

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 628 of the Regular Session

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009

As Engrossed: H3/16/09

A Bill

HOUSE BILL 1694

4  
5 By: Representative Hyde  
6  
7

8 **For An Act To Be Entitled**

9 *AN ACT TO PROVIDE FOR THE REGISTRATION AND REGULATION*  
10 *OF APPRAISAL MANAGEMENT COMPANIES; TO MAKE CONFORMING*  
11 *AMENDMENTS TO THE ARKANSAS APPRAISER LICENSING AND*  
12 *CERTIFICATION ACT, § 17-14-101 ET SEQ.; AND FOR OTHER*  
13 *PURPOSES.*

14  
15 **Subtitle**

16 THE ARKANSAS APPRAISAL MANAGEMENT  
17 COMPANY REGISTRATION ACT.  
18

19  
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 *SECTION 1. Arkansas Code Title 17, Chapter 14 is amended to add an*  
23 *additional subchapter to read as follows:*

24 *SUBCHAPTER 4*

25 *APPRAISAL MANAGEMENT COMPANY REGISTRATION ACT*

26 *17-14-401. Short title.*

27 *This subchapter shall be known and may be cited as the "Appraisal*  
28 *Management Company Registration Act".*

29  
30 *17-14-402. Definitions.*

31 *As used in this subchapter:*

32 *(1) "Appraisal management company" means a person that performs*  
33 *the actions necessary to administer a network of state-licensed appraisers to*  
34 *fulfill requests for appraisal management services on behalf of a client,*  
35 *including without limitation:*



1 (A) Recruiting appraisers;

2 (B) Contracting with appraisers to perform appraisal  
3 services;

4 (C) Negotiating fees with appraisers;

5 (D) Receiving appraisal orders and appraisal reports;

6 (E) Submitting appraisal reports received from appraisers  
7 to the company's clients; and

8 (F) Providing related administrative and clerical duties.

9 (2) "Appraisal management services" means conducting business by  
10 telephone, by electronic means, by mail, or in person directly or indirectly  
11 for compensation or other pecuniary gain or in the expectation of  
12 compensation or other pecuniary gain to:

13 (A) Solicit, accept, or offer to accept a request for  
14 appraisal services; or

15 (B) Employ or contract with a licensed or certified  
16 appraiser to perform appraisal services;

17 (3) "Appraisal services" means the practice of developing an  
18 opinion of the value of real property in conformance with the minimum  
19 reporting standards under § 17-14-202(b);

20 (4) "Appraiser" means an individual licensed under the Arkansas  
21 Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201  
22 et seq., and § 17-14-301 et seq., who for a fee or other consideration  
23 develops and communicates a real estate appraisal or otherwise gives an  
24 opinion of the value of real estate or any interest in real estate;

25 (5) "Appraiser panel" means a group of independent appraisers  
26 that have been selected by an appraisal management company to perform  
27 appraisal services for the appraisal management company;

28 (6) "Client" means a person that contracts with or otherwise  
29 enters into an agreement with an appraisal management company for the  
30 performance of appraisal services;

31 (7) "Controlling person" or "managing principal" means an  
32 individual employed, appointed, or authorized by an appraisal management  
33 company to contract with clients or independent appraisers for the  
34 performance of appraisal services;

35 (8) "Person" means an individual, a partnership, a limited  
36 liability company, a limited partnership, a corporation, an association, or

1 other organization;

2 and

3 (9) "Registrant" means an appraisal management company or person  
4 that is registered under this subchapter.

5  
6 17-14-403. Registration of appraisal management companies required.

7 A person shall not act as an appraisal management company or perform  
8 appraisal management services in this state unless registered by the Arkansas  
9 Appraiser Licensing and Certification Board.

10  
11 17-14-404. Rulemaking authority.

12 (a) The Arkansas Appraiser Licensing and Certification Board may adopt  
13 rules to implement, administer, and enforce this subchapter, including  
14 without limitation to prescribe:

15 (1) Forms and procedures for submitting information to the  
16 board;

17 (2) Standards of practice for a person registered under this  
18 subchapter; and

19 (3) Standards for the operation of appraisal management  
20 companies.

21  
22 17-14-405. Requirements for registration.

23 (a) Before acting or offering to act as an appraisal management  
24 company in this state, a person shall make written application to the  
25 Arkansas Appraiser Licensing and Certification Board for registration  
26 accompanied by the fee and bond established by the board.

27 (b) The application shall include without limitation the following  
28 information:

29 (1) The name, business address, and telephone contact  
30 information of the person seeking registration;

31 (2)(A) If the applicant is a domestic organization, the  
32 information required by § 4-20-105(a) to designate an agent for service of  
33 process; or

34 (B)(i) If the applicant is a foreign organization,  
35 documentation that the foreign organization is authorized to transact  
36 business in this state and has appointed an agent for service of process by

1 submitting a copy of:

2 (a) The company's filing with the Secretary of  
3 State appointing an agent for service of process under § 4-20-112; and

4 (b) A certificate of authority issued by the  
5 Secretary of State.

6 (ii) A foreign organization's failure to comply with  
7 subdivision (b)(2)(B)(i) of this section may result in rejecting the  
8 application;

9 (3) The name, address, and contact information of any person  
10 that owns ten percent (10%) or more of the appraisal management company;

11 (4) The name, address, and contact information of a controlling  
12 person or a managing principal;

13 (5) A certification that the person:

14 (A) Has a system and process in place to verify that a  
15 person being added to the appraiser panel of the appraisal management company  
16 holds a license in good standing in this state under the Arkansas Appraiser  
17 Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq.,  
18 and § 17-14-301 et seq.;

19 (B) Has a system in place to review the work of all  
20 independent appraisers that are performing appraisal services for the  
21 appraisal management company on a periodic basis to ensure that the appraisal  
22 services are being conducted in accordance with the minimum reporting  
23 standards under § 17-14-202(b); and

24 (C) Maintains a detailed record of each request for  
25 appraisal services that it receives and the independent appraiser that  
26 performs the appraisal services for the appraisal management company; and

27 (6) Any other information required by the board.

