

Appraisal Management Company Registration & Regulation Model Act

(as of 10/8/2009)

- (1) **Title.**
- (a) This chapter shall be known as the {State} Appraisal Management Company Registration and Regulation Act.
- (2) **Definitions.** As used in this chapter, the following terms shall have the following meaning:
- (a) “Appraisal” means the practice of developing an opinion of the value of real property in conformance with the Uniform Standards for Professional Appraisal Practice as developed by the Appraisal Foundation.
- (b) “Appraisal management company” means a person that directly or indirectly performs appraisal management services, regardless of the use of the term appraisal management company, mortgage technology provider, lender processing services, lender services, loan processor, mortgage services, real estate closing services provider, settlement services provider, real estate closing services provider, vendor management company or any other term.
- (c) “Appraisal management services” means to, directly or indirectly, perform any of the following functions on behalf of a lender, financial institution, client, or any other person:
- (i) Administer an appraiser panel;
 - (ii) To recruit, qualify, verify licensing or certification, and negotiate fees and service level expectations with persons who are part of an appraiser panel;
 - (iii) Receive an order for an appraisal from one person, and deliver the order for the appraisal to an appraiser that is part of an appraiser panel for completion;
 - (iv) Track and determine the status of orders for appraisals;
 - (v) Conduct quality control of a completed appraisal prior to the delivery of the appraisal to the person that ordered the appraisal; and
 - (vi) Provide a completed appraisal performed by an appraiser to one or more persons that have ordered an appraisal.
- (d) “Appraiser” means an individual who holds a license or certification to complete an appraisal in the state where the real property that is the subject of the appraisal is located.

- (e) "Appraiser fee schedule" means a list of the various appraisals requested by an appraisal management company from appraisers and the amount that the appraisal management company pays to an appraiser for the performance of the appraisals.
- (f) "Appraiser panel" means a network of licensed or certified appraisers who are independent contractors to the appraisal management company that have:
 - (i) Responded to an invitation, request, or solicitation from an appraisal management company, in any form, to perform appraisals for persons that have ordered appraisals through the appraisal management company, or to perform appraisals for the appraisal management company directly, on a periodic basis, as requested and assigned by the appraisal management company; and
 - (ii) Been selected, and approved, by an appraisal management company to perform appraisals for any client of the appraisal management company that has ordered an appraisal through the appraisal management company, or to perform appraisals for the appraisal management company directly, on a periodic basis, as assigned by the appraisal management company.
- (g) "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment, except that an examination of an appraisal for grammatical, typographical, or other similar errors shall not be an appraisal review.
- (h) "Board" (or *Commission, Office, Council, etc.*) means the *{State agency with responsibility for licensing real estate appraisers}*.
- (i) "Compliant appraiser" means an appraiser that satisfies each provision of the Competency Rule of the Uniform Standards of Professional Appraisal Practice for a specific appraisal assignment that the appraiser has received, or may receive, from an appraisal management company.
- (j) "Controlling person" means
 - (i) An owner, officer or director of a corporation, partnership or other business entity seeking to offer appraisal management services in this state; or
 - (ii) an individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and has the authority to enter into agreements with appraisers for the performance of appraisals; or
 - (iii) an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.
- (i) "Person" means an individual, firm, partnership, association, or corporation.

(3) **Registration required.**

- (a) It is unlawful for a person to directly or indirectly engage or attempt to engage in business as an appraisal management company, to directly or indirectly engage or attempt to perform appraisal management services, or to advertise or hold itself out as engaging in or conducting business as an appraisal management company without first obtaining a registration issued by the Board under the provisions of this chapter.
- (b) The registration required by subsection (a) of this section shall, at a minimum, include the following information:
 - (i) name of the entity seeking registration;
 - (ii) business address of the entity seeking registration;
 - (iii) phone contact information of the entity seeking registration;
 - (iv) if the entity is not a corporation that is domiciled in this state, the name and contact information for the company's agent for service of process in this state;
 - (v) the name, address, and contact information for any individual or any corporation, partnership, or other business entity that owns 10% or more of the appraisal management company;
 - (vi) the name, address, and contact information for one or more controlling persons;
 - (vii) a certification that the entity has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a license in good standing in this state pursuant to the *{State Real Estate Appraiser Act}* if a license or certification is required to perform appraisals, pursuant to section 14 of this chapter;
 - (viii) a certification that the entity has a system in place to review the work of all appraisers that are performing real estate appraisal services for the appraisal management company on a periodic basis to ensure that the real estate appraisal services are being conducted in accordance with Uniform Standards of Professional Appraisal Practice, pursuant to section 15 of this chapter;
 - (ix) a certification that the entity maintains a detailed record of each service request that it receives and the appraiser that performs the residential real estate appraisal services for the appraisal management company, pursuant to section 16 of this chapter;
 - (x) An irrevocable Uniform Consent to Service of Process, pursuant to Section 7 of this chapter; and
 - (xi) any other information required by the Board.

