

SECOND REGULAR SESSION

HOUSE BILL NO. 2152

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES HOBBS (Sponsor), GRISAMORE, WILSON (119),
CUNNINGHAM, DENISON, KRATKY, CURLS AND LARGENT (Co-sponsors).

4817L.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 339, RSMo, by adding thereto thirteen new sections relating to registration of real estate appraisal management companies, with penalty provisions and an emergency clause.

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

Section A. Chapter 339, RSMo, is amended by adding thereto thirteen new sections, to
2 be known as sections 339.1100, 339.1105, 339.1110, 339.1115, 339.1120, 339.1125, 339.1130,
3 339.1135, 339.1140, 339.1145, 339.1150, 339.1155, and 339.1160, to read as follows:

**339.1100. Sections 339.1100 to 339.1155 shall be known as the "Missouri Appraisal
2 Management Company Registration and Regulation Act".**

**339.1105. It shall be unlawful for any person to act as a real estate appraisal
2 management company, to directly or indirectly engage or assume to engage in the business
3 of real estate appraisal management, or to assume to engage in the business of real estate
4 appraisal management in this state, or to advertise or hold himself or herself out as
5 engaging in or conducting the business of real estate appraisal management in this state
6 without first registering with the Missouri real estate appraisers commission under this
7 chapter. It shall also be unlawful, with regard to appraisals of any real property where
8 any portion of that property is located within this state, for any person to perform any of
9 the acts listed in this section without first being registered by the division of finance under
10 sections 339.1100 to 339.1155.**

339.1110. As used in sections 339.1100 to 339.1155, the following terms shall mean:

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

- 2 (1) "Act as a real estate appraisal management company", to act, for compensation
3 or gain, either directly or indirectly, by accepting or offering to accept an appraisal
4 assignment, soliciting or offering to solicit an appraisal assignment, employing or
5 contracting with a licensed or certified real estate appraiser to prepare an appraisal
6 assignment on behalf of a client, whether such acts are done through contact by telephone,
7 by electronic means, by mail, or in person;
- 8 (2) "Appraisal management company" or "company", a person, limited liability
9 company, partnership, association, or corporation which for compensation:
- 10 (a) Functions as a third-party intermediary between an appraiser and a user of real
11 estate appraisal services;
- 12 (b) Administers a network of appraisers performing real estate appraisal services
13 as independent contractors;
- 14 (c) Enters into an agreement with a user of real estate appraisal services and one
15 or more appraisers to perform such services as independent contractors; or
- 16 (d) Otherwise serves as a third-party broker of appraisal services;
- 17 (3) "Appraisal firm", a person, limited liability company, partnership, association,
18 or corporation which for compensation prepares and communicates appraisals, reviews
19 appraisals prepared by others, provides appraisal consultation services, and supervises,
20 trains, and reviews work produced or certified by persons who produce appraisals;
- 21 (4) "Appraiser", an individual licensed or certified by the Missouri real estate
22 appraisers commission under chapter 339;
- 23 (5) "Client", any person or entity that contracts with, or otherwise enters into an
24 agreement with an appraisal management company for the performance of real estate
25 appraisal services;
- 26 (6) "Commission", the Missouri real estate appraisers commission;
- 27 (7) "Employee", an individual who has an employment relationship acknowledged
28 by both the individual and the company and is treated as an employee for purposes of
29 compliance with the federal income tax laws;
- 30 (8) "Exempt person", the term includes any of the following:
- 31 (a) An appraisal firm;
- 32 (b) Any person licensed to practice law in this state or any person licensed in this
33 state as an accountant under chapter 326 who orders an appraisal in connection with a
34 bona fide client relationship when such person directly contracts with an independent
35 appraiser;
- 36 (c) Any person or entity that contracts with an independent appraiser acting as an
37 independent contractor for the completion of appraisal assignments that the person or

38 entity cannot complete for any reason, including, without limitations, competency,
39 workload, scheduling, or geographic location;

40 (d) Any person or entity that contracts with an independent appraiser acting as an
41 independent contractor for the completion of a real estate appraisal assignment and, upon
42 completion of such assignment, cosigns the appraisal report with the independent
43 appraiser acting as an independent contractor;

