

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2152
95TH GENERAL ASSEMBLY

4817L.06C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 339, RSMo, by adding thereto twenty-six new sections relating to registration of real estate appraisal management companies, with an effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 339, RSMo, is amended by adding thereto twenty-six new sections,
2 to be known as sections 339.1100, 339.1105, 339.1110, 339.1115, 339.1120, 339.1125,
3 339.1130, 339.1135, 339.1140, 339.1145, 339.1150, 339.1155, 339.1160, 339.1170, 339.1175,
4 339.1180, 339.1185, 339.1190, 339.1200, 339.1205, 339.1210, 339.1215, 339.1220, 339.1230,
5 339.1235, and 339.1240, to read as follows:

339.1100. Sections 339.1100 to 339.1240 shall be known and may be cited as the
2 **"Missouri Appraisal Management Company Registration and Regulation Act".**

339.1105. As used in sections 339.1100 to 339.1240, unless the context otherwise
2 **requires, the following terms shall mean:**

3 (1) **"Appraisal" or "real estate appraisal", an objective analysis, evaluation,**
4 **opinion, or conclusion relating to the nature, quality, value or utility of specified interests**
5 **in, or aspects of, identified real estate. An appraisal may be classified by subject matter**
6 **into either a valuation or an analysis;**

7 (2) **"Appraisal management company", an individual or business entity that utilizes**
8 **an appraisal panel and performs, directly or indirectly, appraisal management services;**

9 (3) **"Appraisal management services", to directly or indirectly perform any of the**
10 **following functions on behalf of a lender, financial institution, client, or any other person:**

11 (a) **Administer an appraiser panel;**

12 (b) **Recruit, qualify, verify licensing or certification, and negotiate fees and service**
13 **level expectations with persons who are part of an appraiser panel;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 14 (c) Receive an order for an appraisal from one person and deliver the order for the
15 appraisal to an appraiser that is part of an appraiser panel for completion;
- 16 (d) Track and determine the status of orders for appraisals;
- 17 (e) Conduct quality control of a completed appraisal prior to the delivery of the
18 appraisal to the person that ordered the appraisal; and
- 19 (f) Provide a completed appraisal performed by an appraiser to one or more
20 persons who have ordered an appraisal;
- 21 (4) "Appraisal review", the act or process of developing and communicating an
22 opinion about the quality of another appraiser's work that was performed as part of an
23 appraisal assignment, except that an examination of an appraisal for grammatical,
24 typographical, or other similar errors shall not be an appraisal review;
- 25 (5) "Appraiser", an individual who holds a license as a state licensed real estate
26 appraiser or certification as a state certified real estate appraiser under this chapter;
- 27 (6) "Appraiser panel", a network of licensed or certified appraisers that have:
- 28 (a) Responded to an invitation, request, or solicitation from an appraisal
29 management company, in any form, to perform appraisals for persons that have ordered
30 appraisals through the appraisal management company or to perform appraisals for the
31 appraisal management company directly; and
- 32 (b) Been selected and approved by an appraisal management company to perform
33 appraisals for any client of the appraisal management company that has ordered an
34 appraisal through the appraisal management company or to perform appraisals for the
35 appraisal management company directly;
- 36 (7) "Commission", the Missouri real estate appraisers commission created in
37 section 339.507;
- 38 (8) "Controlling person":
- 39 (a) An owner, officer or director of a corporation, partnership, or other business
40 entity seeking to offer appraisal management services in this state;
- 41 (b) An individual employed, appointed, or authorized by an appraisal management
42 company that has the authority to enter into a contractual relationship with other persons
43 for the performance of appraisal management services and has the authority to enter into
44 agreements with appraisers for the performance of appraisals; or
- 45 (c) An individual who possesses, directly or indirectly, the power to direct or cause
46 the direction of the management or policies of an appraisal management company;
- 47 (9) "State certified real estate appraiser", a person who develops and
48 communicates real estate appraisals and who holds a current valid certificate issued to the
49 person for either general or residential real estate under this chapter;

50 (10) "State licensed real estate appraiser", a person who holds a current valid real
51 estate appraiser license issued under this chapter.

339.1110. 1. No person shall directly or indirectly engage or attempt to engage in
2 business as an appraisal management company, to directly or indirectly engage or attempt
3 to perform appraisal management services, or to advertise or hold itself out as engaging
4 in or conducting business as an appraisal management company without first obtaining
5 a registration issued by the commission under sections 339.1100 to 339.1240.

