

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 2772

By: Watson of the House

and

Anderson of the Senate

7
8
9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to professions and occupations;
11 creating the Oklahoma Appraisal Management Company
12 Regulation Act; providing for legislative intent;
13 defining terms; requiring registration; requiring
14 application for registration to contain certain
15 information; providing exemptions; providing for
16 expiration of license; requiring consent to service
17 of process; providing for fees; providing
18 requirements for ownership; providing for controlling
19 person; requiring verification of appraiser
20 competency; providing for employee requirements;
21 providing for appraisal review; providing for
22 limitations on contracts; requiring preengagement
23 certification; providing for review of certification;
24 providing for certain record keeping; providing for
appraiser fees; prohibiting certain actions;
providing for guaranty of payment; prohibiting
alteration of appraisals; providing for registration
number; requiring registration number on certain
instruments and advertisements; providing for
adjudication of certain disputes; providing for
denial of registration; providing for refusal to
issue registration; providing for suspension or
revocation of registration; providing for penalties;
providing for disciplinary hearings; providing
procedure for filing complaints; directing Oklahoma
Real Estate Appraiser Board to promulgate certain

1 rules; providing for codification; and providing an
2 effective date.

3
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA;

5 SECTION 1. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 858-801 of Title 59, unless
7 there is created a duplication in numbering, reads as follows:

8 This act shall be known and may be cited as the "Oklahoma
9 Appraisal Management Company Regulation Act".

10 SECTION 2. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 858-802 of Title 59, unless
12 there is created a duplication in numbering, reads as follows:

13 It is the intent of the Legislature to develop a process for
14 real estate appraisal management company registration and regulation
15 in order to protect lenders, financial institutions, clients,
16 consumers and the public from economic and financial harm and the
17 potential for such harm that may result from interference with the
18 independence, objectivity, and impartiality of the real estate
19 appraisal process.

20 The purpose of the Oklahoma Appraisal Management Company
21 Regulation Act is to provide a process for the registration and
22 regulation of entities conducting, performing or engaging in, or
23 attempting to conduct, perform or engage in, real estate appraisal
24

1 management services as a real estate appraisal management company
2 within the State of Oklahoma.

3 SECTION 3. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 858-803 of Title 59, unless
5 there is created a duplication in numbering, reads as follows:

6 As used in the Oklahoma Appraisal Management Company Regulation
7 Act:

8 1. "Appraisal" means the practice of developing and reporting
9 an opinion of the value of real property in conformance with the
10 Uniform Standards of Professional Appraisal Practice as promulgated
11 by the Appraisal Standards Board of The Appraisal Foundation;

12 2. "Appraisal management company" or "AMC" means an individual,
13 firm, partnership, association, corporation or limited liability
14 company that performs appraisal management services, regardless of
15 the use of the term appraisal management company, mortgage
16 technology provider, mortgage services provider, lender processing
17 services provider, loan processor, real estate closing services
18 provider, vendor management company or any other term;

19 3. "Appraisal management services" means, directly or
20 indirectly, to perform or attempt to perform any one or more of the
21 following function(s) on behalf of a lender, financial institution,
22 client, or any other person:

23 a. administer an appraiser panel,
24

- 1 b. recruit, qualify, verify licensing or certification,
2 and negotiate fees and service level expectations with
3 persons who are part of an appraiser panel,
4 c. receive an order for an appraisal from one entity, and
5 deliver the order for the appraisal to an appraiser
6 that is part of an appraiser panel for completion,
7 d. track and determine the status of orders for
8 appraisals,
9 e. conduct quality control of a completed appraisal prior
10 to the delivery of the appraisal to the person that
11 ordered the appraisal, or
12 f. provide a completed appraisal performed by an
13 appraiser to one or more clients;

14 4. "Appraiser" means a person who holds a credential or a valid
15 temporary practice permit issued by the Oklahoma Real Estate
16 Appraiser Board pursuant to the Oklahoma Certified Real Estate
17 Appraisers Act as a State Certified General, State Certified
18 Residential, State Licensed, or Trainee Appraiser entitling that
19 person to perform an appraisal of real property in the State of
20 Oklahoma consistent with the scope of practice identified in the
21 Real Property Appraiser Qualification Criteria promulgated by the
22 Appraiser Qualifications Board of The Appraisal Foundation;

23 5. "Appraiser panel" means a network of licensed or certified
24 appraisers who have:

1 a. responded to an invitation, request, or solicitation
2 from an AMC, in any form, to perform appraisals for
3 persons that have ordered appraisals through the AMC,
4 or to perform appraisals for the AMC directly, on a
5 periodic basis, as requested and assigned by the AMC,
6 and

7 b. been selected and approved by an AMC to perform
8 appraisals for any client of the AMC that has ordered
9 an appraisal through the AMC, or to perform appraisals
10 for the AMC directly, on a periodic basis, as assigned
11 by the AMC;

