

**New Mexico Real Estate Appraisers Board
Appraisal Management Company Registration**

STATUTES

47-14-1. Short title.

Chapter 47, Article 14 NMSA 1978 may be cited as the "Appraisal Management Company Registration Act".

47-14-2. Definitions.

As used in the Appraisal Management Company Registration Act :

- A. "appraisal" means the act or process of developing an opinion of the value of real property in conformance with the uniform standards for professional appraisal practice published by the appraisal foundation;
- B. "appraisal foundation" means the appraisal foundation incorporated as an Illinois not-for-profit corporation on November 30, 1987 and to which reference is made in the federal Financial Institutions Examination Council Act of 1978, as amended by Title 11, Real Estate Appraisal Reform Amendments;
- C. "appraisal management company" means a corporation, partnership, sole proprietorship, subsidiary, limited liability company or other business entity that:
- (1) contracts with independent appraisers to perform real estate appraisal services for clients;
 - (2) receives requests for real estate appraisal services from clients and, for a fee paid by the client, enters into an agreement with one or more independent appraisers to perform the real estate appraisal services contained in the request; or
 - (3) otherwise serves as a third-party broker of appraisal management services between clients and appraisers;
- D. "appraisal management services" means the process of receiving a request for the performance of real estate appraisal services from a client, and for a fee paid by the client, entering into an agreement with one or more independent appraisers to perform the real estate appraisal services contained in the request;
- E. "appraiser" means a person who provides an opinion of the market value of real property;
- F. "appraiser panel" means a group of independent appraisers that have been selected by an appraisal management company to perform real estate appraisal services for the appraisal management company;

G. "board" means the real estate appraisers board created pursuant to the Real Estate Appraisers Act [61-30-1 NMSA 1978];

H. "client" means a person or entity that contracts with, or otherwise enters into an agreement with, an appraisal management company for the performance of real estate appraisal services;

I. "controlling person" means:

(1) an owner, officer or director of a corporation, partnership, 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 appraisal management company that has the authority to enter into a contractual relationship with clients for the performance of appraisal management services and that has the authority to enter into agreements with independent appraisers for the performance of real estate appraisal services; or

(3) an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company;

J. "real estate appraisal services" means the practice of developing an opinion of the value of real property in conformance with the uniform standards of professional appraisal practice published by the appraisal foundation; and

K. "uniform standards of professional appraisal practice" means the uniform standards of professional appraisal practice promulgated by the appraisal foundation and adopted by rule pursuant to the Real Estate Appraisers Act.

47-14-3. Registration required.

A. It is unlawful for a person, corporation, partnership, sole proprietorship, subsidiary, limited liability company or any other business entity to directly or indirectly engage or attempt to engage in business as an appraisal management company, to directly or indirectly engage or attempt to perform appraisal management services or to advertise or hold itself out as engaging in or conducting business as an appraisal management company without first obtaining a certificate of registration issued by the board under the provisions of the Appraisal Management Company Registration Act, regardless of the entity's use of the term "appraisal management company", "mortgage technology company" or any other name.

B. The registration required by Subsection A of this section shall include:

- (1) the name of the entity seeking registration;
- (2) the business address of the entity seeking registration;
- (3) telephone contact information of the entity seeking registration;
- (4) if the entity seeking registration 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;

- (5) 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;
- (6) the name, address and contact information for a controlling person;
- (7) a certification that the entity seeking registration 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 or certification in good standing in this state pursuant to the Real Estate Appraisers Act;
- (8) a certification that the entity seeking registration has a system in place to review the work of all independent appraisers that are performing real estate appraisal services for the appraisal management company on a periodic basis to ensure that the real estate appraisal services are being conducted in accordance with uniform standards of professional appraisal practice;
- (9) a certification that the entity maintains a detailed record of each service request that it receives and the independent appraiser that performs the real estate appraisal services for the appraisal management company;
- (10) an irrevocable consent to service of process;
- (11) a bond or other equivalent means of security as required by the Appraisal Management Company Registration Act; and
- (12) any other information required by the board.

47-14-3.1. Bonding requirements.

- A. In order to qualify for registration or renewal of registration, an appraisal management company shall maintain a bond underwritten by a corporate surety authorized to transact business in New Mexico, or other equivalent means of security. The board shall set by rule the amount and conditions of the surety bond or other equivalent means of security required by this section, provided that the amount of the bond or security required shall not exceed twenty-five thousand dollars (\$25,000).
- B. The bond or other equivalent means of surety shall secure payment for any administrative or judicial penalties that may be imposed by the board or the state and for any penalties or costs required by a board disciplinary action, and also as indemnity for any loss sustained by any person damaged as a result of a violation by the appraisal management company, of any provision of the Appraisal Management Company Registration Act or of any rule of the board adopted pursuant to that act. Consumer claims shall be given priority in recovering from the bond or equivalent surety.
- C. An appraisal management company shall notify the board in writing of any claim made on the appraisal management company's bond or equivalent surety.
- D. A deposit of cash or security may be accepted in lieu of the surety bond.

47-14-4. Exemptions.

