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Chapter No. 458  
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***HOUSE BILL NO. 1337***

Originated in House Don Richardson Clerk

HOUSE BILL NO. 1337

AN ACT TO CREATE THE MISSISSIPPI APPRAISAL MANAGEMENT COMPANY REGISTRATION ACT, TO PLACE APPRAISAL MANAGEMENT COMPANIES UNDER THE AUTHORITY OF THE REAL ESTATE APPRAISER LICENSING AND CERTIFICATION COMMISSION; TO REQUIRE THOSE COMPANIES TO REGISTER WITH THE MISSISSIPPI REAL ESTATE APPRAISER LICENSING AND CERTIFICATION BOARD BEFORE ENGAGING IN THE BUSINESS AS AN APPRAISAL MANAGEMENT COMPANY; TO PRESCRIBE FOR AN APPLICATION OF REGISTRATION TO ENGAGE IN SUCH BUSINESS; TO PROVIDE FOR THE MINIMUM REGISTRATION REQUIREMENTS; TO EXEMPT THE APPLICABILITY OF THE ACT TO CERTAIN COMPANIES; TO REQUIRE EACH COMPANY APPLYING FOR REGISTRATION TO SUBMIT AN IRREVOCABLE UNIFORM CONSENT TO SERVICE OF PROCESS DESIGNATING AN AGENT TO RECEIVE SERVICE OF PROCESS FOR THE COMPANY; TO PRESCRIBE THE REQUIREMENTS OF OWNERS, CONTROLLING PERSONS AND EMPLOYEES OF AN APPRAISAL MANAGEMENT COMPANY; TO REQUIRE THE COMPANY TO DESIGNATE ONE CONTROLLING PERSON TO ACT AS THE CONTACT FOR ALL COMMUNICATIONS BETWEEN THE COMMISSION AND THE COMPANY; TO REQUIRE THOSE COMPANIES TO CERTIFY TO THE BOARD ITS SYSTEM OF VERIFICATION FOR ADDITIONS TO ITS APPRAISAL PANEL, REVIEW OF WORK DONE BY INDEPENDENT APPRAISERS AND CONTINUING LICENSURE OR CERTIFICATION REQUIREMENTS; TO REQUIRE THOSE COMPANIES TO CERTIFY BIENNIALY TO THE BOARD ITS ADHERENCE TO CERTAIN PROFESSIONAL AND GOVERNMENTAL STANDARDS; TO REQUIRE THE COMPANY TO RETAIN RECORDS RELATING TO ITS APPRAISAL ACTIVITIES FOR A MINIMUM OF FIVE YEARS; TO PROHIBIT THE ALTERATION OF APPRAISAL REPORTS; TO REQUIRE THE BOARD TO ISSUE A REGISTRATION NUMBER TO EACH COMPANY REGISTERED IN THE STATE; TO REQUIRE THE COMPANY TO DISCLOSE ITS REGISTRATION NUMBER ON ENGAGEMENT DOCUMENTS PRESENTED TO THE APPRAISER; TO PROVIDE A PROCEDURE FOR THE SETTLING OF DISPUTES BETWEEN AN APPRAISAL MANAGEMENT COMPANY AND AN APPRAISER; TO PROVIDE DUE PROCESS TO INDEPENDENT APPRAISERS REMOVED FROM AN APPRAISAL PANEL FOR MISCONDUCT AND CERTAIN OTHER VIOLATIONS; TO AMEND SECTIONS 73-34-3, 73-34-9, 73-34-13, 73-34-25, 73-34-27, 73-34-29, 73-34-35, 73-34-41, 73-34-43, 73-34-45, 73-34-49 AND 73-34-53, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

**SECTION 1.** This act shall be known and may be cited as the "Mississippi Appraisal Management Company Registration Act."

**SECTION 2.** (1) It is unlawful for a person to directly or indirectly engage or attempt to engage in business as an appraisal management company in this state or to advertise or hold itself

out as engaging in or conducting business as an appraisal management company in this state without first obtaining a registration issued by the Mississippi Real Estate Appraiser Licensing and Certification Board under the provisions of this act.

(a) An applicant for registration as an appraisal management company in this state shall submit to the Mississippi Real Estate Appraiser Licensing and Certification Board an application on a form or forms prescribed by the board.

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

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

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

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

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

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

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

(f) The name, address, and contact information for one (1) controlling person designated as the main contact for all

communication between the appraisal management company and the commission;

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

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

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

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

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

(l) An irrevocable Consent to Service of Process required under Section 4 of this act;

(m) Any other information required by the commission which is reasonably necessary to implement the act.

(3) An application for the renewal of a registration shall include substantially similar information required for the initial

registration as noted in subsection (2), as determined by the board.

(4) An applicant for registration as an appraisal management company in this state shall submit to the commission an application on a form or forms prescribed by the commission.

(5) A registration granted by the commission under the provisions of this act shall be valid for two (2) years from the date on which it is issued.

**SECTION 3.** (1) The provisions of this act shall not apply to an appraisal management company that is a subsidiary owned and controlled by a financial institution regulated by a federal financial institutions regulatory agency.

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

**SECTION 4.** Each person applying for a registration as an appraisal management company that is not domiciled in this state shall complete an irrevocable uniform consent to service of process, as prescribed by the commission.

**SECTION 5.** (1) An appraisal management company applying for registration in this state shall not:

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

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

practice of appraisal, banking, mortgage or the provision of financial services, or any crime involving fraud, misrepresentation or moral turpitude.

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

**SECTION 6.** Each appraisal management company applying to the board for a registration in this state shall designate one (1) controlling person who is an employee of the appraisal management company that will be the designated contact for all communication between the board and the appraisal management company.

**SECTION 7.** (1) An appraisal management company doing business in this state as an appraisal management company shall not:

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

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

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

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

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

(b) Only licensed or certified appraisers are used to complete appraisal assignments in connection with federally related transactions.

**SECTION 8.** Any employee of, or independent contractor to, the appraisal management company that performs a USPAP Standard 3 appraisal review of an appraisal report on property located in this state shall be an appraiser with the proper level of licensure in Mississippi. Quality control examinations are exempt from this requirement, as they are not considered a Standard 3 review.

**SECTION 9.** (1) Each appraisal management company doing business in this state shall certify to the commission on an annual basis that it requires appraisers completing appraisals at its request to comply with the Uniform Standards of Professional Appraisal Practice, including the requirements for geographic and product competence.

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

(3) Each appraisal management company doing business in this state shall certify to the commission on an annual basis that it has a system in place requiring payment to an independent contract

appraiser for the completion of an appraisal service within sixty (60) days after the appraiser provides the completed appraisal report to the appraisal management company, except in cases involving a bona fide breach of contract, substandard performance of services, or alternate payment terms agreed upon by the appraiser and the appraisal management company.