28 (c) The board shall issue a certificate of registration to an  
29 applicant authorizing the applicant to act or offer to act as an appraisal  
30 management company in this state upon:

31 (1) Receipt of a properly completed application;

32 (2) Payment of the required fee;

33 (3) Posting of a bond; and

34 (4) A determination by the board that the activities of the  
35 applicant will be directed and conducted by persons of good moral character.

36 (d)(1) If the board finds that there is substantial reason to deny the

1 application for registration, the board shall notify the applicant that the  
2 application has been denied and shall afford the applicant an opportunity for  
3 a hearing before the board to show cause why the application should not be  
4 denied.

5 (2) All proceedings concerning the denial of a certificate of  
6 registration shall be governed by the Arkansas Administrative Procedure Act,  
7 § 25-15-101 et seq.

8 (e) The acceptance by the board of an application for registration  
9 does not constitute the approval of its contents or waive the authority of  
10 the board to take disciplinary action under this subchapter.

11  
12 17-14-406. Fees and renewals.

13 (a) The Arkansas Appraiser Licensing and Certification Board shall  
14 establish by rule a filing fee not to exceed five hundred dollars (\$500) to  
15 be paid by each appraisal management company seeking registration under this  
16 subchapter.

17 (b)(1) In addition to the filing fee, each applicant for registration  
18 shall post with the board and maintain a surety bond in the amount of twenty  
19 thousand dollars (\$20,000).

20 (2) The bond shall:

21 (A) Be in the form prescribed by rule of the board; and

22 (B) Accrue to the state for the benefit of a claimant  
23 against the registrant to secure the faithful performance of the registrant's  
24 obligations under this subchapter.

25 (3) The aggregate liability of the surety shall not exceed the  
26 principal sum of the bond.

27 (4) A party having a claim against the registrant may bring suit  
28 directly on the surety bond, or the board may bring suit on behalf of the  
29 party having a claim against the registrant.

30 (5) Consumer claims are given priority in recovering from the  
31 bond.

32 (6) A deposit of cash or security may be accepted in lieu of the  
33 surety bond.

34 (7) A claim reducing the face amount of the bond shall be  
35 annually restored upon renewal of the registrant's registration.

36 (c)(1) Registrations issued under this subchapter shall be renewed

1 annually beginning twelve (12) months from the date of issuance.

2 (2)(A) Failure to timely renew a registration shall result in a  
3 loss of authority to operate under this subchapter.

4 (B) A request to reinstate a certificate of registration  
5 shall be accompanied by payment of a penalty of fifty dollars (\$50) for each  
6 month of delinquency.

7  
8 17-14-407. Registrant responsibilities and duties.

9 (a) A registrant that is an organization shall:

10 (1) Maintain a registered agent for service of process under the  
11 Model Registered Agents Act, § 4-20-101 et seq.; and

12 (2) Provide to the Arkansas Appraiser Licensing and  
13 Certification Board the information required by § 4-20-105(a) concerning the  
14 organization's agent for service of process and within five (5) business days  
15 any changes to the information.

16 (b)(1) A registrant shall maintain or cause to be maintained complete  
17 records of requests for appraisal services referred to an appraiser licensed  
18 or certified by the board, including without limitation records pertaining to  
19 the acceptance of fees from borrowers or clients and payments to appraisers.

20 (2) The board may inspect the records without prior notice  
21 periodically or if the board determines that the records are pertinent to an  
22 investigation of a complaint against a registrant.

23 (c)(1) A registrant shall designate a controlling person or managing  
24 principal responsible for ensuring compliance with this subchapter.

25 (2) The registrant shall file a form with the board certifying:

26 (A) The identity of the controlling person or the managing  
27 principal; and

28 (B) The individual's acceptance of the responsibilities of  
29 a controlling person or a managing principal.

30 (3) The registrant shall notify the board within thirty (30)  
31 days of a change in its controlling person or managing principal.

32 (4) An individual registrant who operates as a sole  
33 proprietorship is considered the managing principal under this subchapter.

34 (d)(1) A registrant shall make and keep the accounts, correspondence,  
35 memoranda, papers, books, and other records in accordance with rules  
36 promulgated by the board.

1           (2) All records shall be retained for five (5) years unless the  
2 board by rule prescribes a different retention period for particular types of  
3 records.

4           (e) If the information contained in a document filed with the board is  
5 or becomes inaccurate or incomplete in any material respect, the registrant  
6 shall promptly file an amendment correcting the information contained in the  
7 document.

8           (f) The registrant shall disclose to its client the actual fees paid  
9 to an appraiser for appraisal services separately from any other fees or  
10 charges for appraisal management services.

11  
12           17-14-408. Prohibited activities.

13           (a) An employee, director, officer, or agent of an appraisal  
14 management company or any other third party acting as a joint venture partner  
15 with or independent contractor for an appraisal management company shall not  
16 improperly influence or attempt to improperly influence the development,  
17 reporting, result, or review of a real estate appraisal, including without  
18 limitation through the use of intimidation, coercion, extortion, bribery,  
19 blackmail, threat of nonpayment or withholding payment for appraisal  
20 services, or threat of exclusion from future appraisal work.

21           (b) The registrant shall not:

22           (1) Require an appraiser to collect the appraisal fee from a  
23 borrower, homeowner, or other third party;

24           (2) Hire, employ, or in any way contract with or pay a real  
25 estate broker to perform a broker's price opinion or comparative market  
26 analysis unless the broker's price opinion or comparative market analysis  
27 will be performed only for listing or selling property that the registrant  
28 owns;

29           (3) Require an appraiser to provide the registrant with the  
30 appraiser's digital signature or seal;

31           (4) Alter, amend, or change an appraisal report submitted by a  
32 licensed or certified appraiser including without limitation by:

33           (A) Removing the appraiser's signature or seal; or

34           (B) Adding or removing information to or from the  
35 appraisal report;

36           (5)(A) Allow the removal of an independent appraiser from an

1 appraiser panel without prior written notice to the appraiser.

