

# Hall of the House of Representatives

87th General Assembly - Regular Session, 2009

## Amendment Form

\*\*\*\*\*

### Subtitle of House Bill No. 1694

"THE ARKANSAS APPRAISAL MANAGEMENT COMPANY REGISTRATION ACT."

\*\*\*\*\*

### Amendment No. 1 to House Bill No. 1694.

Amend House Bill No. 1694 as originally introduced:

Delete the title of the bill and substitute the following:

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

AND

Delete SECTION 1 in its entirety and substitute the following:

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

#### SUBCHAPTER 4

#### APPRAISAL MANAGEMENT COMPANY REGISTRATION ACT

17-14-401. Short title.

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

17-14-402. Definitions.

As used in this subchapter:

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

(A) Recruiting appraisers;

(B) Contracting with appraisers to perform appraisal services;

(C) Negotiating fees with appraisers;

(D) Receiving appraisal orders and appraisal reports;

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

(F) Providing related administrative and clerical duties.

(2) "Appraisal management services" means conducting business by telephone, by electronic means, by mail, or in person directly or indirectly



for compensation or other pecuniary gain or in the expectation of compensation or other pecuniary gain to:

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

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

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

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

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

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

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

(8) "Person" means an individual, a partnership, a limited liability company, a limited partnership, a corporation, an association, or other organization;  
and

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

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

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

17-14-404. Rulemaking authority.

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

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

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

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

17-14-405. Requirements for registration.

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

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

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

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

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

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

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

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

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

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

(5) A certification that the person:

(A) 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 Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.;

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

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

(6) Any other information required by the board.

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

(1) Receipt of a properly completed application;

(2) Payment of the required fee;

(3) Posting of a bond; and

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

(d)(1) If the board finds that there is substantial reason to deny the application for registration, the board shall notify the applicant that the application has been denied and shall afford the applicant an opportunity for a hearing before the board to show cause why the application should not be denied.

(2) All proceedings concerning the denial of a certificate of registration shall be governed by the Arkansas Administrative Procedure Act,

§ 25-15-101 et seq.

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

17-14-406. Fees and renewals.

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

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

(2) The bond shall:

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

(B) Accrue to the state for the benefit of a claimant

against the registrant to secure the faithful performance of the registrant's obligations under this subchapter.

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

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

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

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

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

(c)(1) Registrations issued under this subchapter shall be renewed annually beginning twelve (12) months from the date of issuance.

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

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

17-14-407. Registrant responsibilities and duties.

(a) A registrant that is an organization shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 17-14-408. Prohibited activities.

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

(b) The registrant shall not:

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

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

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

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

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

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

(5)(A) Allow the removal of an independent appraiser from an appraiser panel without prior written notice to the appraiser.

(B) Written notice shall include written evidence of:

(i) The appraiser's illegal conduct;  
(ii) A violation of the minimum reporting standards  
under § 17-14-202(b) or other applicable statutes or rules;

(iii) Substandard performance; or

(iv) Otherwise improper or unprofessional behavior;

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

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

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

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

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

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

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

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

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

#### 17-14-409. Registry of applicants and roster.

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

(2) The register shall indicate:

(A) The date of application;

(B) The applicant's name;

(C) The applicant's business address; and

(D) Whether the registration was granted or denied.

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

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

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

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

(a) The Arkansas Appraiser Licensing and Certification Board may deny, suspend, revoke, or refuse to issue or renew the registration of an appraisal management company under this subchapter or may restrict or limit the activities of an appraisal management company or a person who owns an interest in or participates in the business of an appraisal management company if the board finds that any of the following circumstances apply to

the applicant, a registrant, or a partner, member, manager, officer, director, managing principal, controlling person, or a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the applicant or registrant:

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

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

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

(A) A felony; or

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

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

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

(4) The person is permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving appraisal management services or operating an appraisal management company;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Criminal prosecution has been or may be instituted as a result of the violation of this subchapter; or  
(2) The person is the holder of a registration issued by the board.

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

17-14-412. Applicability.

This subchapter does not apply to:

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

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

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

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

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

17-14-101. Title.

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

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

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

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

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

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

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

SECTION 5. Arkansas Code § 17-14-103(8), concerning the definition of "Board" under the Arkansas Appraiser Licensing and Certification Act, is



amended to read as follows:

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

SECTION 6. Arkansas Code § 17-14-104 is amended to read as follows:  
17-14-104. Exceptions to registration, licensing, or certification.

