

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL NO. 731

By: Leewright

AS INTRODUCED

An Act relating to appraisers; amending 59 O.S. 2011, Sections 858-705.1 and 858-724, which relate to duties of the Real Estate Appraiser Board and subpoenas; providing procedure for undeliverable service; modifying name of authority on certain examination standards; amending 59 O.S. 2011, Sections 858-803, as amended by Section 1, Chapter 195, O.S.L. 2016, 858-804, as amended by Section 2, Chapter 195, O.S.L. 2016, 858-805, 858-809, as amended by Section 3, Chapter 195, O.S.L. 2016, 858-821, and 858-824 (59 O.S. Supp. 2018, Sections 858-803, 858-804 and 858-809), which relate to the Oklahoma Appraisal Management Company Regulation Act; modifying definitions; clarifying unlawful acts; modifying applicability of act; modifying ownership requirements; prohibiting certain reimbursement; removing certain exception for removal of appraiser from appraiser panel; establishing requirements for federally regulated appraisal management companies; updating statutory references; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 858-705.1, is amended to read as follows:

Section 858-705.1. A. In addition to the seven (7) appointed members of the Board, the Insurance Commissioner shall serve as ex-

1 officio Chairperson of the Board, voting only in case of a tie.

2 B. As Chairperson, the Insurance Commissioner, in addition to  
3 his duties prescribed by law as Insurance Commissioner on ~~the~~  
4 ~~effective date of this act~~ September 1, 1991, shall be required to  
5 perform the following duties, for which duties he shall be paid an  
6 additional Twelve Thousand Dollars (\$12,000.00) annually, payable  
7 monthly from appropriations made to the Insurance Department:

8 1. Keep records of the proceedings of the Board;

9 2. Call special meetings of the Board when in the judgment of  
10 the chairperson it is necessary or proper to do so;

11 3. Procure appropriate examination questions and answers which  
12 shall meet criteria established by the Appraisal Subcommittee  
13 Qualifications Board of the Appraisal Foundation and approved by the  
14 Board;

15 4. Develop guidelines for administration of and grading of the  
16 examinations in accordance with standards promulgated by the  
17 Appraisal Subcommittee Qualifications Board of the Appraisal  
18 Foundation and approved by the Board;

19 5. Prepare and file ~~a~~ an annual report with the Speaker of the  
20 House, the President Pro Tempore of the Senate, and the Governor  
21 detailing the number of applicants for the examination and the  
22 pass/fail rate;

23 6. Formulate a study to evaluate the number of appraisers  
24 licensed or certified by the state on a countywide basis and report  
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1 to the Speaker of the House, the President Pro Tempore of the  
2 Senate, and the Governor concerning whether there is a shortage of  
3 qualified appraisers in the state;

4 7. Establish and maintain a recordkeeping system approved by  
5 the Board to monitor compliance with the continuing education  
6 requirements imposed by law;

7 8. Make recommendations to the Board concerning the  
8 establishment of administrative procedures for conducting  
9 disciplinary proceedings pursuant to the provisions of ~~this act~~ the  
10 Oklahoma Certified Real Estate Appraisers Act;

11 9. Develop a procedure approved by the Board whereby persons  
12 aggrieved by the actions of a licensed or certified appraiser may  
13 file complaints with the Board;

14 10. Annually compile and file a report with the Speaker of the  
15 House, President Pro Tempore of the Senate, and the Governor  
16 detailing the number of complaints received by the Board, the  
17 resulting number of investigations and hearings conducted and the  
18 final disposition of these matters;

19 11. Prepare and file a report with the Speaker of the House,  
20 the President Pro Tempore of the Senate, and the Governor evaluating  
21 the impact of the voluntary licensure/certification program on  
22 future appraisers and recommend whether an appraiser trainee or  
23 apprenticeship program should be instituted; and

24 12. Submit to the Speaker of the House, the President Pro

1 Tempore of the Senate, and the Governor on or before January 1,  
2 1994, a report evaluating the impact of the licensure/certification  
3 requirements imposed by ~~this act~~ the Oklahoma Certified Real Estate  
4 Appraisers Act on the appraiser and banking industry and include in  
5 the report any recommendations for amendments to the Oklahoma  
6 Certified Real Estate Appraisers Act.

