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SENATE BILL No. 345

By Committee on Financial Institutions and Insurance

1-26

Proposed Amendments to SB 345
For Committee on Federal & State Affairs
February 9, 2012
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2-9-12

1 AN ACT enacting the Kansas management company registration act.

appraisal

2
3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. ~~This act~~ shall be known and may be cited as the Kansas
5 appraisal management company registration act.

The provisions of sections 1 through 25, and amendments
thereto,

6 Sec. 2. (a) It is the intent of the legislature to develop a process for
7 real estate appraisal management company registration and regulation in
8 order to protect lenders, financial institutions, clients, consumers and the
9 public from economic and financial harm and the potential for such harm
10 that may result from interference with the independence, objectivity and
11 impartiality of the real estate appraisal process.

12 (b) The purpose of the Kansas appraisal management company
13 registration act is to provide a process for the registration and regulation of
14 entities conducting, performing or engaging in, or attempting to conduct,
15 perform or engage in, real estate appraisal management services as a real
16 estate appraisal management company within the state of Kansas.

17 Sec. 3. As used in this act: (a) "Appraisal" has the meaning specified
18 in K.S.A. 58-4102, and amendments thereto.

19 (b) "Appraisal management company" or "AMC" means an
20 individual, firm, partnership, association, corporation, limited liability
21 company or any other business entity acting as an external third party
22 authorized either by a creditor of a consumer credit transaction secured by
23 a consumer's principal dwelling or by an underwriter of or other principal
24 in the secondary mortgage markets:

25 (1) That performs appraisal management services, regardless of the
26 use of any of the following terms: Appraisal management company,
27 mortgage technology provider, mortgage services provider, lender
28 processing services provider, loan processor, real estate closing services
29 provider, vendor management company or any other like term; and

30 (2) such entity oversees an appraiser panel of:
31 (A) More than 15 appraisers who are certified or licensed in Kansas;
32 or

33 (B) a total of more than 25 appraisers who are certified or licensed in
34 Kansas and in any other jurisdiction.

35 (c) "Appraisal management services" means to perform or attempt to
36 perform, directly or indirectly, any one or more of the following functions

1 on behalf of a lender, financial institution, client, or any other person:

2 (1) Administer an appraiser panel;

3 (2) recruit, qualify, verify licensing or certification and negotiate fees
4 and service level expectations with any person who is part of an appraiser
5 panel;

6 (3) receive an order for an appraisal from one entity and deliver the
7 order for the appraisal to an appraiser that is part of an appraiser panel for
8 completion;

9 (4) track and determine the status of orders for appraisals;

10 (5) conduct quality control of a completed appraisal prior to the
11 delivery of such appraisal to the person that ordered the appraisal; or

12 (6) submit a completed appraisal performed by an appraiser to one or
13 more clients.

14 (d) "Appraiser" means an individual who holds a credential issued by
15 the Kansas real estate appraisal board pursuant to the state certified and
16 licensed real property appraiser act entitling that individual to perform an
17 appraisal of real property in the state of Kansas consistent with the scope
18 of practice for such credential.

19 (e) "Appraiser panel" means a network of one or more licensed or
20 certified appraisers who are independent contractors to the AMC and have:

21 (1) Responded to an invitation, request, or solicitation from an AMC,
22 in any form, to perform appraisals for persons that have ordered appraisals
23 through the AMC, or to perform appraisals for the AMC directly, on a
24 periodic basis, as requested and assigned by the AMC; and

25 (2) been selected and approved by an AMC to perform appraisals for
26 any client of the AMC that has ordered an appraisal through the AMC, or
27 to perform appraisals for the AMC directly, on a periodic basis, as
28 assigned by the AMC.

29 (f) "Appraisal review" means the act or process of developing and
30 communicating an opinion about the quality of another appraiser's work
31 that was performed as part of an appraisal assignment related to the
32 appraiser's data collection, analysis, opinions of value, conclusions,
33 estimate of value, or compliance with the uniform standards of
34 professional appraisal practice. This term "appraisal review" does not
35 include a general examination for:

36 (1) Grammatical, typographical or other similar errors; or

37 (2) Completeness including regulatory requirements, client
38 requirements, or both such requirements as specified in the engagement
39 letter that does not communicate an opinion.

40 (g) "Board" means the Kansas real estate appraisal board.

41 (h) "Credential" means a certificate, license or temporary permit
42 issued by the board pursuant to the provisions of the state certified and
43 licensed real estate appraisals act authorizing an individual to act as a

1 temporary permitted appraiser, provisional appraiser, state licensed
2 appraiser, certified residential appraiser or certified general appraiser in the
3 state of Kansas.