(4) **Exemptions.**

- (a) The provisions of this chapter do not apply to:
 - (i) A person that exclusively employs appraisers on an employer and employee basis for the performance of appraisals, and:

- a. the employer is responsible for ensuring that the appraisals are performed by employees in accordance with Uniform Standards of Professional Appraisal Practice; and
 - b. the employer accepts all liability associated with the performance of the appraisal by the employee.
 - (ii) A department or unit within a financial institution that is subject to direct regulation by an agency of the United States Government, or to regulation by an agency of this State, that receives a request for the performance of an appraisal from one employee of the financial institution, and another employee of the same financial institution assigns the request for the appraisal to an appraiser that is an independent contractor to the institution, except that an appraisal management company that is a wholly owned subsidiary of a financial institution shall not be considered a department or unit within a financial institution to which the provisions of this chapter do not apply;
 - (iii) A person that enters into an agreement, whether written or otherwise, with an appraiser for the performance of an appraisal, and upon the completion of the appraisal, the report of the appraiser performing the appraisal is signed by both the appraiser who completed the appraisal and the appraiser who requested the completion of the appraisal, except that an appraisal management company may not avoid the requirements of this chapter by requiring that an employee of the appraisal management company that is an appraiser to sign an appraisal that is completed by an appraiser that is part of the appraisal panel of the appraisal management company;
 - (iv) An appraisal management company that orders ten (10) or fewer appraisals in this state in a calendar year; or
 - (v) An appraisal management company that maintains an appraiser panel that consists of fifteen (15) or fewer appraisers.
- (5) **Forms.** An applicant for a registration as an appraisal management company in this State shall submit to the Board an application on a form prescribed by the Board.
 - (6) **Expiration of license.** A registration granted by the Board pursuant to this chapter shall be valid for one-year from the date on which it is issued.
 - (7) **Consent to Service of Process.** Each entity applying for a registration as an appraisal management company in this state shall complete an irrevocable Uniform Consent to Service of Process, as prescribed by the Board.
 - (8) **Fee.** The Board shall establish by regulation the fee to be paid by each appraisal management company seeking registration under this chapter, such that the sum of the fees paid by all appraisal management companies seeking registration under this chapter shall be sufficient for the administration of this chapter, but in no case shall the fee be more than five hundred dollars.

(9) **Owner Requirements.**

- (a) An appraisal management company applying for a registration in this state shall not be more than 10% owned by:
 - (i) A person who has had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation in any state; or
 - (ii) An entity that is more than 10% owned by any person who has had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation in any state.
- (b) Each person that owns more than 10% of an appraisal management company in this state shall:
 - (i) Be of good moral character, as determined by the Board; and
 - (ii) Submit to a background investigation, as determined by the Board.
- (c) Each appraisal management company applying for a registration in this state shall certify to the Board that it has reviewed each entity that owns more than 10% of the appraisal management company and that no entity that owns more than 10% of the appraisal management company is more than 10% owned by any person that has had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation.

(10) **Controlling Persons.**

- (a) Each appraisal management company applying to the Board for a registration in this state shall designate one controlling person that will be the main contact for all communication between the Board and the appraisal management company.
- (b) The controlling person designated pursuant to subsection (a) of this section shall:
 - (i) Hold a license or certificate to act as an appraiser in at least one state;
 - (ii) Have never had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation in any state;
 - (iii) Be of good moral character, as determined by the Board; and
 - (iv) Submit to a background investigation, as determined by the Board.