7 SECTION 2. AMENDATORY 59 O.S. 2011, Section 858-724, is  
8 amended to read as follows:

9 Section 858-724. A. Before suspending or revoking any  
10 certification, the Real Estate Appraiser Board shall notify the  
11 appraiser in writing of any charges made at least thirty (30) days  
12 prior to the date set for the hearing and shall afford the appraiser  
13 an opportunity to be heard in person or by counsel.

14 B. In any proceeding in which the Board is required to serve an  
15 order on an individual, the Board may send such material to the  
16 individual's address of record with the Board. If the order is  
17 returned with a notation by the United States Postal Service  
18 indicating that it is undeliverable for any reason, and the records  
19 of the Board indicate that the Board has not received any change of  
20 address since the order was sent, as required by the rules of the  
21 Board, the order and any subsequent material relating to the same  
22 matter sent to the most recent address on file with the Board shall  
23 be deemed by the court as having been legally served for all  
24 purposes. The written notice may be served ~~either~~ personally or

1 ~~sent~~ by registered or certified mail to the last-known business  
2 and/or residence address of the appraiser.

3 C. The Board shall have the power to subpoena and issue  
4 subpoenas duces tecum and to bring before it any person in this  
5 state, or to take testimony by deposition, in the same manner as  
6 prescribed by law in judicial proceedings in the courts of this  
7 state.

8 SECTION 3. AMENDATORY 59 O.S. 2011, Section 858-803, as  
9 amended by Section 1, Chapter 195, O.S.L. 2016 (59 O.S. Supp. 2018,  
10 Section 858-803), is amended to read as follows:

11 Section 858-803. As used in the Oklahoma Appraisal Management  
12 Company Regulation Act:

13 1. "Affiliate" has the meaning provided in 12 U.S.C. 1841;

14 2. "AMC National Registry" means the registry of state-  
15 registered appraisal management companies ("AMCs") and federally-  
16 regulated AMCs maintained by the Appraisal Subcommittee;

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

22 ~~2- 4.~~ "Appraisal management company" or "AMC" means an  
23 individual, firm, partnership, association, corporation or  
24 limited liability company that performs appraisal management  
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~~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~~ a person that provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates; provides services in connection with valuing a consumer's principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations; and within a given 12-month period oversees an appraiser panel of more than 15 state certified or state licensed appraisers in Oklahoma or 25 or more state-certified or state licensed appraisers in two or more states. An AMC does not include a department or division of an entity that provides appraisal management services only to that entity;

~~3.~~ 5. "Appraisal management services" means, directly or indirectly, to perform or attempt to perform any one or more of the following functions 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,

- 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 appraiser  
10 to one or more clients;

11 ~~4.~~ 6. "Appraiser" means a person who holds a credential or a  
12 valid 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.~~ 7. "Appraiser panel" means a network, list or roster of  
21 licensed or certified appraisers approved by an AMC to perform  
22 appraisals as independent contractors for the AMC. Appraisers on an  
23 "appraiser panel" include appraisers accepted by the AMC for  
24 consideration for future appraisal assignments in covered

1 transactions or for secondary mortgage market participants in  
2 connection with covered transactions and appraisers engaged by the  
3 AMC to perform one or more appraisals in covered transactions or for  
4 secondary mortgage market participants in connection with covered  
5 transactions. An appraiser is an independent contractor for  
6 purposes of this subpart if the appraiser is treated as an  
7 independent contractor by the AMC for purposes of federal income  
8 taxation ~~of licensed or certified appraisers who have:~~

- 9       ~~a. responded to an invitation, request, or solicitation~~  
10       ~~from an AMC, in any form, to perform appraisals for~~  
11       ~~persons that have ordered appraisals through the AMC,~~  
12       ~~or to perform appraisals for the AMC directly, on a~~  
13       ~~periodic basis, as requested and assigned by the AMC,~~  
14       ~~and~~  
15       ~~b. been selected and approved by an AMC to perform~~  
16       ~~appraisals for any client of the AMC that has ordered~~  
17       ~~an appraisal through the AMC, or to perform appraisals~~  
18       ~~for the AMC directly, on a periodic basis, as assigned~~  
19       ~~by the AMC;~~

