

201 KAR 30:330. Registration and supervision of appraisal management companies.

RELATES TO: KRS 324A.030, 324A.035, 324A.152, 324A.154, 324A.155, 324A.163, 324B.060(2), 15 U.S.C. 1639e(i), 12 C.F.R. 226.42(f), 12 C.F.R. 34.210-216

STATUTORY AUTHORITY: KRS 324A.152(2), (8), 324A.154, 324A.155, 324A.163, 12 C.F.R. 34.210-216

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324B.060(2) requires the executive director of the Kentucky Real Estate Authority to review and approve or disapprove any administrative regulation proposed by the Real Estate Appraisers Board prior to the promulgation of the administrative regulation. KRS 324A.152(2) requires the board to establish by administrative regulation the application process for appraisal management companies. KRS 324A.155 and 324A.163 require the board to establish by administrative regulation the amount to be charged to registrants for the appraisal management company recovery fund. KRS 324A.154(1) requires the board to establish by administrative regulation the filing fees for registration of appraisal management companies. KRS 324A.152(8) requires the board to establish by administrative regulation standards governing the operation of an appraisal management company and for the implementation and enforcement of KRS 324A.150 to 324A.164. This administrative regulation establishes the application process for registration and renewal of registration for appraisal management companies; the process for reinstatement of an expired registration for appraisal management companies, including the applicable registration and renewal fees; and the amount to be charged to registrants for the appraisal management company recovery fund and the appraisal procedures for appraisal management companies.

Section 1. Registration Requirements.

- (1) A person required to be registered under KRS 324A.152 shall submit:
 - (a) A completed Initial and Renewal Application for Appraisal Management Company Registration; and
 - (b) An initial application fee of \$2,000; and
 - (c) Payment for the AMC Recovery Fund required by KRS 324A.155 in the amount of \$400.
- (2) The applicant for registration shall designate a controlling person or managing principal, who shall be a certified appraiser.
- (3) If information required or requested by the board, through application or otherwise, becomes inaccurate, the registrant shall file with the board an amendment correcting that information within ten (10) business days.

Section 2. Registration Renewal.

- (1) Each registration shall expire on October 31 of each year unless renewed before that time.
- (2) The board shall send a renewal notice to the controlling person or managing principal identified by the registrant by September 1 of each year.
- (3)
 - (a) The registrant shall apply for renewal in accordance with KRS 324A.152 and this administrative regulation by October 1 to ensure that all renewal requirements are satisfied before the expiration date of the registration.
 - (b) Failure to receive a renewal notice established in subsection (2) of this section from the board shall not relieve the registrant of the responsibility to timely apply for renewal.
- (4) An Initial and Renewal Application for Appraisal Management Company Registration shall not be complete, and a renewal shall not be issued, until all requirements under KRS 324A.152 and in this administrative regulation are satisfied.

(5) A holder of an appraisal management company (AMC) registration seeking to renew shall:

- (a) Complete the Initial and Renewal Application for Appraisal Management Company Registration;
- (b) Submit the annual renewal fee of \$2,000;
- (c) Submit payment for the AMC Recovery Fund required by KRS 324A.155 in the amount of \$400; and
- (d) Submit a national reporting and registry fee consistent with Section 7 of this administrative regulation detailing how many Kentucky licensed or certified appraisers performed a covered transaction during July 1 of the preceding year through June 30 of the present renewal year.

(6)

- (a) If a registrant does not intend to renew its registration, the controlling person or managing principal shall notify the board in writing of the non-renewal and provide the board with its notice to end business in Kentucky.
- (b) If a registrant fails to comply with the requirement in subsection (6)(a) of this section, the registrant and all stakeholders holding ten (10) percent or more in the company shall be prohibited from reapplying for registration in Kentucky for a period of one (1) year.

(7) If a registrant fails to complete the National Registry Reporting requirement contained in Section 7 of this administrative regulation, the registrant shall be prohibited from renewing until the reporting requirement has been satisfied. The registrant shall pay the late filing fee provided for in KRS 324A.152(7).

Section 3. Reinstatement of an Expired Registration.

(1) To reinstate an expired registration within six (6) months after expiration, a registrant shall:

- (a) Apply in writing on the Initial and Renewal Application for Appraisal Management Company Registration provided by the board;
- (b) Submit the reinstatement fee of \$2,000 in addition to the late filing fee provided for in KRS 324A.152(7); and
- (c) Submit payment of \$400 to be deposited in the AMC Recovery Fund in accordance with KRS 324A.155.

(2) Reinstatement shall not apply retroactively to the activities of the registrant while the registration was expired.

(3) Failure to renew a registration prior to the expiration date shall result in a loss of authority to operate, in accordance with KRS 324A.152(7).

(4) A registration expired beyond six (6) months shall not be renewed.

Section 4. Dishonored Checks. Any dishonored or returned check shall incur the cost of collection plus twenty-five (25) dollars.

Section 5. Operation of an AMC.

