

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2772

By: Watson

4
5 AS INTRODUCED

6 An Act relating to professions and occupations;
7 creating the Oklahoma Appraisal Management Company
8 Regulation Act; providing for legislative intent;
9 defining terms; requiring registration; requiring
10 application for registration to contain certain
11 information; providing exemptions; providing for
12 expiration of license; requiring consent to service
13 of process; providing for fees; providing
14 requirements for ownership; providing for controlling
15 person; requiring verification of appraiser
16 competency; providing for employee requirements;
17 providing for appraisal review; providing for
18 limitations on contracts; requiring pre-engagement
19 certification; providing for review of certification;
20 requiring annual audit; providing for certain record
21 keeping; providing for appraiser fees; prohibiting
22 certain actions; providing for guaranty of payment;
23 prohibiting alteration of appraisals; providing for
24 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
rules; providing for codification; and providing an
effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

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

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

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

1 As used in the Oklahoma Appraisal Management Company Regulation
2 Act:

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

7 2. "Appraisal management company" or "AMC" means an individual,
8 firm, partnership, association, corporation, limited liability
9 company or any other entity that employs ten or more credentialed
10 appraisers or maintains an approved list of ten or more independent
11 contractor credentialed appraisers that performs appraisal
12 management services, regardless of the use of the term appraisal
13 management company, mortgage technology provider, mortgage services
14 provider, lender processing services provider, loan processor, real
15 estate closing services provider, vendor management company or any
16 other term;

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

- 21 a. administer an appraiser panel,
- 22 b. recruit, qualify, verify licensing or certification,
23 and negotiate fees and service level expectations with
24 persons who are part of an appraiser panel,

- 1 c. receive an order for an appraisal from one entity, and
2 deliver the order for the appraisal to an appraiser
3 that is part of an appraiser panel for completion,
4 d. track and determine the status of orders for
5 appraisals,
6 e. conduct quality control of a completed appraisal prior
7 to the delivery of the appraisal to the person that
8 ordered the appraisal, or
9 f. provide a completed appraisal performed by an
10 appraiser to one or more clients;

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

20 5. "Appraiser fee schedule" means a list of the various
21 appraisals requested by an AMC from appraisers and the amount that
22 the AMC pays to an appraiser for the performance of the appraisals;

23 6. "Appraiser panel" means a network of licensed or certified
24 appraisers who are independent contractors to the AMC that 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 7. "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; except that an examination of an appraisal for
16 grammatical, typographical, or other similar errors that do not
17 communicate an opinion related to the appraiser's data collection,
18 analysis, opinions, conclusions, estimate of value, or compliance
19 with the Uniform Standards of Professional Appraisal Practice shall
20 not constitute or be construed to be an appraisal review;

21 8. "Board" means the Oklahoma Real Estate Appraiser Board;

22 9. "Competent appraiser" means an appraiser that satisfies each
23 provision of the Competency Rule of the Uniform Standards of
24

1 Professional Appraisal Practice for a specific appraisal assignment
2 that the appraiser has received, or may receive, from an AMC;

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

8 11. "Controlling person" means:

9 a. an owner, officer, manager, or director of a
10 corporation, partnership, firm, association, limited
11 liability company, or other business entity seeking to
12 offer appraisal management services in this state,

13 b. an individual employed, appointed, or authorized by an
14 AMC that has the authority to enter into a contractual
15 relationship with other persons for the performance of
16 appraisal management services and has the authority to
17 enter into agreements with appraisers for the
18 performance of appraisals, or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 9. A certification that the entity has a system in place to
22 review the work of all appraisers that are performing real estate
23 appraisal services for the AMC on a periodic basis to ensure that
24 the real estate appraisal services are being conducted in accordance

1 with USPAP and the Oklahoma Certified Real Estate Appraisers Act and
2 the rules promulgated thereunder, pursuant to Section 18 of this
3 act;

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

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

10 12. Any other information required by the Board.

