

1 classified by subject matter into either a valuation or an analysis.

2 (i) A "valuation" is an estimate of the value of real estate or real property.

3 (ii) An "analysis" is a study of real estate or real property other than estimating value.

4 (2) "Appraisal management company" means:

5 (i) In connection with valuing properties collateralizing mortgage loans or mortgages
6 incorporated into a securitization, any external third party authorized either by a creditor of a
7 consumer credit transaction secured by a consumer's principal dwelling, or by an underwriter of
8 or other principal in the secondary mortgage markets, that oversees a network or panel of more
9 than fifteen (15) certified or licensed appraisers in Rhode Island or twenty-five (25) or more
10 nationally, excluding those appraisers who do not provide appraisal services for covered
11 transactions, within a given year to:

12 (A) Recruit, select, and retain appraisers;

13 (B) Contract with licensed and certified appraisers to perform appraisal assignments;

14 (C) Manage the process of having an appraisal performed, including providing
15 administrative duties such as receiving appraisal orders and appraisal reports, submitting
16 completed appraisal reports to creditors and underwriters, collecting fees from creditors and
17 underwriters for services provided, and reimbursing appraisers for services performed; or

18 (D) Review and verify the work of appraisers.

19 (ii) An appraisal management company does not include any entity that employs real
20 estate appraisers as employees for the performance of real estate appraisal services in a manner
21 consistent with federal regulations promulgated in accordance with §1473 of the Dodd-Frank
22 Wall Street Reform Act.

23 (3) "Appraisal review" means the act or process of developing and communicating an
24 opinion about the quality of another appraiser's work that was performed as part of an appraisal
25 assignment related to the appraiser's data collection, analysis, opinions, conclusions, opinion of
26 value or compliance with the uniform standards of professional appraisal practice; provided
27 however, that "appraisal review" shall not include:

28 (i) A general examination for grammatical, typographical or similar errors; or

29 (ii) A general examination for completeness, including regulatory or client requirements
30 as specified in an agreement that does not communicate an opinion of value.

31 (4) "Appraiser panel" means a group of independent fee appraisers that have been
32 selected by an appraisal management company to perform residential real estate appraisal
33 services for the appraisal management company.

34 (5) "Client" means any person or entity that contracts with, or otherwise enters into an

1 agreement with, an appraisal management company for the management of residential real estate
2 appraisal services.

3 (6) "Controlling person" means:

4 (i) An owner, officer or director of a corporation, partnership or other business entity
5 seeking to offer appraisal management services in this state; or

6 (ii) An individual employed, appointed, or authorized by an appraisal management
7 company that has the authority to enter into a contractual relationship with clients for the
8 performance of appraisal management services and has the authority to enter into agreements
9 with independent appraisers for the performance of residential real estate appraisal services; or

10 (iii) An individual who possesses, directly or indirectly, the power to direct or cause the
11 direction of the management or policies of an appraisal management company.

12 (7) "Department" means the department of business regulation.

13 (8) "Director" means the director of the department of business regulation.

14 (9) "Independent fee appraiser" means:

15 (i) A natural person who is a state-licensed or state-certified appraiser and receives a fee
16 for performing an appraisal, but who is not an employee of the person engaging the appraiser; or

17 (ii) An organization that, in the ordinary course of business, employs state-licensed or
18 state-certified appraisers to perform appraisals, receives a fee for performing the appraisals and is
19 not subject to §1124 of the Federal Financial Institutions Reform, Recovery and Enforcement Act
20 of 1989 ("FIRREA").

21 (10) "Real estate appraisal services" means the practice of developing an appraisal by a
22 licensed or certified appraiser in conformance with the USPAP.

23 (11) "USPAP" mean the uniform standards for professional appraisal practice published
24 by the appraisal foundation.

25 **5-20.9-3. Registration required for appraisal management companies.**

26 (a) It shall be unlawful for any person or entity to act as a real estate appraisal
27 management company, or to directly or indirectly engage in the business of real estate appraisal
28 management in this state, or to advertise or hold himself, herself, or itself out as engaging in the
29 business of real estate appraisal management in this state, without first registering with the
30 department under the provisions of this chapter.

31 (b) A partnership, limited liability partnership, limited liability company, or corporation
32 that acts as an appraisal management company shall register with the department and shall renew
33 the registrations of its members, officers, and directors for each registration period.

