

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVII. Real Estate
Subpart 3. Appraisal Management Companies

Chapter 303. Forms and Applications

§30302. Surety Bond Required; Amount and Conditions; Filing

- A. Applicants for licensing as an appraisal management company shall submit proof of a surety bond in the amount of \$20,000 with a surety company qualified to conduct business in Louisiana.
- B. Bonds shall be in favor of the state of Louisiana and conditioned for the benefit of a claimant against the licensee for a violation of the Appraisal Management Company Licensing and Regulation Act and/or the rules and regulations of the board.
- C. Bonds shall remain effective and in force throughout the license period of the appraisal management company.
- D. Proof of surety bond renewal shall be provided to the board in conjunction with the annual renewal of the appraisal management company license.
- E. Failure to maintain a surety bond shall be cause for revocation or suspension of a license.
- F. A licensee who elects to submit a cash deposit or security in lieu of a surety bond, as provided in R.S. 37:3515.3(D)(5), shall restore the cash deposit or security annually upon license renewal, if a claim has reduced the deposit amount or security below \$20,000.
- G. The board may file suit on behalf of a party having a claim against a licensee or a party having a claim may file suit directly against the surety bond. Suits shall be filed within one year after the claim arises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3415.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 39:

Chapter 304. Competency

§30401. Appraiser License Verification

- A. Prior to making an assignment to a real estate fee appraiser, licensees shall have a system in place to verify that the appraiser holds a license in good standing in this state pursuant to the Louisiana Real Estate Appraisers Law, R.S. 37:3391 et seq. Licensees may

rely on the National Registry of the Appraisal Subcommittee for purposes of appraiser license verification. Before or at the time of making an assignment to a real estate fee appraiser, licensees shall obtain a written certification from the appraiser that he or she:

1. is competent in the property type of the assignment;
2. is competent in the geographical area of the assignment;
3. has access to appropriate data sources for the assignment;
4. will immediately notify the licensee in writing if the appraiser later determines that he or she is not qualified to complete the assignment; and
5. is aware that misrepresentation of competency is **may be** subject to the mandatory reporting requirement of the *Uniform Standards of Professional Appraisal Practice (USPAP)*.

B. Subsequent to a completed appraisal being submitted to the assigning licensee, any request for additional information that may impact or alter the opinion of value stated therein shall be made by the certified appraiser completing the appraisal review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3415.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 39:

Chapter 305. Responsibilities and Duties

§30501. Record Keeping

A. - A.4. ...

B. In addition to the records that shall be maintained in Subsection A of this Section, licensees shall maintain a complete list of all real estate fee appraisers approved by the licensee to receive appraisal assignments. The list shall include, but is not limited to, the following information on each fee appraiser:

1. Name, license status, and qualifications;
2. Errors and omission insurance status, including the carrier, the policy number, the dollar limits of the coverage and the dates covered in the policy, if such insurance is required by the licensee;
3. Experience and professional record;
4. ~~the~~ Areas in which each fee appraiser considers him/herself geographically competent broken down by parish and/or zip code;
5. ~~the~~ Type of property for each appraisal performed;
6. ~~the~~ Scope of work for each appraisal performed;
7. ~~the time frame~~ **Turn time** in which the appraisal services are required to be performed;

8. fee appraiser work quality;
9. ~~the~~ Number and type of assignments completed per year; and
10. ~~the~~ Fee or remuneration or ~~monitory~~ **monetary** compensation for each report or assignment.

C. All records shall be kept properly indexed and readily available to the board for review upon request. Duly authorized representatives of the board shall be authorized to inspect such records at the offices of licensees between the hours of 9 a.m. and 4 p.m., Saturdays, Sundays, and legal holidays excluded, upon 10 calendar days written notice to the licensee, and to subpoena any of the said records.

D. All records specified in this Chapter shall be retained for a period of five years; however, records that are used in a judicial proceeding, in which the appraiser provided testimony related to the appraisal assignment, shall be retained for at least two years after disposition, whichever period expires last.

E. At any time that a document or information on file with the board becomes inaccurate or incomplete, the appraisal management company shall notify the board in writing within 10 business days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3415.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 37:2407 (August 2011), amended LR 39:

Chapter 309. Investigations; Disciplinary Authority; Enforcement and Hearing

§30900. Investigations

A. The board may, upon its own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of a licensee or certificate holder, or any person who assumes to act as such. Written complaints shall bear the signature of the complainant or that of his legal representative before any action will be taken thereon by the board.

B. The executive director of the board may issue written authorization to investigate apparent violations of the Louisiana Appraisal Management Company Licensing and Regulation Act and/or the rules and regulations of the board.

C. Investigations shall be conducted by the staff of the Louisiana Real Estate Appraisers Board and/or the Louisiana Real Estate Commission.

D. If, during the course of an investigation, information is established indicating that violations of the Louisiana Appraisal Management Company Licensing and Regulation Act

and/or the rules and regulations of the board have been committed by any licensee other than the licensee against whom the original complaint was made, the additional licensee may be added as a respondent to the investigation in the absence of any written complaint alleging such violations.