4 (i) "Controlling person" means:

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

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

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

15 (j) "Person" means an individual, firm, partnership, association,
16 corporation, or any other entity.

17 (k) "Uniform standards of professional appraisal practice" or
18 "USPAP" means the edition of the uniform standards of professional
19 appraisal practice as specified in K.S.A. 58-4121, and amendments
20 thereto.

21 Sec. 4. (a) ~~Except as provided by section 5, and amendments thereto,~~
22 ~~it shall be unlawful for a person to:~~

23 ~~(1) Directly or indirectly engage or to attempt to engage in business~~
24 ~~as an AMC;~~

25 ~~(2) directly or indirectly perform or to attempt to perform appraisal~~
26 ~~management services as an AMC; or~~

27 ~~(3) advertise or hold itself out as engaging in or conducting business~~
28 ~~as an AMC without first obtaining a registration issued by the board under~~
29 ~~the provisions of this act.~~

30 ~~(b)~~ The application for the registration ~~required by subsection (a)~~
31 shall be on a form approved by the board and shall, at a minimum, include
32 the following information:

33 (1) The legal name and any other trade or business name of the entity
34 seeking registration;

35 (2) the mailing and physical addresses of the entity seeking
36 registration;

37 (3) the telephone, email, website, and facsimile contact information
38 of the entity seeking registration;

39 (4) if the entity is a corporation, limited liability company,
40 partnership, association, sole proprietorship or any other business entity
41 that is not domiciled in this state;

42 (A) The name and contact information for the entity's agent for
43 service of process in this state pursuant to section 7, and amendments

1 therefo: and

2 (B) proof that the entity is properly and currently registered with the
3 Kansas office of the secretary of state;

4 (5) the name, mailing and physical addresses, telephone, email and
5 facsimile contact for any person that owns 10% or more of the AMC;

6 (6) the name, mailing and physical addresses, telephone, email and
7 facsimile contact for the named controlling person;

8 (7) a certification that the entity has a system and process in place to
9 verify that a person being added to the appraiser panel of the AMC for
10 appraisal services being performed in Kansas;

11 (A) Holds a credential in good standing in this state pursuant to the
12 state certified and licensed real estate appraisers act and the regulations
13 adopted thereunder if a license or certification is required to perform
14 appraisals, pursuant to section 14, and amendments thereto; and

15 (B) is geographically competent and performs appraisal assignments
16 within the appraiser's scope of practice;

17 (8) a certification that the entity has a system in place to review an
18 amount or percentage of the appraisal reports submitted by each appraiser
19 who is performing real estate appraisal services for the AMC within
20 Kansas as specified in rules and regulations of the board on an annual
21 basis to validate that the real estate appraisal services are being conducted
22 in accordance with USPAP and the state certified and licensed real estate
23 appraisers act and the regulations adopted thereunder, pursuant to
24 section 5, and amendments thereto;

25 (9) a certification that the entity maintains a detailed record of each
26 service request that it receives and the appraiser that performs real estate
27 appraisal services for the AMC, pursuant to section 16, and amendments
28 thereto;

29 (10) an irrevocable consent to service of process pursuant to section
30 7, and amendments thereto;

31 (11) any other information reasonably required by the board to
32 evaluate compliance with the application requirements in this act; and

33 (12) a certification that the entity requires that appraisals are
34 conducted independently and free from inappropriate influence and
35 coercion pursuant to the appraisal independence standards established
36 under section 129E of the truth in lending act, as specified in subsection
37 (a) of section 18, and amendments thereto.

38 ~~(c) Each violation of this act or any rule and regulation adopted
39 thereunder shall be a class C misdemeanor.~~

40 Sec. 5. (a) The registration provisions of this act shall not apply to an
41 AMC that is a subsidiary owned and controlled by a financial institution
42 regulated by a federal financial institutions regulatory agency.
43 (b) The provisions of this act shall not apply to:

(b) The board shall review each application that is properly submitted and either issue the registration to the applicant or deny such application in accordance with the provisions of this act.

1 (1) A person as defined in section 3, and amendments thereto, who
2 exclusively employs appraisers on an employer and employee basis for the
3 performance of appraisals; or

4 (2) an individual or individuals who are state-certified or state-
5 licensed appraisers in good standing credentialled by the board and who are
6 actively engaged in the practice of real estate appraising and, as a function
7 of the practice, maintain a list of not more than 15 employees who are
8 credentialled appraisers in good standing or independent contractor
9 credentialled appraisers in good standing.