34 (c) However, this chapter shall not be applicable to:

1 (1) An agency of the federal government or any state or municipal government;

2 (2) An appraisal management company that is a subsidiary owned and controlled by a
3 financial institution regulated by a federal financial institution regulatory agency, provided the
4 appraisal management company is in compliance with §1124 of the Federal Financial Institutions
5 Reform, Recovery and Enforcement Act of 1989 and any rules promulgated pursuant to the
6 authority granted in said §1124;

7 (3) Any domestic corporation, partnership, sole proprietorship, subsidiary, unit, or other
8 domestic business entity that exclusively employs persons in employer-employee relationships to
9 perform residential real estate appraisal services in accordance with USPAP in the normal course
10 of its business;

11 (4) Any individual, corporation, partnership, sole proprietorship, subsidiary, unit, or other
12 business entity who in the normal course of business enters into an agreement, whether written or
13 otherwise, with an independent fee appraiser for the performance of residential real estate
14 appraisal services shall, upon the completion of the appraisal, cosign the report with the
15 independent fee appraiser with whom it subcontracted for the performance of the residential real
16 estate appraisal service.

17 **5-20.9-4. Requirements for registration.**

18 (a) Appraisal management companies shall provide the following information upon
19 registration:

20 (1) Name and contact information of the entity seeking registration;

21 (2) Name and contact information of the controlling person for the entity;

22 (3) If the entity is not a corporation domiciled in this state, the name and contact
23 information for the company's agent for service of process in this state; and

24 (4) Name, address, and contact information for any individual or any corporation,
25 partnership, or other business entity that owns 10% or more of the appraisal management
26 company.

27 (b) Contact information shall include the entity's business and mailing address, telephone
28 number, facsimile number, and electronic mail (email) address.

29 (c) An appraisal management company shall certify that the following is true upon its
30 initial registration and upon each renewal of its registration:

31 (1) The registered entity has a system and process in place to verify that a person being
32 added to the appraiser panel of the appraisal management company holds a certification or license
33 in good standing in this state to perform appraisals;

34 (2) The registered entity has a system in place to periodically perform a quality assurance

1 review of the work of independent fee appraisers that are performing real estate appraisal services
2 on its behalf to ensure that appraisal services are being conducted in accordance with USPAP;
3 and

4 (3) The registered entity maintains a detailed record of each service request that it
5 receives for five (5) years.

6 (4) The registered entity maintains a system to assure that the appraiser selected for an
7 appraisal assignment is independent of the transaction and has the requisite education, expertise,
8 and experience necessary to competently complete the appraisal assignment for the particular
9 market and property type.

10 (5) The registered entity will have a system in place to ensure that real estate appraisal
11 services are provided independently and free from inappropriate influence and coercion under the
12 appraisal independence standards established under §129E of the Truth in Lending Act, including
13 the requirement that independent fee appraisers be compensated at a customary and reasonable
14 rate when the appraisal management company is providing services for a consumer credit
15 transaction secured by the principal dwelling of a consumer.

16 (d) A person, who, directly or indirectly owns more than ten percent (10%) of an
17 applicant, or any officer, controlling person, employee in charge or managing principal of an
18 applicant, shall furnish to the department authorization for a state or national criminal history
19 background check. An appraisal management company that has an owner of more than ten
20 percent (10%), directly or indirectly, or any officer, controlling person, employee in charge or
21 managing principal, who has had a license or certificate to act as an appraiser or to engage in any
22 activity related to the transfer of real property refused, denied, canceled or revoked in this state or
23 in any other state, whether on a temporary or permanent basis or, who is not of good moral
24 character as determined by the director, shall not be eligible for licensure.

25 **5-20.9-5. Consent to service of process.**

26 Every applicant for registration under this chapter who is not a resident of this state shall
27 submit with the application an irrevocable consent that service of process in any action against
28 the applicant arising out of the applicant's activities as an appraisal management company may be
29 made by delivery of the process on the director. In addition, each application for registration must
30 submit the name and address of its registered agent that is located in this state.

31 **5-20.9-6. Retention of records.**

32 (a) Each appraisal management company shall maintain for five (5) years all business
33 records, either in electronic or paper format, relating to each request for an appraisal service that
34 the appraisal management company has received and to the appraiser who performs the appraisal

1 service for the appraisal management company.

2 (b) The department may inspect these records periodically without prior notice and may
3 also inspect these records whenever the department determines that they are pertinent to an
4 investigation of any specific complaint against an appraisal management company.

5 (c) Each appraisal management company must notify the department in writing of any
6 change of business name or address within ten (10) calendar days.

7 **5-20.9-7. Initial registration, renewals, forms and fees.**

8 (a) An applicant for registration as an appraisal management company shall submit to the
9 department an application on forms prescribed by the department and pay the required fee(s).

10 (b) The fees for initial registration, renewal and late renewals shall be determined by the
11 director and established by regulation.