12 6. "Appraisal review" means the act or process of developing
13 and communicating an opinion about the quality of another
14 appraiser's work that was performed as part of an appraisal
15 assignment related to the appraiser's data collection, analysis,
16 opinions, conclusions, estimate of value, or compliance with the
17 Uniform Standards of Professional Appraisal Practice. This term
18 does not include:

19 a. a general examination for grammatical, typographical
20 or other similar errors, or

21 b. a general examination for completeness including
22 regulatory and/or client requirements as specified in
23 the agreement process that do not communicate an
24 opinion;

1 7. "Board" means the Oklahoma Real Estate Appraiser Board;

2 8. "Competent appraiser" means an appraiser that satisfies each
3 provision of the Competency Rule of the Uniform Standards of
4 Professional Appraisal Practice for a specific appraisal assignment
5 that the appraiser has received, or may receive, from an AMC;

6 9. "Credential" means a certificate issued by the Board
7 pursuant to the provisions of the Oklahoma Certified Real Estate
8 Appraisers Act authorizing an individual to act as a Trainee
9 Appraiser, State Licensed Appraiser, Certified Residential Appraiser
10 or State Certified General Appraiser in the State of Oklahoma;

11 10. "Controlling person" means:

- 12 a. an owner, officer, manager, or director of a
13 corporation, partnership, firm, association, limited
14 liability company, or other business entity seeking to
15 offer appraisal management services in this state,
16 b. an individual employed, appointed, or authorized by an
17 AMC that has the authority to enter into a contractual
18 relationship with other persons for the performance of
19 appraisal management services and has the authority to
20 enter into agreements with appraisers for the
21 performance of appraisals, or
22 c. an individual who possesses, directly or indirectly,
23 the power to direct or cause the direction of the
24 management or policies of an AMC;

1 11. "Person" means an individual, firm, partnership,
2 association, corporation, or any other entity; and

3 12. "Uniform Standards of Professional Appraisal Practice" or
4 "USPAP" means the edition of the Uniform Standards of Professional
5 Appraisal Practice promulgated by the Appraisal Standards Board of
6 The Appraisal Foundation in force as of the date that a report of an
7 appraisal was signed or communicated.

8 SECTION 4. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 858-804 of Title 59, unless
10 there is created a duplication in numbering, reads as follows:

11 A. It is unlawful for a person to directly or indirectly engage
12 or to attempt to engage in business as an AMC, to directly or
13 indirectly perform or to attempt to perform appraisal management
14 services, or to advertise or hold itself out as engaging in or
15 conducting business as an AMC without first obtaining a registration
16 issued by the Oklahoma Real Estate Appraiser Board under the
17 provisions of the Oklahoma Appraisal Management Company Regulation
18 Act.

19 B. The application for the registration required by subsection
20 A of this section shall be on a form approved by the Board and
21 shall, at a minimum, include the following information:

22 1. Legal name and any other trade or business name of the
23 entity seeking registration;

24

- 1 2. Mailing and physical addresses of the entity seeking
2 registration;
- 3 3. Telephone, e-mail, website, and facsimile contact
4 information of the entity seeking registration;
- 5 4. If the entity is a corporation that is not domiciled in this
6 state, the name and contact information for the entity's agent for
7 service of process in this state;
- 8 5. If the entity is a corporation, limited liability company,
9 or partnership that is not domiciled in this state, proof that the
10 entity is properly and currently registered with the Office of the
11 Secretary of State;
- 12 6. The name, mailing and physical addresses, and contact
13 information for any person that owns ten percent (10%) or more of
14 the AMC;
- 15 7. The name, mailing and physical addresses, and contact
16 information for all named controlling persons;
- 17 8. A certification that the entity has a system and process in
18 place to verify that a person being added to the appraiser panel of
19 the AMC for appraisal services being performed in Oklahoma holds a
20 credential in good standing in this state pursuant to the Oklahoma
21 Certified Real Estate Appraisers Act and the rules promulgated
22 thereunder if a license or certification is required to perform
23 appraisals, pursuant to Section 17 of this act;

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1 9. A certification that the entity has a system in place to
2 review the work of a statistically significant number of appraisal
3 reports submitted by each appraiser who is performing real estate
4 appraisal services for the AMC within Oklahoma on a periodic basis
5 to validate that the real estate appraisal services are being
6 conducted in accordance with USPAP and the Oklahoma Certified Real
7 Estate Appraisers Act and the rules promulgated thereunder;

8 10. A certification that the entity maintains a detailed record
9 of each service request that it receives and the appraiser that
10 performs real estate appraisal services for the AMC, pursuant to
11 Section 19 of this act;

12 11. An irrevocable Uniform Consent to Service of Process,
13 pursuant to Section 7 of this act; and

14 12. Any other information reasonably required by the Board to
15 evaluate compliance with the application requirements in this act.

