

[THIS PAGE NOT FOR PUBLICATION IN THE CODE OF COLORADO REGULATIONS]

**DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF REAL ESTATE
BOARD OF REAL ESTATE APPRAISERS
4 CCR 725-2**

**CHAPTER 17: LICENSING REQUIREMENTS FOR APPRAISAL MANAGEMENT
COMPANIES**

Pursuant to and in compliance with Title 12, Article 61 and Title 24, Article 4, C.R.S. as amended, notice of proposed rulemaking is hereby given, including notice to the Attorney General of the State of Colorado and to all persons who have requested to be advised of the intention of the Colorado Board of Real Estate Appraisers (the "Board") to promulgate rules, or to amend, repeal or repeal and re-enact the present rules of the Board.

STATEMENT OF BASIS

The statutory basis for the rules titled Rules of the Board of Real Estate Appraisers is Chapter 7 of Title 12, Article 61, Colorado Revised Statutes, as amended.

STATEMENT OF PURPOSE

The purpose of this rule is to effectuate the legislative directive to promulgate necessary and appropriate rules in conformity with the statute and the provisions of the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989.

SPECIFIC PURPOSE OF THIS RULEMAKING

The specific purpose of this rule is to amend or repeal existing rules with respect to requirements licensure as an appraisal management company.

Proposed New, Amended and Repealed Rules

[Deleted material shown ~~struck through~~, new material shown ALL CAPS. Rules, or portions of rules, which are unaffected are reproduced. Readers are advised to obtain a copy of the complete rules of the Board at www.dora.state.co.us/real-estate/rulemaking/BOREA/index.htm]

CHAPTER 17: LICENSING REQUIREMENTS FOR APPRAISAL MANAGEMENT COMPANIES

- 17.1 Prior to application for licensure for an appraisal management company or as a controlling appraiser, a person who has been convicted of, entered a plea of guilty to, or entered a plea of nolo contendere to a misdemeanor or felony, or any like municipal code violation, may request the Board to issue a preliminary advisory opinion regarding the possible effect of such conduct on an application for licensure. A person requesting such an opinion is not an applicant for licensure. The Board may, at its sole discretion, issue such an opinion, which shall not be binding upon the Board or limit the authority of the Board to investigate a later application for licensure. The issuance of such an opinion by the Board shall not act to prohibit a person from submitting an application for licensure. A person requesting such an opinion shall do so in a request form prescribed by the Board. Such request form shall be supported and documented by, without limitation, the following:
- A. Court documents, including original charges, disposition, pre-sentencing report and certification of completion of terms of sentence;
 - B. Police officer's report(s);
 - C. Probation or parole officer's report(s);
 - D. A written personal statement explaining the circumstances surrounding each violation, and including the statement "I have no other violations either past or pending";
 - E. Letters of recommendation; and
 - F. Employment history for the preceding five years.
- 17.2 Pursuant to section 12-61-706.3, C.R.S. an applicant for an appraisal management company's or a controlling appraiser's license who has been convicted of, entered a plea of guilty to, or entered a plea of nolo contendere to a misdemeanor or a felony, or any other like municipal code violation, shall, with his or her application, include an addendum to the application in a form prescribed by the Board. Such addendum shall be supported and documented by, without limitation, the following:
- A. Court documents, including original charges, disposition, pre-sentencing report and certification of completion of terms of sentence;
 - B. Police officer's report(s);
 - C. Probation or parole officer's report(s);
 - D. A written personal statement explaining the circumstances surrounding each violation, and including the statement "I have no other violations either past or pending";
 - E. Letters of recommendation; and
 - F. Employment history for the preceding five years.
- 17.3 Initial licenses will expire on December 31st of the year of issue. All appraisal management company and controlling appraiser licenses expire annually on December 31st.
- 17.4 An appraisal management company must have a controlling appraiser, with an active controlling appraiser's license, to perform services requiring a license. If the controlling appraiser leaves the employment of the appraisal management company, the controlling appraiser or an authorized representative of the appraisal management company must notify the Board within three business days in a manner acceptable to the Board. Upon such notification or discovery by the Board, the license of the appraisal management company will be placed on inactive status unless or until a replacement controlling appraiser has been identified by the appraisal management company and approved by the Board or a temporary controlling appraiser license is timely processed by the Division.