12 (c) Every appraisal management company that desires to renew a registration for the next
13 term shall apply for the renewal of the registration upon a form furnished by the director and
14 containing information that is required by this chapter. Renewal of a registration is subject to the
15 same provisions as the initial registration.

16 (d) The department shall receive applications for registration for initial licensing and
17 renewal and establish administrative procedures for processing applications and issuing and
18 renewing registrations.

19 (e) The department shall have the authority to assess and collect from registered entities,
20 the AMC federal registry fee in any amount assessed by the appraisal subcommittee of the
21 Federal Financial Institutions Examination Council or its successor entity, and transmit the fee to
22 the to the Federal Financial Institutions Examinations Council.

23 (f) A federally regulated appraisal management company operating in this state shall
24 report to the department any information necessary for the department to assess, collect and
25 forward the AMC Federal Registry Fee in any amount assessed by the appraisal subcommittee of
26 the Federal Financial Institutions Examination Council or its successor entity.

27 **5-20.9-8. Expiration of registration.**

28 A registration granted by the department pursuant to this chapter shall be valid for two
29 (2) years from the date on which it is issued.

30 **5-20.9-9. Grounds for denial, suspension or revocation of registration.**

31 (a) The department may deny, censure, suspend or revoke a registration of an appraisal
32 management company issued under this chapter, levy fines or impose civil penalties not to exceed
33 five thousand dollars (\$5,000) per violation, if in the opinion of the department, an appraisal
34 management company is attempting to perform, has performed, or has attempted to perform any

1 of the following acts:

2 (1) The appraisal management company has filed an application for registration that, as
3 of its effective date or as of any date after filing, contained any statement that, in light of the
4 circumstances under which it was made, is false or misleading with respect to any material fact;

5 (2) The appraisal management company has violated or failed to comply with any
6 provision of this chapter, or any rule adopted by the department;

7 (3) The appraisal management company is permanently or temporarily enjoined by any
8 court of competent jurisdiction from engaging in or continuing any conduct or practice involving
9 any aspect of the real estate appraisal management business;

10 (4) The appraisal management company or a controlling person thereof is the subject of
11 an order of the department or any other state appraiser regulatory agency denying, suspending, or
12 revoking that person's license as a real estate appraiser;

13 (5) The appraisal management company acted as an appraisal management company
14 while not properly registered with the department;

15 (6) The appraisal management company has failed to pay the proper filing or renewal fee
16 under this chapter;

17 (7) The appraisal management company has demonstrated incompetence,
18 untrustworthiness, or conduct or practices that render the applicant unfit to perform appraisal
19 management services; or

20 (8) The appraisal management company has committed any of the prohibited practices set
21 forth in this chapter or in the department's regulations.

22 (b) The department shall provide written notice of the denial, suspension, or revocation of
23 a registration under this chapter. Any party aggrieved by the department's decision regarding
24 registration issuance or renewal may, within ten (10) days of the decision, appeal the matter to the
25 director by submitting a written request for a formal hearing to be conducted in accordance with
26 the provisions of §5-20.9-17.

27 **5-20.9-10. Owner requirements.**

28 (a) An appraisal management company applying for a registration in this state may not be
29 owned or controlled by a person if such person has had a license or certification to act as an
30 appraiser denied or revoked in this state or in any other state, or who is not of good moral
31 character as determined by the director.

32 (b) Each owner or controlling person of an appraisal management company in this state
33 shall certify to the department that such person has never had a license to act as an appraiser
34 denied, suspended or revoked in this state or in any other state.

1 **5-20.9-11. Controlling person and review appraiser employees.**

2 (a) Each appraisal management company applying to the department for a registration in
3 this state shall designate one controlling person that will be the principal contact for all
4 communication between the department and the appraisal management company.

5 (b) Any employee of the appraisal management company that has the responsibility to
6 review the work of independent fee appraisers must have a current USPAP certification.

7 **5-20.9-12. Verification of appraiser licensure or certification.**

8 An appraisal management company registered in this state pursuant to this chapter may
9 not enter into contracts or agreements with an independent fee appraiser for the performance of
10 residential real estate appraisal services unless that person is licensed or certified and in good
11 standing pursuant to the chapter 20.7 of title 5.

