

DRAFT

VIRGINIA REAL ESTATE APPRAISER BOARD APPRAISAL MANAGEMENT COMPANY REGULATORY REVIEW COMMITTEE MINUTES

The Real Estate Appraiser Board (REAB) Appraisal Management Company (AMC) Regulatory Review Committee (Committee) met on Wednesday, October 10, 2012, at the Department of Professional & Occupational Regulation in Richmond.

Committee Members present: Michael G. Miller, Chair
H. Glenn James
John C. Harry, III
Christopher Call

Staff Members present: Gordon Dixon, Director
Mark Courtney, Senior Manager
Christine Martine, Executive Director
Kevin Hoeft, Board Administrator
Steven Jack, Asst. Attorney General

Chairman Miller called the meeting to order at 2:05 p.m.

The agenda was approved unanimously at 2:06 p.m.

Public Comment

Perry E. "Pat" Turner, Jr. provided comments on the proposed AMC regulations.

Thomas "Mack" Strickland informed the Committee that the Virginia Association of Realtors will encourage legislation in the 2013 General Assembly session to remove the word "residential" from § 54.1-2022.A of the Code of Virginia.

Alex Uminski provided comments on the proposed AMC regulations.

Jayne Allen provided comments on the proposed AMC regulations.

Don Kelly, Executive Director of the Real Estate Valuation Advocacy Association, stated he was available to assist the Committee in its work.

Summary of Executive Order 14

DPOR Senior Manager Mark Courtney reviewed Governor McDonnell's Executive Order 14 (*Development and Review of Regulations Proposed by State Agencies*) with the Committee and emphasized that the regulations "should be undertaken with the least possible intrusion in the lives of the citizens of the Commonwealth consistent with public health, safety and welfare."

Review of the Proposed AMC Regulations

The Committee then reviewed and discussed the draft AMC Regulations.

Fire Alarm

A fire alarm sounded at 3:00 p.m. and the meeting room was evacuated. There was no fire and the meeting was called back to order at 3:15 p.m.

Review of the Proposed AMC Regulations (Continued)

The Committee then continued its review and discussion of the draft AMC Regulations. The Committee asked staff to find out the number of AMCs licensed in other states to help set Virginia AMC licensing fees, which are subject to the Callahan Act. After further discussion and consideration, the Committee approved draft AMC Regulations to be considered by the Real Estate Appraiser Board at its November 7, 2012, meeting (Draft Regulations attached).

Adjourn

There being no further business, the meeting was adjourned at 3:40 p.m.

Attachment

DRAFT

COMMONWEALTH OF VIRGINIA
REAL ESTATE APPRAISER BOARD



APPRAISAL MANAGEMENT COMPANY REGULATIONS

Last Updated 2012

STATUTES
Title 54.1, Chapter 20.1



Department of Professional and Occupational Regulation

9960 Mayland Drive, Suite 400
Richmond, VA 23233
(804) 367-8500
www.dpor.virginia.gov

DRAFT

SUMMARY OF SIGNIFICANT CHANGES

Included in this document are relevant excerpts from the Virginia Administrative Code. Please note that the Real Estate Appraiser Board (Board) is responsible for promulgating regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), and the Virginia Code Commission is responsible for compiling and codifying all of the administrative regulations of state agencies into the Virginia Administrative Code.

It is your responsibility to stay informed and follow all regulations and statutes governing your profession or occupation. As a regulant of the Board, you should read and become familiar with all regulations applicable to your profession or occupation. You can stay informed of regulatory actions that may result in changes to the regulations at Virginia Regulatory Town Hall (www.townhall.virginia.gov).

This document is a complete, edited (unofficial) copy of the Appraisal Management Company Regulations (18 VAC 130-30). Please refer to the Virginia Administrative Code for an official copy of the regulations applicable to your profession or occupation. You can access the Virginia Administrative Code online at <http://leg1.state.va.us/000/reg/TOC.HTM>.

