

By: Representative Jones (111th)

To: Judiciary B;
AppropriationsHOUSE BILL NO. 1337
(As Sent to Governor)

1 AN ACT TO CREATE THE MISSISSIPPI APPRAISAL MANAGEMENT COMPANY
2 REGISTRATION ACT, TO PLACE APPRAISAL MANAGEMENT COMPANIES UNDER
3 THE AUTHORITY OF THE REAL ESTATE APPRAISER LICENSING AND
4 CERTIFICATION COMMISSION; TO REQUIRE THOSE COMPANIES TO REGISTER
5 WITH THE MISSISSIPPI REAL ESTATE APPRAISER LICENSING AND
6 CERTIFICATION BOARD BEFORE ENGAGING IN THE BUSINESS AS AN
7 APPRAISAL MANAGEMENT COMPANY; TO PRESCRIBE FOR AN APPLICATION OF
8 REGISTRATION TO ENGAGE IN SUCH BUSINESS; TO PROVIDE FOR THE
9 MINIMUM REGISTRATION REQUIREMENTS; TO EXEMPT THE APPLICABILITY OF
10 THE ACT TO CERTAIN COMPANIES; TO REQUIRE EACH COMPANY APPLYING FOR
11 REGISTRATION TO SUBMIT AN IRREVOCABLE UNIFORM CONSENT TO SERVICE
12 OF PROCESS DESIGNATING AN AGENT TO RECEIVE SERVICE OF PROCESS FOR
13 THE COMPANY; TO PRESCRIBE THE REQUIREMENTS OF OWNERS, CONTROLLING
14 PERSONS AND EMPLOYEES OF AN APPRAISAL MANAGEMENT COMPANY; TO
15 REQUIRE THE COMPANY TO DESIGNATE ONE CONTROLLING PERSON TO ACT AS
16 THE CONTACT FOR ALL COMMUNICATIONS BETWEEN THE COMMISSION AND THE
17 COMPANY; TO REQUIRE THOSE COMPANIES TO CERTIFY TO THE BOARD ITS
18 SYSTEM OF VERIFICATION FOR ADDITIONS TO ITS APPRAISAL PANEL,
19 REVIEW OF WORK DONE BY INDEPENDENT APPRAISERS AND CONTINUING
20 LICENSURE OR CERTIFICATION REQUIREMENTS; TO REQUIRE THOSE
21 COMPANIES TO CERTIFY BIENNIALLY TO THE BOARD ITS ADHERENCE TO
22 CERTAIN PROFESSIONAL AND GOVERNMENTAL STANDARDS; TO REQUIRE THE
23 COMPANY TO RETAIN RECORDS RELATING TO ITS APPRAISAL ACTIVITIES FOR
24 A MINIMUM OF FIVE YEARS; TO PROHIBIT THE ALTERATION OF APPRAISAL
25 REPORTS; TO REQUIRE THE BOARD TO ISSUE A REGISTRATION NUMBER TO
26 EACH COMPANY REGISTERED IN THE STATE; TO REQUIRE THE COMPANY TO
27 DISCLOSE ITS REGISTRATION NUMBER ON ENGAGEMENT DOCUMENTS PRESENTED
28 TO THE APPRAISER; TO PROVIDE A PROCEDURE FOR THE SETTLING OF
29 DISPUTES BETWEEN AN APPRAISAL MANAGEMENT COMPANY AND AN APPRAISER;
30 TO PROVIDE DUE PROCESS TO INDEPENDENT APPRAISERS REMOVED FROM AN
31 APPRAISAL PANEL FOR MISCONDUCT AND CERTAIN OTHER VIOLATIONS; TO
32 AMEND SECTIONS 73-34-3, 73-34-9, 73-34-13, 73-34-25, 73-34-27,
33 73-34-29, 73-34-35, 73-34-41, 73-34-43, 73-34-45, 73-34-49 AND
34 73-34-53, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE
35 PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

36 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

37 **SECTION 1.** This act shall be known and may be cited as the
38 "Mississippi Appraisal Management Company Registration Act."

39 **SECTION 2.** (1) It is unlawful for a person to directly or
40 indirectly engage or attempt to engage in business as an appraisal
41 management company in this state or to advertise or hold itself



42 out as engaging in or conducting business as an appraisal
43 management company in this state without first obtaining a
44 registration issued by the Mississippi Real Estate Appraiser
45 Licensing and Certification Board under the provisions of this
46 act.

47 (a) An applicant for registration as an appraisal
48 management company in this state shall submit to the Mississippi
49 Real Estate Appraiser Licensing and Certification Board an
50 application on a form or forms prescribed by the board.

51 (b) In the event a registration process is unavailable
52 upon the effective date of this act, an appraisal management
53 company already conducting business in this state may continue to
54 conduct business in accordance with this act until one hundred
55 twenty (120) days after a registration process becomes available.

56 (2) An application for the registration required by
57 subsection (1) of this section shall, at a minimum, include:

58 (a) The name of the person seeking registration and the
59 fictitious name or names under which he does business in any
60 state;

61 (b) The business address of the entity seeking
62 registration;

63 (c) The phone contact information of the entity seeking
64 registration;

65 (d) If the person is not a corporation that is
66 domiciled in this state, the name and contact information for the
67 person's agent for service of process in this state; and

68 (e) The name, address, and contact information for any
69 individual or any corporation, partnership, or other business
70 entity that owns ten percent (10%) or more of the appraisal
71 management company;

72 (f) The name, address, and contact information for one
73 (1) controlling person designated as the main contact for all



74 communication between the appraisal management company and the
75 commission;

76 (g) A certification that the person has a system and
77 process in place to verify that a person being added to the
78 appraiser panel of the appraisal management company holds a
79 license in good standing in this state under the Real Estate
80 Appraiser Licensing and Certification Act if a license or
81 certification is required to perform appraisals;

82 (h) A certification that the person requires appraisers
83 completing appraisals at its request to comply with the Uniform
84 Standards of Professional Appraisal Practice (USPAP), including
85 the requirements for geographic and product competence;

86 (i) A certification that the person has a system in
87 place to verify that only licensed or certified appraisers are
88 used for federally related transactions;

89 (j) A certification that the person has a system in
90 place to require that appraisals are conducted independently and
91 free from inappropriate influence and coercion as required by the
92 appraisal independence standards established under Section 129E of
93 the Truth in Lending Act, including the requirements for payment
94 of a reasonable and customary fee to appraisers when the appraisal
95 management company is providing services for a consumer credit
96 transaction secured by the principal dwelling of a consumer;

97 (k) A certification that the person maintains a
98 detailed record of each service request that it receives
99 and the appraiser that performs the residential real estate
100 appraisal services for the appraisal management company;

101 (l) An irrevocable Consent to Service of Process
102 required under Section 4 of this act;

103 (m) Any other information required by the commission
104 which is reasonably necessary to implement the act.

