MEETING AGENDA
AMC Advisory Committee
TALCB Headquarters Office
4th Floor, Stephen F. Austin State Office Building
1700 North Congress, Austin, Texas 78701

Thursday, April 11, 2013, 9:00 a.m.

1. Call to order

2. Orientation on AMC matters

3. SES report on AMC complaint cases

4. Discussion and possible action regarding fees for name changes, owner/primary contact changes and election of inactive status

5. Discussion and possible action regarding amendments to 22 TAC §159.159

6. Discussion and possible action regarding AMC disqualification of appraisers who have had complaints filed against them but dismissed without discipline

7. Discussion and possible action regarding jurisdiction over AMC "portals"

8. Discussion and possible action regarding §1104.161 of the Texas Appraisal Management Company Registration and Regulation Act

9. Discussion and possible action regarding issues and agendas for future meetings

10. Discussion regarding future meetings dates

11. Adjourn

The AMC Advisory Committee of the Texas Appraiser Licensing and Certification Board may meet with its attorney in executive session on any item listed above as authorized by the Texas Open Meetings Act, Tex. Gov't Code, §551.071 to consult with its attorney.

RULE §159.52 Fees

(a) The Board shall charge and the commissioner shall collect the following fees:
(1) a fee of $3,300 for an application for a two-year registration;
(2) a fee of $3,300 for a timely renewal of a two-year registration;
(3) a fee equal to 1-1/2 times the timely renewal fee for the late renewal of a registration within 90 days of expiration; a fee equal to two times the timely renewal fee for the late renewal of a registration more than 90 days but less than six months after expiration;
(4) the national registry fee in the amount charged by the Appraisal Subcommittee for the appraisal management company registry;
(5) a fee of $10 for each appraiser on a panel at the time of renewal of a registration;
(6) a fee of $10 to add an appraiser to a panel in the Board's records;
(7) a fee of $10 for the termination of an appraiser from a panel;
(8) a fee of $25 to request a registration be placed on inactive status;
(~~8~~ 9) a fee of $50 to return to active status;
(~~9~~ 10) a fee of $40 for providing each licensure history;
(~~10~~ 11) a fee for a returned check equal to that charged for a returned check by the Texas Real Estate Commission;
(12) a fee of $20 for filing any request to change an owner, primary contact, appraiser contact, registered business name or place of business;
(13) a fee of $50 for evaluation of an owner or primary contact's background history not submitted with an original application or renewal;
(~~11~~ 14) a fee of $20 for filing any application, renewal, change request, or other record on paper when the person may otherwise file electronically by accessing the Board's website and entering the required information online; and
(~~12~~ 15) any fee required by the Department of Information Resources for establishing and maintaining online applications.
(b) Fees must be submitted in U.S. funds payable to the order of the Texas Appraiser Licensing and Certification Board. Fees are not refundable once an application has been accepted for filing. Persons who have submitted a check which has been returned, and who have not made good on that check within 30 days, for whatever reason, shall submit all future fees in the form of a cashier's check or money order.
(c) AMCs registered with the Board shall pay any annual registry fee as required under federal law. All registry fees collected by the Board shall be deposited in the Texas Treasury Safekeeping Trust Company to the credit of the appraiser registry fund. The Board shall send the fees to the Appraisal Subcommittee as required by federal law.

RULE §159.109 Inactive Status

(a) ~~A registrant on inactive status may not engage in any activity for which registration is required.~~ A registrant may request to be placed on inactive status by filing a request for inactive status on a form approved by the Board and paying the required fee.
(b) In order to return from inactive status to active status, a registrant shall submit to the Board a completed Request for Active Status form and proof of compliance with all outstanding requirements for active registration.
(c) A registrant that has elected or been placed on inactive status may not engage in any activity for which registration is required until ~~the~~ an active registration has been issued by the Board.
(d) The appraiser panel of a registrant on inactive status will remain in place until the registrant's next renewal date.
(~~d~~ e) A registrant may not renew on inactive status. An inactive registrant must satisfy all renewal requirements for an active registration.

RULE §159.159 Disclosure of Registered Name and Registration Number

(a) For the purposes of the Act, "documents used to procure appraisals" include all written documents and electronic communications, including e-mail, used for that purpose, but does not include general advertisements.

(b) An AMC must disclose the name it registered with the Board, any other name that it uses in business and the registration number received from the Board on all documents used to procure appraisals.

Below is an explanation of staff analysis of activity that might bring a "portal" within the definition of an AMC in Texas and therefore under TALCB's jurisdiction. Also attached is the definition (and exemptions) from Texas law - and another option from Arizona.

