

Article 47.—KANSAS APPRAISAL MANAGEMENT COMPANY REGISTRATION ACT

58-4701. Kansas appraisal management company registration act; citation of act. The provisions of K.S.A. 2012 Supp. 58-4701 through 58-4725, and amendments thereto, shall be known and may be cited as the Kansas appraisal management company registration act.

History: L. 2012, ch. 93, § 1; July 1.

58-4702. Same; purpose. (a) It is the intent of the legislature to develop a process for real estate appraisal management company registration and regulation in order to protect lenders, financial institutions, clients, consumers and the public from economic and financial harm and the potential for such harm that may result from interference with the independence, objectivity and impartiality of the real estate appraisal process.

(b) The purpose of the Kansas appraisal management company registration act is to provide a process for the registration and regulation of entities conducting, performing or engaging in, or attempting to conduct, perform or engage in, real estate appraisal management services as a real estate appraisal management company within the state of Kansas.

History: L. 2012, ch. 93, § 2; July 1.

58-4703. Same; definitions. As used in this act: (a) "Appraisal" has the meaning specified in K.S.A. 58-4102, and amendments thereto.

(b) "Appraisal management company" or "AMC" means an individual, firm, partnership, association, corporation, limited liability company or any other business entity acting as an external third party authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter of or other principal in the secondary mortgage markets:

(1) That performs appraisal management services, regardless of the use of any of the following terms: Appraisal management company, mortgage technology provider, mortgage services provider, lender processing services provider, loan processor, real estate closing services provider, vendor management company or any other like term; and

(2) such entity oversees an appraiser panel of: (A) More than 15 appraisers who are certified or licensed in Kansas; or

(B) a total of more than 25 appraisers who are certified or licensed in Kansas and in any other jurisdiction.

(c) "Appraisal management services" means to perform or attempt to perform, directly or indirectly, any one or more of the following functions on behalf of a lender, financial institution, client, or any other person:

(1) Administer an appraiser panel;

(2) recruit, qualify, verify licensing or certification and negotiate fees and service level expectations with any person who is part of an appraiser panel;

(3) receive an order for an appraisal from one entity and deliver the order for the appraisal to an appraiser that is part of an appraiser panel for completion;

(4) track and determine the status of orders for appraisals;

(5) conduct quality control of a completed appraisal prior to the delivery of such appraisal to the person that ordered the appraisal; or

(6) submit a completed appraisal performed by an appraiser to one or more clients.

(d) "Appraiser" means an individual who holds a credential issued by the Kansas real estate appraisal board pursuant to the state certified and licensed real property appraiser act entitling that individual to perform an appraisal of real property in the state of Kansas consistent with the scope of practice for such credential.

(e) "Appraiser panel" means a network of one or more licensed or certified appraisers who are independent contractors to the AMC and have:

(1) Responded to an invitation, request, or solicitation from an AMC, in any form, to perform appraisals for persons that have ordered appraisals through the AMC, or to perform appraisals for the AMC directly, on a periodic basis, as requested and assigned by the AMC; and

(2) been selected and approved by an AMC to perform appraisals for any client of the AMC that has ordered an appraisal through the AMC, or to perform appraisals for the AMC directly, on a periodic basis, as assigned by the AMC.

(f) "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 related to the appraiser's data collection, analysis, opinions of value, conclusions, estimate of value, or compliance with the uniform standards of professional appraisal practice. This term "appraisal review" does not include a general examination for:

- (1) Grammatical, typographical or other similar errors; or
- (2) Completeness including regulatory requirements, client requirements, or both such requirements as specified in the engagement letter that does not communicate an opinion.
- (g) "Board" means the Kansas real estate appraisal board.
- (h) "Credential" means a certificate, license or temporary permit issued by the board pursuant to the provisions of the state certified and licensed real estate appraisals act authorizing an individual to act as a temporary permitted appraiser, provisional appraiser, state licensed appraiser, certified residential appraiser or certified general appraiser in the state of Kansas.
- (i) "Controlling person" means:
 - (1) An owner, officer, manager, or director of a corporation, partnership, firm, association, limited liability company, or other business entity seeking to offer appraisal management services in this state;
 - (2) an individual employed, appointed, or authorized by an AMC 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
 - (3) an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an AMC.
- (j) "Person" means an individual, firm, partnership, association, corporation, or any other entity.
- (k) "Uniform standards of professional appraisal practice" or "USPAP" means the edition of the uniform standards of professional appraisal practice as specified in K.S.A. 58-4121, and amendments thereto.

