

STATE OF ARKANSAS

**APPRAISER LICENSING AND
CERTIFICATION BOARD**

APPRAISAL MANAGEMENT COMPANY

STATUTES

ARKANSAS

APPRAISER LICENSING AND CERTIFICATION BOARD

APPRAISAL MANAGEMENT COMPANY STATUTES

SUBCHAPTER 1 – GENERAL PROVISIONS

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17-14-401. Title.

This subchapter shall be known and may be cited as the "Appraisal Management Company Registration Act".

17-14-402. Definitions.

As used in this subchapter:

- (1) "Appraisal management company" means a person that performs the actions necessary to administer a network of state-licensed appraisers to fulfill requests for appraisal management services on behalf of a client, including without limitation:
 - (A) Recruiting appraisers;
 - (B) Contracting with appraisers to perform appraisal services;
 - (C) Negotiating fees with appraisers;
 - (D) Receiving appraisal orders and appraisal reports;
 - (E) Submitting appraisal reports received from appraisers to the company's clients; and
 - (F) Providing related administrative and clerical duties;
- (2) "Appraisal management services" means the conduct of business by telephone, by electronic means, by mail, or in person directly or indirectly for compensation or other pecuniary gain or in the expectation of compensation or other pecuniary gain to:
 - (A) Solicit, accept, or offer to accept a request for appraisal services; or
 - (B) Employ or contract with a licensed or certified appraiser to perform appraisal services;
- (3) "Appraisal services" means the practice of developing an opinion of the value of real property in conformance with the minimum reporting standards under §17-14-202(b);

(4) "Appraiser" means an individual licensed under the Arkansas Appraiser Licensing and Certification Act, §17-14-101 et seq., §17-14-201 et seq., and §17-14-301 et seq. who for a fee or other consideration develops and communicates a real estate appraisal or otherwise gives an opinion of the value of real estate or any interest in real estate;

(5) "Appraisal panel" means a group of independent appraisers that have been selected by an appraisal management company to perform appraisal services for the appraisal management company to perform appraisal services for the appraisal management company;

(6) "Client" means a person that contracts with or otherwise enters into an agreement with an appraisal management company for the performance of appraisal services;

(7) "Controlling person" or "managing principal" means an individual employed, appointed, or authorized by an appraisal management company to contract with clients or independent appraisers for the performance of appraisal services;

(8) "Person" means an individual, a partnership, a limited liability company, a limited partnership, a corporation, an association, or other organization; and

(9) "Registrant" means an appraisal management company or person that is registered under this subchapter.

17-14-403. Registration of appraisal management companies required.

A person shall not act as an appraisal management company or perform appraisal management services in this state unless registered by the Arkansas Appraiser Licensing and Certification Board.

17-14-404. Rulemaking authority.

The Arkansas Appraiser Licensing and Certification Board may adopt rules to implement, administer, and enforce this subchapter, including without limitation to prescribe:

- (1) Forms and procedures for submitting information to the Board;
- (2) Standards of practice for a person registered under this subchapter; and
- (3) Standards for the operation of appraisal management companies.

17-14-405. Requirements for registration.

(a) Before acting or offering to act as an appraisal management company in this state, a person shall make written application to the Arkansas Appraiser Licensing and Certification Board for registration accompanied by the fee and bond established by the board.

- (b) The application shall include without limitation the following information:
- (1) The name, business address, and telephone contact information of the person seeking registration;
 - (2)(A) If the applicant is a domestic organization, the information required by §4-20-105(a) to designate an agent for service of process; or
(B)(i) If the applicant is a foreign organization, documentation that the foreign organization is authorized to transact business in this state and has appointed an agent for service of process by submitting a copy of:
 - (a) The company's filing with the Secretary of State appointing an agent for service of process under §4-20-112; and
 - (b) A certificate of authority issued by the Secretary of State.(ii) A foreign organization's failure to comply with subdivision (b)(2)(B)(i) of this section may result in the rejection of the application;
 - (3) The name, address, and contact information of any person that owns ten percent (10%) or more of the appraisal management company;
 - (4) The name, address, and contact information of a controlling person or a managing principal;
 - (5) A certification that the person:
 - (A) 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 under the Arkansas Appraiser Licensing and Certification Act, §17-14-101 et seq., §17-14-201 et seq., and §17-14-301 et seq.;
 - (B) Has a system in place to review the work of all independent appraisers that are performing appraisal services for the appraisal management company on a periodic basis to ensure that the appraisal services are being conducted in accordance with the minimum reporting standards under §17-14-202(b); and
 - (C) Maintains a detailed record of each request for appraisal services that it receives and the independent appraiser that performs the appraisal services for the appraisal management company; and
 - (6) Any other information required by the board.
- (c) The board shall issue a certificate of registration to an applicant authorizing the applicant to act or offer to act as an appraisal management company in this state upon:
- (1) Receipt of a properly completed application;
 - (2) Payment of the required fee;
 - (3) Posting of a bond; and
 - (4) Determination by the board that the activities of the applicant will be directed and conducted by persons of good moral character.
- (d)(1) If the board finds that there is substantial reason to deny the application for registration, the board shall notify the applicant that the application has been denied and

shall afford the applicant an opportunity for a hearing before the board to show cause why the application should not be denied.