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

**SECTION 10.** Each appraisal management company doing business in this state shall certify to the board on an annual basis that it maintains a detailed record of each service request that it receives and the appraiser that performs the appraisal for the appraisal management company. Records shall be retained for a period of five (5) years after an appraisal is completed or two (2) years after final disposition of a judicial proceeding related to the assignment, whichever period expires later.

**SECTION 11.** (1) An appraisal management company may not alter, modify, or otherwise change a completed appraisal report submitted by an appraiser without the appraiser's written consent, except as necessary to comply with regulatory mandates or legal requirements.

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

**SECTION 12.** (1) The board shall issue a unique registration number to each appraisal management company that is registered in this state pursuant to this act.

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

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

**SECTION 13.** It shall be a violation of this act for any employee, partner, director, officer or agent of an appraisal management company to:

(a) Influence or attempt to influence the development, reporting, result or review of an appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, bribery or in any other manner, including, but not limited to:

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

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

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

(iv) Conditioning an assignment of an appraisal or the payment of an appraisal fee or salary or bonus on the opinion, conclusion or valuation to be reached, or on a preliminary estimate or opinion requested from an appraiser;

(v) Requesting that an appraiser provide an estimated, predetermined or desired valuation in an appraisal, or provide estimated values or comparable sales at any time prior to the appraiser's completion of an appraisal;

(vi) Providing to an appraiser an anticipated, estimated, encouraged or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except

that a copy of the sales contract for purchase transactions may be provided; and

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

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

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

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

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

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

**SECTION 14.** An appraisal management company that has a reasonable basis to believe an appraiser has failed to comply with applicable laws, the Uniform Standards of Professional Appraisal Practice or other ethical or professional requirements in connection with a consumer credit transaction secured by a consumer's principal dwelling, shall refer the matter to the agency if the failure to comply is material. For purposes of this section, a failure to comply is material if it is likely to significantly affect the value assigned to the consumer's principal dwelling.

**SECTION 15.** (1) (a) Except within the first ninety (90) days after an independent appraiser is first added to the

appraiser panel of an appraisal management company, an appraisal management company may not remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real estate appraisal services to an independent appraiser without:

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

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

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

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

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

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

(i) Provide written findings to the involved parties;

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

(iii) Make recommendations for action.

**SECTION 16.** The conduct of adjudicatory proceedings in accordance with applicable state laws for violations of this act is vested in the commission, such that:

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

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

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

(d) The commission may make findings of fact and shall deliver or mail such findings to the registrant charged with an offense under this act.

**SECTION 17.** Section 73-34-3, Mississippi Code of 1972, is amended as follows:

73-34-3. As used in this chapter, the following terms and phrases shall have the following meanings unless the context clearly indicates otherwise:

(a) "Appraisal" means an analysis, opinion or conclusion prepared by a real estate appraiser relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate or identified real property

performed in accordance with the Uniform Standards for Professional Appraisal Practice. An appraisal may be classified by the nature of the assignment into either a valuation assignment or an evaluation assignment. The term "valuation assignment" means an analysis, opinion or conclusion prepared by a real estate appraiser that estimates the value of an identified parcel of real estate or identified real property at a particular point in time. The term "evaluation assignment" means an analysis, opinion or conclusion prepared by a real estate appraiser that relates to the nature, quality or utility of identified real estate or identified real property.

(b) "Appraisal report" means any communication, written or oral, of an appraisal. For the purposes of this chapter, the testimony of an appraiser dealing with the appraiser's analyses, conclusions or opinions concerning identified real property is deemed to be an oral appraisal report.

(c) "Board" means the Mississippi Real Estate Appraiser Licensing and Certification Board that is established under the provisions of this chapter.

(d) "Certified appraisal report" means an appraisal report given or signed and certified as such by a state certified real estate appraiser. When a state certified real estate appraiser identifies an appraisal report as "certified," such state certified real estate appraiser must indicate which type of certification he holds. The certification of an appraisal report by a state certified real estate appraiser represents to the public that it meets the appraisal standards established under this chapter.

(e) "Commission" means the Mississippi Real Estate Commission as established under Section 73-35-5, Mississippi Code of 1972.

(f) "Licensed real estate appraiser" means a person who holds a current, valid appraisal license issued to him under the provisions of this chapter.

(g) "Real estate or real property" means an identified parcel or tract of land, with improvements, and includes easements, rights-of-way, undivided or future interest, or similar rights in a tract of land, but does not include mineral rights, timber rights, growing crops, water rights, or similar interests severable from the land when the transaction does not involve the associated parcel or tract of land.

(h) "Real estate appraisal activity" means the act or process of making an appraisal of real estate or real property and preparing an appraisal report.

(i) "Real estate appraiser" means a person who engages in real estate appraisal activity for a fee or other valuable consideration.

(j) "Real property" means one or more defined interests, benefits or rights inherent in the ownership of real estate.

(k) "State certified real estate appraiser" means a person who holds a current, valid license as a real estate appraiser issued to him under the provisions of this chapter for certified real estate appraisers.

(l) "Timberland" means forest land that is producing, or which is capable of producing, timber as a crop.

(m) "Appraisal management company" means, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party that oversees a network or panel of more than fifteen (15) certified or licensed appraisers in this state or twenty-five (25) or more nationally within a given year, that is authorized either by a creditor of a consumer credit transaction secured by a

consumer's principal dwelling or by an underwriter of or other principal in the secondary mortgage markets to:

(i) Recruit, select, and retain appraisers;

(ii) Contract with licensed and certified appraisers to perform appraisal assignments;

(iii) Manage the process of having an appraisal performed, including providing administrative duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from creditors and underwriters for services provided, and reimbursing appraisers for services performed; or

(iv) Review and verify the work of appraisers.

(n) "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment, except that a quality control examination of an appraisal shall not be an appraisal review.

(o) "Appraiser" means an individual who holds a license or certification as an appraiser and is expected to perform valuation services competently and in a manner that is independent, impartial and objective.

(p) "Appraiser panel" means a group of licensed or certified independent appraisers that have been selected to perform appraisal services for a third party.

(q) "Controlling person" means:

(i) An officer or director, or owner of greater than a ten percent (10%) interest, of a corporation, partnership or other business entity, seeking to act as an appraisal management company in this state;

(ii) An 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 services requiring registration as an appraisal management company and has the authority to enter into agreements with appraisers for the performance of appraisals;  
or

(iii) An individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

(r) "Federal financial institutions regulatory agencies" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration.

(s) "Federally related transaction" means any real estate-related financial transaction which a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates, and which requires the services of an appraiser.

(t) "Person" means an individual, firm, partnership, limited partnership, limited liability company, association, corporation, or other group engaged in joint business activities, however organized.

(u) "Quality control examination" means an examination of an appraisal report for compliance and completeness including grammatical, typographical or other similar errors.

(v) "Real estate-related financial transaction" means any transaction involving:

(i) The sale, lease, purchase, auction, investment in or exchange of real property, including interests in property, or the financing thereof;

(ii) The refinancing of real property or interests in real property; and

(iii) The use of real property or interests in property as security for a loan or investment, including

mortgage-backed securities.

