

## AMC Registration – Proposed Rules

6.23.2010

### General

#### 441-674-0000

##### Purpose; Scope

ORAR 441-674-0005 to 441-674-09xx implement 2010 Or Laws ch 87, which applies to real estate appraisal activity conducted as part of a residential real estate transaction or a commercial real estate transaction.

Stat. Auth.: 2010 Or Laws ch 87

Stat. Implemented: 2010 Or Laws ch 87

Hist.: New

#### 441-674-0005

##### Definitions

In addition to the definitions in 2010 Or Laws ch 87, §1, the following definitions apply unless the context clearly requires otherwise:

(1) “Appraisal report” has the same meaning as the term is defined in ORAR 161-002-0000.

(2) “Assignment” means:

(a) An agreement between an appraiser and a client to perform a valuation service; and

(b) The valuation service that is provided as a consequence of such an agreement.

(3) “Competency” or “competent” has the same meaning as the term is defined in the Competency Rule contained in the Uniform Standards of Professional Appraisal Practice, 2010-2011 Edition, as amended on January 1, 2010, and adopted by the Appraiser Certification and Licensure Board under ORAR 161-025-0060.

(4) “Director” means the Director of the Department of Consumer and Business Services.

(5) “Individual” means a natural person.

(6) A “person with an interest in a real estate transaction” does not include an appraiser.

(7) “System” means an organized or established procedure or method.

Stat. Auth.: 2010 Or Laws ch 87, § 1

Stat. Implemented: 2010 Or Laws ch 87, § 1

Hist.: New.

### Registration Requirements

#### 441-674-0110

##### Registration Requirements

(1) An applicant for registration as an appraisal management company shall submit to the director all of the following information:

(a) A completed application form listing the information required by 2010 Or Laws ch 87, § 2 and the following:

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(A) The names, contact information, and percentage of ownership of the controlling person and every individual or wholly-owned or managed business entity owning more than ten percent of the applicant's business entity;

(B) For the persons named in paragraph (A) of this section, the license, certificate or registration numbers to do business as an appraiser or an appraisal management company in any state and disclosures of any administrative action taken by any state to refuse, deny, cancel or revoke a license, certificate or registration; and

(B) If the applicant reviews real estate appraisal activity, the review appraiser's name and license or certification number, as appropriate.

(2) An applicant shall attach to the application for registration as an appraisal management company the following:

(a) A nonrefundable application fee established in OAR 441-674-0910;

(b) A nonrefundable registration fee established in OAR 441-674-0910;

(c) A copy of the surety bond required by 2010 Or Laws ch 87, § 3 in a form and format approved by the director;

(d)(A) A signed statement on a form approved by the director that the applicant established a system to verify the competency of appraisers on the applicant's panel meeting the minimum requirements in OAR 441-674-01xx; and

(B) A short description of the applicant's system to verify competency meeting the minimum requirements established in OAR 441-674-01xx;

(e)(A) A signed statement on a form approved by the director that the applicant established a dispute resolution process meeting the minimum requirements established in OAR 441-674-01xx; and

(B) A copy of the portion of the applicant's contract with an independent contractor appraiser detailing the applicant's dispute resolution process;

(f) A signed statement on a form approved by the director that the applicant maintains and retains a detailed record of each appraisal management services request the entity receives and the appraiser who performs the real estate appraisal activity contained in the request for:

(A) Not less than five years after the date of completion of the appraisal to which the record pertains;  
or

(B) For a period of not less than two years after final disposition of a judicial proceeding in which testimony relating to the records was given, whichever period expires later;

(g) Sealed envelopes containing fingerprint cards for anyone meeting the definition of "subject individual" under OAR 441-674-02xx; and

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(h) Unless the applicant has not previously done business as an appraisal management company in any state, the names, license or certification numbers, and competency information required by OAR 441-674-01xx of the Oregon-licensed or certified appraisers on the applicant’s appraiser panel.

Stat. Auth.: 2010 Or Laws ch 87, § 2

Stat. Implemented: 2010 Or Laws ch 87, § 2

Hist.: New.

**441-674-01xx**

**System to Verify Competency**

(1) A system to verify the competency of an appraiser under 2010 Or Laws ch 87, § 2 shall meet the following minimum requirements:

(a) An appraisal management company shall require that each independent contractor appraiser furnish the number of the appraiser’s license or certification issued by the Appraiser Certification and Licensure Board.

