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DEPARTMENT OF CONSUMER AND BUSINESS SERVICES, DIVISION OF FINANCE AND CORPORATE SECURITIES

DIVISION 674

REGISTRATION REQUIREMENTS FOR APPRAISAL MANAGEMENT COMPANIES

General

441-674-0005

Definitions

In addition to the definitions in 2010 Or Laws ch 87, Sec. 1, the following definitions apply unless the context clearly requires otherwise:

- (1) "Appraisal report" has the same meaning as the term is defined in OAR 161-002-0000.
- (2) "Assignment" means:
 - (a) An agreement between an appraiser and a client to perform a valuation service; and
 - (b) The valuation service that is provided as a consequence of such an agreement.
- (3) "Audit" means a formal or official examination and verification of the accounts, correspondence, memoranda, papers, books and other records of an appraisal management company for compliance with 2010 Or Laws ch 87, Sec. 1 to 8.
- (4) "Board" means the Appraiser Certification and Licensure Board established under ORS 674.305.
- (5) "Competency" or "competent" refers to the Competency Rule as contained in the Uniform Standards of Professional Appraisal Practice, 2010-2011 Edition, approved and adopted by the Appraisal Standards Board of the Appraisal Foundation, dated April 27, 1987, as amended on January 1, 2010 and adopted by the board by reference under OAR 161-025-0060.
- (6) "Director" means the Director of the Department of Consumer and Business Services.
- (7) "Individual" means a natural person.
- (8)(a) A "person with an interest in a real estate transaction" includes, but is not limited to, a mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, or a consumer.
- (b) A "person with an interest in a real estate transaction" does not include an appraiser.
- (9) "Quality control examination" means the examination of an appraisal report for compliance and completeness, including examination for grammatical or typographical errors.
- (10) "Real property" has the same meaning as the term is defined in OAR 161-002-0000(31).
- (11)(a) "Reviews real estate appraisal activity" means, for purposes of section 2, chapter 87, 2010 Or Laws, the act or process of developing or communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal, appraisal review, or appraisal consulting assignment.
- (b) "Reviews real estate appraisal activity" does not include a quality control examination.
- (12) "System" means an organized or established procedure or method.

Stat. Auth.: 2010 OL Ch. 87, Sec. 1

Stat. Implemented: 2010 OL Ch. 87, Sec. 1-2 & 7

Hist.: FCS 10-2010(Temp), f. & cert. ef. 9-1-10 thru 12-31-10; FCS 13-2010, f. 12-30-10, cert. ef. 1-1-11; FCS 1-2011, f. & cert. ef. 1-20-11

Registration Requirements

441-674-0100

Registration Requirements

- (1) A business entity applying for registration as an appraisal management company shall submit to the director all of the following information:
 - (a) A completed application form listing the information required by 2010 Or Laws ch 87, § 2;
 - (b) The names, contact information, and percentage of ownership of every person considered a subject individual under OAR 441-674-0210;
 - (c) For the persons named in subsection (b) of this section, the numbers of the licenses, certificates or registrations issued by any state to do business as an appraiser or an appraisal management company;
 - (d) Disclosures of any administrative action taken by any state to refuse, deny, cancel or revoke a license, certificate or registration as an appraiser or as an appraisal management company, if any; and
 - (e) If the business entity reviews real estate appraisal activity, the review appraiser's name and license or certification number issued by the board, as appropriate.

- (2) A business entity applying for registration as an appraisal management company shall attach to the application for registration as an appraisal management company the following:
- (a) Applicable fees established in OAR 441-674-0910;
 - (b) A copy of the surety bond required by 2010 Or Laws ch 87, § 3 in a form and format approved by the director;
 - (c)(A) A signed statement on a form approved by the director that the business entity established a system to verify the competency of appraisers on the business entity's panel meeting the minimum requirements in OAR 441-674-0120; and
(B) A short description of the business entity's system to verify competency meeting the minimum requirements established in OAR 441-674-0120;
 - (d)(A) A signed statement on a form approved by the director that the business entity established a dispute resolution process meeting the minimum requirements established in OAR 441-674-0130; and
(B) A copy of the clause in the business entity's contract with an independent contractor appraiser governing the business entity's dispute resolution process under OAR 441-674-0130;
 - (e) A signed statement on a form approved by the director that the business entity maintains and retains a detailed record of each appraisal management services request the entity receives and the appraiser who performs the real estate appraisal activity contained in the request for:
 - (A) Not less than five years after the date of completion of the appraisal to which the record pertains; or
 - (B) For a period of not less than two years after final disposition of a judicial proceeding in which testimony relating to the records was given, whichever period expires later; and
 - (f) Sealed envelopes containing fingerprint cards for a "subject individual" under OAR 441-674-0210 containing information specified in OAR 441-674-0230.