(w) "Uniform Standards of Professional Appraisal Practice" means the current standards of the appraisal profession, developed for appraisers and users of appraisal services by the Appraisal Standards Board of the Appraisal Foundation.

(x) "USPAP" means the Uniform Standards of Professional Appraisal Practice.

**SECTION 18.** Section 73-34-9, Mississippi Code of 1972, is amended as follows:

73-34-9. (1) The commission shall have the following powers and duties:

(a) To receive applications for licensure as a real estate appraiser and applications for registration as an appraisal management company under this chapter; to establish appropriate administrative procedures for the processing of those applications; to issue licenses to qualified applicants under the provisions of this chapter; and to maintain a registry of the names and addresses of individuals who are currently licensed under this chapter.

(b) To administer licensing examinations in the places and at the times as may be required to carry out its responsibilities under this chapter.

(c) To implement recommendations made to the commission by the Real Estate Appraiser Licensing and Certification Board with respect to upgrading and improving the experience, education and examination requirements that are required for an appraiser license and each classification of licensed state certified real estate appraiser in this state.

(d) To implement recommendations made to the commission by the board with respect to upgrading and improving the continuing education requirements that are required for renewal of a license.

(e) To collect all licensing fees required or permitted by this chapter.

(f) To take appropriate action upon a decision and the related findings of fact made by the board if, after an administrative hearing, the board (i) determines that a licensed appraiser or a licensed state certified real estate appraiser under this chapter has violated the standards of appraisal practice or ethical rules established under Section 73-34-37, or has committed one or more of the acts that are prohibited by Section 73-34-35, and (ii) recommends that the license of the appraiser be suspended or revoked, that renewal be denied, or that some other disciplinary action be taken.

(g) To solicit bids and enter into contracts with one or more educational testing services or organizations approved by the board for the preparation of a bank of questions and answers for licensure examinations under this chapter.

(h) To promote research and conduct studies relating to the profession of real estate appraising and sponsor real estate appraisal educational activities.

(i) To adopt rules and regulations for the administration of this chapter that are not inconsistent with the provisions of this chapter or the Constitution and laws of Mississippi or of the United States.

(j) To employ an assistant to the Mississippi Real Estate Commission Administrator who shall keep a record of all proceedings, transactions, communications and official acts of the commission and board and perform any other duties as the commission and board may require.

(k) To employ an appropriate staff to investigate allegations that licensed appraisers or licensed state certified real estate appraisers under this chapter failed to comply with the terms or provisions of this chapter.

(1) To employ any other professional, clerical and technical assistance as may be necessary to properly administer the work of this chapter.

(2) The board shall have the following powers and duties:

(a) To be responsible for matters relating to real estate appraisal standards, real estate appraiser qualifications, testing standards, appraisal management companies and disciplinary functions.

(b) To hold meetings; to hold public hearings and administrative hearings; to prepare examination specifications for licensed appraisers and licensed state certified appraisers.

(c) To enable the board to carry out its responsibilities under this chapter with respect to licensing and registering, the board shall have:

(i) The power to compel the attendance of witnesses;

(ii) The power to require a licensed appraiser or an applicant for licensure to produce books, appraisal documents, records and other papers;

(iii) The power to administer oaths; and

(iv) \* \* \* The power to take testimony and receive evidence concerning all matters within its jurisdiction.

These powers may be exercised directly by the board in such manner as the board shall determine.

(d) To establish appropriate administrative procedures for disciplinary proceedings conducted under the provisions of this chapter.

(e) To keep a record of its proceedings and issue an annual report of its activities.

(f) To further define by regulation, and with respect to each of the categories of licensed appraiser, the type of educational experience, appraisal experience and equivalent

experience that will meet the statutory requirements of this chapter.

(g) To approve or disapprove applications for licensing or registration under this chapter.

(h) To suspend or revoke licenses or registrations under the disciplinary proceedings provided for in this chapter.

(i) To present an annual budget to the Mississippi Legislature for approval. A copy of the budget shall be given to the commission.

(j) To implement all requirements directed by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council or their designated agent.

(k) To make rules and regulations providing for an inactive license or registration status and for the reactivation thereof.

(l) To make rules and regulations necessary to implement its powers and duties under this chapter.

(m) To do all other things necessary to carry out the provisions of this chapter.

(n) To adopt rules consistent with the provisions of this chapter which may be reasonably necessary to implement, administer, and enforce the provisions of this chapter.

(o) To provide for at least one (1) member of the board to represent the appraisal management company industry.

(3) The members of the commission and board shall be immune from any civil action or criminal prosecution for initiating or assisting in any lawful investigation of the actions of, or participating in any disciplinary proceeding concerning, an appraiser licensed under this chapter, provided that the action is taken without malicious intent and in the reasonable belief that the action was taken in accordance with the powers and duties vested in the members of the commission and board under this chapter.

**SECTION 19.** Section 73-34-13, Mississippi Code of 1972, is amended as follows:

73-34-13. Applications for one (1) of the appraisal licenses, applications for renewal, \* \* \* applications to take an examination, and applications for registration as an appraisal management company shall be made in writing to the commission on approved forms.

The payment of the appropriate fee, as fixed under Section 73-34-45, must accompany all applications for licensure and renewal thereof, all applications to take an examination and all applications for registration as an appraisal management company. At the time of filing an application for licensure under this chapter, \* \* \* for renewal, or for registration as an appraisal management company, each applicant shall sign a pledge to comply with the standards of professional appraisal practices that are established from time to time for licensed appraisers and for licensed certified real estate appraisers under this chapter. Each applicant shall also certify that he understands the types of misconduct, as set forth in this chapter, for which disciplinary proceedings may be initiated against a licensed appraiser or a licensed certified real estate appraiser.

Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64, Mississippi Code of 1972.

**SECTION 20.** Section 73-34-25, Mississippi Code of 1972, is amended as follows:

73-34-25. Except as provided in Section 33-1-39, a license issued under the authority of this chapter shall expire two (2) years from the last day of the month of issuance; however, a registration granted under the authority of this chapter shall expire one (1) year from the date of issuance.

**SECTION 21.** Section 73-34-27, Mississippi Code of 1972, is amended as follows:

73-34-27. To obtain a renewal of any of the real estate appraisal licenses or a renewal of any registration issued under this chapter, the holder of a current, valid license or registration shall make application and pay the prescribed fee to the commission not earlier than one hundred twenty (120) days nor later than the expiration date, as defined in Section 73-34-25, of the license then held. Each application for renewal shall be accompanied by evidence, in the form prescribed by the board, of having completed the continuing education requirements for renewal specified in this chapter.

If a licensed appraiser or licensed certified real estate appraiser under this chapter fails to renew his license, or an appraisal management company fails to renew its registration before its expiration or within any period of extension granted under this chapter, that person or company may obtain a renewal of their license or registration by satisfying all of the requirements for renewal and filing an application for renewal, accompanied by a late renewal fee, within sixty (60) days of the date that the license or registration expired.

