

**CHAPTER 21****( HB 172 )**

AN ACT relating to the Kentucky Real Estate Appraisers Board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 324A.015 is amended to read as follows:

- (1) There is created a Real Estate Appraisers Board consisting of five (5) members, two (2) of whom shall be certified real estate appraisers, one (1) of whom shall represent the public and shall not be associated with or financially interested in the practice of real estate appraisals, and two (2) of whom shall be employed in the lending industry. The board shall administer the provisions of this chapter and may promulgate administrative regulations necessary to effectuate the provisions of KRS 324A.010 to 324A.090.
- (2)
  - (a) The board members shall be appointed by the Governor. Not more than one (1) board member shall be from any one (1) county within Kentucky. Members shall be appointed by the Governor for staggered terms of three (3) years. No person shall serve more than two (2) full consecutive terms.
  - (b) Any member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the remainder of the unexpired term.
  - (c) No more than three (3) members of the same political party shall serve on the board at the same time.
- (3) The appraiser appointees to the board shall be certified and shall have engaged in the appraisal of real estate in Kentucky on a continuing basis for at least ten (10) years.
- (4) A board member shall be automatically removed from the board and a vacancy shall occur when:
  - (a) An appraiser member of the board ceases to be certified;
  - (b) A consumer member of the board acquires a certification as an appraiser;
  - (c) A lending industry member ceases to be employed in the lending industry;
  - (d) A board member enters a plea of guilty to, or has been found guilty of, a felony and the time for appeal has passed or the judgment of conviction has been finally affirmed on appeal;
  - (e) A board member ceases to be a bona fide resident of the Commonwealth of Kentucky;
  - (f) A board member displays incompetence, neglect of duty, or unprofessional conduct;
  - (g) A board member fails to adhere to a duly adopted code of ethics of the board. Failure to adhere to this code shall be determined by official action of the board; or
  - (h) A board member misses three (3) consecutive meetings or misses more than twenty-five percent (25%) of the meetings held over the previous twelve (12) month period.
- (5) The board shall adopt a seal with the design it prescribes, by which it shall authenticate its proceedings. Copies of all records and papers in the office of the board, duly certified and authenticated by the seal of the board, shall be received in evidence in all courts equally and with like effect as the original. All records kept in the office of the board under the authority of this chapter shall be open to public inspection in accordance with KRS 61.820 to 61.884 and consistent with regulations prescribed by the board.
- (6) The Governor shall set the compensation of the members of the board, but voting members of the board shall be compensated no more than three hundred dollars (\$300) per day for official business, subject to an annual maximum of six thousand dollars (\$6,000). Members shall be reimbursed for all expenses paid and incurred in the discharge of official business consistent with the reimbursement policy for state employees. With the approval of the executive director of the Kentucky Real Estate Authority within the Department of Professional Licensing, board members and board staff may attend and travel to and from meetings and events relevant to the board or the industry the board represents.
- (7) ***The board shall ensure that those employed to investigate grievances filed with the board are state-certified general appraisers with a minimum of five (5) years of experience.***

➔Section 2. KRS 324A.035 is amended to read as follows:

- (1) The board shall promulgate administrative regulations pursuant to the provisions of this chapter and KRS Chapter 13A for certification or licensure of appraisers who perform appraisals of real property in federally related transactions. Requirements established by the board relating to appraisers of federally related transactions shall not exceed the minimum requirements established by federal law or regulation;
- (2) The board shall promulgate administrative regulations pursuant to KRS Chapter 13A for certification or licensure of appraisers of real property in nonfederally related transactions.†
- ~~(a) Appraisers who wish to be limited to appraisals of nonfederally related transactions, and who have engaged in the appraisal of real estate for at least ten (10) years prior to April 7, 1992, shall be certified or licensed as appraisers of nonfederally related transactions†.~~
- ~~(b) Appraisers who wish to be limited to appraisals of nonfederally related transactions, and who have not engaged in the appraisal of real estate for at least ten (10) years prior to April 7, 1992, shall be certified or licensed as appraisers of nonfederally related transactions if they meet the certification or licensure requirements established by the board.†.~~
- (3) The board shall establish by administrative regulations requirements for:
  - (a) Classifications of appraisers;
  - (b) Certification and licensure;
  - (c) Renewal, suspension, or revocation of certification or licensure;
  - (d) Standards of professional appraisal practice, including experience, education, and ethics;
  - (e) Examination of applicants for certification or licensure; and
  - (f) Continuing education of appraisers.