- 17.5 The controlling appraiser license will be placed on inactive status upon notification to the Board that the controlling appraiser has left the employ of the appraisal management company. The controlling appraiser license will remain on inactive status until the license expires or the controlling appraiser is designated to be the responsible party for an appraisal management company.
- 17.6 An individual or company license cannot be transferred for use of the licensed name or license for the benefit of another person, partnership, limited liability company or corporation.
- 17.7 The controlling appraiser, or an authorized representative, must notify the Board within ten business days of a change in ownership of the appraisal management company that results in a new owner who owns more than ten (10) percent of the entity, or a change in ownership that increases an existing individual's total ownership to more than ten (10) percent.
- 17.8 The Board may refuse to issue a license to a partnership, limited liability company or corporation if the name of said corporation, partnership liability company is the same as that of any person or entity whose license has been suspended or revoked in any jurisdiction or is so similar as to be easily confused with that of the suspended or revoked person or entity by members of the general public.
- 17.9 No license will be issued to an appraisal management company under a trade name, corporate name, partnership name or limited liability company name which is identical to another licensed appraisal management company. A license will not be issued to an individual proprietorship that adopts a trade name which includes the following words: corporation, partnership, limited liability company, limited, incorporated, or the abbreviations thereof.
- 17.10 All applications will contain a certification that the controlling appraiser is responsible for the appraisal management company. All applications will require the appraisal management company to identify at least one authorized representative responsible for contacting the Board when there has been a change in the employment of the controlling appraiser or there is a change in the ownership of the entity.
- 17.11 When an application for licensure as an appraisal management company is submitted, the controlling appraiser must certify the following:
- A. If the appraisal management company is a corporation, that the corporation complies with section 12-61-706.3(8)(c), C.R.S. and that the controlling appraiser has been authorized by the corporation as the controlling appraiser for the corporation.
 - B. If the appraisal management company is a partnership, that the partnership complies with section 12-61-706.3(8)(a), C.R.S. and that the controlling appraiser has been authorized by the partnership as the controlling appraiser for the partnership.
 - C. If the appraisal management company is a limited liability company, that the company complies with section 12-61-706.3(8)(b), C.R.S. and that the controlling appraiser has been authorized by the company as the controlling appraiser for the limited liability company.
- 17.12 An appraisal management company is not required to be domiciled in Colorado in order to obtain a license, if the company maintains a definite place of business in another state and is registered as a foreign entity with the Colorado Secretary of State.
- 17.13 If the appraisal management company has no registered agent registered in Colorado, such registered agent is not located under its registered agent name at its registered

agent address, or the registered agent cannot with reasonable diligence be served, the controlling appraiser, on behalf of the appraisal management company, may be served by registered mail or by certified mail, return receipt requested, addressed to the entity at its principal address and to the controlling appraiser's address of record. Service is perfected at the earliest of:

- A. The date the controlling appraiser receives the process, notice, or demand;
- B. The date shown on the return receipt, if signed by or on behalf of the controlling appraiser; or
- C. Five days after mailing.

17.14 Applicants for licensure, activation, renewal or reinstatement as an appraisal management company shall certify compliance with section 12-61-706.7, C.R.S. in a manner prescribed by the Board. The surety bond must:

- A. Be for a minimum of \$25,000.00;
- B. Be in conformance with all relevant Colorado statutory requirements; and
- C. Cover acts contemplated for appraisal management companies under part 7 of article 61 of title 12 during the period of licensure by the appraisal management company.

Any licensed appraisal management company that certifies compliance and fails to maintain a surety bond, or to provide proof of continuous coverage, shall be placed on inactive status:

- A. Immediately if a current surety bond is not provided to the Board; or
- B. Immediately upon the expiration of any current surety bond when certification of continued coverage is not provided.

17.15 An appraisal management company or controlling appraiser whose license has been placed on inactive status must:

- A. Cease any activities requiring a license.
- B. Cease all advertising of licensed services.
- C. If an appraisal management company, inform all clients of the company's license status and inability to provide any services requiring a license.
- D. If an appraisal management company, ensure that all appraisal fees collected from the client(s) have been accounted for and dispersed pursuant to section 12-61-710.5(1)(h), C.R.S.
- E. If an appraisal management company, fees for services requiring a license can be collected for licensed services performed prior to inactivation of the license.

17.16 Licenses shall be issued by the Board as soon as possible after the receipt of a complete application, including required fees and all supporting documentation. The Board reserves the right to require additional information and documentation from an applicant in order to determine compliance with applicable laws and regulations, and to verify any information or documentation submitted.

17.17 If the fee(s) accompanying any application or registration made to the Board is paid by check and the check is not immediately drawn upon presentment to the bank upon which the check was drawn, the application will be cancelled. The application may be reinstated only at the discretion of the Board and upon full payment of any outstanding fees. A fee will be assessed that is equal to the additional bank charges incurred by the division of real estate and may include up to an additional 25% of the additional bank charges to cover the Division of Real Estate's administrative costs.

17.18 A temporary controlling appraiser's license maybe issued to a corporation, partnership or limited liability company to prevent hardship. No application for a temporary controlling appraiser's license will be approved unless the designated individual is a certified appraiser, in good standing. The temporary license is valid for 90 days. Upon

application and showing of good cause, the Board may extend a temporary license for one additional 90 day period.