**SECTION 22.** Section 73-34-29, Mississippi Code of 1972, is amended as follows:

73-34-29. The board may, upon compliance with the provisions of this chapter relating to administrative hearings, deny the issuance of a license or registration to an applicant on any of the grounds provided in this chapter.

**SECTION 23.** Section 73-34-35, Mississippi Code of 1972, is amended as follows:

73-34-35. (1) An application for licensure or renewal may be denied, and the rights of any licensed appraiser or licensed certified real estate appraiser may be revoked or suspended, or the holder of the license may be otherwise disciplined, in accordance with the provisions of this chapter for any of the following acts or omissions:

- (a) Failing to meet the minimum qualifications for licensure established under this chapter;
- (b) Procuring or attempting to procure licensure under this chapter by knowingly making a false statement, submitting false information or making a material misrepresentation in an application filed with the commission or procuring or attempting to procure licensure through any form of fraud or misrepresentation;
- (c) Paying money other than the fees provided for by this chapter to any member or employee of the commission or the board to procure licensure under this chapter;
- (d) An act or omission in the practice of real estate appraising which constitutes dishonesty, fraud or misrepresentation with the intent to substantially benefit the licensee or another person or with the intent to substantially injure another person;
- (e) Entry of a final civil or criminal judgment against a licensee on grounds of fraud, misrepresentation or deceit;
- (f) Conviction, including a conviction based upon a plea or finding of guilty, of a crime which is substantially related to the qualifications, functions or duties of a person developing real estate appraisals and communicating real estate appraisals to others;
- (g) Engaging in the business of real estate appraising under an assumed or fictitious name not properly registered in this state;
- (h) Paying a finder's fee or a referral fee;
- (i) Making a false or misleading statement in that portion of a written appraisal report that deals with professional qualifications or in any testimony concerning professional qualifications;

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Chapter No. 458  
11/HR40/R1621SG  
JP 120

***HOUSE BILL NO. 1337***

Originated in House Don Richardson Clerk

HOUSE BILL NO. 1337

AN ACT TO CREATE THE MISSISSIPPI APPRAISAL MANAGEMENT COMPANY REGISTRATION ACT, TO PLACE APPRAISAL MANAGEMENT COMPANIES UNDER THE AUTHORITY OF THE REAL ESTATE APPRAISER LICENSING AND CERTIFICATION COMMISSION; TO REQUIRE THOSE COMPANIES TO REGISTER WITH THE MISSISSIPPI REAL ESTATE APPRAISER LICENSING AND CERTIFICATION BOARD BEFORE ENGAGING IN THE BUSINESS AS AN APPRAISAL MANAGEMENT COMPANY; TO PRESCRIBE FOR AN APPLICATION OF REGISTRATION TO ENGAGE IN SUCH BUSINESS; TO PROVIDE FOR THE MINIMUM REGISTRATION REQUIREMENTS; TO EXEMPT THE APPLICABILITY OF THE ACT TO CERTAIN COMPANIES; TO REQUIRE EACH COMPANY APPLYING FOR REGISTRATION TO SUBMIT AN IRREVOCABLE UNIFORM CONSENT TO SERVICE OF PROCESS DESIGNATING AN AGENT TO RECEIVE SERVICE OF PROCESS FOR THE COMPANY; TO PRESCRIBE THE REQUIREMENTS OF OWNERS, CONTROLLING PERSONS AND EMPLOYEES OF AN APPRAISAL MANAGEMENT COMPANY; TO REQUIRE THE COMPANY TO DESIGNATE ONE CONTROLLING PERSON TO ACT AS THE CONTACT FOR ALL COMMUNICATIONS BETWEEN THE COMMISSION AND THE COMPANY; TO REQUIRE THOSE COMPANIES TO CERTIFY TO THE BOARD ITS SYSTEM OF VERIFICATION FOR ADDITIONS TO ITS APPRAISAL PANEL, REVIEW OF WORK DONE BY INDEPENDENT APPRAISERS AND CONTINUING LICENSURE OR CERTIFICATION REQUIREMENTS; TO REQUIRE THOSE COMPANIES TO CERTIFY BIENNIALY TO THE BOARD ITS ADHERENCE TO CERTAIN PROFESSIONAL AND GOVERNMENTAL STANDARDS; TO REQUIRE THE COMPANY TO RETAIN RECORDS RELATING TO ITS APPRAISAL ACTIVITIES FOR A MINIMUM OF FIVE YEARS; TO PROHIBIT THE ALTERATION OF APPRAISAL REPORTS; TO REQUIRE THE BOARD TO ISSUE A REGISTRATION NUMBER TO EACH COMPANY REGISTERED IN THE STATE; TO REQUIRE THE COMPANY TO DISCLOSE ITS REGISTRATION NUMBER ON ENGAGEMENT DOCUMENTS PRESENTED TO THE APPRAISER; TO PROVIDE A PROCEDURE FOR THE SETTLING OF DISPUTES BETWEEN AN APPRAISAL MANAGEMENT COMPANY AND AN APPRAISER; TO PROVIDE DUE PROCESS TO INDEPENDENT APPRAISERS REMOVED FROM AN APPRAISAL PANEL FOR MISCONDUCT AND CERTAIN OTHER VIOLATIONS; TO AMEND SECTIONS 73-34-3, 73-34-9, 73-34-13, 73-34-25, 73-34-27, 73-34-29, 73-34-35, 73-34-41, 73-34-43, 73-34-45, 73-34-49 AND 73-34-53, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

**SECTION 1.** This act shall be known and may be cited as the "Mississippi Appraisal Management Company Registration Act."

**SECTION 2.** (1) It is unlawful for a person to directly or indirectly engage or attempt to engage in business as an appraisal management company in this state or to advertise or hold itself

out as engaging in or conducting business as an appraisal management company in this state without first obtaining a registration issued by the Mississippi Real Estate Appraiser Licensing and Certification Board under the provisions of this act.

(a) An applicant for registration as an appraisal management company in this state shall submit to the Mississippi Real Estate Appraiser Licensing and Certification Board an application on a form or forms prescribed by the board.

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

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

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

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

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

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

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

(f) The name, address, and contact information for one (1) controlling person designated as the main contact for all

communication between the appraisal management company and the commission;

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

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

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

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

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

(l) An irrevocable Consent to Service of Process required under Section 4 of this act;

(m) Any other information required by the commission which is reasonably necessary to implement the act.

(3) An application for the renewal of a registration shall include substantially similar information required for the initial

registration as noted in subsection (2), as determined by the board.

(4) An applicant for registration as an appraisal management company in this state shall submit to the commission an application on a form or forms prescribed by the commission.

(5) A registration granted by the commission under the provisions of this act shall be valid for two (2) years from the date on which it is issued.

**SECTION 3.** (1) The provisions of this act shall not apply to an appraisal management company that is a subsidiary owned and controlled by a financial institution regulated by a federal financial institutions regulatory agency.