105 (3) An application for the renewal of a registration shall
106 include substantially similar information required for the initial



107 registration as noted in subsection (2), as determined by the
108 board.

109 (4) An applicant for registration as an appraisal management
110 company in this state shall submit to the commission an
111 application on a form or forms prescribed by the commission.

112 (5) A registration granted by the commission under the
113 provisions of this act shall be valid for two (2) years from the
114 date on which it is issued.

115 **SECTION 3.** (1) The provisions of this act shall not apply
116 to an appraisal management company that is a subsidiary owned and
117 controlled by a financial institution regulated by a federal
118 financial institutions regulatory agency.

119 (2) The provisions of this act shall not apply to a business
120 entity that exclusively engages real estate appraisers on an
121 employer and employee basis for the performance of all real
122 property appraisal services in the normal course of its business,
123 except to the extent that federal law or regulation requires such
124 entities to register with and be subject to supervision by a state
125 appraiser certifying and licensing agency.

126 **SECTION 4.** Each person applying for a registration as an
127 appraisal management company that is not domiciled in this state
128 shall complete an irrevocable uniform consent to service of
129 process, as prescribed by the commission.

130 **SECTION 5.** (1) An appraisal management company applying for
131 registration in this state shall not:

132 (a) Be owned, in whole or in part, directly or
133 indirectly, by any person who has had an appraiser license or
134 certificate in this state or in any other state, refused, denied,
135 cancelled, surrendered in lieu of revocation, or revoked; or

136 (b) Be owned by more than ten percent (10%) by a person
137 who is not of good moral character, which for purposes of this
138 section shall require that such person has not been convicted of,
139 or entered a plea of nolo contendere to a felony relating to the



140 practice of appraisal, banking, mortgage or the provision of
141 financial services, or any crime involving fraud,
142 misrepresentation or moral turpitude.

143 (2) For purposes of subsection (1)(b), each owner of more
144 than ten percent (10%) of an appraisal management company shall
145 submit to a background investigation to be carried out by a law
146 enforcement agency or other entity authorized by the commission.

147 **SECTION 6.** Each appraisal management company applying to the
148 board for a registration in this state shall designate one (1)
149 controlling person who is an employee of the appraisal management
150 company that will be the designated contact for all communication
151 between the board and the appraisal management company.

152 **SECTION 7.** (1) An appraisal management company doing
153 business in this state as an appraisal management company shall
154 not:

155 (a) Knowingly employ any individual to perform
156 appraisal services, who has had a license or certificate to act as
157 an appraiser in this state or in any other state, refused, denied,
158 cancelled, surrendered in lieu of revocation, or revoked; or

159 (b) Knowingly enter into any independent contractor
160 arrangement for the performance of appraisal services, in verbal,
161 written, or other form, with any individual who has had a license
162 or certificate to act as an appraiser in this state or in any
163 other state, refused, denied, cancelled, surrendered in
164 lieu of revocation, or revoked.

165 (2) Before assigning appraisal orders, the appraisal
166 management company shall have a system in place to verify that a
167 person being added to the appraiser panel holds the appropriate
168 appraiser credential in good standing.

169 (3) Each appraisal management company doing business as an
170 appraisal management company shall certify to the commission on an
171 annual basis on a form prescribed by the commission that the
172 appraisal management company has systems in place to verify that:



173 (a) An individual on the appraiser panel has not had a
174 license or certification as an appraiser refused, denied,
175 cancelled, revoked or surrendered in lieu of a pending revocation
176 in the previous twelve (12) months; and

177 (b) Only licensed or certified appraisers are used to
178 complete appraisal assignments in connection with federally
179 related transactions.

180 **SECTION 8.** Any employee of, or independent contractor to,
181 the appraisal management company that performs a USPAP Standard 3
182 appraisal review of an appraisal report on property located in
183 this state shall be an appraiser with the proper level of
184 licensure in Mississippi. Quality control examinations are exempt
185 from this requirement, as they are not considered a Standard 3
186 review.

187 **SECTION 9.** (1) Each appraisal management company doing
188 business in this state shall certify to the commission on an
189 annual basis that it requires appraisers completing appraisals at
190 its request to comply with the Uniform Standards of Professional
191 Appraisal Practice, including the requirements for geographic and
192 product competence.

193 (2) Each appraisal management company doing business in this
194 state shall certify to the commission on an annual basis that it
195 has a system in place to require that appraisals are conducted
196 independently and free from inappropriate influence and coercion
197 as required by the appraisal independence standards established
198 under Section 129E of the Truth in Lending Act, including the
199 requirement that fee appraisers be compensated at a customary and
200 reasonable rate when the appraisal management company is providing
201 services for a consumer credit transaction secured by the
202 principal dwelling of a consumer.

203 (3) Each appraisal management company doing business in this
204 state shall certify to the commission on an annual basis that it
205 has a system in place requiring payment to an independent contract



206 appraiser for the completion of an appraisal service within sixty
207 (60) days after the appraiser provides the completed appraisal
208 report to the appraisal management company, except in cases
209 involving a bona fide breach of contract, substandard performance
210 of services, or alternate payment terms agreed upon by the
211 appraiser and the appraisal management company.