The following list summarizes significant revisions to the regulations effective --- but does not include all changes that were made to the Appraisal Management Company Regulations.

DRAFT

STATEMENT OF PURPOSE

This booklet contains the information you will need to obtain your appraisal management company license. The law that governs your profession is found in **Chapter 20.2 (§54.1-2020 et seq.) of Title 54.1 of the Code of Virginia**. That law permits the board to issue regulations that tell you more about what is expected of you in your profession. This booklet contains a copy of the regulations that you will need to know and with which you must comply to obtain and retain your license.

BE SURE TO READ AND UNDERSTAND THE STANDARDS OF CONDUCT AND PRACTICE. FAILURE TO COMPLY WITH THESE STANDARDS COULD RESULT IN A MONETARY PENALTY, THE LOSS OF YOUR LICENSE, OR OTHER DISCIPLINARY ACTION.

It is the goal of the Department of Professional and Occupational Regulation to provide the information you need to comply with the law and regulations. If you have a question and cannot find the answer in this booklet, please write to:

Real Estate Appraiser Board
Department of Professional and Occupational Regulation
9960 Mayland Drive, Suite 400
Richmond, VA 23233

Or call the Department at (804) 367-8500.

Or send an e-mail to reappraisers@dpor.virginia.gov.

DRAFT

-- TABLE OF CONTENTS --

PART I – GENERAL	1
PART II – ENTRY.....	3
PART III – FEES	6
PART IV – RENEWAL AND REINSTATEMENT.....	7
PART V – STANDARDS OF CONDUCT AND PRACTICE	9

DRAFT

PART I

GENERAL

18 VAC 130-30-10. Definitions.

Section 54.1-2020 of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter:

"Appraisal management company"

"Appraisal services"

"Appraiser"

"Board"

"Employee"

"Uniform Standards of Professional Appraisal Practice"

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Address of record" means the mailing address designated by the regulant to receive notices and correspondence from the board. Notice mailed to the address of record by certified mail, return receipt requested, shall be deemed valid notice.

"Applicant" means an appraisal management company that has submitted an application for licensure.

"Application" means a completed, board-prescribed form submitted with the appropriate fee and other required documentation.

"Controlling person" means (i) an owner, officer, or director of a corporation, or a partnership, a managing member of a limited liability company, or other business entity seeking to offer appraisal management services; (ii) 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 has the authority to enter into agreements with appraisers for the performance of appraisals; or (iii) 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.

"Department" means the Virginia Department of Professional and Occupational Regulation.

"Direct supervision" means exercising oversight and direction of, and control over, the work of another.

DRAFT

"Firm" means a sole proprietorship, association, partnership, corporation, limited liability company, limited liability partnership, or any other form of business organization recognized under the laws of the Commonwealth of Virginia and properly registered, as may be required, with the Virginia State Corporation Commission.

"Regulant" means an appraisal management company as defined in § 54.1-2020 of the Code of Virginia who holds a license issued by the board.

"Reinstatement" means the process and requirements through which an expired license can be made valid without the regulant having to apply as a new applicant.

"Renewal" means the process and requirements for periodically approving the continuance of a license.

"Responsible person" means a person licensed under Chapter 20.1 (§ 54.1-2009 et seq.) who shall be designated by each regulant to ensure compliance with Chapter 20.2 (§ 54.1-2020 et seq.) of Title 54.1 of the Code of Virginia, and all regulations of the board, and to receive communications and notices from the board that may affect the regulant.

"Sole proprietor" means any individual, not a corporation or other registered business entity, who is trading under his own name, or under an assumed or fictitious name pursuant to the provisions of §§ 59.1-69 through 59.1-76 of the Code of Virginia.

"Timely payment" means payment to an appraiser for the completion of an appraisal or a valuation assignment within 30 days after the appraiser delivers the completed appraisal or valuation assignment to the appraisal management company except in cases of breach of contract or noncompliance with the conditions of the engagement or performance of services that violates the Uniform Standards of Professional Appraisal Practice (USPAP).

