

# Chapter 18.310 RCW

## APPRAISAL MANAGEMENT COMPANIES

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### **18.310.010** **Definitions.**

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Appraisal" means the act or process of estimating value; an estimate of value; or of pertaining to appraising and related functions.

(2) "Appraisal management company" means an entity that 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, or vendor management company, or any other term.

(3) "Appraisal management services" means to perform any or all of the following functions on behalf of a lender, financial institution, mortgage broker, loan originator, or any other person:

(a) Administer an appraiser panel;

(b) Recruit, qualify, verify licensing or certification, and negotiate fees and service level expectations with persons who are part of an appraiser panel;

(c) Receive an order for an appraisal from one person, or entity, and deliver the order for the appraisal to an appraiser that is part of an appraiser panel for completion;

(d) Track and determine the status of appraisal orders;

(e) Conduct quality control of a completed appraisal prior to the delivery of the appraisal to the person that ordered the appraisal; and

(f) Provide a completed appraisal performed by an appraiser to one or more persons that have ordered an appraisal.

(4) "Appraisal review" or "appraisal review services" means developing and communicating an opinion about the quality of another appraiser's work that was performed, or assignment results that were developed, as part of an appraisal assignment.

(5) "Appraiser" means a person who is licensed or certified under chapter 18.140 RCW or under similar laws of another state.

(6) "Appraiser panel" means a network of appraisers who are independent contractors of an appraisal management company that have:

(a) Independently applied to or responded to an invitation, request, or solicitation from an appraisal management company to perform appraisals for persons, or entities, that have ordered appraisals 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; and

(b) Been selected, and approved, by an appraisal management company to perform appraisals for a person, or entity, 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.

(7) "Controlling person" means:

(a) An owner, officer, or director of a corporation, partnership, or other business entity seeking to offer appraisal management services in this state;

(b) 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;

(c) An individual who possesses the power to direct or cause the direction of the management or policies of an appraisal management company;

(d) Any person who controls a partnership, company, association, or corporation through one or more intermediaries, alone or in concert with others, or a ten percent or greater interest in a partnership, company, association, or corporation; or

(e) Any person who controls a limited liability company or is the owner of a sole proprietorship.

(8) "Department" means the department of licensing.

(9) "Director" means the director of the department of licensing.

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**18.310.020****Powers and duties of director.**

The director shall:

- (1) Adopt rules to implement this chapter;
- (2) Establish appropriate administrative procedures for the processing of the applications;
- (3) Issue licenses to qualified companies under the provisions of this chapter;
- (4) Maintain a roster of the names and addresses of companies licensed under this chapter;
- (5) Employ professional, clerical, and technical assistance as may be necessary to properly administer the work of the director;
- (6) Establish forms necessary to administer this chapter;
- (7) Oversee the performance of any background investigations;
- (8) Initiate and oversee investigations and any audits;
- (9) Establish grounds for disciplinary actions;
- (10) Adopt fees under RCW [43.24.086](#); and
- (11) Do all other things necessary to carry out the provisions of this chapter and comply with the requirements of any pertinent federal laws pertaining to appraisal management companies.

[2010 c 179 § 2.]

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**18.310.030****Immunity.**

The director or individuals acting on behalf of the director are immune from suit in any action, civil or criminal, based on any acts performed in the course of their duties except for their intentional or willful misconduct.

[2010 c 179 § 3.]

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**18.310.040****Applications — Original and renewals — Surety bonds.**

(1) Applications for licensure must be made to the department on forms approved by the director. A license is valid for two years and must be renewed on or before the expiration date. Applications for original and renewal licenses must include a statement confirming that the company must comply with applicable rules and that the company understands the penalties for misconduct.

(2) The appropriate fees must accompany all applications for original licensure and renewal.

(3)(a) Each applicant shall file and maintain a surety bond, approved by the director, executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety, whose liability as the surety may not exceed in the aggregate the penal sum of the bond. The penal sum of the bond must be a minimum of one hundred thousand dollars. The bond must run to the state of Washington as obligee for the use and benefit of the state and of any person or persons who may have a cause of action against the obligor under this chapter. The bond must be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all the rules adopted under this chapter. The bond will pay to the state and any person or persons having a cause of action against the obligor all moneys that may become due and owing to the state and those persons under and by virtue of this chapter.

(b) If the director determines that surety bonds are not readily available to appraisal management companies, the director may accept a cash bond or other security in lieu of the surety bond required by this section. The security accepted in lieu of a surety bond must be in an amount equal to the penal sum of the required bond. All obligations and remedies relating to surety bonds apply to deposits and other security filed in lieu of surety bonds.