2 (B) Written notice shall include written evidence of:

3 (i) The appraiser's illegal conduct;

4 (ii) A violation of the minimum reporting standards  
5 under § 17-14-202(b) or other applicable statutes or rules;

6 (iii) Substandard performance; or

7 (iv) Otherwise improper or unprofessional behavior;

8 (6) Enter into contracts or agreements with an independent  
9 appraiser for the performance of appraisal services unless the independent  
10 appraiser is licensed or certified in good standing with the Arkansas  
11 Appraiser Licensing and Certification Board;

12 (7) Request that an appraiser provide an estimated,  
13 predetermined, or desired valuation in an appraisal report or provide  
14 estimated values or comparable sales at any time before the appraiser  
15 completes an appraisal report;

16 (8)(A) Except as provided in subdivision (b)(8)(B) of this  
17 section, provide to an appraiser an anticipated, estimated, encouraged, or  
18 desired value for a property or a proposed or target amount to be loaned to  
19 the borrower.

20 (B) A copy of the sales contract for purchase transactions  
21 may be provided; or

22 (9) Commit an act or practice that impairs or attempts to impair  
23 an appraiser's independence, objectivity, or impartiality.

24 (c) Subsection (a) of this section does not be prohibit an appraisal  
25 management company from requesting that an independent appraiser:

26 (1) Provide additional information about the basis for a  
27 valuation;

28 (2) Correct objective factual errors in an appraisal report; or

29 (3) Provide further detail, substantiation, or explanation for  
30 the appraiser's value conclusion.

31  
32 17-14-409. Registry of applicants and roster.

33 (a)(1) The Executive Director of the Arkansas Appraiser Licensing and  
34 Certification Board shall keep a register of all applicants for registration.

35 (2) The register shall indicate:

36 (A) The date of application;



1 (B) The applicant's name;

2 (C) The applicant's business address; and

3 (D) Whether the registration was granted or denied.

4 (3) The register shall be prima facie evidence of all matters  
5 contained in the register.

6 (b)(1) The executive director shall keep a current roster showing the  
7 name and address of all appraisal management companies registered with the  
8 board.

9 (2) The roster shall be kept on file in the office of the board  
10 and shall be open for public inspection.

11

12 17-14-410. Disciplinary authority, enforcement, and hearings.

13 (a) The Arkansas Appraiser Licensing and Certification Board may deny,  
14 suspend, revoke, or refuse to issue or renew the registration of an appraisal  
15 management company under this subchapter or may restrict or limit the  
16 activities of an appraisal management company or a person who owns an  
17 interest in or participates in the business of an appraisal management  
18 company if the board finds that any of the following circumstances apply to  
19 the applicant, a registrant, or a partner, member, manager, officer,  
20 director, managing principal, controlling person, or a person occupying a  
21 similar status or performing similar functions, or a person directly or  
22 indirectly controlling the applicant or registrant:

23 (1) The person's application for registration when filed or  
24 after filing contained a statement that in light of the circumstances under  
25 which it was made is false or misleading with respect to a material fact;

26 (2) The person has violated or failed to comply with this  
27 subchapter;

28 (3) The person has pled guilty or nolo contendere to or been  
29 found guilty of:

30 (A) A felony; or

31 (B) Within the past ten (10) years:

32 (i) A misdemeanor involving mortgage lending or real  
33 estate appraising; or

34 (ii) An offense involving breach of trust, moral  
35 turpitude, or fraudulent or dishonest dealing;

36 (4) The person is permanently or temporarily enjoined by a court

1 of competent jurisdiction from engaging in or continuing any conduct or  
2 practice involving appraisal management services or operating an appraisal  
3 management company;

4 (5) The person is the subject of an order of the board or any  
5 other state appraisal management company regulatory agency denying,  
6 suspending, or revoking the person's privilege to operate as an appraisal  
7 management company;

8 (6) The person acted as an appraisal management company while  
9 not properly licensed by the board; or

10 (7) The person failed to pay the proper filing or renewal fee  
11 under this subchapter.

12 (b) Upon its own motion or the written complaint of a person and after  
13 notice and hearing as prescribed by the Arkansas Administrative Procedure  
14 Act, § 25-15-201 et seq., the board may:

15 (1) Suspend or revoke the registration of a registrant;

16 (2) Impose a fine not to exceed one thousand dollars (\$1,000)  
17 per violation; or

18 (3) Take other appropriate disciplinary actions as established  
19 by rule of the board.

20 (c)(1) Before imposing a penalty on a registrant, the board shall:

21 (A) Notify the registrant in writing of any charges made  
22 at least twenty (20) days before the date set for the hearing; and

23 (B) Afford the registrant an opportunity to be heard in  
24 person or by counsel.

25 (2) The board may make findings of fact and shall deliver or  
26 mail the findings to the registrant charged with an offense under this  
27 subchapter.

28 17-14-411. Injunctive relief -- Criminal penalty.

29 (a) The Arkansas Appraiser Licensing and Certification Board may  
30 appear in its own name in a circuit court of competent jurisdiction to obtain  
31 injunctive relief to prevent a person from violating this subchapter.

32 (b) The circuit court may grant a temporary or permanent injunction  
33 regardless of whether:

34 (1) Criminal prosecution has been or may be instituted as a  
35 result of the violation of this subchapter; or

36 (2) The person is the holder of a registration issued by the

1 board.

2 (c) A violation of this subchapter is a Class D felony.

3  
4 17-14-412. Applicability.