➔Section 3. KRS 324A.047 is amended to read as follows:

- (1) Upon written request, any certificate holder or licensee may request to place his or her certificate or license in inactive status for a period not to exceed three (3) years.
  - (a) The written request shall be made by completing a signed and sworn affidavit on a form approved by the board.
  - (b) The board may require a fee of fifty dollars (\$50) for each change in status of the certificate holder or licensee.
  - (c) A license issued to an individual as *an associate* ~~[a trainee]~~ real property appraiser shall not be eligible for inactive status.
- (2) No inactive status certificate holder or licensee shall:
  - (a) Assume or use any title, designation, or abbreviation likely to create the impression that he or she holds a certificate or license issued by the board;
  - (b) Describe or refer to any appraisal or evaluation of real estate by the term, "state certified," "state licensed," or words of substantially similar meaning; or
  - (c) Prepare real estate appraisals for federally related transactions which, under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, require the services of a state-certified or state-licensed appraiser.
- (3) To return to active status, a certificate holder or licensee shall:
  - (a) Petition the board for reactivation of the certificate or license;
  - (b) Pay the applicable renewal fee and roster fee required by this chapter; and
  - (c) Provide evidence of completion of the annually required continuing education hours, as established by the board and promulgated in administrative regulations, for each year of inactive status.
- (4) A certificate holder or licensee who petitions to return to active status after an inactive period exceeding three (3) years shall be required to meet all the requirements for original issuance of a license or certificate under this chapter.
- (5) Violation of this subsection (2) of this section shall be grounds for disciplinary action under this chapter.

➔Section 4. KRS 324A.050 is amended to read as follows:

- (1) The board may refuse to issue, refuse to renew, suspend, or revoke a certificate or license, reprimand, admonish, place on probation, or impose a fine up to two thousand dollars (\$2000) per each violation determined by the board, not to exceed five thousand dollars (\$5000), on a certificate holder or licensee, or any combination thereof, for any of the following reasons:
  - (a) Procuring or attempting to procure a certificate or license by knowingly making a false statement or submitting false information, or through any form of fraud or misrepresentation;
  - (b) Refusing to provide complete information in response to a question in an application to the board or failing to meet the minimum qualifications established by the board;
  - (c) Being convicted of a felony or misdemeanor, if in accordance with KRS Chapter 335B;
  - (d) Committing an act involving dishonesty, fraud, or misrepresentation;
  - (e) Violating any of the provisions of KRS 324A.010 to 324A.090, the administrative regulations of the board, or any lawful order of the board;
  - (f) Violating the confidential nature of records to which the appraiser gained access through employment or engagement as an appraiser;
  - (g) Committing any other conduct which constitutes or demonstrates bad faith, untrustworthiness, impropriety, fraud, or dishonesty;
  - (h) Failing or refusing, without good cause, to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;
  - (i) Being negligent or incompetent in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;
  - (j) Failing to observe one (1) or more of the Uniform Standards of Professional Appraisal Practice *in effect at the time of the appraisal report transmittal letter date*; or
  - (k) Having a license or registration certificate to practice as a licensed or certified real property appraiser denied, limited, suspended, probated, or revoked in another jurisdiction on grounds sufficient to cause licensure to be denied, limited, suspended, probated, or revoked in this state.
- (2) Notwithstanding any other provision of this chapter to the contrary, the requirements of KRS Chapter 324A, the board's administrative regulations, and the *current edition of the* Uniform Standards of Professional Appraisal Practice shall constitute the minimum standard of conduct and performance for a licensee or credential holder in any work or service performed that is addressed by those standards.
- (3) In any proceeding in which a suspension of thirty (30) days or more, or revocation is imposed, the board may require the respondent to pay the actual costs of the investigation and all proceedings not to exceed ten thousand dollars (\$10,000).
- (4) Three (3) years from the date of a revocation, any certificate holder or licensee whose certificate or license has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate, upon a finding that the petitioner has complied with any and all terms prescribed by the board and is able to engage in the practice of real estate appraisal within the requirements of this chapter and the administrative regulations. The board may, in its discretion, require the petitioner to successfully pass the examination required for the applicable certificate or license.

