

By: Representatives Bell (21st), Barnett,
Sykes

To: Workforce Development;
Judiciary A

HOUSE BILL NO. 1305

1 AN ACT TO CREATE NEW SECTION 73-34-16, MISSISSIPPI CODE OF
2 1972, TO PROHIBIT REGISTERED APPRAISAL MANAGEMENT COMPANIES FROM
3 REQUIRING A CRIMINAL BACKGROUND INVESTIGATION AS A CONDITION OF
4 EMPLOYMENT; TO REQUIRE THAT REGISTERED APPRAISAL MANAGEMENT
5 COMPANIES INSTEAD ACCEPT A NEW LICENSE OR RENEWAL ISSUED BY THE
6 MISSISSIPPI REAL ESTATE APPRAISER LICENSING AND CERTIFICATION
7 BOARD FOR THE PURPOSES OF A CRIMINAL BACKGROUND INVESTIGATION; TO
8 REQUIRE THAT AN APPRAISAL MANAGEMENT COMPANY BE RESPONSIBLE FOR
9 THE COST OF AN ADDITIONAL BACKGROUND INVESTIGATION IF COMPLETED
10 FOR ITS OWN PURPOSES; TO BRING FORWARD SECTIONS 73-34-14,
11 73-34-27, 73-34-33, 73-34-35 AND 73-34-109, WHICH RELATE TO
12 REQUIREMENTS AND QUALIFICATIONS OF APPRAISAL MANAGEMENT COMPANIES,
13 FOR THE PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** The following shall be codified as Section
16 73-34-16, Mississippi Code of 1972:

17 73-34-16. A registered appraisal management company shall
18 not require a criminal background investigation from a licensee as
19 a condition of employment, contractual relationship or access to
20 an appraisal portal. A registered appraisal management company
21 shall instead accept a new license or the renewal of an existing
22 license after the criminal background investigation required under
23 Sections 73-34-14 and 73-34-27. If a registered appraisal



24 management company elects to seek an additional criminal
25 background investigation for its own purposes, the expense or cost
26 thereof shall not be charged to or assessed against the licensee.

27 **SECTION 2.** Section 73-34-14, Mississippi Code of 1972, is
28 brought forward as follows:

29 73-34-14. (1) (a) To qualify for a Mississippi real estate
30 appraiser license, an applicant must have successfully been
31 cleared for licensure through an investigation that shall consist
32 of a determination that the applicant does not possess a
33 background which calls into question public trust, as set forth
34 below in subsection (2), and verification that the prospective
35 licensee is not guilty of or in violation of any statutory ground
36 for denial of licensure as set forth in Section 73-34-35.

37 (b) To assist the board in conducting its licensure
38 investigation, on and after January 1, 2015, all applicants for a
39 real estate appraiser license as a licensed real estate appraiser
40 (license), licensed certified residential real estate appraiser
41 (certification), or a licensed certified general real estate
42 appraiser (certification), and all applicants for renewal of any
43 real estate appraiser license or certification shall undergo a
44 fingerprint-based criminal history records check of the
45 Mississippi central criminal database and the Federal Bureau of
46 Investigation criminal history database. Each applicant shall
47 submit a full set of the applicant's fingerprints in a form and
48 manner prescribed by the board, which shall be forwarded to the



49 Mississippi Department of Public Safety (department) and the
50 Federal Bureau of Investigation Identification Division for this
51 purpose.

52 (c) Any and all state or national criminal history
53 records information obtained by the board that is not already a
54 matter of public record shall be deemed nonpublic and confidential
55 information restricted to the exclusive use of the board, its
56 members, officers, investigators, agents and attorneys in
57 evaluating the applicant's eligibility or disqualification for
58 licensure, and shall be exempt from the Mississippi Public Records
59 Act of 1983. Except when introduced into evidence in a hearing
60 before the board to determine licensure, no such information or
61 records related thereto shall, except with the written consent of
62 the applicant or by order of a court of competent jurisdiction, be
63 released or otherwise disclosed by the board to any other person
64 or agency.

65 (d) The board shall provide to the department the
66 fingerprints of the applicant, any additional information that may
67 be required by the department, and a form signed by the applicant
68 consenting to the check of the criminal records and to the use of
69 the fingerprints and other identifying information required by the
70 state or national repositories.

71 (e) The board shall charge and collect from the
72 applicant, in addition to all other applicable fees and costs,
73 such amount as may be incurred by the board in requesting and



74 obtaining state and national criminal history records information
75 on the applicant.