5 This subchapter does not apply to:

6 (1) An agency of the federal, state, county, or municipal  
7 government;

8 (2) A person authorized to engage in business as a bank, farm  
9 credit system, savings institution, or credit union under the laws of the  
10 United States, the State of Arkansas, or any other state;

11 (3) A licensed real estate broker or licensed real estate agent  
12 performing activities regulated by the Arkansas Real Estate Commission unless  
13 the licensed real estate broker or licensed real estate agent receives  
14 compensation or other pecuniary gain in connection with the referral,  
15 placement, or execution of a request for appraisal services; or

16 (4) An officer or employee of a government agency, person,  
17 licensed real estate broker, or licensed real estate agent described in this  
18 section when acting within the scope of employment of the officer or  
19 employee.

20  
21 SECTION 2. Arkansas Code § 17-14-101 is amended to read as follows:

22 17-14-101. Title.

23 ~~This chapter will~~ Section 17-14-101 et seq., § 17-14-201 et seq., and § 17-  
24 14-301 et seq. shall be known and may be cited as the “Arkansas Appraiser  
25 Licensing and Certification Act”.

26  
27 SECTION 3. Arkansas Code § 17-14-102 is amended to read as follows:

28 17-14-102. Necessity for registration, license, or certificate.

29 (a) ~~This chapter~~ The Arkansas Appraiser Licensing and Certification  
30 Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., is  
31 created in response to Title XI of the Financial Institutions Reform,  
32 Recovery, and Enforcement Act of 1989 and specifies three (3) classes of  
33 appraisers, ~~i.e.,~~ state-licensed, state-certified residential, and state-  
34 certified general appraisers for federally related transactions. A fourth  
35 class is created for nonfederally related transactions, which shall be known  
36 as “state-registered appraisers”.

1           (b) It is the intent of the General Assembly that this law be no more  
2 restrictive than required under the Financial Institutions Reform, Recovery,  
3 and Enforcement Act of 1989.

4  
5           SECTION 4. The introductory language of Arkansas Code § 17-14-103,  
6 concerning definitions for the Arkansas Appraiser Licensing and Certification  
7 Act, is amended to read as follows:

8           As used in ~~this chapter~~, ~~the following terms shall have the following~~  
9 ~~meanings~~ the Arkansas Appraiser Licensing and Certification Act, § 17-14-101  
10 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.:

11  
12           SECTION 5. Arkansas Code § 17-14-103(8), concerning the definition of  
13 "Board" under the Arkansas Appraiser Licensing and Certification Act, is  
14 amended to read as follows:

15           (8) "Board" means the Arkansas Appraiser Licensing and  
16 Certification Board established ~~pursuant to this chapter~~ under the Arkansas  
17 Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201  
18 et seq., and § 17-14-301 et seq.;

19  
20           SECTION 6. Arkansas Code § 17-14-104 is amended to read as follows:

21           17-14-104. Exceptions to registration, licensing, or certification.

22           (a)(1)(A) Except when an interstate transaction or a federally related  
23 transaction is involved, ~~this chapter~~ the Arkansas Appraiser Licensing and  
24 Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301  
25 et seq., does not apply to a real estate broker or sales person licensed by  
26 this state who:

27                           (i) In the ordinary course of his or her business,  
28 gives to a potential seller or third party a written report called a market  
29 analysis or a broker's price opinion as to the recommended listing price of  
30 real estate or an opinion to a potential purchaser or third party as to the  
31 recommended price of real estate; or

32                           (ii) Provides testimony regarding an opinion of the  
33 value of real property ~~pursuant to~~ under § 28-51-302.

34                           (B) A broker's price opinion or a market analysis issued  
35 in this state in connection with an interstate transaction or a federally  
36 related transaction shall not contain the term "appraisal" or the term

1 "market value".

2 (C) The prohibition of subdivision (a)(1)(B) of this  
3 section ~~is not applicable~~ does not apply to an intrastate, nonfederally  
4 related broker's price opinion or market analysis.

5 (2)(A) The listing price, purchase price, market analysis, or  
6 broker's price opinion may be treated as an appraisal solely for the purposes  
7 of § 28-51-302.

8 (B) A real estate broker who provides testimony regarding  
9 an opinion of the value of real property that may be treated as an appraisal  
10 for purposes of § 28-51-302 shall nonetheless be exempt from registration as  
11 an appraiser ~~pursuant to this chapter~~ under the Arkansas Appraiser Licensing  
12 and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-  
13 301 et seq.

14 (b)(1)(A) ~~The provisions of this chapter~~ Arkansas Appraiser Licensing  
15 and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-  
16 301 et seq., shall does not apply to any state, county, or municipal public  
17 officer or employee while the officer or employee is performing appraisal or  
18 appraisal-related duties as the officer or employee.

19 (B) ~~Any appraisals~~ Appraisals performed by state, county,  
20 or municipal officers or employees outside the scope of their employment are  
21 subject to the provisions of ~~this chapter~~ the Arkansas Appraiser Licensing  
22 and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-  
23 301 et seq.

24 (2) ~~This chapter~~ The Arkansas Appraiser Licensing and  
25 Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301  
26 et seq., shall does not apply to:

27 (A) Persons performing appraisals as officers or staff of  
28 a bank, savings and loan, or credit union;

29 (B) Company foresters in the ordinary course of their  
30 duties; or

31 (C) Staff appraisers performing ad valorem tax appraisals  
32 for county assessors or employees of contractors performing county-wide  
33 reappraisals.

34 (c)(1) Except as provided in subsection (b) of this section,  
35 appraisers, when providing appraisal reports or appraisal services in  
36 nonfederally related transactions, who become licensed or certified by the

1 Arkansas Appraiser Licensing and Certification Board are subject to the  
2 ~~provisions of this chapter~~ Arkansas Appraiser Licensing and Certification  
3 Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., in  
4 all matters involving appraisal services, including transactions below the  
5 federally established threshold.