44 (e) Any agency of the federal government or any state or municipal government;

45 (f) Any person authorized to engage in business as a bank, a farm credit system,
46 savings institution, or a credit union, under the laws of the United States, this state, or any
47 other state;

48 (g) Any officer or employee or an exempt person described in paragraphs (a) and
49 (b) of this subdivision when acting in the scope of employment for the exempt person;

50 (h) Any person who receives, in one calendar year, no more than ten appraisal
51 assignments that are referred to an appraiser for a fee;

52 (9) "Person", an individual, partnership, limited liability company, limited
53 partnership, corporation, association, or other group engaged in joint business activities,
54 however organized;

55 (10) "Registrant", an appraisal management company that is registered under
56 sections 339.1100 to 339.1155.

339.1115. The commission may adopt rules not inconsistent with sections 339.1100
2 to 339.1155 which may be reasonably necessary to implement, administer, and enforce the
3 provisions of sections 339.1100 to 339.1155, including, but not limited to, the authority to:

4 (1) Prescribe forms and procedures for submitting information to the commission;

5 (2) Prescribe standards of practice for companies registered under sections
6 339.1100 to 339.1155; and

7 (3) Prescribe standards for the operation of real estate appraisal management
8 companies.

339.1120. 1. Prior to acting or offering to act as an appraisal management company
2 in this state, the company shall make written application to the commission for the
3 registration of the company accompanied by the fee as set by rule set forth in section
4 339.1135. The application shall include an irrevocable appointment of the commission to
5 receive service of any lawful process in any proceeding against the company or others
6 arising under sections 339.1100 to 339.1155, and such other information as the commission
7 may by rule require.

8 2. An appraisal management company applying for registration in this state may
9 not be owned by any person who has had an appraiser license or certificate refused,

10 denied, canceled, or revoked in this state or any other state. Each person that owns more
11 than ten percent of an appraisal management company shall be of good moral character
12 and shall submit to a background investigation, at their own expense, as determined by the
13 commission.

14 3. Upon receipt of a properly completed application and fee and upon a
15 determination by the commission that the activities of the company will be directed and
16 conducted by persons of good moral character, the commission shall issue to the company
17 a certificate of registration authorizing the company to act or offer to act as an appraisal
18 management company in Missouri.

19 4. In the event the commission finds that there is substantial reason to deny the
20 application for registration, the commission shall notify the applicant that such application
21 has been denied and shall afford the applicant an opportunity for a hearing before the
22 commission to show cause why the application should not be denied.

23 5. The acceptance by the commission of an application for registration shall not
24 constitute the approval of its contents or waive the authority of the commission to take
25 disciplinary action as provided by sections 339.1100 to 339.1155.

339.1125. 1. Each appraisal management company shall:

2 (1) Have a system and process in place to verify that any person being added to the
3 appraiser panel of the appraisal management company, or who may be used by the
4 appraisal management company to otherwise perform appraisals, holds a license in good
5 standing in this state under this chapter; and

6 (2) Have a system and process in place to review the work of all appraisers that are
7 performing appraisal services for the appraisal management company on a periodic basis
8 to ensure that the appraisal services are being conducted in accordance with the minimum
9 Uniform Standards of Professional Appraisal Practice (USPAP) standards.

10 2. Actual fees paid for appraisal services shall not be misrepresented to include any
11 hidden charges by the registrant, and only the actual fee paid to the appraiser shall
12 represent the total sum of the appraisal fee.

13 3. Fees shall be paid to a real estate appraiser within thirty days of the date the
14 appraisal is transmitted by the appraiser to the registrant or to the registrant's client.

15 4. Every applicant for registration under sections 339.1100 to 339.1155 who is not
16 a resident of this state shall submit with the application an irrevocable consent that service
17 of process in any action against the applicant arising out of the applicant's activities as an
18 appraisal management company may be made by delivery of the process on the
19 commission. In addition, each application for registration shall submit the name and
20 address of its registered agent.