(2) All proceedings concerning the denial of a certificate of registration shall be governed by the Arkansas Administrative Procedure Act, §25-15-101 et seq.

(e) The acceptance by the board of an application for registration does not constitute the approval of its contents or waive the authority of the board to take disciplinary action under this subchapter.

17-14-406. Fees and renewals.

(a) The Arkansas Appraiser Licensing and Certification Board shall establish by rule a filing fee not to exceed five hundred dollars (\$500) to be paid by each appraisal management company seeking registration under this subchapter.

(b)(1) In addition to the filing fee, each applicant for registration shall post with the board and maintain a surety bond in the amount of twenty thousand dollars (\$20,000).

(2) The bond shall:

(A) Be in the form prescribed by rule of the board; and

(B) Accrue to the state for the benefit of a claimant against the registrant to secure the faithful performance of the registrant's obligations under this subchapter.

(3) The aggregate liability of the surety shall not exceed the principal sum of the bond.

(4) A party having a claim against the registrant may bring suit directly on the surety bond, or the board may bring suit on behalf of the party having a claim against the registrant.

(5) Consumer claims are given priority in recovering from the bond.

(6) A deposit of cash or security may be accepted in lieu of the surety bond.

(7) A claim reducing the face amount of the bond shall be annually restored upon renewal of the registrant's registration.

(c)(1) Registrations issued under this subchapter shall be renewed annually beginning twelve (12) months from the date of issuance.

(2)(A) Failure to timely renew a registration shall result in a loss of authority to operate under this subchapter.

(B) A request to reinstate a certificate of registration shall be accompanied by payment of a penalty of fifty dollars (\$50.00) for each month of delinquency.

17-14-407. Registrant responsibilities and duties.

(a) A registrant that is an organization shall:

(1) Maintain a registered agent for service of process under the Model Registered Agents Act, §4-20-101 et seq.; and

(2) Provide to the Arkansas Appraiser Licensing and Certification Board the information required by §4-20-105(a) concerning the organization's agent for service of process and within five (5) business days any changes to the information.

(b)(1) A registrant shall maintain or cause to be maintained complete records of requests for appraisal services referred to an appraiser licensed or certified by the Board, including without limitation records pertaining to the acceptance of fees from borrowers or clients and payments to appraisers.

(2) The board may inspect the records without prior notice periodically or if the board determines that the records are pertinent to an investigation of a complaint against a registrant.

(c)(1) A registrant shall designate a controlling person or managing principal responsible for ensuring compliance with this subchapter.

(2) The registrant shall file a form with the board certifying:

(A) The identify of the controlling person or the managing principal; and

(B) The individuals' acceptance of the responsibilities of a controlling person or a managing principal.

(3) The registrant shall notify the board within thirty (30) days of a change in its controlling person or managing principal.

(4) An individual registrant who operates as a sole proprietorship is considered the managing principal under this subchapter.

(d)(1) A registrant shall make and keep the accounts, correspondence, memoranda, papers, books, and other records in accordance with rules promulgated by the board.

(2) All records shall be retained for five (5) years unless the board by rule prescribes a different retention period for particular types of records.

(e) If the information contained in a document filed with the board is or becomes inaccurate or incomplete in any material respect, the registrant shall promptly file an amendment correcting the information contained in the document.

(f) The registrant shall disclose to its client the actual fees paid to an appraiser for appraisal services separately from any other fees or charges for appraisal management services.

17-14-408. Prohibited activities.

(a) An employee, director, officer, or agent of an appraisal management company or any other third party acting as a joint venture partner with or independent contractor for an appraisal management company shall not improperly influence or attempt to improperly influence the development, reporting, result, or review of a real estate appraisal, including without limitation through the use of intimidation, coercion, extortion, bribery, blackmail, threat of nonpayment or withholding payment for appraisal services, or threat of exclusion from future appraisal work.

(b) A registrant shall not:

(1) Require an appraiser to collect the appraisal fee from a borrower, homeowner, or other third party;

(2) Require an appraiser to provide the registrant with the appraiser's digital signature or seal;

(3) Alter, amend, or change an appraisal report submitted by a licensed or certified appraiser including without limitation by:

(A) Removing the appraiser's signature or seal; or

(B) Adding or removing information to or from the appraisal report;

(4)(A) Allow the removal of an independent appraiser from an appraiser panel without prior written notice to the appraiser.