Historical Notes:

DRAFT

PART II

ENTRY

18 VAC 130-30-20. Application procedures.

All applicants seeking licensure shall submit an application with the appropriate fee specified in 18VAC130-30-60. Application shall be made on a form provided by the board or its agent.

By submitting the application to the department, the applicant certifies that the applicant has read and understands the applicable statutes and the board's regulations.

The receipt of an application and the deposit of fees by the board does not indicate approval by the board.

The board may make further inquiries and investigations with respect to the applicant's qualifications to confirm or amplify information supplied. All applications shall be completed in accordance with the instructions contained herein and on the application. Applications will not be considered complete until all required documents are received by the board.

A firm will be notified within 30 days of the board's receipt of an initial application if the application is incomplete. A firm that fails to complete the process within 12 months of receipt of the application in the board's office must submit a new application and fee.

Historical Notes:

18 VAC 130-30-30. Qualifications for licensure as an appraisal management company.

- A. Firms which meet the definition of appraisal management company as defined in § 54.1-2020 of the Code of Virginia shall submit an application on a form prescribed by the board and shall meet the requirements set forth in § 54.1-2021.1 of the Code of Virginia, as well as the additional qualifications of this section.
- B. Any firm acting as an appraisal management company as defined in § 54.1-2020 of the Code of Virginia shall hold a license as an appraisal management company. All names under which the appraisal management company conducts business shall be disclosed on the application. The name under which the firm conducts business and holds itself out to the public (i.e., the trade or fictitious name) shall also be disclosed on the application. Firms shall be organized as business entities under the laws of the Commonwealth of Virginia or otherwise authorized to transact business in Virginia. Firms shall register any trade or fictitious names with the State Corporation Commission or the clerk of court in the

DRAFT

county or jurisdiction where the business is to be conducted in accordance with §§ 59.1-69 through 59.1-76 of the Code of Virginia before submitting an application to the board.

- C. The applicant for an appraisal management company license shall disclose the firm's mailing address, and the firm's physical address. A post office box is only acceptable as a mailing address when a physical address is also provided.
- D. In accordance with § 54.1-204 of the Code of Virginia, each applicant for an appraisal management company license shall have any person who owns 10 percent or more of the firm and the controlling person of the firm submit to fingerprinting and a background investigation and disclose the following information:
 - 1. All felony convictions.
 - 2. All misdemeanor convictions in any jurisdiction that occurred within five years of the date of application.
 - 3. Any plea of nolo contendere or finding of guilt regardless of adjudication or deferred adjudication shall be considered a conviction for the purposes of this section. The record of conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt.
- E. The applicant for an appraisal management company license, the controlling person, the responsible person, and any person who owns 10 percent or more of the firm shall be in good standing in Virginia and in every jurisdiction and with every board or administrative body where licensed, certified, or registered, and the board, in its discretion, may deny licensure to any applicant who has been subject to, or whose controlling person or responsible person has been subject to, or any person who owns 10 percent or more of the firm has been subject to, any form of adverse disciplinary action, including but not limited to, reprimand, revocation, suspension or denial, imposition of a monetary penalty, required to complete remedial education, or any other corrective action, in any jurisdiction or by any board or administrative body or surrendered a license, certificate, or registration in connection with any disciplinary action in any jurisdiction prior to obtaining licensure in Virginia.
- F. The board shall deny the application for licensure of an applicant for an appraisal management company if any person or entity that owns ten percent or more of the appraisal management company has had an appraiser license refused, denied, canceled or revoked in Virginia or any jurisdiction.
- G. The applicant for an appraisal management company license shall be in compliance with the standards of conduct and practice set forth in Part V (18VAC130-30-120 et. seq.) of

DRAFT

this chapter at the time of application, while the application is under review by the board, and at all times when the license is in effect.