The Appraisal Management Company Registration Act is not applicable to:

A. a corporation, partnership, sole proprietorship, subsidiary, limited liability company or other business entity that employs persons on an employer and employee basis exclusively for the performance of real estate appraisal services in the normal course of its business and the entity is responsible for ensuring that the real estate appraisal services being performed by its employees are being performed in accordance with uniform standards of professional appraisal practice;

B. an individual who in the normal course of the individual's business enters into an agreement, whether written or otherwise, with another independent contractor appraiser for the performance of real estate appraisal services that the hiring or contracting appraiser cannot complete for any reason, including competency, work load, schedule or geographic location; or

C. an individual, corporation, partnership, sole proprietorship, subsidiary, limited liability company or other business entity that in the normal course of business enters into an agreement, whether written or otherwise, with an independent contractor appraiser for the performance of real estate appraisal services and upon the completion of the appraisal, the report of the appraiser performing the real estate appraisal services is co-signed by the appraiser who subcontracted with the independent appraiser for the performance of the real estate appraisal services.

47-14-5. Forms.

An applicant for registration as an appraisal management company shall submit to the board an application on a form prescribed by the board.

47-14-6. Expiration of license.

A registration granted by the board pursuant to the Appraisal Management Company Registration Act shall be valid for one year from the date on which it is issued.

47-14-7. Consent to service of process.

Each entity applying for registration as an appraisal management company shall complete and execute an irrevocable consent to service of process form as prescribed by the board.

47-14-8. Fee.

The board shall establish the fee for appraisal management company registration by rule to cover the cost of the administration of the Appraisal Management Company Registration Act, but in no case shall the fee be more than two thousand dollars (\$2,000). Registration fees shall be credited to the appraiser fund pursuant to Section 61-30-18 NMSA 1978.

47-14-9. Owner requirements.

A. An appraisal management company applying for registration may not be owned by a person or have any principal of the company who has had a license or certificate to act as an appraiser refused, denied, canceled or revoked in this state or in any other state.

B. Each person that owns, is an officer of or has a financial interest in an appraisal management company in this state shall:

- (1) be of good moral character, as determined by the board;
- (2) submit to a background investigation, as determined by the board; and
- (3) certify to the board that the person has never had a license to act as an appraiser refused, denied, canceled or revoked in this state or in any other state.

47-14-10. Controlling person.

Each appraisal management company applying to the board for registration in this state shall designate one controlling person that will be the main contact for all communication between the board and the appraisal management company.

47-14-11. Controlling person requirements.

In order to serve as a controlling person of an appraisal management company, a person shall:

- A. certify to the board that the person has never had a certificate or a license issued by the board of this state, or the board of any other state, to act as an appraiser refused, denied, canceled or revoked;
- B. be of good moral character, as determined by the board; and
- C. submit to a background investigation, as determined by the board.

47-14-12. Employee requirements.

A. Any employee of the appraisal management company, or any person working on behalf of the appraisal management company, that has the responsibility of selecting independent appraisers for the performance of real estate appraisal services for the appraisal management company or the responsibility of reviewing completed appraisals shall have geographic and product competence and be appropriately trained and qualified in the performance of real estate appraisals as determined by the board by rule.

B. Any employee of the appraisal management company that has the responsibility to review the work of independent appraisers shall have demonstrated knowledge of the uniform standards of professional appraisal practice, as determined by the board by rule.

47-14-13. Requirements; liability.

A. An appraisal management company registered in this state pursuant to the Appraisal Management Company Registration Act shall not enter into contracts or agreements with an independent appraiser for the performance of real estate appraisal services unless that person is licensed or certified in good standing pursuant to the Real Estate Appraisers Act [61-30-1 NMSA 1978].

B. An appraisal management company shall not require an appraiser to indemnify the appraisal management company against liability except liability for errors and omissions by the appraiser.

47-14-14. Pre-engagement certification.

Each appraisal management company seeking to be registered in this state shall certify to the board on an annual basis on a form prescribed by the board that the appraisal management company has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a license in good standing in this state pursuant to the Real Estate Appraisers Act [61-30-1 NMSA 1978].

47-14-15. Adherence to standards.

Each appraisal management company seeking to be registered in this state shall certify to the board on an annual basis that it has a system in place to review the work of all independent appraisers that are performing real estate appraisal services for the appraisal management company on a periodic basis to ensure that the real estate appraisal services are being conducted in accordance with uniform standards of professional appraisal practice.

47-14-16. Recordkeeping.

Each appraisal management company seeking to be registered shall certify to the board on an annual basis that it maintains a detailed record of each service request that it receives and the independent appraiser that performs the real estate appraisal services for the appraisal management company.

47-14-17. Appraiser independence; prohibitions.

