

Chapter 2e Appraisal Management Company Registration and Regulation Act

Part 1 General Provisions

61-2e-101 Title.

This chapter is known as the "Appraisal Management Company Registration and Regulation Act."

Enacted by Chapter 269, 2009 General Session

61-2e-102 Definitions.

As used in this chapter:

- (1) "Applicable appraisal standards" means:
 - (a) the Uniform Standards for Professional Appraisal Practice:
 - (i) published by the Appraisal Foundation; and
 - (ii) as adopted under Section 61-2g-403;
 - (b) Chapter 2g, Real Estate Appraiser Licensing and Certification Act; and
 - (c) rules made by the board under Chapter 2g, Real Estate Appraiser Licensing and Certification Act.
- (2) "Appraisal" means the same as that term is defined in Section 61-2g-102.
- (3) "Appraisal foundation" means the same as that term is defined in Section 61-2g-102.
- (4) "Appraisal management company" or "AMC" means a third party authorized by one of the following persons to broker an appraisal of a dwelling that is collateral for a residential mortgage loan:
 - (a) a creditor; or
 - (b) an underwriter of, or other principal in, a secondary mortgage market.
- (5) "Appraisal management service" means:
 - (a) recruiting, selecting, or retaining an appraiser;
 - (b) contracting with an appraiser to perform a real estate appraisal activity for a client;
 - (c) managing the appraisal process, including one or more of the following administrative services:
 - (i) receiving an appraisal order or an appraisal report;
 - (ii) submitting a completed appraisal report to a client;
 - (iii) collecting a fee from a client for a service provided; or
 - (iv) paying an appraiser for a real estate appraisal activity; or
 - (d) reviewing or verifying the work of an appraiser.
- (6) "Appraisal report" means the same as that term is defined in Section 61-2g-102.
- (7) "Appraisal Subcommittee" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.
- (8) "Appraiser" means an individual who engages in a real estate appraisal activity.
- (9)
 - (a) "Appraiser panel" means a network, list, or roster of appraisers who are:
 - (i) licensed or certified in a state, territory, or the District of Columbia; and
 - (ii) approved by an appraisal management company to perform appraisals as independent contractors for the appraisal management company.

- (b) "Appraiser panel" includes an appraiser whom the appraisal management company has:
 - (i) accepted for consideration for a future appraisal assignment:
 - (A) in a residential mortgage loan transaction; or
 - (B) for a secondary mortgage market participant in connection with a residential mortgage loan transaction; or
 - (ii) engaged to perform an appraisal:
 - (A) in a residential mortgage loan transaction; or
 - (B) for a secondary mortgage market participant in connection with a residential mortgage loan transaction.
- (10) "Board" means the Real Estate Appraiser Licensing and Certification Board that is created in Section 61-2g-204.
- (11) "Client" means a person that enters into an agreement with an appraisal management company for the performance of a real estate appraisal activity.
- (12) "Concurrence" means that the entities that are given a concurring role must jointly agree before an action may be taken.
- (13) "Controlling person" means:
 - (a) an owner, officer, or director of an entity seeking to offer appraisal management services;
 - (b) an individual employed, appointed, or authorized by an appraisal management company who has the authority to:
 - (i) enter into a contractual relationship with a client for the performance of an appraisal management service; and
 - (ii) enter into an agreement with an appraiser for the performance of a real estate appraisal activity; or
 - (c) a person who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.
- (14) "Creditor" means:
 - (a) a person who regularly extends credit that, under a written agreement, is subject to a finance charge or is payable in more than four installments, not including any down payment; and
 - (b) a person to whom the obligation described in Subsection (14)(a) is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract.
- (15) "Director" means the director of the division.
- (16) "Division" means the Division of Real Estate, created in Section 61-2-201, of the Department of Commerce.
- (17) "Dwelling" means a residential structure that contains up to four units, regardless of whether the structure is attached to real property, including:
 - (a) an individual condominium unit;
 - (b) a cooperative unit;
 - (c) a mobile home; or
 - (d) a trailer, if the trailer is used as a residence.
- (18) "Entity" means:
 - (a) a corporation;
 - (b) a partnership;
 - (c) a sole proprietorship;
 - (d) a limited liability company;
 - (e) another business entity; or
 - (f) a subsidiary or unit of an entity described in Subsections (18)(a) through (e).
- (19) "Federally regulated appraisal management company" means an appraisal management company that is:

- (a) owned and controlled by an insured depository institution, as defined in 12 U.S.C. Sec. 1813; and
- (b) regulated by:
 - (i) the Office of the Comptroller of the Currency;
 - (ii) the Board of Governors of the Federal Reserve System; or
 - (iii) the Federal Deposit Insurance Corporation.
- (20) "Independent contractor" means an appraiser whom an appraisal management company treats as an independent contractor for purposes of federal income taxation.
- (21) "Person" means an individual or an entity.
- (22) "Person who regularly extends credit" means a person who:
 - (a) extends credit, other than credit subject to the requirements of 12 C.F.R. Sec. 1026.32, to a person who has been extended credit for transactions secured by a dwelling more than five times in:
 - (i) the preceding calendar year; or
 - (ii) the current calendar year;
 - (b) originates two or more credit extensions that are subject to the requirements of 12 C.F.R. Sec. 1026.32; or
 - (c) originates through a mortgage broker a credit extension that is subject to the requirements of 12 C.F.R. Sec. 1026.32.
- (23) "Real estate appraisal activity" means the same as that term is defined in Section 61-2g-102.
- (24) "Residential mortgage loan" means the same as that term is defined in Section 61-2c-102.
- (25)
 - (a) "Secondary mortgage market participant" means:
 - (i) a guarantor or insurer of a mortgage-backed security; or
 - (ii) an underwriter or insurer of a mortgage-backed security.
 - (b) "Secondary mortgage market participant" includes an individual investor in a mortgage-backed security, if the investor is also the guarantor, insurer, underwriter, or issuer of the mortgage-backed security.
- (26) "Territory" means any of the following United States territories:
 - (a) Guam;
 - (b) Northern Mariana Islands;
 - (c) Puerto Rico; or
 - (d) United States Virgin Islands.

Amended by Chapter 141, 2023 General Session

61-2e-103 Rulemaking.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules, with the concurrence of the division, that are:

- (1) consistent with this chapter; and
- (2) necessary to implement this chapter.

Amended by Chapter 289, 2011 General Session

61-2e-104 Exemption.

This chapter does not apply to:

- (1) an entity that:

- (a) exclusively employs an individual on an employer-employee basis for the performance of a real estate appraisal activity in the normal course of the entity's business;
 - (b) is responsible for ensuring that the real estate appraisal activity being performed by an employee is performed in accordance with applicable appraisal standards; and
 - (c) is a federally regulated appraisal management company;
- (2) an individual who:
- (a) is an appraiser; and
 - (b) in the normal course of business enters into an agreement, whether written or otherwise, with another appraiser for the performance of a real estate appraisal activity that the individual cannot complete for any reason, including:
 - (i) competency;
 - (ii) work load;
 - (iii) schedule; or
 - (iv) geographic location; or
- (3) an individual who:
- (a) in the normal course of business enters into an agreement, whether written or otherwise, with an appraiser for the performance of a real estate appraisal activity; and
 - (b) under the agreement, cosigns the report of the appraiser performing the real estate appraisal activity upon the completion of the real estate appraisal activity.

Amended by Chapter 213, 2018 General Session

Part 2 Registration

61-2e-201 Registration required -- Qualification for registration.

- (1) Unless exempted under Section 61-2e-104, an appraisal management company is required to register under this chapter if, in a calendar year, the company:
- (a) contracts with one or more appraisers for the performance of 10 or more appraisals in the state;
 - (b) oversees an appraiser panel of more than 15 appraisers certified or licensed in the state in accordance with Title 61, Chapter 2g, Part 3, Licensure, Certification, or Registration; or
 - (c) oversees an appraiser panel of 25 or more certified or licensed appraisers, including:
 - (i) at least one appraiser certified or licensed in the state in accordance with Title 61, Chapter 2g, Part 3, Licensure, Certification, or Registration; and
 - (ii) at least one appraiser certified or licensed in a state other than Utah, a territory, or the District of Columbia.
- (2)
- (a) For the purposes of Subsection (1):
 - (i) an appraiser is considered part of an appraisal management company's appraiser panel as of the earlier of the day on which the appraisal management company:
 - (A) accepts the appraiser for the appraisal management company's consideration for future appraisal assignments; or
 - (B) engages the appraiser to perform an appraisal on behalf of a client; and