In Texas, our statute does not specifically define "portals". However, our definitions of "Appraisal Management Company" and "Appraisal Management Services" are broad and a company that provides "appraisal management software or technology services"' may or may not fall under the statute depending on the specific services - or bundle of services - it provides. For example, under our definition, it is an "appraisal management service" if the company directly or indirectly administers an appraisal panel or recruits, retains or selects an appraiser. Therefore one of the questions we ask to help determine if the "portal" is acting as an AMC is whether or not the company selects or qualifies the appraisers that the lender clients may use for their assignments. If the company does, then we consider them to be an AMC. Under Texas' definitions, if the company collects fees from creditors or reimburses appraisers for appraisal services, the company would be considered an AMC. So another question we ask is how is the company compensated for their "portal" service? Do they charge a fixed fee for use of the technology or do they charge a fee for each appraisal ordered? If so, is it a fixed fee or does it vary by the creditor's fee to be paid for the assignment (a percentage?), or by the appraisal amount? So, are they sharing in the fees paid to appraisers (like many AMCs do), or do they simply charge a fixed amount for use of the "technology service"? Another red light we look for is whether or not their marketing material states that their program guarantees the lender "regulatory compliance". This would imply that they are somehow managing the process for their lender clients (like an AMC would) to ensure appraiser independence. Since our definition also includes activities like "managing the process of having an appraisal performed", if the company makes assignments, tracks the orders for appraisals or conducts reviews of the appraisal reports, we would consider them to be an AMC. Clearly, these are not simple yes/no questions, but that gives you some idea of the depth of analysis that we need to do to determine if a company that claims to be simply providing "a software service" is in reality, under Texas law, acting as an AMC.

OCCUPATIONS CODE

TITLE 7. PRACTICES AND PROFESSIONS RELATED TO REAL PROPERTY AND HOUSING

SUBTITLE A. PROFESSIONS RELATED TO REAL ESTATE

CHAPTER 1104. APPRAISAL MANAGEMENT COMPANIES

Sec. 1104.003. DEFINITIONS. (a) The definitions in Section 1103.003 apply to this chapter.

(b) In this chapter:

(1) "Appraisal management company" means, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated in a securitization, an external third party authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter of or other principal in the secondary mortgage markets that directly or indirectly performs appraisal management services.

(2) "Appraisal management service" means to directly or indirectly perform any of the following acts:

(A) administer an appraisal panel;

(B) recruit, retain, or select an appraiser;

(C) contract with an appraiser to perform an appraisal assignment;

(D) provide a completed appraisal performed by an appraiser to one or more clients; or

(E) manage the process of having an appraisal performed, including:

(i) receiving and assigning appraisal orders and reports;

(ii) tracking and determining the status of orders for appraisals;

(iii) conducting quality control of a completed appraisal before delivery of the appraisal to the person who ordered the appraisal;

(iv) collecting fees from creditors and underwriters for services provided; or

(v) reimbursing appraisers for services performed.

(3) "Appraisal panel" means a pool of licensed or certified appraisers who perform appraisals as independent contractors for an appraisal management company.

(4) "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment. The term does not include an examination of an appraisal for grammatical, typographical, mathematical, or other similar administrative errors that do not involve the appraiser's professional judgment, including compliance with the elements of the client's statement of work.

(5) "Appraiser" means a person licensed or certified under Chapter 1103.

(6) "Controlling person" means:

(A) an owner, officer, or director of an appraisal management company;

(B) an individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and the authority to enter into agreements with appraisers for the performance of appraisals; or

(C) an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

(7) "Financial institution" means:

(A) a bank, savings bank, or savings and loan association or a subsidiary or affiliate of a bank, savings bank, or savings and loan association;

(B) a state or federal credit union or a subsidiary, affiliate, or credit union service organization of a state or federal credit union;

(C) an insurance company licensed or authorized to do business in this state under the Insurance Code;

(D) a mortgage banker registered under Chapter 157, Finance Code;

(E) a person licensed under Chapter 156, Finance Code;

(F) a lender licensed under Chapter 342, Finance Code;

(G) a farm credit system institution; or

(H) a political subdivision of this state conducting an affordable home ownership program.

(8) "Uniform Standards of Professional Appraisal Practice" means the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation.

Added by Acts 2011, 82nd Leg., R.S., Ch. 256, Sec. 2, eff. September 1, 2011.

Sec. 1104.004. EXEMPTIONS. (a) This chapter does not apply to:

(1) a person who exclusively employs appraisers on an employer and employee basis for the performance of appraisals;

(2) a person acting as an appraisal firm as defined by board rule that at all times during a calendar year employs on an exclusive basis as independent contractors not more than 15 appraisers for the performance of appraisals;

(3) a financial institution, including a department or unit within the institution, that is regulated by an agency of this state or the United States government;

(4) subject to Subsection (b), a person who enters into an agreement with an appraiser for the performance of an appraisal that on completion results in a report signed by both

the appraiser who completed the appraisal and the appraiser who requested completion of the appraisal;

(5) an appraisal management company with an appraisal panel of not more than 15 appraisers at all times during a calendar year; or

(6) an appraisal management company that is a subsidiary owned and controlled by a financial institution that is subject to appraisal independence standards at least as stringent as those under Section 1104.203 or the Truth in Lending Act (15 U.S.C. Section 1601 et seq.) through regulation by an agency of this state or the United States government.