A. It is unlawful for any employee, director, officer or agent of an appraisal management company registered pursuant to the Appraisal Management Company Registration Act to influence or attempt to influence the development, reporting or review of an appraisal through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, bribery or in any other manner, including:

- (1) withholding or threatening to withhold timely payment for an appraisal;
- (2) withholding or threatening to withhold future business for an independent appraiser or demoting or terminating, or threatening to demote or terminate, an independent appraiser;

- (3) expressly or impliedly promising future business, promotions or increased compensation for an independent appraiser;
- (4) conditioning the request for an appraisal service 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 independent appraiser;
- (5) requesting that an independent appraiser provide an estimated, predetermined or desired valuation in an appraisal report or provide estimated values of comparable sales at any time prior to the independent appraiser's completion of an appraisal service;
- (6) providing to an independent appraiser an anticipated, estimated, encouraged or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for purchase transactions may be provided;
- (7) providing to an independent appraiser, or any entity or person related to the appraiser, stock or other financial or non-financial benefits;
- (8) allowing the removal of an independent appraiser from an appraiser panel, without prior written notice to such appraiser;
- (9) obtaining, using or paying for a second or subsequent appraisal or ordering an automated valuation model in connection with a mortgage financing transaction unless there is a reasonable basis to believe that the initial appraisal was flawed or tainted and such basis is clearly and appropriately noted in the loan file, or unless such appraisal or automated valuation model is done pursuant to a bona fide pre- or post-funding appraisal review or quality control process; or
- (10) engaging in any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity or impartiality.

B. Nothing in Subsection A of this section shall be construed as prohibiting the appraisal management company from requesting that an independent appraiser:

- (1) provide additional information about the basis for a valuation; or
- (2) correct objective factual errors in an appraisal report.

47-14-18. Payment; limits; disclosure; nontaxable transaction certificate.

A. The fees paid to an appraiser for completion of the appraisal shall not include a fee for management of the appraisal process or any activity other than the performance of the appraisal.

B. An appraisal management company shall separately state the fees paid to an appraiser for appraisal services and the fees charged by the appraisal management company for services associated with the management of the appraisal process, including procurement of the appraiser's services to the client, borrower and any other payor.

C. Appraisers shall not be prohibited by the appraisal management company, client or other third party from disclosing the fee paid to the appraiser for the performance of the appraisal in the appraisal report.

D. As used in this section, "payor" means any person or entity who is responsible for making payment for the appraisal.

E. An appraisal management company shall, except in cases of breach of contract or substandard performance of services, make payment to an independent appraiser for the completion of an appraisal or valuation assignment within sixty days of the date on which the independent appraiser transmits or otherwise provides the completed appraisal or valuation study to the appraisal management company or its assignee.

F. An appraisal management company shall provide an appraiser with the appropriate nontaxable transaction certificate pursuant to Section 7-9-48 NMSA 1978.

47-14-19. Appraisal reports; alteration; use.

An appraisal management company shall not:

A. alter, modify or otherwise change a completed appraisal report submitted by an independent appraiser without the appraiser's written knowledge and consent; or

B. use an appraisal report submitted by an independent appraiser for any other transaction.

47-14-20. Adjudication of disputes between an appraisal management company and an independent appraiser.

A. Except within the first thirty days after an independent appraiser is first added to the appraiser panel of an appraisal management company, an appraisal management company shall not remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real estate appraisal services to an independent appraiser without notifying the appraiser in writing of the reasons for the appraiser being removed from the appraiser panel of the appraisal management company. If the appraiser is being removed from the panel for illegal conduct, violation of the uniform standards of professional appraisal practice or a violation of state licensing standards, the appraisal management company shall provide the independent appraiser the nature of the alleged conduct or violation and provide an opportunity for the appraiser to respond.

B. An independent appraiser that is removed from the appraiser panel of an appraisal management company for alleged illegal conduct, violation of the uniform standards of professional appraisal practice or violation of state licensing standards may file a complaint with the board for a review of the decision of the appraisal management company, except that in no case shall the board make any determination regarding the nature of the business relationship between the appraiser and the appraisal management company that is unrelated to the actions specified in Subsection A of this section.

C. If an independent appraiser files a complaint against an appraisal management company pursuant to Subsection B of this section, the board shall adjudicate the complaint within one hundred eighty days.

D. If after opportunity for hearing and review, the board determines that an independent appraiser did not commit a violation of law, a violation of the uniform standards of professional appraisal practice or a violation of state licensing standards, the board shall order that the appraiser be added to the appraiser panel of the appraisal management company that was the subject of the complaint without prejudice.

47-14-21. Enforcement.

The board may censure an appraisal management company, conditionally or unconditionally suspend or revoke any registration issued under the Appraisal Management Company Registration Act, levy fines or impose civil penalties not to exceed twenty-five thousand dollars (\$25,000) per violation if, in the opinion of the board, an appraisal management company is attempting to perform, has performed or has attempted to perform any of the following acts:

- A. committing any act in violation of the Appraisal Management Company Registration Act;
- B. violating any rule or regulation adopted by the board in the interest of the public and consistent with the provisions of the Appraisal Management Company Registration Act;
- C. procuring a registration, license or certification by fraud, misrepresentation or deceit; or
- D. violating the Real Estate Appraisers Act [61-30-1 NMSA 1978] or the federal Financial Institutions Reform Recovery and Enforcement Act of 1989.

47-14-22. Disciplinary hearings.