History: L. 2012, ch. 93, § 3; July 1.

58-4704. Same; application for registration. (a) The application for the registration shall be on a form approved by the board and shall, at a minimum, include the following information:

(1) The legal name and any other trade or business name of the entity seeking registration;

(2) the mailing and physical addresses of the entity seeking registration;

(3) the telephone, email, website, and facsimile contact information of the entity seeking registration;

(4) if the entity is a corporation, limited liability company, partnership, association, sole proprietorship or any other business entity that is not domiciled in this state:

(A) The name and contact information for the entity's agent for service of process in this state pursuant to K.S.A. 2012 Supp. 58-4707, and amendments thereto; and

(B) proof that the entity is properly and currently registered with the Kansas office of the secretary of state;

(5) the name, mailing and physical addresses, telephone, email and facsimile contact for any person that owns 10% or more of the AMC;

(6) the name, mailing and physical addresses, telephone, email and facsimile contact for the named controlling person;

(7) 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 AMC for appraisal services being performed in Kansas:

(A) Holds a credential in good standing in this state pursuant to the state certified and licensed real estate appraisers act and the regulations adopted thereunder if a license or certification is required to perform appraisals, pursuant to K.S.A. 2012 Supp.58-4711, and amendments thereto; and

(B) is geographically competent and performs appraisal assignments within the appraiser's scope of practice;

(8) a certification that the entity has a system in place to review an amount or percentage of the appraisal reports submitted by each appraiser who is performing real estate appraisal services for the AMC within Kansas as specified in rules and regulations of the board on an annual basis to validate that the real estate appraisal services are being conducted in accordance with USPAP and the state certified and licensed real estate appraisers act and the regulations adopted thereunder, pursuant to K.S.A. 2012 Supp. 58-4712, and amendments thereto;

(9) a certification that the entity maintains a detailed record of each service request that it receives and the appraiser that performs real estate appraisal services for the AMC, pursuant to K.S.A. 2012

Supp. 58-4713, and amendments thereto;

(10) an irrevocable consent to service of process pursuant to K.S.A. 2012 Supp. 58-4707, and amendments thereto;

(11) any other information reasonably required by the board to evaluate compliance with the application requirements in this act; and

(12) a certification that the entity requires that appraisals are conducted independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established under section 129E of the truth in lending act, as specified in subsection (a) of K.S.A. 2012 Supp. 58-4716, and amendments thereto.

(b) The board shall review each application that is properly submitted and either issue the registration to the applicant or deny such application in accordance with the provisions of this act.

History: L. 2012, ch. 93, § 4; July 1.

58-4705. Same; exemptions from registration. (a) The registration provisions of this act shall not apply to an AMC that is a subsidiary owned and controlled by a financial institution regulated by a federal financial institutions regulatory agency.

(b) The provisions of this act shall not apply to:

(1) A person as defined in K.S.A. 2012 Supp.

58-4703, and amendments thereto, who exclusively employs appraisers on an employer and employee basis for the performance of appraisals; or

(2) an individual or individuals who are state-certified or state-licensed appraisers in good standing credentialed by the board and who are actively engaged in the practice of real estate appraising and, as a function of the practice, maintain a list of not more than 15 employees who are credentialed appraisers in good standing or independent contractor credentialed appraisers in good standing.

History: L. 2012, ch. 93, § 5; July 1.

58-4706. Same; registration period. (a) The registration period shall commence on October 1 and end on September 30 of the following year. A registration granted by the board may be renewed annually thereafter.