Stat. Auth.: 2010 OL Ch. 87, § 2

Stat. Implemented: 2010 OL Ch. 87, § 2

Hist.: FCS 10-2010(Temp), f. & cert. ef. 9-1-10 thru 12-31-10; FCS 13-2010, f. 12-30-10, cert. ef. 1-1-11

441-674-0120

System to Verify Competency

- (1) A system to verify the competency of an appraiser under 2010 Or Laws ch 87, § 2 shall meet the following minimum requirements:
- (a) An appraisal management company shall require that each independent contractor appraiser furnish the number of the appraiser's license or certification issued by the board.
 - (b) An appraisal management company shall require each independent contractor appraiser represent in writing the appraiser's qualifications and competency, which may include but not be limited to:
 - (A) The metropolitan statistical areas, metropolitan divisions, areas outside of a metropolitan statistical area, counties, postal codes or other geographic information signifying where the appraiser represents she or he is competent to appraise;
 - (B) The types or real property the appraiser represents she or he is competent to appraise; and
 - (C) Other information relevant to the business activities of the business entity and necessary to demonstrate the competency of an appraiser.
 - (c) An appraisal management company shall include the following information in an assignment to an independent contractor appraiser, to the extent the information has been communicated to the appraisal management company by the appraisal management company's client:
 - (A) The geographic location of the real property, which may include the metropolitan statistical area, metropolitan division, area outside of an metropolitan statistical area, county, postal code, legal description or other geographic information identifying where the real property is situated; and
 - (B) The type of real property the assignment covers.
- (2) An assignment meeting the minimum requirements under section (1) of this rule does not relieve an appraiser from meeting any legal obligations related to the appraiser's license or certification under ORS Chapter 674 and OAR chapter 161.
- (3) The board retains jurisdiction over administrative inquiries and actions involving misrepresentations made by an individual appraiser regarding competency.

Stat. Auth.: 2010 OL Ch. 87, § 2

Stat. Implemented: 2010 OL Ch. 87, § 2

Hist.: FCS 10-2010(Temp), f. & cert. ef. 9-1-10 thru 12-31-10; FCS 13-2010, f. 12-30-10, cert. ef. 1-1-11

441-674-0130

Dispute Resolution Process

- (1) An appraisal management company shall establish a process that at a minimum allows a person with an interest in a real estate transaction to:
- (a) Request the appraiser consider additional, appropriate property information, including the consideration of additional comparable properties to make or support an appraisal;
 - (b) Request the appraiser provide further detail, substantiation, or explanation for the appraiser's value conclusion; or
 - (c) Request the appraiser correct errors in the appraisal report.
- (2) A person with an interest in a real estate transaction shall make a request under this rule in writing or in a form easily reduced to writing. The request shall include, as applicable:
- (a) Additional, appropriate property information, including additional comparable properties; or
 - (b) Factual corrections and an explanation for the basis of the corrections.
- (3)(a) An appraisal management company that receives a request under this rule shall, within five business days, forward the request to the appraiser.
- (b) An appraisal management company that receives a request under this rule and performs quality control examinations shall, within five business days, determine if the request meets the criteria in section (1) of this rule and either:
- (A) Reject the request and notify the requestor in writing or in a form easily reduced to writing; or
 - (B) Forward the request to the appraiser.

(4)(a) An appraisal management company shall require an appraiser to respond to a request under this rule within five business days of the request from the appraisal management company, unless circumstances necessitate a delay in responding to a request under this rule.