The board shall conduct adjudicatory proceedings in accordance with the Uniform Licensing Act [61-1-1 NMSA 1978]; provided that:

- A. a written notice shall be satisfied by personal service on the controlling person of the registrant or the registrant's agent for service of process in this state or by sending the notice by certified mail, return receipt requested, to the controlling person of the registrant to the registrant's address on file with the board; and
- B. a hearing on the charges shall be at a time and place prescribed by the board.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 65 REAL ESTATE APPRAISAL MANAGEMENT COMPANIES
PART 1 GENERAL PROVISIONS

16.65.1.1 ISSUING AGENCY: State of New Mexico Real Estate Appraisers Board.
 [16.65.1.1 NMAC - N, 10/16/09]

16.65.1.2 SCOPE: All real estate appraisal management companies registered and applying for registration with the board.
 [16.65.1.2 NMAC - N, 10/16/09]

16.65.1.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Appraisal Management Company Registration Act (NMSA 1978, Sections 47-14-1 through -23).
 [16.65.1.3 NMAC - N, 10/16/09]

16.65.1.4 DURATION: Permanent.
 [16.65.1.4 NMAC - N, 10/16/09]

16.65.1.5 EFFECTIVE DATE: October 16, 2009, unless a later date is cited at the end of a section.
 [16.65.1.5 NMAC - N, 10/16/09]

16.65.1.6 OBJECTIVE: The objective of Part 1 is to set forth the provisions, which apply to all of Chapter 65, and to all persons affected or regulated by Chapter 65 of Title 16.
 [16.65.1.6 NMAC - N, 10/16/09]

16.65.1.7 DEFINITIONS: All words and terms defined in the Appraisal Management Company Registration Act have the same meaning in these rules.

A. Terms starting with the letter 'A' are defined as follows.

- (1) "Act" means the Real Estate Appraisal Management Company Registration Act.
- (2) "Applicant" means a company who has submitted an application to the board seeking registration.
- (3) "Appraisal" means the act or process of developing an opinion of the value of real property in conformance with the uniform standards for professional appraisal practice published by the appraisal foundation.
- (4) "Appraisal foundation" means the appraisal foundation incorporated as an Illinois not-for-profit corporation on November 30, 1987 and which reference is made in the federal Financial Institutions Examination Council Act of 1978, as amended by Title 11, Real Estate Appraisal Reform Amendments."
- (5) "Appraisal management company (AMC)" means a corporation, partnership, sole proprietorship, subsidiary, limited liability company or other business entity that:
 - (a) contracts with independent appraisers to perform real estate appraisal services for clients;
 - (b) receives requests for real estate appraisal services from clients and for a fee paid by client, enters into an agreement with one or more independent appraisers to perform the real estate appraisal services contained in the request;
 - (c) otherwise serves as a third-party broker of appraisal management service between clients and appraiser.
- (6) "Appraisal management services" means the process of receiving a request for the performance of real estate appraisal services from a client, and for a fee paid by the client, entering into an agreement with one or more independent appraisers to perform the real estate appraisals services contained in the request.
- (7) "Appraisal review" 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, appraisal review, or appraisal consulting assignment.
- (8) "Appraisal review report" is a report that develops or communicates an opinion about the quality of another appraiser work that was performed as part of an appraisal.
- (9) "Appraisers Act" means the New Mexico Real Estate Appraisers Act as defined in NMSA 1978, Section 61-30-1 (1990).

B. Terms starting with the letter 'B' are defined as follows.

- (1) "Board" means the New Mexico real estate appraisers board.
- (2) "Board file" means all documents that an AMC is required to create and maintain for the board.

C. Terms starting with the letter 'C' are defined as follows.

- (1) "Client" means a person or entity that contracts with, or otherwise enters into an agreement with an appraisal management company for the performance of real estate appraisal services.
- (2) "Complaint committee" is a board appointed committee that is composed for the purpose of reviewing complaints and making recommendation to the board as to its findings.
- (3) "Controlling person" (CP) means:

- (a) an owner, officer or director of a corporation, partnership, limited liability company 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 clients for the performance of appraisal management services and that has the authority to enter into agreements with independent for the performance of real estate appraisal services; or
- (c) an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of appraisal management companies.
- (4) "Clerical review" is a non-standard three review of the completeness of the appraisal.
- D. Terms starting with the letter 'D'. [RESERVED]
- E. Term starting with the letter 'E' is defined as follows: "employee in charge (EIC)" means a designated employee of the appraisal management company, with the responsibilities and obligations to the board set forth with these rules.
- F. Term starting with the letter 'F' is defined as follows: "FIRREA" means the Financial Institutions Reform, Recovery and Enforcement Act of 1989, and its amendments.
- G. Terms starting with the letter 'G'. [RESERVED]
- H. Terms starting with the letter 'H'. [RESERVED]
- I. Terms starting with the letter 'I'. [RESERVED]
- J. Terms starting with the letter 'J'. [RESERVED]
- K. Terms starting with the letter 'K'. [RESERVED]
- L. Terms starting with the letter 'L'. [RESERVED]
- M. Terms starting with the letter 'M'. [RESERVED]
- N. Term starting with the letter 'N' is defined as follows: "nonresident appraiser" means an individual or entity that holds a current registration or license in another state.
- O. Term starting with the letter 'O' is defined as follows: "outsourced appraisal review" is an appraisal review conducted by a licensed appraiser who is not an employee of the AMC.
- P. Terms starting with the letter 'P' are defined as follows.
- (1) "Panel" means a group of independent appraisers that have been selected by an appraisal management company to perform real estate appraisal services for the appraisal management company.
- (2) "Peer review" is an opinion as to the completeness of an other appraiser's work; completed by a licensed appraiser of similar experience and qualifications for the purpose of making a recommendation to the board as to its findings.
- Q. Terms starting with the letter 'Q'. [RESERVED]
- R. Terms starting with the letter 'R'. [RESERVED]
- S. Term starting with the letter 'S' is defined as follows: "staff appraiser" is an appraiser hired by an AMC as an employee, who is licensed by the board, to act as an appraiser and is subject to these rules.
- T. Terms starting with the letter 'T'. [RESERVED]
- U. Term starting with the letter 'U' is defined as follows: "uniform standards of professional appraisal practice (USPAP)" means the uniform standards or professional appraisal practice promulgated by the appraisal foundation and adopted by rules pursuant to the Real Estate Appraiser Act. USPAP deals with the procedures to be followed in which an appraisal, analysis, or opinion is communicated.
- V. Terms starting with the letter 'V'. [RESERVED]
- W. Term starting with the letter 'W' is defined as follows: "work file" is documentation necessary to support an appraiser's analyses, opinions, and conclusions.
- X. Terms starting with the letter 'X'. [RESERVED]
- Y. Terms starting with the letter 'Y'. [RESERVED]
- Z. Terms starting with the letter 'Z'. [RESERVED]