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

**SECTION 4.** Each person applying for a registration as an appraisal management company that is not domiciled in this state shall complete an irrevocable uniform consent to service of process, as prescribed by the commission.

**SECTION 5.** (1) An appraisal management company applying for registration in this state shall not:

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

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

practice of appraisal, banking, mortgage or the provision of financial services, or any crime involving fraud, misrepresentation or moral turpitude.

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

**SECTION 6.** Each appraisal management company applying to the board for a registration in this state shall designate one (1) controlling person who is an employee of the appraisal management company that will be the designated contact for all communication between the board and the appraisal management company.

**SECTION 7.** (1) An appraisal management company doing business in this state as an appraisal management company shall not:

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

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

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

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

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

(b) Only licensed or certified appraisers are used to complete appraisal assignments in connection with federally related transactions.

**SECTION 8.** Any employee of, or independent contractor to, the appraisal management company that performs a USPAP Standard 3 appraisal review of an appraisal report on property located in this state shall be an appraiser with the proper level of licensure in Mississippi. Quality control examinations are exempt from this requirement, as they are not considered a Standard 3 review.

**SECTION 9.** (1) Each appraisal management company doing business in this state shall certify to the commission on an annual basis that it requires appraisers completing appraisals at its request to comply with the Uniform Standards of Professional Appraisal Practice, including the requirements for geographic and product competence.

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

(3) Each appraisal management company doing business in this state shall certify to the commission on an annual basis that it has a system in place requiring payment to an independent contract

appraiser for the completion of an appraisal service within sixty (60) days after the appraiser provides the completed appraisal report to the appraisal management company, except in cases involving a bona fide breach of contract, substandard performance of services, or alternate payment terms agreed upon by the appraiser and the appraisal management company.

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

**SECTION 10.** Each appraisal management company doing business in this state shall certify to the board on an annual basis that it maintains a detailed record of each service request that it receives and the appraiser that performs the appraisal for the appraisal management company. Records shall be retained for a period of five (5) years after an appraisal is completed or two (2) years after final disposition of a judicial proceeding related to the assignment, whichever period expires later.

**SECTION 11.** (1) An appraisal management company may not alter, modify, or otherwise change a completed appraisal report submitted by an appraiser without the appraiser's written consent, except as necessary to comply with regulatory mandates or legal requirements.

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

**SECTION 12.** (1) The board shall issue a unique registration number to each appraisal management company that is registered in this state pursuant to this act.

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

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

**SECTION 13.** It shall be a violation of this act for any employee, partner, director, officer or agent of an appraisal management company to:

(a) Influence or attempt to influence the development, reporting, result or review of an appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, bribery or in any other manner, including, but not limited to:

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

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

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

(iv) Conditioning an assignment of an appraisal or the payment of an appraisal fee or salary or bonus on the opinion, conclusion or valuation to be reached, or on a preliminary estimate or opinion requested from an appraiser;

(v) Requesting that an appraiser provide an estimated, predetermined or desired valuation in an appraisal, or provide estimated values or comparable sales at any time prior to the appraiser's completion of an appraisal;

(vi) Providing to an appraiser an anticipated, estimated, encouraged or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except

that a copy of the sales contract for purchase transactions may be provided; and

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

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

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

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

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

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

**SECTION 14.** An appraisal management company that has a reasonable basis to believe an appraiser has failed to comply with applicable laws, the Uniform Standards of Professional Appraisal Practice or other ethical or professional requirements in connection with a consumer credit transaction secured by a consumer's principal dwelling, shall refer the matter to the agency if the failure to comply is material. For purposes of this section, a failure to comply is material if it is likely to significantly affect the value assigned to the consumer's principal dwelling.

**SECTION 15.** (1) (a) Except within the first ninety (90) days after an independent appraiser is first added to the

appraiser panel of an appraisal management company, an appraisal management company may not remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real estate appraisal services to an independent appraiser without:

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

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

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

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

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

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

(i) Provide written findings to the involved parties;

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

(iii) Make recommendations for action.

**SECTION 16.** The conduct of adjudicatory proceedings in accordance with applicable state laws for violations of this act is vested in the commission, such that:

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

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

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

(d) The commission may make findings of fact and shall deliver or mail such findings to the registrant charged with an offense under this act.

**SECTION 17.** Section 73-34-3, Mississippi Code of 1972, is amended as follows:

73-34-3. As used in this chapter, the following terms and phrases shall have the following meanings unless the context clearly indicates otherwise:

(a) "Appraisal" means an analysis, opinion or conclusion prepared by a real estate appraiser relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate or identified real property

performed in accordance with the Uniform Standards for Professional Appraisal Practice. An appraisal may be classified by the nature of the assignment into either a valuation assignment or an evaluation assignment. The term "valuation assignment" means an analysis, opinion or conclusion prepared by a real estate appraiser that estimates the value of an identified parcel of real estate or identified real property at a particular point in time. The term "evaluation assignment" means an analysis, opinion or conclusion prepared by a real estate appraiser that relates to the nature, quality or utility of identified real estate or identified real property.

(b) "Appraisal report" means any communication, written or oral, of an appraisal. For the purposes of this chapter, the testimony of an appraiser dealing with the appraiser's analyses, conclusions or opinions concerning identified real property is deemed to be an oral appraisal report.

(c) "Board" means the Mississippi Real Estate Appraiser Licensing and Certification Board that is established under the provisions of this chapter.

(d) "Certified appraisal report" means an appraisal report given or signed and certified as such by a state certified real estate appraiser. When a state certified real estate appraiser identifies an appraisal report as "certified," such state certified real estate appraiser must indicate which type of certification he holds. The certification of an appraisal report by a state certified real estate appraiser represents to the public that it meets the appraisal standards established under this chapter.

(e) "Commission" means the Mississippi Real Estate Commission as established under Section 73-35-5, Mississippi Code of 1972.

(f) "Licensed real estate appraiser" means a person who holds a current, valid appraisal license issued to him under the provisions of this chapter.

(g) "Real estate or real property" means an identified parcel or tract of land, with improvements, and includes easements, rights-of-way, undivided or future interest, or similar rights in a tract of land, but does not include mineral rights, timber rights, growing crops, water rights, or similar interests severable from the land when the transaction does not involve the associated parcel or tract of land.

(h) "Real estate appraisal activity" means the act or process of making an appraisal of real estate or real property and preparing an appraisal report.

(i) "Real estate appraiser" means a person who engages in real estate appraisal activity for a fee or other valuable consideration.

(j) "Real property" means one or more defined interests, benefits or rights inherent in the ownership of real estate.

(k) "State certified real estate appraiser" means a person who holds a current, valid license as a real estate appraiser issued to him under the provisions of this chapter for certified real estate appraisers.

(l) "Timberland" means forest land that is producing, or which is capable of producing, timber as a crop.

