

By: Senator(s) Jackson (15th)

To: Business and Financial
Institutions

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2671

1 AN ACT TO AMEND SECTION 73-34-9, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE MISSISSIPPI REAL ESTATE APPRAISER LICENSING AND
3 CERTIFICATION BOARD TO ESTABLISH STANDARDS FOR MEASURING CERTAIN
4 RESIDENTIAL PROPERTIES AND TO CONDUCT A SURVEY OF CERTAIN
5 APPRAISAL FEES; TO CREATE SECTION 73-34-133, MISSISSIPPI CODE OF
6 1972, TO CREATE THE APPRAISAL MANAGEMENT COMPANY RECOVERY FUND; TO
7 CREATE SECTION 73-34-135, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
8 THE ADMINISTRATION OF THE FUND BY THE MISSISSIPPI REAL ESTATE
9 APPRAISER LICENSING AND CERTIFICATION BOARD; TO AMEND SECTION
10 73-34-101, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO
11 AMEND SECTION 73-34-103, MISSISSIPPI CODE OF 1972, TO REMOVE THE
12 SURETY BOND REQUIREMENT FOR REGISTRATION; AND FOR RELATED
13 PURPOSES.

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

15 **SECTION 1.** Section 73-34-9, Mississippi Code of 1972, is
16 amended as follows:

17 73-34-9. (1) The commission shall have the following powers
18 and duties:

19 (a) To receive applications for licensure as a real
20 estate appraiser and applications for registration as an appraisal
21 management company under this chapter; to establish appropriate
22 administrative procedures for the processing of those
23 applications; to issue licenses to qualified applicants under the



provisions of this chapter; and to maintain a registry of the names and addresses of individuals who are currently licensed under this chapter.

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

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

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

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

(f) To take appropriate action upon a decision and the related findings of fact made by the board if, after an administrative hearing, the board (i) determines that a licensed appraiser or a licensed state certified real estate appraiser under this chapter has violated the standards of appraisal practice or ethical rules established under Section 73-34-37, or has committed one or more of the acts that are prohibited by



49 Section 73-34-35, and (ii) recommends that the license of the
50 appraiser be suspended or revoked, that renewal be denied, or that
51 some other disciplinary action be taken.

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

56 (h) To promote research and conduct studies relating to
57 the profession of real estate appraising and sponsor real estate
58 appraisal educational activities.

59 (i) To adopt rules and regulations for the
60 administration of this chapter that are not inconsistent with the
61 provisions of this chapter or the Constitution and laws of
62 Mississippi or of the United States.

63 (j) To employ an assistant to the Mississippi Real
64 Estate Commission Administrator who shall keep a record of all
65 proceedings, transactions, communications and official acts of the
66 commission and board and perform any other duties as the
67 commission and board may require.

68 (k) To employ an appropriate staff to investigate
69 allegations that licensed appraisers or licensed state certified
70 real estate appraisers under this chapter failed to comply with
71 the terms or provisions of this chapter.



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

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

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

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

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

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

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

(iii) The power to administer oaths; and

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

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



96 (d) To establish appropriate administrative procedures
97 for disciplinary proceedings conducted under the provisions of
98 this chapter.

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

101 (f) To further define by regulation, and with respect
102 to each of the categories of licensed appraiser, the type of
103 educational experience, appraisal experience and equivalent
104 experience that will meet the statutory requirements of this
105 chapter.

106 (g) To approve or disapprove applications for licensing
107 or registration under this chapter.

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

110 (i) To present an annual budget to the Mississippi
111 Legislature for approval. A copy of the budget shall be given to
112 the commission.

113 (j) To implement all requirements directed by the
114 Appraisal Subcommittee of the Federal Financial Institutions
115 Examination Council or their designated agent.

116 (k) To make rules and regulations providing for an
117 inactive license or registration status and for the reactivation
118 thereof.

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



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

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

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

128 (p) To establish the standard for measuring residential
129 properties up to four (4) family buildings as promulgated by the
130 American National Standards Institute or as provided in the
131 American Measurement Standard Manual. The board shall require
132 appraisals required to use those standards to indicate on the
133 appraisal or separately appended document which standard was used.

134 (q) To conduct a survey by an independent third party
135 of the reasonable and customary appraisal fees required to be
136 paid. The board shall by regulation provide for the means of
137 determining compliance by appraisal management companies of
138 payment of reasonable and customary fees as determined by the
139 survey and for updating the survey as it deems necessary.

140 (3) The members of the commission and board shall be immune
141 from any civil action or criminal prosecution for initiating or
142 assisting in any lawful investigation of the actions of, or
143 participating in any disciplinary proceeding concerning, an
144 appraiser licensed under this chapter, provided that the action is
145 taken without malicious intent and in the reasonable belief that



the action was taken in accordance with the powers and duties vested in the members of the commission and board under this chapter.