(b) An appraisal management company shall require each independent contractor appraiser represent in writing the appraiser’s qualifications and competency, which may include but not be limited to:

(A) The counties, postal codes or other geographic information signifying where the appraiser represents he or she is competent to appraise;

(B) The types of structures or intended uses the appraiser represents he or she is competent to appraise;

(C) Knowledge of statutes and regulations applicable to appraising particular properties that the appraiser represents he or she is competent to appraise;

(D) Analytical methods the appraiser represents he or she may competently apply in an appraisal; or

(E) Other information relevant to the business activities of the applicant and necessary to demonstrate the competency of an appraiser.

(c) An appraisal management company shall include the following information in an assignment to an independent contractor appraiser, to the extent the information has been communicated to the appraisal management company by the appraisal management company’s client:

(A) The geographic location the structure is located, which may include the county, ZIP codes, legal description or other geographic information identifying where the property is situated;

(B) The type of structure the assignment cover and what is the intended use of the property;

(C) If knowledge of any applicable statute, rule or regulation is necessary to complete the assignment;  
and

(D) Whether any specialized analytical methods are needed to complete the assignment.

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(2) An assignment meeting the minimum requirements under section (1) of this rule does not relieve an appraiser from meeting any legal obligations related to the appraiser's license or certification under ORS chapter 674 and OAR chapter 161.

(3) The Appraiser Certification and Licensure Board retains jurisdiction over administrative inquiries and actions involving misrepresentations made by an individual appraiser regarding competency.

Stat. Auth.: 2010 Or Laws ch 87, § 2

Stat. Implemented: 2010 Or Laws ch 87, § 2

Hist.: New.

**441-674-01xx**

**Dispute Resolution Process**

(1) An appraisal management company shall establish a process that at a minimum allows a person with an interest in a real estate transaction to:

- (a) Request additional information concerning the basis for the valuation;
- (b) Request corrections to objective factual errors in a completed appraisal report; or
- (c) Request reconsideration based on the values of other comparable properties.

(2) A person with an interest in a real estate transaction shall make a request under this rule in writing or in a form easily reduced to writing. The request shall include, as applicable:

- (a) Relevant additional market data or comparable sales values forming the basis of the request;
- (b) Factual corrections and an explanation for the basis of the corrections; and
- (c) Additional information relevant to the determination.

(3)(a) An appraisal management company that receives a request under this rule shall, within three business days, forward the request to the appraiser for review.

(b) An appraisal management company that receives a request under this rule and reviews real estate appraisal activity performed by an appraiser shall, within three business days, determine if the request meets the criteria in section (1) of this rule and either:

- (A) Reject the request and notify the requestor in writing; or
- (B) Forward the request to the appraiser for review.

(4) An appraisal management company shall require an appraiser to complete a review under this rule within three business days of the request from the appraisal management company. The appraisal management company shall require the appraiser to communicate in writing or in a form easily reduced to writing that:

- (a) The appraiser corrected factual errors in the report, and identify which errors were corrected;
- (b) The appraiser fully considered and incorporated the additional market data or comparable sales values provided by the person with an interest in the real estate transaction into the appraisal report;

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(c) The appraiser fully considered and incorporated additional information relevant to the determination into the appraisal report; or

(d) The appraiser fully considered and rejected changing factual errors, incorporating additional market data, incorporating comparable sales values, or incorporating additional information relevant into the appraisal report.

Stat. Auth.: 2010 Or Laws ch 87, § 7

Stat. Implemented: 2010 Or Laws ch 87, § 7

Hist.: New.

**441-674-01xx**

**Renewal or Reactivation of Registration**

(1) An appraisal management company renewing a registration as an appraisal management company shall submit to the director all of the following information:

(a) A nonrefundable renewal fee based on the number of appraisals reported to the director in the last annual report for which the appraisal management company performed appraisal management services in Oregon or otherwise served as a third-party broker of real estate appraisal activity in Oregon;

(b) A copy of the surety bond required by 2010 Or Laws ch 87, § 3 in a form and format approved by the director;

(c)(A) A signed statement on a form approved by the director that the appraisal management company continues to maintain a system, as stated on the appraisal management company's initial application for registration, to verify the competency of appraisers on the applicant's panel meeting the minimum requirements in OAR 441-674-01xx; and

(B) A short description of the applicant's system to verify competency;

(d)(A) A signed statement on a form approved by the director that the applicant continues to maintain a system, as stated on the appraisal management company's initial application for registration, a dispute resolution process meeting the minimum requirements established in OAR 441-674-01xx; and

(B) A copy of the portion of the applicant's engagement letter detailing the dispute resolution process;

(e) A signed statement on a form approved by the director that the applicant maintains and retains a detailed record of each appraisal management services request the entity receives and the appraiser who performs the real estate appraisal activity contained in the request for:

(A) Not less than five years after the date of completion of the appraisal to which the record pertains;

or

(B) For a period of not less than two years after final disposition of a judicial proceeding in which testimony relating to the records was given, whichever period expires later.