212 (4) An appraisal management company shall not prohibit an
213 appraiser from reporting the fee paid to the appraiser in the body
214 of the appraisal report, however an appraisal management company
215 may require an appraiser to present any such disclosure in a
216 specified format and location.

217 **SECTION 10.** Each appraisal management company doing business
218 in this state shall certify to the board on an annual basis that
219 it maintains a detailed record of each service request that it
220 receives and the appraiser that performs the appraisal for the
221 appraisal management company. Records shall be retained for a
222 period of five (5) years after an appraisal is completed or two
223 (2) years after final disposition of a judicial proceeding related
224 to the assignment, whichever period expires later.

225 **SECTION 11.** (1) An appraisal management company may not
226 alter, modify, or otherwise change a completed appraisal report
227 submitted by an appraiser without the appraiser's written consent,
228 except as necessary to comply with regulatory mandates or legal
229 requirements.

230 (2) An appraisal management company may not use an appraisal
231 report submitted by an independent appraiser, or any of the data
232 or information contained therein, for any purpose other than its
233 intended use without the appraiser's or the intended end user's
234 written consent, except as necessary to comply with regulatory
235 mandates or legal requirements.

236 **SECTION 12.** (1) The board shall issue a unique registration
237 number to each appraisal management company that is registered in
238 this state pursuant to this act.



239 (2) The board shall maintain and publish a list of the
240 appraisal management companies registered in this state and the
241 registration numbers assigned to such persons.

242 (3) An appraisal management company registered in this state
243 shall disclose the registration number provided to it by the board
244 on the engagement documents presented to the appraiser.

245 **SECTION 13.** It shall be a violation of this act for any
246 employee, partner, director, officer or agent of an appraisal
247 management company to:

248 (a) Influence or attempt to influence the development,
249 reporting, result or review of an appraisal through coercion,
250 extortion, collusion, compensation, inducement, intimidation,
251 bribery or in any other manner, including, but not limited to:

252 (i) Withholding or threatening to withhold timely
253 payment or partial payment for an appraisal with the exception of
254 a substandard or noncompliant appraisal;

255 (ii) Withholding or threatening to withhold future
256 business from an appraiser, or demoting, terminating or
257 threatening to demote or terminate an appraiser;

258 (iii) Promising or implying that an appraiser may
259 be given opportunities for future business, promotions or
260 increased compensation;

261 (iv) Conditioning an assignment of an appraisal or
262 the payment of an appraisal fee or salary or bonus on the opinion,
263 conclusion or valuation to be reached, or on a preliminary
264 estimate or opinion requested from an appraiser;

265 (v) Requesting that an appraiser provide an
266 estimated, predetermined or desired valuation in an appraisal,
267 or provide estimated values or comparable sales at any time prior
268 to the appraiser's completion of an appraisal;

269 (vi) Providing to an appraiser an anticipated,
270 estimated, encouraged or desired value for a subject property or a
271 proposed or target amount to be loaned to the borrower, except



272 that a copy of the sales contract for purchase transactions may be
273 provided; and

274 (vii) Requiring an appraiser to prepare an
275 appraisal report if the appraiser has indicated to the appraisal
276 management company that he or she does not have the necessary
277 expertise for the specific geographic area;

278 (b) Require an appraiser to indemnify the appraisal
279 management company against liability, damages, losses or claims
280 other than those liabilities, damages, losses or claims arising
281 out of the services performed by the appraiser, including
282 performance or nonperformance of the appraiser's duties and
283 obligations, whether as a result of negligence or willful
284 misconduct;

285 (c) Submit or attempt to submit false, misleading or
286 inaccurate information in any application for registration or
287 renewal;

288 (d) Fail to timely respond to any subpoena or any other
289 legally binding request for information;

290 (e) Fail to timely obey a lawful administrative order
291 of the board; or

292 (f) Fail to fully cooperate in any board investigation.

293 **SECTION 14.** An appraisal management company that has a
294 reasonable basis to believe an appraiser has failed to comply with
295 applicable laws, the Uniform Standards of Professional Appraisal
296 Practice or other ethical or professional requirements in
297 connection with a consumer credit transaction secured by a
298 consumer's principal dwelling, shall refer the matter to the
299 agency if the failure to comply is material. For purposes of this
300 section, a failure to comply is material if it is likely to
301 significantly affect the value assigned to the consumer's
302 principal dwelling.

303 **SECTION 15.** (1) (a) Except within the first ninety (90)
304 days after an independent appraiser is first added to the



305 appraiser panel of an appraisal management company, an appraisal
306 management company may not remove an appraiser from its appraiser
307 panel, or otherwise refuse to assign requests for real estate
308 appraisal services to an independent appraiser without:

309 (b) Notifying the appraiser in writing of the reasons
310 why the appraiser is being removed from the appraiser panel of the
311 appraisal management company;

312 (c) If the appraiser is being removed from the panel
313 for illegal conduct, violation of USPAP, or a violation of state
314 licensing standards, notifying the appraiser of the nature of the
315 alleged conduct or violation;

316 (d) Providing an opportunity for the appraiser to
317 respond to the notification of the appraisal management company.

318 (2) An appraiser who is removed from the appraiser panel of
319 an appraisal management company for alleged illegal conduct,
320 violation of USPAP, or violation of state licensing standards, may
321 file a complaint with the board for a review of the decision of
322 the appraisal management company. The scope of the commission's
323 review in any such case is limited to determining whether the
324 appraisal management company has complied with subsection (1) and
325 whether illegal conduct, a violation of USPAP, or a violation of
326 state licensing standards has occurred.

327 (3) If an appraiser files a complaint against an appraisal
328 management company under subsection (2), the commission shall
329 adjudicate the complaint within one hundred eighty (180) days.

330 (4) If after opportunity for hearing and review, the
331 commission determines that an appraisal management company acted
332 improperly in removing the appraiser from the appraiser panel, or
333 that the appraiser did not commit a violation of law, a violation
334 of USPAP, or a violation of state licensing standards, the
335 commission shall:

336 (i) Provide written findings to the involved
337 parties;



338 (ii) Provide an opportunity for the appraisal
339 management company and/or the appraiser to respond to the
340 findings; and

341 (iii) Make recommendations for action.

