

**New York State  
Appraisal Management Company Registration & Regulation Act  
Executive Law 6-H**

**Section 160-aaaa: Title**

This chapter shall be known as the New York State Appraisal Management Company Registration and Regulation Act.

**Section 160-bbbb: Definitions**

As used in this chapter, the following terms shall have the following meaning:

1. Appraisal” or “real estate appraisal” means an analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate. An appraisal may be classified by subject matter into either a valuation or an analysis.
2. “Appraisal management company (AMC)” means a person that:
  - a. Provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates;
  - b. Provides such services in connection with valuing a consumer’s real property as security for consumer credit transaction or incorporating such transactions into securitizations; and
  - c. Within a given year, oversees an appraisal panel more than 15 NY State-certified or NY State-licensed appraisers in State or 25 or more NY State-certified or NY State license appraiser in two or more States.
  - d. An AMC does not include a department or division of an entity that provides appraisal management services only to that entity.
  - e. “Appraisal management services” means to, directly or indirectly, perform any of the following functions on behalf of a lender, financial institution, client, or any other person in conjunction with a consumer credit transaction that is secured by a consumer’s Real Property:
    - (1) administer an appraiser panel;
    - (2) Recruit, retain, or select appraisers;
    - (3) Qualify, verify licensing or certification, and negotiate fees and service level expectations with persons who are part of an appraiser panel;

- (4) Contract with appraisers to perform appraisal assignments;
  - (5) Receive an order for an appraisal from one person, and deliver the order for the appraisal to an appraiser that is part of an appraiser panel for completion;
  - (6) Manage the process of having an appraisal performed, including providing administrative duties, such as receiving appraisal orders and reports, submitting completed appraisal reports to creditors and underwriters for services provided, and reimbursing appraisers for services performed;
  - (7) Track and determine the status of orders for appraisals;
  - (8) Conduct quality control of a completed appraisal prior to the delivery of the appraisal to the person that ordered the appraisal; or
  - (9) Provide a completed appraisal performed by an appraiser to one or more clients;
  - (10) Compensate appraisers for services rendered.
3. “Appraiser” means a person licensed or certified pursuant to Article 6-E of the New York Executive Law.
  4. “Appraiser panel” means a network, list or roster of licensed or certified appraisers who are independent contractors or employees of the appraisal management company. An appraiser shall be deemed an “independent contractor” if he or she is treated as such by the AMC for the purposes of Federal income taxes.
  5. “Appraisal review” means the act or process of developing and communicating an opinion about the quality of another appraiser’s work that was performed as part of an appraisal assignment. Appraisal reviews must be performed by a person who is certified as a real estate appraiser pursuant to Article 6-E of the New York Executive Law.
  6. “Board” means the State Board of Real Estate Appraisal which shall advise the Department, as necessary, on implementation of, and enforcement of this Article.
  7. “Competent appraiser” means an appraiser that satisfies each provision of the Competency Rule of the Uniform Standards of Professional Appraisal Practice for a specific appraisal assignment or valuation service that the appraiser has received, or may receive, from an appraisal management company.
  8. “Controlling person” means
    - a. An owner, officer or director of an appraisal management company; or

- b. An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and has the authority to enter into agreements with appraisers for the performance of appraisals; or
  - c. An individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.
9. “Department” means the New York State Department of State.
10. “Hybrid firms or entities” means entities that both hire real estate appraisers as employees to perform appraisals of real property, and engage independent contractors to perform such appraisals. Hybrid firms or entities shall be treated as an AMC for purposes of State registration if it oversees more than 15 New York State-certified or State-licensed real estate appraisers completing valuation services in an individual state or 25 more State-certified or State-licensed real estate appraisers in two or more states within a given year. The numerical calculation for hybrid entities should only include real estate appraisers engaged as independent contractors.
11. “Person” means an individual, firm, partnership, association, corporation, or any other entity recognized under New York law.
12. “Real Estate” means an identified parcel or tract of land, including improvements, if any.
13. “Real Property” means the interest, benefits, and rights inherent in the ownership of real estate.
14. “Uniform Standards of Professional Appraisal Practice (USPAP)” means the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation.
15. “Secondary mortgage market participant” means a guarantor or insurer of mortgage-backed securities, or an underwriter or issuer of mortgage-backed securities. Secondary mortgage market participant only includes an individual investor in a mortgage-backed security if that investor also serves in the capacity of a guarantor, insurer, underwriter, or issuer for the mortgage-backed security.