- H. The applicant for an appraisal management company license shall submit evidence of a bond or letter of credit in accordance with § 54.1-2021.1.C of the Code of Virginia. Proof of current bond or letter of credit with the appraisal management company as the named bond holder or letter of credit holder must be submitted to obtain or renew the license. The bond or letter of credit must be in force no later than the effective date of the license and shall remain in effect through the date of expiration of the license. The bond or letter of credit shall include:
1. Principal of bond or letter of credit;
 2. Beneficiary of bond or letter of credit;
 3. Name of the surety or financial institution that issued the bond or letter of credit;
 4. Bond or letter of credit number as assigned by the issuer;
 5. The dollar amount; and
 6. The expiration date or, if self-renewing, the date by which the bond or letter of credit shall be renewed.
- I. The firm shall provide the name, address and contact information for any person or entity that owns 10 percent or more of the appraisal management company.
- J. The firm shall designate a responsible person.

Historical Notes:

18 VAC 130-30-40. Application denial.

The board may refuse initial licensure due to an applicant's failure to comply with entry requirements or for any of the reasons for which the board may discipline a regulant.

Historical Notes:

DRAFT

PART III

FEES

18 VAC 130-30-50. General fee requirements.

All fees are nonrefundable and shall not be prorated. The date on which the fee is received by the department or its agent will determine whether the fee is on time. Checks or money orders shall be made payable to the Treasurer of Virginia.

Historical Notes:

18 VAC 130-30-60. Fee schedule.

Fee Type	Fee Amount	Total Amount Due	When Due
Initial Appraisal Management Company Application (includes National Registry fee of ?)	\$	\$	With application
Appraisal Management Company Renewal (includes National Registry fee of ?)	\$	\$	With renewal application
Appraisal Management Company Reinstatement (includes a \$ reinstatement fee in addition to the regular \$ renewal fee)	\$	\$	With renewal application

Historical Notes:

DRAFT

PART IV

RENEWAL AND REINSTATEMENT

18 VAC 130-30-70. Renewal required.

A license issued under this chapter shall expire two years from the last day of the month in which it was issued. A fee shall be required for renewal.

Historical Notes:

18 VAC 130-30-80. Expiration and renewal.

- A. Prior to the expiration date shown on the license, licenses shall be renewed upon (i) completion of the renewal application, (ii) submittal of proof of current bond or letter of credit as detailed in 18VAC130-30-30 G, and (iii) payment of the fees specified in 18VAC130-30-60.
- B. The board will mail a renewal notice to the regulant at the last known mailing address of record. Failure to receive this notice shall not relieve the regulant of the obligation to renew. If the regulant fails to receive the renewal notice, a copy of the license may be submitted with the required fees as an application for renewal. By submitting an application for renewal, the regulant is certifying continued compliance with the Standards of Conduct and Practice in Part V (18VAC130-30-120 et. seq.) of this chapter.
- C. Applicants for renewal shall continue to meet all of the qualifications for licensure set forth in Part II (18VAC130-30-20 et seq.) of this chapter.

Historical Notes:

18 VAC 130-30-90. Reinstatement of appraisal management company license required.

- A. If all of the requirements for renewal of a license as specified in 18VAC130-30-80 A are not completed within 30 days of the license expiration date, the regulant shall be required to reinstate the license by meeting all renewal requirements and by paying the reinstatement fee specified in 18VAC130-30-60.
- B. A license may be reinstated for up to one year following the expiration date. After one year, the license may not be reinstated under any circumstances and the firm must meet all current entry requirements and apply as a new applicant.

DRAFT

- C. Any regulated activity conducted subsequent to the license expiration date may constitute unlicensed activity and be subject to prosecution under Chapter 1 (§ 54.1-100 et seq.) of Title 54.1 of the Code of Virginia.