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

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

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

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

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

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

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

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

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

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

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

(B) Company foresters in the ordinary course of their

duties; or

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

(c)(1) Except as provided in subsection (b) of this section, appraisers, when providing appraisal reports or appraisal services in nonfederally related transactions, who become licensed or certified by the Arkansas Appraiser Licensing and Certification Board are subject to the ~~provisions of this chapter~~ Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., in all matters involving appraisal services, including transactions below the federally established threshold.

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

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

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

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

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

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

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

SECTION 8. Arkansas Code § 17-14-106 is amended to read as follows:

17-14-106. Absence of liability.

(a) Financial institutions or affiliates hiring the services of appraisers registered, licensed, or certified by the Arkansas Appraiser

Licensing and Certification Board in nonfederally related transactions, including transactions below the federally established threshold, shall not be liable to any party asserting damages due to the alleged actions of the appraiser, nor shall the financial institution or affiliate be subject to any requirements to report to the board regarding such transactions other than as may be required by ~~this chapter~~ the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., and the ~~regulations~~ rules promulgated by the board.

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

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

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

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

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

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

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

(3) Establish administrative procedures for processing applications;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Disciplinary hearings conducted by the board for the purpose of determining whether to levy civil penalties under ~~this chapter~~ the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., and for the purpose of determining whether to revoke or suspend any license or certificate issued ~~pursuant to this chapter~~ under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., shall not be deemed open public meetings but shall be executive sessions conducted as provided for in the Freedom of Information Act of 1967, § 25-19-101 et seq.

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

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

(a) Upon its own motion or upon written complaint of any person and after notice and hearing as prescribed by the Arkansas Administrative Procedure Act, § 25-15-201 et seq., the Arkansas Appraiser Licensing and Certification Board may suspend or revoke the registration, license, or certification of any registrant, licensee, or certificate holder and issue a

fine up to the amount of one thousand dollars (\$1,000) per violation occurrence or take any other appropriate disciplinary action for:

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

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

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

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

(4) Any actions demonstrating untrustworthiness, incompetence, dishonesty, gross negligence, material misrepresentation, fraud, or unethical conduct in any dealings subject to ~~this chapter or these regulations~~ the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.;

(5) Adjudication of insanity;

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

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

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

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

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

SECTION 13. Arkansas Code § 17-14-301 is amended to read as follows:  
17-14-301. Business entities – Eligibility for licensing.

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

SECTION 14. Arkansas Code § 17-14-302 is amended to read as follows:  
17-14-302. License required – Membership in other organizations.

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

(b) ~~No~~ A person shall not be excluded from obtaining a registration, license, or certification based solely upon membership or lack of membership

in any particular appraisal organization.

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

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

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

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

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

17-14-304. Use of terms.

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

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

(c) The terms "licensed real estate appraiser", "licensed real property appraiser", ~~or~~ and "licensed appraiser" shall only be used to refer to individuals who hold a current license and shall not be used in connection with or as part of the name or signature of an individual, firm, corporation, or group or in a manner that may be interpreted as referring to a firm, partnership, corporation, group, or other business entity, or anyone other than an individual holder of the license.

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

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

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

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

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

(b) Registration, license, and certificate documents, licenses, certificates, seals, and pocket cards shall remain the property of the state, and, upon any suspension, revocation, or other termination of a registration, license, or certification ~~pursuant to this chapter~~ under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., the individual holding the related documents shall immediately return the documents to the board.

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

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

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

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

(2) An appropriate fee is to be charged.

SECTION 19. Arkansas Code § 17-14-308 is amended to read as follows:



17-14-308. Violation of law – Civil penalties, injunctions, venue.

(a)(1) It is unlawful for any person not registered, licensed, or certified under ~~this chapter~~ the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., to perform any act for which registration, licensure, or certification is required.

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

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

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

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

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

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

(d) Any actions brought under this section shall be in addition to and not in lieu of any penalty provided by § 17-14-206 and may be brought concurrently with other actions to enforce ~~the provisions of this chapter~~ the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.

SECTION 20. Effective date.

This act takes effect January 1, 2010."

The Amendment was read \_\_\_\_\_

By: Representative Hyde

DLP/LHA - 03-13-2009 08:40

DLP318

\_\_\_\_\_  
Chief Clerk