➔Section 5. KRS 324A.052 is amended to read as follows:

- (1) Any person or organization, including the board upon its own volition, may file with the board a written complaint alleging a violation of any provision of this chapter. *Complaints shall be filed with the board within:*
  - (a) *Five (5) years after the date of transmittal of the appraisal report or appraisal review assignment; or*
  - (b) *Two (2) years after the final disposition of any judicial proceeding in which the appraiser provided testimony related to the assignment, whichever expires last.*

*Paragraphs (a) and (b) of this subsection shall not apply to complaints involving the actions outlined in paragraphs (c), (d), (g), and (k) of subsection (1) of Section 4 of this Act.*

The board shall investigate each complaint.

- (2) If the investigation reveals evidence supporting the complaint, the board shall set the matter for hearing in accordance with the provisions of KRS Chapter 13B before fining, reprimanding, suspending, revoking, refusing to renew, or any combination thereof.
- (3) If the investigation reveals that the alleged violation did occur but was not of a serious nature, the board may issue a written admonishment to the certificate holder or licensee. A copy of the admonishment shall be placed in the recipient's ~~permanent~~ file with the board. The recipient shall have the right to file a response to the admonishment within thirty (30) days of its receipt and have the response placed in the ~~permanent~~ file. The recipient may, alternatively, within thirty (30) days of the receipt, file a request for hearing with the board. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing in accordance with the provisions of KRS Chapter 13B.
- (4) After denying an application for a certificate or license or issuing an admonishment, the board shall grant an administrative hearing in accordance with KRS Chapter 13B only upon written request of the applicant made within thirty (30) days of the mailing of the letter of denial or admonishment.
- (5) Pursuant to KRS 13B.120(7), the executive director of the Kentucky Real Estate Authority within the Department of Professional Licensing shall hear and issue a final order regarding a decision of the board. An aggrieved party may appeal a final order of the executive director pursuant to KRS Chapter 13B within thirty (30) days after the issuance of the order to the Circuit Court of the county where the licensee has his or her principal place of business or where the license applicant resides.

➔Section 6. KRS 324A.065 is amended to read as follows:

- (1) The board shall establish by regulation and collect the following fees for certification or licensure as an appraiser for:
  - (a) Federally related transactions:
    1. Initial application fee in an amount not to exceed two hundred ~~twelve~~ dollars **(\$200)**~~(\$212), which shall include a fee for the current edition of the Uniform Standards of Professional Practice~~;
    2. Examination fee in an amount not to exceed two hundred dollars (\$200);
    3.
      - a. An annual certificate or licensure fee in an amount not to exceed two hundred ~~twelve~~ dollars **(\$200)**~~(\$212), which shall include a fee for the current edition of the Uniform Standards of Professional Appraisal Practice~~;
      - b. Duplicate certificate fee in an amount not to exceed ten dollars (\$10); and
      - c. Certificate correction fee in an amount not to exceed ten dollars (\$10); ~~and~~
    4. Roster fee not to exceed fifty dollars (\$50); **and**
    5. **Returned check fee not to exceed fifty dollars (\$50); and**
  - (b) Nonfederally related transactions:
    1. ~~Initial application fee in an amount not to exceed one hundred dollars (\$100);~~
    2. ~~Examination fee in an amount not to exceed one hundred dollars (\$100);~~
    3. ~~a. An annual certificate or licensure renewal fee in an amount not to exceed one hundred dollars (\$100); and~~
    2. ~~b. Duplicate certificate fee in an amount not to exceed five dollars (\$5); and~~
    - e ~~Certificate correction fee in an amount not to exceed five dollars (\$5); and~~
    4. ~~Roster fee not to exceed twenty five dollars (\$25).~~
- (2) **The board shall, through the promulgation of an administrative regulation, establish and collect the following fees from education providers for review and approval of prelicensure and continuing education courses offered by education providers for licensure as an appraiser:**
  - (a) **For prelicensure education course review, a fee not to exceed one hundred dollars (\$100); and**
  - (b) **For continuing education course review, a fee not to exceed fifty dollars (\$50).**