16 SECTION 5. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 858-805 of Title 59, unless
18 there is created a duplication in numbering, reads as follows:

19 The provisions of the Oklahoma Appraisal Management Company
20 Regulation Act shall not apply to:

21 1. A department or unit within a financial institution that is
22 subject to direct regulation by an agency of the United States
23 Government that is a member of the Federal Financial Institutions
24 Examination Council or its successor, or to regulation by an agency

1 of this state, that receives a request for the performance of an
2 appraisal from one employee of the financial institution, and
3 another employee of the same financial institution assigns the
4 request for the appraisal to an appraiser that is an independent
5 contractor to the institution, except that an AMC that is a wholly
6 owned subsidiary of a financial institution shall not be considered
7 a department or unit within a financial institution to which the
8 provisions of the Oklahoma Appraisal Management Company Regulation
9 Act do not apply;

10 2. A person that enters into an agreement, whether written or
11 otherwise, with an appraiser for the performance of an appraisal,
12 and upon the completion of the appraisal, the report of the
13 appraiser performing the appraisal is signed by both the appraiser
14 who completed the appraisal and the appraiser who requested the
15 completion of the appraisal, except that an AMC may not avoid the
16 requirements of the Oklahoma Appraisal Management Company Regulation
17 Act by requiring an employee of the AMC that is an appraiser to sign
18 an appraisal that is completed by an appraiser that is part of the
19 appraisal panel of the AMC; or

20 3. An individual or individuals who are state certified or
21 state licensed appraisers in good standing credentialed by the
22 Oklahoma Real Estate Appraiser Board and who are actively engaged in
23 the practice of real estate appraising and, as a function of the
24 practice, maintain a list of ten or fewer employees who are

1 | credentialed appraisers in good standing or independent contractor
2 | credentialed appraisers in good standing.

3 | SECTION 6. NEW LAW A new section of law to be codified
4 | in the Oklahoma Statutes as Section 858-806 of Title 59, unless
5 | there is created a duplication in numbering, reads as follows:

6 | A registration or a renewal of a registration granted by the
7 | Board pursuant to the Oklahoma Appraisal Management Company
8 | Regulation Act shall be valid for one (1) year from the date on
9 | which it is issued.

10 | SECTION 7. NEW LAW A new section of law to be codified
11 | in the Oklahoma Statutes as Section 858-807 of Title 59, unless
12 | there is created a duplication in numbering, reads as follows:

13 | Each entity applying for registration as an AMC in this state
14 | shall complete an irrevocable Uniform Consent to Service of Process,
15 | as prescribed by the Oklahoma Real Estate Appraiser Board.

16 | SECTION 8. NEW LAW A new section of law to be codified
17 | in the Oklahoma Statutes as Section 858-808 of Title 59, unless
18 | there is created a duplication in numbering, reads as follows:

19 | The Oklahoma Real Estate Appraiser Board shall establish the fee
20 | to be paid by each AMC seeking registration or renewal of a
21 | registration under the Oklahoma Appraisal Management Company
22 | Regulation Act. The amount of the registration and renewal fees
23 | must be the lesser of:
24 |

1 1. The Board's determination of the sum of the fees paid by all
2 appraisal management companies seeking registration or renewal of a
3 registration under the Oklahoma Appraisal Management Company
4 Regulation Act sufficient for the administration of the Oklahoma
5 Appraisal Management Company Regulation Act; or

6 2. Two Thousand Dollars (\$2,000.00).

7 Fees shall be received by the Oklahoma Insurance Department and
8 shall be deposited to the Oklahoma Certified Real Estate Appraisers
9 Revolving Fund as set forth in the Oklahoma Certified Real Estate
10 Appraisers Act.

11 SECTION 9. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 858-809 of Title 59, unless
13 there is created a duplication in numbering, reads as follows:

14 A. An AMC applying for, holding, or renewing a registration
15 under the Oklahoma Appraisal Management Company Regulation Act shall
16 not be more than ten-percent-owned by:

17 1. A person who has held a credential issued by any appraiser-
18 credentialing jurisdiction to act as an appraiser that was refused,
19 denied, canceled, revoked, or surrendered in lieu of a pending
20 disciplinary proceeding in any jurisdiction and not subsequently
21 granted or reinstated; or

22 2. An entity that is more than ten-percent-owned by any person
23 who has held a credential issued by any appraiser-credentialing
24 jurisdiction to act as an appraiser that was refused, denied,

1 canceled, revoked, or surrendered in lieu of a pending disciplinary
2 proceeding in any jurisdiction and not subsequently granted or
3 reinstated.

