

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL 2772

By: Watson of the House

and

Anderson of the Senate

6
7
8 COMMITTEE SUBSTITUTE

9 (professions and occupations - Oklahoma Appraisal
10 Management Company Regulation Act - annual audit -
11 codification - effective date)

12
13 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA;~~

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

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

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

22 It is the intent of the Legislature to develop a process for
23 real estate appraisal management company registration and regulation
24 in order to protect lenders, financial institutions, clients,

1 consumers and the public from economic and financial harm and the
2 potential for such harm that may result from interference with the
3 independence, objectivity, and impartiality of the real estate
4 appraisal process.

5 The purpose of the Oklahoma Appraisal Management Company
6 Regulation Act is to provide a process for the registration and
7 regulation of entities conducting, performing or engaging in, or
8 attempting to conduct, perform or engage in, real estate appraisal
9 management services as a real estate appraisal management company
10 within the State of Oklahoma.

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

14 As used in the Oklahoma Appraisal Management Company Regulation
15 Act:

16 1. "Appraisal" means the practice of developing and reporting
17 an opinion of the value of real property in conformance with the
18 Uniform Standards of Professional Appraisal Practice as promulgated
19 by the Appraisal Standards Board of The Appraisal Foundation;

20 2. "Appraisal management company" or "AMC" means an individual,
21 firm, partnership, association, corporation or limited liability
22 company that performs appraisal management services, regardless of
23 the use of the term appraisal management company, mortgage
24 technology provider, mortgage services provider, lender processing

1 services provider, loan processor, real estate closing services
2 provider, vendor management company or any other term;

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

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

21 4. "Appraiser" means a person who holds a credential or a valid
22 temporary practice permit issued by the Oklahoma Real Estate
23 Appraiser Board pursuant to the Oklahoma Certified Real Estate
24 Appraisers Act as a State Certified General, State Certified

1 Residential, State Licensed, or Trainee Appraiser entitling that
2 person to perform an appraisal of real property in the State of
3 Oklahoma consistent with the scope of practice identified in the
4 Real Property Appraiser Qualification Criteria promulgated by the
5 Appraiser Qualifications Board of The Appraisal Foundation;

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

8 a. responded to an invitation, request, or solicitation
9 from an AMC, in any form, to perform appraisals for
10 persons that have ordered appraisals through the AMC,
11 or to perform appraisals for the AMC directly, on a
12 periodic basis, as requested and assigned by the AMC,
13 and

14 b. been selected and approved by an AMC to perform
15 appraisals for any client of the AMC that has ordered
16 an appraisal through the AMC, or to perform appraisals
17 for the AMC directly, on a periodic basis, as assigned
18 by the AMC;

19 6. "Appraisal review" means the act or process of developing
20 and communicating an opinion about the quality of another
21 appraiser's work that was performed as part of an appraisal
22 assignment related to the appraiser's data collection, analysis,
23 opinions, conclusions, estimate of value, or compliance with the
24

1 Uniform Standards of Professional Appraisal Practice. This term
2 does not include:

3 a. a general examination for grammatical, typographical
4 or other similar errors, or

5 b. a general examination for completeness including
6 regulatory and/or client requirements as specified in
7 the agreement process that do not communicate an
8 opinion;

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

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

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

19 10. "Controlling person" means:

20 a. an owner, officer, manager, or director of a
21 corporation, partnership, firm, association, limited
22 liability company, or other business entity seeking to
23 offer appraisal management services in this state,

24

1 b. an individual employed, appointed, or authorized by an
2 AMC that has the authority to enter into a contractual
3 relationship with other persons for the performance of
4 appraisal management services and has the authority to
5 enter into agreements with appraisers for the
6 performance of appraisals, or

7 c. an individual who possesses, directly or indirectly,
8 the power to direct or cause the direction of the
9 management or policies of an AMC;

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

12 12. "Uniform Standards of Professional Appraisal Practice" or
13 "USPAP" means the edition of the Uniform Standards of Professional
14 Appraisal Practice promulgated by the Appraisal Standards Board of
15 The Appraisal Foundation in force as of the date that a report of an
16 appraisal was signed or communicated.

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

20 A. It is unlawful for a person to directly or indirectly engage
21 or to attempt to engage in business as an AMC, to directly or
22 indirectly perform or to attempt to perform appraisal management
23 services, or to advertise or hold itself out as engaging in or
24 conducting business as an AMC without first obtaining a registration

1 issued by the Oklahoma Real Estate Appraiser Board under the
2 provisions of the Oklahoma Appraisal Management Company Regulation
3 Act.