6 (2) If an appraiser does not make appraisals for any federal  
7 agency, any federally insured lending institution, the Federal Housing  
8 Administration, the Federal National Mortgage Association, the Federal  
9 Deposit Insurance Corporation, the United States Bankruptcy Courts, the  
10 Federal Highway Administration, the Federal Aviation Administration, the  
11 Department of Veterans Affairs, the Internal Revenue Service, or any other  
12 federal or quasi-federal authority, including appraisal work that is  
13 distributed via interstate commerce or appraisals involving transactions  
14 above the threshold established by a federal financial institutions  
15 regulatory agency, the appraiser is only required to be a state-registered  
16 appraiser under the ~~provisions of this chapter~~ Arkansas Appraiser Licensing  
17 and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-  
18 301 et seq.

19 (d) ~~This chapter~~ The Arkansas Appraiser Licensing and Certification  
20 Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., shall  
21 not preclude any person from testifying as an expert witness in any judicial  
22 proceeding in which the value of real estate is in issue unless that person  
23 holds himself or herself out as a practicing real estate fee appraiser.

24 (e) Nothing in ~~this chapter~~ the Arkansas Appraiser Licensing and  
25 Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301  
26 et seq., shall be construed to prohibit prohibits any person who is licensed  
27 to practice in this state under any law from engaging in the practice for  
28 which he or she is licensed.

29  
30 SECTION 7. Arkansas Code § 17-14-105 is amended to read as follows:

31 17-14-105. Right and privileges of licensed or registered appraiser.

32 (a) A state-registered or state-licensed appraiser as defined in § 17-  
33 14-103 may appraise real property for compensation if the use of a state-  
34 certified appraiser is not required under ~~this chapter~~ the Arkansas Appraiser  
35 Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq.,  
36 and § 17-14-301 et seq., or by federal or state law, rule, or policy.

1           (b) An appraiser shall not sign an appraisal report or be cited within  
2 the report as having provided "significant real property appraisal  
3 assistance" in the development of the appraisal without having been state-  
4 registered, state-licensed, or state-certified.

5  
6           SECTION 8. Arkansas Code § 17-14-106 is amended to read as follows:  
7           17-14-106. Absence of liability.

8           (a) Financial institutions or affiliates hiring the services of  
9 appraisers registered, licensed, or certified by the Arkansas Appraiser  
10 Licensing and Certification Board in nonfederally related transactions,  
11 including transactions below the federally established threshold, shall not  
12 be liable to any party asserting damages due to the alleged actions of the  
13 appraiser, nor shall the financial institution or affiliate be subject to any  
14 requirements to report to the board regarding such transactions other than as  
15 may be required by ~~this chapter~~ the Arkansas Appraiser Licensing and  
16 Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301  
17 et seq., and the ~~regulations~~ rules promulgated by the board.

18           (b) ~~Nothing in this section shall be interpreted to~~ This section does  
19 not limit the investigative or subpoena powers of the board.

20  
21           SECTION 9. Arkansas Code § 17-14-201(a)(1)(C), concerning the  
22 membership of the Arkansas Appraiser Licensing and Certification Board, is  
23 amended to read as follows:

24           (C) Additionally, the seven (7) practicing appraiser members  
25 shall be representative of the various disciplines found in the appraisal  
26 profession, ~~which include, but are not limited to,~~ including without  
27 limitation residential appraisal, commercial and industrial appraisal,  
28 forestry and timberland appraisal, rural appraisal, and any other appraisal  
29 discipline that may be affected by ~~this chapter~~ the Arkansas Appraiser  
30 Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq.,  
31 and § 17-14-301 et seq.;

32  
33           SECTION 10. Arkansas Code § 17-14-203 is amended to read as follows:  
34           17-14-203. Powers and duties – In general.

35           In accordance with these general powers and duties, the Arkansas  
36 Appraiser Licensing and Certification Board shall:

1           (1) Perform all duties and functions necessary to carry out ~~the~~  
2 ~~provisions of this chapter;~~

3           (2) Receive applications for registering, licensing, and  
4 certification;

5           (3) Establish administrative procedures for processing  
6 applications;

7           (4)(A) Approve and issue registration, licenses, and  
8 certificates to qualified applicants or disapprove applications for  
9 registering, licensing, and certification for applicants who do not meet the  
10 minimum requirements as prescribed in this chapter.

11           (B) All application materials and records submitted to the  
12 board shall be retained by the board;

13           (5) Maintain a roster of the names, addresses, and telephone  
14 numbers of all persons licensed and certified under ~~this chapter~~ the Arkansas  
15 Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201  
16 et seq., and § 17-14-301 et seq., and, in accordance with sections 1103(a)(3)  
17 and 1109(a)(1) of Title XI of the Financial Institutions Reform, Recovery,  
18 and Enforcement Act of 1989, shall submit this roster annually to the  
19 Appraisal Subcommittee. This roster may be published and periodically updated  
20 and provided to all interested parties at cost;

21           (6)(A) Establish by ~~regulation~~ rule the minimum examination,  
22 education, experience, and continuing education requirements for state-  
23 registered, state-licensed, and state-certified appraisers.

24           (B)(i) The criteria for a state-registered appraiser shall  
25 be less rigorous than the criteria for a state-licensed appraiser.

26           (ii) The criteria for a state-licensed appraiser  
27 shall be less rigorous than the criteria for a state-certified appraiser.  
28 However, the criteria will ensure that licensed appraisers have sufficient  
29 experience and training to perform appraisals for transactions within and in  
30 compliance with Title XI of the Financial Institutions Reform, Recovery, and  
31 Enforcement Act of 1989.

32           (C) These ~~regulations~~ rules shall at all times be  
33 equivalent to the minimum appraiser-qualification criteria as promulgated by  
34 the Appraiser Qualifications Board of the Appraisal Foundation for state-  
35 licensed and state-certified appraisers performing federally related  
36 transactions.



