

REAL ESTATE APPRAISERS BOARD
LAWS
AS OF THE 2019 LEGISLATIVE SESSION

TITLE 37, CHAPTER 54
REAL ESTATE APPRAISERS

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CHAPTER 54 REAL ESTATE APPRAISERS

Chapter Compiler's Comments

1997 Statement of Intent: The statement of intent attached to Ch. 481, L. 1997, provided: "A statement of intent is required for this bill because it delegates rulemaking to the identified licensing boards of the department of commerce [now department of labor and industry] to adopt rules to implement the provisions of 37-11-201 and 37-11-303, which allow on-demand computerized testing for physical therapist and physical therapist assistant applicants; 37-26-201 and 37-26-301, which allow the creation of a formulary by an alternative health care formulary committee to identify the substances that may be prescribed by a licensed naturopathic physician; the provisions that reconcile Title 37, chapter 54, with the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and the related requirements of financial institution regulatory agencies; and [sections 40 and 41], [50-76-111 and 50-76-112], 50-76-103, and 50-76-104, which govern the licensure of crane and hoist operators.

A statement of intent is also required for this bill because it directs the board of barbers to adopt rules pertaining to instructor and license applicants' qualifications, examination, and registration, to adopt rules pertaining to barber schools' curriculum and qualifications, to adopt rules pertaining to supervision of barber students, and to adopt rules pertaining to the inspection and conduct of persons and barbershops subject to the provisions of Title 37, chapter 30."

1991 Statement of Intent: The statement of intent attached to Ch. 409, L. 1991, provided: "A statement of intent is required for this bill because [section 4] [37-54-105] grants rulemaking authority to the newly established board of real estate appraisers.

(1) It is the intent of [section 4] [37-54-105] that the board have authority to adopt rules to implement and enforce [sections 1, 2, and 4 through 28] [Title 37, chapter 54], including specific authority to adopt rules regarding:

- (a) license and certificate applications and procedures necessary to receive and process those applications;
- (b) examinations and criteria for grading examinations;
- (c) disciplinary standards for licensees and certificate holders, including definitions of conduct for which discipline may be appropriate;
- (d) continuing education requirements;
- (e) the investigation of complaints received under [section 10] [37-54-401, now repealed];
- (f) the setting and modification of appropriate fees;
- (g) a process for renewal of licenses and certificates, including a procedure for late renewal;
- (h) the retention of board records;
- (i) the adoption and modification of standards of professional appraisal practice as set out in [section 13] [37-54-403];
- (j) reciprocity conditions applicable to licensure and certification as set out in [section 23] [37-54-417, now repealed]; and
- (k) procedures for granting temporary permits as set out in [section 28] [37-54-406, now repealed].

(2) It is the intent of [section 3] [2-15-1868 (renumbered 2-15-1758)] that the governor have the authority to implement staggered terms for board members during the appointment process.

(3) It is intended that the board of real estate appraisers address by rule the implementation of practices mandated for the profession by future federal legislation and notify the department of commerce [now department of labor and industry] of statutory changes necessary to effect those practices, to allow consideration by the legislature."

Severability: Section 29, Ch. 409, L. 1991, was a severability clause.

Appraiser Licensure — Response to Federal Law: Enactment of Montana law regarding licensure of real estate appraisers was necessitated in part by regulatory provisions promulgated under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. No. 101-73, August 9, 1989, 12 U.S.C. 1833, et seq.

Chapter Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.
Appraisal — property taxation, Title 15, ch. 7.

Chapter Administrative Rules

Title 24, chapter 207, ARM Board of Real Estate Appraisers.

Chapter Case Notes

Qualifications of Real Estate Experts — Differing Valuation: At a hearing concerning the valuation and division of property in the dissolution of Maureen and Joseph's marriage, an agricultural real estate broker testified for Maureen that the parties' ranch was worth \$398,000 to \$400,000, while a certified and licensed property appraiser testified for Joseph that the ranch was worth \$182,500. Joseph contended that the District Court erred in accepting the value of the ranch as testified to by the real estate broker because the broker had no experience as a real property appraiser. Citing *Jim's Excavating Serv., Inc. v. HKM Associates*, 265 M 494, 878 P2d 248 (1994), the Supreme Court held that whether an adequate foundation has been established for the admission of expert testimony is an issue largely within the discretion of the District Court and that the District Court did not abuse its discretion when it relied upon the testimony of the real estate broker. The Supreme Court therefore affirmed the part of the District Court's order that valued the parties' ranch at \$400,000. *In re Marriage of Ortiz*, 282 M 500, 938 P2d 1308, 54 St. Rep. 446 (1997).

Chapter Law Review Articles

Real Estate Appraisals—A Primer, Nash, 25 Colo. Law. 107 (1996).
Real Estate Appraisals and Evaluations: The Rules and Interpretations Governing Regulated Lenders, Gail, 47 Consumer Fin. L.Q. Rep. 236 (1993).
Appraisal Fraud and How It Works, Martin, 108 Banking L.J. 144 (1991).
Lenders Can Sue Real Estate Appraisers for Negligent Valuations, Court Rules, 6 Tax Mgmt. Fin. Plan. J. 296(2) (1990).
Regulating Real Estate Appraisers: The Role of Fraudulent and Incompetent Real Estate Appraisals in the S & L Crisis and the FIRREA Solution, Vickory, 19 Real Est. L.J. 3 (1990).
A Lawyer's Guide to Rural Property Appraisals, Wegener, 3 Prob. & Prop. 19 (1989).

Part 1 General

37-54-101. Short title. This chapter may be cited as the "Real Estate Appraiser Licensing and Certification Act".

History: En. Sec. 1, Ch. 409, L. 1991.

Compiler's Comments

Effective Date: Section 31, Ch. 409, L. 1991, provided that this section is effective on passage and approval. Approved April 9, 1991.

37-54-102. Definitions. Terms commonly used in appraisal practice and as used in this chapter must be defined according to the uniform standards of professional appraisal practice, as issued by the appraisal foundation. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Appraisal" means the practice of developing an opinion of the value of real property in conformance with the uniform standards of professional appraisal practice as developed by the appraisal foundation.

(2) "Appraisal foundation" means the appraisal foundation incorporated as a not-for-profit corporation on November 30, 1987, pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. 3310, et seq. The purposes of the appraisal foundation are to:

(a) establish and improve uniform appraisal standards by defining, issuing, and promoting those standards;

(b) establish appropriate criteria for the licensure and certification of qualified appraisers by defining, issuing, and promoting qualification criteria and disseminate the qualification criteria to states and other governmental entities; and

(c) develop or assist in the development of appropriate examinations for qualified appraisers.

(3) "Appraisal management company" means, in connection with valuation of properties collateralizing mortgage loans or mortgages incorporated into a securitization, an external third party, 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, that oversees a network or panel of more than 15 certified or licensed appraisers in this state or 25 or more nationally within a given year.

(4) "Appraisal management services" means the direct or indirect performance of any of the following functions on behalf of a lender, financial institution, client, or other person in conjunction with a consumer credit transaction that is secured by a consumer's principal dwelling:

(a) administering an appraiser panel;

(b) recruiting, retaining, or selecting appraisers to be part of an appraisal panel;

(c) qualifying and verifying licensing or certification, negotiating fees, and verifying service level expectations with appraisers who are part of an appraiser panel;

(d) contracting with appraisers from the appraiser panel to perform appraisal assignments;

(e) receiving an order for an appraisal assignment from one person and delivering the order for the appraisal assignment to an appraiser who is part of an appraiser panel for completion;

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

(g) tracking and determining the status of orders for appraisal assignments;

(h) conducting quality control examinations of a completed appraisal assignment prior to the delivery of the appraisal report to a client who ordered the appraisal assignment; and

(i) providing a completed appraisal report performed by an appraiser to one or more clients.

