

MISSISSIPPI APPRAISAL MANAGEMENT COMPANY REGISTRATION ACT

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Regarding the Editor's Note:

Section 30 of Chapter 458 of the laws of 2011 provides “This act shall take effect and be enforced from and after July 1, 2011, or one hundred twenty (120) days after the first date on which all rules, forms, and policies have been finalized and made available by the commission, whichever is later.” The Editor’s Note indicated that as of the date of publication of 2012 replacement volume the rules, forms, and policies had not been finalized.

All rules, forms, and policies have been finalized and made available by the Mississippi Real Estate Commission. The effective date of the Mississippi Appraisal Management Company Registration Act is December 1, 2013.

MISSISSIPPI CODE of 1972

** Current through the 2013 Regular Session and 1st and 2nd Extraordinary Sessions **

TITLE 73. PROFESSIONS AND VOCATIONS
CHAPTER 34. REAL ESTATE APPRAISERS
MISSISSIPPI APPRAISAL MANAGEMENT COMPANY REGISTRATION ACT

§ 73-34-101. Short title [For effective date, see Editor's Note]

Sections 73-34-101 through 73-34-131 shall be known and may be cited as the "Mississippi Appraisal Management Company Registration Act."

HISTORY: SOURCES: Laws, 2011, ch. 458, § 1 (For eff date, see Editor's Note).

§ 73-34-103. Registration required; application [For effective date, see Editor's Note; repealed effective July 1, 2016]

(1) It is unlawful for a person to directly or indirectly engage or attempt to engage in business as an appraisal management company in this state or to advertise or hold itself out as engaging in or conducting business as an appraisal management company in this state without first obtaining a registration issued by the Mississippi Real Estate Appraiser Licensing and Certification Board under the provisions of this chapter.

(a) An applicant for registration as an appraisal management company in this state shall submit to the Mississippi Real Estate Commission an application on a form or forms prescribed by the board accompanied by an original or certified copy of a surety bond payable to the State of Mississippi in the amount of Twenty Thousand Dollars (\$ 20,000.00) for the use, benefit and indemnity of any person who suffers any damage or loss as a result of the appraisal management company's breach of contract or of any obligation arising therefrom or any violation of law.

(b) In the event a registration process is unavailable upon the effective date of this act, an appraisal management company already conducting business in this state may continue to conduct business in accordance with Sections 73-34-101 through 73-34-131 until one hundred twenty (120) days after a registration process becomes available.

(2) An application for the registration required by subsection (1) of this section shall, at a minimum, include:

(a) The name of the person seeking registration and the fictitious name or names under which he does business in any state;

(b) The business address of the entity seeking registration;

(c) The phone contact information of the entity seeking registration;

(d) If the person is not a corporation that is domiciled in this state, the name and contact information for the person's agent for service of process in this state;

(e) The name, address, and contact information for any individual or any corporation, partnership, or other business entity that owns ten percent (10%) or more of the appraisal management company;

(f) The name, address, and contact information for one (1) controlling person designated as the main contact for all communication between the appraisal management company and the commission;

(g) A certification that the person has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a license in good standing in this state under the Real Estate Appraiser Licensing and Certification Act if a license or certification is required to perform appraisals;

(h) A certification that the person requires appraisers completing appraisals at its request to comply with the Uniform Standards of Professional Appraisal Practice (USPAP), including the requirements for geographic and product competence;

(i) A certification that the person has a system in place to verify that only licensed or certified appraisers are used for federally related transactions;

(j) A certification that the person has a system in place to require that appraisals are conducted independently and free from inappropriate influence and coercion as required by the appraisal independence standards established under Section 129E of the Truth in Lending Act, including the requirements for payment of a reasonable and customary fee to appraisers when the appraisal management company is providing services for a consumer credit transaction secured by the principal dwelling of a consumer;

(k) A certification that the person maintains a detailed record of each service request that it receives and the appraiser that performs the residential real estate appraisal services for the appraisal management company;

(l) An irrevocable Consent to Service of Process required under Section 73-34-107;

(m) Any other information required by the board which is reasonably necessary to implement Sections 73-34-101 through 73-34-131.

(3) An application for the renewal of a registration shall include substantially similar information required for the initial registration as noted in subsection (2), as determined by the board.