1                   (D) *With respect to examinations, these ~~regulations~~ rules*  
2 *shall at all times require minimum examination contents that are equivalent*  
3 *to the national uniform examination content as promulgated by the Appraiser*  
4 *Qualifications Board of the Appraisal Foundation and shall provide for the*  
5 *selection and utilization of a testing service acceptable to the Appraiser*  
6 *Qualifications Board of the Appraisal Foundation.*

7                   (E)(i) *Every application for registering, licensing, and*  
8 *certification shall be accompanied by an application and examination fee, as*  
9 *applicable, that the Arkansas Appraiser Licensing and Certification Board may*  
10 *establish by regulation.*

11                   (ii) *However, the Arkansas Appraiser Licensing and*  
12 *Certification Board, at its discretion, may direct each applicant to pay the*  
13 *actual cost of the examination fee directly to a testing service engaged by*  
14 *the Arkansas Appraiser Licensing and Certification Board to administer the*  
15 *examination.*

16                   (F) ~~No~~ The *examination fee for registering, licensing, or*  
17 *certification shall not exceed one hundred dollars (\$100).*

18                   (G) *The total annual resident registering, licensing,*  
19 *certification, and application fees established by the Arkansas Appraiser*  
20 *Licensing and Certification Board shall not exceed three hundred dollars*  
21 *(\$300) excluding fees for applicable examination and federal pass-through*  
22 *fees.*

23                   (H) *Courses, schools, seminars, and any other educational*  
24 *programs must be recognized by the Arkansas Appraiser Licensing and*  
25 *Certification Board as acceptable to satisfy registration, licensing, and*  
26 *certification standards and continuing education requirements under ~~this~~*  
27 *~~chapter~~ the Arkansas Appraiser Licensing and Certification Act, § 17-14-101*  
28 *et seq., § 17-14-201 et seq., and § 17-14-301 et seq.;*

29                   (7)(A) *Establish administrative procedures for disciplinary*  
30 *proceedings conducted ~~pursuant to the provisions of this chapter~~ under the*  
31 *Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., §*  
32 *17-14-201 et seq., and § 17-14-301 et seq.*

33                   (B) ~~These~~ The *administrative procedures shall include provisions*  
34 *for the suspension and revocation of registration, licenses, and certificates*  
35 *and the enforcement of civil penalties concurrent with existing statutes*  
36 *regarding civil procedures;*

1           (8) Subpoena and issue subpoena duces tecum and to bring before  
2 it any person in this state, and to take testimony by deposition, in the same  
3 manner as prescribed by law in judicial proceedings in the courts of this  
4 state or to require production of any records relevant to any inquiry or  
5 hearing by the Arkansas Appraiser Licensing and Certification Board;

6           (9) Recommend procedures necessary to assure the ready  
7 availability to appraisers in the state of adequate and reliable information  
8 regarding property prices and the terms and conditions of real estate and  
9 real property transactions and related financing;

10           (10) Establish administrative procedures for the setting,  
11 charging, and collecting of fees necessary for the operation of the Arkansas  
12 Appraiser Licensing and Certification Board and to concurrently collect and  
13 submit to the proper agency as prescribed under section 1109(a)(2) of the  
14 Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and any  
15 other related federal law, any additional fees that may from time to time be  
16 required to be paid by appraisers whose practices include the appraisal of  
17 properties included in federally related transactions; and

18           (11) Be authorized to adopt and enforce such administrative  
19 rules ~~and regulations~~ as may be necessary to comply with state law and  
20 federal law with specific reference to Title XI of the Financial Institutions  
21 Reform, Recovery, and Enforcement Act of 1989 as it exists today and as it  
22 may be amended and adopted by the Appraisal Subcommittee of the Federal  
23 Financial Institutions Examination Council.

24  
25           SECTION 11. Arkansas Code § 17-14-205 is amended to read as follows:  
26           17-14-205. Hearings – Review – Access to records.

27           (a) In fulfilling its duties under ~~this chapter~~ the Arkansas Appraiser  
28 Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq.,  
29 and § 17-14-301 et seq., the Arkansas Appraiser Licensing and Certification  
30 Board shall comply with the Arkansas Administrative Procedure Act, § 25-15-  
31 201 et seq., and any person aggrieved by any rule or other actions of the  
32 board for which an appeal is not provided for in the Arkansas Administrative  
33 Procedure Act, § 25-15-201 et seq., may appeal to the Circuit Court of  
34 Pulaski County.

35           (b) Disciplinary hearings conducted by the board for the purpose of  
36 determining whether to levy civil penalties under ~~this chapter~~ the Arkansas

1 Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201  
 2 et seq., and § 17-14-301 et seq., and for the purpose of determining whether  
 3 to revoke or suspend any license or certificate issued ~~pursuant to this~~  
 4 ~~chapter~~ under the Arkansas Appraiser Licensing and Certification Act, § 17-  
 5 14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., shall not be  
 6 deemed open public meetings but shall be executive sessions conducted as  
 7 provided for in the Freedom of Information Act of 1967, § 25-19-101 et seq.

8 (c) Sample appraisals and other work papers submitted to the board as  
 9 partial fulfillment of the requirements for licensure or certification under  
 10 ~~this chapter~~ the Arkansas Appraiser Licensing and Certification Act, § 17-14-  
 11 101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., shall not be  
 12 deemed public records under the Freedom of Information Act of 1967, § 25-19-  
 13 101 et seq.

14  
 15 SECTION 12. Arkansas Code § 17-14-206 is amended to read as follows:  
 16 17-14-206. Complaints and disciplinary procedures.