(5) (a) "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.

(b) The term does not include a quality control examination.

(6) "Appraiser" means an individual who holds a license or certification to complete an appraisal assignment in the state where the real property that is the subject of the appraisal assignment is located.

(7) "Appraiser panel" means a network of licensed or certified appraisers who are independent contractors with respect to an appraisal management company and who have:

(a) responded to an invitation, request, or solicitation from an appraisal management company to:

(i) perform an appraisal assignment for a client that has ordered an appraisal assignment through the appraisal management company; or

(ii) perform appraisal assignments for the appraisal management company directly as requested and assigned by the appraisal management company; and

(b) been selected and approved by an appraisal management company to perform appraisal assignments for any client of the company that has ordered an appraisal assignment through the company or to perform appraisal assignments for the appraisal management company directly on a periodic basis as assigned by the appraisal management company.

(8) "Board" means the board of real estate appraisers provided for in 2-15-1758.

(9) "Certified real estate appraiser" means a person who develops and communicates real estate appraisals and who has a valid real estate appraisal certificate issued under 37-54-305.

(10) "Controlling person" means:

(a) an owner, officer, or director of a corporation, partnership, or other business entity that offers appraisal management services in this state;

(b) an individual employed, appointed, or authorized by an appraisal management company to enter into a contractual relationship with other persons for the performance of appraisal management services and to enter into agreements with appraisers for the performance of appraisal assignments; or

(c) 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.

(11) "Department" means the department of labor and industry provided for in 2-15-1701.

(12) "Licensed real estate appraisal trainee" means a person authorized only to assist a certified real estate appraiser in the performance of an appraisal assignment.

(13) "Licensed real estate appraiser" means a person who holds a current valid real estate appraiser license issued under 37-54-201.

(14) "Person" means an individual, firm, partnership, association, corporation, or other business entity.

(15) "Quality control examination" means an examination of an appraisal report for completeness, including grammatical, mathematical, and typographical errors.

(16) "Real estate appraiser mentor" means a certified real estate appraiser who meets the qualifications set by the board and is approved by the board to supervise licensed real estate appraisal trainees.

History: En. Sec. 2, Ch. 409, L. 1991; amd. Sec. 27, Ch. 481, L. 1997; amd. Sec. 146, Ch. 483, L. 2001; amd. Sec. 1, Ch. 341, L. 2003; amd. Sec. 1, Ch. 270, L. 2011; amd. Sec. 1, Ch. 303, L. 2015; amd. Sec. 3, Ch. 55, L. 2017.

Compiler's Comments

2017 Amendment: Chapter 55 in definition of appraisal foundation near middle substituted "a not-for-profit corporation" for "an Illinois not-for-profit corporation"; in (7)(a)(ii) after "directly" deleted "on a periodic basis"; and made minor changes in style. Amendment effective March 1, 2017.

Saving Clause: Section 9, Ch. 55, L. 2017, was a saving clause.

Severability: Section 10, Ch. 55, L. 2017, was a severability clause.

2015 Amendment: Chapter 303 inserted definition of real estate appraiser mentor. Amendment effective October 1, 2015.

2011 Amendment: Chapter 270 in first sentence following "Standards of" inserted "Professional"; inserted definitions of appraisal, appraisal management company, appraisal management services, appraisal review, appraiser, appraiser panel, controlling person, person, and quality control examination; and made minor changes in style. Amendment effective October 1, 2011.

2003 Amendment: Chapter 341 inserted definition of licensed real estate appraisal trainee; and made minor changes in style. Amendment effective October 1, 2003.

2001 Amendment: Chapter 483 in definition of department substituted reference to department of labor and industry for reference to department of commerce and substituted "2-15-1701" for "2-15-1801". Amendment effective July 1, 2001.

1997 Amendment: Chapter 481 inserted first sentence requiring terms to be defined by Uniform Standards of Appraisal Practice; deleted definition of appraisal that read: "'Appraisal" or "real estate appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of a specified interest in or aspects of identified real estate"; deleted definition of appraisal assignment that read: "'Appraisal assignment" means an appraisal classified by the nature of the assignment as:

(a) a valuation appraisal, which is 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;

(b) an analysis assignment, which is 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; or

(c) a review assignment, which is an analysis, opinion, or conclusion prepared by a real estate appraiser that forms an opinion as to the adequacy and appropriateness of a valuation appraisal"; in definition of appraisal foundation, after "1987", inserted cite to Title XI of 1989 Act and in (b), after "criteria", substituted "for the licensure and certification" for "for the certification and recertification"; deleted definition of appraisal report that read: "'Appraisal report" means a written or oral communication of a real estate appraisal. An appraisal report for a federally related transaction must be in writing. An appraisal report may be classified by the nature of the assignment as a "valuation report", an "analysis report", or a "review report". For the purposes of this chapter, testimony of a licensed or certified real estate appraiser dealing with the appraiser's analyses, opinions, or conclusions concerning identified real estate or identified real property is considered an oral appraisal report"; deleted definition of certified appraisal report that read: "'Certified appraisal report" means an appraisal or appraisal report given or signed and certified by a certified real estate appraiser. When identifying an appraisal or appraisal report as "certified", the certified real estate appraiser shall indicate the class of certification the appraiser holds"; deleted definition of independent appraisal service that read: "'Independent appraisal service" means an engagement for which a person is employed or retained to act, or would be perceived by a third party or the public as acting, as a disinterested third party in rendering an unbiased analysis,

opinion, or conclusion relating to the nature, quality, value, or utility of identified real estate or identified real property"; deleted definition of real estate that read: "'Real estate' means an identified parcel or tract of land, including any improvements on the land"; deleted definition of real property that read: "'Real property' means one or more defined interests, benefits, and rights inherent in the ownership of real estate"; and made minor changes in style.

Severability: Section 49, Ch. 481, L. 1997, was a severability clause.

Effective Date: Section 31, Ch. 409, L. 1991, provided that this section is effective on passage and approval. Approved April 9, 1991.

Administrative Rules

ARM 24.207.406 Definitions.

Case Notes

Improper Award of Contractual Interest in Case of Negligent Misrepresentation of Real Property Appraisal: A professional appraiser prepared appraisal reports on two properties, which a lender reviewed and relied on in its decision to make loans at 61% to 62% of appraised market value and secured by the appraised properties. When the borrower defaulted, the lender foreclosed. After the Sheriff's sale, a deficiency judgment of \$848,067, including \$241,333.02 in contractual interest on the note, was entered against the borrower. The lender later sued the appraiser for damages arising from negligent misrepresentation of the appraisals, seeking an additional \$620,572 in lost earnings on the deficiency. Under section 552B, Restatement (Second) of Torts, damages recoverable for a negligent misrepresentation are those necessary to compensate the plaintiff for the pecuniary loss of which the misrepresentation is a legal cause, including: (1) the difference between the value of what has been received in the transaction and its purchase price or other value given for it; and (2) pecuniary loss suffered otherwise as a consequence of the plaintiff's reliance on the misrepresentation. Under this rationale, the District Court erred in awarding the contractual interest but properly denied the award for lost earnings. *United First Fed. S&L Ass'n v. White-Stevens, Ltd.*, 253 M 242, 833 P2d 170, 49 St. Rep. 490 (1992).

37-54-103 and 37-54-104 reserved.