- (ii) an appraiser who is part of the appraisal management company's appraiser panel under Subsection (2)(a)(i) remains a part of the appraiser panel until the earlier of the day on which the appraisal management company:
 - (A) sends written notice to the appraiser removing the appraiser from the appraiser panel, in accordance with Section 61-2e-306;
 - (B) receives written notice from the appraiser asking to be removed from the appraiser panel; or
 - (C) receives notice of the death or incapacity of the appraiser.
- (b) An appraisal management company shall consider an appraiser as never having been removed from the appraisal management company's appraiser panel under Subsection (2)(a)(ii) if, within 12 months after the day on which the appraisal management company removes the appraiser, the appraisal management company:
 - (i) accepts the appraiser for consideration for a future assignment; or
 - (ii) engages the appraiser to perform an appraisal on behalf of a client.
- (3) Unless registered under this chapter or exempt under Section 61-2e-104, an entity may not with regard to a real estate appraisal activity for real estate located in this state:
 - (a) directly or indirectly engage or attempt to engage in business as an appraisal management company;
 - (b) directly or indirectly engage or attempt to perform an appraisal management service; or
 - (c) advertise or hold itself out as engaging in or conducting business as an appraisal management company.
- (4) To qualify to be registered or to have registration renewed as an appraisal management company under this chapter:
 - (a) the appraisal management company may not have had a license or registration revoked by a government regulatory body at any time, unless the revocation is subsequently vacated or converted;
 - (b) the appraisal management company may not be owned, in whole or in part, directly or indirectly, by an individual who has had an appraiser license or certificate refused, denied, canceled, surrendered in lieu of revocation, or revoked by any state, territory, or the District of Columbia, unless the state, territory, or District of Columbia:
 - (i) refused, denied, canceled, surrendered in lieu of revocation, or revoked the license or certificate for a nonsubstantive cause, as determined by the board; and
 - (ii) reinstated the individual's license or certificate;
 - (c) each individual who owns, directly or indirectly, more than 10% of the appraisal management company shall:
 - (i) be of good moral character, as determined by the board; and
 - (ii) not have had a license or certificate to engage in an act related to a real estate or mortgage transaction refused, denied, canceled, surrendered in lieu of revocation, or revoked in any state, territory, or the District of Columbia; and
 - (d) the appraisal management company shall designate a main contact for communication between the appraisal management company and either the board or division who:
 - (i) is a controlling person;
 - (ii) is of good moral character, as determined by the board; and
 - (iii) has not had a license or certificate to engage in an act related to a real estate or mortgage transaction refused, denied, canceled, or revoked in any state, territory, or the District of Columbia.
- (5) This section applies without regard to whether the entity uses the term:
 - (a) "appraisal management company";

- (b) "mortgage technology company"; or
- (c) another name.

Amended by Chapter 213, 2018 General Session

61-2e-202 Initial registration process.

