledge, skills, and proficiency in residential real property law to justify the representation of special competence to the legal profession and to the public.
- b. The examination shall be prepared under the direction of the Examining' Committee and shall include all aspects of the practice of residential real property law. The exam shall also include issues devoted to professional responsibility and ethics as it relates to the practice of residential real property law. The examination shall contain written essay questions and multiple-choice questions.
- c. The Examining Committee shall administer and grade the examination uniformly. Scoring of the examination shall be set forth in sufficient detail in an applicant's bulletin. A passing score on the examination shall be established in a manner generally accepted as being fair.
- d. The Examining Committee shall insure that each written examination:
 - 1. is reliable and valid. Reliability is the consistency or replicability of test results. Validity requires that the content and emphasis of the examination proportionately reflect the knowledge and skills needed for an enhanced level of skill and expertise in residential real property law;
 - 2. is periodically reviewed to ensure relevance to knowledge and skills needed in residential real property as the law and practice methods develop over time; and
 - 3. is the subject of appropriate measures to protect the security of all examinations
- e. The Examining committee shall implement appropriate post-examination statistical analysis and necessary research that shall include a question analysis to determine how effectively each question functions and a test analysis to determine how effectively the test as a whole functions. The Examining Committee shall report its findings to the Standing Committee.
- f. The Examining Committee shall hold full-day examinations on no more frequently than annually for the certification of applicants as residential real property specialists. The examination shall be held at such place or places within the state of Connecticut as the Standing Committee may designate.
- g. Subcommittee on Non-Standard Testing
 - 1. There shall be a subcommittee on non-standard testing for each examination, which shall have the power to act for the Examining Committee, to be appointed by the Chair of the Examining Committee, which the subcommittee shall have the duty, power, and authority to consider and act upon all petitions for non-standard testing and to determine the terms and conditions upon which non-standard testing will be provided

to applicants in compliance with The Americans With Disabilities Act.

2. Petitions for non-standard testing shall be in writing on a form prescribed by the subcommittee and shall be filed, together with such attachments as the subcommittee may require, with the staff advisor, on or before the filing deadline for applications for certification or re-certification.

3. The subcommittee may, in its discretion, hold a hearing on any petition for non-standard testing. The subcommittee shall notify the applicant of its decision in writing and include a copy of the appeal procedures as outlined in Section 11 if a petition for non-standard testing is denied.

4.8 In all cases in which documentation is required from an applicant for an initial application and/or re-certification, an original and/or certified copy will be required.

4.9 Failure of Applicant to Attend Examination

a. It is the applicant's sole responsibility to make all necessary travel and other related plans in due course to arrive at the examination site at the prescribed date and time. Once the examination has commenced, there will be no admittance of late-arriving applicants.

b. Should unforeseen circumstances occur that prevent an applicant from attending the examination, the applicant shall immediately contact the current chairperson of the Examining Committee at the Connecticut Bar Association and provide the reason(s) for the applicant's inability to sit for the examination. Within 48 hours of the original examination date the applicant shall deliver to the chairperson, or designated alternate at the Connecticut Bar Association, an "Affidavit of No- Contact" on the form appended to these Regulations. Failure to provide the affidavit within the prescribed time shall prohibit the applicant from taking the examination.

c. Should the applicant be unable to sit for the examination due to injury or illness, and should the applicant wish to re-schedule the examination, the applicant shall be required, no later than five business days after the date of the original examination, to submit to the Examining Committee a "Physicians Statement of Medical Necessity" confirming the nature and extent of the applicant's impairment caused by injury or illness using the form appended to these Regulations.

d. At the sole discretion of the Examining Committee, the applicant may be allowed to sit for the examination at a time and place chosen by the Chairperson of the Examining Committee. A re-testing fee of \$125.00 shall be paid by the applicant. Should the applicant request a re-examination date within 30 days of the original examination date.

VI. Examination Content, Scoring and Administration

There shall be an evaluation of the applicant's knowledge of the substantive and procedural law in the area of Residential real estate which shall contain written essay questions and multiple choice questions. The examination shall require the applicant to be familiar with the residential real estate Statutes, the Rules of Professional Conduct and relevant case law.

The examination may include, but not be limited to the following topics;

- a. Real estate transactions related to the acquisition, ownership, participation, leasing, financing, use, development, management, transfer and/or disposition of residential real estate, including drafting of residential real estate related documentation;

- b. Residential real estate title examinations, title opinions and/or title insurance;
- c. Residential real estate leases;
- d. Easements, servitudes, and or covenants;
- e. Zoning or other land use controls;
- f. Residential real estate financing;
- g. Residential real estate securities;
- h. Foreclosure and or forfeiture proceedings;
- i. Real estate-related controversies, either in court or in arbitration and including, but not limited to quiet title, slander or title, or ownership disputes;
- j. Eminent domain and condemnation;
- k. Condominiums, cooperatives, and or planned unit developments;
- l. Subdivisions;
- m. Landlord/tenant;
- n. Homeowner associations;
- o. Real estate taxation;
- p. Water law;
- q. Mineral rights;
- r. Historic preservation;
- s. Boundaries including, but not limited to, encroachments, party walls, fences; and
- t. Agency, and Fiduciary relationship related to other areas listed herein.

The Applicant must attain a combined passing score based upon the results of Part A (multiple choice) and Part B (essays).

Each multiple choice question will be assigned one point for each correct response. The Applicant's score on the multiple choice section shall be the sum of the correct answers.

The essays will be scored on a scale of 0-7. The essay portion of the exam shall consist of at least four 30-minute questions. The essay portion may also include one or more fifteen-(15)-minute essay questions. The 15-minute essay questions shall also be scored on a scale from 0-7. The 30-minute questions shall be given twice as much weight as any fifteen minute question. There will be a two to one ratio in the value of Part B (Essay) to Part A (multiple choice).

Administration of the test shall be governed in accordance with the Test Administration Manual. The Examining Committee shall administer and grade the examination uniformly. A passing score on the examination shall be established in a manner generally accepted as being fair.