37-54-105. Powers and duties of board. The board shall:

- (1) adopt rules to implement and administer the provisions of this chapter;
- (2) establish and collect fees commensurate with the costs of processing:
 - (a) an application for licensure or renewal of licensure;
 - (b) certification or renewal of a certificate; and
 - (c) registration or renewal of registration of appraisal management companies;
- (3) establish minimum requirements for education, experience, and examination for licensure and certification as set out by the appraisal qualification board of the appraisal foundation;
- (4) prescribe the examinations for licensure or certification and determine the acceptable level of performance on examinations;
- (5) receive and review applications for licensure, certification, or appraisal management company registration and issue or, as appropriate, renew licenses, certificates, or appraisal management company registrations;
- (6) review periodically the standards for development and communication of appraisals and adopt rules explaining and interpreting the standards;
- (7) retain all applications and other records submitted to the board;
- (8) adopt by rule standards of professional appraisal practice in this state;
- (9) (a) require an appraisal management company to submit reports, information, and documents to the board; and
 - (b) examine the books and records of an appraisal management company operating in the state;
- (10) reprimand, suspend, revoke, or refuse to renew the license, certificate, or registration of a person or entity who has violated the standards established for licensed and certified real estate appraisers or registered appraisal management companies;

(11) regulate and establish minimum requirements and qualifications for real estate appraiser mentors;

(12) collect and transmit annual registry fees from registered appraisal management companies and federally regulated appraisal management companies in the amount determined by the appraisal subcommittee of the federal financial institutions examination council; and

(13) perform other duties necessary to implement this chapter.

History: En. Sec. 4, Ch. 409, L. 1991; amd. Sec. 109, Ch. 429, L. 1995; amd. Sec. 28, Ch. 481, L. 1997; amd. Sec. 8, Ch. 196, L. 2003; amd. Sec. 2, Ch. 270, L. 2011; amd. Sec. 2, Ch. 303, L. 2015; amd. Sec. 4, Ch. 55, L. 2017.

Compiler's Comments

2017 Amendment: Chapter 55 in (2)(a) inserted "or renewal of licensure"; in (2)(b) substituted "certification or renewal of a certificate" for "certification and renewal of a license or certificate"; inserted (2)(c) regarding registration or renewal of registration of appraisal management companies; in (5) after "certification" inserted "or appraisal management company registration", after "issue" inserted "or, as appropriate, renew", and after "certificates" inserted "or appraisal management company registrations"; in (7) substituted "the board" for "it"; inserted (9)(a) and (9)(b) regarding submissions by appraisal management company to board and examination of books and records of appraisal management company; in (10) after "certificate" inserted "or registration" and after "person" inserted "or entity"; inserted (12) regarding collection and transmission of annual registry fees from registered appraisal management companies and federally regulated appraisal management companies; and made minor changes in style. Amendment effective March 1, 2017.

Saving Clause: Section 9, Ch. 55, L. 2017, was a saving clause.

Severability: Section 10, Ch. 55, L. 2017, was a severability clause.

2015 Amendment: Chapter 303 inserted (10) concerning real estate appraiser mentors; and made minor changes in style. Amendment effective October 1, 2015.

2011 Amendment: Chapter 270 in (9) following "appraisers" inserted "or registered appraisal management companies". Amendment effective October 1, 2011.

2003 Amendment: Chapter 196 in (2) after "costs of" inserted "processing an application for"; and at beginning of (4) substituted "prescribe the examinations for licensure or certification" for "receive applications for examination from qualified applicants, prescribe and administer examinations to qualified applicants". Amendment effective October 1, 2003.

1997 Amendment: Chapter 481 in list of Board duties deleted former (3) that required Board to "make available application forms for licensure and certification within 15 days of the first meeting of the board"; deleted former (9) and (10) that required Board to "maintain a registry of the names and addresses of licensees and certificate holders" and "establish disciplinary procedures for reprimand, suspension, or revocation of a license and certificate"; and made minor changes in style.

Severability: Section 49, Ch. 481, L. 1997, was a severability clause.

1995 Amendment: Chapter 429 deleted former (13) that read: "(13) establish criteria for courses and seminars consistent with the continuing education requirements set out in 37-54-210 and 37-54-310"; and made minor changes in style.

Severability: Section 131, Ch. 429, L. 1995, was a severability clause.

Saving Clause: Section 132, Ch. 429, L. 1995, was a saving clause.

Applicability: Section 133, Ch. 429, L. 1995, provided: "[This act] applies to licenses applied for, complaints submitted, and proceedings begun after [the effective date of this section]." Effective October 1, 1995.

Effective Date: Section 31, Ch. 409, L. 1991, provided that this section is effective on passage and approval. Approved April 9, 1991.

Administrative Rules

Title 24, chapter 207, subchapter 1, ARM Organizational rule.

Title 24, chapter 207, subchapter 2, ARM Procedural rules.

Title 24, chapter 207, subchapter 5, ARM Licensing and scope of practice.

ARM 24.207.1501 Registration and renewal of appraisal management companies.

ARM 24.207.1504 Appraiser panel list for appraisal management companies.

ARM 24.207.1507 Appraisal management company recordkeeping.

37-54-106 through 37-54-109 reserved.

37-54-110. Repealed. Sec. 13, Ch. 375, L. 2003.
History: En. Sec. 26, Ch. 409, L. 1991.

37-54-111. Certificate of good standing. The board may issue a certificate of good standing to any licensed or certified real estate appraiser who holds a current valid license or certificate in this state.
History: En. Sec. 27, Ch. 409, L. 1991.

Compiler's Comments

Effective Date: Section 31, Ch. 409, L. 1991, provided that this section is effective on passage and approval. Approved April 9, 1991.

37-54-112. Deposit of fees. Except as provided in 37-54-105(12), fees collected by the board under this chapter must be deposited in the state special revenue fund for the use of the board, subject to 37-1-101(6), and may be used to pay the compensation of board members and other expenses necessary to administer this chapter.

History: En. Sec. 22, Ch. 409, L. 1991; amd. Sec. 5, Ch. 55, L. 2017.

Compiler's Comments

2017 Amendment: Chapter 55 at beginning inserted exception clause; and made minor changes in style. Amendment effective March 1, 2017.

Saving Clause: Section 9, Ch. 55, L. 2017, was a saving clause.

Severability: Section 10, Ch. 55, L. 2017, was a severability clause.

Effective Date: Section 31, Ch. 409, L. 1991, provided that this section is effective on passage and approval. Approved April 9, 1991.

Administrative Rules

ARM 24.207.401 Fees.

37-54-113. (Temporary) Registry fees — statutory appropriation. Registry fees collected under 37-54-105(12) are separate from registration fees provided for elsewhere in this part. Registry fees are statutorily appropriated, as provided in 17-7-502, to the department to transmit to the appraisal subcommittee of the federal financial institutions examination council. (*Terminates June 30, 2023—sec. 12, Ch. 55, L. 2017.*)

History: En. Sec. 2, Ch. 55, L. 2017.

Compiler's Comments

Effective Date: Section 11, Ch. 55, L. 2017, provided: "[This act] is effective on passage and approval." Approved March 1, 2017.

Termination: Section 12, Ch. 55, L. 2017, provided: "[Section 2] [37-54-113] terminates June 30, 2023."

Saving Clause: Section 9, Ch. 55, L. 2017, was a saving clause.

Severability: Section 10, Ch. 55, L. 2017, was a severability clause.

Part 2 Licensure

37-54-201. Real estate appraiser license — scope and display of license. (1) Upon proof that an applicant meets the qualifications set out in 37-54-202, the board shall issue to the applicant a real estate appraiser license.