17 (a) Upon its own motion or upon written complaint of any person and  
 18 after notice and hearing as prescribed by the Arkansas Administrative  
 19 Procedure Act, § 25-15-201 et seq., the Arkansas Appraiser Licensing and  
 20 Certification Board may suspend or revoke the registration, license, or  
 21 certification of any registrant, licensee, or certificate holder and issue a  
 22 fine up to the amount of one thousand dollars (\$1,000) per violation  
 23 occurrence or take any other appropriate disciplinary action for:

24 (1) Violation of any provision of ~~this chapter~~ the Arkansas  
 25 Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201  
 26 et seq., and § 17-14-301 et seq.;

27 (2) Falsifying any application for licensure or certification or  
 28 otherwise providing any false information to the board;

29 (3)(A) Conviction in any jurisdiction of any misdemeanor  
 30 involving moral turpitude or of any felony.

31 (B) A plea of nolo contendere or no contest shall be  
 32 considered a conviction for the purposes of this section;

33 (4) Any actions demonstrating untrustworthiness, incompetence,  
 34 dishonesty, gross negligence, material misrepresentation, fraud, or unethical  
 35 conduct in any dealings subject to ~~this chapter or these regulations~~ the  
 36 Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., §

1 17-14-201 et seq., and § 17-14-301 et seq.;

2 (5) Adjudication of insanity;

3 (6) Use of advertising or solicitation which is false,  
4 misleading, or is otherwise deemed unprofessional by the board;

5 (7) Employing directly or indirectly any unlicensed person to  
6 perform any actions subject to ~~this chapter~~ the Arkansas Appraiser Licensing  
7 and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-  
8 301 et seq.;

9 (8) Habitual or excessive use of intoxicants or illegal drugs;

10 or

11 (9) Failure to meet continuing education requirements within the  
12 proper time period.

13 (b) Except in cases in which a licensee, registrant, or certificate  
14 holder has obtained a license by false or fraudulent representation, the  
15 board shall not investigate the actions of or conduct any disciplinary  
16 hearing regarding any licensee, registrant, or certificate holder unless the  
17 complaint is filed or the investigation is initiated within three (3) years  
18 from the date of the actions complained of or concerning which an  
19 investigation is initiated.

20  
21 SECTION 13. Arkansas Code § 17-14-301 is amended to read as follows:

22 17-14-301. Business entities – Eligibility for licensing.

23 A registration, license, or certificate shall not be issued under ~~this~~  
24 ~~chapter~~ the Arkansas Appraiser Licensing and Certification Act, § 17-14-101  
25 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., to a firm,  
26 corporation, partnership, group, or other business entity.

27  
28 SECTION 14. Arkansas Code § 17-14-302 is amended to read as follows:

29 17-14-302. License required – Membership in other organizations.

30 (a) On or after December 31, 2001, it shall be a Class B misdemeanor  
31 for any individual to perform an appraisal or provide appraisal services as  
32 defined in ~~this chapter~~ the Arkansas Appraiser Licensing and Certification  
33 Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.,  
34 without holding a registration, license, or certificate except as provided in  
35 § 17-14-104.

36 (b) ~~No~~ A person shall not be excluded from obtaining a registration,

1 license, or certification based solely upon membership or lack of membership  
2 in any particular appraisal organization.

3  
4 SECTION 15. Arkansas Code § 17-14-303 is amended to read as follows:

5 17-14-303. Unlicensed persons – Federally and nonfederally related  
6 transactions.

7 (a) It ~~shall be~~ is a Class B misdemeanor for any person who is not  
8 licensed or certified ~~pursuant to this chapter~~ under the Arkansas Appraiser  
9 Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq.,  
10 and § 17-14-301 et seq., to perform appraisal services as defined in ~~this~~  
11 ~~chapter~~ the Arkansas Appraiser Licensing and Certification Act, § 17-14-101  
12 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., in connection with a  
13 federally related transaction.

14 (b) An appraiser who does not hold an appraiser's classification that  
15 permits the performance of a particular appraisal assignment for use in  
16 federally related transactions must include in such an appraisal report a  
17 statement that the appraisal may not be eligible for use in a federally  
18 related transaction.

19  
20 SECTION 16. Arkansas Code § 17-14-304 is amended to read as follows:

21 17-14-304. Use of terms.

22 (a) The terms "certified real property appraiser", "certified real  
23 estate appraiser", and "certified appraiser" shall only be used to refer to  
24 individuals who hold a current certificate and shall not be used in  
25 connection with or as part of the name or signature of an individual, firm,  
26 partnership, corporation, group, or other business entity, or anyone other  
27 than an individual holder of the certificate.

28 (b) ~~No~~ An appraiser practicing or providing appraisal services in this  
29 state as defined in § 17-14-103 may not use the terms "registered",  
30 "certified", or "licensed" in conjunction with his or her appraisal practice,  
31 unless he or she holds a valid registration, license, or certification issued  
32 ~~under the provisions of this chapter~~ the Arkansas Appraiser Licensing and  
33 Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301  
34 et seq.

35 (c) The terms "licensed real estate appraiser", "licensed real  
36 property appraiser", ~~or~~ and "licensed appraiser" shall only be used to refer

1 to individuals who hold a current license and shall not be used in connection  
 2 with or as part of the name or signature of an individual, firm, corporation,  
 3 or group or in a manner that may be interpreted as referring to a firm,  
 4 partnership, corporation, group, or other business entity, or anyone other  
 5 than an individual holder of the license.

6 (d) ~~No~~ A person other than a state-registered appraiser, state-  
 7 licensed appraiser, or state-certified appraiser shall not assume or use that  
 8 title or any title, designation, or abbreviation likely to create the  
 9 impression of registration, licensing, or certification as an appraiser by  
 10 this state.

11 (e) A person who is not licensed or certified ~~pursuant to this chapter~~  
 12 under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et  
 13 seq., § 17-14-201 et seq., and § 17-14-301 et seq., shall not describe or  
 14 refer to any appraisal report, written or oral, or other evaluation of real  
 15 estate covered under the activities of appraisers by the ~~terms~~ term  
 16 “registered”, “licensed”, “certified”, or any other similar term that may be  
 17 construed to imply qualification or competency recognized by the state.