[2013 c 90 § 1; 2010 c 179 § 4.]

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### **18.310.050**

#### **Out-of-state companies — Consent for service of process.**

Every company seeking licensure whose headquarters is not based in the state of Washington shall submit, with the application for licensure, an irrevocable consent that service of process upon the controlling person or persons may be made by service on the director if, in an action against the entity in a Washington state court arising out of the entity's activities as an appraisal management company, the plaintiff cannot, in the exercise of due diligence, obtain personal service upon the company.

[2010 c 179 § 5.]

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### **18.310.060**

#### **Licensure — Requirements.**

(1) It is unlawful for an entity to engage or attempt to engage in business as an appraisal management company, to 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 license issued by the department under this chapter.

(2) An application for the issuance or renewal of a license required by subsection (1) of this section must, at a minimum, include the following information:

(a) Name of the entity seeking licensure;

(b) Names under which the entity will do business;

(c) Business address of the entity seeking licensure;

(d) Phone contact information of the entity seeking licensure;

(e) 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;

- (f) The name, address, and contact information for any individual or any corporation, partnership, or other business entity that owns ten percent or more of the appraisal management company;
- (g) The name, address, and contact information for a controlling person;
- (h) 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 for work being done in this state holds a license or certificate in good standing under chapter 18.140 RCW;
- (i) A certification that the entity has a system in place to review the work of appraisers that are performing real estate appraisal services on a periodic basis and have a policy in place to require that the real estate appraisal services provided by the appraiser are being conducted in accordance with chapter 18.140 RCW and other applicable state and federal laws;
- (j) A certification that the entity maintains a detailed record of each service request that it receives and the appraiser that performs the real estate appraisal services under \*section 13 of this act;
- (k) A certification that the entity maintains a complete copy of the completed appraisal report performed as a part of any request, for a minimum period of five years, or at least two years after final disposition of any judicial proceeding related to the assignment, under uniform standards of professional appraisal practice provisions, and that the appraisals must be provided to the department upon demand;
- (l) An irrevocable uniform consent to service of process, under RCW 18.310.080; and
- (m) Any other relevant information reasonably required by the department to obtain a license under the requirements of this chapter.

[2010 c 179 § 7.]

**Notes:**

**\*Reviser's note:** The reference to section 13 of this act appears to be erroneous. Section 12 of this act, codified as RCW 18.310.130, was apparently intended.

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**18.310.070**

**Background investigations.**

Background investigations under this chapter consist of fingerprint-based background checks through the Washington state patrol criminal identification system and through the federal bureau of investigation. The applicant is required to pay the current federal and state fees for fingerprint-based criminal history background checks. The applicant shall submit the fingerprints and required fees for the background checks to the department for submission to the Washington state patrol.

[2010 c 179 § 15.]

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**18.310.080**

**Licensure — Required use of name and license number.**

(1) A license issued under this chapter must bear the signature or facsimile signature of the director and a license number assigned by the director.

(2) Each licensed appraisal management company shall place the name under which it does business

and its license number on any appraisal engagement document issued.

[2010 c 179 § 6.]

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### **18.310.090**

#### **Owner requirements.**

(1) Each entity owning more than ten percent of an appraisal management company may not be:

(a) Directly controlled by a person who has had a license or certificate to act as an appraiser refused, denied, canceled, or revoked; or

(b) More than ten percent owned by any person who has had a license or certificate to act as an appraiser refused, denied, canceled, or revoked in any state.

(2) Each person that owns more than ten percent of an appraisal management company must:

(a) Not have had a license or certificate to act as an appraiser refused, denied, canceled, or revoked in any state;

(b) Be of good moral character, as determined by the department; and

(c) Submit to a background investigation under RCW [18.310.070](#).

(3) Each appraisal management company must certify to the department that it has reviewed each and every individual or entity that owns more than ten percent of the appraisal management company and that no person or entity that owns more than ten percent of the appraisal management company is prohibited from owning an appraisal management company under this section.

(4) A person under this section may appeal an adjudicative proceeding involving a final decision of the director to deny, suspend, or revoke a license under chapter [18.235](#) RCW.

[2010 c 179 § 8.]

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### **18.310.100**

#### **Controlling person requirements.**

(1)(a) An appraisal management company shall designate one controlling person that will be the main contact for all communication between the department and the appraisal management company.