(2) The term "licensed real estate appraiser" may not be used to describe a firm, partnership, corporation, group, or anyone other than an individual licensee. However, a licensed real estate appraiser may engage in real estate appraisal as a professional corporation.

(3) This chapter does not preclude a person who is not a licensed or certified real estate appraiser from appraising real property for transactions not related to a federal agency or project for compensation if the person does not purport to be a licensed or certified real estate appraiser. A person who purports that the person or the person's company is licensed under this section or certified under 37-54-302 and 37-54-303 without possessing the applicable license or certificate is guilty of a misdemeanor.

(4) This section does not:

(a) prohibit a person who is licensed to practice in this state under any law from engaging in the practice for which the person is licensed;

(b) apply to public officials in the conduct of their official duties that are not governed by the rules established by the federal financial institutions examination council agencies.

(5) A licensed or certified real estate appraiser is subject to restrictions on the scope of practice, depending on the value and complexity of the federally related transaction or transactions pursuant to rules established by the federal financial institutions examination council agencies, and the restrictions must remain current with any changes in those rules.

(6) A licensed real estate appraiser shall conspicuously display the license in the appraiser's principal place of business.

History: En. Sec. 5, Ch. 409, L. 1991; amd. Sec. 29, Ch. 481, L. 1997; amd. Sec. 9, Ch. 196, L. 2003.

Compiler's Comments

2003 Amendment: Chapter 196 near middle of (1) after "37-54-202" deleted "and upon payment of license fees adopted under 37-54-105"; in (3) near middle of second sentence deleted reference to 37-54-304; and made minor changes in style. Amendment effective October 1, 2003.

1997 Amendment: Chapter 481 in first sentence in (3), after "property", substituted "for transactions not related to a federal agency or project" for "for nonfederally related transactions"; in (5), near beginning after "licensed", inserted "or certified"; and made minor changes in style.

Severability: Section 49, Ch. 481, L. 1997, was a severability clause.

Effective Date: Section 31, Ch. 409, L. 1991, provided that this section is effective on passage and approval. Approved April 9, 1991.

Administrative Rules

ARM 24.207.401 Fees.

37-54-202. Qualifications for licensure. (1) To qualify for a real estate appraiser license, an applicant:

(a) must be of good moral character;

(b) shall successfully complete a course of study prescribed by the board;

(c) must have the type and amount of experience in real estate appraisal prescribed by the board;

(d) shall successfully complete an examination prescribed by the board; and

(e) shall comply with any other requirements related to the practice of real estate appraisal as prescribed by the board by rule.

(2) To qualify for licensure as a real estate appraisal trainee, an applicant:

(a) must be of good moral character;

(b) shall successfully complete a course of study prescribed by the board;

(c) shall provide a written acknowledgment from the real estate appraiser mentor that the applicant will be assisting; and

(d) is not required to take an examination.

(3) As a prerequisite to the issuance of a real estate appraiser license or real estate appraisal trainee license, the board shall require the applicant to submit fingerprints for the purpose of fingerprint

and background checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307.

(4) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust, and if the board determines that the applicant is not, the license may be denied.

History: En. Sec. 6, Ch. 409, L. 1991; amd. Sec. 30, Ch. 481, L. 1997; amd. Sec. 2, Ch. 341, L. 2003; amd. Sec. 3, Ch. 303, L. 2015.

Compiler's Comments

2015 Amendment: Chapter 303 in (2)(c) substituted "real estate appraiser mentor" for "certified real estate appraiser"; inserted (3) concerning fingerprinting; and inserted (4) concerning criminal convictions and rehabilitation. Amendment effective October 1, 2015.

2003 Amendment: Chapter 341 inserted (2) providing qualifications for licensure of real estate appraisal trainees; and made minor changes in style. Amendment effective October 1, 2003.

1997 Amendment: Chapter 481 substituted (1) through (4) outlining appraiser qualifications for former (1) through (4) that read: "(1) shall successfully complete at least 75 classroom hours of a course of study described in 37-54-203 and approved by the board.

(a) The course of study must be conducted by:

(i) an accredited university, college, or junior college;

(ii) an approved real estate appraisal or real estate-related organization; or

(iii) another school approved by the board.

(b) The classroom hours must include:

(i) at least 60 hours relating to the basic principles of land economics and real estate appraisal;
and

(ii) at least 15 hours relating to the standards of professional appraisal practice set out in 37-54-403 and the ethical rules, as established by board rule, to be observed by a real estate appraiser.

(2) shall pass an examination administered by the board that is based on the study required by 37-54-203 and subsection (1) of this section and is designed to test the applicant's knowledge of the basic principles of land economics and real estate appraisal, standards of professional appraisal practice, and ethical rules to be observed by a real estate appraiser;

(3) must be of good moral character;

(4) must have experience in real estate appraisal as prescribed by the board. The board shall adopt rules pertaining to real estate appraisal experience that substantially comply with and are not more stringent than those required for compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989"; and made minor changes in style.

Severability: Section 49, Ch. 481, L. 1997, was a severability clause.

Effective Date: Section 31, Ch. 409, L. 1991, provided that this section is effective on passage and approval. Approved April 9, 1991.

Federal Citation: The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 referred to in this section is codified at 12 U.S.C. 1833, et seq.

Administrative Rules

Title 24, chapter 207, subchapter 5, ARM Licensing and scope of practice.

37-54-203. Repealed. Sec. 46, Ch. 481, L. 1997.

History: En. Sec. 7, Ch. 409, L. 1991.

37-54-204 through 37-54-209 reserved.

37-54-210. Repealed. Sec. 127, Ch. 467, L. 2005.

History: En. Sec. 8, Ch. 409, L. 1991; amd. Sec. 1, Ch. 81, L. 1993; amd. Sec. 110, Ch. 429, L. 1995; amd. Sec. 31, Ch. 481, L. 1997.

37-54-211. Repealed. Sec. 127, Ch. 467, L. 2005.

History: En. Sec. 9, Ch. 409, L. 1991; amd. Sec. 2, Ch. 81, L. 1993; amd. Sec. 111, Ch. 429, L. 1995; amd. Sec. 32, Ch. 481, L. 1997; amd. Sec. 51, Ch. 271, L. 2003.

37-54-212. Temporary registration of certification and licensure of out-of-state appraisers. (1)

The board shall recognize on a temporary basis the certificate or license of an appraiser issued by another state if:

- (a) the appraiser's business in this state is of a temporary nature; and
- (b) the appraiser registers with the board.

(2) The out-of-state appraiser shall submit an application for temporary registration on a form prescribed by the board and pay the required fee. In addition, a letter of good standing or license history indicating that the applicant is currently in good standing must be submitted directly to the board's office from the applicant's state of certification or licensure, or the board may obtain a national registry appraiser license history report.

(3) The temporary registration is valid only for a single appraisal assignment within this state. The temporary registration may be awarded for a 6-month period and renewed one time within the 12-month period following the original date on which the temporary registration was issued.

(4) A single appraisal assignment may include one or more properties under a single contract with a single client.

History: En. Sec. 39, Ch. 492, L. 2001.

Compiler's Comments

Effective Date: Section 77(2), Ch. 492, L. 2001, provided that this section is effective October 1, 2001.

Part 3 Certification

37-54-301. Certification — use of term — standards of practice. (1) A person may not represent to the public that the person is a certified real estate appraiser unless the person is certified under this chapter.