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

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

16 1. A department or unit within a financial institution that is
17 subject to direct regulation by an agency of the United States
18 Government that is a member of the Federal Financial Institutions
19 Examination Council or its successor, or to regulation by an agency
20 of this state, that receives a request for the performance of an
21 appraisal from one employee of the financial institution, and
22 another employee of the same financial institution assigns the
23 request for the appraisal to an appraiser that is an independent
24 contractor to the institution, except that an AMC that is a wholly

1 owned subsidiary of a financial institution shall not be considered
2 a department or unit within a financial institution to which the
3 provisions of the Oklahoma Appraisal Management Company Regulation
4 Act do not apply; or

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

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

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

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

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

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

7 The Oklahoma Real Estate Appraiser Board shall establish the fee
8 to be paid by each AMC seeking registration or renewal of a
9 registration under the Oklahoma Appraisal Management Company
10 Regulation Act, such that the sum of the fees paid by all appraisal
11 management companies seeking registration or renewal of a
12 registration under the Oklahoma Appraisal Management Company
13 Regulation Act shall be sufficient for the administration of the
14 Oklahoma Appraisal Management Company Regulation Act. Fees shall be
15 received by the Oklahoma Insurance Department and shall be deposited
16 to the Oklahoma Certified Real Estate Appraisers Revolving Fund as
17 set forth in the Oklahoma Certified Real Estate Appraisers Act.

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

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

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. Hold a credential in good standing issued by any appraiser
15 credentialing jurisdiction to act as an appraiser in at least one
16 jurisdiction;

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

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

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

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

18 3. Enter into any contract, agreement, or other business
19 relationship, whether in verbal, written, or any other form, with
20 any entity that employs, has entered into an independent contract
21 arrangement, or has entered into any contract, agreement, or other
22 business relationship, whether in verbal, written, or any other
23 form, with any person who has ever had a credential issued by any
24 appraiser credentialing jurisdiction to act as an appraiser that was

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

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

7 Prior to placing an assignment with an appraiser on the
8 appraiser panel of an AMC, the AMC shall verify that the appraiser
9 receiving the assignment will be a competent appraiser for the
10 performance of the appraisal being assigned to the appraiser by the
11 AMC.

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

15 Any employee of, or independent contractor to, the AMC that
16 performs an appraisal review shall be an appraiser credentialed in
17 good standing in the state in which the real property that is the
18 subject of the appraisal is located.

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

22 An AMC registered in this state pursuant to the Oklahoma
23 Appraisal Management Company Regulation Act shall not enter into any
24 contract or agreement with an appraiser for the performance of

1 appraisals unless it verifies that the individual is credentialed in
2 good standing to perform the appraisal pursuant to the Oklahoma
3 Certified Real Estate Appraisers Act.

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

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

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

17 Each AMC seeking to be registered or to renew a registration in
18 this state shall certify to the Oklahoma Real Estate Appraiser Board
19 on an annual basis on a form prescribed by the Board that the AMC
20 has a system in place to verify that an individual to whom the AMC
21 is making an assignment for the completion of an appraisal has not
22 had a credential as an appraiser refused, denied, cancelled,
23 revoked, or surrendered in lieu of pending disciplinary proceedings

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1 since the last time that the AMC made an assignment for an appraisal
2 to the appraiser.

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

6 Each AMC seeking to be registered or to renew a registration in
7 this state shall certify to the Oklahoma Real Estate Appraiser Board
8 on a form prescribed by the Board on an annual basis that it has a
9 system in place to perform an appraisal review of the work product
10 of each appraiser that is performing appraisals for the AMC on a
11 periodic basis to ensure that the appraisals are being conducted in
12 accordance with the USPAP and the Oklahoma Certified Real Estate
13 Appraisers Act and the rules promulgated thereunder.

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

17 A. Each AMC registered in this state shall cause an audit of
18 the appraisals received by the AMC from appraisers to be conducted
19 at least annually to ensure that the appraisals being received by
20 the AMC are being performed in accordance with the USPAP and the
21 Oklahoma Certified Real Estate Appraisers Act.

22 B. The Oklahoma Real Estate Appraiser Board shall promulgate
23 rules to govern the content and process of audits covered by this
24 section.

1 C. A copy of the AMC's most recent annual audit report, no more
2 than eleven (11) months old, shall be provided to the Board as a
3 supporting document to any renewal application for an AMC's
4 registration in this state, except that an AMC shall not be required
5 to submit an annual audit report with its initial application for
6 registration in this state.