342 **SECTION 16.** The conduct of adjudicatory proceedings in
343 accordance with applicable state laws for violations of this
344 act is vested in the commission, such that:

345 (a) Before censuring any registrant, or suspending or
346 revoking any registration, the commission shall notify the
347 registrant in writing of any charges made at least twenty (20)
348 days before the date set for the hearing and shall afford the
349 registrant an opportunity to be heard in person or by counsel.

350 (b) The written notice shall be satisfied by personal
351 service on the controlling person of the registrant, or the
352 registrant's agent for service of process in this state, or by
353 sending the notice by certified mail, return receipt requested to
354 the controlling person of the registrant to the registrant's
355 address on file with the commission.

356 (c) The hearing on the charges shall be at a time and
357 place prescribed by the commission and in accordance with the
358 applicable state laws.

359 (d) The commission may make findings of fact and shall
360 deliver or mail such findings to the registrant charged with an
361 offense under this act.

362 **SECTION 17.** Section 73-34-3, Mississippi Code of 1972, is
363 amended as follows:

364 73-34-3. As used in this chapter, the following terms and
365 phrases shall have the following meanings unless the context
366 clearly indicates otherwise:

367 (a) "Appraisal" means an analysis, opinion or
368 conclusion prepared by a real estate appraiser relating to the
369 nature, quality, value or utility of specified interests in, or
370 aspects of, identified real estate or identified real property



371 performed in accordance with the Uniform Standards for
372 Professional Appraisal Practice. An appraisal may be classified
373 by the nature of the assignment into either a valuation assignment
374 or an evaluation assignment. The term "valuation assignment"
375 means an analysis, opinion or conclusion prepared by a real estate
376 appraiser that estimates the value of an identified parcel of real
377 estate or identified real property at a particular point in time.
378 The term "evaluation assignment" means an analysis, opinion or
379 conclusion prepared by a real estate appraiser that relates to the
380 nature, quality or utility of identified real estate or identified
381 real property.

382 (b) "Appraisal report" means any communication, written
383 or oral, of an appraisal. For the purposes of this chapter, the
384 testimony of an appraiser dealing with the appraiser's analyses,
385 conclusions or opinions concerning identified real property is
386 deemed to be an oral appraisal report.

387 (c) "Board" means the Mississippi Real Estate Appraiser
388 Licensing and Certification Board that is established under the
389 provisions of this chapter.

390 (d) "Certified appraisal report" means an appraisal
391 report given or signed and certified as such by a state certified
392 real estate appraiser. When a state certified real estate
393 appraiser identifies an appraisal report as "certified," such
394 state certified real estate appraiser must indicate which type of
395 certification he holds. The certification of an appraisal report
396 by a state certified real estate appraiser represents to the
397 public that it meets the appraisal standards established under
398 this chapter.

399 (e) "Commission" means the Mississippi Real Estate
400 Commission as established under Section 73-35-5, Mississippi Code
401 of 1972.



402 (f) "Licensed real estate appraiser" means a person who
403 holds a current, valid appraisal license issued to him under the
404 provisions of this chapter.

405 (g) "Real estate or real property" means an identified
406 parcel or tract of land, with improvements, and includes
407 easements, rights-of-way, undivided or future interest, or similar
408 rights in a tract of land, but does not include mineral rights,
409 timber rights, growing crops, water rights, or similar interests
410 severable from the land when the transaction does not involve the
411 associated parcel or tract of land.

412 (h) "Real estate appraisal activity" means the act or
413 process of making an appraisal of real estate or real property and
414 preparing an appraisal report.

415 (i) "Real estate appraiser" means a person who engages
416 in real estate appraisal activity for a fee or other valuable
417 consideration.

418 (j) "Real property" means one or more defined
419 interests, benefits or rights inherent in the ownership of real
420 estate.

421 (k) "State certified real estate appraiser" means a
422 person who holds a current, valid license as a real estate
423 appraiser issued to him under the provisions of this chapter for
424 certified real estate appraisers.

425 (l) "Timberland" means forest land that is producing,
426 or which is capable of producing, timber as a crop.

427 (m) "Appraisal management company" means, in connection
428 with valuing properties collateralizing mortgage loans or
429 mortgages incorporated into a securitization, any external third
430 party that oversees a network or panel of more than fifteen (15)
431 certified or licensed appraisers in this state or twenty-five (25)
432 or more nationally within a given year, that is authorized either
433 by a creditor of a consumer credit transaction secured by a



434 consumer's principal dwelling or by an underwriter of or other
435 principal in the secondary mortgage markets to:

436 (i) Recruit, select, and retain appraisers;

437 (ii) Contract with licensed and certified

438 appraisers to perform appraisal assignments;

439 (iii) Manage the process of having an appraisal

440 performed, including providing administrative duties such as

441 receiving appraisal orders and appraisal reports, submitting

442 completed appraisal reports to creditors and underwriters,

443 collecting fees from creditors and underwriters for services

444 provided, and reimbursing appraisers for services performed; or

445 (iv) Review and verify the work of appraisers.

446 (n) "Appraisal review" means the act or process of

447 developing and communicating an opinion about the quality of

448 another appraiser's work that was performed as part of an

449 appraisal assignment, except that a quality control examination of

450 an appraisal shall not be an appraisal review.

451 (o) "Appraiser" means an individual who holds a license

452 or certification as an appraiser and is expected to perform

453 valuation services competently and in a manner that is

454 independent, impartial and objective.

455 (p) "Appraiser panel" means a group of licensed or

456 certified independent appraisers that have been selected to

457 perform appraisal services for a third party.