10 Sec. 6. (a) The registration period shall commence on October 1 and
11 end on September 30 of the following year. A registration granted by the
12 board may be renewed annually thereafter.

13 (b) To obtain renewal of a registration, the holder shall make
14 application for renewal on a form provided by the board and pay the fee
15 prescribed pursuant to section 8, and amendments thereto, not earlier than
16 120 days nor later than 30 days prior to the expiration date of the
17 registration.

18 (c) If the holder of the registration fails to apply for renewal prior to
19 the date of expiration, the holder may obtain renewal of the registration if
20 the holder, not later than three months after expiration of the registration,
21 pays the renewal and late renewal fees prescribed pursuant to section 8,
22 and amendments thereto.

23 Sec. 7. (a) Prior to the issuance of a registration to a nonresident
24 applicant, the applicant must agree in writing to abide by all provisions of
25 this act with respect to the applicant's appraisal management activities
26 within this state and submit to the jurisdiction of the board and the state in
27 all matters relating thereto. Such agreement shall be filed with the board
28 and shall remain in force for so long as the nonresident is registered by this
29 state and thereafter with respect to acts or omissions committed while
30 registered as a nonresident.

31 (b) The board may investigate the actions of a nonresident registrant
32 and, pursuant to the Kansas administrative procedures act, may revoke,
33 condition, limit, suspend, censure or nonrenew the registration of the
34 nonresident registrant for disciplinary action in relation to AMC practices,
35 including, but not limited to, denial, revocation or suspension of a
36 registration taken by another state, district or territory of the United States.

37 (c) Prior to the issuance of a registration to a nonresident AMC, the
38 applicant shall file with the board a designation in writing that appoints the
39 executive director of the board as the applicant's agent, upon whom all
40 judicial and other process or legal notices directed to the applicant may be
41 served in the event such applicant becomes a registrant. Any process or
42 legal notices to a nonresident registrant shall be directed to the executive
43 director and, in the case of a summons, shall require the nonresident

1 registrant to answer within 40 days from the date of service on such
2 registrant. A summons and a certified copy of the petition shall be
3 forthwith forwarded by the clerk of the court to the executive director, who
4 immediately shall forward a copy of the summons and the certified copy
5 of the petition to the nonresident registrant. Thereafter, the executive
6 director shall make return of the summons to the court from which it was
7 issued, showing the date of its receipt by the executive director, the date of
8 forwarding and the name and address of the person to whom the executive
9 director forwarded a copy. Such return shall have the same force and effect
10 as a return made by the sheriff on process directed to the sheriff.

11 Sec. 8. (a) The board shall establish by rules and regulations the fee
12 to be paid by each AMC seeking registration or renewal of a registration
13 under this act. The amount of the registration and renewal fees shall be
14 sufficient for the administration of this act, but in no case shall the fees be
15 more than \$3,500. The initial registration fee shall be prorated for an
16 applicant that initially applies for registration 11 or fewer months prior to
17 September 30.

18 (b) The board shall establish by rules and regulations a late renewal
19 fee not to exceed \$500.

20 (c) The executive director of the board shall remit all moneys,
21 received pursuant to this act to the state treasurer in accordance with the
22 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
23 each such remittance, the state treasurer shall deposit the entire amount in
24 the state treasury. Other than amounts collected for the AMC federal
25 registry fees, or for civil fines imposed pursuant to section 26, and
26 amendments thereto, such deposit shall be credited to the appraiser fee
27 fund. All expenditures from such fund shall be made in accordance with
28 appropriations acts upon warrants of the director of accounts and reports
29 issued pursuant to vouchers approved by the chairperson of the board or
30 by a person or persons designated by the chairperson. Civil fines shall be
31 credited to the state general fund.

32 (d) All amounts required to be collected and actually collected for the
33 AMC federal registry fees shall be credited totally to the AMC federal
34 registry clearing fund which is hereby created in the state treasury. All
35 disbursements from the AMC federal registry clearing fund shall be made
36 upon warrants of the director of accounts and reports issued pursuant to
37 vouchers approved by the chairperson of the board or by a person or
38 persons designated by the chairperson. Amounts credited to the AMC
39 federal registry clearing fund under this section shall not be subject to any
40 limitations imposed by the appropriations act of the legislature.