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

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

9 2. Mailing and physical addresses of the entity seeking
10 registration;

11 3. Telephone, e-mail, website, and facsimile contact
12 information of the entity seeking registration;

13 4. If the entity is a corporation that is not domiciled in this
14 state, the name and contact information for the entity's agent for
15 service of process in this state;

16 5. If the entity is a corporation, limited liability company,
17 or partnership that is not domiciled in this state, proof that the
18 entity is properly and currently registered with the Office of the
19 Secretary of State;

20 6. The name, mailing and physical addresses, and contact
21 information for any person that owns ten percent (10%) or more of
22 the AMC;

23 7. The name, mailing and physical addresses, and contact
24 information for all named controlling persons;

1 8. A certification that the entity has a system and process in
2 place to verify that a person being added to the appraiser panel of
3 the AMC for appraisal services being performed in Oklahoma holds a
4 credential in good standing in this state pursuant to the Oklahoma
5 Certified Real Estate Appraisers Act and the rules promulgated
6 thereunder if a license or certification is required to perform
7 appraisals, pursuant to Section 17 of this act;

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

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

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

21 12. Any other information reasonably required by the Board to
22 evaluate compliance with the application requirements in this act.
23
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1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 858-805 of Title 59, unless
3 there is created a duplication in numbering, reads as follows:

4 The provisions of the Oklahoma Appraisal Management Company
5 Regulation Act shall not apply to:

6 1. A department or unit within a financial institution that is
7 subject to direct regulation by an agency of the United States
8 Government that is a member of the Federal Financial Institutions
9 Examination Council or its successor, or to regulation by an agency
10 of this state, that receives a request for the performance of an
11 appraisal from one employee of the financial institution, and
12 another employee of the same financial institution assigns the
13 request for the appraisal to an appraiser that is an independent
14 contractor to the institution, except that an AMC that is a wholly
15 owned subsidiary of a financial institution shall not be considered
16 a department or unit within a financial institution to which the
17 provisions of the Oklahoma Appraisal Management Company Regulation
18 Act do not apply;

19 2. A person that enters into an agreement, whether written or
20 otherwise, with an appraiser for the performance of an appraisal,
21 and upon the completion of the appraisal, the report of the
22 appraiser performing the appraisal is signed by both the appraiser
23 who completed the appraisal and the appraiser who requested the
24 completion of the appraisal, except that an AMC may not avoid the

1 requirements of the Oklahoma Appraisal Management Company Regulation
2 Act by requiring an employee of the AMC that is an appraiser to sign
3 an appraisal that is completed by an appraiser that is part of the
4 appraisal panel of the AMC; or

5 3. An individual or individuals who are state certified or
6 state licensed appraisers in good standing credentialed by the
7 Oklahoma Real Estate Appraiser Board and who are actively engaged in
8 the practice of real estate appraising and, as a function of the
9 practice, maintain a list of ten or fewer employees who are
10 credentialed appraisers in good standing or independent contractor
11 credentialed appraisers in good standing.

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

15 A registration or a renewal of a registration granted by the
16 Board pursuant to the Oklahoma Appraisal Management Company
17 Regulation Act shall be valid for one (1) year from the date on
18 which it is issued.

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

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

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

4 The Oklahoma Real Estate Appraiser Board shall establish the fee
5 to be paid by each AMC seeking registration or renewal of a
6 registration under the Oklahoma Appraisal Management Company
7 Regulation Act. The amount of the registration and renewal fees
8 must be the lesser of:

9 1. The Board's determination of the sum of the fees paid by all
10 appraisal management companies seeking registration or renewal of a
11 registration under the Oklahoma Appraisal Management Company
12 Regulation Act sufficient for the administration of the Oklahoma
13 Appraisal Management Company Regulation Act; or

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

15 Fees shall be received by the Oklahoma Insurance Department and
16 shall be deposited to the Oklahoma Certified Real Estate Appraisers
17 Revolving Fund as set forth in the Oklahoma Certified Real Estate
18 Appraisers Act.

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

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

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

6 2. An entity that is more than ten-percent-owned by any person
7 who has held a credential issued by any appraiser credentialing
8 jurisdiction to act as an appraiser that was refused, denied,
9 canceled, revoked, or surrendered in lieu of a pending disciplinary
10 proceeding in any jurisdiction and not subsequently granted or
11 reinstated.

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

- 15 1. Be of good moral character, as determined by the Board; and
16 2. Submit to a background investigation, as determined by the
17 Board.

18 C. Each AMC applying for registration or for renewal of a
19 registration under the Oklahoma Appraisal Management Company
20 Regulation Act shall certify to the Oklahoma Real Estate Appraiser
21 Board on a form prescribed by the Board that it has reviewed each
22 entity that owns more than ten percent (10%) of the AMC and that no
23 entity that owns more than ten percent (10%) of the AMC is more than
24 ten-percent-owned by any person that has had a credential issued by

1 any appraiser credentialing jurisdiction to act as an appraiser that
2 was refused, denied, cancelled, revoked, or surrendered in lieu of a
3 pending disciplinary proceeding in any jurisdiction and not
4 subsequently granted or reinstated.