(b) An appraisal management company shall notify the person in writing or in a form easily reduced to writing of the circumstance necessitating a delay, and shall provide an estimate of the time the appraisal management company believes is needed to respond to a request.

(5) The appraisal management company shall require the appraiser to communicate in writing or in a form easily reduced to writing that:

(a) The appraiser corrected errors in the report determined to be factual errors, and identify which errors were corrected;

(b) The appraiser fully considered the additional, appropriate property information, including additional comparable properties, provided by the person with an interest in the real estate transaction into the appraisal report;

(c) The appraiser provided further detail, substantiation, or explanation for the appraiser's value conclusion;

(d) The appraiser fully considered and rejected incorporating the additional, appropriate property information, including additional comparable properties, into the appraisal report; or

(e) The appraiser would not provide further detail, substantiation, or explanation for the appraiser's value conclusion.

(6) An appraisal management company shall retain a record of each dispute processed under this rule and a record of disputes where circumstances necessitated a delay in meeting the requirements of this section for:

(a) Not less than five years after the date of completion of the appraisal to which the record pertains; or

(b) For a period of not less than two years after final disposition of a judicial proceeding in which testimony relating to the records was given, whichever period expires later.

Stat. Auth.: 2010 OL Ch. 87, § 7

Stat. Implemented: 2010 OL Ch. 87, § 7

Hist.: FCS 10-2010(Temp), f. & cert. ef. 9-1-10 thru 12-31-10; FCS 13-2010, f. 12-30-10, cert. ef. 1-1-11

441-674-0140

Renewal or Reactivation of Registration

(1) An appraisal management company renewing a registration as an appraisal management company shall submit to the director all of the following information:

(a) Renewal fees established in OAR 441-674-0915;

(b) A copy of the surety bond required by 2010 Or Laws ch 87, § 3 in a form and format approved by the director;

(c)(A) A signed statement on a form approved by the director that the appraisal management company continues to maintain a system, as stated on the appraisal management company's initial application for registration, to verify the competency of appraisers on the business entity's panel meeting the minimum requirements in OAR 441-674-0120; and

(B) A short description of the business entity's system to verify competency;

(d)(A) A signed statement on a form approved by the director that the business entity continues to maintain a system, as stated on the appraisal management company's initial application for registration, a dispute resolution process meeting the minimum requirements established in OAR 441-674-0130; and

(B) A copy of the portion of the business entity's engagement letter detailing the dispute resolution process;

(e) A signed statement on a form approved by the director that the business entity maintains and retains a detailed record of each appraisal management services request the entity receives and the appraiser who performs the real estate appraisal activity contained in the request for:

(A) Not less than five years after the date of completion of the appraisal to which the record pertains; or

(B) For a period of not less than two years after final disposition of a judicial proceeding in which testimony relating to the records was given, whichever period expires later.

(2)(a) If a business entity does not apply to renew a registration on or before the entity's renewal date, the business entity shall reactivate the entity's registration by applying for a new registration as an appraisal management company. For purposes of fees payable to the director under OAR 441-674-0910, the business entity shall pay a nonrefundable renewal fee based on the number of appraisals for which the appraisal management company performed appraisal management services in Oregon or otherwise served as a third-party broker of real estate appraisal activity in Oregon.

(b) A business entity in the process of reactivating a registration as an appraisal management company under this section shall cease operating as an appraisal management company or providing appraisal management services until the business entity's registration is reactivated.

Stat. Auth.: 2010 OL Ch. 87, § 2

Stat. Implemented: 2010 OL Ch. 87, § 2

Hist.: FCS 10-2010(Temp), f. & cert. ef. 9-1-10 thru 12-31-10; FCS 13-2010, f. 12-30-10, cert. ef. 1-1-11

Good Moral Character; Background Checks

441-674-0210

Subject Individuals

For purposes of OAR 441-674-0220 to 441-674-0250, a "subject individual" means:

(1) The person designated as the controlling person under 2010 Or Laws ch 87, § 2;

(2) Each individual with an ownership interest of ten percent or more of an appraisal management company; and

(3) In cases where ownership interest of ten percent or more of the appraisal management company is held by an entity other than an individual:

(a) An individual who wholly owns a corporation that owns ten percent or more of an appraisal management company;

(b) An individual wholly owning and serving as the only general partner in a limited partnership that owns ten percent or more of an appraisal management company;

(c) An individual wholly owning and managing a limited liability company that owns ten percent or more of an appraisal management company; or

(d) An individual who wholly owns any other type of business entity that owns ten percent or more of an appraisal management company.