20       ~~6.~~ 8. "Appraisal review" means the act or process of  
21 developing and communicating an opinion about the quality of  
22 another appraiser's work that was performed as part of an  
23 appraisal assignment related to the appraiser's data collection,  
24 analysis, opinions, conclusions, estimate of value, or



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

- 3 a. a general examination for grammatical,  
4 typographical 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 does not communicate an  
8 opinion;

9 9. "Appraisal Subcommittee" means the Appraisal Subcommittee of  
10 the Federal Financial Examinations Council;

11 ~~7.~~ 10. "Board" means the Oklahoma Real Estate Appraiser Board;

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

17 12. "Consumer Credit" means credit offered or extended to a  
18 consumer primarily for personal, family or household purposes;

19 13. "Covered Transaction" means any consumer credit  
20 transaction secured by the consumer's principal dwelling;

21 ~~9.~~ 14. "Credential" means a certificate issued by the Board  
22 pursuant to the provisions of the Oklahoma Certified Real Estate  
23 Appraisers Act authorizing an individual to act as a Trainee  
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Appraiser, State Licensed Appraiser, Certified Residential Appraiser  
or State Certified General Appraiser in the State of Oklahoma;

~~10.~~ 15. "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;

16. "Federally Regulated AMC" means an AMC that is owned and controlled by an insured depository institution as defined in 12 U.S.C. 1813 and regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation or the National Credit Union Administration pursuant to sections 1112, 1113 and 1114 of Title XI 12 U.S.C. 3341-3343;

1       ~~11.~~ 17.   "Person" means an individual, firm, partnership,  
2 association, corporation, or any other entity;

3       ~~12.~~ 18.   "Truth in Lending Act" or "TILA" means Title I of the  
4 Consumer Credit Protection Act (15 U.S.C.A., Section 1601 et seq.),  
5 and regulations thereunder; and

6       ~~13.~~ 19.   "Uniform Standards of Professional Appraisal Practice"  
7 or "USPAP" means the edition of the Uniform Standards of Professional  
8 Appraisal Practice promulgated by the Appraisal Standards Board of  
9 The Appraisal Foundation in force as of the date that a report of an  
10 appraisal was signed or communicated.

11       SECTION 4.       AMENDATORY       59 O.S. 2011, Section 858-804, as  
12 amended by Section 2, Chapter 195, O.S.L. 2016 (59 O.S. Supp. 2018,  
13 Section 858-804), is amended to read as follows:

14       Section 858-804.   A.   It is unlawful for a person to directly or  
15 indirectly engage or to attempt to engage in business as an AMC, to  
16 directly or indirectly perform or to attempt to perform appraisal  
17 management services, or to advertise or hold itself out as engaging  
18 in or conducting business as an AMC without first obtaining a  
19 registration issued by the Oklahoma Real Estate Appraiser Board under  
20 the provisions of the Oklahoma Appraisal Management Company  
21 Regulation Act.

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

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

1 required to perform appraisals, pursuant to Section 858-817 of  
2 this title;

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

11 10. A certification that the entity maintains a detailed  
12 record of each service request that it receives and the appraiser  
13 that performs real estate appraisal services for the AMC, pursuant  
14 to Section 858-819 of this title;

15 11. An irrevocable Uniform Consent to Service of Process,  
16 pursuant to Section 858-807 of this title; and

17 12. Any other information reasonably required by the Board  
18 to evaluate compliance with the application requirements in ~~this~~  
19 ~~act~~ the Oklahoma Appraisal Management Company Regulation Act.

20 SECTION 5. AMENDATORY 59 O.S. 2011, Section 858-805, is  
21 amended to read as follows:

22 Section 858-805. The provisions of the Oklahoma Appraisal  
23 Management Company Regulation Act shall not apply to:  
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1           1.    A department or unit within a financial institution that  
2           is subject to direct regulation by an agency of the United States  
3           Government that is a member of the Federal Financial Institutions  
4           Examination Council or its successor, or to regulation by an agency  
5           of this state, that receives a request for the performance of an  
6           appraisal from one employee of the financial institution, and  
7           another employee of the same financial institution assigns the  
8           request for the appraisal to an appraiser that is an independent  
9           contractor to the institution, except that an AMC that is a wholly  
10          owned subsidiary of a financial institution shall not be considered  
11          a department or unit within a financial institution to which the  
12          provisions of the Oklahoma Appraisal Management Company Regulation  
13          Act do not apply;