(B) Written notice shall include written evidence of:

(i) The appraiser's illegal conduct;

(ii) A violation of the minimum reporting standards under §17-14-202(b) or other applicable statutes or rules;

(iii) Substandard performance; or

(iv) Otherwise improper or unprofessional behavior;

(5) Enter into contracts or agreements with an independent appraiser for the performance of appraisal services unless the independent appraiser is licensed or certified in good standing with the Arkansas Appraiser Licensing and Certification Board;

(6) Request that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal report or provide estimated values or comparable sales at any time before the appraiser completes an appraisal report;

(7)(A) Except as provided in subdivision (b)(7)(B) of this section, provide to an appraiser an anticipated, estimated, encouraged, or desired value for a property or a proposed or target amount to be loaned to the borrower.

(B) A copy of the sales contract for purchase transactions may be provided; or

(8) Commit an act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality.

(c) Subsection (a) of this section does not prohibit an appraisal management company from requesting that an independent appraiser:

- (1) Provide additional information about the basis for a valuation;
- (2) Correct objective factual errors in an appraisal report; or
- (3) Provide further detail, substantiation, or explanation for the appraiser's value conclusion.

17-14-409. Registry of applicants and roster.

(a)(1) The Executive Director of the Arkansas Appraiser Licensing and Certification Board shall keep a register of all applicants for registration.

- (2) The register shall indicate:
- (A) The date of application;
 - (B) The applicant's name;
 - (C) The applicant's business address; and
 - (D) Whether the registration was granted or denied.

(3) The register shall be prima facie evidence of all matters contained in the register.

(b)(1) The executive director shall keep a current roster showing the names and addresses of all appraisal management companies registered with the board.

(2) The roster shall be kept on file in the office of the board and shall be open for public inspection.

17-14-410. Disciplinary authority, enforcement, and hearings.

(a) The Arkansas Appraiser Licensing and Certification Board may deny, suspend, revoke, or refuse to issue or renew the registration of an appraisal management company under this subchapter or may restrict or limit the activities of an appraisal management company or a person who owns an interest in or participates in the business of an appraisal management company if the board finds that any of the following circumstances apply to the applicant, a registrant, or a partner, member, manager, officer, director, managing principal, controlling person, or a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the applicant or registrant:

(1) The person's application for registration when filed or after filing contained a statement that in light of the circumstances under which it was made is false or misleading with respect to a material fact;

- (2) The person has violated or failed to comply with this subchapter;
 - (3) The person has pleaded guilty or nolo contendere to or been found guilty of:
 - (A) A felony; or
 - (B) Within the past ten (10) years:
 - (i) A misdemeanor involving mortgage lending or real estate appraising; or
 - (ii) An offense involving breach of trust, moral turpitude, or fraudulent or dishonest dealings;
 - (4) The person is permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving appraisal management services or operating an appraisal management company;
 - (5) The person is the subject of an order of the board or any other state appraisal management company regulatory agency denying, suspending, or revoking the person's privilege to operate as an appraisal management company;
 - (6) The person acted as an appraisal management company while not properly licensed by the board; or
 - (7) The person failed to pay the proper filing or renewal fee under this subchapter.
- (b) Upon its own motion or the written complaint of a person and after notice and hearing as prescribed by the Arkansas Administrative Procedure Act, §25-15-201 et seq., the board may:
- (1) Suspend or revoke the registration of a registrant;
 - (2) Impose a fine not to exceed one thousand dollars (\$1,000) per violation; or
 - (3) Take other appropriate disciplinary actions as established by rule of the board.
- (c)(1) Before imposing a penalty on a registrant, the board shall:
- (A) Notify the registrant in writing of any charges made at least twenty (20) days before the date set for the hearing; and
 - (B) Afford the registrant an opportunity to be heard in person or by counsel.
- (2) The board may make findings of fact and shall deliver or mail the findings to the registrant charged with an offense under this subchapter.

17-14-411. Injunctive relief – Criminal penalty.

- (a) The Arkansas Appraiser Licensing and Certification Board may appear in its own name in a circuit court of competent jurisdiction to obtain injunctive relief to prevent a person from violating this subchapter.
- (b) The circuit court may grant a temporary or permanent injunction regardless of whether:
 - (1) Criminal prosecution has been or may be instituted as a result of the violation of this subchapter; or

(2) The person is the holder of a registration issued by the board.

(c) A violation of this subchapter is a Class D felony.

17-14-412. Applicability.

This subchapter does not apply to:

(1) An agency of the federal, state, county, or municipal government;

(2) A person authorized to engage in business as a bank, farm credit system, savings institution, or credit union under the laws of the United States, the State of Arkansas, or any other state;

(3) A licensed real estate broker or licensed real estate agent performing activities regulated by the Arkansas Real Estate Commission unless the licensed real estate broker or licensed real estate agent receives compensation or other pecuniary gain in connection with the referral, placement, or execution of a request for appraisal services; or

(4) An officer or employee of a government agency, person, licensed real estate broker, or licensed real estate agent described in this section when acting within the scope of employment of the officer or employee.