



# Memo from the Board to Nebraska Real Property Appraisers

April 11, 2013

## COMPLIANCE WITH AMC REGISTRATION ACT FOR ORGANIZATIONS CONDUCTING BUSINESS AS AMCS IN NEBRASKA

By Tyler Kohtz, Director

*The Appraisal Management Company Registration Act was enacted to ensure that appraisal management companies operate within the same regulatory environment as credentialed appraisers.*

The Dodd-Frank Wall Street Reform and Consumer Protection Act was signed into law by President Barack Obama on July 21, 2010 bringing major changes to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("Title XI"). The amendments to Title XI resulted in additional responsibilities for the Appraisal Subcommittee and state regulatory agencies, which gave the Nebraska Real Property Appraiser Board ("Board") the authority to register and supervise appraisal management companies ("AMC").

The Nebraska Appraisal Management Company Registration Act ("Act") became effective on January 1, 2012. As of April 1, 2013 there were ninety-three AMCs registered in Nebraska. Although the majority of organizations comply with the AMC Registration Act, there are still a few organizations conducting business unlawfully within the State of Nebraska. To date, the Board has sent cease and desist letters to five organizations operating in the state without first obtaining registration from the Board. The Board considers it very important that Nebraska credentialed appraisers understand the importance of the AMC Registration Act, and why an appraiser should not enter into a contract for appraisal services with an organization acting as AMC that does not hold registration issued by the Board.

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While it is not unlawful for an appraiser to accept an appraisal assignment from an organization acting as an AMC not registered in Nebraska, conducting business with such an entity is at the appraiser's own risk. The Act was established to not only regulate AMCs, but to also protect the rights of appraisers that do work for AMCs. Without this protection, an organization may prohibit an appraiser from including within the body of an appraisal report the fee the appraiser was paid by the AMC for the performance of the appraisal report, may have appraisal reviews done by an appraiser not properly credentialed in Nebraska, may not maintain proper records related to appraisal services requested and received, and may alter, modify, or otherwise change a completed appraisal report without the appraiser's written consent. Furthermore, Neb. Rev. Stat. § 76-3215 pertains to payment of fees, appraisers added and removed from appraiser panels, and appraiser rights to a hearing. The following laws cannot be enforced by the Board if an appraisal assignment is accepted from an unregistered organization acting as an AMC:

- (1) Each appraisal management company registered in this state, except in cases of noncompliance with the conditions of the engagement shall make payment of fees to an appraiser for the completion of an appraisal or valuation assignment within sixty days after the date on which the appraiser transmits or otherwise provides the completed appraisal report or valuation assignment to the appraisal management company or its assignee.
- (2) Except within the first ninety days after an appraiser is first added to the appraiser panel of an appraisal management company, an appraisal management company may not remove the appraiser from the appraiser panel of the appraisal management company or otherwise refuse to assign requests for appraisal services to an appraiser on the appraiser panel without:
  - a) Notifying the appraiser in writing of the reasons why the appraiser is being removed from the appraiser panel of the appraisal management company; and
  - b) Providing an opportunity for the appraiser to respond to the notification from the appraisal management company.
- (3) An appraiser who is removed from the appraiser panel of an appraisal management company may file a complaint with the board for a review of the decision of the appraisal management company. The scope of the board's review in any such case is limited to determining that the appraisal management company has complied with subsection (2) of this section and whether a violation of the Real Property Appraiser Act has occurred.

- (4) If an appraiser files a complaint against an appraisal management company pursuant to subsection (3) of this section, the board shall adjudicate the complaint within one hundred eighty days after the filing of the complaint. If, after opportunity for hearing and review, the board determines that an appraisal management company acted improperly in removing the appraiser from the appraiser panel, the board shall:
- a) Provide written findings to the involved parties;
  - b) Provide an opportunity for the appraisal management company and the appraiser to respond to the findings; and
  - c) Make recommendations for action.

All AMCs registered in Nebraska will be included in the AMC Registry Listing found on the Board's website at [www.appraiser.ne.gov](http://www.appraiser.ne.gov). If an organization is conducting business as an AMC in Nebraska, but is not found in the Board's AMC Registry Listing, please contact the Board's office to check the status of that organization. Some organizations are reviewed by the Board to determine if registration is required or not. In addition, the Board would like any information on organizations that may be conducting business in Nebraska as an AMC without registration.

The Board understands that there are still some uncertainties regarding AMCs, and will continue to monitor the relationship between credentialed appraisers and AMCs in the future. It is the Board's responsibility to not only ensure that both programs work as efficiently as possible while taking into consideration the best interests of credentialed appraisers and AMCs, but also the best interests of all citizens in the State of Nebraska. If you have any questions or concerns regarding an AMC in Nebraska, please do not hesitate to contact the Board's office.