(m) "Appraisal management company" means, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party that oversees a network or panel of more than fifteen (15) certified or licensed appraisers in this state or twenty-five (25) or more nationally within a given year, that is authorized either by a creditor of a consumer credit transaction secured by a

consumer's principal dwelling or by an underwriter of or other principal in the secondary mortgage markets to:

(i) Recruit, select, and retain appraisers;

(ii) Contract with licensed and certified appraisers to perform appraisal assignments;

(iii) Manage the process of having an appraisal performed, including providing administrative duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from creditors and underwriters for services provided, and reimbursing appraisers for services performed; or

(iv) Review and verify the work of appraisers.

(n) "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment, except that a quality control examination of an appraisal shall not be an appraisal review.

(o) "Appraiser" means an individual who holds a license or certification as an appraiser and is expected to perform valuation services competently and in a manner that is independent, impartial and objective.

(p) "Appraiser panel" means a group of licensed or certified independent appraisers that have been selected to perform appraisal services for a third party.

(q) "Controlling person" means:

(i) An officer or director, or owner of greater than a ten percent (10%) interest, of a corporation, partnership or other business entity, seeking to act as an appraisal management company in this state;

(ii) An 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 services requiring registration as an appraisal management company and has the authority to enter into agreements with appraisers for the performance of appraisals;  
or

(iii) An individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

(r) "Federal financial institutions regulatory agencies" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration.

(s) "Federally related transaction" means any real estate-related financial transaction which a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates, and which requires the services of an appraiser.

(t) "Person" means an individual, firm, partnership, limited partnership, limited liability company, association, corporation, or other group engaged in joint business activities, however organized.

(u) "Quality control examination" means an examination of an appraisal report for compliance and completeness including grammatical, typographical or other similar errors.

(v) "Real estate-related financial transaction" means any transaction involving:

(i) The sale, lease, purchase, auction, investment in or exchange of real property, including interests in property, or the financing thereof;

(ii) The refinancing of real property or interests in real property; and

(iii) The use of real property or interests in property as security for a loan or investment, including

mortgage-backed securities.

(w) "Uniform Standards of Professional Appraisal Practice" means the current standards of the appraisal profession, developed for appraisers and users of appraisal services by the Appraisal Standards Board of the Appraisal Foundation.

(x) "USPAP" means the Uniform Standards of Professional Appraisal Practice.

**SECTION 18.** Section 73-34-9, Mississippi Code of 1972, is amended as follows:

73-34-9. (1) The commission shall have the following powers and duties:

(a) To receive applications for licensure as a real estate appraiser and applications for registration as an appraisal management company under this chapter; to establish appropriate administrative procedures for the processing of those applications; to issue licenses to qualified applicants under the provisions of this chapter; and to maintain a registry of the names and addresses of individuals who are currently licensed under this chapter.

(b) To administer licensing examinations in the places and at the times as may be required to carry out its responsibilities under this chapter.

(c) To implement recommendations made to the commission by the Real Estate Appraiser Licensing and Certification Board with respect to upgrading and improving the experience, education and examination requirements that are required for an appraiser license and each classification of licensed state certified real estate appraiser in this state.

(d) To implement recommendations made to the commission by the board with respect to upgrading and improving the continuing education requirements that are required for renewal of a license.

(e) To collect all licensing fees required or permitted by this chapter.

(f) To take appropriate action upon a decision and the related findings of fact made by the board if, after an administrative hearing, the board (i) determines that a licensed appraiser or a licensed state certified real estate appraiser under this chapter has violated the standards of appraisal practice or ethical rules established under Section 73-34-37, or has committed one or more of the acts that are prohibited by Section 73-34-35, and (ii) recommends that the license of the appraiser be suspended or revoked, that renewal be denied, or that some other disciplinary action be taken.

(g) To solicit bids and enter into contracts with one or more educational testing services or organizations approved by the board for the preparation of a bank of questions and answers for licensure examinations under this chapter.

(h) To promote research and conduct studies relating to the profession of real estate appraising and sponsor real estate appraisal educational activities.

(i) To adopt rules and regulations for the administration of this chapter that are not inconsistent with the provisions of this chapter or the Constitution and laws of Mississippi or of the United States.

(j) To employ an assistant to the Mississippi Real Estate Commission Administrator who shall keep a record of all proceedings, transactions, communications and official acts of the commission and board and perform any other duties as the commission and board may require.

(k) To employ an appropriate staff to investigate allegations that licensed appraisers or licensed state certified real estate appraisers under this chapter failed to comply with the terms or provisions of this chapter.

(1) To employ any other professional, clerical and technical assistance as may be necessary to properly administer the work of this chapter.

(2) The board shall have the following powers and duties:

(a) To be responsible for matters relating to real estate appraisal standards, real estate appraiser qualifications, testing standards, appraisal management companies and disciplinary functions.

(b) To hold meetings; to hold public hearings and administrative hearings; to prepare examination specifications for licensed appraisers and licensed state certified appraisers.

(c) To enable the board to carry out its responsibilities under this chapter with respect to licensing and registering, the board shall have:

(i) The power to compel the attendance of witnesses;

(ii) The power to require a licensed appraiser or an applicant for licensure to produce books, appraisal documents, records and other papers;

(iii) The power to administer oaths; and

(iv) \* \* \* The power to take testimony and receive evidence concerning all matters within its jurisdiction.

These powers may be exercised directly by the board in such manner as the board shall determine.

(d) To establish appropriate administrative procedures for disciplinary proceedings conducted under the provisions of this chapter.

(e) To keep a record of its proceedings and issue an annual report of its activities.

(f) To further define by regulation, and with respect to each of the categories of licensed appraiser, the type of educational experience, appraisal experience and equivalent

experience that will meet the statutory requirements of this chapter.

(g) To approve or disapprove applications for licensing or registration under this chapter.

(h) To suspend or revoke licenses or registrations under the disciplinary proceedings provided for in this chapter.

(i) To present an annual budget to the Mississippi Legislature for approval. A copy of the budget shall be given to the commission.

(j) To implement all requirements directed by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council or their designated agent.

(k) To make rules and regulations providing for an inactive license or registration status and for the reactivation thereof.

(l) To make rules and regulations necessary to implement its powers and duties under this chapter.

(m) To do all other things necessary to carry out the provisions of this chapter.

(n) To adopt rules consistent with the provisions of this chapter which may be reasonably necessary to implement, administer, and enforce the provisions of this chapter.

(o) To provide for at least one (1) member of the board to represent the appraisal management company industry.

(3) The members of the commission and board shall be immune from any civil action or criminal prosecution for initiating or assisting in any lawful investigation of the actions of, or participating in any disciplinary proceeding concerning, an appraiser licensed under this chapter, provided that the action is taken without malicious intent and in the reasonable belief that the action was taken in accordance with the powers and duties vested in the members of the commission and board under this chapter.

**SECTION 19.** Section 73-34-13, Mississippi Code of 1972, is amended as follows:

73-34-13. Applications for one (1) of the appraisal licenses, applications for renewal, \* \* \* applications to take an examination, and applications for registration as an appraisal management company shall be made in writing to the commission on approved forms.