(b) To obtain renewal of a registration, the holder shall make application for renewal on a form provided by the board and pay the fee prescribed pursuant to K.S.A. 2012 Supp. 58-4708, and amendments thereto, not earlier than 120 days nor later than 30 days prior to the expiration date of the registration.

(c) If the holder of the registration fails to apply for renewal prior to the date of expiration, the holder may obtain renewal of the registration if the holder, not later than three months after expiration of the registration, pays the renewal and late renewal fees prescribed pursuant to K.S.A. 2012 Supp. 58-4708, and amendments thereto.

History: L. 2012, ch. 93, § 6; July 1.

58-4707. Same; requirements for nonresident applicants; investigation. (a) Prior to the issuance of a registration to a nonresident applicant, the applicant must agree in writing to abide by all provisions of this act with respect to the applicant's appraisal management activities within this state and submit to the jurisdiction of the board and the state in all matters relating thereto. Such agreement shall be filed with the board and shall remain in force for so long as the nonresident is registered by this state and thereafter with respect to acts or omissions committed while registered as a nonresident.

(b) The board may investigate the actions of a nonresident registrant and, pursuant to the Kansas administrative procedures act, may revoke, condition, limit, suspend, censure or nonrenew the registration of the nonresident registrant for disciplinary action in relation to AMC practices, including, but not limited to, denial, revocation or suspension of a registration taken by another state, district or territory of the United States.

(c) Prior to the issuance of a registration to a nonresident AMC, the applicant shall file with the board a designation in writing that appoints the executive director of the board as the applicant's agent, upon whom all judicial and other process or legal notices directed to the applicant may be served in the event such applicant becomes a registrant. Any process or legal notices to a nonresident registrant shall be directed to the executive director and, in the case of a summons, shall require the nonresident registrant to answer within 40 days from the date of service on such registrant. A summons and a certified copy of the petition shall be forthwith forwarded by the clerk of the court to the executive director, who immediately shall forward a copy of the summons and the certified copy of the petition to the nonresident registrant. Thereafter, the executive director shall make return of the summons to the court from which it was issued, showing the date of its receipt by the executive director, the date of forwarding and the name and address of the person to whom the executive director forwarded a copy. Such return shall have the same force and effect as a return made by the sheriff on process directed to the sheriff.

History: L. 2012, ch. 93, § 7; July 1.

58-4708. Same; fees. (a) The board shall establish by rules and regulations the fee to be paid by each AMC seeking registration or renewal of a registration under this act. The amount of the registration and renewal fees shall be sufficient for the administration of this act, but in no case shall the fees be more than \$3,500. The initial registration fee shall be prorated for an applicant that initially applies for registration 11 or fewer months prior to September 30.

(b) The board shall establish by rules and regulations a late renewal fee not to exceed \$500.

(c) The executive director of the board shall remit all moneys, received pursuant to this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Other than amounts collected for the AMC federal registry fees, or for civil fines imposed pursuant to K.S.A. 2012 Supp. 58-4723, and amendments thereto, such deposit shall be credited to the appraiser fee fund. All expenditures from such fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the board or by a person or persons designated by the chairperson. Civil fines shall be credited to the state general fund.

(d) All amounts required to be collected and actually collected for the AMC federal registry fees shall be credited totally to the AMC federal registry clearing fund which is hereby created in the state treasury. All disbursements from the AMC federal registry clearing fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the board or by a person or persons designated by the chairperson. Amounts credited to the AMC federal registry clearing fund under this section shall not be subject to any limitations imposed by the appropriations act of the legislature.

History: L. 2012, ch. 93, § 8; July 1.