6 2. The registration required by subsection 1 of this section shall, at a minimum,
7 include the following:

8 (1) Name of the entity seeking registration;

9 (2) Business address of the entity seeking registration which shall be located and
10 maintained within this state;

11 (3) Phone contact information of the entity seeking registration;

12 (4) If the entity is not a corporation that is domiciled in this state, the name and
13 contact information for the company's agent for service of process in this state;

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

17 (6) The name, address, and contact information for a designated controlling person
18 to be the primary communication source for the commission;

19 (7) A certification that the entity has a system and process in place to verify that a
20 person being added to the appraiser panel of the appraisal management company for
21 appraisal services to be performed in Missouri holds a license in good standing in Missouri,
22 if a license or certification is required to perform appraisals under section 339.1180;

23 (8) A certification that the entity has a system in place to review the work of all
24 appraisers who are performing real estate appraisal services for the appraisal management
25 company on a periodic basis to validate that the real estate appraisal services are being
26 conducted in accordance with Uniform Standards of Professional Appraisal Practice
27 (USPAP) under section 339.1185;

28 (9) A certification that the entity maintains a detailed record of each service request
29 that it receives for appraisal services within the state of Missouri and the appraiser who
30 performs the real estate appraisal services for the appraisal management company under
31 section 339.1190;

32 (10) An irrevocable Uniform Consent to Service of Process under section 339.1130;
33 and

34 (11) Any other reasonable information required by the commission to complete the
35 registration process.

339.1115. Sections 339.1100 to 339.1240 shall not apply to:

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

4 (2) A national or state bank, federal or state savings institution, or credit union that
5 is subject to direct regulation or supervision by an agency of the United States government,
6 or by the department of insurance, financial institutions or professional registration, that
7 receives a request for the performance of an appraisal from one employee of the financial
8 institution, and another employee of the same financial institution assigns the request for
9 the appraisal to an appraiser who is an independent contractor to the institution. An entity
10 exempt as provided in this subdivision shall file a notice with the commission the
11 information required in section 339.1110;

12 (3) An appraiser that enters into an agreement, whether written or otherwise, with
13 an appraiser for the performance of an appraisal, and upon the completion of the
14 appraisal, the report of the appraiser performing the appraisal is signed by both the
15 appraiser who completed the appraisal and the appraiser who requested the completion
16 of the appraisal;

17 (4) A state agency or local municipality that orders appraisals for ad valorem tax
18 purposes or any other business on behalf of the state of Missouri;

19 (5) Any person licensed to practice law in this state, a court-appointed personal
20 representative, or a trustee who orders an appraisal in connection with a bona fide client
21 relationship when such person directly contracts with an independent appraiser.

339.1120. An applicant for a registration as an appraisal management company
2 shall submit to the commission an application containing the information required in
3 subsection 2 of section 339.1110 on a form prescribed by the commission.

339.1125. Registration shall be valid for two years from its issuance.

339.1130. Each entity applying for a registration as an appraisal management
2 company in Missouri shall complete an irrevocable Uniform Consent to Service of Process,
3 as prescribed by the commission.

339.1135. 1. The commission shall establish by rule the fee to be paid by each
2 appraisal management company seeking registration under sections 339.1100 to 339.1240,
3 such that the sum of the fees paid by all appraisal management companies seeking
4 registration under this section shall be sufficient for the administration of sections 339.1100
5 to 339.1240. The commission shall charge and collect fees to be utilized to fund activities
6 that may be necessary to carry out the provisions of this chapter.

7 **2. Each applicant for registration shall post with the commission and maintain on**
8 **renewal a surety bond in the amount of twenty thousand dollars. The details of the bond**
9 **shall be prescribed by rule of the commission, however, the bond shall not be used to assist**
10 **appraisers in collection efforts of credit extended by the appraiser.**

11 **3. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
12 **created under the authority delegated in sections 339.1100 to 339.1240 shall become**
13 **effective only if it complies with and is subject to all of the provisions of chapter 536 and,**
14 **if applicable, section 536.028. Sections 339.1100 to 339.1240 and chapter 536 are**
15 **nonseverable and if any of the powers vested with the general assembly pursuant to**
16 **chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**
17 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**
18 **proposed or adopted after August 28, 2010, shall be invalid and void.**

339.1140. 1. An appraisal management company applying for a registration in
2 **Missouri shall not be more than ten percent owned by:**

3 **(1) A person who has had a license or certificate to act as an appraiser refused,**
4 **denied, canceled, revoked, or surrendered in lieu of a pending revocation in any state;**

5 **(2) An entity that is more than ten percent owned by any person who has had a**
6 **license or certificate to act as an appraiser refused, denied, canceled, revoked, or**
7 **surrendered in lieu of a pending revocation in any state.**

