

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

HOUSE ENROLLED ACT No. 1235

AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 25-34.1-8-7.5, AS AMENDED BY P.L.52-2009, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7.5. (a) The investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against real estate fraud and real estate appraisal fraud. The fund shall be administered by the attorney general and the professional licensing agency.

(b) The expenses of administering the fund shall be paid from the money in the fund. The fund consists of:

- (1) money from a fee imposed upon licensed or certified appraisers and real estate brokers and salespersons under IC 25-34.1-2-7 and IC 25-34.1-3-9.5; ~~and~~
- (2) civil penalties deposited in the fund under IC 24-5-23.5-9(d);
- (3) registration fees imposed on appraisal management companies under IC 25-34.1-11-15; and**
- (4) civil penalties deposited under IC 25-34.1-11-17.**

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Except as otherwise provided in this subsection, money in the fund at the end of a state fiscal year does not revert to the state general

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fund. If the total amount in the investigative fund exceeds seven hundred fifty thousand dollars (\$750,000) at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds seven hundred fifty thousand dollars (\$750,000) reverts to the state general fund.

(e) Money in the fund is continually appropriated for use by the attorney general and the licensing agency to administer and enforce the provisions of this article and to conduct investigations and take enforcement action against real estate and appraisal fraud under this article. The attorney general shall receive five dollars (\$5) of each fee collected under IC 25-34.1-2-7 and IC 25-34.1-3-9.5, and the licensing agency shall receive any amount that exceeds five dollars (\$5) of each fee collected under IC 25-34.1-2-7 and IC 25-34.1-3-9.5.

SECTION 2. IC 25-34.1-11 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 11. Appraisal Management Companies

Sec. 1. As used in this chapter, "appraisal" has the meaning set forth in IC 24-5-23.5-1.

Sec. 2. As used in this chapter, "appraisal management company" means a person that, for compensation, acts as a third party intermediary by contracting with independent real estate appraisers to perform appraisals for other persons.

Sec. 3. (a) As used in this chapter, "appraisal management services" means any of the following functions:

- (1) To recruit, qualify, verify licensing or certification, or negotiate fees and service level expectations with independent real estate appraisers on behalf of a person seeking an appraisal.**
- (2) To receive an order for an appraisal from a person and deliver the order for completion to a independent real estate appraiser.**
- (3) To track and determine the status of orders for appraisals.**
- (4) To conduct quality control of a completed appraisal before delivery of the appraisal to the client who ordered the appraisal.**
- (5) To provide a completed appraisal performed by a real estate appraiser to one (1) or more clients.**

(b) The term does not include transportation or communication of an appraisal or order for an appraisal without concern for the appraisal information in the appraisal or the order for an appraisal, including transportation or communication by the

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United States Postal Service, a delivery company, a courier, or an Internet service provider.

Sec. 4. As used in this chapter, "board" refers to the real estate appraiser licensure and certification board established by IC 25-34.1-8-1.

Sec. 5. (a) As used in this chapter, "person" means an individual engaged in a trade or business, an association, a partnership, a limited partnership, a limited liability company, a corporation, or a similar entity.

(b) The term does not include an employee.

Sec. 6. As used in this chapter, "real estate appraiser" means a person who:

- (1) prepares an appraisal for a real estate transaction in Indiana; and
- (2) meets one (1) or more of the following:
 - (A) Is licensed as a real estate broker under IC 25-34.1 and performs real estate appraisals within the scope of the person's license.
 - (B) Holds a real estate appraiser license or certificate issued under IC 25-34.1-8.

Sec. 7. "USPAP" refers to the Uniform Standards of Professional Appraisal Practice, as published by the Appraisal Standards Board of the Appraisal Foundation, under the authority of Title XI of the federal Financial Institutions Reform, Recover, and Enforcement Act (12 U.S.C. 3331-3351).

Sec. 8. An appraisal management company may not perform appraisal management services unless the appraisal management company has obtained a certificate of registration from the board under this chapter.