- (3) (a) All fees and charges collected by the board under the provisions of this chapter shall be paid into the Real Estate Appraisers Board's trust and agency account in the State Treasury.
- (b) All expenses incurred by the board under the provisions of this chapter, including compensation to the board members and staff, shall be paid out of this account, subject to approval of the board.
- (c) The provisions of this subsection shall not apply to the fee charged pursuant to KRS 324A.155, which is required to be included in the appraisal management company recovery fund and which shall be paid into that fund.

➔Section 7. KRS 324A.150 is amended to read as follows:

As used in KRS 324A.150 to 324A.164, unless the context otherwise requires:

- (1) "Appraisal management company" means a person who performs the actions necessary to administer a network of state-licensed appraisers to fulfill requests for appraisal management services on behalf of a client, whether directly or through the use of software products or online, including but not limited to any of the following actions:
  - (a) Recruiting appraisers;
  - (b) Contracting with appraisers to perform appraisal services;
  - (c) Collecting fees from clients;
  - (d) Negotiating fees with appraisers or reimbursing appraisers for appraisal services;
  - (e) Receiving appraisal orders and appraisal reports;
  - (f) Submitting appraisal reports received from appraisers to the company's clients;
  - (g) Reviewing or verifying appraisal reports; or
  - (h) Managing the process of having an appraisal performed, including providing related administrative and clerical duties;
- (2) "Appraisal management services" means conducting business by telephone, by electronic means, by mail, or in person, directly or indirectly for compensation or other pecuniary gain or in the expectation of compensation or other pecuniary gain to:
  - (a) Solicit, accept, or offer to accept a request for appraisal services; or
  - (b) Employ or contract with a licensed or certified appraiser to perform appraisal services;
- (3) "Appraisal services" means the practice of developing an opinion of the value of real estate in conformity with the minimum USPAP standards;
- (4) "Appraiser" means an individual licensed by the board who, for a fee or other consideration, develops and communicates a real estate appraisal or otherwise gives an opinion of the value of real estate or any interest in real estate in conformity with the minimum USPAP standards;
- (5) "Appraiser panel" means a **network, list, or roster of licensed or certified**~~group of independent~~ appraisers **approved**~~who have been selected~~ by an appraisal management company to perform **appraisals as independent contractors**~~appraisal services~~ for the appraisal management company;
- (6) "Board" means the Kentucky Real Estate Appraisers Board established by KRS 324A.015;
- (7) "Client" means a person that contracts with or otherwise enters into an agreement with an appraisal management company for the performance of appraisal services;
- (8) "Controlling person" means an individual employed, appointed, or authorized by an appraisal management company to contract with clients or independent appraisers for the performance of appraisal services;
- (9) "Managing principal" has the same meaning as "controlling person";
- (10) "Registrant" means an appraisal management company or person that is registered or seeking registration under KRS 324A.152; and
- (11) "USPAP" means the Uniform Standards of Professional Appraisal Practice.

