

Part 3 Operational Requirements

61-2e-301 Use of licensed or certified appraisers.

- (1) An appraisal management company required to be registered under this chapter may not enter into an agreement with an appraiser for the performance of a real estate appraisal activity unless the appraiser is licensed or certified in good standing pursuant to Chapter 2g, Real Estate Appraiser Licensing and Certification Act.
- (2)
 - (a) An appraisal management company required to be registered under this chapter shall have a system to verify that an individual added to the appraiser panel of the appraisal management company holds a license or certificate in good standing in this state pursuant to Chapter 2g, Real Estate Appraiser Licensing and Certification Act.
 - (b) As part of the registration process under Part 2, Registration, an appraisal management company shall biennially provide an explanation of the system described in Subsection (2)(a) in the form prescribed by the division.
- (3) The board, with the concurrence of the division, may establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements regarding when use of a licensed appraiser or certified appraiser is appropriate, including how an assignment is offered to an appraiser.

Amended by Chapter 384, 2016 General Session

61-2e-302 Adherence to standards.

- (1) An appraisal management company required to be registered under this chapter shall have a system in place to review the work of an appraiser who performs a real estate appraisal activity for the appraisal management company on a periodic basis to ensure that a real estate appraisal activity is conducted in accordance with applicable appraisal standards.
- (2) As part of the registration process under Part 2, Registration, an appraisal management company shall biennially provide an explanation of the system described in Subsection (1) in the form prescribed by the division.

Enacted by Chapter 269, 2009 General Session

61-2e-303 Recordkeeping.

- (1) An appraisal management company required to be registered under this chapter shall:
 - (a) maintain a detailed record of the following for the same time period an appraiser is required to maintain an appraisal record for the same real estate appraisal activity:
 - (i) a real estate appraisal activity request that the appraisal management company receives; and
 - (ii) the appraiser that performs the real estate appraisal activity described in Subsection (1) for the appraisal management company; and
 - (b) retain for at least five years any file reviewed by the appraisal management company in accordance with Section 61-2e-302 and any documents that relate to the review, including:
 - (i) the appraisal;
 - (ii) any documentation of the review; and
 - (iii) any correspondence that relates to the review.

- (2) As part of the registration process under Part 2, Registration, an appraisal management company shall biennially provide an explanation of its recordkeeping described in Subsection (1) in the form prescribed by the division.

Amended by Chapter 262, 2015 General Session

61-2e-304 Required disclosure -- Customary and reasonable compensation.

- (1) Before an appraisal management company may receive money from a client for a real estate appraisal activity requested by the client, the appraisal management company shall disclose to the client the total compensation that the appraisal management company pays to the appraiser who performs the real estate appraisal activity.
- (2) An appraisal management company shall compensate an appraiser for an appraisal at a rate that is:
 - (a) customary and reasonable for an appraisal in the geographic market area of the property being appraised; and
 - (b) consistent with a presumption of compliance under the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, and implementing federal regulations.
- (3) The board may, with the concurrence of the division, define by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
 - (a) the disclosures required to be made by the appraisal management company to the appraiser;
 - (b) the disclosures required to be made by the appraiser in the appraisal report;
 - (c) the form and content of the disclosure required by Subsection (1); and
 - (d) the customary and reasonable compensation required to be paid to appraisers by appraisal management companies.

Amended by Chapter 25, 2016 General Session

Amended by Chapter 384, 2016 General Session

61-2e-305 Employee requirements.

- (1) Subsection (2) applies to an individual who:
 - (a)
 - (i) is an employee of an appraisal management company; or
 - (ii) works on behalf of an appraisal management company; and
 - (b)
 - (i) selects an appraiser for the performance of a real estate appraisal activity for the appraisal management company; or
 - (ii) reviews a completed appraisal.
- (2)
 - (a) An individual described in Subsection (1) is required to be appropriately trained and qualified in the performance of an appraisal, as determined by rule made by the board, with the concurrence of the division, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
 - (b) For purposes of an individual described in Subsection (1) who reviews the work of an appraiser, to comply with this Subsection (2), the individual shall demonstrate knowledge of the applicable appraisal standards, as determined by rule made by the board, with the concurrence of the division, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 25, 2016 General Session

61-2e-306 Removal of appraiser from appraisal panel.