12 **5-20.9-13. Appraiser independence.**

13 (a) It shall be unlawful for any employee, director, officer, or agent of an appraisal
14 management company registered in this state to influence or attempt to influence the
15 development, reporting, or review of an appraisal through coercion, extortion, collusion,
16 compensation, instruction, inducement, intimidation, bribery or in any other manner. Examples of
17 unlawful influence include, but are not limited to:

18 (1) Withholding or threatening to withhold timely payment for an appraisal except in
19 cases of breach of contract or substandard performance of services;

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

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

24 (4) Conditioning the request for an appraisal service or the payment of an appraisal fee or
25 salary or bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary
26 estimate or opinion requested from an independent appraiser;

27 (5) Requesting that an independent appraiser provide an estimated, predetermined, or
28 desired valuation in an appraisal report, or provide estimated values or comparable sales at any
29 time prior to the independent appraiser's completion of an appraisal service;

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

33 (7) Providing to an independent appraiser, or any entity or person related to the appraiser,
34 stock or other financial or non-financial benefits;

1 (8) Removing an appraiser from a list of qualified appraisers, or adding an appraiser to an
2 exclusionary list of disapproved appraisers, in connection with the influencing or attempting to
3 influence an appraisal. This prohibition does not preclude the management of appraiser lists for
4 bona fide administrative or quality-control reasons based on written policy;

5 (9) Obtaining, using, or paying for a second or subsequent appraisal or ordering an
6 automated valuation model in connection with a mortgage financing transaction unless there is a
7 reasonable basis to believe that the initial appraisal was flawed or tainted and such basis is clearly
8 and appropriately noted in the loan file, or unless such appraisal or automated valuation model is
9 done pursuant to a bona fide pre-funding or post-funding appraisal review or quality control
10 process; or

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

13 (b) Nothing in subsection (a) of this section shall be construed as prohibiting the appraisal
14 management company from requesting that an independent fee appraiser:

15 (1) Consider additional property information;

16 (2) Provide additional information about the basis for a valuation; or

17 (3) Correct objective factual errors in an appraisal report.

18 **5-20.9-14. Prohibited practices.**

19 An appraisal management company registered in this state shall not:

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

22 (b) Require an independent fee appraiser to provide the company with the appraiser's
23 digital signature;

24 (c) Alter, amend or change an appraisal report submitted by an independent fee appraiser
25 in any fashion, including removing the appraiser's signature or adding information to or removing
26 information from the report;

27 (d) Transmit an appraisal to the appraisal management company's client if the appraisal
28 has been altered in any fashion after it was transmitted to the appraisal management company; or

29 (e) Require an independent fee appraiser to sign any indemnification agreement that
30 would require the independent fee appraiser to defend and hold harmless the appraisal
31 management company or any of its agents, employees, or independent contractors for any
32 liability, damage, losses or claims arising out of the services performed by the appraisal
33 management company.

34 **5-20.9-15. Adjudication of disputes between an appraisal management company and**

1 **an appraiser.**

2 (a) Except within the first thirty (30) days after an independent appraiser is added to the
3 appraiser panel of an appraisal management company, an appraisal management company may
4 not remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real
5 estate appraisal services to an independent appraiser without:

6 (1) Notifying the appraiser in writing of the reasons why the appraiser is being removed
7 from the appraiser panel of the appraisal management company, including the alleged statutory or
8 USPAP violation, if any; and

9 (2) Providing an opportunity for the appraiser to respond to the notification of the
10 appraisal management company.

11 (b) An appraiser that is removed from the appraiser panel of an appraisal management
12 company for alleged illegal conduct, violation of the USPAP, or violation of state licensing
13 statutes, may file a complaint with the department for a review of the decision of the appraisal
14 management company. The review of the department in any such case is limited to determining
15 whether the appraisal management company has complied with subsection (a) of this section and
16 whether the appraiser has committed a violation of state law, state licensing standards, or a
17 violation of the USPAP.

18 (c) If after opportunity for hearing and review, the department determines that an
19 appraisal management company acted improperly in removing an appraiser from the appraiser
20 panel, or that an appraiser did not commit a violation of law, a violation of the USPAP, or a
21 violation of state licensing standards, the department may order that an appraiser be restored to
22 the appraiser panel of the appraisal management company that was the subject of the complaint,
23 or impose any other administrative penalties set forth in regulations.

24 (d) Hearings will be conducted in accordance with §5-20.9-17, chapter 35 of title 42 and
25 the department's rules of procedure for administrative hearings.

26 **5-20.9-16. Investigations.**

27 (a) If the department has reasonable grounds to believe that an appraisal management
28 company has violated the provisions of this chapter or that facts exist that would be the basis for
29 an order against an appraisal management company, the department may at any time investigate
30 or examine the books, accounts, records, and files of any registrant or other person relating to the
31 complaint or matter under investigation. The department may require any registrant or other
32 person to submit a criminal history record check in connection with any examination or
33 investigation. Refusal to submit the requested criminal history record check shall be grounds for
34 disciplinary action. The reasonable cost of this investigation or examination shall be charged

1 against the registrant.