E. The board may file suit in the Nineteenth Judicial District Court in the parish of East Baton Rouge to enforce a subpoena against any person that does not comply with a subpoena issued by the board.

F. Full or partial compliance audits may be authorized by the executive director, or by affirmative vote of the Board, to determine compliance with all provisions of applicable law and rules. A maximum of ten (10%) per cent of all registered licensees may be subject to audit in any calendar year. Licensees selected for audit shall be given 10 days written notice prior to commencement of the audit

G. Adjudication of any apparent violations resulting from any audit shall be conducted in accordance with R.S. 49:950 et seq., and the rules and regulations of the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3415.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 39:

Chapter 311. Compensation of Fee Appraisers

§31101. General Provisions; Customary and Reasonable Fees; Presumptions of Compliance

A. ~~Licensees may use the elements found in the presumptions of compliance prescribed by the Dodd-Frank Wall Street Reform and Consumer Protection Act, and as prescribed by R.S. 37:3515(A) to determine the customary and reasonable rate of compensation for a fee appraiser in a specific geographic market. The disclosure made by licensees using the first presumption of compliance shall provide documentation to the selected fee appraiser that substantiates the method used, the basis for, and the details of the elements listed in Paragraphs B.1-6 of this Section:~~ **Licensees shall compensate fee appraisers at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised and as prescribed by R.S. 37:3515(A). For the purposes of this Chapter, Market Area shall be identified by zip code, parish, or metropolitan area.**

1. Licensees shall disclose to the selected fee appraiser all methods, factors, variations, and differences used to determine the customary and reasonable rate of compensation in the geographic market of the property being appraised before or at the time an appraisal assignment is made. **Evidence for such fees may be established by objective third-party information such as government agency fee schedules, academic studies, and independent private sector surveys. Fee studies shall exclude assignments ordered by appraisal management companies.**

2. An agreement between a licensee and a fee appraiser, written or otherwise, shall not create a presumption of compliance, nor shall it satisfy the requirements of R.S. 37:3415.15, which mandate the payment of a customary and reasonable rate of compensation to fee appraisers. **The board, at its discretion, may establish a customary and reasonable rate of compensation schedule for use by any licensees electing to do so.**

3. Licensees electing to compensate fee appraisers on any basis other than an established fee schedule as described in A(1) or A(2), shall, at a minimum, review factors A through F below on each assignment made, and make any adjustments to recent rates paid in the relevant geographic market necessary to ensure that the amount of compensation is reasonable.

B. A licensee shall maintain written documentation that describes or substantiates all methods, factors, variations, and differences used to determine the customary and reasonable fee for appraisal services conducted in the geographic market of the appraisal assignment. This documentation shall include, at a minimum, the following elements:

1. the type of property for each appraisal performed;
2. the scope of work for each appraisal performed;
3. the time in which the appraisal services are required to be performed;
4. fee appraiser qualifications;
5. fee appraiser experience and professional record; and
6. fee appraiser work quality.

~~C. A licensee may establish a customary and reasonable rate of compensation based on objective third-party information prepared by independent third parties such as government agencies, academic institutions, and private research firms. Third-party information shall be based on recent rates paid to a representative sample of appraisal service providers in the geographic market of the appraisal assignment, or the fee schedule of those providers.~~

~~Written documentation that describes and substantiates third-party information shall be maintained by the licensee.~~

~~1. The board, at its discretion, may establish a customary and reasonable rate of compensation schedule for use by any licensees that elects to do so.~~

D. ~~In accordance with the record keeping responsibilities prescribed in Chapter 305 of the board rules and regulations, licensees shall maintain records on all methods, factors, variations, and differences used to determine a customary and reasonable rate of compensation. Licensees shall submit these records to the board upon request no later than 10 calendar days after the request is made.~~ **Licensees shall maintain records of all methods, factors, variations, and differences used to determine the customary and reasonable rate of compensation paid for each appraisal assignment in the geographic market of the property being appraised, in accordance with Section 30501(C)**

E. ~~An appraiser who is aggrieved under this Section may file a complaint with the board against the appraisal management company if the matter remains unresolved after the appraiser completes the company's dispute resolution process.~~ **Except in the case of breach of contract or substandard performance of real estate appraisal activity, an appraisal management company shall make payment to an independent contractor appraiser for the completion of an appraisal or appraisal review assignment:**
(1) Within 30 days after the appraiser provides the completed appraisal report to the appraisal management company; or
(2) In accordance with another payment schedule agreed to by the appraiser and the appraisal management company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3415.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 39:

Family Impact Statement

The proposed rules have no known impact on family, formation, stability, or autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed rules have no known impact on poverty as described in R.S. 49:973.

Public Comments

Interested parties are invited to submit written comments on the proposed regulations through June 10, 2013 at 4:30 p.m., to Stephanie Boudreaux, Louisiana Real Estate

Commission, P.O. Box 14785, Baton Rouge, LA 70898-4785 or 9071 Interline Avenue, Baton Rouge, LA 70809, or sboudreaux@lrec.state.la.us.

Bruce Unangst
Executive Director