58-4709. Same; limitation on ownership interest in an AMC; conditions. (a) No single interest in an AMC applying for, holding, or renewing a registration under this act shall exceed 10% when owned by:

(1) An individual who has held a credential issued by any appraiser-credentialing jurisdiction to act as an appraiser and such credential:

(A) Was refused, denied, suspended, revoked, or surrendered or nonrenewed in lieu of a pending disciplinary proceeding in any jurisdiction against such individual; and

(B) not subsequently granted or reinstated; or

(C) is otherwise not in good standing; or

(2) any person who owns more than a 10% interest in an entity and such person has held a credential issued by any appraiser-credentialing jurisdiction to act as an appraiser that:

(A) Was refused, denied, revoked, suspended, or surrendered or nonrenewed in lieu of a pending disciplinary proceeding in any jurisdiction against such person; and

(B) (i) not subsequently granted or reinstated, or

(ii) is otherwise not in good standing.

(b) (1) Each individual that owns more than a 10% interest in an AMC who applies for, holds, or renews a registration under this act shall be of good moral character as determined by the board by rules and regulations.

(2) As a part of an application for an original registration, and for a renewal registration if required by the board, the board shall require the individual to be fingerprinted and submit to a state and national criminal history record check. The individual's fingerprints shall be used to identify the individual and to determine whether the individual has a record of criminal history in this state or other jurisdiction. The board shall require the individual to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The board shall use the information obtained from the fingerprinting and the criminal history for purposes of verifying the identification of the individual and in the official determination of the qualifications and fitness of the applicant to be issued, maintain, or renew a registration.

(3) Local and state law enforcement officers and agencies shall assist the board in taking and processing fingerprints of individuals for any registration and shall release all records of adult convictions to the board.

(4) The board may fix and collect a fee in an amount necessary to reimburse the board for the cost of fingerprinting and the criminal history record check. Such fee shall be established by rules and regulations.

(c) Each AMC applying for registration or for renewal of a registration under this act shall certify to the board on a form prescribed by the board that:

(1) Such AMC has reviewed each person or entity that owns more than a 10% interest in the AMC; and

(2) no person or entity that owns more than a 10% interest in the AMC has held a credential issued by any appraiser-credentialing jurisdiction to act as an appraiser and such credential:

(A) Was refused, denied, suspended, revoked, or surrendered or nonrenewed in lieu of a pending disciplinary proceeding in any jurisdiction against such individual; and

(B) (i) was not subsequently granted or reinstated; or

(ii) is otherwise not in good standing.
History: L. 2012, ch. 93, § 9; July 1.

58-4710. Same; designation of controlling person for AMC. (a) Each AMC applying to the board for a registration or for a renewal of a registration in this state shall designate one controlling person that shall serve as the main contact for all communication between the board and the AMC.

(b) The controlling person designated pursuant to subsection (a) shall:

(1) Remain in good standing with any appraiser-credentialing jurisdictions from which the controlling person has obtained credentials, except that no provision in this section shall require that a designated controlling person hold an appraiser credential in any jurisdiction; or

(2) have never had a credential issued by any appraiser-credentialing jurisdiction to act as an appraiser that:

(A) Was refused, denied, suspended, revoked, or surrendered or nonrenewed in lieu of a pending disciplinary proceeding, and:

(B) (i) Not had such credential subsequently reinstated or granted; or

(ii) is not otherwise in good standing in any jurisdiction.

(c) As a part of an application for an original registration and if required by the board for a renewal registration, the board shall require the controlling person to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the controlling person has a record of criminal history in this state or other jurisdiction. The board shall require the controlling person to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The board shall use the information obtained from the fingerprinting and the criminal history for purposes of verifying the identification of the controlling person and in the official determination of the qualifications and fitness of the applicant to be issued, maintain or renew a registration.

(d) Local and state law enforcement officers and agencies shall assist the board in taking and processing fingerprints of applicants for any license and shall release all records of adult convictions to the board.

(e) The board may fix and collect a fee in an amount necessary to reimburse the board for the cost of fingerprinting and the criminal history record check. Such fee shall be established by rules and regulations. Any moneys collected under this subsection shall be deposited in the state treasury and credited to the real estate appraisal board's appraiser fee fund established pursuant to K.S.A. 58-4107, and amendments thereto.

History: L. 2012, ch. 93, § 10; July 1.