458 (q) "Controlling person" means:

459 (i) An officer or director, or owner of greater

460 than a ten percent (10%) interest, of a corporation, partnership

461 or other business entity, seeking to act as an appraisal

462 management company in this state;

463 (ii) An individual employed, appointed, or

464 authorized by an appraisal management company that has the

465 authority to enter into a contractual relationship with other



466 persons for the performance of services requiring registration as
467 an appraisal management company and has the authority to enter
468 into agreements with appraisers for the performance of appraisals;
469 or

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

473 (r) "Federal financial institutions regulatory
474 agencies" means the Board of Governors of the Federal Reserve
475 System, the Federal Deposit Insurance Corporation, the Office of
476 the Comptroller of the Currency, the Office of Thrift Supervision,
477 and the National Credit Union Administration.

478 (s) "Federally related transaction" means any real
479 estate-related financial transaction which a federal financial
480 institutions regulatory agency or the Resolution Trust Corporation
481 engages in, contracts for, or regulates, and which requires the
482 services of an appraiser.

483 (t) "Person" means an individual, firm, partnership,
484 limited partnership, limited liability company, association,
485 corporation, or other group engaged in joint business activities,
486 however organized.

487 (u) "Quality control examination" means an examination
488 of an appraisal report for compliance and completeness including
489 grammatical, typographical or other similar errors.

490 (v) "Real estate-related financial transaction" means
491 any transaction involving:

492 (i) The sale, lease, purchase, auction, investment
493 in or exchange of real property, including interests in
494 property, or the financing thereof;

495 (ii) The refinancing of real property or interests
496 in real property; and

497 (iii) The use of real property or interests in
498 property as security for a loan or investment, including



499 mortgage-backed securities.

500 (w) "Uniform Standards of Professional Appraisal
501 Practice" means the current standards of the appraisal profession,
502 developed for appraisers and users of appraisal services by the
503 Appraisal Standards Board of the Appraisal Foundation.

504 (x) "USPAP" means the Uniform Standards of Professional
505 Appraisal Practice.

506 **SECTION 18.** Section 73-34-9, Mississippi Code of 1972, is
507 amended as follows:

508 73-34-9. (1) The commission shall have the following powers
509 and duties:

510 (a) To receive applications for licensure as a real
511 estate appraiser and applications for registration as an appraisal
512 management company under this chapter; to establish appropriate
513 administrative procedures for the processing of those
514 applications; to issue licenses to qualified applicants under the
515 provisions of this chapter; and to maintain a registry of the
516 names and addresses of individuals who are currently licensed
517 under this chapter.

518 (b) To administer licensing examinations in the places
519 and at the times as may be required to carry out its
520 responsibilities under this chapter.

521 (c) To implement recommendations made to the commission
522 by the Real Estate Appraiser Licensing and Certification Board
523 with respect to upgrading and improving the experience, education
524 and examination requirements that are required for an appraiser
525 license and each classification of licensed state certified real
526 estate appraiser in this state.

527 (d) To implement recommendations made to the commission
528 by the board with respect to upgrading and improving the
529 continuing education requirements that are required for renewal of
530 a license.



531 (e) To collect all licensing fees required or permitted
532 by this chapter.

533 (f) To take appropriate action upon a decision and the
534 related findings of fact made by the board if, after an
535 administrative hearing, the board (i) determines that a licensed
536 appraiser or a licensed state certified real estate appraiser
537 under this chapter has violated the standards of appraisal
538 practice or ethical rules established under Section 73-34-37, or
539 has committed one or more of the acts that are prohibited by
540 Section 73-34-35, and (ii) recommends that the license of the
541 appraiser be suspended or revoked, that renewal be denied, or that
542 some other disciplinary action be taken.

543 (g) To solicit bids and enter into contracts with one
544 or more educational testing services or organizations approved by
545 the board for the preparation of a bank of questions and answers
546 for licensure examinations under this chapter.

547 (h) To promote research and conduct studies relating to
548 the profession of real estate appraising and sponsor real estate
549 appraisal educational activities.

550 (i) To adopt rules and regulations for the
551 administration of this chapter that are not inconsistent with the
552 provisions of this chapter or the Constitution and laws of
553 Mississippi or of the United States.

554 (j) To employ an assistant to the Mississippi Real
555 Estate Commission Administrator who shall keep a record of all
556 proceedings, transactions, communications and official acts of the
557 commission and board and perform any other duties as the
558 commission and board may require.

559 (k) To employ an appropriate staff to investigate
560 allegations that licensed appraisers or licensed state certified
561 real estate appraisers under this chapter failed to comply with
562 the terms or provisions of this chapter.



563 (1) To employ any other professional, clerical and
564 technical assistance as may be necessary to properly administer
565 the work of this chapter.

566 (2) The board shall have the following powers and duties:

567 (a) To be responsible for matters relating to real
568 estate appraisal standards, real estate appraiser qualifications,
569 testing standards, appraisal management companies and disciplinary
570 functions.

571 (b) To hold meetings; to hold public hearings and
572 administrative hearings; to prepare examination specifications for
573 licensed appraisers and licensed state certified appraisers.

574 (c) To enable the board to carry out its
575 responsibilities under this chapter with respect to licensing and
576 registering, the board shall have:

577 (i) The power to compel the attendance of
578 witnesses;

579 (ii) The power to require a licensed appraiser or
580 an applicant for licensure to produce books, appraisal documents,
581 records and other papers;

582 (iii) The power to administer oaths; and

583 (iv) * * * The power to take testimony and receive
584 evidence concerning all matters within its jurisdiction.

585 These powers may be exercised directly by the board in such
586 manner as the board shall determine.

587 (d) To establish appropriate administrative procedures
588 for disciplinary proceedings conducted under the provisions of
589 this chapter.

590 (e) To keep a record of its proceedings and issue an
591 annual report of its activities.

592 (f) To further define by regulation, and with respect
593 to each of the categories of licensed appraiser, the type of
594 educational experience, appraisal experience and equivalent



595 experience that will meet the statutory requirements of this
596 chapter.

597 (g) To approve or disapprove applications for licensing
598 or registration under this chapter.

599 (h) To suspend or revoke licenses or registrations
600 under the disciplinary proceedings provided for in this chapter.

601 (i) To present an annual budget to the Mississippi
602 Legislature for approval. A copy of the budget shall be given to
603 the commission.