Historical Notes:

18 VAC 130-30-100. Status of license during the period prior to reinstatement.

A regulant who applies for reinstatement of a license shall be subject to all laws and regulations as if the regulant had been continuously licensed. The regulant shall remain under and be subject to the disciplinary authority of the board during this entire period.

Historical Notes:

18 VAC 130-30-110. Board discretion to deny renewal or reinstatement.

The board may deny renewal or reinstatement of a license for the same reasons as the board may refuse initial licensure or discipline a regulant.

The board may deny renewal or reinstatement of a license if the regulant has been subject to a disciplinary proceeding and has not met the terms of an agreement for licensure or other board order, has not satisfied all sanctions, or has not fully paid any monetary penalties and costs imposed by the board, plus any accrued interest.

Historical Notes:

DRAFT

PART V

STANDARDS OF CONDUCT AND PRACTICE

18 VAC 130-30-120. Grounds for disciplinary action.

The board has the power to fine any regulant, to place any regulant on probation, and to suspend or revoke any license issued under the provisions of Chapter 20.2 of Title 54.1 of the Code of Virginia and the regulations of the board, in accordance with §§ [54.1-201](#)(7), [54.1-202](#) and the provisions of the Administrative Process Act, Chapter 40 of Title 2.2 of the Code of Virginia, when any regulant has been found to have violated or cooperated with others in violating any provision of Chapter 20.2 of Title 54.1 of the Code of Virginia, any relevant provision of the Uniform Standards of Professional Appraisal Practice as developed by the Appraisal Standards Board of the Appraisal Foundation, or any regulation of the board.

Historical Notes:

18 VAC 130-30-130. Maintenance of license.

- A. No license issued by the board shall be assigned or otherwise transferred.
- B. A regulant shall report, in writing, all changes of address to the board within 30 days of the change and shall return the license to the board. In addition to the address of record, a physical address is required for each license. If the regulant holds more than one license, certificate, or registration, the regulant shall inform the board of all licenses, certificates, and registrations affected by the address change.
- C. Any change in any of the qualifications for licensure found in 18VAC130-30-30 shall be reported to the board within 30 days of the change.
- D. Notwithstanding the provisions of subsection C of this section, a regulant shall report the cancellation, amendment, expiration, or any other change of any bond or letter of credit submitted in accordance with 18VAC130-30-30 G within five days of the change.
- E. A regulant shall report to the board the discharge or termination of the responsible person and provide to the board the new responsible person designated by the regulant within 5 business days of the discharge or termination.

Historical Notes:

DRAFT

18 VAC 130-30-140. Change of business entity requires a new license.

- A. Licenses are issued to firms as defined in this chapter and are not transferable. Whenever the legal business entity holding the license is dissolved or altered to form a new business entity, the license becomes void and shall be returned to the board within 30 days of the change. Such changes include but are not limited to:
1. Cessation of the business or the voluntary termination of a sole proprietorship or general partnership;
 2. Death of a sole proprietor;
 3. Formation, reformation, or dissolution of a general partnership, limited partnership, corporation, limited liability company, association, or any other business entity recognized under the laws of the Commonwealth of Virginia; or
 4. The suspension or termination of the corporation's existence by the State Corporation Commission.
- B. When a new firm is formed, the new firm shall apply for a new license on a form provided by the board before engaging in any activity regulated by Chapter 20.2 (§ 54.1-2020 et seq.) of Title 54.1 of the Code of Virginia or the regulations of the board.

Historical Notes:

18 VAC 130-30-150. Notice of adverse action.

- A. Licensed appraisal management companies shall notify the board of the following actions against the firm, the responsible person, any controlling person and any person who owns ten percent or more of the firm:
1. Any disciplinary action taken by any jurisdiction, board, or administrative body of competent jurisdiction, including, but not limited to, any reprimand, license or certificate revocation, suspension or denial, monetary penalty, or requirement for remedial education or other corrective action.
 2. Any voluntary surrendering of a license, certificate, or registration done in connection with a disciplinary action in another jurisdiction.
 3. Any conviction, finding of guilt, or plea of guilty, regardless of adjudication or deferred adjudication, in any jurisdiction of the United States of any misdemeanor involving moral turpitude, sexual offense, drug distribution, or physical injury, or any felony, there being no appeal pending therefrom or the time for appeal having lapsed. Review

DRAFT

of convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. Any plea of nolo contendere shall be considered a conviction for the purpose of this section.