4 B. Each person that owns more than ten percent (10%) of an AMC
5 applying for, holding, or renewing a registration under the Oklahoma
6 Appraisal Management Company Regulation Act shall:

- 7 1. Be of good moral character, as determined by the Board; and
- 8 2. Submit to a background investigation, as determined by the
9 Board.

10 C. Each AMC applying for registration or for renewal of a
11 registration under the Oklahoma Appraisal Management Company
12 Regulation Act shall certify to the Oklahoma Real Estate Appraiser
13 Board on a form prescribed by the Board that it has reviewed each
14 entity that owns more than ten percent (10%) of the AMC and that no
15 entity that owns more than ten percent (10%) of the AMC is more than
16 ten-percent-owned by any person that has had a credential issued by
17 any appraiser-credentialing jurisdiction to act as an appraiser that
18 was refused, denied, cancelled, revoked, or surrendered in lieu of a
19 pending disciplinary proceeding in any jurisdiction and not
20 subsequently granted or reinstated.

21 SECTION 10. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 858-810 of Title 59, unless
23 there is created a duplication in numbering, reads as follows:

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1 A. Each AMC applying to the Oklahoma Real Estate Appraiser
2 Board for a registration or for a renewal of a registration in this
3 state shall designate one controlling person that shall serve as the
4 main contact for all communication between the Board and the AMC.

5 B. The controlling person designated pursuant to subsection A
6 of this section shall:

7 1. Remain in good standing with any appraiser-credentialing
8 jurisdictions that the controlling person has credentials with,
9 however, nothing in this section shall require that a designated
10 controlling person hold an appraiser credential in any jurisdiction;

11 2. Have never had a credential issued by any appraiser-
12 credentialing jurisdiction to act as an appraiser refused, denied,
13 canceled, revoked, or surrendered in lieu of a pending disciplinary
14 proceeding in any jurisdiction;

15 3. Be of good moral character, as determined by the Board; and

16 4. Submit to a background investigation, as determined by the
17 Board.

18 SECTION 11. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 858-811 of Title 59, unless
20 there is created a duplication in numbering, reads as follows:

21 An AMC that applies to the Oklahoma Real Estate Appraiser Board
22 for a registration or to renew a registration to do business in this
23 state as an AMC shall not:

24

1 1. Employ any person who has had a credential issued by any
2 appraiser-credentialing jurisdiction to act as an appraiser that was
3 refused, denied, canceled, revoked, or surrendered in lieu of a
4 pending disciplinary proceeding in any jurisdiction and not
5 subsequently reinstated or granted;

6 2. Knowingly enter into any independent contractor arrangement,
7 whether in verbal, written, or other form for the performance of
8 appraisal or appraisal management services, with any person who has
9 had a credential that was issued by any appraiser-credentialing
10 jurisdiction to act as an appraiser refused, denied, canceled,
11 revoked, or surrendered in lieu of a pending disciplinary proceeding
12 in any jurisdiction and not subsequently reinstated or granted; and

13 3. Knowingly enter into any contract, agreement, or other
14 business relationship, whether in verbal, written, or any other
15 form, with any entity that employs, has entered into an independent
16 contract arrangement, or has entered into any contract, agreement,
17 or other business relationship, whether in verbal, written, or any
18 other form for the performance of appraisal or appraisal management
19 services, with any person who has ever had a credential issued by
20 any appraiser-credentialing jurisdiction to act as an appraiser that
21 was refused, denied, canceled, revoked, or surrendered in lieu of a
22 pending disciplinary proceeding in any jurisdiction and not
23 subsequently reinstated or granted.

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1 SECTION 12. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 858-812 of Title 59, unless
3 there is created a duplication in numbering, reads as follows:

4 Prior to placing an assignment with an appraiser on the
5 appraiser panel of an AMC, the AMC shall verify that the appraiser
6 receiving the assignment holds a credential in good standing in this
7 state pursuant to the Oklahoma Certified Real Estate Appraisers Act
8 and the rules promulgated thereunder if a license or certification
9 is required to perform such appraisal. Letters of engagement shall
10 include instructions to the appraiser to decline the assignment in
11 the event the appraiser is not geographically competent or the
12 assignment falls outside the appraiser's scope of practice
13 restrictions as established by the Board rules.

14 SECTION 13. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 858-813 of Title 59, unless
16 there is created a duplication in numbering, reads as follows:

17 Any employee of, or independent contractor to, the AMC that
18 performs an appraisal review for a property located in Oklahoma
19 shall be an appraiser credentialed in good standing in the State of
20 Oklahoma.

21 SECTION 14. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 858-814 of Title 59, unless
23 there is created a duplication in numbering, reads as follows:

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1 An AMC registered in this state pursuant to the Oklahoma
2 Appraisal Management Company Regulation Act shall not enter into any
3 contract or agreement with an appraiser for the performance of
4 appraisals unless it verifies that the individual is credentialed in
5 good standing to perform the appraisal pursuant to the Oklahoma
6 Certified Real Estate Appraisers Act.