(2) A business entity reactivating a registration as an appraisal management company shall apply for a new registration as an appraisal management company. For purposes of fees payable to the director under

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441-674-0910, the business entity shall pay a nonrefundable renewal fee based on the number of appraisals for which the appraisal management company performed appraisal management services in Oregon or otherwise served as a third-party broker of real estate appraisal activity in Oregon.

Stat. Auth.: 2010 Or Laws ch 87, § 2

Stat. Implemented: 2010 Or Laws ch 87, § 2

Hist.: New.

### Good Moral Character; Background Checks

#### 441-674-0210

##### Subject Individuals

For purposes of OAR 441-674-02xx to 441-674-02xx, a “subject individual” means:

- (1) The person designated as the controlling person under 441-674-01xx;
- (2) Each individual with an ownership interest of ten percent or more of an appraisal management company; and
- (3) In cases where ownership interest exceeding ten percent of the appraisal management company is an entity other than an individual:
  - (a) An individual who wholly owns a corporation that owns ten percent or more of an appraisal management company;
  - (b) A managing partner of a limited partnership that owns ten percent or more of an appraisal management company;
  - (c) A managing member of a limited liability company that owns ten percent or more of an appraisal management company; or
  - (d) An individual who wholly owns any other type of business entity that owns ten percent or more of an appraisal management company.

Stat. Auth.: ORS 181.534, 705.135

Stat. Implemented: 2010 Or Laws ch 87 § 2, ORS 181.534, 705.141

Hist.: New.

#### 441-674-02xx

##### Criminal Records Check Required

- (1) The director shall conduct a criminal records check on a subject individual as a condition of issuing a registration as an appraisal management company under 2009 Or Laws ch 87, § 2 and OAR chapter 441, division 674.
- (2) The department may require additional information from the subject individual as necessary to complete the criminal records check and fitness determination, such as, but not limited to, proof of identity; or additional criminal, judicial, or other background information.

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(3) The department may request or conduct a Law Enforcement Data System Criminal Records Check, an Oregon Criminal Records Check, a Nationwide Criminal Records Check, or any combination thereof to meet the requirements of this rule.

(4) If a subject individual refuses to consent to a criminal records check, including fingerprint identification, the director shall not issue a registration as an appraisal management company. A subject individual may not contest any determination made based on a refusal to consent.

Stat. Auth.: ORS 181.534, 705.135

Stat. Implemented: 2010 Or Laws ch 87 § 2, ORS 181.534, 705.141

Hist.: New.

### **441-674-02xx**

#### **Information Required from Subject Individuals**

A subject individual shall submit to the director the following information:

(1) A complete, signed copy of a criminal records request form supplied by the director. The criminal records request form shall require the following information: name, birth date, Social Security Number, driver's license or identification card number, prior residency in other states, and any other identifying information deemed necessary by the director.

(2) A completed fingerprint card from a law enforcement agency.

Stat. Auth.: ORS 181.534, 705.135

Stat. Implemented: 2010 Or Laws ch 87 § 2, ORS 181.534, 705.141

Hist.: New.

### **441-674-02xx**

#### **Potentially Disqualifying Crimes; Process**

(1) A "potentially disqualifying crime" means an act or conduct that:

(a) Reflects moral turpitude, or an act or conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness and respect for the rights of others and for the laws of the state and the nation; and

(b) Is rationally connected to the applicant's fitness to do business as an appraisal management company.

(2) The director shall evaluate a crime on the basis of Oregon laws and, if applicable, federal laws or the laws of any other jurisdiction in which a criminal records check indicates a subject individual may have committed a crime, as those laws are in effect at the time of the fitness determination.

(3) A subject individual shall not be denied under these rules on the basis of the existence or contents of a juvenile record that has been expunged under ORS 419A.260 and 419A.262.

(4) If a subject individual is denied as not fit, the business entity may not obtain a registration as an appraisal management company.

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(5) The department shall inform the subject individual who has been determined not to be fit on the basis of a criminal records check, via courier, or registered or certified mail to the most current address provided by the subject individual of the disqualification. Responsibility for furnishing the most current address remains with the subject individual.

(6) A final fitness determination is a final order of the department unless the affected subject individual requests a contested case hearing as provided by OAR 441-674-02xx. A subject individual may contest a fitness determination made under these rules that he or she is fit or not fit to act as a controlling person or own ten percent or more of an appraisal management company under ORS chapter 183.

Stat. Auth.: ORS 181.534, 705.135

Stat. Implemented: 2010 Or Laws ch 87 § 2, ORS 181.534, 705.141

Hist.: New.