58-4711. Same; AMC appraiser requirements. (a) If a license or certification is required to perform an appraisal, prior to placing an assignment with an appraiser on the appraiser panel of an AMC, the AMC shall verify that the appraiser receiving the assignment holds a credential in good standing in this state issued pursuant to this act and the rules and regulations adopted thereunder. A letter of engagement shall include instructions to the appraiser to decline the assignment in the event the appraiser is not geographically competent or the assignment falls outside the appraiser's scope of practice.

(b) Any employee of, or independent contractor to, the AMC that performs an appraisal review for a property located in Kansas shall be an appraiser credentialed in good standing in the state of Kansas.

(c) No AMC registered in this state pursuant to this act shall enter into any contract or agreement with an appraiser for the performance of appraisals in Kansas unless such AMC verifies that the individual is credentialed in good standing to perform the appraisal pursuant to the state certified and licensed real property appraisers act.

(d) Each AMC registered or seeking to be registered in this state shall certify to the board on an annual basis on a form prescribed by the board that such AMC has a system and process in place to verify that any individual being added to the appraiser panel of the AMC for appraisal services in Kansas:

(1) Holds a credential in good standing in this state pursuant to the state certified and licensed real estate appraisers act; and

(2) is geographically competent and performs appraisal assignments within the appraiser's scope of practice.

History: L. 2012, ch. 93, § 11; July 1.

58-4712. Same; appraisal review reporting. Each AMC seeking to be registered or to renew a registration in this state shall certify to the board on an annual basis on a form prescribed by the board that such AMC has a system in place to perform an appraisal review on a number or percentage of the appraisal reports submitted by each appraiser who is performing appraisals for such AMC on a periodic basis as specified in rules and regulations of the board to validate that the appraisals are being conducted in accordance with:

- (a) The USPAP; and
- (b) the state certified and licensed real property appraisers act and the regulations adopted thereunder.

History: L. 2012, ch. 93, § 12; July 1.

58-4713. Same; record keeping required; inspection of records. (a) Each AMC seeking to be registered or to renew an existing registration in this state shall certify to the board on an annual basis on a form prescribed by the board that such AMC maintains a detailed record of each service request that it receives for appraisal of real property located in Kansas.

(b) An AMC registered under the provisions of this act shall retain for a period of five years all records required to be maintained under this act. This five-year period shall commence on:

(1) The date of the final action by the AMC for each individual transaction; or

(2) if the AMC is notified that the transaction is involved in litigation, the date that the final judgment has been issued and all appeals, if any, have been taken.

(c) All records required to be maintained by the registered AMC pursuant to the provisions of this act shall be made available by the registration holder for inspection and copying by the board or its designee on reasonable notice to the AMC.

History: L. 2012, ch. 93, § 13; July 1.

58-4714. Same; disclosures. (a) An AMC shall be required to have a system in place to disclose to its client the fees paid:

(1) For appraisal management services; and

(2) to the appraiser for the completion of an appraisal assignment.

(b) No AMC shall prohibit an appraiser that is part of an appraiser panel of the AMC from recording the fee that the appraiser was paid by the AMC for the performance of the appraisal within the body of the appraisal that is submitted by the appraiser to the AMC.

History: L. 2012, ch. 93, § 14; July 1.

58-4715. Same; unlawful acts; registration required. Except as provided by K.S.A. 2012 Supp. 58-4705, and amendments thereto, it shall be unlawful for any person to do any of the following without first obtaining a registration issued by the board pursuant to K.S.A. 2012 Supp. 58-4704, and amendments thereto:

- (a) Directly or indirectly engage or attempt to engage in business as an AMC;
- (b) directly or indirectly perform or attempt to perform appraisal management services as an AMC; or
- (c) advertise or hold such person out as engaging in or conducting business as an AMC.

History: L. 2012, ch. 93, § 15; July 1.

58-4716. Same; unlawful acts. (a) It shall be unlawful and a violation of this act for any employee, partner, director, officer or agent of an AMC to influence or attempt to influence the development, reporting, result or review of an appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, bribery or in any other manner, including, but not limited to:

(1) Withholding or threatening to withhold timely payment or partial payment for an appraisal unless such appraisal is substandard or noncompliant.