41 Sec. 9. (a) No single interest in an AMC applying for holding, or
42 renewing a registration under this act shall exceed 10% when owned by:

43 (1) An individual who has held a credential issued by any appraiser-

1 credentialing jurisdiction to act as an appraiser and such credential:

2 (A) Was refused, denied, suspended, revoked, or surrendered, or
3 nonrenewed in lieu of a pending disciplinary proceeding in any
4 jurisdiction against such individual; and

5 (B) not subsequently granted or reinstated; or

6 (C) is otherwise not in good standing; or

7 (2) any person who owns more than a 10% interest in an entity and
8 such person has held a credential issued by any appraiser-credentialing
9 jurisdiction to act as an appraiser that:

10 (A) Was refused, denied, revoked, suspended, or surrendered or
11 nonrenewed in lieu of a pending disciplinary proceeding in any
12 jurisdiction against such person; and

13 (B) (i) not subsequently granted or reinstated, or

14 (ii) is otherwise not in good standing.

15 (b) (1) Each individual that owns more than a 10% interest in an
16 AMC who applies for, holds, or renews a registration under this act shall
17 be of good moral character as determined by the board by rules and
18 regulations.

19 (2) As a part of an application for an original registration, and for a
20 renewal registration if required by the board, the board shall require the
21 individual to be fingerprinted and submit to a state and national criminal
22 history record check. The individual's fingerprints shall be used to identify
23 the individual and to determine whether the individual has a record of
24 criminal history in this state or other jurisdiction. The board shall require
25 the individual to submit the fingerprints to the Kansas bureau of
26 investigation and the federal bureau of investigation for a state and
27 national criminal history record check. The board shall use the information
28 obtained from the fingerprinting and the criminal history for purposes of
29 verifying the identification of the individual and in the official
30 determination of the qualifications and fitness of the applicant to be issued,
31 maintain, or renew a registration.

32 (3) Local and state law enforcement officers and agencies shall assist
33 the board in taking and processing fingerprints of individuals for any
34 registration and shall release all records of adult convictions to the board.

35 (4) The board may fix and collect a fee in an amount necessary to
36 reimburse the board for the cost of fingerprinting and the criminal history
37 record check. Such fee shall be established by rules and regulations.

38 (c) Each AMC applying for registration or for renewal of a
39 registration under this act shall certify to the board on a form prescribed by
40 the board that:

41 (1) Such AMC has reviewed each person or entity that owns more
42 than a 10% interest in the AMC; and

43 (2) no person or entity that owns more than a 10% interest in the

1 AMC has held a credential issued by any appraiser-credentialing
2 jurisdiction to act as an appraiser and such credential:

3 (A) Was refused, denied, suspended, revoked, or surrendered or
4 nonrenewed in lieu of a pending disciplinary proceeding in any
5 jurisdiction against such individual; and

6 (B) (i) was not subsequently granted or reinstated; or
7 (ii) is otherwise not in good standing.

8 Sec. 10. (a) Each AMC applying to the board for a registration or for
9 a renewal of a registration in this state shall designate one controlling
10 person that shall serve as the main contact for all communication between
11 the board and the AMC.

12 (b) The controlling person designated pursuant to subsection (a) shall:

13 (1) Remain in good standing with any appraiser-credentialing
14 jurisdictions from which the controlling person has obtained credentials,
15 except that no provision in this section shall require that a designated
16 controlling person hold an appraiser credential in any jurisdiction; or

17 (2) have never had a credential issued by any appraiser-credentialing
18 jurisdiction to act as an appraiser that:

19 (A) Was refused, denied, suspended, revoked, or surrendered or
20 nonrenewed in lieu of a pending disciplinary proceeding; and:

21 (B) (i) Not had such credential subsequently reinstated or granted; or
22 (ii) is not otherwise in good standing in any jurisdiction.

23 (c) As a part of an application for an original registration and if
24 required by the board for a renewal registration, the board shall require the
25 controlling person to be fingerprinted and submit to a state and national
26 criminal history record check. The fingerprints shall be used to identify the
27 person and to determine whether the controlling person has a record of
28 criminal history in this state or other jurisdiction. The board shall require
29 the controlling person to submit the fingerprints to the Kansas bureau of
30 investigation and the federal bureau of investigation for a state and
31 national criminal history record check. The board shall use the information
32 obtained from the fingerprinting and the criminal history for purposes of
33 verifying the identification of the controlling person and in the official
34 determination of the qualifications and fitness of the applicant to be issued,
35 maintain or renew a registration.

36 (d) Local and state law enforcement officers and agencies shall assist
37 the board in taking and processing fingerprints of applicants for any
38 license and shall release all records of adult convictions to the board.