The payment of the appropriate fee, as fixed under Section 73-34-45, must accompany all applications for licensure and renewal thereof, all applications to take an examination and all applications for registration as an appraisal management company. At the time of filing an application for licensure under this chapter, \* \* \* for renewal, or for registration as an appraisal management company, each applicant shall sign a pledge to comply with the standards of professional appraisal practices that are established from time to time for licensed appraisers and for licensed certified real estate appraisers under this chapter. Each applicant shall also certify that he understands the types of misconduct, as set forth in this chapter, for which disciplinary proceedings may be initiated against a licensed appraiser or a licensed certified real estate appraiser.

Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64, Mississippi Code of 1972.

**SECTION 20.** Section 73-34-25, Mississippi Code of 1972, is amended as follows:

73-34-25. Except as provided in Section 33-1-39, a license issued under the authority of this chapter shall expire two (2) years from the last day of the month of issuance; however, a registration granted under the authority of this chapter shall expire one (1) year from the date of issuance.

**SECTION 21.** Section 73-34-27, Mississippi Code of 1972, is amended as follows:

73-34-27. To obtain a renewal of any of the real estate appraisal licenses or a renewal of any registration issued under this chapter, the holder of a current, valid license or registration shall make application and pay the prescribed fee to the commission not earlier than one hundred twenty (120) days nor later than the expiration date, as defined in Section 73-34-25, of the license then held. Each application for renewal shall be accompanied by evidence, in the form prescribed by the board, of having completed the continuing education requirements for renewal specified in this chapter.

If a licensed appraiser or licensed certified real estate appraiser under this chapter fails to renew his license, or an appraisal management company fails to renew its registration before its expiration or within any period of extension granted under this chapter, that person or company may obtain a renewal of their license or registration by satisfying all of the requirements for renewal and filing an application for renewal, accompanied by a late renewal fee, within sixty (60) days of the date that the license or registration expired.

**SECTION 22.** Section 73-34-29, Mississippi Code of 1972, is amended as follows:

73-34-29. The board may, upon compliance with the provisions of this chapter relating to administrative hearings, deny the issuance of a license or registration to an applicant on any of the grounds provided in this chapter.

**SECTION 23.** Section 73-34-35, Mississippi Code of 1972, is amended as follows:

73-34-35. (1) An application for licensure or renewal may be denied, and the rights of any licensed appraiser or licensed certified real estate appraiser may be revoked or suspended, or the holder of the license may be otherwise disciplined, in accordance with the provisions of this chapter for any of the following acts or omissions:

- (a) Failing to meet the minimum qualifications for licensure established under this chapter;
- (b) Procuring or attempting to procure licensure under this chapter by knowingly making a false statement, submitting false information or making a material misrepresentation in an application filed with the commission or procuring or attempting to procure licensure through any form of fraud or misrepresentation;
- (c) Paying money other than the fees provided for by this chapter to any member or employee of the commission or the board to procure licensure under this chapter;
- (d) An act or omission in the practice of real estate appraising which constitutes dishonesty, fraud or misrepresentation with the intent to substantially benefit the licensee or another person or with the intent to substantially injure another person;
- (e) Entry of a final civil or criminal judgment against a licensee on grounds of fraud, misrepresentation or deceit;
- (f) Conviction, including a conviction based upon a plea or finding of guilty, of a crime which is substantially related to the qualifications, functions or duties of a person developing real estate appraisals and communicating real estate appraisals to others;
- (g) Engaging in the business of real estate appraising under an assumed or fictitious name not properly registered in this state;
- (h) Paying a finder's fee or a referral fee;
- (i) Making a false or misleading statement in that portion of a written appraisal report that deals with professional qualifications or in any testimony concerning professional qualifications;

(j) Issuing an appraisal on any real property in which the appraiser has an interest through fee simple ownership, leasehold, rental agreement or auction agreement;

(k) Taking a listing for the sale of a property within ninety (90) days of appraising such property, except as may be otherwise agreed upon by all parties and disclosed in the listing agreement; or

(l) Any act or conduct, whether the same or of a different character than specified above, which constitutes or demonstrates bad faith, incompetency or untrustworthiness; or dishonest, fraudulent or improper dealing; or any other violation of the provisions of this chapter and of rules and regulations established by the board.

(2) In accordance with the laws of this state, and to the extent permitted by any applicable federal legislation or regulation, the board may censure an appraisal management company, conditionally or unconditionally suspend or revoke any registration issued under this act, or deny renewal of any registration issued under this act, or levy fines or impose civil penalties not to exceed Five Thousand Dollars (\$5,000.00), if after appropriate investigation the board concludes that an appraisal management company is attempting to perform, has performed, or has attempted to perform any of the following acts:

(a) Committed any act in violation of this chapter;

(b) Violated any rule or regulation adopted by the board in the interest of the public and consistent with the provisions of this chapter; or

(c) Procured a registration for itself or any other person by fraud, misrepresentation or deceit.

(3) In order to promote voluntary compliance, encourage appraisal management companies to correct errors promptly, and ensure a fair and consistent approach to enforcement, the board is authorized to impose fines or civil penalties that are reasonable

in light of the nature, extent and severity of the violation. The board is also authorized to take action against an appraisal management company's registration, if at all, only after less severe sanctions have proven insufficient to ensure behavior consistent with this act. When deciding whether to impose a sanction permitted by subsection (2), determining the sanction that is most appropriate in a specific instance, or making any other discretionary decision regarding the enforcement of this act, the board shall consider whether an appraisal management company:

(a) Has an effective program reasonably designed to ensure compliance with this act;

(b) Has taken prompt and appropriate steps to correct and prevent the recurrence of any detected violations; and

(c) Has independently reported to the board any significant violations or potential violations of this act, before an imminent threat of disclosure or investigation and within a reasonably prompt time after becoming aware of their occurrence.

(4) In addition to the reasons specified in subsection (1) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

**SECTION 24.** Section 73-34-41, Mississippi Code of 1972, is amended as follows:

73-34-41. The commission may investigate at the direction of the board the actions of an individual licensed or entity registered under this chapter or an applicant for licensure, renewal or registration. Upon compliance with the procedural requirements set forth in this chapter, the board may revoke or suspend the license or otherwise discipline a licensed appraiser, licensed certified real estate appraiser or registered appraisal management company, or deny an application or registration, for any of the acts or omissions set forth in Section 73-34-35.

Upon receipt of information indicating that a licensed appraiser, licensed certified real estate appraiser or a registered appraisal management company may have committed a violation under Section 73-34-35, the board may, upon compliance with the procedural requirements set forth in this chapter, revoke or suspend the license or otherwise discipline the licensee or registrant, or deny an application or registration, for any of the acts or omissions set forth in Section 73-34-35.