[16.65.1.7 NMAC - N, 10/16/09]

16.65.1.8 PUBLIC RECORDS: Except as protected by law, public records shall be available for inspection in accordance with the provisions of the Inspection of Public Records Act (IPRA), NMSA 1978, Sections 14-2-1 through -12, (1974, as amended through 2009). Cost will be determined by regulation and licensing department.

[16.65.1.8 NMAC - N, 10/16/09]

16.65.1.9 SEVERABILITY: The provisions of these regulations are servable. If any part of the regulations is held invalid by a court of competent jurisdiction, the remaining provisions shall remain in force and effect, unless otherwise determined by a court of competent jurisdiction.

[16.65.1.9 NMAC - N, 10/16/09]

16.65.1.10 INCORPORATION: The rules and regulations of the New Mexico real estate appraisers board are hereby incorporated by reference and shall govern all appraisals conducted pursuant the Appraisal Management Company Registration Act.

[16.65.1.10 NMAC - N, 10/16/09]

HISTORY OF 16.65.1 NMAC: [RESERVED]



TITLE 16 **OCCUPATIONAL AND PROFESSIONAL LICENSING**
CHAPTER 65 **REAL ESTATE APPRAISAL MANAGEMENT COMPANIES**
PART 2 **REGISTRATION REQUIREMENTS**

16.65.2.1 **ISSUING AGENCY:** State of New Mexico Real Estate Appraisers Board.
 [16.65.2.1 NMAC - N, 10/16/09]

16.65.2.2 **SCOPE:** All real estate appraisal management companies registered and applying for registration with the board.
 [16.65.2.2 NMAC - N, 10/16/09]

16.65.2.3 **STATUTORY AUTHORITY:** These rules are promulgated pursuant to the AMC Registration Act (NMSA 1978, Sections 47-14-1 through -23).
 [16.65.2.3 NMAC - N, 10/16/09]

16.65.2.4 **DURATION:** Permanent.
 [16.65.2.4 NMAC - N, 10/16/09]

16.65.2.5 **EFFECTIVE DATE:** October 16, 2009, unless a later date is cited at the end of a section.
 [16.65.2.5 NMAC - N, 10/16/09]

16.65.2.6 **OBJECTIVE:** The objective of Part 2 is to set forth the requirements for registration, which apply to all persons affected or regulated by Chapter 65 of Title 16.
 [16.65.2.6 NMAC - N, 10/16/09]

16.65.2.7 **DEFINITIONS:** [RESERVED]

16.65.2.8 **AMC REGISTRATION REQUIREMENTS:** Each AMC applying to the board for registration shall:

- A. designate one controlling person (CP) that will submit to service of process;
- B. designate one employee in charge (EIC) that will be the main contact for all communication between the board and the AMC (CP may be designated as the EIC, if that person meets all qualifications required by the board);
- C. specify all entities doing business as (DBA) under the AMC;
- D. certify that all appraisers added to the panel of the AMC hold a New Mexico license and certificate in good standing as an appraiser;
- E. the AMC shall evaluate all appraisers within the renewal period to ensure that the real estate appraisal services are being conducted in accordance with the uniform standards of professional appraisal practices and board rules;
- F. maintains a board file, containing:
 - (1) a detailed record of each service request and the independent appraiser that performs the real estate appraisal services for the AMC;
 - (2) certification and evaluation of all appraisers, as required under Subsections C and D;
 - (3) list of all non-taxable transaction certificates issued;
 - (4) a detailed record of the process and criteria that the AMC has in place to review the work of appraisers;