➔Section 8. KRS 324A.152 is amended to read as follows:

- (1) A person shall not act or offer to act as an appraisal management company or perform appraisal management services within the Commonwealth unless registered by the board.
- (2) To be registered by the board, a person shall make written application to the board, submit to a criminal background check as provided in subsection (3) of this section, pay a filing fee established by the board, and pay the fee required to be included in the appraisal management company recovery fund created in KRS 324A.155. The written application shall include the following information:
  - (a) The name, street address, and telephone contact information of the person seeking registration;
  - (b)
    1. If the registrant is a domestic organization, the designation of an agent for service of process; or
    2. If the registrant is a foreign organization, documentation that the foreign organization is authorized to transact business in the Commonwealth and has appointed an agent for service of process by submitting a copy of:
      - a. The registrant's filing with the Secretary of State appointing an agent for service of process; and
      - b. A certificate of authority issued by the Secretary of State.

A foreign organization's failure to comply with this subparagraph may result in rejection of the application;
  - (c) The name, residential street address, and contact information of any person who owns ten percent (10%) or more of the appraisal management company for which registration is being requested;
  - (d) The name, residential street address, and contact information of a controlling person or managing principal;
  - (e) A certification that the registrant:
    1. Has a system and process in place to verify that any person being added to the appraiser panel of the appraisal management company, or who may be used by the appraisal management company to otherwise perform appraisals, holds a license in good standing in this state under this chapter;
    2. Has a system and process in place to review the work of all appraisers that are performing appraisal services for the appraisal management company on a periodic basis to ensure that the appraisal services are being conducted in accordance with the minimum USPAP standards; and
    3. Maintains a detailed record of each request for appraisal services that it receives and the appraiser that performs the appraisal services for the appraisal management company;
  - (f) A certification from the registrant and any partner, member, manager, officer, director, managing principal, controlling person, or person occupying a similar status or performing similar functions, or person directly or indirectly controlling the registrant that:
    1. The application for registration when filed or after filing contains no statement that, in light of the circumstances under which it was made, is false or misleading with respect to a material fact;
    2. The person certifying has not violated or failed to comply with KRS 324A.154, 324A.156, or 324A.158;
    3. The person certifying and each person who owns ten percent (10%) or more of the registrant has not pled guilty or nolo contendere to or been found guilty of:
      - a. A felony; or
      - b. Within the past ten (10) years, a misdemeanor involving mortgage lending or real estate appraising, or an offense involving breach of trust or fraudulent or dishonest dealing;
    4. The person certifying is not permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving appraisal management services or operating an appraisal management company;
    5. The person certifying is not the subject of an order of the board or any other state's appraisal management company regulatory agency denying, suspending, or revoking the person's privilege to operate as an appraisal management company; ~~and~~