- (1)
 - (a) To register under this chapter as an appraisal management company, an entity shall:
 - (i) file with the division a registration application in a form prescribed by the division;
 - (ii) pay to the division a fee determined in accordance with Section 63J-1-504;
 - (iii) if the entity is not a resident of this state, submit an irrevocable consent for service of process meeting the requirements of Subsection (3); and
 - (iv) have the application for registration approved by the division.
 - (b) The division shall approve an application if the division finds that the entity:
 - (i) complies with this Subsection (1); and
 - (ii) meets the qualifications under Section 61-2e-201.
 - (c) The division may, upon compliance with Title 63G, Chapter 4, Administrative Procedures Act, deny the issuance of a registration to an applicant on any ground enumerated in this chapter.
 - (d) If an entity pays a fee or costs to the division with a negotiable instrument or other method that is not honored for payment:
 - (i) the transaction for which the payment is submitted is voidable by the division;
 - (ii) the division may reverse the transaction if payment of the applicable fee or costs is not received in full; and
 - (iii) the entity's registration is automatically suspended:
 - (A) beginning the day on which the payment is due; and
 - (B) ending the day on which payment is made in full.
- (2) A registration application shall include the following:
 - (a) the name of the entity seeking registration;
 - (b) a business address of the entity seeking registration;
 - (c) telephone contact information of the entity seeking registration;
 - (d) if the entity is not an entity domiciled in this state, the name and contact information for the entity's agent for service of process in this state;
 - (e) for each individual who owns 10% or more of the entity:
 - (i) the individual's name, address, and contact information;
 - (ii) a statement of whether or not the individual has had a license or certificate to engage in an act related to a real estate or mortgage transaction refused, denied, canceled, or revoked in this state or in another state; and
 - (iii)
 - (A) fingerprint cards in a form acceptable to the division at the time the registration application is filed; and
 - (B) consent to a criminal background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application;
 - (f) the name, address, and contact information for each controlling person;
 - (g) for the controlling person designated as the contact as required by Section 61-2e-201:
 - (i) a statement of whether or not the individual has had a license or certificate to engage in an act related to a real estate or mortgage transaction refused, denied, canceled, surrendered in lieu of revocation, or revoked in this state or in another state, territory, or the District of Columbia; and

- (ii)
 - (A) fingerprint cards in a form acceptable to the division at the time the registration application is filed; and
 - (B) consent to a criminal background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application;
- (h) provide an explanation required by:
 - (i) Section 61-2e-301, related to adding an individual to an appraiser panel;
 - (ii) Section 61-2e-302, related to the review of the work of an appraiser; and
 - (iii) Section 61-2e-303, related to recordkeeping; and
- (i) any other information required by the board.
- (3) An irrevocable consent for service of process required to be filed under Subsection (1) shall provide that process may be served on the entity by delivering the process to the director if:
 - (a) the service of process is for an action:
 - (i) in a court of this state against an entity; and
 - (ii) arising out of an act governed by this chapter; and
 - (b) a plaintiff cannot, in the exercise of due diligence, obtain personal service upon the entity.

Amended by Chapter 213, 2018 General Session

61-2e-203 Criminal background check -- Conditional registration -- Changes in ownership or controlling person.

- (1) The division shall request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check for an individual described in Subsection 61-2e-202(2)(e) or (g) through the national criminal history system or any successor system.
- (2)
 - (a) The entity filing the application under Section 61-2e-202 shall pay the cost of the criminal background check and the fingerprinting.
 - (b) Money paid to the division by an entity for the cost of a criminal background check is nonlapsing.
- (3)
 - (a) A registration issued under Section 61-2e-202 is conditional, pending completion of a criminal background check.
 - (b)
 - (i) A registration shall be immediately and automatically revoked if a criminal background check discloses that an individual described in Subsection 61-2e-202(2)(e) or (g) fails to accurately disclose a criminal history involving:
 - (A) the appraisal industry;
 - (B) the appraisal management industry; or
 - (C) a felony conviction on the basis of an allegation of fraud, misrepresentation, or deceit.
 - (ii) If a criminal background check discloses that an individual described in Subsection 61-2e-202(2)(e) or (g) fails to accurately disclose a criminal history other than that described in Subsection (3)(b)(i), the division shall review the application, and in accordance with rules made by the division pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may:
 - (A) place a condition on a registration;
 - (B) place a restriction on a registration;
 - (C) revoke a registration; or
 - (D) refer the application to the board for a decision.