8 **2. Each person who owns more than ten percent of an appraisal management**
9 **company in this state shall:**

10 **(1) Be of good moral character, as determined by the commission; and**

11 **(2) Submit to a background investigation, as determined by the commission.**

12 **3. Each appraisal management company applying for registration shall certify to**
13 **the commission that it has reviewed each entity that owns more than ten percent of the**
14 **appraisal management company and that no entity that owns more than ten percent of the**
15 **appraisal management company is more than ten percent owned by any person who has**
16 **had a license or certificate to act as an appraiser refused, denied, cancelled, revoked, or**
17 **surrendered in lieu of a pending revocation.**

18 **4. Each appraisal management company shall notify the commission within thirty**
19 **days of a change in its controlling principal, agent of record, or ownership composition.**

339.1145. 1. Each appraisal management company applying to the commission for
2 **a registration in this state shall designate one compliance manager who will be the main**
3 **contact for all communication between the commission and the appraisal management**
4 **company.**

5 **2. The designated controlling person under subsection 1 of this section shall:**

- 6 (1) Have never had a license or certificate to act as an appraiser refused, denied,
7 canceled, revoked, or surrendered in lieu of a pending revocation in any state;
- 8 (2) Be of good moral character, as determined by the commission; and
- 9 (3) Submit to a background investigation, as determined by the commission.

339.1150. 1. An appraisal management company that applies to the commission
2 for registration to do business in this state as an appraisal management company under
3 subdivision (1) of section 339.1115 shall not:

- 4 (1) Employ any person directly involved in appraisal management services who has
5 had a license or certificate to act as an appraiser in Missouri or in any other state refused,
6 denied, cancelled, revoked, or surrendered in lieu of a pending revocation;
- 7 (2) Knowingly enter into any independent contractor arrangement, whether in
8 verbal, written, or other form, with any person who has had a license or certificate to act
9 as an appraiser in Missouri or in any other state refused, denied, cancelled, revoked, or
10 surrendered in lieu of a pending revocation;
- 11 (3) Knowingly enter into any contract, agreement, or other business relationship
12 directly involved with the performance of real estate appraisal or appraisal management
13 services, whether in verbal, written, or any other form, with any entity that employs, has
14 entered into an independent contract arrangement, or has entered into any contract,
15 agreement, or other business relationship, whether in verbal, written, or any other form,
16 with any person who has ever had a license or certificate to act as an appraiser in Missouri
17 or in any other state, refused, denied, cancelled, revoked, or surrendered in lieu of a
18 pending revocation.

339.1155. Prior to placing an assignment for real estate appraisal services within
2 the state of Missouri with an appraiser on the appraiser panel of an appraisal management
3 company, the appraisal management company shall have a system in place to verify that
4 the appraiser receiving the assignment holds a credential in good standing in the state of
5 Missouri. Letters of engagement shall include instructions to the appraiser to decline the
6 assignment in the event the appraiser is not geographically competent or the assignment
7 falls outside the appraiser's scope of practice restrictions.

339.1160. Any employee or independent contractor of the appraisal management
2 company who performs an appraisal review shall be an individual who holds a license as
3 a state licensed real estate appraiser or certification as a state certified real estate appraiser
4 under this chapter. Letters of engagement shall include instructions to the appraiser to
5 decline the appraisal review assignment in the event the appraiser is not geographically
6 competent or the assignment falls outside the appraiser's scope of practice restrictions.

339.1170. Each appraisal management company seeking to be registered shall
2 certify to the commission on a biannual basis on a form prescribed by the commission that
3 the appraisal management company has a system and process in place to verify that an
4 individual being added to the appraiser panel of the appraisal management company holds
5 a license in good standing in this state under this chapter.

339.1175. Each appraisal management company seeking to be registered shall
2 certify to the commission on a biannual basis on a form prescribed by the commission that
3 the appraisal management company has a system in place to verify that an individual to
4 whom the appraisal management company is making an assignment for the completion of
5 an appraisal has not had a license or certification as an appraiser refused, denied,
6 cancelled, revoked, or surrendered in lieu of a pending revocation on a regular basis.

339.1180. Each registered appraisal management company shall certify to the
2 commission on a biannual basis that it has a system in place to perform an appraisal review
3 on a periodic basis of the work of all appraisers who are performing appraisals for the
4 appraisal management company to validate that the appraisals are being conducted in
5 accordance with Uniform Standards of Professional Appraisal Practice (USPAP). An
6 appraisal management company shall report to the commission the results of any appraisal
7 reviews in which an appraisal is found to be substantially noncompliant with USPAP or
8 state or federal laws pertaining to appraisals.