604 (j) To implement all requirements directed by the
605 Appraisal Subcommittee of the Federal Financial Institutions
606 Examination Council or their designated agent.

607 (k) To make rules and regulations providing for an
608 inactive license or registration status and for the reactivation
609 thereof.

610 (l) To make rules and regulations necessary to
611 implement its powers and duties under this chapter.

612 (m) To do all other things necessary to carry out the
613 provisions of this chapter.

614 (n) To adopt rules consistent with the provisions of
615 this chapter which may be reasonably necessary to implement,
616 administer, and enforce the provisions of this chapter.

617 (o) To provide for at least one (1) member of the board
618 to represent the appraisal management company industry.

619 (3) The members of the commission and board shall be immune
620 from any civil action or criminal prosecution for initiating or
621 assisting in any lawful investigation of the actions of, or
622 participating in any disciplinary proceeding concerning, an
623 appraiser licensed under this chapter, provided that the action is
624 taken without malicious intent and in the reasonable belief that
625 the action was taken in accordance with the powers and duties
626 vested in the members of the commission and board under this
627 chapter.



628 **SECTION 19.** Section 73-34-13, Mississippi Code of 1972, is
629 amended as follows:

630 73-34-13. Applications for one (1) of the appraisal
631 licenses, applications for renewal, * * * applications to take an
632 examination, and applications for registration as an appraisal
633 management company shall be made in writing to the commission on
634 approved forms.

635 The payment of the appropriate fee, as fixed under Section
636 73-34-45, must accompany all applications for licensure and
637 renewal thereof, all applications to take an examination and all
638 applications for registration as an appraisal management company.

639 At the time of filing an application for licensure under this
640 chapter, * * * for renewal, or for registration as an appraisal
641 management company, each applicant shall sign a pledge to comply
642 with the standards of professional appraisal practices that are
643 established from time to time for licensed appraisers and for
644 licensed certified real estate appraisers under this chapter.
645 Each applicant shall also certify that he understands the types of
646 misconduct, as set forth in this chapter, for which disciplinary
647 proceedings may be initiated against a licensed appraiser or a
648 licensed certified real estate appraiser.

649 Each application or filing made under this section shall
650 include the social security number(s) of the applicant in
651 accordance with Section 93-11-64, Mississippi Code of 1972.

652 **SECTION 20.** Section 73-34-25, Mississippi Code of 1972, is
653 amended as follows:

654 73-34-25. Except as provided in Section 33-1-39, a license
655 issued under the authority of this chapter shall expire two (2)
656 years from the last day of the month of issuance; however, a
657 registration granted under the authority of this chapter shall
658 expire one (1) year from the date of issuance.

659 **SECTION 21.** Section 73-34-27, Mississippi Code of 1972, is
660 amended as follows:



661 73-34-27. To obtain a renewal of any of the real estate
662 appraisal licenses or a renewal of any registration issued under
663 this chapter, the holder of a current, valid license or
664 registration shall make application and pay the prescribed fee to
665 the commission not earlier than one hundred twenty (120) days nor
666 later than the expiration date, as defined in Section 73-34-25, of
667 the license then held. Each application for renewal shall be
668 accompanied by evidence, in the form prescribed by the board, of
669 having completed the continuing education requirements for renewal
670 specified in this chapter.

671 If a licensed appraiser or licensed certified real estate
672 appraiser under this chapter fails to renew his license, or an
673 appraisal management company fails to renew its registration
674 before its expiration or within any period of extension granted
675 under this chapter, that person or company may obtain a renewal of
676 their license or registration by satisfying all of the
677 requirements for renewal and filing an application for renewal,
678 accompanied by a late renewal fee, within sixty (60) days of the
679 date that the license or registration expired.

680 **SECTION 22.** Section 73-34-29, Mississippi Code of 1972, is
681 amended as follows:

682 73-34-29. The board may, upon compliance with the provisions
683 of this chapter relating to administrative hearings, deny the
684 issuance of a license or registration to an applicant on any of
685 the grounds provided in this chapter.

686 **SECTION 23.** Section 73-34-35, Mississippi Code of 1972, is
687 amended as follows:

688 73-34-35. (1) An application for licensure or renewal may
689 be denied, and the rights of any licensed appraiser or licensed
690 certified real estate appraiser may be revoked or suspended, or
691 the holder of the license may be otherwise disciplined, in
692 accordance with the provisions of this chapter for any of the
693 following acts or omissions:



694 (a) Failing to meet the minimum qualifications for
695 licensure established under this chapter;

696 (b) Procuring or attempting to procure licensure under
697 this chapter by knowingly making a false statement, submitting
698 false information or making a material misrepresentation in an
699 application filed with the commission or procuring or attempting
700 to procure licensure through any form of fraud or
701 misrepresentation;

702 (c) Paying money other than the fees provided for by
703 this chapter to any member or employee of the commission or the
704 board to procure licensure under this chapter;

705 (d) An act or omission in the practice of real estate
706 appraising which constitutes dishonesty, fraud or
707 misrepresentation with the intent to substantially benefit the
708 licensee or another person or with the intent to substantially
709 injure another person;

710 (e) Entry of a final civil or criminal judgment against
711 a licensee on grounds of fraud, misrepresentation or deceit;

712 (f) Conviction, including a conviction based upon a
713 plea or finding of guilty, of a crime which is substantially
714 related to the qualifications, functions or duties of a person
715 developing real estate appraisals and communicating real estate
716 appraisals to others;

717 (g) Engaging in the business of real estate appraising
718 under an assumed or fictitious name not properly registered in
719 this state;

720 (h) Paying a finder's fee or a referral fee;

721 (i) Making a false or misleading statement in that
722 portion of a written appraisal report that deals with professional
723 qualifications or in any testimony concerning professional
724 qualifications;



725 (j) Issuing an appraisal on any real property in which
726 the appraiser has an interest through fee simple ownership,
727 leasehold, rental agreement or auction agreement;

728 (k) Taking a listing for the sale of a property within
729 ninety (90) days of appraising such property, except as may be
730 otherwise agreed upon by all parties and disclosed in the listing
731 agreement; or

732 (l) Any act or conduct, whether the same or of a
733 different character than specified above, which constitutes or
734 demonstrates bad faith, incompetency or untrustworthiness; or
735 dishonest, fraudulent or improper dealing; or any other violation
736 of the provisions of this chapter and of rules and regulations
737 established by the board.