and

- (5) written procedure for contracting with and paying appraisers.
- G. maintain a bond or other equivalent means of surety:
 - (1) a bond of ten thousand dollars (\$10,000) shall be underwritten by a corporate surety authorized to transact business in New Mexico; such bond shall meet the following conditions:
 - (a) payments from a bond required pursuant to this section shall only be used to cure violations caused by a registrant, confirmed by the board;
 - (b) claims against the bond shall be made within two years following the board's final decision and order, finding a violation;
 - (c) the total aggregate liability of the surety for all claims shall be limited to the face amount of the board;
 - (d) the bond carrier shall provide to the board and to the AMC thirty day's prior written notice of intent to cancel a bond required pursuant to this section; the surety for such a bond shall remain liable under the provisions of the bond for all obligations of the principal pertaining to bond terms that occur before the bond is canceled, expires or otherwise becomes ineffective;
 - (e) failure to maintain the bond for the period required by law is cause for revocation of the AMC registration; and
 - (f) if the bond is canceled, expires or otherwise becomes ineffective during the period of the registration, the AMC shall immediately notify the board; if the AMC has not provided proof of a new bond before the fortieth day after

the date on which the bond was canceled, expired or otherwise became ineffective, the AMC shall be subject to revocation of its registration for failure to maintain a bond;

(2) as an equivalent means of surety, an AMC may maintain an agreement of cash collateral assignment executed with a state or national bank or federally insured savings association authorized to do business in New Mexico as trustee; interest, if any, accumulating on the cash collateral assignment shall accrue to the AMC.
[16.65.2.8 NMAC - N, 10/16/09; A, 01/16/11]

16.65.2.9 OWNER REGISTRATION REQUIREMENTS:

A. An AMC applying for registration may not be owned by a person or have any principal of the company, who has had a license or certificate to practice as an appraiser refused, denied, canceled or revoked in this state or in any other state.

B. Each person that owns, is an officer of, or has a financial interest in an AMC shall:

- (1) execute an irrevocable consent to service of process form;
- (2) be of good moral character; and
- (3) submit to a state background investigation.

[16.65.2.9 NMAC - N, 10/16/09]

16.65.2.10 CONTROLLING PERSON (CP) REGISTRATION REQUIREMENTS: In order to serve as a CP of an AMC, a designee shall:

A. be of good moral character;

B. submit to a state background investigation;

C. not have had a license to practice as an appraiser refused, denied, canceled or revoked in this state or in any other state; and

D. submit an irrevocable server of process form.

[16.65.2.10 NMAC - N, 10/16/09]

16.65.2.11 EMPLOYEE IN CHARGE (EIC) REGISTRATION REQUIREMENTS: In order to serve as the EIC for a registered AMC, a designee shall:

A. not have had a license to practice as an appraiser refused, denied, canceled or revoked in this state or in any other state;

B. be of good moral character;

C. submit to a state background investigation; and

D. shall be responsible for;

(1) the selecting of appraisers for the performance of real estate appraisal services which includes: ensuring that each appraiser is licensed and provides a combined reporting system (CRS) identification number;

(2) have the responsibility of reviewing completed appraisals as part of the board file:

(a) shall ensure clerical review is conducted on all appraisals completed within the renewal period;

(b) shall randomly select a statistically significant number, but not less than five percent, all fractions rounded up, of outsource appraisal reviews on appraisals completed within the renewal period;

(c) outsource appraisal reviews shall be completed by an appraiser with licensure equal to or greater than that of appraiser that is being reviewed.

(3) maintaining required documentation as part of the board file.

E. successfully complete a board approved 15 hour USPAP course for registration and a board approved 7 hour USPAP update for renewals; the appraisal qualifications board (AQB) approved 15 hour national USPAP course and the 7 hour national USPAP update course do not require prior approval by the board with proof that the course was taught by an AQB certified USPAP instructor; the course sponsor may certify in the form of a certificate provided to the student that the instructor meets AQB criteria; the instructor must be affiliated with a sponsor approved in at least one state of the United States.

[16.65.2.11 NMAC - N, 10/16/09; A, 01/16/11]

16.65.2.12 LETTERS OF ENGAGEMENT: Prior to placing an assignment for real estate appraisal services, the AMC shall give the appraiser a written letter of engagement that shall include the following minimum requirements. The written letter may be in electronic format.

A. An AMC must clearly indicate on each engagement letter that it is a requirement for an appraiser to be both product and geographically competent to complete the assignment. The acceptance of an assignment will serve as the appraiser's attestation that they are competent to accept the assignment. An AMC must clearly disclose its registration number on each engagement letter sent to an appraiser.

B. An AMC must disclose the following fees within the engagement letter sent to an appraiser;

(1) the total fee that will be collected by the AMC for the assignment; and

(2) the total amount that the AMC will retain from the fee charged, disclosed as a dollar amount; and

(3) direct the appraiser who performs the real estate appraisal activity to disclose in the body of the appraisal

report:

- (a) the total compensation, stated as a dollar amount, paid to the appraiser or, if the appraiser is employed by an appraisal company, to the appraiser's employer; and
 - (b) the total compensation retained by the AMC in connection with the real estate appraisal activity, stated as a dollar amount.
- [16.65.2.12 NMAC - N, 10/16/09; 16.65.2.12 NMAC - N, 01/16/11]