SECTION 2. The following shall be codified as Section 73-34-133, Mississippi Code of 1972:

73-34-133. (1) There is hereby created and established in the State Treasury the Appraisal Management Company Recovery Fund. The fund shall be administered by the board for the purposes set forth in Section 73-34-135.

(2) In addition to the license fees required by law, upon issuance of every appraisal management company's registration, and every regular annual renewal date thereafter, the board shall charge each registrant an amount not to exceed Eight Hundred Dollars (\$800.00) per year to be deposited in the Appraisal Management Company Recovery Fund.

(3) Any monies remaining in the fund at the close of the fiscal year shall not lapse, but shall remain in the fund. Any interest earnings of the fund shall become a part of the fund and shall not lapse.

SECTION 3. The following shall be codified as Section 73-34-135, Mississippi Code of 1972:

73-34-135. (1) The Mississippi Real Estate Appraiser Licensing and Certification Board (board) shall administer the appraisal management company recovery fund solely to provide



restitution to each Mississippi licensed or certified real property appraiser who has suffered pecuniary loss:

(a) As a result of an appraisal management company ceasing to be registered with the board, either voluntarily or involuntarily;

(b) If an appraiser has received a final judgment from a court of competent jurisdiction within the state; and

(c) If no viable alternative for full restitution is available, as determined by the board.

(2) Each fund distribution for restitution shall be made payable to the appropriate appraiser as determined by the board. The amount to be paid to the appraiser shall equal the actual amount of appraisal fees that are proven to be owed to the appraiser by the relevant appraisal management company and any reasonable and appropriate court costs associated with determining the final judgment in favor of the appraiser. If the amount of restitution to be paid to any one or more appraisers at any one time exceeds the balance in the fund, the board shall:

(a) Distribute as much of the restitution amount as possible, which shall be deemed to satisfy in full any claim the relevant appraisers have on payments from the recovery fund; and

(b) In the case of distributions to more than one (1) appraiser, provide for a pro rata distribution of the available fund balance, which shall be deemed to satisfy in full any claim the relevant appraisers have on payments from the recovery fund.



(3) Whenever restitution is paid by the fund, the fund shall be subrogated to the amount of the restitution.

(4) The board shall promulgate regulations in accordance with this section to:

(a) Ensure that the balance of the fund established in Section 73-34-133 shall not fall below Three Hundred Thousand Dollars (\$300,000.00); and

(b) Impose the fees assessed upon appraisal management companies under Section 73-34-133 whenever the balance of the fund is less than Three Hundred Thousand Dollars (\$300,000.00). The board shall cease imposing the fees when the balance of the fund is Three Hundred Thousand Dollars (\$300,000.00).

(5) Within one hundred twenty (120) days after the end of each fiscal year, the board shall make public a statement of income and expenses of the Appraisal Management Company Recovery Fund, the details of which are in accordance with generally accepted accounting principles.

SECTION 4. Section 73-34-101, Mississippi Code of 1972, is amended as follows:

Sections 73-34-101 through * * * 73-34-135 shall be known and may be cited as the "Mississippi Appraisal Management Company Registration Act."

SECTION 5. Section 73-34-103, Mississippi Code of 1972, is amended as follows:



73-34-103. (1) It is unlawful for a person to directly or indirectly engage or attempt to engage in business as an appraisal management company in this state or to advertise or hold itself out as engaging in or conducting business as an appraisal management company in this state without first obtaining a registration issued by the Mississippi Real Estate Appraiser Licensing and Certification Board under the provisions of this chapter. * * * An applicant for registration as an appraisal management company in this state shall submit to the Mississippi Real Estate Commission an application on a form or forms prescribed by the board accompanied by * * * the fee required in Section 3 of this act.

* * *

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

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

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

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

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



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

(f) The name, address, and contact information for one (1) controlling person designated as the main contact for all communication between the appraisal management company and the commission;

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

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

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

(j) A certification that the person has a system in place to require that appraisals are conducted independently and free from inappropriate influence and coercion as required by the appraisal independence standards established under Section 129E of



the Truth in Lending Act, including the requirements for payment of a reasonable and customary fee to appraisers when the appraisal management company is providing services for a consumer credit transaction secured by the principal dwelling of a consumer;

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

(l) An irrevocable Consent to Service of Process required under Section 73-34-107;

(m) Any other information required by the board which is reasonably necessary to implement Sections 73-34-101 through 73-34- * * *135.

(3) An application for the renewal of a registration shall include substantially similar information required for the initial registration as noted in subsection (2), as determined by the board.

(4) A registration granted by the commission under the provisions of Sections 73-34-101 through 73-34- * * *135 shall be valid for one (1) year from the date on which it is issued.

(5) The provisions of this section shall stand repealed on July 1, 2016.

SECTION 6. This act shall take effect and be in force from and after July 1, 2014, and shall stand repealed on June 30, 2014.