76 (2) (a) The board must ensure that applicants for a real
77 estate appraiser license or certification do not possess a
78 background that could call into question public trust. An
79 applicant found by the board to possess a background which calls
80 into question the applicant's ability to maintain public trust
81 shall not be issued a real estate appraiser license or
82 certification.

83 (b) The board shall not issue a real estate appraiser
84 license or certification if:

85 (i) The applicant has had an appraiser license or
86 certification revoked in any governmental jurisdiction within the
87 five (5) year period immediately preceding the date of the
88 application;

89 (ii) The applicant has been convicted of, or pled
90 guilty or nolo contendere to, a felony in a domestic, or foreign
91 court:

92 1. During the five-year period immediately
93 preceding the date of the application for licensing or
94 certification; or

95 2. At any time preceding the date of the
96 application, if such felony involved an act of fraud, dishonesty,
97 or a breach of trust, or money laundering.



98 (iii) The applicant has failed to demonstrate
99 character and general fitness such as to command the confidence of
100 the community and to warrant a determination that the appraiser
101 will operate honestly, fairly and efficiently within the purpose
102 of these criteria.

103 (c) The board shall evaluate and consider, by rules and
104 regulations, additional background issues, including, but not
105 limited to, those required by the Appraiser Qualifications Board
106 of the Appraisal Foundation in compliance with federal
107 requirements, prior to issuing (or taking disciplinary action
108 against) a real estate appraiser.

109 (d) The board shall adopt rules and regulations
110 necessary to implement, administer and enforce the provisions of
111 this section.

112 **SECTION 3.** Section 73-34-27, Mississippi Code of 1972, is
113 brought forward as follows:

114 73-34-27. To obtain a renewal of any of the real estate
115 appraisal licenses or a renewal of any registration issued under
116 this chapter, the holder of a current, valid license or
117 registration shall make application and pay the prescribed fee to
118 the commission not earlier than one hundred twenty (120) days nor
119 later than the expiration date, as defined in Section 73-34-25, of
120 the license then held. Each application for renewal shall be
121 accompanied by evidence, in the form prescribed by the board, of



122 having completed the continuing education requirements for renewal
123 specified in this chapter.

124 If a licensed appraiser or licensed certified real estate
125 appraiser under this chapter fails to renew his license, or an
126 appraisal management company fails to renew its registration
127 before its expiration or within any period of extension granted
128 under this chapter, that person or company may obtain a renewal of
129 their license or registration by satisfying all of the
130 requirements for renewal and filing an application for renewal,
131 accompanied by a late renewal fee, within sixty (60) days of the
132 date that the license or registration expired.

133 From and after January 1, 2015, all applicants for a real
134 estate appraisal license renewal shall undergo a fingerprint-based
135 criminal history records check of the Mississippi central criminal
136 database and the Federal Bureau of Investigation criminal history
137 database pursuant to the provisions of Section 73-34-14.

138 **SECTION 4.** Section 73-34-33, Mississippi Code of 1972, is
139 brought forward as follows:

140 73-34-33. (1) As a prerequisite to renewal of license, an
141 active status licensed appraiser shall present evidence
142 satisfactory to the board that such appraiser has met the
143 continuing education requirements of this section. The basic
144 continuing education requirement for renewal of a license shall be
145 completed by the applicant, during the immediately preceding term
146 of licensure, of not less than twenty (20) classroom hours of



147 instruction in courses or seminars which have received the
148 approval of the board. Inactive status licensees are not required
149 to meet the continuing education requirements specified in this
150 section; however, such inactive licensees, before activating their
151 license to active status, shall cumulatively meet the requirements
152 missed during the period their license was inactive.

153 (2) In lieu of meeting the requirements set forth above, an
154 applicant for renewal may satisfy all or part of the requirements
155 by presenting evidence of the following:

156 (a) Completion of an educational program of study
157 determined by the board to be equivalent, for continuing education
158 purposes, to courses or seminars approved by the board; or

159 (b) Participation, other than as a student, in
160 educational processes and programs approved by the board which
161 relate to real property appraisal theory, practices or techniques,
162 including, but not necessarily limited to, teaching, program
163 development and preparation of textbooks, monographs, articles and
164 other instructional materials.