21 **5. Each registrant shall maintain or cause to be maintained complete records of**
22 **appraisal assignments referred to an appraiser licensed or certified by the Missouri real**
23 **estate appraisers commission, including records pertaining to the acceptance of fees from**
24 **borrowers or clients and payment to appraisers. The commission may inspect such records**
25 **periodically without prior notice and may also inspect such records whenever the**
26 **commission determines that they are pertinent to an investigation of any specific complaint**
27 **against a registrant.**

28 **6. A registrant shall, report within ten business days to the commission any and all**
29 **changes in the information required to be submitted for the purpose of registration.**

339.1130. Each appraisal management company registered under sections 339.1100
2 **to 339.1155 shall designate a managing principal who is responsible to assure that the**
3 **company operates in compliance with sections 339.1100 to 339.1155. The company shall**
4 **file a form with the commission of any change in its managing principal. Any registrant**
5 **who does not comply with this provision shall have its registration suspended under section**
6 **339.1140 until the registrant complies with this section. Any individual registrant who**
7 **operates as a sole proprietorship shall be considered a managing principal for the purposes**
8 **of sections 339.1100 to 339.1155.**

339.1135. 1. Each application for registration shall be accompanied by a fee as set
2 **by rule in an amount sufficient to cover the administrative costs of sections 339.1100 to**
3 **339.1155. Registrations issued under sections 339.1100 to 339.1155 shall expire on the**
4 **thirtieth day of June of every year and shall become invalid after the date unless renewed**
5 **prior to the expiration date by filing an application with and paying to the commission a**
6 **fee set by rule. As a prerequisite to the renewal of registration, the registrant shall file a**
7 **statement on a form prescribed by the commission. The commission may adopt rules**
8 **establishing a system of renewal in which registrations expire annually with varying**
9 **expiration dates.**

10 **2. All registrations reinstated after the expiration dates shall be subject to a late**
11 **filing fee as set by rule for each month or part thereof that the registration is lapsed. The**
12 **late filing fee shall be in addition to the required renewal fee. In the event a registrant fails**
13 **to reinstate the registration within six months after the expiration date, the registration will**
14 **expire and the registrant shall file a new application for registration. Reinstatement is not**
15 **retroactive.**

16 **3. Replacement registration documents may be issued by the commission upon**
17 **payment, as by rule, by the registrant. Certification by the commission of the registration**
18 **history of an appraisal management company registered under sections 339.1100 to**
19 **339.1155 shall be made only after the payment of a fee as set by rule to the commission.**

339.1140. No employee, director, officer, or agent of a real estate appraisal management company, or any third party acting as joint venture partner, or independent contractor shall influence or attempt to influence the development, reporting, result, or review of an appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, bribery, or in any other manner including but not limited to:

(1) Withholding or threatening to withhold timely payment for an appraisal report;

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

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

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

(5) 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 report;

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

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

(8) Allowing the removal of an appraiser from a list of qualified appraisers used by any entity, without prior written notice to such appraiser, which notice shall include written evidence of the appraiser's illegal conduct, a violation of the Uniform Standards of Professional Appraisal Practice (USPAP) or state licensing standards, substandard performance, or otherwise improper or unprofessional behavior;

(9) Failing to pay when due reasonable fees to an appraiser for appraisal services that are requested from the appraiser in writing by the real estate management company and performed by the appraiser; or

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

2. The appraisal management company shall not:

(1) Require an appraiser to collect the appraisal fee from a borrower, homeowner, or other person;

(2) Require an appraiser to provide the company with the appraiser's digital signature or seal;

37 (3) Alter, amend, or change an appraisal report submitted by a Missouri licensed
38 or certified appraiser in any fashion, including removing the appraiser's signature or seal,
39 or adding information to or removing information from the report;

40 (4) Transmit an appraisal to the company's client if the appraisal has been altered
41 in any fashion from when it was transmitted to the company; or

42 (5) Require an appraiser to sign any sort of indemnification agreement that would
43 require the appraiser to defend and hold harmless the company, any software provider
44 that the company requires an appraiser to use, or any other company that the company
45 does business with, from any liability, damage, losses or claim.