(b) Should the controlling person change, the appraisal management company must notify the director within fourteen business days and provide the name and contact information of the new controlling person.

(2) The controlling person designated under subsection (1) of this section must:

(a) Have never had a license or certificate to act as an appraiser surrendered in lieu of disciplinary action, refused, denied, canceled, or revoked in any state;

(b) Be of good moral character, as determined by the department; and

(c) Submit to a background investigation under RCW [18.310.070](#).

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**18.310.110**

**Appraiser requirements.**

(1) An appraisal management company may not knowingly contract with or employ as an appraiser:

(a) Any person who has ever had a license or certificate to act as an appraiser in this state, or in any other state, surrendered in lieu of disciplinary action, refused, denied, canceled, or revoked;

(b) Any person who has been convicted of an offense that reflects adversely upon the person's integrity, competence, or fitness to meet the responsibilities of an appraiser or appraisal management company;

(c) Any person who has been convicted of, or who has pled guilty or nolo contendere to, a felony related to participation in the real estate or mortgage loan industry:

(i) During the seven-year period preceding the date of the application for licensing and registration; or

(ii) At any time preceding the date of application, if the felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering;

(d) Any person who is in violation of chapter 19.146 or 31.04 RCW; or

(e) Any person who is in violation of this chapter.

(2) An appraisal management company may not:

(a) Knowingly enter into any independent contractor arrangement for appraisal or appraisal review services with any person who has ever had a license or certificate to act as an appraiser in this state, or in any other state, surrendered in lieu of disciplinary action, refused, denied, canceled, or revoked; and

(b) Knowingly enter into any contract, agreement, or other business relationship for appraisal or appraisal review services with any entity that employs, has entered into an independent contractor arrangement, or has entered into any contract, agreement, or other business relationship with any person who has ever had a license or certificate to act as an appraiser in this state or in any other state surrendered in lieu of disciplinary action, refused, denied, canceled, or revoked.

(3) Any employee of the appraisal management company, or any contractor working in any capacity on behalf of the appraisal management company, that has any involvement in the actual performance of appraisal or appraisal review services, or review and analysis of completed appraisals must be a state licensed or state-certified appraiser in the state in which the property is located, and must have geographic and product competence. This requirement does not apply to any review or examination of the appraisal for grammatical, typographical, or similar errors or general reviews of the appraisal for completeness.

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**18.310.120**

**Exemptions.**

The provisions of this chapter do not apply to the following:

(1) 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 part of an appraiser panel; or

(2) An appraiser that enters into an agreement, whether written or otherwise, with another appraiser for the performance of an appraisal, and upon 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.

[2010 c 179 § 11.]

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### **18.310.130**

#### **Recordkeeping.**

An appraisal management company must certify to the department on initial application and upon renewal, that it maintains a detailed record of each service request that it receives and the appraiser that performs the appraisal for the appraisal management company. This statement must also certify that the appraisal management company maintains a complete copy of the completed appraisal report, for a minimum period of five years after the appraisal is completed, or two years after final disposition of a judicial proceeding related to the assignment, whichever period expires later.

[2010 c 179 § 12.]

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### **18.310.140**

#### **Disputes between appraisal management company and appraiser.**

(1) Except within the first thirty 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:

(a) Notifying the appraiser in writing of the reasons why the appraiser is being removed from the appraiser panel of the appraisal management company, including if the appraiser is being removed from the panel for illegal conduct, a violation of state licensing standards, substandard performance, or administrative purposes. In addition, if the removal is not for administrative purposes, the nature of the alleged conduct, substandard performance, or violation must be provided; and

(b) Providing an opportunity for the appraiser to respond to the notification of the appraisal management company.

(2) An appraiser that is removed from the appraiser panel of an appraisal management company for alleged illegal conduct or a violation of state licensing standards, may file a complaint with the department for a review of the decision of the appraisal management company, except that in no case will the department 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 (1) of this section.

(3) If an appraiser files a complaint against an appraisal management company pursuant to

subsection (2) of this section, the department may investigate the complaint within one hundred eighty days during which time the appraiser must remain removed from the panel.

(4) If after opportunity for hearing and review, the department determines that an appraiser did not commit a violation of law or a violation of state licensing standards, the department shall order that an appraiser be restored to the appraiser panel of the appraisal management company that was the subject of the complaint without prejudice.

(5) Following the adjudication of a complaint to the department 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 because of the adjudicated complaint, if the department has found that the appraisal management company acted without reasonable cause in removing the appraiser from the appraiser panel.

[2010 c 179 § 13.]