738 (2) In accordance with the laws of this state, and to the
739 extent permitted by any applicable federal legislation or
740 regulation, the board may censure an appraisal management company,
741 conditionally or unconditionally suspend or revoke any
742 registration issued under this act, or deny renewal of any
743 registration issued under this act, or levy fines or impose civil
744 penalties not to exceed Five Thousand Dollars (\$5,000.00), if
745 after appropriate investigation the board concludes that an
746 appraisal management company is attempting to perform, has
747 performed, or has attempted to perform any of the following acts:

748 (a) Committed any act in violation of this chapter;

749 (b) Violated any rule or regulation adopted by the
750 board in the interest of the public and consistent with the
751 provisions of this chapter; or

752 (c) Procured a registration for itself or any other
753 person by fraud, misrepresentation or deceit.

754 (3) In order to promote voluntary compliance, encourage
755 appraisal management companies to correct errors promptly, and
756 ensure a fair and consistent approach to enforcement, the board is
757 authorized to impose fines or civil penalties that are reasonable



758 in light of the nature, extent and severity of the violation. The
759 board is also authorized to take action against an appraisal
760 management company's registration, if at all, only after less
761 severe sanctions have proven insufficient to ensure behavior
762 consistent with this act. When deciding whether to impose a
763 sanction permitted by subsection (2), determining the sanction
764 that is most appropriate in a specific instance, or making any
765 other discretionary decision regarding the enforcement of this
766 act, the board shall consider whether an appraisal management
767 company:

768 (a) Has an effective program reasonably designed to
769 ensure compliance with this act;

770 (b) Has taken prompt and appropriate steps to correct
771 and prevent the recurrence of any detected violations; and

772 (c) Has independently reported to the board any
773 significant violations or potential violations of this act, before
774 an imminent threat of disclosure or investigation and within a
775 reasonably prompt time after becoming aware of their occurrence.

776 (4) In addition to the reasons specified in subsection (1)
777 of this section, the board shall be authorized to suspend the
778 license of any licensee for being out of compliance with an order
779 for support, as defined in Section 93-11-153. The procedure for
780 suspension of a license for being out of compliance with an order
781 for support, and the procedure for the reissuance or reinstatement
782 of a license suspended for that purpose, and the payment of any
783 fees for the reissuance or reinstatement of a license suspended
784 for that purpose, shall be governed by Section 93-11-157 or
785 93-11-163, as the case may be. If there is any conflict between
786 any provision of Section 93-11-157 or 93-11-163 and any provision
787 of this chapter, the provisions of Section 93-11-157 or 93-11-163,
788 as the case may be, shall control.

789 **SECTION 24.** Section 73-34-41, Mississippi Code of 1972, is
790 amended as follows:



791 73-34-41. The commission may investigate at the direction of
792 the board the actions of an individual licensed or entity
793 registered under this chapter or an applicant for licensure,
794 renewal or registration. Upon compliance with the procedural
795 requirements set forth in this chapter, the board may revoke or
796 suspend the license or otherwise discipline a licensed appraiser,
797 licensed certified real estate appraiser or registered appraisal
798 management company, or deny an application or registration, for
799 any of the acts or omissions set forth in Section 73-34-35.

800 Upon receipt of information indicating that a licensed
801 appraiser, licensed certified real estate appraiser or a
802 registered appraisal management company may have committed a
803 violation under Section 73-34-35, the board may, upon compliance
804 with the procedural requirements set forth in this chapter, revoke
805 or suspend the license or otherwise discipline the licensee or
806 registrant, or deny an application or registration, for any of the
807 acts or omissions set forth in Section 73-34-35.

808 Upon receipt of information indicating that a licensed
809 appraiser, licensed certified real estate appraiser or registered
810 appraisal management company may have committed a violation under
811 Section 73-34-35, the commission, at the direction of the board,
812 may cause one or more of the investigators on its staff to make an
813 investigation of the facts to determine whether or not there is
814 evidence of any such violation. If technical assistance is
815 required, a staff investigator may consult with not more than two
816 (2) of the voting members of the board. If a voting member of the
817 board is consulted and renders assistance in an investigation,
818 such member shall be excused from service on the board in
819 connection with any administrative hearing that results from such
820 investigation.

821 In any investigation made by the commission's investigative
822 staff, the board shall have the power to compel the attendance of
823 witnesses and the production of books, appraisal documents,



824 records and other papers, the power to administer oaths, and the
825 power to take testimony and receive evidence concerning all
826 matters within its jurisdiction.

827 If an investigation indicates that a licensed appraiser,
828 licensed certified real estate appraiser or registered appraisal
829 management company has committed a violation under Section
830 73-34-35, a formal complaint shall be prepared by the commission
831 staff at the direction of the board and served upon such real
832 estate appraiser or appraisal management company. This complaint
833 shall require the accused party to file an answer to the complaint
834 within twenty (20) days of the date of service.

835 In responding to a complaint filed by the staff of the
836 commission, the accused party may admit the allegations of the
837 complaint, deny the allegations of the complaint, or otherwise
838 plead. Failure to make a timely response shall be deemed an
839 admission of the allegations of the complaint.

840 Upon completion of the investigation of the complaint, the
841 board shall set a date, time and place for an administrative
842 hearing on the complaint.

843 **SECTION 25.** Section 73-34-43, Mississippi Code of 1972, is
844 amended as follows:

845 73-34-43. If, at the conclusion of the hearing, the board
846 determines that a licensed appraiser,
847 estate appraiser or appraisal management company is guilty of a
848 violation of any of the provisions of this chapter, it shall
849 prepare a formal decision that shall contain findings of fact
850 concerning the appropriate disciplinary action to be taken.