7 SECTION 15. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 858-815 of Title 59, unless
9 there is created a duplication in numbering, reads as follows:

10 Each AMC seeking to be registered in this state shall certify to
11 the Oklahoma Real Estate Appraiser Board on an annual basis on a
12 form prescribed by the Board that the AMC has a system and process
13 in place to verify that an individual being added to the appraiser
14 panel of the AMC for appraisal services holds a credential in good
15 standing in this state pursuant to the Oklahoma Certified Real
16 Estate Appraisers Act.

17 SECTION 16. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 858-816 of Title 59, unless
19 there is created a duplication in numbering, reads as follows:

20 Each AMC seeking to be registered or to renew a registration in
21 this state shall certify to the Oklahoma Real Estate Appraiser Board
22 on a form prescribed by the Board on an annual basis that it has a
23 system in place to perform an appraisal review of the work product
24 of a statistically significant number of appraisal reports submitted

1 by each appraiser who is performing appraisals for the AMC on a
2 periodic basis to validate that the appraisals are being conducted
3 in accordance with the USPAP and the Oklahoma Certified Real Estate
4 Appraisers Act and the rules promulgated thereunder. An AMC shall
5 report to the Board the results of any appraisal reviews in which an
6 appraisal is found to be substantially noncompliant with USPAP.

7 SECTION 17. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 858-817 of Title 59, unless
9 there is created a duplication in numbering, reads as follows:

10 A. Each AMC seeking to be registered or to renew an existing
11 registration in this state shall certify to the Oklahoma Real Estate
12 Appraiser Board on a form prescribed by the Board on an annual basis
13 that it maintains a detailed record of each service request that it
14 receives for appraisal of real property located in Oklahoma.

15 B. An AMC registered under the provisions of the Oklahoma
16 Appraisal Management Company Regulation Act shall retain for five
17 (5) years all records required to be maintained under the Oklahoma
18 Appraisal Management Company Regulation Act as described in the
19 rules promulgated by the Board in accordance with the Oklahoma
20 Appraisal Management Company Regulation Act. This five-year period
21 shall commence on the date of the final action by the AMC for each
22 individual transaction or, if the AMC is notified that the
23 transaction is involved in litigation, the five-year period shall
24 commence on the date that the litigation is finally disposed.

1 C. All records required to be maintained by the registered AMC
2 pursuant to the provisions of the Oklahoma Appraisal Management
3 Company Regulation Act and the rules promulgated thereunder shall be
4 made available by the registration holder for inspection and copying
5 by the Board or its designee on reasonable notice to the AMC.

6 SECTION 18. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 858-818 of Title 59, unless
8 there is created a duplication in numbering, reads as follows:

9 A. An AMC registered under the Oklahoma Appraisal Management
10 Company Regulation Act shall be required to have a system in place
11 to disclose to its client the fees paid for appraisal management
12 services and the fees paid to the appraiser for the completion for
13 an appraisal assignment.

14 B. An AMC registered under the Oklahoma Appraisal Management
15 Company Regulation Act that applies for registration in this state
16 shall not prohibit an appraiser that is part of an appraiser panel
17 of the AMC from recording the fee that the appraiser was paid by the
18 AMC for the performance of the appraisal within the communication of
19 the appraisal that is submitted by the appraiser to the AMC.

20 SECTION 19. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 858-819 of Title 59, unless
22 there is created a duplication in numbering, reads as follows:

23 A. It shall be unlawful and a violation of the Oklahoma
24 Appraisal Management Company Regulation Act for any employee,

1 partner, director, officer, or agent of an AMC to influence or
2 attempt to influence the development, reporting, result, or review
3 of an appraisal through coercion, extortion, collusion,
4 compensation, inducement, intimidation, bribery or in any other
5 manner, including but not limited to:

6 1. Withholding or threatening to withhold timely payment or
7 partial payment for an appraisal with the exception of a substandard
8 or noncompliant appraisal;

9 2. Withholding or threatening to withhold, either expressed or
10 implied, future business from, or demoting or terminating or
11 threatening to demote or terminate an appraiser;

12 3. Promising, either expressed or implied, future business,
13 promotions, or increased compensation for an appraiser;

14 4. Conditioning an assignment of an appraisal or the payment of
15 an appraisal fee or salary or bonus on the opinion, conclusion, or
16 valuation to be reached, or on a preliminary estimate or opinion
17 requested from an appraiser;

18 5. Requesting that an appraiser provide an estimated,
19 predetermined, or desired valuation in an appraisal, or provide
20 estimated values or comparable sales at any time prior to the
21 appraiser's completion of an appraisal;

22 6. Providing to an appraiser an anticipated, estimated,
23 encouraged, or desired value for a subject property or a proposed or
24

