

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

To: Workforce Development;  
Judiciary A

HOUSE BILL NO. 1367

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 AND 73-34-35, MISSISSIPPI CODE OF 1972, WHICH  
12 RELATE TO REQUIREMENTS AND QUALIFICATIONS OF APPRAISAL MANAGEMENT  
13 COMPANIES, FOR THE PURPOSES OF AMENDMENT; AND FOR RELATED  
14 PURPOSES.

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

16 **SECTION 1.** The following shall be codified as Section  
17 73-34-16, Mississippi Code of 1972:

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



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

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

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

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



50 manner prescribed by the board, which shall be forwarded to the  
51 Mississippi Department of Public Safety (department) and the  
52 Federal Bureau of Investigation Identification Division for this  
53 purpose.

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

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

73 (e) The board shall charge and collect from the  
74 applicant, in addition to all other applicable fees and costs,



75 such amount as may be incurred by the board in requesting and  
76 obtaining state and national criminal history records information  
77 on the applicant.

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

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

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

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

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

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



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

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

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

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

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



124 having completed the continuing education requirements for renewal  
125 specified in this chapter.

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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





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

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

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

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

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

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

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



222 licensee or another person or with the intent to substantially  
223 injure another person;

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

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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



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

304       **SECTION 6.** This act shall take effect and be in force from  
305 and after July 1, 2019.

