

TITLE 600. REAL ESTATE APPRAISER BOARD
CHAPTER 30. APPRAISAL MANAGEMENT COMPANY REGISTRATION

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Chapter 600:30 Appraisal Management Company Registration [NEW]
- 600:30-1-1. Purpose [NEW]
- 600:30-1-2. Definitions [NEW]
- 600:30-1-3. Certificate of Registration [NEW]
- 600:30-1-4. Application process [NEW]
- 600:30-1-5. Renewal process [NEW]
- 600:30-1-6. Fee schedule [NEW]
- 600:30-1-7. Change of information [NEW]
- 600:30-1-8. Background investigations [NEW]
- 600:30-1-9. Business entities [NEW]
- 600:30-1-10. Recordkeeping [NEW]
- 600:30-1-11. Severability provision [NEW]

SUMMARY:

The proposed new rules are required to replace emergency rules placed into effect to allow for implementation of the Oklahoma Appraisal Management Company Regulation Act. The Act and the emergency rules were effective on January 1, 2011. These rules set forth required administrative guidance on initial and renewal registration of Appraisal Management Companies.

AUTHORITY:

Real Estate Appraiser Board, 59 O.S. § 858-829.

COMMENT PERIOD:

Persons may submit written or oral comments to Rod Stirman at the offices of the Real Estate Appraiser Board, Oklahoma Insurance Department, 5 Corporate Plaza, 3625 NW 56th St, Ste 100, Oklahoma City, Oklahoma 73112 during the period November 15, 2010 to December 24, 2010.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on January 7, 2011, in the offices of the Insurance Commissioner of Oklahoma at 5 Corporate Plaza, 3625 NW 56th St, Ste 100, Oklahoma City, Oklahoma 73112.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the Board with information, in dollar amounts if possible, about any increases in the level of direct costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Rod Stirman at the above address during the period during the period November 15, 2010 to December 24, 2010.

COPIES OF PROPOSED RULES:

Copies of proposed rules are available at the Offices of the Real Estate Appraiser Board, Oklahoma Insurance Department at 5 Corporate Plaza, 3625 NW 56th St, Ste 100, Oklahoma City, Oklahoma 73112. Copies of proposed rules may also be obtained by written request to the attention of Rod Stirman, Real Estate Appraiser Board, PO Box 53408, Oklahoma City, OK 73152. A copy of the proposed rules is posted on the Real Estate Appraiser Board website, www.reab.oid.ok.gov.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained at the Offices of the Real Estate Appraiser Board, Oklahoma Insurance Department at 5 Corporate Plaza, 3625 NW 56th St, Ste 100, Oklahoma City, Oklahoma 73112.

CONTACT PERSON:

Rod Stirman, Director, (405) 521-6636.

CHAPTER 30. APPRAISAL MANAGEMENT COMPANY REGISTRATION

Section

- 600:30-1-1. Purpose
- 600:30-1-2. Definitions
- 600:30-1-3. Certificate of Registration
- 600:30-1-4. Application process
- 600:30-1-5. Renewal process
- 600:30-1-6. Fee schedule
- 600:30-1-7. Change of information
- 600:30-1-8. Background investigations
- 600:30-1-9. Business entities
- 600:30-1-10. Recordkeeping
- 600:30-1-11. Severability provision

[Authority: 59 O.S. § 858-829]

[Source: Codified _____]

600:30-1-1. Purpose

The purpose of this chapter is to define the prerequisites necessary to obtain an Appraisal Management Company registration and requirements to maintain the license or certification.

600:30-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

“**Applicant**” means an entity or controlling person who has applied for a Certificate of Registration as an appraisal management company.

“**Appraisal Management Company**” or “**AMC**” means an entity that is required by the Oklahoma Appraisal Management Company Regulation Act, 59 O.S. § 858-801 et seq., to register with the Oklahoma Real Estate Appraiser Board.

“**Appraisal management services**” means, directly or indirectly, to perform or attempt to perform any one or more of the following functions on behalf of a lender, financial institution, client or any other person:

- (a) administer an appraiser panel;
- (b) recruit, qualify, verify licensing or certification, and negotiate fees and service level expectations with persons who are part of an appraiser panel;
- (c) receive an order for an appraisal from one entity, and deliver the order for appraisal services for the appraisal services to an appraiser for completion;
- (d) track and determine the status of orders for appraisers;
- (e) conduct quality control of a completed appraisal prior to the delivery of the appraisal to the person who ordered the appraisal; or
- (f) provide a completed appraisal performed by an appraiser to one or more clients.