(11) **Employee Requirements.**

- (a) An appraisal management company that applies to the Board for a registration to do business in this state as an appraisal management company shall not:

- (i) Employ any person who has had a license or certificate to act as an appraiser in this state or in any other state, refused, denied, cancelled, revoked, or surrendered in lieu of a pending revocation;
 - (ii) Enter into any independent contractor arrangement, whether in verbal, written, or other form, with any person who has had a license or certificate to act as an appraiser in this state or in any other state, refused, denied, cancelled, revoked, or surrendered in lieu of a pending revocation; and
 - (iii) Enter into any contract, agreement, or other business relationship, whether in verbal, written, or any other form, with any entity that employs, has entered into an independent contract arrangement, or has entered into any contract, agreement, or other business relationship, whether in verbal, written, or any other form, with any person who has ever had a license or certificate to act as an appraiser in this state or in any other state, refused, denied, cancelled, revoked, or surrendered in lieu of a pending revocation.
- (11a) **Appraiser Engagement.** Prior to placing an assignment with an appraiser on the appraiser panel of an appraisal management company, the appraisal management company shall verify that the appraiser receiving the assignment is a compliant appraiser for the performance of the appraisal being assigned to the appraiser by the appraisal management company.
- (11b) **Appraisal Review.** Any employee of, or independent contractor to, the appraisal management company that performs an appraisal review shall be an appraiser licensed or certified in the state in which the property that is the subject of the appraisal is located.
- (12) **Limitations.** An appraisal management company registered in this state pursuant to this chapter may not enter into any contracts or agreements with an appraiser for the performance of appraisals unless it verifies that the individual is licensed or certified in good standing to perform the appraisal pursuant to the *{State Real Estate Appraiser Act}*.
- (13) **Pre-Engagement Certification.** Each appraisal management company seeking to be registered in this state shall certify to the Board on an annual basis on a form prescribed by the Board that the appraisal management company has a system and process in place to verify that an individual being added to the appraiser panel of the appraisal management company holds a license in good standing in this state pursuant to the *{State Real Estate Appraiser Act}*.
- (13a) **Verification of Continuing Licensure or Certification.** Each appraisal management company seeking to be registered in this state shall certify to the Board on an annual basis on a form prescribed by the Board that the appraisal management company has a system in place to verify that an individual to whom the appraisal management company is making an assignment for the completion of an appraisal has not had a license or certification as an appraiser refused, denied, cancelled, revoked, or surrendered in lieu of a pending revocation since the last time that the appraisal management company made an assignment for an appraisal to the appraiser.

(14) **Adherence to Standards.** Each appraisal management company seeking to be registered in this state shall certify to the Board on an annual basis that it has a system in place to perform an appraisal review of the work of all appraisers that are performing appraisals for the appraisal management company on a periodic basis to ensure that the appraisals are being conducted in accordance with Uniform Standards of Professional Appraisal Practice.

(15) **Annual Audit.**

- (a) Each appraisal management company registered in this state shall have an audit of the appraisals received by the appraisal management company from appraisers performed at least once annually to ensure that the appraisals being received by the appraisal management company are being performed in accordance with the Uniform Standards of Professional Appraisal Practice.
- (b) The audit required by subsection (a) of this section shall consist of, at a minimum but not limited to, a quality control test, by use of retroactive reports or additional appraisal reports or other appropriate methods, of a randomly selected 10 percent (or other bona fide statistically significant percentage) of the appraisals received by the appraisal management company.
- (c) A copy of the appraisal management company's most recent audit report, that is no more than eleven months old, shall be provided to the Board upon each renewal of an appraisal management company's registration in this state, except that an appraisal management company shall not be required to submit an audit report with its initial application for registration in this state.

(16) **Recordkeeping.**

- (a) Each appraisal management company seeking to be registered in this state shall certify to the Board on an annual basis that it maintains a detailed record of each service request that it receives and appraiser that performs the appraisal for the appraisal management company.