6. The person certifying has not acted as an appraisal management company while not properly registered by the board; *and*
  7. *The appraisal management company is not owned, in whole or in part, directly or indirectly, by any person who has had an appraiser license or certificate refused, denied, canceled, surrendered in lieu of revocation, or revoked in any state for a cause other than expiration, as determined by the relevant state appraiser regulatory program;* and
- (g) Any other information required by the board.
- (3) The board shall require a national and state criminal background check on the person certifying under subsection (2)(f) of this section and each person who owns ten percent (10%) or more of the registrant under the following requirements:
- (a) The person certifying and each person who owns ten percent (10%) or more of the registrant shall provide his or her fingerprints to the Department of Kentucky State Police for submission to the Federal Bureau of Investigation after a state criminal background check is conducted;
  - (b) The results of the national and state criminal background check shall be sent to the board; and
  - (c) Any fee charged by the Department of Kentucky State Police and the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the check.
- (4) The board shall issue a certificate of registration to a registrant authorizing the registrant to act or offer to act as an appraisal management company in this state upon:
- (a) Receipt of a properly completed application;
  - (b) Payment of the required filing fee;
  - (c) Payment of the fee required to be included in the appraisal management company recovery fund; and
  - (d) A determination by the board that:
    1. The registrant has not had a previous registration suspended or revoked; and
    2. The activities of the applicant shall be directed and conducted by persons who:
      - a. Have not had a previous registration suspended or revoked;
      - b. Have not pled guilty or nolo contendere to or been found guilty of a felony; or
      - c. Within the past ten (10) years have not pled guilty, pled nolo contendere to, or been found guilty of a misdemeanor involving mortgage lending or real estate appraising or an offense involving a breach of trust or fraudulent or dishonest dealing.
- (5) (a) If the board finds that there is substantial reason to deny the application for registration, the board shall notify the registrant that the application has been denied and shall afford the registrant an opportunity for a hearing before the board to show cause why the registration should not be denied.
- (b) All proceedings concerning the denial of a certificate of registration shall be conducted in accordance with KRS Chapter 13B.
- (c) The acceptance by the board of an application for registration does not constitute the approval of its contents or waive the authority of the board to take disciplinary action under KRS 324A.162.
- (6) (a) Registrations issued under this section shall be renewed annually.
- (b) Renewal shall occur on October 31 of each year.
- (c) If the initial registration occurs less than six (6) months before October 31, the renewal shall not be required until October 31 of the following year, and shall then be renewed on October 31 of each year thereafter.
- (7) (a) Failure to renew a registration in a timely manner shall result in a loss of authority to operate.
- (b) A request to reinstate a certificate of registration shall be accompanied by payment of a penalty of fifty dollars (\$50) for each month of delinquency, up to six (6) months after expiration.
- (c) After six (6) months' delinquency, a new application for registration shall be required.

- (8) The board shall promulgate administrative regulations to establish standards for the operation of appraisal management companies and for the implementation and enforcement of KRS 324A.150 to 324A.164.

➔Section 9. KRS 324A.154 is amended to read as follows:

The board shall promulgate administrative regulations, *with the approval of the executive director of the Kentucky Real Estate Authority*, establishing a reasonable filing fee to be paid by each appraisal management company seeking registration under KRS 324A.152. The filing fee shall include the annual fee for inclusion in the national registry maintained by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

➔Section 10. KRS 324A.164 is amended to read as follows:

Unless otherwise required to be registered as an appraisal management company by state or federal law, KRS 324A.150 to 324A.164 shall not apply to:

- (1) The federal government, state government, any county or municipal government, or any agency or instrumentality thereof;
- (2) A person authorized to engage in business as ~~[-, or as a subsidiary of,]~~ a bank, credit union, or savings and loan association under the laws of the United States, the Commonwealth of Kentucky, or any other state;
- (3) A real estate broker or real estate agent properly licensed or otherwise authorized to do business in the Commonwealth of Kentucky listing or selling real estate;
- (4) An officer or employee of any entity listed in subsection (1), (2), or (3) of this section when acting within the scope of his or her employment;
- (5) An entity that is responsible for ensuring that the real estate appraisal activity being performed by an employee is performed in accordance with applicable appraisal standards;
- (6) An individual who:
  - (a) Is an appraiser; and
  - (b) In the normal course of business enters into an agreement, whether written or otherwise, with another appraiser for the performance of a real estate appraisal activity that the individual cannot complete for any reason, including:
    1. Competency;
    2. Workload;
    3. Schedule; or
    4. Geographic location;
- (7) An individual who:
  - (a) In the normal course of business enters into an agreement, whether written or otherwise, with an appraiser for the performance of real estate appraisal activity; and
  - (b) Under the agreement cosigns the report of the appraiser performing the real estate appraisal upon completion of the real estate appraisal activity; ~~[-or]~~
- (8) An appraisal management company that contracts with one (1) or more appraisers for the performance of fewer than ten (10) appraisals in this state in a calendar year; *or*
- (9) *A federally regulated appraisal management company as defined in 12 C.F.R. sec. 34.211(k).*

**Signed by Governor March 15, 2021.**