1 target amount to be loaned to the borrower, except that a copy of
2 the sales contract for purchase transactions may be provided;

3 7. Providing to an appraiser, or any entity or individual
4 related to the appraiser, stock or other financial or nonfinancial
5 benefit or thing of value;

6 8. Allowing or directing the removal of an appraiser from an
7 appraiser panel, or the addition of an appraiser to an exclusionary
8 list of disapproved appraisers used by any entity, without prior
9 written notice to such appraiser;

10 9. Any other act or practice that impairs or attempts to impair
11 an appraiser's independence, objectivity, or impartiality;

12 10. Submitting or attempting to submit false, misleading, or
13 inaccurate information in any application for registration or
14 renewal;

15 11. Failing to timely respond to any subpoena or any other
16 request for information;

17 12. Failing to timely obey an administrative order of the
18 Board; or

19 13. Failing to fully cooperate in any investigation.

20 B. Nothing in subsection A of this section shall be construed
21 as prohibiting the AMC from requesting that an appraiser:

22 1. Provide additional information about the basis for a
23 valuation including consideration of additional comparable data; or

24 2. Correct objective factual errors in an appraisal.

1 SECTION 20. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 858-820 of Title 59, unless
3 there is created a duplication in numbering, reads as follows:

4 An AMC shall not perform or attempt to perform any one or more
5 of the following acts:

6 1. Require an appraiser to modify any aspect of an appraisal
7 unless the modification complies with subsection B of Section 12 of
8 this act;

9 2. Require an appraiser to prepare an appraisal if the
10 appraiser, in the appraiser's own independent professional judgment,
11 believes the appraiser does not have the necessary expertise for the
12 assignment or for the specific geographic area and has notified the
13 AMC and declined the assignment;

14 3. Require an appraiser to prepare an appraisal under a time
15 frame that the appraiser, in the appraiser's own professional
16 judgment, believes does not afford the appraiser the ability to meet
17 all the relevant legal and professional obligations and has notified
18 the AMC and declined the assignment;

19 4. Prohibit or inhibit legal or other allowable communication
20 between the appraiser and:

21 a. the lender,

22 b. a real estate licensee, or

23

24

1 c. any other person from whom the appraiser, in the
2 appraiser's own professional judgment, believes
3 information would be relevant;

4 5. Requires the appraiser to do anything that does not comply
5 with:

- 6 a. USPAP,
7 b. the Oklahoma Certified Real Estate Appraisers Act or
8 the rules promulgated thereunder, or
9 c. any assignment conditions and certifications required
10 by the client; or

11 6. Makes any portion of the appraiser's fee or the AMC's fee
12 contingent on a predetermined or favorable outcome, including but
13 not limited to:

- 14 a. a loan closing, or
15 b. specific dollar amount being achieved by the appraiser
16 in the appraisal.

17 SECTION 21. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 858-821 of Title 59, unless
19 there is created a duplication in numbering, reads as follows:

20 Each AMC shall, except in bona fide cases of breach of contract
21 or substandard performance of services, make payment to an appraiser
22 for the completion of an appraisal or valuation assignment within
23 sixty (60) days of the date on which the appraiser transmits or
24 otherwise provides the completed appraisal or valuation study to the

1 AMC or its assignee unless a mutually agreed upon alternate
2 arrangement has been previously established.

3 SECTION 22. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 858-822 of Title 59, unless
5 there is created a duplication in numbering, reads as follows:

6 A. An AMC shall not alter, modify, or otherwise change or
7 attempt to alter, modify, or otherwise change a completed appraisal
8 submitted by an appraiser by doing any of the following:

9 1. Permanently removing the appraiser's signature or seal;

10 2. Adding information to, or removing information from, the
11 appraisal;

12 3. Altering, modifying or otherwise changing a completed
13 appraisal submitted by an independent appraiser without the
14 appraiser's knowledge and written consent; or

15 4. Using an appraisal submitted by an independent appraiser for
16 any other transaction or use.

17 B. No AMC shall require an appraiser to provide the AMC with
18 the appraiser's digital signature or seal, but nothing in this
19 subsection shall be deemed to prohibit an appraiser from voluntarily
20 providing his or her digital signature to another person in the
21 manner permitted by the provisions of the USPAP.

22 SECTION 23. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 858-823 of Title 59, unless
24 there is created a duplication in numbering, reads as follows:

1 A. The Oklahoma Real Estate Appraiser Board shall issue a
2 unique registration number to each AMC that is registered in this
3 state.

4 B. The Board shall maintain a list on its website of the AMCs
5 that have registered with the Board pursuant to the Oklahoma
6 Appraisal Management Company Regulation Act and have been issued a
7 registration number pursuant to subsection A of this section.

8 C. An AMC registered in this state shall place its registration
9 number on any instrument utilized by the AMC for procurement of
10 appraisal services in this state.