### **Section 160-ccc: Registration Required**

It shall be unlawful for a person to directly or indirectly engage or attempt to engage in business as an appraisal management company, or to advertise or hold itself out as engaging in or conducting business as an appraisal management company without first obtaining a registration issued by the Department under the provisions of this chapter.

### **Section 160-dddd: Exemptions**

The provisions of this chapter do not apply to a person that exclusively employs appraisers on an employer and employee basis for the performance of appraisals; or to an appraisal management company that is a subsidiary owned and controlled by a financial institution and regulated by the Federal financial institution regulatory agency.

### **Section 160-eeee: Forms**

An applicant for a registration as an appraisal management company in this State shall submit to the Department an application on a form prescribed by the Department.

### **Section 160-ffff: Denial of Registration**

The Department may investigate the good character of those applying for a license under this article and may deny the issuance of a registration based upon lack of good character which may include, but is not limited to, any of the grounds enumerated in this article.

### **Section 160-gggg: Expiration of license**

A registration granted by the Department pursuant to this chapter shall be valid for two-years from the date on which it is issued.

### **Section 160-hhhh: Fees**

1. The fee for a license issued or reissued under the provisions of this article shall be \$250 plus a fee of \$25 for every appraiser on the AMC's appraiser panel, which appraiser panel fee shall not exceed \$1,000.
2. The Department shall collect from each appraisal management company seeking to be registered in this state the amount determined by the Appraisal Subcommittee to be a national registry fee for each appraiser on the appraiser panel of an appraisal management company pursuant to Section 1109(a)(4) of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. The Department may transmit the annual registry fee to the Appraisal Subcommittee.
3. Change of address. Except for changes made on a renewal application, appraisal management companies shall provide the Department with notice of a change in the appraisal management's principal address. Change of address notifications shall be accompanied by a filing fee of \$10.
4. Name change. Except for changes made on a renewal application, the fee for changing a name on a license shall be \$10.

5. Delinquent reissue fee. The fee to reissue a registration under this Chapter which was submitted after the expiration of the immediately preceding registration term shall be \$350.

#### **Section160-iiii: Owner Requirements**

An appraisal management company applying for a registration in this state shall not be owned in whole or in part, directly or indirectly, by a person who has had a license or certificate to act as a real estate appraiser denied, revoked, or surrendered in lieu of pending discipline in any state or by a person holding 10% or more of the company where that person has had a license or certificate to act as a real estate appraiser denied, revoked, or surrendered in lieu of a possible discipline in any state.

#### **Section160-jjjj: Controlling Persons**

1. Each appraisal management company applying to the Department for a registration in this state shall designate one controlling person who shall be the main contact for all communication between the Department and the appraisal management company. The controlling person designated shall have never had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of a possible discipline in any state and shall be of good moral character, as determined by the Department.
2. Each person that owns more than 10% of an appraisal management company shall be of good moral character, as determined by the Department.
3. Each appraisal management company applying for a registration in this state shall certify to the Department that it has reviewed each entity that owns more than 10% of the appraisal management company and that no entity that owns more than 10% of the appraisal management company is more than 10% owned by any person that has had a license or certificate to act as an appraiser refused, denied, cancelled, revoked, or surrendered in lieu of a pending revocation.