(1) A registrant shall disclose to its client the actual fees paid to an appraiser for appraisal services, separately from any other fees or charges for appraisal management services and, upon written request, shall make that information available to the board.

(2) A registrant shall verify its state registration to each appraiser that it engages for appraisal services.

(3) A registrant shall not attempt to directly or indirectly coerce an appraiser to accept an assignment if the appraiser indicates that the appraiser lacks competency or sufficient experience to complete the assignment, and the registrant shall not penalize the appraiser by reducing the number of assignments made to that appraiser, refusing to pay fees owed, or in any other manner.

(4) A registrant shall not withhold or threaten to withhold future business or assignments from an appraiser because of the appraiser's failure to concede to improper or illegal requests, demands, or coercion. This prohibition shall include any express or implicit promise of future business, assignments, promotions, or increased compensation for an appraiser in exchange for the appraiser's agreement to concede to improper or illegal requests, demands, or coercion.

(5) A registrant shall not require an appraiser to indemnify an AMC or hold an AMC harmless for any liability, damage, losses, or claims arising out of the services provided by the AMC. This prohibition shall not preclude indemnification agreements for services performed by the appraiser.

(6) A registrant shall not use an appraiser directly selected or referred by any member of a loan production staff of a client.

(7) A registrant shall not request that a broker price opinion be used as the primary basis for developing and reporting an appraisal for the purpose of loan origination of a residential mortgage loan secured by any one (1) to four (4) unit residential property.

(8) A registrant may not remove an appraiser from its appraiser panel without prior written notice to the appraiser as required by KRS 324A.158(2)(d). An appraiser may file a complaint with the Kentucky Real Estate Appraisers Board to review the decision of the registrant for removal from its appraiser panel for reasons other than those allowed by KRS 324A.158(2)(d).

(9) A registrant shall require that if an appraisal report prepared by a Kentucky licensed or certified real property appraiser is reviewed by a state licensed or certified real property appraiser, the review appraiser shall also be licensed or certified by the Kentucky Real Estate Appraisers Board.

(10) A registrant shall not prohibit communication between a Kentucky licensed or certified real property appraiser and any person from whom the appraiser believes the information is relevant in the performance of an appraisal assignment.

(11) A registrant shall not require a Kentucky licensed or certified real property appraiser that is an independent contractor under Kentucky law to sign a non-compete agreement.

Section 6. Appraisal Procedures.

(1) A registrant shall make payment to an engaged appraiser for the completion of an appraisal within forty-five (45) days after the date on which the appraisal is transmitted or otherwise completed.

(2) Subsequent requests by a registrant to the appraiser for additional support of valuation or correction of factual and objective data shall not extend the payment date beyond the original forty-five (45) days from first receipt of the appraisal.

(3) An appraiser shall comply with a registrant's request for additional data support of estimate of value or correction of factual and objective data errors within fifteen (15) days of the request or be subject to complaint process to the board by the registrant.

(4) An appraiser shall not be prohibited by an AMC from including within each appraisal report the compensation received from the AMC for each appraisal assignment completed.

Section 7. AMC National Registry.

(1) A registrant meeting the following qualifications shall be registered by the board on the Appraisal Subcommittee's AMC National Registry:

(a) The registrant maintains or oversees an appraiser panel, network, or roster consisting of:

1. More than fifteen (15) Kentucky certified or licensed appraisers contracted or engaged to perform appraisals in connection with covered transactions, if the registrant only operates in Kentucky, or

2. Twenty-five (25) or more certified or licensed appraisers contracted or engaged to perform appraisals in connection with covered transactions, if the registrant operates in two (2) or more states; and

(b) The registrant satisfies the ownership limitations established by 12 C.F.R. 34.214.

(2) For purposes of counting the number of licensed or certified appraisers on a registrant's appraiser panel, network, or roster, 12 C.F.R. 34.212 shall control.

(3) The registrant shall report the following information to the Kentucky Real Estate Appraisers Board on the Appraisal Management Company National Registry Fee Reporting Form during each renewal year for the relevant reporting period of July 1 of the preceding year through June 30 of the present renewal year:

(a) The number of licensed or certified appraisers on the registrant's roster; and

(b) The number of covered transactions performed by appraisers in Kentucky on the registrant's roster.

(4) The registrant shall remit a twenty-five (25) dollar fee for each panel appraiser who performed appraisals in connection with covered transactions as defined in 12 C.F.R. 34.211(h).

(5) The information gathered by the board pursuant to subsection (3) of this section shall be transmitted to the Appraisal Subcommittee for publication on the AMC National Registry.

Section 8. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Initial and Renewal Application for Appraisal Management Company Registration", 6/19; and

(b) "Appraisal Management Company National Registry Fee Reporting Form", 6/19.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Appraisers Board, 321 N. Madison Avenue, Richmond, Kentucky 40475, (859) 623-1658, Monday through Friday, 8 a.m. to 4:30 p.m.

(38 Ky.R. 422; 1299; eff. 2-3-2012; TAm eff. 1-11-2018; 46 Ky.R. 127, 893; eff.9-11-2019.)