165 (3) The board shall develop regulations for the
166 implementation of the provisions of this section to ensure that an
167 individual who renews his license as a licensed appraiser or as a
168 licensed certified real estate appraiser under this chapter has a
169 working knowledge of current real estate appraisal theories,
170 practices and techniques that will enable him to provide competent
171 real estate appraisal services to the members of the public with



172 whom he deals in a professional relationship under the authority
173 of his licensure. The regulations developed by the board shall
174 prescribe the following:

175 (a) Policies and procedures to be followed in obtaining
176 board approval of courses of instruction and seminars;

177 (b) Standards, policies and procedures to be used by
178 the board in evaluating an applicant's claims of equivalency; and

179 (c) Standards, monitoring methods, and systems for
180 recording attendance to be employed by course and seminar sponsors
181 as a prerequisite to board approval of courses and seminars for
182 credit.

183 In developing and proposing regulations under this section,
184 the board shall give consideration to courses of instruction,
185 seminars and other appraisal education programs developed by or
186 under the authority of organizations or associations of
187 professional real estate appraisers which are utilized by such
188 organizations or associations for the purpose of awarding real
189 estate appraisal designations or indicating compliance with the
190 continuing education requirements of such organizations or
191 associations.

192 (4) No amendment or repeal of a regulation adopted by the
193 board pursuant to this section shall operate to deprive a licensed
194 appraiser or licensed certified real estate appraiser of credit
195 toward renewal of such appraiser's license for any course of



196 instruction or seminar that had been completed by such individual
197 prior to the amendment or repeal of the regulation.

198 **SECTION 5.** Section 73-34-35, Mississippi Code of 1972, is
199 brought forward as follows:

200 73-34-35. (1) An application for licensure or renewal may
201 be denied, and the rights of any licensed appraiser or licensed
202 certified real estate appraiser may be revoked or suspended, or
203 the holder of the license may be otherwise disciplined, in
204 accordance with the provisions of this chapter for any of the
205 following acts or omissions:

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

208 (b) Procuring or attempting to procure licensure under
209 this chapter by knowingly making a false statement, submitting
210 false information or making a material misrepresentation in an
211 application filed with the commission or procuring or attempting
212 to procure licensure through any form of fraud or
213 misrepresentation;

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

217 (d) An act or omission in the practice of real estate
218 appraising which constitutes dishonesty, fraud or
219 misrepresentation with the intent to substantially benefit the



220 licensee or another person or with the intent to substantially
221 injure another person;

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

224 (f) Conviction, including a conviction based upon a
225 plea or finding of guilty, of a crime which is substantially
226 related to the qualifications, functions or duties of a person
227 developing real estate appraisals and communicating real estate
228 appraisals to others;

229 (g) Engaging in the business of real estate appraising
230 under an assumed or fictitious name not properly registered in
231 this state;

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

233 (i) Making a false or misleading statement in that
234 portion of a written appraisal report that deals with professional
235 qualifications or in any testimony concerning professional
236 qualifications;

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

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



244 (1) Any act or conduct, whether the same or of a
245 different character than specified above, which constitutes or
246 demonstrates bad faith, incompetency or untrustworthiness; or
247 dishonest, fraudulent or improper dealing; or any other violation
248 of the provisions of this chapter and of rules and regulations
249 established by the board.

250 (2) In accordance with the laws of this state, and to the
251 extent permitted by any applicable federal legislation or
252 regulation, the board may censure an appraisal management company,
253 conditionally or unconditionally suspend or revoke any
254 registration issued under this chapter, or deny renewal of any
255 registration issued under this chapter, or levy fines or impose
256 civil penalties not to exceed Five Thousand Dollars (\$5,000.00),
257 if after appropriate investigation the board concludes that an
258 appraisal management company is attempting to perform, has
259 performed, or has attempted to perform any of the following acts:

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

261 (b) Violated any rule or regulation adopted by the
262 board in the interest of the public and consistent with the
263 provisions of this chapter; or

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

266 (3) In order to promote voluntary compliance, encourage
267 appraisal management companies to correct errors promptly, and
268 ensure a fair and consistent approach to enforcement, the board is



269 authorized to impose fines or civil penalties that are reasonable
270 in light of the nature, extent and severity of the violation. The
271 board is also authorized to take action against an appraisal
272 management company's registration, if at all, only after less
273 severe sanctions have proven insufficient to ensure behavior
274 consistent with this chapter. When deciding whether to impose a
275 sanction permitted by subsection (2), determining the sanction
276 that is most appropriate in a specific instance, or making any
277 other discretionary decision regarding the enforcement of this
278 chapter, the board shall consider whether an appraisal management
279 company:

280 (a) Has an effective program reasonably designed to
281 ensure compliance with this chapter;

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

284 (c) Has independently reported to the board any
285 significant violations or potential violations of this chapter,
286 before an imminent threat of disclosure or investigation and
287 within a reasonably prompt time after becoming aware of their
288 occurrence.