#### **Section 160-kkkk: Employee Requirements**

1. An appraisal management company that applies to the Department for a registration to do business in this state as an appraisal management company shall not knowingly employ, utilize, or engage, for any real estate appraisal, valuation service or appraisal review assignment, a person who has had a license or certificate to act as an appraiser in this state or in any other state denied, revoked, or surrendered in lieu of possible discipline.
- (a) An appraisal management company that applies to the Board for a registration to do business in this state as an appraisal management company shall not:
1. Knowingly employ any person in a position in which the person has the responsibility to order appraisals or valuation services or to review

completed who has had a license or certificate to act as an appraiser in this state or in any other state , refused, denied, cancelled, revoked, or surrendered in lieu of a pending revocation; and

2. Knowingly enter into any independent contractor arrangement, whether in verbal, written, or other form, with any person who has had a license or certificate to act as an appraiser in this state or in any other state , refused, denied, cancelled, revoked, or surrendered in lieu of a pending revocation; and
  3. Knowingly enter into any contract, agreement, or other business relationship, whether in verbal, written, or any other form, with any entity that employs, has entered into an independent contract arrangement, or has entered into any contract, agreement, or other business relationship, whether in verbal, written, or any other form, with any person has ever had a license or certificate to act as an appraiser in this state or in any other state , refused, denied, cancelled, revoked, or surrendered in lieu of a pending revocation.
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2. Prior to placing an assignment for an appraisal or valuation service with an appraiser on the appraiser panel of an appraisal management company, the appraisal management company shall verify that the appraiser receiving the assignment is a competent appraiser as defined by the USPAP Competency Rule with regards to geographic area and the type of property being appraised.
  3. Any employee or independent contractor of an appraisal management company that performs an appraisal review shall be certified as a real estate appraiser by the Department pursuant to Article 6-E of the Executive Law.
  4. An appraisal management company may not hire, employ or engage, or in any way contract with or pay a person who is not a licensed or certified as a real estate appraiser by the Department pursuant to Article 6-E of the Executive Law unless the work being performed is a comparative market analysis for the purpose or intentions to list or sell real estate.
  5. An appraiser shall be considered part of an appraisal management company's appraiser panel until: the appraisal management company sends a written notice to the appraiser removing the appraiser with an explanation; or (ii) receives a written notice from the appraiser asking to be removed or a notice of the death or incapacity of the appraiser.

### **Section160-llll: Recordkeeping**

Each appraisal management company shall maintain a detailed record of each service request that it receives and the real estate appraiser that performs the appraisal for the appraisal

management company. These records shall be maintained for a period of at least five years after an appraisal is completed or two years after final disposition of a judicial proceeding related to the assignment, whichever period expires later. Appraisal management companies shall make records available to the Department upon request.

### **Section 160-mmmm: Appraiser Independence; Unlawful Acts**

Appraisal management company shall ensure that real estate appraisals are conducted independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established under 129E of the Truth in Lending Act.

Notwithstanding any other provision of this Act, it shall be unlawful in this state for any employee, director, officer, or agent of an appraisal management company registered in this state pursuant to this chapter to:

1. Compensate, coerce, extort, collude, instruct, induce, bribe, or intimidate, or attempt to compensate, coerce, extort, collude, instruct, induce, bribe, or intimidate a person, firm or other entity conducting or involved in an appraisal for the purpose of causing the appraised value assigned under the appraisal or other valuation services to the property to be based on any factor other than the independent judgment of the appraiser;
2. Mischaracterize the appraised value of a property in conjunction with a consumer credit transaction;
3. Seek to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of a consumer credit transaction;
4. Withhold or threaten to withhold timely payment for an appraisal report or for other valuation services rendered with the appraisal report or services are provided in accordance with the contract between parties;
5. Withhold or threaten to withhold future business, or to demote or terminate an appraiser without just cause;
6. Expressly or impliedly promise future business, promotions, or increased compensation for an appraiser in exchange for the real estate appraiser inflating or deflating his or her appraised value of real property;
7. Require a real estate appraiser to indemnify an appraisal management company or hold an appraisal management company harmless for any liability, damage, losses, or claims arising out of the services performed by the appraisal management company, and not the services performed by the appraiser;
8. Condition the request for an appraisal or the payment of an earned fee, salary or bonus, on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate or opinion requested from an appraiser;

9. Request that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal report, or provide estimated values or comparable sales at any time prior to the appraiser's completion of an appraisal;
10. Provide to an appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for purchase transactions may be provided;
11. Provide to an appraiser, or any entity or person related to the appraiser, stock or any other financial or non-financial benefits; or
12. Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality per USPAP.