16.65.2.13 AUDITS: At the time of registration renewal, ten percent of AMC's shall be subject to audit. Audited AMC's shall be with required to submit to the board files for the 12 month period prior to renewal and any other documentation the board requests. Any costs incurred by the board during an audit may be attributed to the AMC.
[16.65.2.12 NMAC - N, 10/16/09; 16.65.2.13 NMAC - Rn & A, 16.65.2.12 NMAC, 01/16/11]

16.65.2.14 KNOWLEDGE OF THE RULES: All AMC's and designees shall have knowledge of the board rules, and by acceptance of registration shall agree to abide by these rules.
[16.65.2.13 NMAC - N, 10/16/09; 16.65.2.14 NMAC - Rn & A, 16.65.2.13 NMAC, 01/16/11]

HISTORY OF 16.65.2 NMAC: [RESERVED]

TITLE 16 **OCCUPATIONAL AND PROFESSIONAL LICENSING**
CHAPTER 65 **REAL ESTATE APPRAISAL MANAGEMENT COMPANIES**
PART 3 **APPLICATION FOR REGISTRATION**

16.65.3.1 **ISSUING AGENCY:** State of New Mexico Real Estate Appraisers Board.
 [16.65.3.1 NMAC - N, 10/16/09]

16.65.3.2 **SCOPE:** All real estate appraisal management companies registered and applying for registration with the board.
 [16.65.3.2 NMAC - N, 10/16/09]

16.65.3.3 **STATUTORY AUTHORITY:** These rules are promulgated pursuant to the AMC Registration Act (NMSA 1978, Sections 47-14-1 through 23).
 [16.65.3.3 NMAC - N, 10/16/09]

16.65.3.4 **DURATION:** Permanent.
 [16.65.3.4 NMAC - N, 10/16/09]

16.65.3.5 **EFFECTIVE DATE:** October 16, 2009, unless a later date is cited at the end of a section.
 [16.65.3.5 NMAC - N, 10/16/09]

16.65.3.6 **OBJECTIVE:** The objective of Part 3 is to set forth the provisions for registration, registration renewal and expiration of registration, which apply to all persons affected or regulated by Chapter 65 of Title 16.
 [16.65.3.6 NMAC - N, 10/16/09]

16.65.3.7 **DEFINITIONS:** [RESERVED]

16.65.3.8 **APPLICATION FOR REGISTRATION:** Incomplete application and fees will be returned to the applicant for supplementation of necessary documentation. All applicants must submit the following documentation to the board:

- A. a completed application on a form prescribed by the board;
 - B. registration fee as provided in Part 5;
 - C. a notarized authorization for criminal background check for each person that owns, is an officer of or has a financial interest in the AMC with the prescribed fee;
 - D. a notarized authorization for criminal background check for the CP with the prescribed fee;
 - E. a notarized authorization for criminal background check for the EIC with the prescribed fee;
 - F. an irrevocable consent to service of process completed by the CP;
 - G. proof that the EIC has successfully completed an AQB approved 15 hour USPAP course.
- [16.65.3.8 NMAC - N, 10/16/09; A, 01/16/11]

16.65.3.9 **EXPIRATION:** All registrations will expire one year from the date on which it is issued.
 [16.65.3.9 NMAC - N, 10/16/09]

16.65.3.10 **RENEWAL PROCESS:** Incomplete applications will be returned to the applicant for supplementation of necessary documentation. All AMC's shall submit a renewal form on or before their expiration date.

- A. Renewals shall submit proof that the EIC has successfully completed an AQB approved 7 hour USPAP course.
 - B. Registrations shall be renewed on-line. If on-line renewal is a hardship the registrant must contact the board office and request an official renewal form.
 - C. On-line renewal must be completed on or before the expiration date. Completed renewal forms must be post-marked or delivered to the board office on or before the expiration date.
 - D. It is the registrant's responsibility to renew on or before the expiration date.
 - E. Incomplete renewal forms will be returned to the registrant. Returned renewal forms not completed and returned to the board office on or before the expiration date will be considered late and the registrant must pay a late fee.
 - F. Ten percent of all renewals will be audited and must submit all documentation requested by the board.
- [16.65.3.10 NMAC - N, 10/16/09; A, 01/16/11]

16.65.3.11 **RENEWAL AFTER EXPIRATION:**

- A. An expired registration may not be renewed on-line. To renew after the expiration date the registrant must contact the board office and request an official renewal form.
- B. An expired registration may be renewed within 30 days after expiration upon submission of an official

renewal form with all necessary documentation, payment of the required renewal fee, and payment of a late fee.

C. Registrants that do not renew within 30 days after expiration must reapply for registration and must meet all the current requirements for initial registration.
[16.65.3.11 NMAC - N, 10/16/09]

16.65.3.12 BOARD NOTIFICATION:

A. Changes of address: registrant shall report immediately to the board in writing any change of business address. Failure to do so within 30 days is grounds for registration suspension.

B. Change of designees or ownership: registrant shall report immediately to the board in writing any change of ownership, CP or EIC. New designees shall comply with all application requirements. Failure to do so within 30 days is ground for registration suspension.