289 (4) In addition to the reasons specified in subsection (1)
290 of this section, the board shall be authorized to suspend the
291 license of any licensee for being out of compliance with an order
292 for support, as defined in Section 93-11-153. The procedure for
293 suspension of a license for being out of compliance with an order



294 for support, and the procedure for the reissuance or reinstatement
295 of a license suspended for that purpose, and the payment of any
296 fees for the reissuance or reinstatement of a license suspended
297 for that purpose, shall be governed by Section 93-11-157 or
298 93-11-163, as the case may be. If there is any conflict between
299 any provision of Section 93-11-157 or 93-11-163 and any provision
300 of this chapter, the provisions of Section 93-11-157 or 93-11-163,
301 as the case may be, shall control.

302 **SECTION 6.** Section 73-34-109, Mississippi Code of 1972, is
303 brought forward as follows:

304 73-34-109. (1) An appraisal management company applying for
305 registration in this state shall not:

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

310 (b) Be owned by more than ten percent (10%) by a person
311 who is not of good moral character, which for purposes of this
312 section shall require that such person has not been convicted of,
313 or entered a plea of nolo contendere to a felony relating to the
314 practice of appraisal, banking, mortgage or the provision of
315 financial services, or any crime involving fraud,
316 misrepresentation or moral turpitude.

317 (2) (a) For purposes of subsection (1)(b) to qualify for
318 initial registration and every third annual renewed registration



319 thereafter as an appraisal management company, each individual
320 owner of more than ten percent (10%) of an appraisal management
321 company must have successfully been cleared for registration
322 through an investigation that shall consist of a determination as
323 to good moral character and verification that the owner is not
324 guilty of or in violation of any statutory ground for denial of
325 registration as set forth in this chapter. If no individual owns
326 more than ten percent (10%) of the appraisal management company,
327 then an investigation of an owner is not required, but in such
328 instances, the controlling person designated by the appraisal
329 management company shall be subject to the requirements of this
330 subsection. If following the initial registration, any individual
331 becomes either an owner of more than ten percent (10%) of the
332 appraisal management company or the designated controlling person
333 of the appraisal management company, then each such person shall
334 be subject to the requirements of this subsection at the appraisal
335 management company's next annual renewal. To assist the board in
336 conducting its registration investigation, each individual owner
337 of more than ten percent (10%) of an appraisal management company
338 shall undergo a fingerprint-based criminal history records check
339 of the Mississippi central criminal database and the Federal
340 Bureau of Investigation criminal history database. Each applicant
341 shall submit a full set of the applicant's fingerprints, in a form
342 and manner prescribed by the board, which shall be forwarded to
343 the Mississippi Department of Public Safety (department) and the



344 Federal Bureau of Investigation Identification Division for this
345 purpose.

346 (b) Any state or national criminal history records
347 information obtained by the board that is not already a matter of
348 public record shall be deemed nonpublic and confidential
349 information restricted to the exclusive use of the board, its
350 members, officers, investigators, agents and attorneys in
351 evaluating the applicant's eligibility or disqualification for
352 registration, and shall be exempt from the Mississippi Public
353 Records Act, Section 25-61-1 et seq. Except upon written consent
354 of the applicant, or by order of a court of competent
355 jurisdiction, or when introduced into evidence in a hearing before
356 the board to determine registration, no such information or
357 records related thereto shall be released or otherwise disclosed
358 by the board to any other person or agency.

359 (c) The board shall provide to the department the
360 fingerprints of the applicant, any additional information that may
361 be required by the department, a form signed by the applicant
362 consenting to the check of the criminal records and to the use of
363 the fingerprints and other identifying information required by the
364 state or national repositories.

365 (d) The board shall charge and collect from the applicant,
366 in addition to all other applicable fees and costs, such amount as
367 may be incurred by the board in requesting and obtaining state and
368 national criminal history records information on the applicant.



369 **SECTION 7.** This act shall take effect and be in force from
370 and after July 1, 2018.