Upon receipt of information indicating that a licensed appraiser, licensed certified real estate appraiser or registered appraisal management company may have committed a violation under Section 73-34-35, the commission, at the direction of the board, may cause one or more of the investigators on its staff to make an investigation of the facts to determine whether or not there is evidence of any such violation. If technical assistance is required, a staff investigator may consult with not more than two (2) of the voting members of the board. If a voting member of the board is consulted and renders assistance in an investigation, such member shall be excused from service on the board in connection with any administrative hearing that results from such investigation.

In any investigation made by the commission's investigative staff, the board shall have the power to compel the attendance of witnesses and the production of books, appraisal documents,

records and other papers, the power to administer oaths, and the power to take testimony and receive evidence concerning all matters within its jurisdiction.

If an investigation indicates that a licensed appraiser, licensed certified real estate appraiser or registered appraisal management company has committed a violation under Section 73-34-35, a formal complaint shall be prepared by the commission staff at the direction of the board and served upon such real estate appraiser or appraisal management company. This complaint shall require the accused party to file an answer to the complaint within twenty (20) days of the date of service.

In responding to a complaint filed by the staff of the commission, the accused party may admit the allegations of the complaint, deny the allegations of the complaint, or otherwise plead. Failure to make a timely response shall be deemed an admission of the allegations of the complaint.

Upon completion of the investigation of the complaint, the board shall set a date, time and place for an administrative hearing on the complaint.

**SECTION 25.** Section 73-34-43, Mississippi Code of 1972, is amended as follows:

73-34-43. If, at the conclusion of the hearing, the board determines that a licensed appraiser, licensed certified real estate appraiser or appraisal management company is guilty of a violation of any of the provisions of this chapter, it shall prepare a formal decision that shall contain findings of fact concerning the appropriate disciplinary action to be taken.

The decision and order of the board shall be final. Any applicant, licensee, registrant or person aggrieved by a decision or order of the board shall have the right of appeal from such adverse order or decision of the board to the circuit court of the county of residence of the applicant, licensee, registrant or person, or of the First Judicial District of Hinds County, within

thirty (30) days from the service of notice of the action of the board upon the parties in interest. Notice of appeals shall be filed in the office of the clerk of the court who shall issue an order directed to the board commanding it, within ten (10) days after service thereof, to certify to the court its entire record in the matter in which the appeal has been taken. The appeal shall thereupon be heard in due course by the court, without a jury, which shall review the record and make its determination of the cause between the parties. To be effective, an application for review made by an aggrieved party must be filed within thirty (30) days after the party's receipt of the final decision and order of the board.

If an application is filed for review of a final decision and order of the board, the case shall be set for trial within sixty (60) days from the date of the filing of an answer for the board. If the court finds that the board has regularly pursued its authority and has not acted arbitrarily, it shall affirm the decision and order of the board.

Actions taken by the board in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section.

**SECTION 26.** Section 73-34-45, Mississippi Code of 1972, is amended as follows:

73-34-45. (1) The commission shall charge and collect appropriate fees for its services under this chapter. The fees charged shall not exceed the amounts indicated below and shall be set by the board.

LICENSURE FEES:

Application and examination ..... \$225.00

Initial and renewal license ..... \$325.00

Delinquent renewal penalty ..... 100% of renewal fee

SERVICES:

For each change of address ..... \$ 25.00

For each duplicate license ..... \$ 25.00

To change status as a licensee from active to  
inactive ..... \$ 25.00

For each bad check received by the commission ..... \$ 25.00

(2) (a) The board shall establish the fee to be paid by each appraisal management company making application for registration under this chapter, that is sufficient for the administration of the registration process, but in no case shall the fee for registration be more than Five Hundred Dollars (\$500.00).

(b) A similar processing fee, not to exceed Five Hundred Dollars (\$500.00), may be charged by the board in connection with the renewal of any registrations.

(3) All fees charged and collected under this chapter shall be paid by the commission at least once a week, accompanied by a detailed statement thereof, to the credit of the fund known as the "Real Estate Appraisal License Fund," hereby created in the State Treasury. All monies which are collected under this chapter shall be paid into and credited to the fund for the use of the board in carrying out the provisions of this chapter including the payment of salaries and expenses, printing an annual directory of licensees, and for educational purposes. The commission shall submit a monthly statement to the board detailing any expenses which it bears as a share in the expense of administering this chapter, for which expenses it shall be reimbursed in the amount approved by the board. The commission shall prepare an annual statement of income and expenses related to its appraisal related administrative function.

(4) If any applicant for licensing for the examinations given under this chapter before January 1, 1991, prepays the examination fee before August 1, 1990, he shall pay a fee of One Hundred Seventy-five Dollars (\$175.00) in lieu of the Two Hundred Twenty-five Dollars (\$225.00) application and examination fee as stated in this section.

**SECTION 27.** Section 73-34-49, Mississippi Code of 1972, is amended as follows:

73-34-49. The commission shall prepare and issue at least once each calendar year a roster showing the name and place of business of each real estate appraiser currently licensed and appraisal management company registered under the provisions of this chapter. A copy of the roster shall be made available to the public, upon application to the commission, at a reasonable price per copy as may be fixed by the commission. The commission shall send a copy of this list to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, or its designated agent.

**SECTION 28.** Section 73-34-53, Mississippi Code of 1972, is amended as follows:

73-34-53. (1) Except as otherwise provided in Section 73-34-35, any person violating a provision of this chapter shall, upon conviction of a first violation thereof, be punished by a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00), or by imprisonment for a term not to exceed ninety (90) days, or both. A second or subsequent violation shall be punishable by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Two Thousand Dollars (\$2,000.00), or by imprisonment for a term not to exceed six (6) months, or both.

(2) In case any person shall have received any sum of money, or the equivalent thereof, as commission, compensation or profit by or in consequence of his violation of any provision of this

chapter, that person shall also be liable to a penalty of not less than the amount of the sum of money so received and not more than four (4) times the sum so received, as may be determined by the court, which penalty may be sued for and recovered by any person aggrieved, and for his use and benefit, in any court of competent jurisdiction.

**SECTION 29.** Sections 1 through 16 of this act shall be codified in Chapter 34, Title 73, Mississippi Code of 1972.

**SECTION 30.** This act shall take effect and be in force from and after July 1, 2011, or one hundred twenty (120) days after the first date on which all rules, forms and policies have been finalized and made available by the commission, whichever is later.

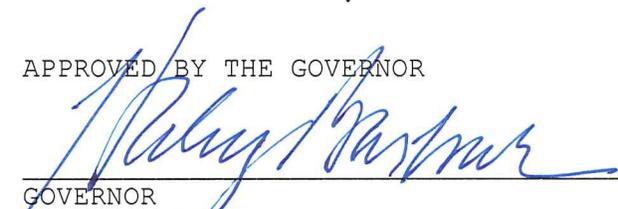
PASSED BY THE HOUSE OF REPRESENTATIVES  
February 8, 2011

  
\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE  
March 9, 2011

  
\_\_\_\_\_  
PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

  
\_\_\_\_\_  
GOVERNOR

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