Stat. Auth.: ORS 181.534 & 705.135

Stat. Implemented: 2010 OL Ch. 87, § 2, ORS 181.534 & 705.141

Hist.: FCS 10-2010(Temp), f. & cert. ef. 9-1-10 thru 12-31-10; FCS 13-2010, f. 12-30-10, cert. ef. 1-1-11

441-674-0220

Criminal Records Check Required

(1) The director shall conduct a criminal records check on a subject individual as a condition of issuing a registration as an appraisal management company under 2010 Or Laws ch 87, § 2 and OAR chapter 441, division 674.

(2) The director may require additional information from the subject individual as necessary to complete the criminal records check and fitness determination, such as, but not limited to, proof of identity, or additional criminal, judicial, or other background information.

(3) The director may request or conduct a Law Enforcement Data System Criminal Records Check, an Oregon Criminal Records Check, a Nationwide Criminal Records Check, or any combination thereof to meet the requirements of this rule.

(4) If a subject individual refuses to consent to a criminal records check, including fingerprint identification, the director shall not issue a registration as an appraisal management company. A subject individual may not contest any determination made based on a refusal to consent.

Stat. Auth.: ORS 181.534 & 705.135

Stat. Implemented: 2010 OL Ch. 87, § 2, ORS 181.534 & 705.141

Hist.: FCS 10-2010(Temp), f. & cert. ef. 9-1-10 thru 12-31-10; FCS 13-2010, f. 12-30-10, cert. ef. 1-1-11

441-674-0230

Information Required from Subject Individuals

A subject individual shall submit to the director the following information:

(1) A complete, signed copy of a criminal records request form supplied by the director. The criminal records request form shall require the following information: name, birth date, Social Security Number, driver's license or identification card number, prior residency in other states, and any other identifying information deemed necessary by the director.

(2) A FD-258 standard fingerprint card published by the Federal Bureau of Investigation and completed by a law enforcement agency or a commercial fingerprinting entity.

Stat. Auth.: ORS 181.534 & 705.135

Stat. Implemented: 2010 OL Ch. 87, § 2, ORS 181.534 & 705.141

Hist.: FCS 10-2010(Temp), f. & cert. ef. 9-1-10 thru 12-31-10; FCS 13-2010, f. 12-30-10, cert. ef. 1-1-11

441-674-0240

Potentially Disqualifying Crimes; Process

(1) A "potentially disqualifying crime" means a crime that:

(a) Reflects moral turpitude, or an act or conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness and respect for the rights of others and for the laws of the state and the nation; and

(b) Is rationally connected to the business entity's fitness to act as a controlling person or own ten percent or more of an appraisal management company.

(2) The director shall evaluate a crime on the basis of Oregon laws and, if applicable, federal laws or the laws of any other jurisdiction in which a criminal records check indicates a subject individual may have committed a crime, as those laws are in effect at the time of the fitness determination.

(3) A subject individual shall not be denied under these rules on the basis of the existence or contents of a juvenile record that has been expunged under ORS 419A.260 and 419A.262.

(4) If a subject individual is denied as not fit, the business entity may not obtain a registration as an appraisal management company unless the subject individual divests all or part of the individual's ownership interest in the business entity or the business entity designates another control person, whichever is applicable.

(5) The director shall inform the subject individual who has been determined not to be fit on the basis of a criminal records check, via courier, or registered or certified mail to the most current address provided by the subject individual of the disqualification. Responsibility for furnishing the most current address remains with the subject individual.

(6) A final fitness determination is a final order of the director unless the affected subject individual requests a contested case hearing under ORS Chapter 183. A subject individual may contest a fitness determination made under these rules that he or she is fit or not fit to act as a controlling person or own ten percent or more of an appraisal management company under ORS Chapter 183.