39 (e) The board may fix and collect a fee in an amount necessary to
40 reimburse the board for the cost of fingerprinting and the criminal history
41 record check. Such fee shall be established by rules and regulations. Any
42 moneys collected under this subsection shall be deposited in the state
43 treasury and credited to the real estate appraisal board's appraiser fee fund

1 established pursuant to K.S.A. 58-4107, and amendments thereto.

(a)

2 Sec. 11. If a license or certification is required to perform an
3 appraisal, prior to placing an assignment with an appraiser on the appraiser
4 panel of an AMC, the AMC shall verify that the appraiser receiving the
5 assignment holds a credential in good standing in this state issued pursuant
6 to this act and the rules and regulations adopted thereunder. A letter of
7 engagement shall include instructions to the appraiser to decline the
8 assignment in the event the appraiser is not geographically competent or
9 the assignment falls outside the appraiser's scope of practice.

(b)

10 ~~Sec. 12.~~ Any employee of, or independent contractor to, the AMC
11 that performs an appraisal review for a property located in Kansas shall be
12 an appraiser credentialed in good standing in the state of Kansas.

(c)

13 ~~Sec. 13.~~ No AMC registered in this state pursuant to this act shall
14 enter into any contract or agreement with an appraiser for the performance
15 of appraisals in Kansas unless such AMC verifies that the individual is
16 credentialed and licensed real property appraisers act.

(d)

17 ~~Sec. 14.~~ Each AMC registered or seeking to be registered in this state
18 shall certify to the board on an annual basis on a form prescribed by the
19 board that such AMC has a system and process in place to verify that any
20 individual being added to the appraiser panel of the AMC for appraisal
21 services in Kansas:

(1)

22 ~~(a)~~ Holds a credential in good standing in this state pursuant to the
23 state certified and licensed real estate appraisers act; and

(2)

24 ~~(b)~~ Is geographically competent and performs appraisal assignments
25 within the appraiser's scope of practice.

26
27 Sec. 15. Each AMC seeking to be registered or to renew a registration
28 in this state shall certify to the board on an annual basis on a form
29 prescribed by the board that such AMC has a system in place to perform
30 an appraisal review on a number or percentage of the appraisal reports
31 submitted by each appraiser who is performing appraisals for such AMC
32 on a periodic basis as specified in rules and regulations of the board to
33 validate that the appraisals are being conducted in accordance with:

34 (a) The USPAP; and

35 (b) the state certified and licensed real property appraisers act and the
36 regulations adopted thereunder;

37 Sec. 16. (a) Each AMC seeking to be registered or to renew an
38 existing registration in this state shall certify to the board on an annual
39 basis on a form prescribed by the board that such AMC maintains a
40 detailed record of each service request that it receives for appraisal of real
41 property located in Kansas.

42 (b) An AMC registered under the provisions of this act shall retain for
43 a period of five years all records required to be maintained under this act.

1 This five-year period shall commence on:

2 (1) The date of the final action by the AMC for each individual
3 transaction; or

4 (2) if the AMC is notified that the transaction is involved in litigation,
5 the date that the final judgment has been issued and all appeals, if any,
6 have been taken.

7 (c) All records required to be maintained by the registered AMC
8 pursuant to the provisions of this act shall be made available by the
9 registration holder for inspection and copying by the board or its designee
10 on reasonable notice to the AMC.

11 Sec. 17. (a) An AMC shall be required to have a system in place to
12 disclose to its client the fees paid:

13 (1) For appraisal management services; and
14 (2) to the appraiser for the completion of an appraisal assignment.

15 (b) No AMC shall prohibit an appraiser that is part of an appraiser
16 panel of the AMC from recording the fee that the appraiser was paid by the
17 AMC for the performance of the appraisal within the body of the appraisal
18 that is submitted by the appraiser to the AMC.

19 Sec. 18. (a) It shall be unlawful and a violation of this act for any
20 employee, partner, director, officer or agent of an AMC to influence or
21 attempt to influence the development, reporting, result or review of an
22 appraisal through coercion, extortion, collusion, compensation,
23 inducement, intimidation, bribery or in any other manner, including but not
24 limited to:

25 (1) Withholding or threatening to withhold timely payment or partial
26 payment for an appraisal unless such appraisal is substandard or
27 noncompliant.

28 (2) Withholding or threatening to withhold, either expressly or by
29 implication, future business from an appraiser.

30 (3) Denoting or terminating or threatening to denote or terminate an
31 appraiser.

32 (4) Promising, either expressly or by implication, future business,
33 promotions or increased compensation for an appraiser.