(b) An appraisal management company may not require an employee of the appraisal management company who is an appraiser to sign an appraisal that is completed by another appraiser who contracts with the appraisal management company in order to avoid the requirements of this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 256, Sec. 2, eff. September 1, 2011.

Texas Administrative Code

TITLE 22	EXAMINING BOARDS
PART 8	TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD
CHAPTER 159	RULES RELATING TO THE PROVISIONS OF THE TEXAS APPRAISAL MANAGEMENT COMPANY REGISTRATION AND REGULATION ACT

RULE §159.4 **Jurisdiction and Exemptions**

(a) This chapter does not apply to appraisal management services provided:
(1) for the appraisal of:
(A) commercial property; or
(B) residential properties of more than four units; or
(2) by persons exempted under §1104.004, Texas Occupations Code.
(b) For the purposes of §1104.004, Texas Occupations Code:
(1) a person exclusively employs appraisers on an employer and employee basis for the performance of appraisals if the person

does not also employ appraisers as independent contractors or under any other arrangement;
(2) a person employs not more than 15 appraisers on an exclusive basis as independent contractors for the performance of appraisals if:
(A) the person prohibits the independent contractors from performing appraisals for others; and
(B) the person does not employ more than 15 appraisers as independent contractors at any time;
(3) a subsidiary of a financial institution is not a department or unit within the institution;
(4) an appraisal management company that requires an employee of the appraisal management company who is an appraiser to sign an appraisal that is completed by another appraiser who contracts with the appraisal management company in order to avoid the requirements of Chapter 1104, Texas Occupations Code, is not exempt from registration requirement or other requirements of the chapter; and
(5) an appraisal management company has an appraisal panel of not more than 15 appraisers at all times during a calendar year if it does not have more than 15 appraisers on its panel at any time.
(c) A person may solicit prospective panelists in anticipation of acting as an appraisal management company without being registered as an AMC, provided that it is registered prior to forming a panel, accepting an appraisal assignment, or performing any other act constituting an appraisal management service.
(d) For the purposes of the Act, a property is located in Texas if it is located wholly or partly in the state.

Source Note: The provisions of this §159.4 adopted to be effective November 3, 2011, 36 TexReg 7320

Arizona Revised Statute 32-3661

Article 5 Appraisal Management Companies

32-3661. Definitions

In this article, unless the context otherwise requires:

1. "Appraisal" means the act or process of developing an opinion of the value of real property in conformance with the uniform standards of professional appraisal practice published by the appraisal foundation, or any other definition used in state or federal laws.

2. "Appraisal management company" means a corporation, partnership, sole proprietorship, subsidiary or other business entity that directly or indirectly performs appraisal management services, regardless of the use of the term "appraisal management company", "mortgage technology provider", "lender processing services", "lender services", "loan processor", "mortgage services", "real estate closing services provider", "settlement services provider", "vendor management company" or any other term, and that does any of the following:

(a) Administers an appraiser panel of independent contract appraisers to perform real property appraisal services in this state for clients.

(b) Receives requests for real property appraisal services from clients and, for a fee paid by the client, enters into an agreement with one or more independent appraisers to perform the real property appraisal services contained in the request.

(c) Otherwise serves as a third party liaison of appraisal management services between clients and appraisers.

3. "Appraisal management services" means the process of receiving a request for the performance of real property appraisal services from a client and, for a fee paid by the client, entering into an agreement with one or more independent appraisers who are part of an appraiser panel to perform the real property appraisal services contained in the request.

Sec. 1104.161. REMOVAL OF APPRAISER FROM APPRAISAL PANEL. (a) Other than during the first 30 days after the date an appraiser is first added to the appraisal panel of an appraisal management company, a company may not remove an appraiser from its panel, or otherwise refuse to assign requests for appraisal services to an appraiser without:

(1) notifying the appraiser in writing of the reasons for removal from the company's panel;

(2) if the appraiser is being removed from the panel for illegal conduct, a violation of the Uniform Standards of Professional Appraisal Practice, or a violation of this chapter, notifying the appraiser of the nature of the alleged conduct or violation; and

(3) providing an opportunity for the appraiser to respond in writing to the notification.

(b) An appraiser who is removed from the appraisal panel of an appraisal management company for alleged illegal conduct, a violation of the Uniform Standards of Professional Appraisal Practice, or a violation of this chapter, may file a complaint with the board for a review of the decision of the company if the matter remains unresolved after the appraiser completes the company's dispute resolution process under Section 1104.162.

(c) In a review under Subsection (b), the board may not make any determination regarding the nature of the business relationship between the appraiser and the appraisal management company that is unrelated to the grounds for the removal.

(d) The board shall hear and resolve a complaint filed under Subsection (b) not later than the 180th day after the date the complaint is filed with the board.

(e) If after opportunity for hearing and review, the board determines that an appraiser did not commit the alleged violation, the board shall order that the appraiser be returned to the appraisal panel of the appraisal management company. The appraisal management company may not refuse to make assignments for appraisal services or otherwise penalize the appraiser after returning the appraiser to the company's appraisal panel.