Stat. Auth.: ORS 181.534 & 705.135

Stat. Implemented: 2010 OL Ch. 87, § 2, ORS 181.534 & 705.141

Hist.: FCS 10-2010(Temp), f. & cert. ef. 9-1-10 thru 12-31-10; FCS 13-2010, f. 12-30-10, cert. ef. 1-1-11

441-674-0250

Fees for Fingerprinting and Background Checks

Each person subject to 441-674-0210 to 441-674-0250 shall pay to the director an amount not to exceed the fees charged to the director for the purpose of processing criminal record checks.

Stat. Auth.: ORS 181.534 & 705.135

Stat. Implemented: 2010 OL Ch. 87, § 2, ORS 181.534 & 705.141

Hist.: FCS 10-2010(Temp), f. & cert. ef. 9-1-10 thru 12-31-10; FCS 13-2010, f. 12-30-10, cert. ef. 1-1-11

Surety Bonds; Letters of Credit

441-674-0310

Termination or Cancellation of Surety Bond or Letter of Credit

(1) If the surety bond or letter of credit an appraisal management company maintains is terminated or cancelled, the appraisal management company shall file a replacement surety bond or letter of credit as

soon as practicable or within five days of the cancellation or termination, whichever occurs sooner.

(2) An appraisal management company that does not file a replacement surety bond or letter of credit under section (1) of this rule shall surrender the appraisal management company's registration and cease operating as an appraisal management company.

Stat. Auth.: 2010 OL Ch. 87, § 3

Stat. Implemented: 2010 OL Ch. 87, § 3

Hist.: FCS 10-2010(Temp), f. & cert. ef. 9-1-10 thru 12-31-10; FCS 13-2010, f. 12-30-10, cert. ef. 1-1-11

Audits

441-674-0510

Audits Required

(1) An audit of an appraisal management company registered to provide appraisal management services in Oregon shall be conducted no later than two years following registration as an appraisal management company, or two years following a date established by the director.

(2) In the case of a subsidiary or affiliate of a financial institution engaging in business as an appraisal management company without obtaining a registration to provide appraisal management services in Oregon, the director may conduct an audit of the appraisal management company in a joint or alternating manner with the appropriate federal banking agency or the Bureau of Consumer Financial Protection as permitted or required by applicable law.

(3) The director may audit an appraisal management company at any reasonable time or times and may require the production of such records at the office of the director as often as is reasonably necessary.

(4) An appraisal management company that refuses to submit to an audit shall be considered to have failed the audit.

Stat. Auth.: 2010 OL ch 87, Sec. 4

Stat. Implemented: 2010 OL ch 87, Sec. 4

Hist.: FCS 1-2011, f. & cert. ef. 1-20-11

441-674-0520

Audit Standards

An audit under OAR 441-674-0510 will examine the appraisal management company's compliance with 2010 Or Laws ch 87, §§ 1 to 8, including, but not limited to, examination of the following:

(1) The appraisal management company's system to verify the competency of appraisers on the business entity's panel meeting the minimum requirements in OAR 441-674-0120.

(2) The names, license or certification numbers, and competency information required by OAR 441-674-0130 of the Oregon-licensed or certified appraisers on the applicant's appraiser panel.

(3) The appraisal management company's dispute resolution process as described in 2010 Or Laws ch 87, § 7 and OAR 441-674-0130, including a sampling of disputes and the resolution of those disputes, chosen by the auditor.

(4) The appraisal management company's record retention schedule, consistent with 2010 Or Laws ch 87, § 2.

(5) The appraisal management company's business practices and transactions that may indicate:

(a) The appraisal management company attempted to influence the development, reporting or review of an appraisal or appraisal review assignment, consistent with the prohibitions established in 2010 Or Laws ch 87, § 5;

(b) The appraisal management company substantively altered in any way a completed appraisal report submitted by an appraiser, consistent with the prohibition established in 2010 Or Laws ch 87, § 5;

(c) The appraisal management company failed to make payments to an independent contractor appraiser for the completion of an appraisal or appraisal review, excluding claims for breach of contract or substandard performance; or

(d) The appraisal management company violated any other provision established in 2010 Or Laws ch 87, §§ 1 to 8.