(4) A registration granted by the commission under the provisions of Sections 73-34-101 through 73-34-131 shall be valid for one (1) year from the date on which it is issued.

(5) The provisions of this section shall stand repealed on July 1, 2016.

HISTORY: SOURCES: Laws, 2011, ch. 458, § 2; Laws, 2012, ch. 531, § 2, eff from and after July 1, 2012.

§ 73-34-105. Applicability of Sections 73-34-101 through 73-34-131 [For effective date, see Editor's Note].

(1) The provisions of Sections 73-34-101 through 73-34-131 shall not apply to an appraisal management company that is a subsidiary owned and controlled by a financial institution regulated by a federal financial institutions regulatory agency.

(2) The provisions of Sections 73-34-101 through 73-34-131 shall not apply to a business entity that exclusively engages real estate appraisers on an employer and employee basis for the performance of all real property appraisal services in the normal course of its business, except to the extent that federal law or regulation requires such entities to register with and be subject to supervision by a state appraiser certifying and licensing agency.

HISTORY: SOURCES: Laws, 2011, ch. 458, § 3 (For eff date, see Editor's Note).

§ 73-34-107. Completion of irrevocable uniform consent to service of process [For effective date, see Editor's Note]

Each person applying for a registration as an appraisal management company that is not domiciled in this state shall complete an irrevocable uniform consent to service of process, as prescribed by the commission.

HISTORY: SOURCES: Laws, 2011, ch. 458, § 4 (For eff date, see Editor's Note).

§ 73-34-109. Requirements of owners and controlling persons of appraisal management companies [For effective date, see Editor's Note]

(1) An appraisal management company applying for registration in this state shall not:

(a) Be owned, in whole or in part, directly or indirectly, by any person who has had an appraiser license or certificate in this state or in any other state, refused, denied, cancelled, surrendered in lieu of revocation, or revoked; or

(b) Be owned by more than ten percent (10%) by a person who is not of good moral character, which for purposes of this section shall require that such person has not been convicted of, or

entered a plea of nolo contendere to a felony relating to the practice of appraisal, banking, mortgage or the provision of financial services, or any crime involving fraud, misrepresentation or moral turpitude.

(2) For purposes of subsection (1)(b), each owner of more than ten percent (10%) of an appraisal management company shall submit to a background investigation to be carried out by a law enforcement agency or other entity authorized by the commission.

HISTORY: SOURCES: Laws, 2011, ch. 458, § 5 (For eff date, see Editor's Note).

§ 73-34-111. Designation of one controlling employee as contact for all communication between board and company [For effective date, see Editor's Note]

Each appraisal management company applying to the board for a registration in this state shall designate one (1) controlling person who is an employee of the appraisal management company that will be the designated contact for all communication between the board and the appraisal management company.

HISTORY: SOURCES: Laws, 2011, ch. 458, § 6 (For eff date, see Editor's Note).

§ 73-34-113. Prohibited acts; required acts [For effective date, see Editor's Note]

(1) An appraisal management company doing business in this state as an appraisal management company shall not:

(a) Knowingly employ any individual to perform appraisal services, who has had a license or certificate to act as an appraiser in this state or in any other state, refused, denied, cancelled, surrendered in lieu of revocation, or revoked; or

(b) Knowingly enter into any independent contractor arrangement for the performance of appraisal services, in verbal, written, or other form, with any individual who has had a license or certificate to act as an appraiser in this state or in any other state, refused, denied, cancelled, surrendered in lieu of revocation, or revoked.

(2) Before assigning appraisal orders, the appraisal management company shall have a system in place to verify that a person being added to the appraiser panel holds the appropriate appraiser credential in good standing.

(3) Each appraisal management company doing business as an appraisal management company shall certify to the commission on an annual basis on a form prescribed by the commission that the appraisal management company has systems in place to verify that:

(a) An individual on the appraiser panel has not had a license or certification as an appraiser refused, denied, cancelled, revoked or surrendered in lieu of a pending revocation in the previous twelve (12) months; and

(b) Only licensed or certified appraisers are used to complete appraisal assignments in

connection with federally related transactions.

HISTORY: SOURCES: Laws, 2011, ch. 458, § 7 (For eff date, see Editor's Note).
§ 73-34-115. Proper level of licensure required for Standard 3 appraisal reviews [For effective date, see Editor's Note]

Any employee of, or independent contractor to, the appraisal management company that performs a USPAP Standard 3 appraisal review of an appraisal report on property located in this state shall be an appraiser with the proper level of licensure in Mississippi. Quality control examinations are exempt from this requirement, as they are not considered a Standard 3 review.

