Arkansas

Appraiser Licensing and Certification Board

Appraisal Management Company Statutes

Subchapter 4 – General Provisions

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17-14-401. 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) "**Affiliate**" means any company that controls, is controlled by, or is under common control with another company;

(2)(A) "**Appraisal management company**" means a person that:

(i) Provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates;

(ii) Provides such services in connection with valuing a consumer's principal dwelling as securitizations; and

(iii) Within a given twelve (12) month period, oversees an appraiser panel of more than fifteen (15) state-certified or state-licensed appraisers in a state or twenty five (25) or more state-certified or state-licensed appraisers in two (2) or more states.

(B) An appraisal management company does not include a department or division of an entity that provides appraisal management services only to that entity;

(3) "**Appraisal Management Company National Registry**" means the registry of state-registered appraisal management companies and federally regulated appraisal management companies maintained by the Appraisal Subcommittee;

(4) "**Appraisal management services**" means one (1) or more of the following activities:

(A) Recruiting, selecting, and retaining appraisers;

(B) Contracting with state-certified or state-licensed appraisers to perform appraisal assignments;

(C) Managing the process of having an appraisal performed, including without limitation providing administrative services such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and secondary market participants, collecting fees from creditors and secondary market participants for services provided, and paying appraisers for services performed; and

(D) Reviewing and verifying the work of appraisers;

(5) "**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);

(6) "**Appraisal Subcommittee**" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council;

(7) "**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;

(8) "**Appraiser panel**" means a group, pool, network, list, or roster of licensed or certified appraisers approved to perform appraisal services as independent contractors for the appraisal management company;

(9) "**Board**" means the Arkansas Appraiser Licensing and Certification Board established under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq;

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

(11) "**Controlling person**" or "**managing principal**" means an:

(A) Owner, officer, or director of an appraisal management company;

(B) Individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and the authority to enter into agreements with appraisers for the performance of appraisals; or

(C) Individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company;

(12) "**Covered transaction**" means any consumer credit transaction secured by the principal dwelling of the consumer;

(13) "**Creditor**" means a person that regularly extends consumer credit:

(A) That is subject to a finance charge or is payable by written agreement in more than four (4) installments, not including a down payment, and to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract; or

(B)(i) If the person extended credit more than five (5) times for a transaction secured by a dwelling in the preceding calendar year.

(ii) If a person meets the numerical standards under subdivision (13) (B) (i) of this section in the preceding calendar year, the numerical standards shall be applied to the current calendar year.

(iii) A person regularly extends consumer credit if, in any twelve-month period, the person originates more than one (1) credit extension that is subject to the requirements of 12 C.F.R. § 1026.32 or one (1) or more credit extensions through a mortgage broker;

(14)(A) "**Dwelling**" means a residential structure that contains one (1) to four (4) units, whether or not that structure is attached to real property.

(B) A dwelling includes an individual condominium unit, cooperative unit, mobile home, and trailer if it is used as a residence.

(C)(i) A consumer can have only one (1) principal dwelling at a time.

(ii) A vacation home or other second home is not a principal dwelling.

(iii) However, if a consumer buys or builds a new dwelling that will become the principal dwelling of the consumer within a year or upon the completion of construction, the new dwelling is considered the principal dwelling under this section;

(15) "**Federally regulated appraisal management company**" means an appraisal management company that is owned and controlled by an insured depository institution as defined under 12
U.S.C. § 1813, and regulated by the United States Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation;

(16) "**Federally related transaction regulations**" means regulations established by the United States Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the National Credit Union Administration, under Sections 1112, 1113, and 1114 of Title XI, 12 U.S.C. §§ 3341-3343;

(17) "**Person**" means a natural person or an organization, including without limitation a corporation, partnership, proprietorship, association, cooperative, estate, trust, or government unit;

(18) "**Registrant**" means an appraisal management company or person that is registered under this subchapter;

(19) (A) "**Secondary mortgage market participant**" means a guarantor or insurer of mortgage-backed securities or an underwriter or issuer of mortgage-backed securities.

(B) Secondary mortgage market participant only includes an individual investor in a mortgage-backed security if that investor also serves in the capacity of a guarantor, insurer, underwriter, or issuer for the mortgage-backed security;

(20) "**States**" means the fifty (50) states, the District of Columbia, and the territories of Guam, Mariana Islands, Puerto Rico, and the U.S. Virgin Islands; and

(21) "**Uniform Standards of Professional Appraisal Practice**" means the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation.

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.

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

(2) The same requirements for registration shall apply to the initial application and each subsequent application for renewal.

(b) The initial application or application for renewal 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 the rejection of the application;

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

(B) Any person owning more than ten percent (10%) of an appraisal management company in this state shall:

Submit to a state criminal background check and a national fingerprint-based criminal background check performed by the Federal Bureau of Investigation in compliance with federal law and regulations;

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

(5) (A) An appraisal management company is not eligible to be registered in this state if the appraisal management company, in whole or in part, directly or indirectly, is owned by a person who has had an appraiser license or certification refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any state for a substantive cause as determined by the board.