339.1185. 1. Each appraisal management company seeking to be registered shall
2 certify to the commission biannually that it maintains a detailed record of each service
3 request for appraisal services within the state of Missouri and that it receives of each
4 appraiser who performs an appraisal for the appraisal management company in the state
5 of Missouri.

6 2. All appraisal management company records shall be retained for five years.

339.1190. 1. An appraisal management company shall not prohibit its appraiser
2 who is part of an appraiser panel from recording the fee that the appraiser was paid by the
3 appraisal management company for the performance of the appraisal within the appraisal
4 report that is submitted by the appraiser to the appraisal management company.

5 2. An appraisal management company shall separately state to the client the fees
6 paid to an appraiser for appraisal services and the fees charged by the appraisal
7 management company for services associated with the management of the appraisal
8 process, including procurement of the appraiser's services.

339.1200. 1. No employee, director, officer, or agent of an appraisal management
2 company shall influence or attempt to influence the development, reporting, or review of

3 an appraisal through coercion, extortion, collusion, compensation, instruction, inducement,
4 intimidation, bribery or in any other manner, including but not limited to:

5 (1) Withholding or threatening to withhold timely payment for an appraisal, except
6 in cases of substandard performance or noncompliance with conditions of engagement;

7 (2) Withholding or threatening to withhold future business, or demoting,
8 terminating, or threatening to demote or terminate an appraiser;

9 (3) Expressly or impliedly promising future business, promotions, or increased
10 compensation for an appraiser;

11 (4) Conditioning the request for an appraisal or the payment of an appraisal fee or
12 salary or bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary
13 estimate or opinion requested from an appraiser;

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

17 (6) Providing to an appraiser an anticipated, estimated, encouraged, or desired
18 value for a subject property or a proposed or target amount to be loaned to the borrower,
19 except that a copy of the sales contract for purchase transactions may be provided;

20 (7) Providing to an appraiser, or any entity or person related to the appraiser, stock
21 or other financial or nonfinancial benefits;

22 (8) Allowing the removal of an appraiser from an appraiser panel without prior
23 written notice to such appraiser;

24 (9) Any other act or practice that knowingly impairs or attempts to impair an
25 appraiser's independence, objectivity, or impartiality;

26 (10) Requiring an appraiser to collect an appraisal fee on behalf of the appraisal
27 management company from the borrower, homeowner, or other third party; or

28 (11) Requiring an appraiser to indemnify an appraisal management company or
29 hold an appraisal management company harmless for any liability, damage, losses, or
30 claims arising out of the services performed by the appraisal management company, and
31 not the services performed by the appraiser.

32 2. Nothing in subsection 1 of this section shall prohibit the appraisal management
33 company from requesting that an appraiser:

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

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

36 (3) Provide additional information with the appraisal regarding additional sales
37 provided through an established dispute process.

339.1205. An appraisal management company shall not:

2 **(1) Require an appraiser to modify any aspect of an appraisal report unless the**
3 **modification complies with section 339.1200;**

4 **(2) Require an appraiser to prepare an appraisal report if the appraiser, in the**
5 **appraiser's own professional judgment, believes the appraiser does not have the necessary**
6 **expertise for the assignment or for the specific geographic area, and has notified the**
7 **appraisal management company and declined the assignment;**

8 **(3) Require an appraiser to prepare an appraisal under a time frame that the**
9 **appraiser, in the appraiser's own professional judgment, believes does not afford the**
10 **appraiser the ability to meet all the relevant legal and professional obligations, and has**
11 **notified the appraisal management company and declined the assignment;**

12 **(4) Prohibit or inhibit legal or other allowable communication between the**
13 **appraiser and:**

14 **(a) The lender;**

15 **(b) A real estate licensee; or**

16 **(c) Any other person from whom the appraiser, in the appraiser's own professional**
17 **judgment, believes information would be relevant;**

18 **(5) Knowingly require the appraiser to do anything that does not comply with:**

19 **(a) Uniformed Standards of Professional Appraisal Practice (USPAP);**

20 **(b) The Missouri certified and licensed real estate appraisers act established under**
21 **this chapter; or**

22 **(c) Any assignment conditions and certifications required by the client;**

23 **(6) Make any portion of the appraiser's fee or the appraisal management**
24 **company's fee contingent on a predetermined or favorable outcome, including but not**
25 **limited to:**

26 **(a) A loan closing; or**

27 **(b) Specific dollar amount being achieved by the appraiser in the appraisal report.**