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

1           3.    An individual or individuals who are state-certified or  
2   state-licensed appraisers in good standing credentialed by the  
3   Oklahoma Real Estate Appraiser Board and who are actively engaged  
4   in the practice of real estate appraising and, as a function of the  
5   practice, maintain a list of ~~ten~~ fifteen or fewer employees in  
6   Oklahoma or twenty-four or less employees in two or more states who are  
7   credentialed appraisers in good standing or independent contractor  
8   credentialed appraisers in good standing.

9           SECTION 6.        AMENDATORY        59 O.S. 2011, Section 858-809, as  
10   amended by Section 3, Chapter 195, O.S.L. 2016 (59 O.S. Supp. 2018,  
11   Section 858-809), is amended to read as follows:

12           Section 858-809.   A.   An AMC applying for, holding, or renewing  
13   a registration under the Oklahoma Appraisal  
14   Management Company Regulation Act shall not be ~~more than ten~~  
15   ~~percent~~ owned by:

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

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

1 lieu of a pending disciplinary proceeding in any jurisdiction and  
2 not subsequently granted or reinstated.

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

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

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

20 SECTION 7. AMENDATORY 59 O.S. 2011, Section 858-821, is  
21 amended to read as follows:

22 Section 858-821. A. Each AMC shall, except in bona fide cases  
23 of breach of contract or substandard performance of services, make  
24 payment to an appraiser for the completion of an appraisal or  
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1 valuation assignment within sixty (60) days of the date on which the  
2 appraiser transmits or otherwise provides the completed appraisal or  
3 valuation study to the AMC or its assignee unless a mutually agreed  
4 upon alternate arrangement has been previously established.

5 B. Appraisal Management Companies are prohibited from requiring  
6 an appraiser to reimburse them for the Appraisal Subcommittee's  
7 Appraisal Management Company National Registry fee which may be  
8 charged or assessed against them.

9 SECTION 8. AMENDATORY 59 O.S. 2011, Section 858-824, is  
10 amended to read as follows:

11 Section 858-824. A. ~~Except within the first thirty (30) days~~  
12 ~~after an appraiser is first added to the appraiser panel of an AMC,~~  
13 ~~an~~ An AMC shall not remove an appraiser from its appraiser panel, or  
14 otherwise refuse to assign requests for real estate appraisal  
15 services to an appraiser without:

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

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

21 3. If the appraiser is being removed from the panel for  
22 illegal conduct, violation of the USPAP, or a violation of the  
23 Oklahoma Certified Real Estate Appraisers Act or the rules  
24 promulgated thereunder, providing notice to the appraiser and to

1 the Oklahoma Real Estate Appraiser Board detailing allegations of  
2 fact and alleged violations of standards or laws.

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

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

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

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

5 SECTION 9. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 858-830 of Title 59, unless  
7 there is created a duplication in numbering, reads as follows:

8 A. A federally-regulated appraisal management company (AMC)  
9 operating in Oklahoma must report to the Real Estate Appraiser Board  
10 the information required to be submitted by the Real Estate  
11 Appraiser Board to the Appraisal Subcommittee of the Federal  
12 Financial Examinations Council (ASC), pursuant to the ASC's policies  
13 regarding the determination of the AMC National Registry fee,  
14 including, but not limited to, the collection of the information  
15 related to ownership limitations.

16 B. As a state electing to register AMCs for purposes of  
17 permitting AMCs to provide appraisal management services relating to  
18 covered transactions in Oklahoma, the Real Estate Appraiser Board  
19 shall submit to the ASC the information required to be submitted by  
20 ASC regulations or guidance concerning AMCs that operate in  
21 Oklahoma.

22 C. If the National Registry fee is received by the Real Estate  
23 Appraiser Board from a self-identifying AMC, such funds will be  
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1 transmitted by the Real Estate Appraiser Board to the ASC National  
2 Registry.

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4 SECTION 10. This act shall become effective November 1, 2019.

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