- (c) An entity whose conditional registration is revoked under Subsection (3)(b)(i) or whose license is conditioned, restricted, or revoked under Subsection (3)(b)(ii) is entitled to a post-revocation hearing conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to challenge the revocation.
 - (d) The board shall decide whether relief from the revocation of a registration under this Subsection (3) will be granted, except that relief from an automatic revocation under Subsection (3)(b)(i) may be granted only if:
 - (i) the criminal history upon which the revocation is based:
 - (A) did not occur; or
 - (B) is the criminal history of another individual;
 - (ii)
 - (A) the revocation is based on a failure to accurately disclose a criminal history; and
 - (B) the entity has a reasonable good faith belief at the time of application that there is no criminal history to be disclosed; or
 - (iii) the division fails to follow the prescribed procedure for the revocation.
 - (e) The board may delegate to the division the authority to conduct a post-revocation hearing under Subsection (3)(d).
 - (f) If a registration is revoked or a revocation under this Subsection (3) is upheld after a post-revocation hearing, the entity may not apply for a new registration until at least 12 months after the day on which the registration is revoked.
- (4)
- (a) An appraisal management company shall comply with this Subsection (4) if there is a change in:
 - (i) an individual who owns 10% or more of the entity; or
 - (ii) the controlling person designated as the contact as required by Section 61-2e-201.
 - (b) If there is a change in an individual described in Subsection (4)(a), within 30 days of the day on which the change occurs, the appraisal management company shall file with the division:
 - (i) the individual's name, address, and contact information;
 - (ii) a statement of whether or not the individual has had a license or certificate to engage in an act related to a real estate or mortgage transaction refused, denied, canceled, surrendered in lieu of revocation, or revoked in this state or in another state, territory, or the District of Columbia; and
 - (iii)
 - (A) fingerprint cards in a form acceptable to the division at the time the registration application is filed; and
 - (B) consent to a criminal background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

Amended by Chapter 213, 2018 General Session

61-2e-204 Renewal of a registration.

- (1)
 - (a) A registration under this chapter expires two years from the day on which the registration is approved.
 - (b) Notwithstanding Subsection (1)(a), the time period of a registration may be extended or shortened by as much as one year to maintain or change a renewal cycle established by rule by the division.

- (2) To renew a registration under this chapter, before the day on which the registration expires, an appraisal management company shall:
 - (a) file with the division a renewal registration application on a form prescribed by the division;
 - (b) pay to the division a fee determined in accordance with Section 63J-1-504; and
 - (c) file with the division a certificate evidencing that the appraisal management company has secured and will maintain a surety bond with one or more corporate sureties authorized to do business in the state in the amount of at least \$25,000, as the division provides by rule.
- (3)
 - (a) An appraisal management company's registration is immediately and automatically suspended if:
 - (i) the appraisal management company's surety bond lapses or is cancelled during the time period described in Subsection (1); and
 - (ii) the appraisal management company fails to obtain or reinstate a surety bond within 30 days after the day on which the surety bond lapses or is cancelled.
 - (b) To reinstate a registration suspended under Subsection (3)(a), the appraisal management company shall provide evidence to the division that the appraisal management company is in compliance with the surety bond requirement described in this section.
- (4) A renewal registration application shall include substantially similar information to the information required under Section 61-2e-202, except that for an individual described in Subsection 61-2e-202(2)(e) or (g), the entity is required to report whether the individual has had:
 - (a)
 - (i) a conviction of a criminal offense;
 - (ii) the entry of a plea in abeyance to a criminal offense; or
 - (iii) the potential resolution of a criminal case by:
 - (A) a diversion agreement; or
 - (B) another agreement under which a criminal charge is held in suspense for a period of time;
 - (b) a filing of personal bankruptcy or bankruptcy of a business that transacts the appraisal management services;
 - (c) the suspension, revocation, surrender, cancellation, or denial of a professional license or certification, whether the license or registration is issued by this state or another jurisdiction; or
 - (d) the entry of a cease and desist order or a temporary or permanent injunction:
 - (i) against the individual by a court or government agency; and
 - (ii) on the basis of:
 - (A) conduct or a practice involving the business of appraisal management services; or
 - (B) conduct involving fraud, misrepresentation, or deceit.
- (5) A registration expires if it is not renewed on or before its expiration date, except that for a period of one year after the expiration date, the registration may be reinstated upon compliance with this section, including payment of a renewal fee and a late fee determined by the division and the board.
- (6) Notwithstanding Subsection (5), the division may extend the term of a license that would expire under Subsection (5) except for the extension if:
 - (a)
 - (i) the person complies with the requirements of this section to renew the registration; and
 - (ii) the renewal application remains pending at the time of the extension; or
 - (b) at the time of the extension, there is pending under this chapter a disciplinary action.