(2) Withholding or threatening to withhold, either expressly or by implication, future business from an appraiser.

(3) Demoting or terminating or threatening to demote or terminate an appraiser.

(4) Promising, either expressly or by implication, future business, promotions or increased compensation for an appraiser.

(5) Conditioning an assignment of an appraisal or the payment of an appraisal fee or salary or bonus on:

(A) The opinion, conclusion or valuation to be reached by an appraiser; or

(B) a preliminary estimate or opinion requested from an appraiser.

(6) Requesting that an appraiser provide at any time prior to the appraiser's completion of an appraisal:

(A) An estimated, predetermined or desired valuation in an appraisal; or

(B) estimated values or comparable sales, except that a copy of the sales contract for purchase transactions may be provided.

(7) Providing to an appraiser:

(A) An anticipated, estimated, encouraged or desired value for a subject property; or

(B) 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.

(8) Providing to an appraiser, or any entity or individual related to the appraiser, stock or other financial or nonfinancial benefit or thing of value.

(9) Without prior written notice to such appraiser:

(A) Allowing or directing the removal of an appraiser from an appraiser panel; or

(B) the addition of an appraiser to an exclusionary list of disapproved appraisers used by any entity.

(10) Committing any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity or impartiality.

(11) Submitting or attempting to submit false, misleading or inaccurate information in any application for registration or renewal.

(b) No provision of subsection (a) shall be construed to prohibit the AMC from requesting that an appraiser:

(1) Provide additional information about the basis for a valuation including consideration of additional comparable data; or

(2) correct objective factual errors in an appraisal.

(c) It shall be unlawful and a violation of this act for any employee, partner, director, officer, agent or independent contractor of an AMC to:

(1) Require an appraiser to sign any sort of indemnification agreement that requires the appraiser to defend and hold harmless the appraisal management company or any of its agents,

employees or independent contractors for any liability, damage, losses or claims arising out of the services performed by the AMC or its agents, employees or independent contractors but does not also include the services performed by the appraiser;

(2) employ any person who has had a credential to act as an appraiser issued by any appraiser-credentialing jurisdiction that:

(A) Was refused, denied, suspended, revoked, or surrendered or nonrenewed in lieu of a pending disciplinary proceeding in any jurisdiction against such individual; and

(B) (i) was not subsequently granted or reinstated; or

(ii) is otherwise not in good standing in any jurisdiction;

(3) knowingly enter into any independent contractor arrangement, whether in verbal, written or other form for the performance of appraisal or appraisal management services, with any person who has had a credential to act as an appraiser that was issued by any appraiser-credentialing jurisdiction that:

(A) Was refused, denied, suspended, revoked, or surrendered or nonrenewed in lieu of a pending disciplinary proceeding in any jurisdiction against such individual; and

(B) (i) was not subsequently granted or reinstated; or

(ii) is otherwise not in good standing in any jurisdiction;

(4) knowingly 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 for the performance of appraisal or appraisal management services, with any person who has ever had a credential issued by any appraiser-credentialing jurisdiction to act as an appraiser that:

(A) Was refused, denied, suspended, revoked or surrendered or nonrenewed in lieu of a pending disciplinary proceeding in any jurisdiction against such individual; and

(B) (i) was not subsequently granted or reinstated; or

(ii) is otherwise not in good standing in any jurisdiction;

(5) commit an act of unprofessional conduct as defined by rules and regulations of the board;

(6) fail to report to the board the results of any appraisal reviews in which an appraisal is found to be substantially noncompliant with USPAP;

(7) fail to timely respond to any subpoena or any other request for information from the board;

(8) fail to timely obey an administrative order of the board; or

(9) fail to fully cooperate in any investigation by the board.