(2) Only a certified real estate appraiser may prepare and sign a certified appraisal report relating to real estate or real property in this state. If an appraisal report is prepared, signed, and certified by a certified real estate appraiser, a person licensed under this chapter who assisted in the preparation of the appraisal may cosign the appraisal report.

(3) The term "certified real estate appraiser" may not be used to describe a firm, partnership, corporation, group, or anyone other than an individual certificate holder. However, a certified real estate appraiser may develop and communicate an appraisal on behalf of a firm, partnership, corporation, or group.

(4) Whenever an appraisal or appraiser report is identified by the certified real estate appraiser as "certified", the appraiser shall indicate in writing the class of certification the appraiser holds.

History: En. Sec. 17, Ch. 409, L. 1991; amd. Sec. 33, Ch. 481, L. 1997.

Compiler's Comments

1997 Amendment: Chapter 481 inserted (4) concerning indication of certification in writing on report; and made minor changes in style.

Severability: Section 49, Ch. 481, L. 1997, was a severability clause.

Effective Date: Section 31, Ch. 409, L. 1991, provided that this section is effective on passage and approval. Approved April 9, 1991.

37-54-302. Certification process — fees. (1) An application for certification, original certification, or renewal of certification must be made in writing to the board on forms approved by the board.

(2) A fee established by the board by rule must accompany the application.

(3) When an applicant files an application for original certification or renewal of certification, the applicant shall sign a pledge to comply with the standards of professional appraisal practice established for certified real estate appraisers under 37-54-403 and affirm that the applicant understands the types of misconduct for which disciplinary action may be initiated under 37-1-308.

(4) To be eligible for original certification as a real estate appraiser, an applicant shall:

(a) specify the class or classes of certification for which the applicant is applying and provide evidence satisfactory to the board that the applicant has the education required for the class or classes of certification for which application is made;

(b) pass an examination prescribed by the board; and

(c) have the type and amount of experience in real estate appraisal prescribed by the board.

(5) A certificate issued under 37-54-305 must bear the signatures or facsimile signatures of the members of the board and a certificate number assigned by the board.

(6) As a prerequisite to certification as a real estate appraiser, the board shall require the applicant to submit fingerprints for the purpose of fingerprint and background checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307.

(7) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust, and if the board determines the applicant is not, the license may be denied.

History: En. Sec. 18, Ch. 409, L. 1991; amd. Sec. 112, Ch. 429, L. 1995; amd. Sec. 10, Ch. 196, L. 2003; amd. Sec. 4, Ch. 303, L. 2015.

Compiler's Comments

2015 Amendment: Chapter 303 inserted (4)(c) concerning experience; inserted (6) concerning fingerprinting; inserted (7) concerning criminal convictions and rehabilitation; and made minor changes in style. Amendment effective October 1, 2015.

2003 Amendment: Chapter 196 in (1) near beginning after "application" deleted "for examination". Amendment effective October 1, 2003.

1995 Amendment: Chapter 429 made minor changes in style.

Code Commissioner Correction: In (3), the Code Commissioner substituted 37-1-308 for 37-54-402 pursuant to the authority contained in sec. 73, Ch. 18, L. 1995.

Severability: Section 131, Ch. 429, L. 1995, was a severability clause.

Saving Clause: Section 132, Ch. 429, L. 1995, was a saving clause.

Applicability: Section 133, Ch. 429, L. 1995, provided: "[This act] applies to licenses applied for, complaints submitted, and proceedings begun after [the effective date of this section]." Effective October 1, 1995.

Effective Date: Section 31, Ch. 409, L. 1991, provided that this section is effective on passage and approval. Approved April 9, 1991.

Administrative Rules

ARM 24.207.401 Fees.

ARM 24.207.504 Qualifying education requirements.

ARM 24.207.505 Qualifying education requirements for licensed real estate appraisers.

ARM 24.207.506 Qualifying education requirements for residential certification.

ARM 24.207.507 Qualifying education requirements for general certification.

37-54-303. Classes of certification — education and experience requirements. (1) A real estate appraiser may be certified in one or both of the following classes:

(a) general real estate, which relates to the appraisal of all types of real property;

(b) residential real estate, which relates to the appraisal of expensive or complex 1 to 4 family homes.

(2) The board shall adopt rules pertaining to real estate appraisal education and experience that are at least as stringent as those required for compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

History: En. Sec. 19, Ch. 409, L. 1991; amd. Sec. 3, Ch. 81, L. 1993.

Compiler's Comments

1993 Amendment: Chapter 81 deleted former (1)(b) that read: "agricultural/rural lands, which relates to the appraisal of agricultural and rural lands, including timberlands"; and made minor changes in style. Amendment effective February 25, 1993.

Transition: Section 8, Ch. 81, L. 1993, provided: "Until the transition from a 3-year to a 1-year renewal system is completed, a 3-year license or certificate issued under Title 37, chapter 54, in effect on [the effective date of this act] remains in effect until its scheduled time of expiration, at which time fees must be prorated on a monthly basis between the scheduled expiration date and the annual renewal date." Effective February 25, 1993.

Effective Date: Section 31, Ch. 409, L. 1991, provided that this section is effective on passage and approval. Approved April 9, 1991.

Administrative Rules

ARM 24.207.506 Qualifying education requirements for residential certification.

ARM 24.207.507 Qualifying education requirements for general certification.

ARM 24.207.508 Ad valorem tax appraisal experience.

ARM 24.207.509 Qualifying experience.

37-54-304. Repealed. Sec. 28, Ch. 196, L. 2003.

History: En. Sec. 20, Ch. 409, L. 1991; amd. Sec. 4, Ch. 81, L. 1993; amd. Sec. 34, Ch. 481, L. 1997.

37-54-305. Issuance and display of certificate. (1) The board shall issue a certificate and a pocket card to a person who meets the requirements of 37-54-302 and 37-54-303.

(2) The certificate must include the dates of issuance and renewal of certification.

(3) A certified real estate appraiser shall conspicuously display the certificate in the appraiser's principal place of business.

(4) A certified real estate appraiser shall designate the class for which the appraiser is certified and place the certificate number on each appraisal report, contract, or other instrument that the appraiser uses in conducting real estate appraisal activities.

History: En. Sec. 21, Ch. 409, L. 1991; amd. Sec. 35, Ch. 481, L. 1997; amd. Sec. 11, Ch. 196, L. 2003.

Compiler's Comments

2003 Amendment: Chapter 196 at end of (1) deleted reference to 37-54-304. Amendment effective October 1, 2003.

1997 Amendment: Chapter 481 in (4), near end, substituted "that the appraiser uses" for "used by him"; and made minor changes in style.

Severability: Section 49, Ch. 481, L. 1997, was a severability clause.

Effective Date: Section 31, Ch. 409, L. 1991, provided that this section is effective on passage and approval. Approved April 9, 1991.

37-54-306 through 37-54-309 reserved.

37-54-310. Renewal of certificate. (1) A certificate issued under 37-54-305 expires on the date set by department rule.

(2) A certificate may be renewed upon payment of a renewal fee and by meeting all requirements for renewal.

(3) An applicant for renewal shall state the class of certification previously held and presently sought.

History: En. Sec. 24, Ch. 409, L. 1991; amd. Sec. 5, Ch. 81, L. 1993; amd. Sec. 113, Ch. 429, L. 1995.