851 The decision and order of the board shall be final. Any
852 applicant, licensee, registrant or person aggrieved by a decision
853 or order of the board shall have the right of appeal from such
854 adverse order or decision of the board to the circuit court of the
855 county of residence of the applicant, licensee, registrant or
856 person, or of the First Judicial District of Hinds County, within



857 thirty (30) days from the service of notice of the action of the
858 board upon the parties in interest. Notice of appeals shall be
859 filed in the office of the clerk of the court who shall issue an
860 order directed to the board commanding it, within ten (10) days
861 after service thereof, to certify to the court its entire record
862 in the matter in which the appeal has been taken. The appeal
863 shall thereupon be heard in due course by the court, without a
864 jury, which shall review the record and make its determination of
865 the cause between the parties. To be effective, an application
866 for review made by an aggrieved party must be filed within thirty
867 (30) days after the party's receipt of the final decision and
868 order of the board.

869 If an application is filed for review of a final decision and
870 order of the board, the case shall be set for trial within sixty
871 (60) days from the date of the filing of an answer for the board.
872 If the court finds that the board has regularly pursued its
873 authority and has not acted arbitrarily, it shall affirm the
874 decision and order of the board.

875 Actions taken by the board in suspending a license when
876 required by Section 93-11-157 or 93-11-163 are not actions from
877 which an appeal may be taken under this section. Any appeal of a
878 license suspension that is required by Section 93-11-157 or
879 93-11-163 shall be taken in accordance with the appeal procedure
880 specified in Section 93-11-157 or 93-11-163, as the case may be,
881 rather than the procedure specified in this section.

882 **SECTION 26.** Section 73-34-45, Mississippi Code of 1972, is
883 amended as follows:

884 73-34-45. (1) The commission shall charge and collect
885 appropriate fees for its services under this chapter. The fees
886 charged shall not exceed the amounts indicated below and shall be
887 set by the board.

888 LICENSURE FEES:

889 Application and examination.....\$225.00



890 Initial and renewal license.....\$325.00
891 Delinquent renewal penalty.....100% of renewal fee

892 SERVICES:

893 For each change of address.....\$ 25.00

894 For each duplicate license.....\$ 25.00

895 To change status as a licensee from active to
896 inactive.....\$ 25.00

897 For each bad check received by the commission.....\$ 25.00

898 (2) (a) The board shall establish the fee to be paid by
899 each appraisal management company making application for
900 registration under this chapter, that is sufficient for the
901 administration of the registration process, but in no case shall
902 the fee for registration be more than Five Hundred Dollars
903 (\$500.00).

904 (b) A similar processing fee, not to exceed Five
905 Hundred Dollars (\$500.00), may be charged by the board in
906 connection with the renewal of any registrations.

907 (3) All fees charged and collected under this chapter shall
908 be paid by the commission at least once a week, accompanied by a
909 detailed statement thereof, to the credit of the fund known as the
910 "Real Estate Appraisal License Fund," hereby created in the State
911 Treasury. All monies which are collected under this chapter shall
912 be paid into and credited to the fund for the use of the board in
913 carrying out the provisions of this chapter including the payment
914 of salaries and expenses, printing an annual directory of
915 licensees, and for educational purposes. The commission shall
916 submit a monthly statement to the board detailing any expenses
917 which it bears as a share in the expense of administering this
918 chapter, for which expenses it shall be reimbursed in the amount
919 approved by the board. The commission shall prepare an annual
920 statement of income and expenses related to its appraisal related
921 administrative function.



922 (4) If any applicant for licensing for the examinations
923 given under this chapter before January 1, 1991, prepays the
924 examination fee before August 1, 1990, he shall pay a fee of One
925 Hundred Seventy-five Dollars (\$175.00) in lieu of the Two Hundred
926 Twenty-five Dollars (\$225.00) application and examination fee as
927 stated in this section.

928 **SECTION 27.** Section 73-34-49, Mississippi Code of 1972, is
929 amended as follows:

930 73-34-49. The commission shall prepare and issue at least
931 once each calendar year a roster showing the name and place of
932 business of each real estate appraiser currently licensed and
933 appraisal management company registered under the provisions of
934 this chapter. A copy of the roster shall be made available to the
935 public, upon application to the commission, at a reasonable price
936 per copy as may be fixed by the commission. The commission shall
937 send a copy of this list to the Appraisal Subcommittee of the
938 Federal Financial Institutions Examination Council, or its
939 designated agent.

940 **SECTION 28.** Section 73-34-53, Mississippi Code of 1972, is
941 amended as follows:

942 73-34-53. (1) Except as otherwise provided in Section
943 73-34-35, any person violating a provision of this chapter shall,
944 upon conviction of a first violation thereof, be punished by a
945 fine of not less than Five Hundred Dollars (\$500.00) nor more than
946 One Thousand Dollars (\$1,000.00), or by imprisonment for a term
947 not to exceed ninety (90) days, or both. A second or subsequent
948 violation shall be punishable by a fine of not less than One
949 Thousand Dollars (\$1,000.00) nor more than Two Thousand Dollars
950 (\$2,000.00), or by imprisonment for a term not to exceed six (6)
951 months, or both.

952 (2) In case any person shall have received any sum of money,
953 or the equivalent thereof, as commission, compensation or profit
954 by or in consequence of his violation of any provision of this



955 chapter, that person shall also be liable to a penalty of not less
956 than the amount of the sum of money so received and not more than
957 four (4) times the sum so received, as may be determined by the
958 court, which penalty may be sued for and recovered by any person
959 aggrieved, and for his use and benefit, in any court of competent
960 jurisdiction.

961 **SECTION 29.** Sections 1 through 16 of this act shall be
962 codified in Chapter 34, Title 73, Mississippi Code of 1972.

963 **SECTION 30.** This act shall take effect and be in force from
964 and after July 1, 2011, or one hundred twenty (120) days after the
965 first date on which all rules, forms and policies have been
966 finalized and made available by the commission, whichever is
967 later.