(d) It shall be unlawful and a violation of this act for an AMC to include on the panel of the AMC for appraisal services in Kansas any appraiser who:

(1) Does not hold a credential in good standing in this state pursuant to the state certified and licensed real estate appraisers act; or

(2) is not geographically competent to perform appraisal assignments within the appraiser's scope of practice.

An attestation provided by an appraiser that such appraiser is geographically competent within the appraiser's scope of practice will satisfy an AMC's responsibility pursuant to this subsection.

History: L. 2012, ch. 93, § 16; July 1.

58-4717. Same; prohibited acts. No AMC shall perform or attempt to perform any of the following acts:

(a) Require an appraiser to modify any aspect of an appraisal unless the modification complies with subsection (b) of K.S.A. 2012 Supp. 58-4716, and amendments thereto;

(b) require an appraiser to prepare an appraisal if the appraiser, in the appraiser's own independent professional judgment:

(1) Believes the appraiser does not have the necessary expertise for the assignment or for the specific geographic area; and

(2) the appraiser has notified the AMC and declined the assignment;

(c) require an appraiser to prepare an appraisal under a time frame that the appraiser, in the appraiser's own professional judgment:

(1) Believes does not afford the appraiser the ability to meet all the relevant legal and professional obligations; and

(2) the appraiser has notified the AMC and declined the assignment;

(d) prohibit or inhibit legal or other allowable communication between the appraiser and the lender, a real estate licensee, or any other person from whom the appraiser, in the appraiser's own professional judgment, believes information would be relevant;

(e) require the appraiser to do anything that does not comply with USPAP, the state certified and licensed real estate appraisers act or the regulations adopted thereunder, or any assignment conditions and certifications required by the client; or

f) make any portion of the appraiser's fee or the AMC's fee contingent on a predetermined or favorable outcome, including, but not limited, to a loan closing or a specific dollar amount being achieved by the appraiser in the appraisal.

History: L. 2012, ch. 93, § 17; July 1.

58-4718. Same; prompt payment. Except in bona fide cases of breach of contract or substandard performance of services, each AMC shall make payment to an appraiser for the completion of an appraisal or valuation assignment within 45 days of the date on which the appraiser transmits or otherwise provides the completed appraisal or valuation study to the AMC or its assignee unless a mutually agreed upon alternate arrangement has been previously established in good faith.

History: L. 2012, ch. 93, § 18; July 1.

58-4719. Same; modification of appraisal prohibited. (a) No AMC shall alter, modify, or otherwise change or attempt to alter, modify, or otherwise change a completed appraisal submitted by an appraiser.

(b) No AMC shall require an appraiser to provide the AMC with the appraiser's digital signature. No provision of this subsection shall be deemed to prohibit an appraiser from voluntarily providing such appraiser's digital signature to another person in the manner permitted by the provisions of the USPAP.

History: L. 2012, ch. 93, § 19; July 1.

58-4720. Same; registration number. (a) The board shall issue a unique registration number to each AMC that is registered in this state.

(b) The board shall maintain on its website a list of the AMCs that have registered with the board pursuant to this act and have been issued a registration number pursuant to subsection (a) of this section.

(c) An AMC registered in this state shall place its registration number on any instrument utilized by the AMC for procurement of appraisal services in this state.

History: L. 2012, ch. 93, § 20; July 1.

58-4721. Same; removal of appraiser, limitation. (a) Except within the first 30 days after an appraiser is first added to the appraiser panel of an AMC, no AMC shall remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real estate appraisal services to an appraiser without:

(1) Notifying the appraiser in writing of the reasons why such appraiser is being removed from the appraiser panel of the AMC;

(2) providing an opportunity for the appraiser to respond to the written notification of the AMC either personally or through legal counsel; and

(3) if the appraiser is being removed from the panel for illegal conduct, violation of the USPAP, or a violation of this act or the regulations adopted thereunder, providing notice to the appraiser and to the board detailing allegations of fact and alleged violations of USPAP, regulations or laws.

History: L. 2012, ch. 93, § 21; July 1.