Nothing herein shall be construed as prohibiting the appraisal management company from asking an appraiser to consider additional, appropriate property information, including the consideration of additional comparable properties to make or support an appraisal; provide further detail, substantiation, or explanation for the appraiser's value conclusion; or correct errors in the appraisal report.

#### **Section 160-nnnn: Mandatory Reporting**

An appraisal management company that has a reasonable basis to believe an appraiser within the appraisal management company's appraisal panel is failing to comply with the Uniform Standards of Professional Appraisal Practice, is violating applicable laws, or is otherwise engaging in unethical or unprofessional conduct must refer the matter to the Department.

#### **Section 160-oooo: Unprofessional Conduct**

Appraisal management companies shall not engage in unprofessional conduct including, but not limited to the following:

1. Requiring an appraiser to modify any aspect of an appraisal report or valuation service report, unless such modifications are necessary according to USPAP.
2. Requiring an appraiser to prepare an appraisal report or valuation service report if the appraiser, in the appraiser's own professional judgment, believes the appraiser does not have the necessary expertise for the specific geographic and or specific type area;
3. Requiring an appraiser to prepare an appraisal report or valuation service under a time frame that the appraiser, in the appraiser's own professional judgment, believes does not afford the appraiser the ability to meet all the relevant legal and professional obligations including USPAP requirements;

4. Prohibiting or inhibiting communication between the appraiser and the lender, a real estate licensee, or any other person from whom the appraiser, in the appraiser's own professional judgment, believes information would be relevant;
5. Requiring the appraiser to do anything that does not comply with USPAP, or any assignment conditions and certifications required by the client;
6. Making any portion of the appraiser's fee or the appraisal management company's fee contingent on a favorable outcome, including but not limited to a loan closing, specific dollar amount being achieved by the appraiser in the appraisal report; requests, for the purpose of facilitating a mortgage loan transaction, a broker price opinion; or any other real property price or value estimation that does not qualify as an appraisal.
7. Each appraisal management company operating in this state shall make payment to an appraiser for the completion of an appraisal or valuation assignment within 14 days of the date on which the appraiser transmits or otherwise provides the completed appraisal or valuation services to the appraisal management company or its assignee.
8. It shall be unlawful for an appraisal management company to:

(a) Knowingly fail to compensate an appraiser at a rate that is reasonable and customary for appraisal or other valuation services being performed in the market area of the property being appraised without the services of an appraisal management company;

(b) Knowingly include any fees for appraisal management services that are performed by the appraisal management company for a lender, client, or other person in the amount that it charges the lender, client, or other person for the actual completion of an appraisal or valuation service by an appraiser that is part of the appraiser panel of the appraisal management company;

(c) Knowingly fail to separate any and all fees charged to a client by the appraisal management company for the actual completion of an appraisal by an appraiser from the fees charged to a lender, client, or any other person by an appraisal management company for appraisal management services;

(d) Knowingly prohibit an appraiser from recording the fee that the appraiser was paid by the appraisal management company for the performance of the appraisal within the appraisal report that is submitted by the appraiser to the appraisal management company; or

(e) Knowingly fail to separately state the fees paid to an appraiser for appraisal services and the fees charged by the appraisal management company for services associated with the management of the appraisal process to the client, borrower and any other payer. Appraisal management companies shall provide a copy of the appraiser's invoice with a copy of any appraisal report submitted to a client or a client's representative.