339.1210. Each appraisal management company shall, except in cases of breach of
2 **contract or substandard performance of services, make payment to an appraiser for the**
3 **completion of an appraisal or valuation assignment within thirty days, unless a mutually**
4 **agreed upon alternate payment schedule exists, from when the appraiser transmits or**
5 **otherwise provides the completed appraisal or valuation study to the appraisal**
6 **management company or its assignee.**

339.1215. 1. An appraisal management company shall not alter, modify, or
2 **otherwise change a completed appraisal report submitted by an appraiser by:**

3 **(1) Permanently removing the appraiser's signature or seal; or**

4 **(2) Adding information to, or removing information from, the appraisal report with**
5 **an intent to change the valuation conclusion.**

6 **2. No registered appraisal management company shall require an appraiser to**
7 **provide the appraisal management company with the appraiser's digital signature or seal.**

339.1220. 1. The commission shall issue a unique registration number to each
2 **appraisal management company.**

3 **2. The commission shall publish a list of the appraisal management companies that**
4 **have registered under sections 339.1100 to 339.1240 and have been issued a registration**
5 **number.**

6 **3. An appraisal management company shall be required to disclose the registration**
7 **number on each engagement letter utilized in assigning an appraisal request for real estate**
8 **appraisal assignments within the state of Missouri.**

339.1230. 1. Except within the first thirty days after an appraiser is first added to
2 **the appraiser panel of an appraisal management company, an appraisal management**
3 **company shall not remove an appraiser from its appraiser panel or otherwise refuse to**
4 **assign requests for real estate appraisal services to an appraiser without:**

5 **(1) Notifying the appraiser in writing of the reasons why the appraiser is being**
6 **removed from the appraiser panel of the appraisal management company;**

7 **(2) If the appraiser is being removed from the panel for illegal conduct, violation**
8 **of the Uniform Standards of Professional Appraisal Practice (USPAP), or a violation of**
9 **state licensing standards, describing the nature of the alleged conduct or violation; and**

10 **(3) Providing an opportunity for the appraiser to respond to the notification of the**
11 **appraisal management company.**

12 **2. An appraiser who is removed from the appraiser panel of an appraisal**
13 **management company for alleged illegal conduct, violation of the Uniform Standards of**
14 **Professional Appraisal Practice (USPAP), or violation of state licensing standards may file**
15 **a complaint with the commission for a review of the decision of the appraisal management**
16 **company; except that, in no case shall the commission make any determination regarding**
17 **the nature of the business relationship between the appraiser and the appraisal**
18 **management company which is unrelated to the actions specified in subsection 1 of this**
19 **section.**

20 **3. If after notice and an opportunity for hearing and review, the commission**
21 **determines that an appraiser did not commit a violation of law, a violation of the Uniform**
22 **Standards of Professional Appraisal Practice (USPAP), or a violation of state licensing**
23 **standards, the commission shall order that such appraiser be added to the appraiser panel**
24 **of the appraisal management company.**

25 **4. If the commission has found that the appraisal management company acted**
26 **improperly in removing the appraiser from the appraiser panel, an appraisal management**
27 **company shall not refuse to make assignments for real estate appraisal services to an**
28 **appraiser, or reduce the number of assignments, or otherwise penalize the appraiser.**

339.1235. 1. The commission may censure an appraisal management company,
2 **conditionally or unconditionally suspend or revoke any registration issued under sections**
3 **339.1100 to 339.1240, or impose civil penalties not to exceed two thousand five hundred**
4 **dollars for each offense. Each day of a continued violation constitutes a separate offense,**
5 **with a maximum penalty of twenty-five thousand dollars. In determining the amount of**
6 **penalty to be imposed, the commission may consider if an appraisal management company**
7 **is:**

- 8 **(1) Knowingly committing any act in violation of sections 339.1100 to 339.1240;**
- 9 **(2) Violating any rule adopted by the commission; or**
- 10 **(3) Procuring a license by fraud, misrepresentation, or deceit.**

339.1240. The conduct of adjudicatory proceedings for violations of this section is
2 **vested in the commission, provided:**

3 **(1) Before censuring any registrant, or suspending or revoking any registration, the**
4 **commission shall notify the registrant in writing of any charges made at least twenty days**
5 **before the hearing and shall afford the registrant an opportunity to be heard in person or**
6 **by counsel; and**

7 **(2) Written notice shall be satisfied by personal service on the controlling person**
8 **of the registrant, or the registrant's agent for service of process in this state, or by sending**
9 **the notice by certified mail, return receipt requested to the controlling person of the**
10 **registrant to the registrant's address on file with the commission.**

 Section B. Section A of this act shall become effective on January 1, 2011.

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