Amended by Chapter 384, 2016 General Session

61-2e-205 Division service fees -- National registry form and fees -- Suspension and revocation of registration -- Removal from national registry.

- (1) The division, with the concurrence of the board, shall establish and collect fees, in accordance with Section 63J-1-504, for services the division renders to carry out this chapter.
- (2) An appraisal management company registered under this chapter shall, on or before May 31 of each year, file with the division a national registry reporting form in the manner prescribed by the division.
- (3) The division shall:
 - (a) collect the annual national registry fee established by the Appraisal Subcommittee from:
 - (i) each appraisal management company registered under this chapter; and
 - (ii) each federally regulated appraisal management company; and
 - (b) transfer the fees collected under Subsection (3)(a) to the Appraisal Subcommittee on a monthly basis.
- (4) If an appraisal management company registered under this chapter fails to pay the annual national registry fee described in Subsection (3) or file the national registry reporting form in accordance with Subsection (2), the division may suspend or revoke the appraisal management company's registration.
- (5) If an appraisal management company pays a fee or cost to the division with a negotiable instrument or any other payment method that is not honored, the division:
 - (a) may void the transaction for which the payment is submitted;
 - (b) may reverse the transaction, if the division does not receive full payment of the applicable fee or cost; and
 - (c) shall suspend the appraisal management company's registration:
 - (i) beginning the day on which the payment is due; and
 - (ii) ending the day on which payment is made in full.

Amended by Chapter 141, 2023 General Session

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:
 - (a) ensure that the appraisal management company only selects for a real estate appraisal activity an appraiser who:
 - (i) is independent of the transaction; and
 - (ii) has the requisite education, expertise, and experience necessary to competently complete the real estate appraisal activity for the particular market and property type;
 - (b) 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; and
 - (c) ensure that the appraisal management company conducts appraisal management services in accordance with the requirements of the Truth in Lending Act, 15 U.S.C. Sec. 1639e(a)-(i), and the regulations thereunder.
- (2) As part of the registration process under Part 2, Registration, an appraisal management company shall biennially provide an explanation of each system described in Subsection (1) in the form prescribed by the division.

Amended by Chapter 213, 2018 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) An appraisal management company may not remove the appraiser from the appraisal management company's 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 72, 2020 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;
 - (f) alter, modify, or otherwise change a completed appraisal report submitted by an appraiser; or
 - (g) engage in any act or practice that violates appraisal independence as defined in 15 U.S.C. Sec. 1639e or in the policies and procedures of:
 - (i) the Federal Home Loan Mortgage Corporation; or
 - (ii) the Federal National Mortgage Association.
- (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 182, 2017 General Session

Part 4 Enforcement

61-2e-401 Division authority -- Immunity -- Transmission of reports to Appraisal Subcommittee.

- (1)
 - (a) In addition to a power or duty expressly provided in this chapter, the division may:
 - (i) examine any book or record of an appraisal management company registered or required to be registered under this chapter and require the appraisal management company to submit any report, information, or document to the division;
 - (ii) receive and act on a complaint including:
 - (A) taking action designed to obtain voluntary compliance with this chapter, including the issuance of a cease and desist order if the person against whom the order is issued is given the right to petition the board for review of the order; or
 - (B) commencing an administrative or judicial proceeding on the division's own initiative;
 - (iii) conduct a public or private investigation of an entity required to be registered under this chapter, regardless of whether the entity is located in Utah;
 - (iv) employ one or more investigators, clerks, or other employees or agents if:
 - (A) approved by the executive director; and
 - (B) within the budget of the division; and
 - (v) issue a subpoena that requires:
 - (A) the attendance and testimony of a witness; or
 - (B) the production of evidence.
 - (b)
 - (i) A court of competent jurisdiction shall enforce, according to the practice and procedure of the court, a subpoena issued by the division.
 - (ii) The division shall pay any witness fee, travel expense, mileage, or any other fee required by the service statutes of the state where the witness or evidence is located.
 - (c) A failure to respond to a request by the division in an investigation under this chapter within 10 days after the day on which the request is served is considered to be a separate violation of this chapter, including:
 - (i) failing to respond to a subpoena;
 - (ii) withholding evidence; or
 - (iii) failing to produce a document or record.
- (2) The division is immune from a civil action or criminal prosecution for initiating or assisting in a lawful investigation of an act or participating in a disciplinary proceeding under this chapter if the division takes the action:
 - (a) without malicious intent; and
 - (b) in the reasonable belief that the action is taken pursuant to the powers and duties vested in the division under this chapter.
- (3) Upon the Appraisal Subcommittee's request, the division shall timely transmit a report to the Appraisal Subcommittee regarding the division's supervisory activities involving appraisal management companies or other third-party providers of appraisals and appraisal management services, including any investigation the division initiates or disciplinary action the division takes.