2 (b) The department shall have the power to issue subpoenas requiring the attendance of
3 persons and the production of papers and records before the department in any hearing,
4 investigation, inquiry, or other proceeding conducted by it. Upon the production of any papers,
5 records, or documents, the department shall have the power to authorize true copies thereof to be
6 substituted in the permanent record of the matter in which the books, records, or documents shall
7 have been introduced in evidence.

8 (c) The department may from time to time conduct routine examinations of the books and
9 records of an appraisal management company registered with the department in order to
10 determine the compliance with this chapter and any rules promulgated thereunder.

11 **5-20.9-17. Order to cease and desist.**

12 (a) If the director has reason to believe that any person, firm, corporation or association is
13 conducting any activities requiring registration under this chapter without obtaining registration
14 or, after the denial, suspension or revocation of a registration conducts any activities requiring
15 registration under this chapter, the department may issue an order to that person, firm, corporation
16 or association commanding them to appear before the department at a hearing to be held no
17 sooner than ten (10) days nor later than twenty (20) days after issuance of that order to show
18 cause why the department should not issue an order to that person to cease and desist from any
19 violations of this chapter.

20 (b) The order to show cause may be served on any person, firm, corporation or
21 association named in the order in the same manner that summons in a civil action may be served,
22 or by mailing a copy of the order to that person at any address at which he or she has done
23 business or at which he or she lives. If, upon that hearing, the department is satisfied that the
24 person is in fact violating any provision of this chapter, the department may order that person, in
25 writing, to cease and desist from that violation.

26 (c) All hearings shall be governed in accordance with chapter 35 of title 42, the
27 "administrative procedures act." If that person fails to comply with an order of the department
28 after being afforded a hearing, the superior court has jurisdiction upon complaint of the
29 department to restrain and enjoin that person from violating this chapter.

30 **5-20.9-18. Hearing before revocation or suspension; Refusal of registration.**

31 (a) Before refusing to issue a registration or suspending or revoking a registration, the
32 director shall notify the applicant or registrant of his or her intended action and the grounds for
33 the action. The applicant or registrant may, within twenty (20) days, file with the director a
34 request for a hearing setting out an answer to the grounds specified in the notification. The

1 director shall consider the answer and set a date for the hearing, notifying the applicant or
2 registrant of that date at least twenty (20) days prior to the hearing date.

3 (b) Before refusing to issue a registration or suspending or revoking a registration upon
4 the verified written complaint of any person setting out a cause of action under this chapter, the
5 director shall, in writing, notify the accused applicant or registrant of its receipt of the complaint,
6 enclosing a copy of the complaint. The accused applicant or registrant shall, within twenty (20)
7 days, file with the department its answer to the complaint or complaints.

8 (c) The department shall transmit a copy of the answer to the complainant or
9 complainants and set a time and place for a hearing, which shall be at least twenty (20) days prior
10 to the hearing date.

11 (d) All notices and answers required or authorized to be made or filed under this section
12 shall be satisfied by personal service on the controlling person of the registrant, or the registrant's
13 agent for service of process in this state, or by sending the notice to the controlling person of the
14 registrant or to the applicant to the last known address on file with the department. If served
15 personally, the time runs from the date of service; if served by mail, from the postmarked date of
16 the letter enclosing the document.

17 (e) The director shall render a decision on any application or complaint after the final
18 hearing in the matter and shall immediately notify the parties to the proceedings, in writing, of its
19 rulings, orders, or decisions. If the matter contained in the complaint has been filed or made a part
20 of a case pending in any court in this state, the director may then withhold its decision until the
21 court action has been concluded.

22 (f) Hearings shall be held in accordance with rules promulgated by the department in
23 conformity with the provisions of the administrative procedures act, chapter 35 of title 42
24 ("APA"). Any party aggrieved by a final administrative decision of the director may appeal the
25 decision in accordance with the provisions of the APA.

26 **5-20.9-19. Rulemaking authority.**

27 The department shall create and adopt rules which promote and effectuate the purposes of
28 this chapter.

29 SECTION 2. This act shall take effect on July 1, 2018.

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LC001745/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS - REAL ESTATE APPRAISAL
MANAGEMENT COMPANIES

1 This act provide for the registration and oversight of appraisal management companies
2 operating in this state. The federal financial institutions regulatory agencies require that states
3 institute a process for the registration and oversight of appraisal management companies. This
4 chapter would bring Rhode Island into compliance with this federal mandate.

5 This act would take effect on July 1, 2018.

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LC001745/SUB A
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