11 SECTION 24. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 858-824 of Title 59, unless
13 there is created a duplication in numbering, reads as follows:

14 A. Except within the first thirty (30) days after an appraiser
15 is first added to the appraiser panel of an AMC, an AMC shall not
16 remove an appraiser from its appraiser panel, or otherwise refuse to
17 assign requests for real estate appraisal services to an appraiser
18 without:

19 1. Notifying the appraiser in writing of the reasons why the
20 appraiser is being removed from the appraiser panel of the AMC;

21 2. Providing an opportunity for the appraiser to respond to the
22 written notification of the AMC either personally or through legal
23 counsel; and
24

1 3. If the appraiser is being removed from the panel for illegal
2 conduct, violation of the USPAP, or a violation of the Oklahoma
3 Certified Real Estate Appraisers Act or the rules promulgated
4 thereunder, providing notice to the appraiser and to the Oklahoma
5 Real Estate Appraiser Board detailing allegations of fact and
6 alleged violations of standards or laws.

7 B. An appraiser that is removed from the appraiser panel of an
8 AMC for alleged illegal conduct, violation of the USPAP, or
9 violation of the Oklahoma Certified Real Estate Appraisers Act or
10 the rules promulgated thereunder, may file a complaint with the
11 Board for a review of the decision of the AMC, except that in no
12 case shall the Board make any determination regarding the nature of
13 the business relationship between the appraiser and the AMC which is
14 unrelated to the actions specified in subsection A of this section.

15 C. If an appraiser files a complaint against an AMC pursuant to
16 subsection B of this section, the Board shall adjudicate the
17 complaint within one (1) year.

18 D. If after opportunity for hearing and review, the Board
19 determines that an appraiser did not commit a violation of law, a
20 violation of the USPAP, or a violation of the Oklahoma Certified
21 Real Estate Appraisers Act or the rules promulgated thereunder, the
22 Board shall order that an appraiser be promptly reinstated to the
23 appraiser panel of the AMC that was the subject of the complaint,
24 without prejudice.

1 E. Following the adjudication of a complaint to the Board by an
2 appraiser against an AMC, an AMC may not refuse to make assignments
3 for real estate appraisal services to an appraiser, or reduce the
4 number of assignments, or otherwise penalize the appraiser, if the
5 Board has found that the AMC acted improperly in removing the
6 appraiser from the appraiser panel and ordered the appraiser's
7 reinstatement.

8 SECTION 25. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 858-825 of Title 59, unless
10 there is created a duplication in numbering, reads as follows:

11 The Oklahoma Real Estate Appraiser Board may, in accordance with
12 the provisions of the Oklahoma Appraisal Management Company
13 Regulation Act relating to hearings, deny the issuance of a
14 registration or a renewal of a registration to an applicant on any
15 of the grounds enumerated in the Oklahoma Appraisal Management
16 Company Regulation Act.

17 SECTION 26. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 858-826 of Title 59, unless
19 there is created a duplication in numbering, reads as follows:

20 The Oklahoma Real Estate Appraiser Board may refuse to issue a
21 registration either on an original application or a renewal
22 application, if it has reasonable grounds to believe and finds any
23 of the following to be true:
24

1 1. That the applicant or any partner has, within twelve (12)
2 months preceding the date of the application violated any provision
3 of the Oklahoma Appraisal Management Company Regulation Act or
4 regulation of the Oklahoma Real Estate Appraiser Board;

5 2. That the applicant is not of good moral character;

6 3. That the applicant has been the holder of a registration
7 revoked or suspended for cause, or surrendered in lieu of
8 disciplinary proceedings;

9 4. That the applicant, in the case of an application for
10 renewal of any registration, would not be eligible for such license
11 on a first application;

12 5. That the issuance of the registration applied for would
13 result in a violation of any provision of the Oklahoma Appraisal
14 Management Company Regulation Act; or

15 6. When, in the judgment of the Oklahoma Real Estate Appraiser
16 Board, the registrant has, in the conduct of affairs under the
17 registration, demonstrated incompetency, or untrustworthiness, or
18 conduct or practices rendering the registrant unfit to carry on
19 appraisal management services or making continuance in the business
20 detrimental to the public interest, or that the licensee is no
21 longer in good faith carrying on appraisal management services, and
22 for this conduct is found by the Oklahoma Real Estate Appraiser
23 Board to be a source of detriment, injury, or loss to the public.