7 SECTION 19. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 858-819 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 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 A. An AMC registered under the Oklahoma Appraisal Management
10 Company Regulation Act shall not include any fees for appraisal
11 management services that are performed by the AMC for a lender,
12 client, or other person in the amount that it charges a lender,
13 client, or other person for the actual completion of an appraisal by
14 an appraiser that is part of the appraiser panel of the AMC.

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

21 C. Any and all fees charged to a lender, client, or any other
22 person by an AMC for appraisal management services shall be separate
23 and distinct from any and all fees charged to a client by the AMC
24

1 for the actual completion of an appraisal by an appraiser that is
2 part of the appraiser panel of the AMC.

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

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

13 1. Withholding or threatening to withhold timely payment or
14 partial payment for an appraisal;

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

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

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

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

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

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

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

16 9. Obtaining, using, or paying for a second or subsequent
17 appraisal or ordering an automated valuation model in connection
18 with a mortgage financing transaction unless there is a reasonable
19 basis to believe that the initial appraisal was flawed or tainted
20 and such basis is clearly and appropriately noted in the loan file,
21 or unless such appraisal or automated valuation model is done
22 pursuant to a bona fide prefunding or postfunding appraisal review
23 or quality control process;

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

3 11. Submitting or attempting to submit false, misleading, or
4 inaccurate information in any application for registration or
5 renewal;

6 12. Failing to timely respond to any subpoena or any other
7 request for information;

8 13. Failing to timely obey an administrative order of the
9 Board; or

10 14. Failing to fully cooperate in any investigation.

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

13 1. Provide additional information about the basis for a
14 valuation; or

15 2. Correct objective factual errors in an appraisal.

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

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

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

23 2. Require an appraiser to prepare an appraisal if the
24 appraiser, in the appraiser's own independent professional judgment,

1 believes the appraiser does not have the necessary expertise for the
2 assignment or for the specific geographic area;

3 3. Require an appraiser to prepare an appraisal under a time
4 frame that the appraiser, in the appraiser's own professional
5 judgment, believes does not afford the appraiser the ability to meet
6 all the relevant legal and professional obligations;

7 4. Prohibit or inhibit communication between the appraiser and:

8 a. the lender,

9 b. a real estate licensee, or

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

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

15 a. USPAP,

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

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

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

23 a. a loan closing, or
24

- 1 b. specific dollar amount being achieved by the appraiser
2 in the appraisal; or

3 7. Requests, for the purpose of facilitating a mortgage loan
4 transaction:

- 5 a. a broker price opinion, or
6 b. any other real property price or value estimation that
7 does not qualify as an appraisal.

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

11 Each AMC shall, except in bona fide cases of breach of contract
12 or substandard performance of services, make payment to an appraiser
13 for the completion of an appraisal or valuation assignment within
14 sixty (60) days of the date on which the appraiser transmits or
15 otherwise provides the completed appraisal or valuation study to the
16 AMC or its assignee.

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

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

- 23 1. Permanently removing the appraiser's signature or seal;
24

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

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

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

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

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

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

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

23

24

1 C. An AMC registered in this state shall place its registration
2 number on any instrument used by the AMC to perform appraisal
3 management services in this state.

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

7 An AMC registered in this state shall disclose the registration
8 number provided to it by the Oklahoma Real Estate Appraiser Board on
9 all print and electronic advertising, including but not limited to
10 any electronic advertising or communication via the Internet.

11 SECTION 27. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 858-827 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 28. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 858-828 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 29. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 858-829 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 30. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 858-830 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, levy fines or impose civil penalties not to exceed Twenty-five
8 Thousand Dollars (\$25,000.00) per violation of the Oklahoma
9 Appraisal Management Company Regulation Act, if in the opinion of
10 the Board, an AMC is attempting to perform, has performed, or has
11 attempted to 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 31. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 858-831 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 Twenty-five Thousand
21 Dollars (\$25,000.00) 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 32. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 858-832 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 and regulations to implement the provisions of the Oklahoma
3 Appraisal Management Company Regulation Act.

4 SECTION 33. This act shall become effective January 1, 2011.

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