EHB 2772

THE STATE SENATE

Wednesday, March 31, 2010

ENGROSSED

House Bill No. 2772

As Amended

ENGROSSED HOUSE BILL NO. 2772 - By: Watson of the House and Anderson of the Senate.

(professions and occupations – Oklahoma Appraisal Management Company Regulation Act – annual audit – codification – effective date)

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

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

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

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

It is the intent of the Legislature to develop a process for real estate appraisal management company registration and regulation in order to protect lenders, financial institutions, clients, consumers and the public from economic and financial harm and the potential for such harm that may result from interference with the

(Bold face denotes Committee Amendments)

independence, objectivity, and impartiality of the real estate appraisal process.

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

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

As used in the Oklahoma Appraisal Management Company Regulation Act:

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

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

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

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

a. administer an appraiser panel,

b. recruit, qualify, verify licensing or certification, and negotiate fees and service level expectations with persons who are part of an appraiser panel,

c. receive an order for an appraisal from one entity, and deliver the order for the appraisal to an appraiser that is part of an appraiser panel for completion,

d. track and determine the status of orders for appraisals,

e. conduct quality control of a completed appraisal prior to the delivery of the appraisal to the person that ordered the appraisal, or

f. provide a completed appraisal performed by an appraiser to one or more clients;

4. "Appraiser" means a person who holds a credential or a valid temporary practice permit issued by the Oklahoma Real Estate Appraiser Board pursuant to the Oklahoma Certified Real Estate

Appraisers Act as a State Certified General, State Certified Residential, State Licensed, or Trainee Appraiser entitling that person to perform an appraisal of real property in the State of Oklahoma consistent with the scope of practice identified in the Real Property Appraiser Qualification Criteria promulgated by the Appraiser Qualifications Board of The Appraisal Foundation;

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

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

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

6. "Appraisal review" means 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 assignment related to the appraiser's data collection, analysis,

opinions, conclusions, estimate of value, or compliance with the Uniform Standards of Professional Appraisal Practice. This term does not include:

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

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

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

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

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

10. "Controlling person" means:

a. an owner, officer, manager, or director of a corporation, partnership, firm, association, 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 AMC that has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and has the authority to enter into agreements with appraisers for the performance of appraisals, or

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

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

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

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

A. It is unlawful for a person to directly or indirectly engage or to attempt to engage in business as an AMC, to directly or

indirectly perform or to attempt to perform appraisal management services, or to advertise or hold itself out as engaging in or conducting business as an AMC without first obtaining a registration issued by the Oklahoma Real Estate Appraiser Board under the provisions of the Oklahoma Appraisal Management Company Regulation Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A registration or a renewal of a registration granted by the Board pursuant to the Oklahoma Appraisal Management Company

Regulation Act shall be valid for one (1) year from the date on which it is issued.

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Submit to a background investigation, as determined by the Board.

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

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

A. Each AMC applying to the Oklahoma Real Estate Appraiser Board for a registration or for a renewal of a registration in this

state shall designate one controlling person that shall serve as the main contact for all communication between the Board and the AMC.

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

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

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

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

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

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

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

1. Employ any person who has had a credential issued by any appraiser credentialing jurisdiction to act as an appraiser that was

refused, denied, canceled, revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently reinstated or granted;

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

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

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

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

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

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

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

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

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

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

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

Each AMC seeking to be registered or to renew a registration in this state shall certify to the Oklahoma Real Estate Appraiser Board on a form prescribed by the Board on an annual basis that it has a system in place to perform an appraisal review of the work product

of a statistically significant number of appraisal reports submitted by each appraiser who is performing appraisals for the AMC on a periodic basis to validate that the appraisals are being conducted in accordance with the USPAP and the Oklahoma Certified Real Estate Appraisers Act and the rules promulgated thereunder. An AMC shall report to the Board the results of any appraisal reviews in which an appraisal is found to be substantially non-compliant with USPAP.

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

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

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

transaction is involved in litigation, the five-year period shall commence on the date that the litigation is finally disposed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13. Failing to fully cooperate in any investigation.