C. Notice of action on a panel member must be immediately submitted to the board.

D. Effective January 1, 2010 all AMC currently operating in New Mexico shall be registered by the board.
[16.65.2.12 NMAC - N, 10/16/09]

HISTORY OF 16.65.3 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 65 REAL ESTATE APPRAISAL MANAGEMENT COMPANIES
PART 4 DISCIPLINE

16.65.4.1 ISSUING AGENCY: State of New Mexico Real Estate Appraisers Board.
 [16.65.4.1 NMAC - N, 10/16/09]

16.65.4.2 SCOPE: All real estate appraisal management companies registered and applying for registration with the board.
 [16.65.4.2 NMAC - N, 10/16/09]

16.65.4.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Appraisal Management Company Registration Act (NMSA 1978, Sections 47-14-1 through 23).
 [16.65.4.3 NMAC - N, 10/16/09]

16.65.4.4 DURATION: Permanent.
 [16.65.4.4 NMAC - N, 10/16/09]

16.65.4.5 EFFECTIVE DATE: October 16, 2009, unless a later date is cited at the end of a section.
 [16.65.4.5 NMAC - N, 10/16/09]

16.65.4.6 OBJECTIVE: The objective of Part 4 is to set forth the disciplinary provisions, which apply to all persons affected or regulated by the Appraisal Management Company Registration Act.
 [16.65.4.6 NMAC - N, 10/16/09]

16.65.4.7 DEFINITIONS: [Reserved]

16.65.4.8 DISCIPLINARY PROCEDURES:

- A. The board may initiate disciplinary action upon:
- (1) complaint;
 - (2) audit finding;
 - (3) any other knowledge the board receives of an alleged violation.
- B. Upon receipt of a complaint or knowledge of an alleged violation the board may:
- (1) review or investigate the alleged violations;
 - (2) referred the matter to a complaint committee; or
 - (3) informally dispose of a complaint if it determines that there is insufficient information or lack of probable cause.
- C. The registrant shall have an opportunity to response to the compliant in writing. Failure to respond may be deemed waiver of any defenses.
- D. Based upon the review or investigations, the complaint committee or other board designee will make a recommendation to the board for action.
- E. Every registration shall be afforded notice and an opportunity to be heard before the board uses its authority to take any action that would result in:
- (1) suspension;
 - (2) revocation;
 - (3) censure or reprimand; or
 - (4) fine.
- F. When the board is taking an action defined in Subsection E of this section, the board shall serve upon the registrant written notice of contemplated action (NCA) and indication an opportunity for hearing. The NCA shall be served by personnel service on the controlling person of the AMC.
- G. If a registrant does not request a hearing within the time and in the manner required by the NCA, the board may take the action contemplated.
 [16.65.4.8 NMAC - N, 10/16/09]

16.65.4.9 HEARING PROCEDURES: hearings shall be conducted pursuant to the Uniform Licensing Act, NMSA 1978, Section 61-1-1 through -31. Registrants shall bear all costs of disciplinary proceeding unless they prevail at the hearing.
 [16.65.4.9 NMAC - N, 10/16/09]

HISTORY OF 16.65.4 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 65 REAL ESTATE APPRAISAL MANAGEMENT COMPANIES
PART 5 FEES

16.65.5.1 ISSUING AGENCY: State of New Mexico Real Estate Appraisers Board.
 [16.65.5.1 NMAC - N, 10/16/09]

16.65.5.2 SCOPE: All real estate appraisal management companies registered and applying for registration with the board.
 [16.65.5.2 NMAC - N, 10/16/09]

16.65.5.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Appraisal Management Company Registration Act (NMSA 1978, Sections 47-14-1 through 23).
 [16.65.5.3 NMAC - N, 10/16/09]

16.65.5.4 DURATION: Permanent.
 [16.65.5.4 NMAC - N, 10/16/09]

16.65.5.5 EFFECTIVE DATE: October 16, 2009, unless a later date is cited at the end of a section.
 [16.65.5.5 NMAC - N, 10/16/09]

16.65.5.6 OBJECTIVE: The objective of Part 5 is to set forth the fees authorized pursuant to the Appraisal Management Company Registration Act.
 [16.65.5.6 NMAC - N, 10/16/09]

16.65.5.7 DEFINITIONS: [RESERVED]
 [16.65.5.7 NMAC - N, 10/16/09]

16.65.5.8 FEES: All fees are non-refundable.

A.	Initial application fee	\$1000.00.
B.	Renewal fee	\$550.00.
C.	Late renewal fee	\$250.00.
D.	Criminal Background Fee	fees as currently charged by department of public safety.
E.	Duplicate/Replacement registration	\$25.00.
F.	Paper List of all registrants	\$150.00
G.	Electronic List of all registrants	\$125.00
H.	Administrative fee	\$50.00.
I.	Official verification of good standing	\$25.00.

[16.65.5.8 NMAC - N, 10/16/09]

16.65.5.9 AUDIT: Any costs incurred by the board during an audit may be attributed to the AMC.
 [16.65.5.9 NMAC - N, 10/16/09]

16.65.5.10 DISCIPLINE: Registrant shall bear all cost of disciplinary proceeding unless they prevail at the hearing.
 [16.65.5.10 NMAC - N, 10/16/09]

HISTORY OF 16.65.5 NMAC: [RESERVED]