(17) **Appraiser fees.**

- (a) An appraisal management company that applies for registration in this state shall compensate appraisers on the appraiser panel of the appraisal management company at a rate that is reasonable and customary for appraisals being performed without the services of an appraisal management company in the market area of the property being appraised.
- (b) An appraisal management company that applies for registration in this state shall not include any fees for appraisal management services that are performed by the appraisal management company for a lender, client, or other person in the amount that it charges a lender, client, or other person for the actual completion of an appraisal by an appraiser that is part of the appraiser panel of the appraisal management company.

- (c) An appraisal management company that applies for registration in this state shall not prohibit an appraiser that is part of an appraiser panel of the appraisal management company from recording the fee that the appraiser was paid by the appraisal management company for the performance of the appraisal within the appraisal report that is submitted by the appraiser to the appraisal management company.
- (d) Any and all fees charged to a lender, client, or any other person by an appraisal management company for appraisal management services shall be separate and distinct from any and all fees charged to a client by the appraisal management company for the actual completion of an appraisal by an appraiser that is part of the appraiser panel of the appraisal management company.
- (e) An appraisal management company that applies for registration in this state shall disclose to the Board as part of the registration process if it has developed or utilizes one or more appraiser fee schedules.
- (f) An appraisal management company that applies for registration in this state and which utilizes any appraiser fee schedule shall develop the appraiser fee schedule(s) through one or more surveys of the market rates being paid to appraisers in this state for the performance of appraisals.
- (g) The surveys performed pursuant to subsections (e) of this section shall be performed utilizing statistically valid methodologies, techniques, and reliable data sources including representative samples of appraisers.
- (h) The Board may in its discretion review any appraiser fee schedule developed by an appraisal management company registered in this state to ensure that the appraiser fee schedule was developed pursuant to the requirements of subsection (e) and subsection (f) of this section.
- (i) Upon a formal request of the Board, an appraisal management company that utilizes any appraiser fee schedule shall disclose to the Board the methodologies, techniques, and data sources that were utilized to determine the amounts listed on the schedules.
- (j) Following a review of any fee schedule conducted pursuant to subsection (g) and subsection (h) of this section, the Board shall make the substantive results of the review available to the public.

(18) **Appraiser independence; prohibitions.**

- (a) It shall be unlawful for any employee, director, officer, or agent of an appraisal management company registered in this state pursuant to this chapter to influence or attempt to influence the development, reporting, or review of an appraisal through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, bribery or in any other manner, including but not limited to:
 - (i) withholding or threatening to withhold timely payment for an appraisal;

- (ii) withholding or threatening to withhold future business for an, or demoting or terminating or threatening to demote or terminate an appraiser;
 - (iii) expressly or impliedly promising future business, promotions, or increased compensation for an appraiser;
 - (iv) conditioning the request for an appraisal or the payment of an appraisal fee or salary or bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate or opinion requested from an appraiser;
 - (v) requesting that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal report, or provide estimated values or comparable sales at any time prior to the appraiser's completion of an appraisal;
 - (vi) providing to an appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for purchase transactions may be provided;
 - (vii) providing to an appraiser, or any entity or person related to the appraiser, stock or other financial or non-financial benefits;
 - (viii) allowing the removal of an appraiser from an appraiser panel, without prior written notice to such appraiser;
 - (ix) obtaining, using, or paying for a second or subsequent appraisal or ordering an automated valuation model in connection with a mortgage financing transaction unless there is a reasonable basis to believe that the initial appraisal was flawed or tainted and such basis is clearly and appropriately noted in the loan file, or unless such appraisal or automated valuation model is done pursuant to a bona fide pre- or post-funding appraisal review or quality control process; or
 - (x) any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality.
- (b) Nothing in subsection (a) of this section shall be construed as prohibiting the appraisal management company from requesting that an appraiser
- (i) Provide additional information about the basis for a valuation; or
 - (ii) Correct objective factual errors in an appraisal report.

(19) **Guaranty of Payment.**

- (a) Each appraisal management company operating in this state shall, except in cases of breach of contract or substandard performance of services, make payment to an appraiser for the completion of an appraisal or valuation assignment within sixty (60) days of the date on which the appraiser transmits or otherwise provides the completed appraisal or valuation study to the appraisal management company or its assignee.