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

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

12 B. The controlling person designated pursuant to subsection A
13 of this section shall:

14 1. Remain in good standing with any appraiser credentialing
15 jurisdictions that the controlling person has credentials with,
16 however, nothing in this section shall require that a designated
17 controlling person hold an appraiser credential in any jurisdiction;

18 2. Have never had a credential issued by any appraiser
19 credentialing jurisdiction to act as an appraiser refused, denied,
20 canceled, revoked, or surrendered in lieu of a pending disciplinary
21 proceeding in any jurisdiction;

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

23 4. Submit to a background investigation, as determined by the
24 Board.

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

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

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

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

19 3. Knowingly enter into any contract, agreement, or other
20 business relationship, whether in verbal, written, or any other
21 form, with any entity that employs, has entered into an independent
22 contract arrangement, or has entered into any contract, agreement,
23 or other business relationship, whether in verbal, written, or any
24 other form for the performance of appraisal or appraisal management

1 services, with any person who has ever had a credential issued by
2 any appraiser credentialing jurisdiction to act as an appraiser that
3 was 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 SECTION 12. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 858-812 of Title 59, unless
8 there is created a duplication in numbering, reads as follows:

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

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

22 Any employee of, or independent contractor to, the AMC that
23 performs an appraisal review for a property located in Oklahoma
24

1 shall be an appraiser credentialed in good standing in the State of
2 Oklahoma.

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

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

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

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

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

1 Each AMC seeking to be registered or to renew a registration in
2 this state shall certify to the Oklahoma Real Estate Appraiser Board
3 on a form prescribed by the Board on an annual basis that it has a
4 system in place to perform an appraisal review of the work product
5 of a statistically significant number of appraisal reports submitted
6 by each appraiser who is performing appraisals for the AMC on a
7 periodic basis to validate that the appraisals are being conducted
8 in accordance with the USPAP and the Oklahoma Certified Real Estate
9 Appraisers Act and the rules promulgated thereunder. An AMC shall
10 report to the Board the results of any appraisal reviews in which an
11 appraisal is found to be substantially non-compliant with USPAP.

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

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

20 B. An AMC registered under the provisions of the Oklahoma
21 Appraisal Management Company Regulation Act shall retain for five
22 (5) years all records required to be maintained under the Oklahoma
23 Appraisal Management Company Regulation Act as described in the
24 rules promulgated by the Board in accordance with the Oklahoma

1 Appraisal Management Company Regulation Act. This five-year period
2 shall commence on the date of the final action by the AMC for each
3 individual transaction or, if the AMC is notified that the
4 transaction is involved in litigation, the five-year period shall
5 commence on the date that the litigation is finally disposed.

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

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

14 A. An AMC registered under the Oklahoma Appraisal Management
15 Company Regulation Act shall be required to have a system in place
16 to disclose to its client the fees paid for appraisal management
17 services and the fees paid to the appraiser for the completion for
18 an appraisal assignment.

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

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

4 A. It shall be unlawful and a violation of the Oklahoma
5 Appraisal Management Company Regulation Act for any employee,
6 partner, director, officer, or agent of an AMC to influence or
7 attempt to influence the development, reporting, result, or review
8 of an appraisal through coercion, extortion, collusion,
9 compensation, inducement, intimidation, bribery or in any other
10 manner, including but not limited to:

11 1. Withholding or threatening to withhold timely payment or
12 partial payment for an appraisal with the exception of a substandard
13 or non-compliant appraisal;

14 2. Withholding or threatening to withhold, either expressed or
15 implied, future business from, or demoting or terminating or
16 threatening to demote or terminate an appraiser;

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

19 4. Conditioning an assignment of an appraisal or the payment of
20 an appraisal fee or salary or bonus on the opinion, conclusion, or
21 valuation to be reached, or on a preliminary estimate or opinion
22 requested from an appraiser;

23 5. Requesting that an appraiser provide an estimated,
24 predetermined, or desired valuation in an appraisal, or provide

1 estimated values or comparable sales at any time prior to the
2 appraiser's completion of an appraisal;

3 6. Providing to an appraiser an anticipated, estimated,
4 encouraged, or desired value for a subject property or a proposed or
5 target amount to be loaned to the borrower, except that a copy of
6 the sales contract for purchase transactions may be provided;

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

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

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

16 10. Submitting or attempting to submit false, misleading, or
17 inaccurate information in any application for registration or
18 renewal;

19 11. Failing to timely respond to any subpoena or any other
20 request for information;

21 12. Failing to timely obey an administrative order of the
22 Board; or

23 13. Failing to fully cooperate in any investigation.
24

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

- 3 1. Provide additional information about the basis for a
4 valuation including consideration of additional comparable data; or
- 5 2. Correct objective factual errors in an appraisal.