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

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

2. Correct objective factual errors in an appraisal.

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

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

1. Require an appraiser to modify any aspect of an appraisal unless the modification complies with Section 21 of this act;

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

3. Require an appraiser to prepare an appraisal under a time frame that the appraiser, in the appraiser's own professional judgment, believes does not afford the appraiser the ability to meet

all the relevant legal and professional obligations and has notified the AMC and declined the assignment;

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

a. the lender,

b. a real estate licensee, or

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

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

a. USPAP,

b. the Oklahoma Certified Real Estate Appraisers Act or the rules promulgated thereunder, or

c. any assignment conditions and certifications required by the client;

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

a. a loan closing, or

b. specific dollar amount being achieved by the appraiser in the appraisal.

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

Each AMC shall, except in bona fide cases of breach of contract or substandard performance of services, make payment to an appraiser for the completion of an appraisal or valuation assignment within sixty (60) days of the date on which the appraiser transmits or otherwise provides the completed appraisal or valuation study to the AMC or its assignee unless a mutually agreed upon alternate arrangement has been previously established.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. An appraiser that is removed from the appraiser panel of an AMC for alleged illegal conduct, violation of the USPAP, or violation of the Oklahoma Certified Real Estate Appraisers Act or the rules promulgated thereunder, may file a complaint with the Board for a review of the decision of the AMC, except that in no case shall the Board make any determination regarding the nature of

the business relationship between the appraiser and the AMC which is unrelated to the actions specified in subsection A of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Oklahoma Real Estate Appraiser Board may censure an AMC, conditionally or unconditionally suspend or revoke any registration issued under the Oklahoma Appraisal Management Company Regulation Act, or impose administrative fines not to exceed Five Thousand Dollars ($5,000.00) per violation of the Oklahoma Appraisal

Management Company Regulation Act, if in the opinion of the Board, an AMC is attempting to perform, has performed, or has attempted to perform any of the following acts:

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

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

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

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

A. The conduct of administrative proceedings shall be in accordance with the Administrative Procedures Act and the Oklahoma Certified Real Estate Appraisers Act and the rules promulgated thereunder for violations of the Oklahoma Appraisal Management Company Regulation Act shall be vested in the Oklahoma Real Estate Appraiser Board, such that the Board, after notice and opportunity for a hearing pursuant to Article II of the Administrative Procedures Act, may issue an order imposing one or more of the following penalties whenever the Board finds, by clear and

convincing evidence, that a registrant has violated any provision of the Oklahoma Appraisal Management Company Regulation Act or rules promulgated thereunder:

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

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

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

4. Censure, including specific redress, if appropriate;

5. Reprimand;

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

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

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

1. All administrative fines and costs shall be paid within thirty (30) days of notifying the registrant's controlling person or the registrant's agent for service of process in this state of the order of the Board imposing the administrative fine, unless the

registrant has entered into an agreement with the Board extending the period for payment;

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

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

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

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

1. Any complaint filed under the Oklahoma Appraisal Management Company Regulation Act or the rules promulgated thereunder shall be in writing and signed by the person filing same and shall be on a form prescribed by the Board. A complaint may be filed against a registrant directly by the Board, if reasonable cause exists to

1 believe there have been violation(s) of the Oklahoma Appraisal
2 Management Company Regulation Act or rules; and
3 2. The registrant shall be entitled to any hearings or subject
4 to any disciplinary proceedings provided for in the Oklahoma
5 Appraisal Management Company Regulation Act or the rules promulgated
6 thereunder based upon any complaint filed pursuant to this section.
7 D. Written notice of charges shall be provided as follows:
8 1. Before taking any administrative action against any
9 registration, the Real Estate Appraiser Board shall notify the
10 registrant in writing of any charges made at least thirty (30) days
11 prior to the date set for hearing and shall afford the registrant an
12 opportunity to be heard in person or by counsel; and
13 2. The written notice may be served personally or sent by
14 registered or certified mail to the last-known address of either the
15 registrant's controlling person or the registrant's service agent in
16 this state.
17 SECTION 29. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 858-729 of Title 59, unless
19 there is created a duplication in numbering, reads as follows:
20 The Oklahoma Real Estate Appraiser Board shall promulgate rules
21 to implement the provisions of the Oklahoma Appraisal Management
22 Company Regulation Act.
23 SECTION 30. This act shall become effective January 1, 2011.

1 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & LABOR, dated 3-29-10 -
2 DO PASS, As Amended.