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## **18.310.150**

### **Disciplinary actions — Grounds.**

(1) In addition to the unprofessional conduct described in RCW 18.235.130, the director may take disciplinary action for the following:

- (a) Failing to meet the minimum qualifications for licensure established under this chapter;
- (b) Failing to pay appraisers no later than forty-five days after completion of the appraisal service unless otherwise agreed or unless the appraiser has been notified in writing that a bona fide dispute exists regarding the performance or quality of the appraisal service;
- (c) Failing to pay appraisers even if the appraisal management company is not paid by its client;
- (d) Coercing, extorting, colluding, compensating, inducing, intimidating, bribing an appraiser, or in any other manner including:
  - (i) Withholding or threatening to withhold timely payment for an appraisal;
  - (ii) Requiring the appraiser to remit a portion of the appraisal fee back to the appraisal management company;
  - (iii) Withholding or threatening to withhold future business for, or demoting or terminating or threatening to demote or terminate, an appraiser;
  - (iv) Expressly or impliedly promising future business, promotions, or increased compensation for an appraiser;
  - (v) 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;
  - (vi) 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;
  - (vii) 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 must be provided to the appraiser;

(viii) Providing to an appraiser, or any entity or person related to the appraiser, stock or other financial or nonfinancial benefits;

(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 prefunding or postfunding 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, or that violates law;

(e) Altering, modifying, or otherwise changing a completed appraisal report submitted by an appraiser;

(f) Copying and using the appraiser's signature for any purpose or in any other report;

(g) Extracting, copying, or using only a portion of the appraisal report without reference to the entire report;

(h) Prohibiting or attempting to prohibit the appraiser from including or referencing the appraisal fee, the appraisal management company name or identity, or the client's or lender's name or identity in the appraisal report;

(i) Knowingly requiring an appraiser to prepare an appraisal report, engaging an appraiser to perform an appraisal, or accepting an appraisal from an appraiser who has informed the appraisal management company that he or she does not have either the geographic competence or necessary expertise to complete the appraisal;

(j) Knowingly requiring an appraiser to prepare an appraisal report under such a limited time frame when the appraiser, in the appraiser's own professional judgment, has informed the appraisal management company that it does not afford the appraiser the ability to meet all relevant legal and professional obligations or provide a credible opinion of value for the property being appraised. This subsection (1)(j) allows an appraiser to decline an assignment, but is not a basis for complaints against the appraisal management company;

(k) Requiring, or attempting to require, an appraiser to modify an appraisal report except as permitted under subsection (2)(a) or (b) of this section;

(l) Prohibiting, or attempting to prohibit, or inhibiting legal or other allowable communication between the appraiser and:

(i) The lender;

(ii) A real estate licensee;

(iii) A property owner; or

(iv) Any other party or person from whom the appraiser, in the appraiser's own professional judgment, believes information would be relevant or pertinent in completing the appraisal;

(m) Knowingly requiring or attempting to require the appraiser to do anything that violates chapter 18.140 RCW or other applicable state and federal laws or with any allowable assignment conditions or certifications required by the client;

(n) Prohibiting or refusing to allow, or attempting to prohibit or refuse to allow, the transfer of an appraisal from one lender to another lender if the lenders are allowed to transfer an appraisal under applicable federal law; or

(o) Requiring an appraiser to sign any indemnification agreement that would require 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 appraisal management company or its agents, employees, or independent contractors and not the services performed by the appraiser.

(2) Nothing in subsection (1) of this section may be construed as prohibiting the appraisal management company from requesting that an appraiser:

(a) Provide additional information about the basis for a valuation, including whether or not the appraiser considered other sales and reasons the other sales were either not considered relevant or included in the appraisal; or

(b) Correct objective factual errors in an appraisal report.

[2010 c 179 § 14.]

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### **18.310.160**

#### **Appraisal management company account.**

The appraisal management company account is created in the state treasury. All fees and penalties under this chapter must be paid to the account. Expenditures from the account may be used only for expenses incurred in carrying out the provisions of this chapter. Any residue in the account shall be accumulated and shall not revert to the general fund at the end of the biennium. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

[2010 c 179 § 16.]

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### **18.310.170**

#### **Uniform regulation of business and professions act.**

The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

[2010 c 179 § 17.]

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### **18.310.900**

#### **Severability — 2010 c 179.**

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[2010 c 179 § 19.]

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**18.310.901**

**Effective date — 2010 c 179.**

This act takes effect July 1, 2011.

[2010 c 179 § 21.]