46 3. Nothing in this section shall be construed as prohibiting a real estate appraisal
47 management company from requesting that an appraiser:

48 (1) Consider additional property information;

49 (2) Provide further detail, substantiation, or explanation for the appraiser's value
50 conclusion; or

51 (3) Correct errors in the appraisal report in compliance with the Uniform
52 Standards of Professional Appraisal Practice.

 339.1145. 1. The commission shall keep a register of all applicants for registration,
2 showing for each the date of application, name, business address, and whether the
3 registration was granted or refused. The register shall be prima facie evidence of all
4 matters received therein.

5 2. The commission shall also keep a current roster showing the name and address
6 of all appraisal management companies registered with the commission. The roster shall
7 be kept on file in the office of the commission and be open to public inspection.

8 3. On or before the first day of November of each year, the commission shall file
9 with the secretary of state a copy of the roster of appraisal management companies
10 registered with the commission and a report containing a complete statement of income
11 received by the commission in connection with the registration of appraisal management
12 companies for the preceding fiscal year ending June thirtieth, attested by the affidavit of
13 the commission.

 339.1150. A surety bond in the principal sum of two hundred fifty thousand dollars
2 shall accompany each registration. The bond shall be in a form satisfactory to the
3 commission and shall be issued by a bonding company or insurance company authorized
4 to do business in this state, to secure the faithful performance of the obligations of the
5 registrant in connection with the activities of real estate appraising.

 339.1155. 1. The commission may, by order, deny, suspend, revoke, or refuse to
2 issue or renew a registration of an appraisal management company under sections

3 **339.1100 to 339.1155 or may restrict or limit the activities relating to real estate appraisal**
4 **management companies of a person who owns an interest in or participates in the business**
5 **of an appraisal management company, if the commission finds that any of the following**
6 **circumstances apply to the applicant, registrant, or any partner, member, manager, officer,**
7 **director, managing principal, or any person occupying a similar status or performing**
8 **similar functions or any person directly or indirectly controlling the applicant or**
9 **registrant:**

10 (1) **The person has filed an application for registration that, as of its effective date**
11 **or as of any date after filing, contained any statement that, in light of the circumstances**
12 **under which it was made, is false or misleading with respect to any material fact;**

13 (2) **The person has violated or failed to comply with any provision of sections**
14 **339.1100 to 339.1155, or any rule adopted by the commission;**

15 (3) **The person has been convicted of any felony, or any misdemeanor involving**
16 **mortgage lending or real estate appraisal, or any offense involving breach of trust, moral**
17 **turpitude, or fraudulent or dishonest dealing;**

18 (4) **The person is permanently or temporarily enjoined by any court of competent**
19 **jurisdiction from engaging in or continuing any conduct or practice involving any aspect**
20 **of the appraisal management services or operating an appraisal management company;**

21 (5) **The person is the subject of an order of a Missouri real estate appraiser**
22 **regulatory agency denying, suspending, or revoking that person's license as a real estate**
23 **appraiser;**

24 (6) **The person acted as an appraisal management company while not properly**
25 **registered by the commission;**

26 (7) **The person failed to pay the proper filing or renewal fee under sections 339.1100**
27 **to 339.1155.**

28 **2. Following a hearing, the commission shall also have power to suspend or revoke**
29 **any certificate of registration issued under the provisions of sections 339.1100 to 339.1155**
30 **or to reprimand or censure any registrant when the registrant has been convicted or has**
31 **entered a plea of guilty or no contest upon which final judgment is entered by a court of**
32 **competent jurisdiction in this state, or any other state, of the criminal offenses of**
33 **embezzlement, obtaining money under false pretense, fraud, forgery, conspiracy to**
34 **defraud, or any other offense involving moral turpitude which would reasonably affect the**
35 **registrant's operation of an appraisal management company in conformity with the**
36 **provisions of this chapter.**

37 **3. The commission may, by order, summarily postpone or suspend the registration**
38 **of an appraisal management company pending final determination of any proceeding**

39 under this section. Upon entering the order, the commission shall promptly notify the
40 registrant that the order has been entered and the reasons for the order. The commission
41 shall calendar a hearing within fifteen days after the division receives a written request for
42 a hearing. If a registrant does not request a hearing, the order will remain in effect until
43 it is modified or vacated by the commission. If a hearing is requested, after notice of and
44 opportunity for hearing, the commission may modify or vacate the order or extend it until
45 final determination.