“**Appraisal Subcommittee**” or “**ASC**” means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

“**Appraiser**” means an individual person who holds a credential as a Trainee Appraiser, State Licensed Real Estate Appraiser, State Certified Residential Real Estate Appraiser, or State Certified General Real Estate Appraiser; or a valid temporary practice permit issued by the Board entitling that individual person to perform an appraisal of real property in the State of Oklahoma consistent with the scope of practice identified in the Real Property Appraiser Qualification Criteria promulgated by the Appraiser Qualifications Board of The Appraisal Foundation.

“**Board**” or “**OK REAB**” means the Oklahoma Real Estate Appraiser Board.

"Certificate of Registration" means a certificate issued by the Board verifying the registration of a person or entity as being approved to conduct business in the State of Oklahoma as an AMC.

"Controlling Person" means one or more of the following:

(a) an owner, officer, manager, or director of a corporation, partnership, firm, association, limited liability company, or other business entity seeking to offer appraisal management services in this state,

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

(c) an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an AMC.

"Department" means the Oklahoma Insurance Department.

"Designated Officer" means a Controlling Person authorized by the governing structure of the AMC in the manner contemplated by 59 O.S. § 858-810 (A) to act on its behalf in the manner contemplated by 59 O.S. § 858-810 (A) for purposes of application for, and compliance with, a Certificate of Registration to operate as an Appraisal Management Company pursuant to Oklahoma law. The Designated Officer shall be responsible for supervision and control of activities conducted on behalf of the AMC by its officers and employees as necessary to secure full compliance with the provisions of 59 O.S. § 858-801 et seq., including contract services provided to the AMC for the performance of appraisal activities for which an Oklahoma Real Estate Appraiser Board credential is required.

"Director" means the Director of the Oklahoma Real Estate Appraiser Board or his or her designee.

"FIRREA" means the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law 101-73, and any amendments thereto.

"Registrant" means a person or entity authorized to conduct business as an AMC in Oklahoma memorialized by issuance of a Certificate of Registration by the Board.

"Registration" means the procedures and requirements with which a person or entity shall comply in order to qualify to conduct business as an AMC in the State of Oklahoma.

"TILA" means the Truth in Lending Act of 1968 (15 USC 1631 et seq.) and any amendments thereto.

600:30-1-3. Certificate of Registration

(a) Each Certificate of Registration shall show on its face in clear and concise language the following information:

(1) The name of the holder;

(2) The Certificate of Registration number;

(3) The dates of issuance and registration of the document; and

(4) Shall bear the signatures or facsimile signatures of the members of the Board.

(b) Each Certificate of Registration shall be valid for the term set forth on the face of the Certificate unless otherwise ordered by the Board.

(c) Each Certificate of Registration shall remain the property of the OK REAB and shall be surrendered to the Director upon order of the Board.

(d) Every Certificate of Registration shall be valid for a period of one (1) year unless otherwise ordered by the Board.

(e) An AMC shall not be registered, nor may it be placed on the national registry if such entity, in whole or in part, directly or indirectly, is owned by any person who has had an appraiser credential refused, denied, cancelled, surrendered in lieu of revocation, or revoked by any appraiser credentialing jurisdiction.

600:30-1-4. Application process

(a) Applications for Certificates of Registration for an AMC and for Controlling Persons and Designated Officers shall be submitted to the Board on forms approved by the Board and shall be subject to approval by the Board.

(b) Applicants for a Certificate of Registration shall apply by submitting an Appraisal Management Company Certificate of Registration Application form, REA-AMC-01.

(c) Applications for Certificates of Registration for AMCs shall be supported by a separate application for each Controlling Person and Designated Officer which shall be submitted on Controlling Person Application Form, REA-AMC-02.

(d) Appraisal Management Company Certificate of Registration forms and Controlling Person Application forms shall be supported by an irrevocable Uniform Consent to Service of Process.

600:30-1-5. Renewal Process

(a) Certificates of Registration may be renewed for a period of one (1) year.

(b) Applications for renewal of a Certificate of Registration shall be submitted to the Board on forms which shall be prescribed by the Board.

(c) Registrants applying for renewal of a Certificate of Registration shall apply by submitting a Certificate of Registration Renewal Form, REA-AMC-03.

(d) Registrants may renew expired Certificates of Registration up to ninety (90) calendar days following expiration of the Certificate by submitting a Certificate of Registration Renewal Form, remitting all required fees plus a late fee.

(e) After a Certificate of Registration has been expired for a period of time in excess of ninety (90) calendar days, the Certificates of Registration may not be renewed. In order to acquire a Certificate of Registration, an AMC shall reapply as set forth in OAC 600:30-1-4.

600:30-1-6. Fee Schedule

(a) It is the finding of the Board that the sum of the fees paid by all AMCs registering or renewing a registration under the Oklahoma Appraisal Management Company Regulation Act that would be sufficient for the administration of the Act requires that an annual fee of one thousand dollars (\$1,000.00) be imposed.