(f) Allow the removal or taken out of rotation of an appraiser from an appraiser panel, without prior written notice to such appraiser with just cause;

(g) Obtain, use, or pay for a second or subsequent appraisal or ordering an automated valuation model or any other valuation service in connection with a mortgage financing transaction unless there is a reasonable basis to believe that the initial appraisal was flawed or tainted and such basis is clearly and appropriately noted in the loan file, or unless such appraisal or automated valuation model is done pursuant to a bona fide pre- or post-funding appraisal review or quality control process

### **Section 160-pppp: Alteration of Appraisal Reports**

An appraisal management company may not alter, modify, or otherwise change a completed appraisal or valuation service report submitted by an appraiser by removing the appraiser's signature or seal or by adding information to, or removing information from, the report with an intent to change the valuation conclusion. An appraisal management company shall not require an appraiser to provide the appraisal management company with the appraiser's digital signature or seal.

### **Section 160-qqqq: Enforcement**

The Department of State may revoke or suspend the license of an appraisal management company, or in lieu thereof may impose a fine not exceeding \$25,000 payable to the Department of State if the Department finds that the licensee has violated any provision of this article, or for a material misstatement in the application for such license, or if such licensee has been guilty of fraud or fraudulent practices, or for dishonest or misleading advertising, or has demonstrated untrustworthiness or incompetency to act as an appraisal management company, or has violated any provision of this Article or a regulation promulgated thereunder.

### **Section 160-rrrr: Disciplinary hearings**

The Department of State shall, before revoking or suspending any license or imposing any fine or reprimand on the holder thereof, and at least 10 days prior to the date set for the hearing, notify in writing the holder of such license of any charges made and shall afford such licensee an opportunity to be heard in person or by counsel in reference thereto. Such written notice may be served by delivery of same personally to the licensee, or by mailing same by certified mail to the last known business address of such licensee or unlicensed person, or by any method authorized by the Civil Practice Law and Rules. The hearing on such charges shall be at such time and place as the department shall prescribe.

### **Section 160-ssss: Power to suspend a license**

The Department of State, acting by such officer or person in the department as the Secretary of State may designate, shall have the power to suspend a license pending a hearing and to subpoena and bring before the officer or person so designated.

### **Section 160-tttt: Investigation**

The Department shall have the power to enforce the provisions of this article and upon complaint of any person, or on his own initiative, to investigate any violation thereof or to investigate the business, business practices and business methods of an appraisal management company, if in the opinion of the Secretary of State such investigation is warranted. Each such applicant or licensee shall be obliged, on request of the Secretary of State, to supply such information as may be required concerning his or its business, business practices or business methods, or proposed business practices or methods.

### **Section160-uuuu: Rule making authority.**

The Department may adopt rules not inconsistent with the provisions of this chapter which may be reasonably necessary to implement, administer, and enforce the provisions of this chapter.

### **Section160-vvvv: Violations**

1. Misdemeanors. Any person who violates any provision of this Article shall be guilty of a misdemeanor. The commission of a single act prohibited by this Article shall constitute a violation hereof. All courts of special sessions, within their respective territorial jurisdictions, are hereby empowered to hear, try and determine such crimes, without indictment, and to impose the punishments prescribed by law therefor.

2. Attorney general to prosecute. Criminal actions for violations of this Article shall be prosecuted by the attorney general, or his deputy, in the name of the people of the state, and in any such prosecution the attorney general, or his deputy, shall exercise all the powers and perform all the duties which the district attorney would otherwise be authorized to exercise or to perform therein.

### **Section160-wwww: Effect of invalid provision**

Should the courts of this state declare any provision of this article unconstitutional, or unauthorized, or in conflict with any other section or provision of this article, then such decision shall affect only the section or provision so declared to be unconstitutional or unauthorized and shall not affect any other section or part of this article.

### **Section160-xxxx: Judicial Review**

The action of the Department of State in granting or refusing to grant or to renew a license under this article or in revoking or suspending such a license or imposing any fine or reprimand on the holder thereof or refusing to revoke or suspend such a license or impose any

fine or reprimand shall be subject to review by a proceeding brought under and pursuant to article seventy-eight of the civil practice law and rules at the instance of the applicant for such license, the holder of a license so revoked, suspended, fined or reprimanded or the person aggrieved.