- (1) Except within the first 30 days after the day on which an appraiser is first added to the appraiser panel of an appraisal management company, an appraisal management company may not remove the appraiser from its appraiser panel, or otherwise refuse to assign a request for a real estate appraisal activity to the appraiser without:
 - (a) notifying the appraiser in writing of:
 - (i) the reason why the appraiser is being removed from the appraiser panel of the appraisal management company; and
 - (ii) the nature of the alleged conduct or violation if the appraiser is being removed from the appraiser panel for:
 - (A) illegal conduct; or
 - (B) a violation of the applicable appraisal standards; and
 - (b) providing an opportunity for the appraiser to respond to the notification under Subsection (1)(a).
- (2) The board, with the concurrence of the division, may establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements consistent with this section regarding the removal of an appraiser from an appraisal panel.

Amended by Chapter 384, 2016 General Session

61-2e-307 Prohibited acts -- Exclusions.

- (1) An appraisal management company required to be registered under this chapter and a controlling person, employee, or agent of the appraisal management company may not:
 - (a) engage in an act of coercion, extortion, intimidation, or bribery for any purpose related to an appraisal;
 - (b) compensate an appraiser in a manner that the person should reasonably know would result in the appraiser not conducting a real estate appraisal activity in a manner consistent with applicable appraisal standards;
 - (c) engage in the business of an appraisal management company under an assumed or fictitious name not properly registered in the state;
 - (d) accept a contingent fee for performing an appraisal management service if the fee is contingent on:
 - (i) the appraisal report having a predetermined analysis, opinion, or conclusion;
 - (ii) the analysis, opinion, conclusion, or valuation reached in an appraisal report; or
 - (iii) the consequences resulting from the appraisal assignment;
 - (e) require an appraiser to indemnify the appraisal management company against liability except liability for errors and omissions by the appraiser; or
 - (f) alter, modify, or otherwise change a completed appraisal report submitted by an appraiser.
- (2) An appraisal management company required to be registered under this chapter, or a controlling person, employee, or agent of the appraisal management company may not influence or attempt to influence the development, reporting, or review of an appraisal through:
 - (a) coercion;
 - (b) extortion;
 - (c) collusion;
 - (d) compensation;
 - (e) instruction;

- (f) inducement;
 - (g) intimidation;
 - (h) bribery; or
 - (i) any other manner that would constitute undue influence.
- (3) A violation of Subsection (2) includes doing one or more of the following for a purpose listed in Subsection (2):
- (a) withholding or threatening to withhold timely payment for an appraisal;
 - (b) withholding or threatening to withhold future business for an appraiser;
 - (c) taking adverse action or threatening to take adverse action against an appraiser regarding use of the appraiser for a real estate appraisal activity;
 - (d) expressly or by implication promising future business or increased compensation for an appraiser;
 - (e) conditioning one or more of the following on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate or opinion requested from an appraiser:
 - (i) a request for a real estate appraisal activity; or
 - (ii) the payment of consideration;
 - (f) requesting that an appraiser provide at any time before the appraiser's completion of a real estate appraisal activity:
 - (i) an estimated, predetermined, or desired valuation in an appraisal report; or
 - (ii) an estimated value or comparable sale;
 - (g) except for a copy of a sales contract for a purchase transaction, providing to an appraiser:
 - (i) an anticipated, estimated, encouraged, or desired value for a subject property; or
 - (ii) a proposed or target amount to be loaned to the borrower;
 - (h) providing to an appraiser, or an individual related to the appraiser, stock or other financial or non-financial benefits;
 - (i) allowing the removal of an appraiser from an appraiser panel, without prior written notice to the appraiser as required by Section 61-2e-306;
 - (j) obtaining, using, or paying for a subsequent appraisal or ordering an automated valuation model in connection with a mortgage financing transaction unless:
 - (i)
 - (A) there is a reasonable basis to believe that the initial appraisal does not meet applicable appraisal standards; and
 - (B) the reasonable basis is noted in the loan file; or
 - (ii) the subsequent appraisal or automated valuation model is done pursuant to a pre- or post-funding appraisal review or quality control process in accordance with applicable appraisal standards;
 - (k) removing or threatening to remove an appraiser from the appraiser panel if an appraiser requires a reasonable extension of the completion date for an appraisal assignment in order to complete a credible appraisal report; or
 - (l) engaging in any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality.
- (4) This section may not be construed to prohibit an appraisal management company from requesting that an appraiser:
- (a) provide additional information about the basis for a valuation; or
 - (b) correct an objective factual error in an appraisal report.

Amended by Chapter 384, 2016 General Session