Stat. Auth.: 2010 OL ch 87, Sec. 4

Stat. Implemented: 2010 OL ch 87, Sec. 4, 5

Hist.: FCS 1-2011, f. & cert. ef. 1-20-11

Fees; Annual Reports

441-674-0910

Initial Fees Payable to the Director

(1) A business entity that has not previously conducted business in Oregon, a business entity performing appraisal management services for not more than 1,000 instances of real estate appraisal activity in Oregon in the previous calendar year, or a business entity otherwise serving as a third-party broker of real estate appraisal activity for not more than 1,000 instances of real estate appraisal activity in Oregon in the previous calendar year, shall pay to the director:

(a) A nonrefundable application fee of \$1,000;

(b) A nonrefundable registration fee of \$1,500; and

(c) Subject to section (4) of this rule, an audit fee of \$450.

(2) A business entity performing appraisal management services for more than 1,000 but less than 5,000 instances of real estate appraisal activity in Oregon in the previous calendar year, or a business entity otherwise serving as a third-party broker of real estate appraisal activity for more than 1,000 but less than 5,000 instances of real estate appraisal activity in Oregon in the previous calendar year, shall pay to the director:

(a) A nonrefundable application fee of \$1,500;

(b) A nonrefundable registration fee of \$3,500; and

(c) Subject to section (4) of this rule, an audit fee of \$750.

(3) A business entity performing appraisal management services for more than 5,000 instances of real estate appraisal activity in Oregon in the previous calendar year, or a business entity otherwise serving as a third-party broker of real estate appraisal activity for more than 5,000 instances of real estate appraisal activity in Oregon in the previous calendar year, shall pay to the director:

third-party broker of real estate appraisal activity for more than 5,000 instances of real estate appraisal activity in Oregon in the previous calendar year, shall pay to the director.

(a) A nonrefundable application fee of \$2,000;

(b) A nonrefundable registration fee of \$6,000; and

(c) Subject to section (4) of this rule, an audit fee of \$1,500.

(4) If the director collects from each appraisal management company the actual cost of an examination as permitted by applicable law, the director shall apply any audit fees paid by a business entity under sections (1) to (3) of this rule toward the business entity's audit.

Stat. Auth.: 2010 OL Ch. 87, § 2

Stat. Implemented: 2010 OL Ch. 87, § 2

Hist.: FCS 10-2010(Temp), f. & cert. ef. 9-1-10 thru 12-31-10; FCS 13-2010, f. 12-30-10, cert. ef. 1-1-11

441-674-0915

Renewal Fees Payable to the Director

(Reserved)

Stat. Auth.: 2010 OL Ch. 87, § 2

Stat. Implemented: 2010 OL Ch. 87, § 2

Hist.: FCS 10-2010(Temp), f. & cert. ef. 9-1-10 thru 12-31-10; FCS 13-2010, f. 12-30-10, cert. ef. 1-1-11

441-674-0920

Annual Reports

For calendar year 2011 and each year thereafter, an appraisal management company shall submit to the director on March 31 of the following year a report disclosing the following information on a form approved by the director:

(1) The number of appraisals for which the appraisal management company performed appraisal management services in Oregon or otherwise served as a third-party broker of real estate appraisal activity in Oregon.

(2) Any change in the designated controlling person.

(3) Any changes in ownership that result in an individual or wholly-owned and managed business entity owning more than 10 percent of an appraisal management company or less than 10 percent of the appraisal management company.

(4) Any action taken by a state to refuse to issue, deny, cancel or revoke a license, certification or registration to act as an appraiser or as an appraisal management company.

Stat. Auth.: 2010 OL Ch. 87, § 2

Stat. Implemented: 2010 OL Ch. 87, § 2

Hist.: FCS 10-2010(Temp), f. & cert. ef. 9-1-10 thru 12-31-10; FCS 13-2010, f. 12-30-10, cert. ef. 1-1-11

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