### 441-674-02xx

#### Fees for Fingerprinting and Background Checks

Each person subject to 441-674-0200 to 441-674-02xx shall pay to the director an amount not to exceed the fees charged to the director for the purpose of processing criminal record checks.

Stat. Auth.: ORS 181.534, 705.135

Stat. Implemented: 2010 Or Laws ch 87 § 2, ORS 181.534, 705.141

Hist.: New.

#### Surety Bonds; Letters of Credit

### 441-674-0310

#### Termination or Cancellation of Surety Bond or Letter of Credit

(1) If the surety bond or letter of credit an appraisal management company maintains is terminated or cancelled, the appraisal management company shall file a replacement surety bond or letter of credit as soon as practicable or within five days of the cancellation or termination, whichever occurs sooner.

(2) An appraisal management company that does not file a replacement surety bond or letter of credit under section (1) of this rule shall surrender the appraisal management company's registration and cease operating as an appraisal management company.

Stat. Auth.: 2010 Or Laws ch 87, § 3

Stat. Implemented: 2010 Or Laws ch 87, § 3

Hist.: New.

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**Fees; Annual Reports**

**441-674-0910**

**Fees Payable to the Director**

(1) An applicant for registration as an appraisal management company shall pay to the director a nonrefundable application fee of \$500.

(2) An applicant for registration as an appraisal management company shall pay to the director a nonrefundable registration fee based on the number of appraisals for which the appraisal management company performed appraisal management services in Oregon or otherwise served as a third-party broker of real estate appraisal activity in Oregon.

(a) For an appraisal management company that has not previously conducted business in Oregon, or for an appraisal management company performing appraisal management services or otherwise serving as a third-party broker of real estate appraisal activity for more than --- appraisals but less than --- appraisals in Oregon in the previous calendar year, the registration fee shall be in the amount of \$---;

(b) For an appraisal management company performing appraisal management services or otherwise serving as a third-party broker of real estate appraisal activity for more than --- appraisals but less than --- appraisals in Oregon in the previous calendar year, the registration fee the registration fee shall be in the amount of \$---;

(c) For an appraisal management company performing appraisal management services or otherwise serving as a third-party broker of real estate appraisal activity more than --- appraisals but less than --- appraisals in Oregon in the previous calendar year, the registration fee the registration fee shall be in the amount of \$---;

(d) For an appraisal management company performing appraisal management services or otherwise serving as a third-party broker of real estate appraisal activity for --- or more appraisals in Oregon in the previous calendar year, the registration fee the registration fee shall be in the amount of \$---.

(3) An appraisal management company renewing a registration shall pay to the director a nonrefundable registration fee based on the number of appraisals for which the appraisal management company performed appraisal management services in Oregon or otherwise served as a third-party broker of real estate appraisal activity in Oregon as reported in the previous annual report.

(a) For an appraisal management company performing appraisal management services or otherwise serving as a third-party broker of real estate appraisal activity for less than --- appraisals in Oregon in the previous calendar year, the renewal fee shall be in the amount of \$---;

(b) For an appraisal management company performing appraisal management services or otherwise serving as a third-party broker of real estate appraisal activity for more than --- appraisals but less than --- appraisals in Oregon in the previous calendar year, the renewal fee shall be in the amount of \$---;

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(c) For an appraisal management company performing appraisal management services or otherwise serving as a third-party broker of real estate appraisal activity for --- or more appraisals in Oregon in the previous calendar year, the registration fee the registration fee shall be in the amount of \$---.

Stat. Auth.: 2010 Or Laws ch 87, § 2

Stat. Implemented: 2010 Or Laws ch 87, § 2

Hist.: New.

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**Annual Reports**

For calendar year 2011 and each year thereafter, an appraisal management company shall submit to the director on March 31 of the following year a report disclosing the following information on a form approved by the director:

(1) The number of appraisals for which the appraisal management company performed appraisal management services in Oregon or otherwise served as a third-party broker of real estate appraisal activity in Oregon.

(2) Any change in the designated controlling person.

(3) Any changes in ownership that results in an individual or wholly-owned or managed business entity possessing more than 10 percent of the appraisal management company or less than 10 percent of the appraisal management company.

(4) Any action taken by a state to refuse to issue, deny, cancel or revoke a license, certification or registration to act as an appraiser or as an appraisal management company.

(5) A copy of the applicant's appraiser panel, which includes the name and the Appraiser Certification and Licensure Board license or certification number of the appraisers.

Stat. Auth.: 2010 Or Laws ch 87, § 2

Stat. Implemented: 2010 Or Laws ch 87, § 2

Hist.: New.