Compiler's Comments

1995 Amendment: Chapter 429 in (1), at end, substituted "expires on the date set by department rule" for "expires on March 31 following the date of issuance or renewal and is invalid thereafter"; in (2), after "fee", inserted "and by meeting all requirements for renewal"; deleted former (3) that read: "(3) (a) The certificate holder shall produce evidence satisfactory to the board that during the 3-year period

immediately following the date of issuance of the certificate, and during each 3-year period thereafter, the certified real estate appraiser has:

- (i) completed at least 45 classroom hours of instruction in courses or seminars approved by the board, at least 15 hours of which must be related to standards of professional appraisal practice;
- (ii) completed an education program determined by the board to be equivalent to the courses and seminars approved under subsection (3)(a)(i); or
- (iii) participated, other than as a student, in an education program approved by the board that relates to the theory and technique of real property appraisal.

(b) Continuing education hours must be credited to the 3-year period during which the instruction occurred and may not be carried over to a subsequent 3-year period"; and made minor changes in style.

Severability: Section 131, Ch. 429, L. 1995, was a severability clause.

Saving Clause: Section 132, Ch. 429, L. 1995, was a saving clause.

Applicability: Section 133, Ch. 429, L. 1995, provided: "[This act] applies to licenses applied for, complaints submitted, and proceedings begun after [the effective date of this section]." Effective October 1, 1995.

1993 Amendment: Chapter 81 in (1), at end, substituted "expires on March 31 following the date of issuance or renewal and is invalid thereafter" for "must be renewed every 3 years"; in (3)(a), before "period", substituted "3-year" for "certification" and after "immediately" substituted "following the date of issuance of the certificate, and during each 3-year period thereafter" for "preceding the application for renewal"; in (3)(a)(ii) substituted "subsection (3)(a)(i)" for "subsection (2)(a)"; inserted (3)(b) disallowing carryover of continuing education hours; and made minor changes in style. Amendment effective February 25, 1993.

Transition: Section 8, Ch. 81, L. 1993, provided: "Until the transition from a 3-year to a 1-year renewal system is completed, a 3-year license or certificate issued under Title 37, chapter 54, in effect on [the effective date of this act] remains in effect until its scheduled time of expiration, at which time fees must be prorated on a monthly basis between the scheduled expiration date and the annual renewal date." Effective February 25, 1993.

Effective Date: Section 31, Ch. 409, L. 1991, provided that this section is effective on passage and approval. Approved April 9, 1991.

Administrative Rules

ARM 24.207.401 Fees.

ARM 24.207.2101 Continuing education.

ARM 24.207.2102 Continuing education noncompliance.

37-54-311. Repealed. Sec. 127, Ch. 467, L. 2005.

History: En. Sec. 25, Ch. 409, L. 1991; amd. Sec. 6, Ch. 81, L. 1993; amd. Sec. 114, Ch. 429, L. 1995; amd. Sec. 36, Ch. 481, L. 1997; amd. Sec. 52, Ch. 271, L. 2003.

Part 4 Regulation of Practice

37-54-401. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 10, Ch. 409, L. 1991.

37-54-402. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 14, Ch. 409, L. 1991.

37-54-403. Standards of professional appraisal practice. (1) A licensed or certified real estate appraiser shall comply with generally accepted standards of professional appraisal practice, evidenced by the uniform standards of professional appraisal practice promulgated by the appraisal standards board of the appraisal foundation. A licensed or certified real estate appraiser shall comply with these standards regardless of whether the appraisal is a federally related transaction or is capable of being performed by an unlicensed person under 37-54-201(3).

(2) If the appraisal standards board of the appraisal foundation modifies the standards or issues supplemental standards that it considers appropriate for all classes of real estate appraisers, the modification is automatically adopted as observable in this state unless the board determines that a public hearing is necessary to determine whether the modified or supplemented standards must be observed in this state. If following the hearing the board determines that the modified or supplemented standards are appropriate, the board shall adopt the standards by rule.

History: En. Sec. 13, Ch. 409, L. 1991; amd. Sec. 7, Ch. 81, L. 1993; amd. Sec. 22, Ch. 230, L. 1999.

Compiler's Comments

1999 Amendment: Chapter 230 inserted second sentence in (1) requiring appraiser to comply with standards regardless of whether transaction federally related or capable of performance by unlicensed person; and made minor changes in style. Amendment effective October 1, 1999.

1993 Amendment: Chapter 81 in (2), near end of first sentence after "appraisers", substituted "the modification is automatically adopted as observable in this state unless the board determines that a public hearing is necessary" for "and requests the board to consider the adoption of the modifications or supplements, the board shall conduct a public hearing". Amendment effective February 25, 1993.

Transition: Section 8, Ch. 81, L. 1993, provided: "Until the transition from a 3-year to a 1-year renewal system is completed, a 3-year license or certificate issued under Title 37, chapter 54, in effect on [the effective date of this act] remains in effect until its scheduled time of expiration, at which time fees must be prorated on a monthly basis between the scheduled expiration date and the annual renewal date." Effective February 25, 1993.

Effective Date: Section 31, Ch. 409, L. 1991, provided that this section is effective on passage and approval. Approved April 9, 1991.

37-54-404 and 37-54-405 reserved.

37-54-406. Repealed. Sec. 128, Ch. 429, L. 1995.
History: En. Sec. 28, Ch. 409, L. 1991.

37-54-407 through 37-54-410 reserved.

37-54-411. Classification of services. (1) A client or employer may retain or employ a licensed or certified real estate appraiser to:

(a) act as a disinterested third party in rendering an unbiased analysis, opinion, conclusion, or estimate of value; or

(b) provide specialized appraisal services to facilitate the client's or employer's objectives.

(2) In either instance described in subsection (1), the appraisal and appraisal report must comply with the provisions of this chapter.

History: En. Sec. 16, Ch. 409, L. 1991.

Compiler's Comments

Effective Date: Section 31, Ch. 409, L. 1991, provided that this section is effective on passage and approval. Approved April 9, 1991.

37-54-412. Collection of appraisal fees. A person who performs independent appraisal services as a licensed or certified real estate appraiser in this state may not bring an action in any court in this state to collect compensation for the performance of those services unless the person alleges and proves that the person held a valid license or certificate at all times during the performance of those services.

History: En. Sec. 12, Ch. 409, L. 1991; amd. Sec. 1418, Ch. 56, L. 2009.

Compiler's Comments

2009 Amendment: Chapter 56 made section gender neutral. Amendment effective October 1, 2009.

Effective Date: Section 31, Ch. 409, L. 1991, provided that this section is effective on passage and approval. Approved April 9, 1991.

37-54-413 and 37-54-414 reserved.

37-54-415. Place of business. (1) A resident licensed or certified real estate appraiser shall maintain a principal place of business in this state. If the appraiser changes the principal place of business, the appraiser shall promptly notify the board in writing of the change. Upon receipt of notice of the change, the board shall issue a new license or certificate for the unexpired term, stating the principal place of business.

(2) A nonresident licensee is not required to maintain a place of business in this state if the licensee maintains a principal place of business in the licensee's domicile state.

History: En. Sec. 11, Ch. 409, L. 1991; amd. Sec. 1419, Ch. 56, L. 2009.

Compiler's Comments

2009 Amendment: Chapter 56 made section gender neutral. Amendment effective October 1, 2009.

Effective Date: Section 31, Ch. 409, L. 1991, provided that this section is effective on passage and approval. Approved April 9, 1991.

37-54-416. Retention of records. (1) A licensed or certified real estate appraiser shall retain for 5 years from the date of submission of an appraisal report to a client:

(a) an original or true copy of any written contract engaging the person's services as an appraiser;

(b) an appraisal report prepared or signed by the licensed or certified real estate appraiser; and

(c) all supporting data assembled and formulated by the licensed or certified real estate appraiser in preparing the appraisal report.