Amended by Chapter 204, 2022 General Session

61-2e-402 Enforcement -- Immunity for board.

- (1)

- (a) The board may order disciplinary action, with the concurrence of the division, against:
 - (i) an entity registered under this chapter;
 - (ii) an entity required to be registered under this chapter; or
 - (iii) a controlling person of an entity described in this Subsection (1)(a).
- (b) The board may order disciplinary action, with the concurrence of the division, against an entity, or controlling person of an entity, who is not registered under this chapter, if the entity violated a provision of this chapter or rule made under this chapter:
 - (i) within four years before the day on which the division commences disciplinary action; and
 - (ii) during a period in which:
 - (A) the provision or rule was in effect; and
 - (B) the entity was registered or required to be registered under this chapter.
- (c) If the board, with the concurrence of the division, makes a finding described in Subsection (2) pursuant to an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the board, with the concurrence of the division, may:
 - (i) revoke, suspend, or place an entity's registration on probation;
 - (ii) deny an entity's original registration;
 - (iii) deny an entity's renewal registration;
 - (iv) in the case of denial or revocation of a registration, set a waiting period for an applicant to apply for a registration under this chapter;
 - (v) order remedial education;
 - (vi) impose a civil penalty upon a person not to exceed the greater of:
 - (A) \$5,000 for each violation; or
 - (B) the amount of any gain or economic benefit from a violation;
 - (vii) issue a cease and desist order; or
 - (viii) do a combination of Subsections (1)(c)(i) through (vii).
- (2) Subsection (1) applies if the board finds, with the concurrence of the division, that a person has engaged in, is attempting to, or has attempted to engage in:
 - (a) an act that violates this chapter;
 - (b) an act that violates a rule made under this chapter;
 - (c) procuring a registration for the person or another person by fraud, misrepresentation, or deceit;
 - (d) paying money or attempting to pay money other than a fee provided for by this chapter to an employee of the division to procure a registration under this chapter;
 - (e) an act or omission in the business of an appraisal management company that constitutes dishonesty, fraud, or misrepresentation;
 - (f) unprofessional conduct as defined by statute or rule; or
 - (g) other conduct that constitutes dishonest dealing.
- (3)
 - (a) If the board, with the concurrence of the director, issues an order that orders a fine or remedial education as part of a disciplinary action against a person, including a stipulation and order, the board shall state in the order the deadline by which the person shall comply with the fine or remedial education requirements.
 - (b) If a person fails to comply by the stated deadline, the person's registration shall be immediately and automatically suspended:
 - (i) beginning the day specified in the order as the deadline for compliance; and
 - (ii) ending the day on which the person complies in full with the order.
 - (c) If a person fails to pay a fine required by an order, the division shall begin a collection process:

- (i) established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (ii) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.
- (4) To the extent permitted by federal law, the board, with the concurrence of the division, may bring a disciplinary proceeding under this chapter for a violation of 15 U.S.C. Sec. 1639e(i).
- (5) A member of the board is immune from a civil action or criminal prosecution for a disciplinary proceeding under this chapter if:
- (a) the action is taken without malicious intent; and
 - (b) in the reasonable belief that the action taken was taken pursuant to the powers and duties vested in a member of the board under this chapter.

Amended by Chapter 259, 2021 General Session