46 4. The commission may, by order, impose a civil penalty upon a registrant or any
47 partner, officer, director, or other person occupying a similar status or performing similar
48 functions on behalf of a registrant for any violation of sections 339.1100 to 339.1155. The
49 civil penalty shall not exceed ten thousand dollars for each violation of sections 339.1100
50 to 339.1155.

51 5. In addition to other powers under sections 339.1100 to 339.1155, upon finding
52 that any action of a person is in violation of sections 339.1100 to 339.1155, the commission
53 may order the person to cease from the prohibited action. If the person subject to the
54 order fails to appeal the order of the commission, or if the person appeals and the appeal
55 is denied or dismissed, and the person continues to engage in the prohibited action in
56 violation of the commission's order, the person shall be subject to a civil penalty of up to
57 twenty-five thousand dollars for each violation of the order. The penalty provision of this
58 section shall be in addition to and not in lieu of any other provision of law applicable to a
59 registrant for the registrant's failure to comply with an order of the commission.

60 6. When a registrant is accused of any act, omission, or misconduct that would
61 subject the registrant to disciplinary action, the registrant, with the consent and approval
62 of the commission, may surrender its registration and all the rights and privileges
63 pertaining to it for a minimum period of five years. A person who surrenders a
64 registration shall not be eligible for or submit any application for registration under
65 sections 339.1100 to 339.1155.

66 7. If the commission has reasonable grounds to believe that an appraisal
67 management company has violated the provisions of sections 339.1100 to 339.1155 or that
68 facts exist that would be the basis for an order against an appraisal management company,
69 the commission may at any time, either personally or by a person duly designated by the
70 commission, investigate or examine the books, accounts, records, and files of any registrant
71 or other person relating to the complaint or matter under investigation. The commission
72 may require any registrant or other person to submit a criminal history record check and
73 a set of that person's fingerprints in connection with any examination or investigation.
74 Refusal to submit the requested criminal history record check or a set of fingerprints shall

75 be grounds for disciplinary action. The reasonable cost of such investigation or
76 examination shall be charged against the registrant.

77 **8. The commission shall have the power to issue subpoenas requiring the**
78 **attendance of persons and the production of papers and records before the commission in**
79 **any hearing, investigation, inquiry, or other proceeding conducted by the commission.**
80 **Upon the production of any papers, records, or documents, the commission shall have the**
81 **power to authorize true copies thereof to be substituted in the permanent record of the**
82 **matter in which the books, records, or documents shall have been introduced in evidence.**

83 **9. The commission may from time to time, at the expense of the commission,**
84 **conduct routine examinations of the books and records of an appraisal management**
85 **company registered with the commission in order to determine the compliance with**
86 **sections 339.1100 to 339.1155 and any rules adopted thereunder.**

339.1160. 1. Sections 339.1100 to 339.1155 shall become ineffective sixty days after
2 **the effective date of a federal law that mandates the registration or licensing of appraisal**
3 **management companies with an entity other than the state regulatory authority with**
4 **jurisdiction over licensed and certified appraisers.**

5 **2. Any appraisal management company doing business in this state on the effective**
6 **date of sections 339.1100 to 339.1160 may continue to perform such services without a**
7 **license until the earlier of either such time that state regulations pertaining to sections**
8 **339.1100 to 339.1160 have been adopted in accordance with chapter 536.**

Section B. Because immediate action is necessary to regulate appraisal management
2 companies, section A of this act is deemed necessary for the immediate preservation of the public
3 health, welfare, peace, and safety, and is hereby declared to be an emergency act within the
4 meaning of the constitution, and section A of this act shall be in full force and effect upon its
5 passage and approval.

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