34 (5) Conditioning an assignment of an appraisal or the payment of an
35 appraisal fee or salary or bonus on:

36 (A) The opinion, conclusion or valuation to be reached by an
37 appraiser; or

38 (B) a preliminary estimate or opinion requested from an appraiser.

39 (6) Requesting that an appraiser provide at any time prior to the
40 appraiser's completion of an appraisal:

41 (A) An estimated, predetermined or desired valuation in an appraisal;
42 or
43 (B) estimated values or comparable sales, except that a copy of the

Sec. 15. Except as provided by section 5, and amendments
thereto, it shall be unlawful for any person to do any of the
following without first obtaining a registration issued by the
board pursuant to section 4, and amendments thereto:
(a) Directly or indirectly engage or attempt to engage in
business as an AMC;
(b) directly or indirectly perform or attempt to perform appraisal
management services as an AMC; or
(c) advertise or hold itself out as engaging in or conducting
business as an AMC.
And by renumbering the remaining sections accordingly

1 sales contract for purchase transactions may be provided.

2 (7) Providing to an appraiser:

3 (A) An anticipated, estimated, encouraged or desired value for a
4 subject property; or

5 (B) a proposed or target amount to be loaned to the borrower, except
6 that a copy of the sales contract for purchase transactions may be provided.

7 (8) Providing to an appraiser, or any entity or individual related to the
8 appraiser, stock or other financial or nonfinancial benefit or thing of value.

9 (9) Without prior written notice to such appraiser:

10 (A) Allowing or directing the removal of an appraiser from an
11 appraiser panel; or

12 (B) the addition of an appraiser to an exclusionary list of disapproved
13 appraisers used by any entity.

14 (10) Committing any other act or practice that impairs or attempts to
15 impair an appraiser's independence, objectivity or impartiality.

16 (11) Submitting or attempting to submit false, misleading or
17 inaccurate information in any application for registration or renewal.

18 (b) No provision of subsection (a) shall be construed to prohibit the
19 AMC from requesting that an appraiser:

20 (1) Provide additional information about the basis for a valuation
21 including consideration of additional comparable data; or

22 (2) correct objective factual errors in an appraisal.

23 (c) It shall be unlawful and a violation of this act for any employee,
24 partner, director, officer, agent or independent contractor of an AMC to:

25 (1) Require an appraiser to sign any sort of indemnification
26 agreement that requires the appraiser to defend and hold harmless the
27 appraisal management company or any of its agents, employees or
28 independent contractors for any liability, damage, losses or claims arising
29 out of the services performed by the AMC or its agents, employees or
30 independent contractors but does not also include the services performed
31 by the appraiser;

32 (2) employ any person who has had a credential to act as an appraiser
33 issued by any appraiser-credentialing jurisdiction that:

34 (A) Was refused, denied, suspended, revoked, or surrendered or
35 nonrenewed in lieu of a pending disciplinary proceeding in any
36 jurisdiction against such individual; and

37 (B) (i) was not subsequently granted or reinstated; or

38 (ii) is otherwise not in good standing in any jurisdiction;

39 (3) knowingly enter into any independent contractor arrangement,
40 whether in verbal, written or other form for the performance of appraisal
41 or appraisal management services, with any person who has had a
42 credential to act as an appraiser that was issued by any appraiser-
43 credentialing jurisdiction that:

- 1 (A) Was refused, denied, suspended, revoked, or surrendered or
2 nonrenewed in lieu of a pending disciplinary proceeding in any
3 jurisdiction against such individual; and
4 (B) (i) was not subsequently granted or reinstated; or
5 (ii) is otherwise not in good standing in any jurisdiction;
6 (4) knowingly enter into any contract, agreement, or other business
7 relationship, whether in verbal, written, or any other form, with any entity
8 that employs, has entered into an independent contract arrangement, or has
9 entered into any contract, agreement or other business relationship,
10 whether in verbal, written or any other form for the performance of
11 appraisal or appraisal management services, with any person who has ever
12 had a credential issued by any appraiser-credentialing jurisdiction to act as
13 an appraiser that:
14 (A) Was refused, denied, suspended, revoked or surrendered or
15 nonrenewed in lieu of a pending disciplinary proceeding in any
16 jurisdiction against such individual; and
17 (B) (i) was not subsequently granted or reinstated; or
18 (ii) is otherwise not in good standing in any jurisdiction;
19 (5) commit an act of unprofessional conduct as defined by rules and
20 regulations of the board;
21 (6) fail to report to the board the results of any appraisal reviews in
22 which an appraisal is found to be substantially noncompliant with USPAP;
23 (7) fail to timely respond to any subpoena or any other request for
24 information from the board;
25 (8) fail to timely obey an administrative order of the board; or
26 (9) fail to fully cooperate in any investigation by the board.
27 (d) It shall be unlawful and a violation of this act for an AMC to
28 include on the panel of the AMC for appraisal services in Kansas any
29 appraiser who:
30 (1) Does not hold a credential in good standing in this state pursuant
31 to the state certified and licensed real estate appraisers act; or
32 (2) is not geographically competent to perform appraisal assignments
33 within the appraiser's scope of practice.
34 An attestation provided by an appraiser that such appraiser is
35 geographically competent within the appraiser's scope of practice will
36 satisfy an AMC's responsibility pursuant to this subsection.
37 Sec. 19. No AMC shall perform or attempt to perform any of the
38 following acts:
39 (a) Require an appraiser to modify any aspect of an appraisal unless
40 the modification complies with subsection (b) of section 18, and
41 amendments thereto;
42 (b) require an appraiser to prepare an appraisal if the appraiser, in the
43 appraiser's own independent professional judgment:

1 (1) Believes the appraiser does not have the necessary expertise for
2 the assignment or for the specific geographic area; and
3 (2) the appraiser has notified the AMC and declined the assignment;
4 (c) require an appraiser to prepare an appraisal under a time frame
5 that the appraiser, in the appraiser's own professional judgment:
6 (1) Believes does not afford the appraiser the ability to meet all the
7 relevant legal and professional obligations; and
8 (2) the appraiser has notified the AMC and declined the assignment;
9 (d) prohibit or inhibit legal or other allowable communication
10 between the appraiser and the lender, a real estate licensee, or any other
11 person from whom the appraiser, in the appraiser's own professional
12 judgment, believes information would be relevant;
13 (e) require the appraiser to do anything that does not comply with
14 USPAP, the state certified and licensed real estate appraisers act or the
15 regulations adopted thereunder, or any assignment conditions and
16 certifications required by the client; or
17 (f) make any portion of the appraiser's fee or the AMC's fee
18 contingent on a predetermined or favorable outcome, including but not
19 limited to a loan closing or a specific dollar amount being achieved by the
20 appraiser in the appraisal.
21 Sec. 20. Except in *bona fide* cases of breach of contract or
22 substandard performance of services, each AMC shall make payment to an
23 appraiser for the completion of an appraisal or valuation assignment within
24 45 days of the date on which the appraiser transmits or otherwise provides
25 the completed appraisal or valuation study to the AMC or its assignee
26 unless a mutually agreed upon alternate arrangement has been previously
27 established in good faith.
28 Sec. 21. (a) No AMC shall alter, modify, or otherwise change or
29 attempt to alter, modify, or otherwise change a completed appraisal
30 submitted by an appraiser.
31 (b) No AMC shall require an appraiser to provide the AMC with the
32 appraiser's digital signature. No provision of this subsection shall be
33 deemed to prohibit an appraiser from voluntarily providing such
34 appraiser's digital signature to another person in the manner permitted by
35 the provisions of the USPAP.
36 Sec. 22. (a) The board shall issue a unique registration number to
37 each AMC that is registered in this state.
38 (b) The board shall maintain on its website a list of the AMCs that
39 have registered with the board pursuant to this act and have been issued a
40 registration number pursuant to subsection (a) of this section.
41 (c) An AMC registered in this state shall place its registration number
42 on any instrument utilized by the AMC for procurement of appraisal
43 services in this state.

1 Sec. 23. (a) Except within the first 30 days after an appraiser is first
2 added to the appraiser panel of an AMC, no AMC shall remove an
3 appraiser from its appraiser panel, or otherwise refuse to assign requests
4 for real estate appraisal services to an appraiser without:

5 (1) Notifying the appraiser in writing of the reasons why such
6 appraiser is being removed from the appraiser panel of the AMC;

7 (2) providing an opportunity for the appraiser to respond to the
8 written notification of the AMC either personally or through legal counsel;
9 and

10 (3) if the appraiser is being removed from the panel for illegal
11 conduct, violation of the USPAP, or a violation of this act or the
12 regulations adopted thereunder, providing notice to the appraiser and to the
13 board detailing allegations of fact and alleged violations of USPAP,
14 regulations or laws.