58-4722. Same; denial of registration or renewal thereof; grounds. The board may deny the issuance of a registration or a renewal of a registration to an applicant for failure to comply with any requirement of this act, or any rule or regulation adopted pursuant thereto, or for any of the following acts or omissions:

(a) That the applicant, in the case of an application for renewal of a registration has, within 12 months preceding the date of the application, violated any provision of this act or any regulation adopted thereunder, or any provision of the state certified and licensed real property appraiser act or any regulation adopted thereunder;

(b) that the applicant is not of good moral character; or

(c) that the applicant has been the holder of a registration that:

(1) Was denied, revoked or suspended for cause; or

(2) (A) surrendered or nonrenewed in lieu of disciplinary proceedings and not subsequently granted or reinstated; or

(B) is otherwise not in good standing in any jurisdiction;

(d) when in the case of an application for renewal of a registration, the applicant has, in the conduct of affairs under the registration, demonstrated:

(1) Incompetency;

(2) untrustworthiness;

(3) conduct or practices rendering the registrant unfit to carry on appraisal management services;

(4) conduct or practices making continuance in the business detrimental to the public interest; or

(5) that the registrant is no longer in good faith carrying on appraisal management services, and for this conduct is found to be a source of detriment, injury or loss to the public; or

(e) that the applicant, the controlling person or any owner of an interest in the AMC of 10% or more has been convicted of a felony and has not been sufficiently rehabilitated to merit the public trust.

History: L. 2012, ch. 93, § 22; July 1.

58-4723. Same; penalties; hearing. (a) The board may censure an AMC, condition, limit, suspend or revoke the registration of an AMC, and in addition to or in lieu of any other administrative, civil or criminal remedy provided by law may impose a civil fine not to exceed \$2,000 per violation for any of the following acts or omissions:

(1) Committing any violation of this act;

(2) violating any regulation adopted by the board to implement or administer the provisions of this act;

(3) procuring a registration or renewal of a registration for the AMC or committing any other act by fraud, misrepresentation, or deceit; or

(4) employing a controlling person or any individual who owns more than 10% of the AMC who has been convicted of a felony and who has not been sufficiently rehabilitated to merit the public trust.

(b) Administrative proceedings under this act shall be conducted in accordance with the Kansas administrative procedure act.

(c) A violation of this act, or of any rule or regulation adopted pursuant thereto, shall be a class C misdemeanor.

History: L. 2012, ch. 93, § 23; July 1.

58-4724. Same; hearing; assessment of costs. (a) The costs incurred by the board in conducting any proceeding under the Kansas administrative procedure act may be assessed against the AMC if the order of the board is adverse to the AMC in such proportion as the board determines upon consideration of all relevant circumstances including the nature of the proceeding and the level of participation by the parties. The board may reduce any such assessment to judgment by filing a petition in the district court of Shawnee county. No registration shall be reinstated, renewed or issued if an assessment for costs has not been paid by the applicant or registrant.

(b) (1) Except as provided in paragraph (2), for purposes of this section, costs include the fees and expenses of the presiding officer, costs of making and preparing the record, witness fees and expenses, mileage, travel allowances and subsistence expenses of board employees and fees and expenses of agents of the board who provide services to the board.

(2) Costs shall not include fees and expenses or costs of making and preparing the record unless the board has designated or retained the services of the office of administrative hearings to perform such functions.

(c) The board shall make any assessment of costs incurred as part of the final order rendered in the proceeding. Such order shall include findings and conclusions in support of the assessment of costs.

History: L. 2012, ch. 93, § 24; July 1.

58-4725. Same; rules and regulations. In accordance with the provisions of the rules and regulations filing act, K.S.A. 77-415 et seq., and amendments thereto, the board may adopt, amend and revoke rules and regulations governing the administration and enforcement of this act, including, but not limited to:

- (a) Any fee required by this act;
- (b) any report, record or other information which may be required to be kept, and maintained pursuant to this act; and
- (c) such other rules and regulations as the board may deem necessary to carry out the provisions of this act.

History: L. 2012, ch. 93, § 25; July 1.