(2) If a licensed or certified real estate appraiser is notified within this 5-year period that the appraisal report is involved in litigation, the appraiser shall retain the appraisal report for 5 years from the final date of disposition of the litigation.

(3) The licensed or certified real estate appraiser shall make available to the board at reasonable times, for inspection and copying, any appraisal report the appraiser is required to maintain under the provisions of this section.

History: En. Sec. 15, Ch. 409, L. 1991; amd. Sec. 1420, Ch. 56, L. 2009.

Compiler's Comments

2009 Amendment: Chapter 56 made section gender neutral. Amendment effective October 1, 2009.

Effective Date: Section 31, Ch. 409, L. 1991, provided that this section is effective on passage and approval. Approved April 9, 1991.

37-54-417. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 23, Ch. 409, L. 1991.

Part 5

Appraisal Management Companies

Part Compiler's Comments

Effective Date: This part is effective October 1, 2011.

37-54-501. Appraisal management company registration. (1) (a) It is unlawful for a person to directly or indirectly engage in or attempt to engage in business as an appraisal management company 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 board.

(b) An applicant for registration as an appraisal management company in this state shall submit an application to the board on forms prescribed by the department.

(c) If a registration process is not in effect on October 1, 2011, an appraisal management company already conducting business in this state may continue to conduct business in accordance with this chapter until 120 days after a registration process becomes available. Upon expiration of the 120-day period, the appraisal management company must be registered as required by this chapter in order to continue to provide or offer to provide appraisal management services in this state.

(2) An application for the registration required by subsection (1) must include the following information:

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

(b) the business address of the person seeking registration;

(c) the phone contact information of the person seeking registration;

(d) if the appraisal management company is not a corporation domiciled in this state, the name and contact information for the company's designated contact for service of process in this state;

(e) the name, address, and contact information for one controlling person within the appraisal management company;

(f) a certification that the person has a system and process in place to verify that an individual holds a license in good standing in this state pursuant to 37-54-202 if a license or certification is required to perform appraisal assignments;

(g) a certification that the person requires appraisers completing appraisal assignments at its request to comply with the uniform standards of professional appraisal practice, including the requirements for geographic and product competence;

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

(i) 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 of 1968, 15 U.S.C. 1601, et seq., including the requirement that the 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;

(j) a certification that the person maintains a detailed record of each service request that it receives and the appraiser that performs the appraisal service for the appraisal management company;

(k) an irrevocable uniform consent to service of process; and

(l) any other information required by the board that is reasonably necessary to implement this chapter.

(3) An application for renewal of a registration must include information substantially similar to that required for the initial registration in subsection (2), as determined by the board.

(4) Renewals of registered appraisal management companies must be in accordance with 37-1-141. The department shall provide notice to an appraisal management company prior to the renewal date.

History: En. Sec. 3, Ch. 270, L. 2011.

37-54-502. Registration exemptions. (1) The provisions of this chapter do not apply to a person who exclusively employs appraisers on an employer-employee basis for the performance of an appraisal assignment.

(2) An appraisal management company that is a subsidiary owned and controlled by a financial institution that is regulated by a federal financial institution regulatory agency is not required to register with the board but shall comply with all provisions of this chapter, as long as the provisions of this chapter do not conflict with federal law related to the operation of an appraisal management company in this state.

History: En. Sec. 4, Ch. 270, L. 2011.

37-54-503. Owner requirements. (1) An appraisal management company applying for registration in this state may not be owned by:

(a) a person who has had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation in any state unless the license or certificate was subsequently granted or reinstated; or

(b) another entity that is owned by a person who has had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation in any state unless the license or certificate was subsequently granted or reinstated.

(2) Each person who owns an appraisal management company in this state:

(a) must be of good moral character, as determined by the board; and

(b) shall submit to a background examination as determined by the board.

(3) Each appraisal management company applying for registration in this state shall certify to the board that the appraisal management company has reviewed each person or entity that directly or indirectly owns the appraisal management company, in whole or in part, and that no person or entity that directly or indirectly owns the appraisal management company, in whole or in part, has had a license, a certificate, or registration to act as an appraiser or appraisal management company refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation in any state.

History: En. Sec. 5, Ch. 270, L. 2011; amd. Sec. 6, Ch. 55, L. 2017.

Compiler's Comments

2017 Amendment: Chapter 55 in (1) and (1)(b) before "owned by" deleted "more than 10%"; in (2) in first sentence after "owns" deleted "more than 10% of"; in (3) substituted current text for former (3) that read: "Each appraisal management company applying for registration in this state shall certify to the board that it has reviewed each entity that directly owns more than 10% of the appraisal management company and that no entity that directly owns more than 10% of the appraisal management company is more than 10% directly owned by any person who has had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation in any state"; and made minor changes in style. Amendment effective March 1, 2017.

Saving Clause: Section 9, Ch. 55, L. 2017, was a saving clause.

Severability: Section 10, Ch. 55, L. 2017, was a severability clause.

37-54-504. Contact individual. (1) Each appraisal management company shall designate one individual as the main contact for communication between the board and the appraisal management company. An appraisal management company may designate a controlling person of the company as the contact individual.

(2) The contact individual designated pursuant to subsection (1):

(a) must hold a license or certificate to act as an appraiser in at least one state;

(b) must not have had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation in any state unless the license or certificate was subsequently granted or reinstated;

(c) must be of good moral character, as determined by the board; and

(d) shall submit to a background examination as determined by the board.

History: En. Sec. 6, Ch. 270, L. 2011.

37-54-505. Employee requirements. An appraisal management company may not:

(1) employ a person who may have any responsibility in ordering appraisal reports, providing quality control testing for appraisal reports, or communicating with appraisers regarding any potential appraisal report deficiencies who has had a license or certificate to act as an appraiser in any state refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation unless the license or certificate was subsequently granted or reinstated;

(2) enter into an independent contractor arrangement with a person who has had a license or certificate to act as an appraiser in any state refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation unless the license or certificate was subsequently granted or reinstated.

History: En. Sec. 7, Ch. 270, L. 2011.

37-54-506. Appraisal review. An employee or independent contractor of the appraisal management company that performs an appraisal review for a property located in this state:

(1) must be an appraiser licensed or certified in this state; and

(2) shall comply with the review provisions of the uniform standards of professional appraisal practice.

History: En. Sec. 8, Ch. 270, L. 2011.

37-54-507. Mandatory reporting. An appraisal management company that has a reasonable basis to believe an appraiser is failing to comply with the uniform standards of professional appraisal practice, is violating applicable laws, or is otherwise engaging in unethical or unprofessional conduct shall refer the matter to the board.

History: En. Sec. 9, Ch. 270, L. 2011.

37-54-508. Limitations. (1) An appraisal management company registered in this state pursuant to this chapter may not enter into contracts or agreements with an individual for the performance of appraisals unless the company obtains verification that the individual is licensed or certified to perform appraisals pursuant to this chapter. Verification by reference to information published on the website of the appraisal subcommittee of the federal financial institutions examination council must be considered acceptable for purposes of compliance with this section.

(2) Unless prohibited by the policies of a client or an end user of an appraisal report, an appraisal management company may not prevent or otherwise restrict a licensed real estate appraisal trainee from performing work in accordance with the uniform standards of professional appraisal practice, pursuant to the requirements of the board, and under the supervision of a real estate appraiser mentor who is on the appraisal management company's appraisal panel.