HISTORY: SOURCES: Laws, 2011, ch. 458, § 8 (For eff date, see Editor's Note).

§ 73-34-117. Annual certifications to commission; Effective date: July 1, 2019

(1) Each appraisal management company doing business in this state shall certify to the commission on an annual basis that it requires appraisers completing appraisals at its request to comply with the Uniform Standards of Professional Appraisal Practice, including the requirements for geographic and product competence.

(2) Each appraisal management company doing business in this state shall certify to the commission on an annual basis that it has a system in place to require that appraisals are conducted independently and free from inappropriate influence and coercion as required by the appraisal independence standards established under Section 129E of the Truth in Lending Act, including the requirement that fee appraisers be compensated at a customary and reasonable rate when the appraisal management company is providing services for a consumer credit transaction secured by the principal dwelling of a consumer.

(3) Each appraisal management company doing business in this state shall certify to the commission on an annual basis that it has a system in place requiring payment to an independent contract appraiser for the completion of an appraisal service within thirty (30) days after the appraiser provides the completed appraisal report to the appraisal management company, except in cases involving a bona fide breach of contract, substandard performance of services, or alternate payment terms agreed upon by the appraiser and the appraisal management company.

(4) An appraisal management company shall not prohibit an appraiser from reporting the fee paid to the appraiser in the body of the appraisal report, however an appraisal management company may require an appraiser to present any such disclosure in a specified format and location.

HISTORY: SOURCES: Laws, 2011, ch. 458, § 9, eff. December 1, 2013. Amended by Laws 2019, ch. 380 (S.B. 2869) § 1, eff. July 1, 2019.

§ 73-34-119. Retention of records [For effective date, see Editor's Note]

Each appraisal management company doing business in this state shall certify to the board on an annual basis that it maintains a detailed record of each service request that it receives and the appraiser that performs the appraisal for the appraisal management company. Records shall be

retained for a period of five (5) years after an appraisal is completed or two (2) years after final disposition of a judicial proceeding related to the assignment, whichever period expires later.

HISTORY: SOURCES: Laws, 2011, ch. 458, § 10 (For eff date, see Editor's Note).

§ 73-34-121. Alteration or modification of completed appraisal report; use of appraisal report submitted by independent appraiser [For effective date, see Editor's Note]

(1) An appraisal management company may not alter, modify, or otherwise change a completed appraisal report submitted by an appraiser without the appraiser's written consent, except as necessary to comply with regulatory mandates or legal requirements.

(2) An appraisal management company may not use an appraisal report submitted by an independent appraiser, or any of the data or information contained therein, for any purpose other than its intended use without the appraiser's or the intended end user's written consent, except as necessary to comply with regulatory mandates or legal requirements.

HISTORY: SOURCES: Laws, 2011, ch. 458, § 11 (For eff date, see Editor's Note).

§ 73-34-123. Registration numbers [For effective date, see Editor's Note]

(1) The board shall issue a unique registration number to each appraisal management company that is registered in this state pursuant to Sections 73-34-101 through 73-34-131.

(2) The board shall maintain and publish a list of the appraisal management companies registered in this state and the registration numbers assigned to such persons.

(3) An appraisal management company registered in this state shall disclose the registration number provided to it by the board on the engagement documents presented to the appraiser.

HISTORY: SOURCES: Laws, 2011, ch. 458, § 12 (For eff date, see Editor's Note).

§ 73-34-125. Violation [For effective date, see Editor's Note]

It shall be a violation of Sections 73-34-101 through 73-34-131 for any employee, partner, director, officer or agent of an appraisal management company to:

(a) 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:

(i) Withholding or threatening to withhold timely payment or partial payment for an appraisal with the exception of a substandard or noncompliant appraisal;

(ii) Withholding or threatening to withhold future business from an appraiser, or demoting, terminating or threatening to demote or terminate an appraiser;

(iii) Promising or implying that an appraiser may be given opportunities for future business,

promotions or increased compensation;

(iv) 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;

(v) 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;