- B. The notice must be made to the board in writing within 30 days of the action. A copy of the order or other supporting documentation must accompany the notice. The record of conviction, finding, or case decision shall be considered prima facie evidence of a conviction or finding of guilt.

Historical Notes:

18 VAC 130-30-160. Prohibited acts.

The following acts are prohibited and any violation may result in disciplinary action by the board:

1. Violating, inducing another to violate, or cooperating with others in violating any of the provisions of any of the regulations of the board or Chapter 20.2 (§ 54.1-2020 et seq.) of Title 54.1 of the Code of Virginia, or engaging in any acts enumerated in § 54.1-111 of the Code of Virginia.
2. Allowing a license issued by the board to be used by another.
3. Obtaining or attempting to obtain a license by false or fraudulent representation, or maintaining, renewing, or reinstating a license by false or fraudulent representation.
4. The regulant, the responsible person, any controlling person and any person who owns ten percent or more of the firm having been convicted, found guilty, or disciplined in any jurisdiction of any offense or violation enumerated in 18VAC130-30-150.
5. Failing to inform the board in writing within 30 days that the regulant, the responsible person, any controlling person and any person who owns ten percent or more of the firm was convicted, found guilty, or disciplined in any jurisdiction of any offense or violation enumerated in 18VAC130-30-150.
6. Failing to report a change as required by 18VAC130-30-130 or 18VAC130-30-140.
7. Engaging in dishonest or fraudulent conduct as an appraisal management company.
8. Failing to satisfy any judgments or restitution orders entered by a court or arbiter of competent jurisdiction.
9. Engaging in any acts enumerated in § 54.1-2022 A-D of the Code of Virginia.

DRAFT

10. Failing to act as an appraisal management company in a manner that safeguards the interests of the public.
11. Advertising in any name other than the name or names in which licensed.
12. Failing to maintain the bond or letter of credit as required by 18VAC130-30-30 G.
13. Failing to have a system in place to review the work of all appraisers that may perform appraisal services for the appraisal management company on a periodic basis to ensure that the appraisal services are being conducted in conformance with the Uniform Standards of Professional Appraisal Practice.
14. Failing to maintain a detailed record of the following: (i) each request for an appraisal service that the appraisal management company receives; (ii) the name of each independent appraiser that performs the appraisal; (iii) the physical address or legal identification of the subject property; (iv) the name of the appraisal management company's client for the appraisal; (v) the amount paid to the appraiser; and (vi) the amount paid to the appraisal management company.
15. Failing to have a system in place to ensure compliance with § 129E of the Truth in Lending Act (15 U.S.C. §1601 et seq.).

Historical Notes:

18 VAC 130-30-170. Response to inquiry and provision of records.

- A. A regulant must respond within 10 days to a request by the board or any of its agents regarding any complaint filed with the department.
- B. Unless otherwise specified by the board, a regulant of the board shall produce to the board or any of its agents within 10 days of the request any document, book, or record concerning any transaction pertaining to a complaint filed in which the regulant was involved, or for which the regulant is required to maintain records for inspection and copying by the board or its agents. The board may extend such time frame upon a showing of extenuating circumstances prohibiting delivery within such 10-day period.
- C. A regulant shall not provide a false, misleading, or incomplete response to the board or any of its agents seeking information in the investigation of a complaint filed with the board.
- D. With the exception of the requirements of subsections A and B of this section, a regulant must respond to an inquiry by the board or its agent within 21 days.

Historical Notes:

DRAFT