(3) Unless prohibited by the policies of a client or an end user of an appraisal report or by other state or federal law, an appraisal management company may not prevent or otherwise restrict a licensed or certified real estate appraiser from transferring an appraisal assignment to another licensed or certified real estate appraiser who is on the appraisal management company's appraisal panel if:

(a) the transferee is an employee of the transferor; and

(b) the transferee can complete the appraisal assignment in accordance with the uniform standards of professional appraisal practice and pursuant to the requirements of the board.

History: En. Sec. 10, Ch. 270, L. 2011; amd. Sec. 5, Ch. 303, L. 2015.

Compiler's Comments

2015 Amendment: Chapter 303 inserted (2) concerning restrictions on licensed real estate appraisal trainee; inserted (3) concerning transfer of appraisal assignment; and made minor changes in style. Amendment effective October 1, 2015.

37-54-509. Certification to board — appraisal panel members. Each appraisal management company seeking to be registered in this state shall certify to the board on an annual basis that the appraisal management company has a system and process in place to verify that all appraisers on the appraisal panel of the appraisal management company are licensed or certified in this state pursuant to this chapter.

History: En. Sec. 11, Ch. 270, L. 2011.

37-54-510. Certification to board — continuing licensure. Each appraisal management company seeking to be registered in this state shall certify to the board on an annual basis that the appraisal management company has a system in place to verify that an appraiser to whom the appraisal management company is making an assignment for the completion of an appraisal has not had a license or certification as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation since the last time that the appraisal management company made an assignment for an appraisal to the appraiser. Verification by reference to information published on the website of the appraisal subcommittee of the federal financial institutions examination council must be considered acceptable for purposes of compliance with this section.

History: En. Sec. 12, Ch. 270, L. 2011.

37-54-511. Certification — adherence to standards. Each appraisal management company seeking to be registered in this state shall certify to the board on an annual basis that it has a system in place to perform on an annual basis an appraisal review of the work of all appraisers who are performing appraisals for the appraisal management company to validate that the appraisals are being conducted in accordance with the uniform standards of professional appraisal practice.

History: En. Sec. 13, Ch. 270, L. 2011; amd. Sec. 7, Ch. 55, L. 2017.

Compiler's Comments

2017 Amendment: Chapter 55 near end after "performing appraisals for the appraisal management company" deleted "on a periodic basis". Amendment effective March 1, 2017.

Saving Clause: Section 9, Ch. 55, L. 2017, was a saving clause.

Severability: Section 10, Ch. 55, L. 2017, was a severability clause.

37-54-512. Audits. Upon renewal, not less than 10% of the appraisal management companies in this state must be subjected to a random audit. Audited appraisal management companies shall submit the recordkeeping documentation described in 37-54-513 for the 12-month period prior to renewal and any other documentation the board requests to validate compliance with this chapter. Any costs incurred by the board during an audit may be attributed to the appraisal management company.

History: En. Sec. 14, Ch. 270, L. 2011.

37-54-513. Recordkeeping. Each appraisal management company seeking to be registered in this state shall certify to the board on an annual basis that it has retained the following documentation in accordance with the recordkeeping provisions of the uniform standards of professional appraisal practice and applicable state law:

(1) a full record as prescribed by the board that includes the names of the entities requesting service from the appraisal management company and the corresponding names of the appraisers that performed the appraisal services; and

(2) all certifications and supporting documentation for board registration and renewals, including audit reports required by this chapter.

History: En. Sec. 15, Ch. 270, L. 2011.

37-54-514. Appraiser independence — prohibitions. (1) An employee, director, officer, or agent of an appraisal management company registered in this state may not influence or attempt to influence the development, reporting, or review of an appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, or bribery or in any other manner, including but not limited to:

- (a) withholding or threatening to withhold timely payment for an appraisal;
 - (b) withholding or threatening to withhold future business for an appraisal assignment or demoting or terminating or threatening to demote or terminate an appraiser;
 - (c) expressly or impliedly promising future business, promotions, or increased compensation for an appraiser;
 - (d) conditioning the request for an appraisal or the payment of an appraisal fee, salary, or bonus on the opinion, conclusion, or valuation to be reached or on a preliminary estimate or opinion requested from an appraiser;
 - (e) requesting that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal report or provide estimated values or comparable sales at any time prior to the appraiser's completion of an appraisal;
 - (f) 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 a purchase transaction may be provided;
 - (g) providing stock or other financial or nonfinancial benefits to an appraiser or a person related to the appraiser;
 - (h) allowing the removal of an appraiser from an appraiser panel without prior written notice to the appraiser; or
 - (i) performing any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality.
- (2) Subsection (1) may not be construed as prohibiting an appraisal management company from requesting that an appraiser:
- (a) consider additional appropriate property information that falls within the original scope of work for that appraisal service;
 - (b) provide additional information about the basis for a valuation; or
 - (c) correct objective factual errors in an appraisal report.

History: En. Sec. 16, Ch. 270, L. 2011.

37-54-515. Guaranty of payment. Each appraisal management company registered in this state shall, except in cases of breach of contract, pay an appraiser for the completion of an appraisal or valuation assignment within 60 days of the date on which the appraiser transmits or otherwise provides the completed appraisal or valuation study to the appraisal management company or its assignee.

History: En. Sec. 17, Ch. 270, L. 2011.

37-54-516. Alteration of appraisal report. An appraisal management company may not alter, modify, or otherwise change a completed appraisal report submitted by an appraiser unless the alteration is mandated by federal laws, guidelines, or provisions. This section does not apply to the conversion of appraisal reports to data streams required by federal lending agencies.

History: En. Sec. 18, Ch. 270, L. 2011.

37-54-517. Registration. The department shall publish annually a list of appraisal management companies that have registered with the department pursuant to this chapter.

History: En. Sec. 19, Ch. 270, L. 2011.

37-54-518. Advertising. (1) An appraisal management company registered in this state shall disclose its registration number on its engagement letter for each appraisal assignment.

(2) An appraiser shall list the appraisal management company's approved registration number in the body of the appraisal report.

History: En. Sec. 20, Ch. 270, L. 2011; amd. Sec. 6, Ch. 303, L. 2015.

Compiler's Comments

2015 Amendment: Chapter 303 in (2) deleted former first sentence that read: "An appraiser who completes work for an unregistered or suspended appraisal management company is subject to disciplinary action for unprofessional conduct." Amendment effective October 1, 2015.

37-54-519. Unprofessional conduct. An appraisal management company engages in unprofessional conduct if it:

(1) requires an appraiser to modify any aspect of an appraisal report other than those items identified by a quality control examination, including items that are found to be incomplete within the defined scope of work in the original assignment;

(2) requires an appraiser to prepare an appraisal report if the appraiser, in the appraiser's own professional judgment, believes the appraiser does not have the necessary expertise for the specific geographic area and the appraiser has notified the appraisal management company of the issue;

(3) requires an appraiser to prepare an appraisal report under a timeframe that the appraiser, in the appraiser's professional judgment, believes does not allow the appraiser to meet all relevant legal and professional obligations and the appraiser has notified the appraisal management company of the issue;

(4) prohibits or inhibits legal and allowable communication between the appraiser and:

(a) the lender;

(b) a real estate licensee; or

(c) any other person from whom the appraiser, in the appraiser's professional judgment, believes information would be relevant;

(5) requires the appraiser to do anything that does not comply with:

(a) the uniform standards of professional appraisal practice; or

(b) assignment conditions and certifications required by the client;

(6) makes any portion of the appraiser's fee or the appraisal management company's fee contingent on a favorable outcome, including but not limited to:

(a) a loan closing; or

(b) a specific dollar amount being achieved by the appraiser in the appraisal report.

History: En. Sec. 21, Ch. 270, L. 2011.