(vi) 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; and

(vii) Requiring an appraiser to prepare an appraisal report if the appraiser has indicated to the appraisal management company that he or she does not have the necessary expertise for the specific geographic area;

(b) Require an appraiser to indemnify the appraisal management company against liability, damages, losses or claims other than those liabilities, damages, losses or claims arising out of the services performed by the appraiser, including performance or nonperformance of the appraiser's duties and obligations, whether as a result of negligence or willful misconduct;

(c) Submit or attempt to submit false, misleading or inaccurate information in any application for registration or renewal;

(d) Fail to timely respond to any subpoena or any other legally binding request for information;

(e) Fail to timely obey a lawful administrative order of the board; or

(f) Fail to fully cooperate in any board investigation.

HISTORY: SOURCES: Laws, 2011, ch. 458, § 13 (For eff date, see Editor's Note).

§ 73-34-127. Material failure of appraiser to comply with ethical or professional requirements in connection with certain consumer credit transactions [For effective date, see Editor's Note]

An appraisal management company that has a reasonable basis to believe an appraiser has failed to comply with applicable laws, the Uniform Standards of Professional Appraisal Practice or other ethical or professional requirements in connection with a consumer credit transaction secured by a consumer's principal dwelling, shall refer the matter to the agency if the failure to comply is material. For purposes of this section, a failure to comply is material if it is likely to significantly affect the value assigned to the consumer's principal dwelling.

HISTORY: SOURCES: Laws, 2011, ch. 458, § 14 (For eff date, see Editor's Note).

§ 73-34-129. Removal of independent appraiser from appraiser panel of appraisal management

company [For effective date, see Editor's Note]

(1) (a) Except within the first ninety (90) days after an independent appraiser is first added to the appraiser panel of an appraisal management company, an appraisal management company may not remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real estate appraisal services to an independent appraiser without:

(b) Notifying the appraiser in writing of the reasons why the appraiser is being removed from the appraiser panel of the appraisal management company;

(c) If the appraiser is being removed from the panel for illegal conduct, violation of USPAP, or a violation of state licensing standards, notifying the appraiser of the nature of the alleged conduct or violation;

(d) Providing an opportunity for the appraiser to respond to the notification of the appraisal management company.

(2) An appraiser who is removed from the appraiser panel of an appraisal management company for alleged illegal conduct, violation of USPAP, or violation of state licensing standards, may file a complaint with the board for a review of the decision of the appraisal management company. The scope of the commission's review in any such case is limited to determining whether the appraisal management company has complied with subsection (1) and whether illegal conduct, a violation of USPAP, or a violation of state licensing standards has occurred.

(3) If an appraiser files a complaint against an appraisal management company under subsection (2), the commission shall adjudicate the complaint within one hundred eighty (180) days.

(4) If after opportunity for hearing and review, the commission determines that an appraisal management company acted improperly in removing the appraiser from the appraiser panel, or that the appraiser did not commit a violation of law, a violation of USPAP, or a violation of state licensing standards, the commission shall:

(i) Provide written findings to the involved parties;

(ii) Provide an opportunity for the appraisal management company and/or the appraiser to respond to the findings; and

(iii) Make recommendations for action.

HISTORY: SOURCES: Laws, 2011, ch. 458, § 15 (For eff date, see Editor's Note).

§ 73-34-131. Adjudicatory proceedings for violation of Sections 73-34-101 through 73-34-131 [For effective date, see Editor's Note]

The conduct of adjudicatory proceedings in accordance with applicable state laws for violations of Sections 73-34-101 through 73-34-131 is vested in the commission, such that:

(a) Before censuring any registrant, or suspending or revoking any registration, the commission

shall notify the registrant in writing of any charges made at least twenty (20) days before the date set for the hearing and shall afford the registrant an opportunity to be heard in person or by counsel.

(b) The written notice shall be satisfied by personal service on the controlling person of the registrant, or the registrant's agent for service of process in this state, or by sending the notice by certified mail, return receipt requested to the controlling person of the registrant to the registrant's address on file with the commission.

(c) The hearing on the charges shall be at a time and place prescribed by the commission and in accordance with the applicable state laws.

(d) The commission may make findings of fact and shall deliver or mail such findings to the registrant charged with an offense under Sections 73-34-101 through 73-34-131.

HISTORY: SOURCES: Laws, 2011, ch. 458, § 16 (For eff date, see Editor's Note).