24

1 SECTION 27. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 858-827 of Title 59, unless
3 there is created a duplication in numbering, reads as follows:

4 The Oklahoma Real Estate Appraiser Board may censure an AMC,
5 conditionally or unconditionally suspend or revoke any registration
6 issued under the Oklahoma Appraisal Management Company Regulation
7 Act, or impose administrative fines not to exceed Five Thousand
8 Dollars (\$5,000.00) per violation of the Oklahoma Appraisal
9 Management Company Regulation Act, if in the opinion of the Board,
10 an AMC is attempting to perform, has performed, or has attempted to
11 perform any of the following acts:

- 12 1. Committing any act in violation of the Oklahoma Appraisal
13 Management Company Regulation Act;
- 14 2. Violating any rule or regulation adopted by the Board in the
15 interest of the public and consistent with the provisions of the
16 Oklahoma Appraisal Management Company Regulation Act; or
- 17 3. Procuring a registration or a renewal of a registration for
18 the AMC or committing any other act by fraud, misrepresentation, or
19 deceit.

20 SECTION 28. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 858-828 of Title 59, unless
22 there is created a duplication in numbering, reads as follows:

23 A. The conduct of administrative proceedings shall be in
24 accordance with the Administrative Procedures Act and the Oklahoma

1 Certified Real Estate Appraisers Act and the rules promulgated
2 thereunder for violations of the Oklahoma Appraisal Management
3 Company Regulation Act shall be vested in the Oklahoma Real Estate
4 Appraiser Board, such that the Board, after notice and opportunity
5 for a hearing pursuant to Article II of the Administrative
6 Procedures Act, may issue an order imposing one or more of the
7 following penalties whenever the Board finds, by clear and
8 convincing evidence, that a registrant has violated any provision of
9 the Oklahoma Appraisal Management Company Regulation Act or rules
10 promulgated thereunder:

11 1. Revocation of the registration with or without the right to
12 reapply;

13 2. Suspension of the registrant for a period not to exceed five
14 (5) years;

15 3. Stipulations, limitations, restrictions and conditions
16 relating to conduct of the registrant's appraisal management
17 services practice;

18 4. Censure, including specific redress, if appropriate;

19 5. Reprimand;

20 6. Administrative fines not to exceed Five Thousand Dollars
21 (\$5,000.00) per violation; and

22 7. Payment of costs expended by the Board for any legal fees
23 and costs and monitoring fees, including but not limited to
24 administrative costs, witness fees and attorney fees.

1 B. Payment of fines and costs shall be in accordance with the
2 following:

3 1. All administrative fines and costs shall be paid within
4 thirty (30) days of notifying the registrant's controlling person or
5 the registrant's agent for service of process in this state of the
6 order of the Board imposing the administrative fine, unless the
7 registrant has entered into an agreement with the Board extending
8 the period for payment;

9 2. The registration may be suspended until any fine imposed
10 upon the registrant by the Board is paid;

11 3. Unless the registrant has entered into an agreement with the
12 Board extending the period for payment, if fines and costs are not
13 paid in full by the registrant within thirty (30) days of the
14 notification of the order, the fines and costs shall double and the
15 registrant shall have an additional thirty-day period. If the
16 double fine and costs are not paid within the additional thirty-day
17 period, the registration shall automatically be revoked; and

18 4. All monies received by the Board as a result of the
19 imposition of the administrative fines and costs provided for in
20 this section shall be deposited in the Oklahoma Certified Real
21 Estate Appraisers Revolving Fund created pursuant to Section 858-730
22 of Title 59 of the Oklahoma Statutes.

23 C. Complaint filing procedures shall be in accordance with the
24 following:

1 1. Any complaint filed under the Oklahoma Appraisal Management
2 Company Regulation Act or the rules promulgated thereunder shall be
3 in writing and signed by the person filing same and shall be on a
4 form prescribed by the Board. A complaint may be filed against a
5 registrant directly by the Board, if reasonable cause exists to
6 believe there have been violation(s) of the Oklahoma Appraisal
7 Management Company Regulation Act or rules; and

8 2. The registrant shall be entitled to any hearings or subject
9 to any disciplinary proceedings provided for in the Oklahoma
10 Appraisal Management Company Regulation Act or the rules promulgated
11 thereunder based upon any complaint filed pursuant to this section.

12 D. Written notice of charges shall be provided as follows:

13 1. Before taking any administrative action against any
14 registration, the Real Estate Appraiser Board shall notify the
15 registrant in writing of any charges made at least thirty (30) days
16 prior to the date set for hearing and shall afford the registrant an
17 opportunity to be heard in person or by counsel; and

18 2. The written notice may be served personally or sent by
19 registered or certified mail to the last-known address of either the
20 registrant's controlling person or the registrant's service agent in
21 this state.

22 SECTION 29. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 858-829 of Title 59, unless
24 there is created a duplication in numbering, reads as follows:

1 The Oklahoma Real Estate Appraiser Board shall promulgate rules
2 to implement the provisions of the Oklahoma Appraisal Management
3 Company Regulation Act.

4 SECTION 30. This act shall become effective January 1, 2011.

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6 52-2-10858 LRB 05/12/10

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