(b) The Department shall charge and collect fees as follows:

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| <u>(1) Certificate of Registration (original and renewal)</u> | <u>\$1,000.00</u> |
| <u>(2) Late Fee</u> | <u>\$100.00</u> |
| <u>(3) Dishonored Check Fee</u> | <u>Costs of collection plus \$25.00</u> |

(c) In addition, the Department shall charge and collect a National Registry Fee in such amount as may be assessed by the Appraisal Subcommittee for all AMCs holding a Certificate of Registration. Said fees shall be transmitted by the Department to the Appraisal Subcommittee.

(d) Notwithstanding any other provision, a Certificate of Registration shall be suspended instanter should payment of any fees be dishonored by the issuing institution for any reason. In such case, the Director shall take immediate steps to provide notification to the Appraisal Subcommittee for inclusion on the National Registry, and to notify the registrant that the Certificate of Registration has been suspended by certified mail, return receipt requested.

600:30-1-7. Change of Information

(a) All applicants for and holders of a Certificate of Registration or approval as a Controlling Person or Designated Officer for an AMC shall submit written notice to the Board of any change to any of the following within ten (10) days following the change:

- (1) Name,
- (2) Residence telephone number,
- (3) Residence address,
- (4) Business name,
- (5) Business address,
- (6) Business telephone number, or
- (7) Mailing address.

(b) Registrants shall report any changes of a Designated Officer or Controlling Person, including any changes to percentage of ownership within ten (10) days of the effective date of any such change.

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(c) The business name, address and telephone number shall be considered the applicant's or registrant's address and telephone number of record for all purposes unless otherwise requested in writing by the applicant or registrant and shall be considered a matter of public record. If no business address is provided, the mailing address shall be the address of record.

600:30-1-8. Background investigations

(a) In order to comply with the provisions of FIRREA and qualify each registrant for inclusion on the national registry, each person who owns more than ten percent of an AMC, and each Designated Officer of an AMC shall be of good moral character, as determined by the Board, and shall submit to a background investigation carried out by the Board.

(b) Background investigations shall be accomplished by use of a form approved by the Board.

(c) Background investigations shall be conducted by a vendor selected by the applicant from the list of vendors set forth by the National Association of Insurance Commissioners, shall be conducted at the applicant's expense, and shall be transmitted directly from such vendor to the Board.

600:30-1-9. Business entities

If the registrant is other than a natural person, it shall provide supporting documents to the Board as part of both the registration and renewal process, proof that the entity is formed under the laws of this state or another state, district, territory, or possession of the United States by submitting the following:

(a) Articles of Incorporation, Articles of Organization, or Articles of Partnership as appropriate to the registrant, certified by the Secretary of State of Oklahoma.

(b) Certificate from the Secretary of State of Oklahoma certifying registrant's authority to conduct business within the State of Oklahoma

600:30-1-10. Recordkeeping

(a) Each registrant shall maintain records as follows:

(1) a detailed record of each service request that it receives for appraisal of real property located in Oklahoma, which shall include, but is not limited to, the following:

(A) a copy of the letter of engagement between the registrant and the appraiser.

(B) a copy of each appraisal report received from an appraiser, including the original report, any revised reports, and any addenda or other materials furnished subsequent to the delivery of the original report.

(C) copies of all correspondence between the appraiser and the registrant and any other entity involved in the transaction.

(D) a copy of the letter of engagement engaging another appraiser for the purpose of reviewing the appraisal.

(E) a copy of any review of the appraisal performed, including the original review report, subsequent correspondence between the reviewer and registrant, and each subsequent revised review report.

(F) a copy of the request received from the registrant's client, all documentation supplied to that client, all correspondence between client and registrant, and

(G) a record of fees disbursed to contracted appraisers and the fee received by the registrant from the registrant's client.

(2) copies of all appraiser fee schedules maintained and used by the registrant for the purpose of compliance with the provisions of TILA relating to reasonable and customary fees, which shall include evidence for such fees required by TILA. Such fee schedules shall include the beginning and ending effective dates for the document.

(3) copies of rosters of appraiser fee panels used for assignments in Oklahoma including the name of the appraiser, each appraiser's Oklahoma credential number, the date the appraiser was placed on the panel and the date and reason an appraiser was removed from the panel.

(b) Registrants shall maintain the records set forth above for a period of five (5) years. This five (5) year period shall commence on the date of final action for each individual transaction, or if the registrant is

notified that the transaction in involved in litigation or is the subject of administrative action by the Board, or on the date of final disposition of such action.

(c) Registrants shall produce for inspection and copying by the Board, any record herein required to be maintained on receipt of reasonable notice by registrant. Reasonable notice shall be taken to mean not later than seven (7) calendar days following receipt of any such request by a Designated Officer.

600:30-1-11. Severability provision

If any provision of this chapter, or application of such provision to any person or circumstances, shall be held invalid, the remainder of the chapter, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.