Sec. 9. (a) An appraisal management company that wishes to obtain or renew a certificate of registration under this chapter must submit the following information to the board on forms prescribed by the board:

- (1) The name of the person seeking registration.
- (2) The business address of the person seeking registration.
- (3) The telephone contact information of the person seeking registration.
- (4) The name, address, and contact information of each person that has an ownership share in an appraisal management company that equals or exceeds five percent (5%) of the total ownership share of the appraisal management company.

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- (5) Any other information that the board reasonably requires.
- (b) An appraisal management company that wishes to obtain or renew a certificate of registration must pay the fee established under section 15 of this chapter.

Sec. 10. (a) The board shall issue a certificate of registration to an appraisal management company that:

- (1) has furnished the information required by section 9(a) of this chapter in the manner prescribed by the board; and
- (2) paid the fee required under section 9(b) of this chapter.
- (b) A certificate of registration issued to an appraisal management company under this chapter expires two (2) years after the date on which the certificate of registration is issued.

Sec. 11. (a) A person may not own an interest in an appraisal management company if the person has had the person's license or certificate to act as a real estate appraiser in Indiana or any other state revoked and the license or certificate has not been reinstated.

- (b) An appraisal management company may only hire an independent contractor to perform an appraisal who:
 - (1) holds a license or certificate under IC 25-34.1-3-8 or a license as a real estate broker under IC 25-34.1; and
 - (2) is in good standing.

(c) An appraisal management company may not corrupt or improperly influence a real estate appraiser in violation of IC 24-5-23.5-7.

Sec. 12. (a) As used in this section, "appraisal review" means the USPAP Standard 3 process of developing and communicating an opinion about the quality of an independent real estate appraiser's work that is performed as part of an appraisal assignment made by an appraisal management company. However, the term does not include:

- (1) an examination of an appraisal solely for grammatical errors, typographical errors, or similar errors; or
- (2) a quality control examination for completeness.
- (b) An individual who performs an appraisal review must hold a license or certificate under IC 25-34.1-3-8 or a license as a real estate broker under IC 25-34.1.

Sec. 13. (a) An appraisal management company performing appraisal management services shall maintain a record of each service request for an appraisal that the appraisal management company receives. The following must be included in a record maintained under this subsection:

- (1) The person making the service request.

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- (2) The date on which the service request is made.
- (3) The property to be appraised.
- (4) The real estate appraiser who performed the appraisal.
- (5) A copy of the appraisal produced for the service request.
- (6) The individuals who reviewed the appraisal.
- (7) The date on which the appraisal was delivered to the person who made the service request.
- (8) The costs and fees for the appraisal management services performed by the appraisal management company.
- (9) The costs and fees for the appraisal performed by the real estate appraiser.

(b) An appraisal management company shall keep the records described in subsection (a) for not less than six (6) years after the date specified in subsection (a)(2).

Sec. 14. The board shall prescribe forms for the registration of appraisal management companies under this chapter.

Sec. 15. (a) The board shall establish the registration fee to be paid by an appraisal management company seeking registration under this chapter. The amount of the registration fee must be the lesser of:

- (1) the amount determined by the board to be sufficient for the administration of appraisal management registrations under this chapter when aggregated with all the registration fees paid by appraisal management companies seeking registration under this chapter; or
- (2) five hundred dollars (\$500).

(b) Registration fees collected under this section must be deposited in the investigative fund established by IC 25-34.1-8-7.5.

Sec. 16. An appraisal management company is responsible for ensuring an appraisal complies with standards established:

- (1) in the USPAP; and
- (2) by the board.

Sec. 17. (a) An appraisal management company that violates this chapter is subject to disciplinary sanctions under IC 25-1-11-12.

(b) The board may impose a civil penalty of not more than ten thousand dollars (\$10,000) for each violation of this chapter.

(c) A civil penalty collected under this section must be deposited in the investigative fund established by IC 25-34.1-8-7.5.

Sec. 18. (a) A person who performs appraisal management services without a certificate of registration under this chapter commits a Class A infraction.

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(b) The attorney general, the board, or the prosecuting attorney of any county in which a violation occurs may maintain an action in the name of the state to enjoin a person from violating this section.

Sec. 19. The board may adopt rules under IC 4-22-2 that the board considers necessary or advisable for the administration of this chapter.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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