(B) An appraisal management company is not barred by subdivision (b) (5) (A) if the license or certification of the appraiser with an ownership interest was not revoked for a substantive cause and has been reinstated by the state or states in which the appraiser was licensed or certified;

(6) 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 report standards under § 17-14-202 (b);

(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

(D) Has a system in place to verify that:

(i) Appraisals are conducted independently and free from inappropriate influence and coercion under the appraisal independence standards established un 15 U.S.C. § 1639e, as existing on January 1, 2019; and

(ii) The appraisal management company establishes and complies with processes and controls reasonably designed to ensure that the appraisal management company:

(a) When engaging an appraiser, selects and appraiser who is independent of the transaction and has the requisite education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property; and

(b) Conducts its appraisal management services in accordance with the requirements of 15 U.S.C. § 1639e, as existing on January 1, 2019, and federal regulations, as existing on January 1, 2019;

(7) Requires appraisers completing appraisals at its request to comply with the Uniform Standards of Professional Appraisal Practice;

(8) Has a system in place to verify that only licensed or certified appraisers are used for federally related transactions; and

(9) Any other information required by the board.

(c) The board shall issue an initial or renewal 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.
(B) This determination of the board under subdivision (c) (4) (A) shall consider the results of all fingerprint-based criminal history reports.

(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 Procedures Act, § 25-15-201 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, Renewals, and National Registry fees.

(a) (1) The Arkansas Appraiser Licensing and Certification Board shall establish by rule an application fee for an initial application or an application for renewal not to exceed one thousand five hundred dollars ($1,500) to be paid by each appraisal management company seeking registration under this subchapter.

(2) The board shall establish by rule a criminal background check fee not to exceed fifty dollars ($50.00) to be paid by the appraisal management company for each person owning more than ten percent (10%) of the appraisal management company.

(b) (1) 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 obligation 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) (A) Registrations issued under this subchapter shall be renewed annually beginning twelve (12) months from the date of issuance.
(B) The board may review and renew or refuse renewal of an appraisal management company's renewal application.

(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 the renewal fee and a late fee of fifty dollars ($50.00) per month for each month or partial month of delinquency.

(d) (1) The board shall collect from each appraisal management company registered under this chapter the Appraisal Management Company National Registry fee required by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(2) The amount and method of calculation of the Appraisal Management Company National Registry fee shall be established by rule of the board.

(e) Notwithstanding § 17-14-412, the board may collect from each federally regulated appraisal management company:

(1) The Appraisal Management Company National Registry fee required by the Appraisal Subcommittee;
(2) Information regarding the determination of the Appraisal Management Company

National Registry fee as required by the Appraisal Subcommittee; and
(3) Any other information required by state or federal law.

(f) The Appraisal Management Company National Registry fees collected under this section shall be sent to the Appraisal Subcommittee regularly as required by federal law.

17-14-407. Registrant responsibilities and duties.

(a) A registrant that is an organization shall:

(1) Maintain a registered agent for services 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 individuals' 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 non-payment or withholding payment for appraisal services, or threat of exclusion from future appraisal work.

(b) A registrant shall not:

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

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

(3) 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;

(4)(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;

(5) 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;

(6) Request that an appraiser provides 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;

(7)(A) Except as provided in subdivision (b)(7)(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;

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

(9) An appraisal management company shall not require an:

(A) Employee of the appraisal management company who is an appraiser to sign an appraisal that is completed by another appraiser who contracts with the appraisal management company in order to avoid the requirements of this subchapter; or

(B) Appraiser on the appraisal management company's appraiser panel to pay or reimburse the appraisal management company for the Appraisal Management Company National Registry fee.

(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 names and addresses 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.

(c) (1) The board shall submit to the Appraisal Subcommittee all information required to be submitted by Appraisal Subcommittee regulations or guidance concerning appraisal management companies that operate in this state.
(2) Information under subdivision (c) (1) of this section shall include without limitation a roster of registered appraisal management companies, reports of investigations, and disciplinary actions involving appraisal management companies.

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 pleaded guilty or nolo contendere to or been found guilty of:
- (A) A felony listed under § 17-2-102; 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, or fraudulent or dishonest dealings;

(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 registered 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 Procedures 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;

(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;

(5) A federally regulated appraisal management company;

(6) A person who exclusively employs appraisers on an employer and employee basis for the performance of appraisals;

(7) A person acting as an appraisal firm that at all times during a calendar year employs on an exclusive basis as independent contractors not more than fifteen (15) appraisers for the performance of appraisals;

(8) A person who enters into an agreement with an appraiser for the performance of an appraisal that on completion results in a report signed by both the appraiser who completed the appraisal and the appraiser who requested completion of the appraisal; or

(9) An appraisal management company operating:

(A) Operating only in this state with an appraiser panel of not more than fifteen (15) appraisers at all times during a calendar year; or

(B) Operating in multiple states, including this state, with an appraiser panel of not more than twenty-four (24) appraisers in all states at all times during a calendar year.

17-14-413. Compensation of Appraisers.

(a) An appraisal management company shall:

(1) Except in cases of breach of contract or substandard performance of services, pay an appraiser for the completion of an appraisal or valuation assignment not later than the sixtieth day after the date the appraiser provides the initial appraisal or valuation assignment to the appraisal management company; and

(2) Compensate appraisers at a rate that is reasonable and customary for appraisals being performed in the market area of the property being appraised consistent with the presumptions under federal law.

(b) An appraiser who is aggrieved under this section may file a complaint with the Arkansas Appraiser Licensing and Certification Board against the appraisal management company.

17-14-414. Appraisal Review.

Any employee of an appraisal management company or an independent contractor of the appraisal management company who performs a Uniform Standards of Professional Appraisal Practice Standard 3 appraisal review of an appraisal report on a property located in this state shall be an appraiser with the proper level of appraiser credential issued by the Arkansas Appraiser Licensing and Certification Board.