18  
 19 SECTION 17. Arkansas Code § 17-14-305 is amended to read as follows:  
 20 17-14-305. Compliance with uniform standards and code of ethics –  
 21 Seals – Licensing and certification documents.

22 (a)(1) Each state-registered appraiser, each state-licensed appraiser,  
 23 and each state-certified appraiser shall comply with the Uniform Standards of  
 24 Professional Appraisal Practice and Code of Ethics adopted by the Arkansas  
 25 Appraiser Licensing and Certification Board and shall authenticate all  
 26 written appraisal reports with a seal which shall indicate the registration,  
 27 license, or certification number.

28 (2) The seal and number shall also be used in all statements of  
 29 qualifications, contracts, or other instruments used by the registration,  
 30 license, or certificate holder when reference is made to his or her status as  
 31 a state-registered appraiser, state-licensed appraiser, or a state-certified  
 32 appraiser.

33 (b) Registration, license, and certificate documents, licenses,  
 34 certificates, seals, and pocket cards shall remain the property of the state,  
 35 and, upon any suspension, revocation, or other termination of a registration,  
 36 license, or certification ~~pursuant to this chapter~~ under the Arkansas

1 Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et  
 2 seq., and § 17-14-301 et seq., the individual holding the related documents  
 3 shall immediately return the documents to the board.

4  
 5 SECTION 18. Arkansas Code § 17-14-306 is amended to read as follows:  
 6 17-14-306. Additional licenses – Nonresidents.

7 (a)(1) Every applicant for registration, licensure, or certification  
 8 ~~under this chapter~~ the Arkansas Appraiser Licensing and Certification Act, §  
 9 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., who is not a  
 10 resident of this state shall submit with the application for registration,  
 11 licensure, or certification an irrevocable consent that service of process  
 12 upon him or her may be made by delivery of the process to the Secretary of  
 13 State if, in an action against the applicant in a court of this state arising  
 14 out of the applicant's activities as a state-registered appraiser, state-  
 15 licensed appraiser, or state-certified appraiser, the plaintiff cannot effect  
 16 personal service upon the applicant.

17 (2) A nonresident of this state who has complied with this  
 18 provision may obtain a license or certification as a state-licensed appraiser  
 19 or a state-certified appraiser by ~~conforming to all of the provisions of this~~  
 20 ~~chapter~~ complying with the Arkansas Appraiser Licensing and Certification  
 21 Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.,  
 22 relating to state-registered appraisers, state-licensed appraisers, or state-  
 23 certified appraisers, including the payment of a fee.

24 (b)(1) If, in the determination by the Arkansas Appraiser Licensing  
 25 and Certification Board, another state is deemed to have substantially  
 26 equivalent licensing and certification requirements, an applicant who is  
 27 licensed or certified under the laws of the other state may obtain a  
 28 temporary or nonresident license or certificate as a state-licensed appraiser  
 29 or a state-certified appraiser in this state upon such terms and conditions  
 30 as may be determined by the board.

31 (2) An appropriate fee is to be charged.

32  
 33 SECTION 19. Arkansas Code § 17-14-308 is amended to read as follows:  
 34 17-14-308. Violation of law – Civil penalties, injunctions, venue.

35 (a)(1) It is unlawful for any person not registered, licensed, or  
 36 certified under ~~this chapter~~ the Arkansas Appraiser Licensing and

1 Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301  
 2 et seq., to perform any act for which registration, licensure, or  
 3 certification is required.

4 (2) ~~Any~~ A person acting as an appraiser within the meaning of  
 5 ~~this chapter~~ the Arkansas Appraiser Licensing and Certification Act, § 17-14-  
 6 101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., without an  
 7 appraiser classification and any person who violates any other provision of  
 8 ~~this chapter~~ the Arkansas Appraiser Licensing and Certification Act, § 17-14-  
 9 101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., shall be is guilty  
 10 of a misdemeanor.

11 (b)(1) Upon application by the Arkansas Appraiser Licensing and  
 12 Certification Board, a court may grant an injunction, restraining order, or  
 13 other order as may be appropriate to enjoin a person from:

14 (A) Offering to engage or engaging in the performance of  
 15 any acts or practices for which a registration, certificate, or license is  
 16 required by the Arkansas Appraiser Licensing and Certification Act, § 17-14-  
 17 101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., upon a showing  
 18 that the acts or practices were performed or offered to be performed without  
 19 a registration, license, or certificate; or

20 (B) Engaging in any practice or business authorized by a  
 21 certificate, license, or registration issued ~~pursuant to~~ under the Arkansas  
 22 Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201  
 23 et seq., and § 17-14-301 et seq., upon a showing that the holder presents a  
 24 substantial probability of serious danger to the health, safety, or welfare  
 25 of any resident of this state or client of the certificate holder or  
 26 licensee.

27 (2) Any person co-signing an appraisal with a state-registered,  
 28 state-licensed, or state-certified appraiser becomes subject to the  
 29 ~~provisions of this chapter~~ Arkansas Appraiser Licensing and Certification  
 30 Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.

31 (c) Any action brought pursuant to this section shall be commenced in  
 32 the county in which the conduct occurred, in the county in which the  
 33 defendant resides, or in Pulaski County.

34 (d) Any actions brought under this section shall be in addition to and  
 35 not in lieu of any penalty provided by § 17-14-206 and may be brought  
 36 concurrently with other actions to enforce the ~~provisions of this chapter~~ the



1 Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., §  
2 17-14-201 et seq., and § 17-14-301 et seq.

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*SECTION 20. Effective date.*  
*This act takes effect January 1, 2010.*

/s/ Hyde

**APPROVED: 3/27/2009**