15 ~~Sec. 24. The board may deny the issuance of a registration or a
16 renewal of a registration to an applicant for failure to comply with any
17 requirement of this act or any regulation adopted thereunder.~~

18 Sec. 25. The board may ~~refuse to issue an initial or renewal~~
19 ~~registration for any of the following acts or omissions:~~

20 (a) That the applicant, in the case of an application for renewal of a
21 registration has, within 12 months preceding the date of the application,
22 violated any provision of this act or any regulation adopted thereunder, or
23 any provision of the state certified and licensed real property appraiser act
24 or any regulation adopted thereunder;

25 (b) that the applicant is not of good moral character; or

26 (c) that the applicant has been the holder of a registration that:

27 (1) Was denied, revoked or suspended for cause; or

28 (2) (A) surrendered or nonrenewed in lieu of disciplinary proceedings
29 and not subsequently granted or reinstated; or

30 (B) is otherwise not in good standing in any jurisdiction;

31 (d) when in the case of an application for renewal of a registration,
32 the applicant has, in the conduct of affairs under the registration,
33 demonstrated:

34 (1) Incompetency;

35 (2) untrustworthiness;

36 (3) conduct or practices rendering the registrant unfit to carry on
37 appraisal management services;

38 (4) conduct or practices making continuance in the business
39 detrimental to the public interest; or

40 (5) that the registrant is no longer in good faith carrying on appraisal
41 management services, and for this conduct is found to be a source of
42 detriment, injury or loss to the public; or

43 (e) that the applicant, the controlling person or any owner of an

deny the issuance of a registration or a renewal of a registration
to an applicant for failure to comply with any requirement of this
act, or any rule or regulation adopted pursuant thereto, or

1 interest in the AMC of 10% or more has been convicted of a felony and
2 has not been sufficiently rehabilitated to merit the public trust.

(a)

3 Sec. 26. The board may censure an AMC, condition, limit, suspend or
4 revoke the registration of an AMC, and in addition to or in lieu of any
5 other administrative, civil or criminal remedy provided by law may impose
6 a civil fine not to exceed \$2,000 per violation for any of the following acts
7 or omissions:

(1)

8 ~~(a)~~ Committing any violation of this act;

(2)

9 ~~(b)~~ violating any regulation adopted by the board to implement or
10 administer the provisions of this act;

(3)

11 ~~(c)~~ procuring a registration or renewal of a registration for the AMC
12 or committing any other act by fraud, misrepresentation, or deceit; or

(4)

13 ~~(d)~~ employing a controlling person or any individual who owns more
14 than 10% of the AMC who has been convicted of a felony and who has not
15 been sufficiently rehabilitated to merit the public trust.

(b)

16 ~~(e)~~ Administrative proceedings under this act shall be conducted
17 in accordance with the Kansas administrative procedure act.

(c) A violation of this act, or of any rule or regulation adopted pursuant thereto, shall be a class C misdemeanor.

18 Sec. 28. (a) The costs incurred by the board in conducting any
19 proceeding under the Kansas administrative procedure act may be assessed
20 against the AMC if the order of the board is adverse to the AMC in such
21 proportion as the board determines upon consideration of all relevant
22 circumstances including the nature of the proceeding and the level of
23 participation by the parties. The board may reduce any such assessment to
24 judgment by filing a petition in the district court of Shawnee county. No
25 registration shall be reinstated, renewed or issued if an assessment for
26 costs has not been paid by the applicant or registrant.

27 (b) (1) Except as provided in paragraph (2), for purposes of this
28 section, costs include the fees and expenses of the presiding officer, costs
29 of making and preparing the record, witness fees and expenses, mileage,
30 travel allowances and subsistence expenses of board employees and fees
31 and expenses of agents of the board who provide services to the board.

32 (2) Costs shall not include fees and expenses or costs of making and
33 preparing the record unless the board has designated or retained the
34 services of the office of administrative hearings to perform such functions.

35 (c) The board shall make any assessment of costs incurred as part of
36 the final order rendered in the proceeding. Such order shall include
37 findings and conclusions in support of the assessment of costs.

38 Sec. 29. In accordance with the provisions of the rules and
39 regulations filing act, K.S.A. 77-415 *et seq.*, and amendments thereto, the
40 board may adopt, amend and revoke rules and regulations governing the
41 administration and enforcement of this act, including but not limited to:

42 (a) Any fee required by this act;

43 (b) any report, record or other information which may be required to

- 1 be kept, and maintained pursuant to this act; and
- 2 (c) such other rules and regulations as the board may deem necessary
- 3 to carry out the provisions of this act.
- 4 Sec. 30. This act shall take effect and be in force from and after
- 5 ~~October 1, 2012, and~~ its publication in the statute book.