(20) **Alteration of appraisal reports.** An appraisal management company may not alter, modify, or otherwise change a completed appraisal report submitted by an appraiser.

(21) **Registration number.**

- (a) The department shall issue a unique registration number to each appraisal management company that is registered in this state.
- (b) The department shall publish annually a list of the appraisal management companies that have registered with the department pursuant to this chapter and have been issued a registration number pursuant to subsection (a) of this section.

(22) **Advertising.**

- (a) An appraisal management company registered in this state shall disclose the registration number provided to it by the department on all print and electronic advertising, including any electronic advertising or communication via the internet

(23) **Adjudication of Disputes between an Appraisal Management Company and an Appraiser.**

- (a) Except within the first thirty (30 days) after an appraiser is first added to the appraiser panel of an appraisal management company, an appraisal management company may not remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real estate appraisal services to an appraiser without:
 - (i) Notifying the appraiser in writing of the reasons why the appraiser is being removed from the appraiser panel of the appraisal management company;
 - (ii) If the appraiser is being removed from the panel for illegal conduct, violation of the Uniform Standards of Professional Appraisal Practice (USPAP), or a violation of state licensing standards, the nature of the alleged conduct or violation; and
 - (iii) Providing an opportunity for the appraiser to respond to the notification of the appraisal management company.
- (b) An appraiser that is removed from the appraiser panel of an appraisal management company for alleged illegal conduct, violation of the Uniform Standards of Professional Appraisal Practice (USPAP), or violation of state licensing standards, may file a complaint with the *{Board}* for a review of the decision of the appraisal management company, except that in no case shall the Board make any determination regarding the nature of the business relationship between the appraiser and the appraisal management company which is unrelated to the actions specified in subsection (a) of this section.
- (c) If an appraiser files a complaint against an appraisal management company pursuant to subsection (b) of this section, the Board shall adjudicate the complaint within 180-days.
- (d) If after opportunity for hearing and review, the Board determines that an appraiser did not commit a violation of law, a violation of the Uniform Standards of Professional Appraisal Practice (USPAP), or a violation of state licensing standards, the Board shall order that an

appraiser be added to the appraiser panel of the appraisal management company that was the subject of the complaint without prejudice.

- (e) Following the adjudication of a complaint to the Board by an appraiser against an appraisal management company, an appraisal management company may not refuse to make assignments for real estate appraisal services to an appraiser, or reduce the number of assignments, or otherwise penalize the appraiser, if the Board has found that the appraisal management company acted improperly in removing the appraiser from the appraiser panel.

(24) **Enforcement.**

- (a) The Board may censure an appraisal management company, conditionally or unconditionally suspend or revoke any registration issued under this Act, levy fines or impose civil penalties not to exceed twenty five thousand dollars, if in the opinion of the board, an appraisal management company is attempting to perform, has performed, or has attempted to perform any of the following acts:
 - (i) Committing any act in violation of this chapter;
 - (ii) Violating any rule or regulation adopted by the board in the interest of the public and consistent with the provisions of this chapter;
 - (iii) Procuring a license for himself or anyone else by fraud, misrepresentation, or deceit

(25) **Disciplinary hearings.**

- (a) The conduct of adjudicatory proceedings in accordance with the Administrative Procedure Act for violations of this chapter is vested in the Board, such that:
 - (i) Before censuring any registrant, or suspending or revoking any registration, the board shall notify the registrant in writing of any charges made at least twenty days prior to the date set for the hearing and shall afford the registrant an opportunity to be heard in person or by counsel.
 - (ii) The written notice shall be satisfied by personal service on the controlling person of the registrant, or the registrant's agent for service of process in this state, or by sending the notice by certified mail, return receipt requested to the controlling person of the registrant to the registrant's address on file with the board.
 - (iii) The hearing on the charges shall be at a time and place prescribed by the board and in accordance with the Administrative Procedure Act.
 - (iv) The Board may make findings of fact and shall deliver or mail such findings to the registrant charged with an offense under this Act.

(26) **Rulemaking authority.**

- (a) The Board may adopt rules not inconsistent with the provisions of this chapter which may be reasonably necessary to implement, administer, and enforce the provisions of this chapter.