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

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

- 11 1. Require an appraiser to modify any aspect of an appraisal
12 unless the modification complies with Section 21 of this act;
- 13 2. Require an appraiser to prepare an appraisal if the
14 appraiser, in the appraiser's own independent professional judgment,
15 believes the appraiser does not have the necessary expertise for the
16 assignment or for the specific geographic area and has notified the
17 AMC and declined the assignment;
- 18 3. Require an appraiser to prepare an appraisal under a time
19 frame that the appraiser, in the appraiser's own professional
20 judgment, believes does not afford the appraiser the ability to meet
21 all the relevant legal and professional obligations and has notified
22 the AMC and declined the assignment;
- 23 4. Prohibit or inhibit legal or other allowable communication
24 between the appraiser and:

- 1 a. the lender,
- 2 b. a real estate licensee, or
- 3 c. any other person from whom the appraiser, in the
- 4 appraiser's own professional judgment, believes
- 5 information would be relevant;

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

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

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

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

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

22 Each AMC shall, except in bona fide cases of breach of contract
23 or substandard performance of services, make payment to an appraiser
24 for the completion of an appraisal or valuation assignment within

1 sixty (60) days of the date on which the appraiser transmits or
2 otherwise provides the completed appraisal or valuation study to the
3 AMC or its assignee unless a mutually agreed upon alternate
4 arrangement has been previously established.

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

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

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

12 2. Adding information to, or removing information from, the
13 appraisal;

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

17 4. Using an appraisal submitted by an independent appraiser for
18 any other transaction or use.

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

24

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

4 A. The Oklahoma Real Estate Appraiser Board shall issue a
5 unique registration number to each AMC that is registered in this
6 state.

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

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

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

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

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

24

1 2. Providing an opportunity for the appraiser to respond to the
2 written notification of the AMC either personally or through legal
3 counsel; and

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

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

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

21 D. If after opportunity for hearing and review, the Board
22 determines that an appraiser did not commit a violation of law, a
23 violation of the USPAP, or a violation of the Oklahoma Certified
24 Real Estate Appraisers Act or the rules promulgated thereunder, the

1 Board shall order that an appraiser be promptly reinstated to the
2 appraiser panel of the AMC that was the subject of the complaint,
3 without prejudice.

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

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

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

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

23 The Oklahoma Real Estate Appraiser Board may refuse to issue a
24 registration either on an original application or a renewal

1 application, if it has reasonable grounds to believe and finds any
2 of the following to be true:

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

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

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

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

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

17 6. When, in the judgment of the Oklahoma Real Estate Appraiser
18 Board, the registrant has, in the conduct of affairs under the
19 registration, demonstrated incompetency, or untrustworthiness, or
20 conduct or practices rendering the registrant unfit to carry on
21 appraisal management services or making continuance in the business
22 detrimental to the public interest, or that the licensee is no
23 longer in good faith carrying on appraisal management services, and
24

1 for this conduct is found by the Oklahoma Real Estate Appraiser
2 Board to be a source of detriment, injury, or loss to the public.

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

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

14 1. Committing any act in violation of the Oklahoma Appraisal
15 Management Company Regulation Act;

16 2. Violating any rule or regulation adopted by the Board in the
17 interest of the public and consistent with the provisions of the
18 Oklahoma Appraisal Management Company Regulation Act; or

19 3. Procuring a registration or a renewal of a registration for
20 the AMC or committing any other act by fraud, misrepresentation, or
21 deceit.

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

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

13 1. Revocation of the registration with or without the right to
14 reapply;

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

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

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

21 5. Reprimand;

22 6. Administrative fines not to exceed Five Thousand Dollars
23 (\$5,000.00) per violation; and
24

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

4 B. Payment of fines and costs shall be in accordance with the
5 following:

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

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

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

21 4. All monies received by the Board as a result of the
22 imposition of the administrative fines and costs provided for in
23 this section shall be deposited in the Oklahoma Certified Real
24

1 Estate Appraisers Revolving Fund created pursuant to Section 858-730
2 of Title 59 of the Oklahoma Statutes.

3 C. Complaint filing procedures shall be in accordance with the
4 following:

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

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

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

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

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

3 SECTION 29. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 858-729 of Title 59, unless
5 there is created a duplication in numbering, reads as follows:

6 The Oklahoma Real Estate Appraiser Board shall promulgate rules
7 to implement the provisions of the Oklahoma Appraisal Management
8 Company Regulation Act.

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

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