

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

REAL ESTATE APPRAISER BOARD

Chapter 30

Proposed Regulation

Title of Regulation: 18VAC130-30. Appraisal Management Company Regulations (adding 18VAC130-30-10 through 18VAC130-30-170).

Statutory Authority: § 54.1-201 of the Code of Virginia.

Public Hearing Information:

February 27, 2014 - 9 a.m. - 9960 Mayland Drive, Suite 200, Board Room 1, Richmond, VA 23233

Public Comment Deadline: March 28, 2014.

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Basis: Title 12, Chapter 34A, Section 3353 (Appraisal Management Company Minimum Requirements) of the United States Code requires that appraisal management companies register with and be subject to supervision by a state appraiser certifying and licensing agency in each state in which such company operates.

The second and third enactments of Chapter 405 of the 2012 Acts of Assembly state: "That the Real Estate Appraiser Board shall promulgate regulations to implement the provisions of this act to be effective July 1, 2014. That the provisions of this act shall become effective on July 1, 2012, except that § 54.1-2021.1 of this act shall become effective July 1, 2014." Section 54.1-2021.1 of the Code of Virginia states that beginning July 1, 2014, the board may issue a license to do business as an appraisal management company in the Commonwealth to any applicant who has submitted a complete application and submitted certain satisfactory evidence.

Section 54.1-201 A 1 of the Code of Virginia authorizes the board to establish the qualifications of applicants for certification or licensure by any such board, provided that all qualifications shall be necessary to ensure either competence or integrity to engage in such profession or occupation.

Section 54.1-201 A 5 of the Code of Virginia authorizes the board to promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) necessary to assure continued competency, to prevent deceptive or misleading practices by

practitioners and to effectively administer the regulatory system administered by the regulatory board.

Purpose: The Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203) was signed into law on July 21, 2010, and requires that appraisal management companies register with and be subject to supervision by a state appraiser certifying and licensing agency in each state in which such company operates. To comply with this requirement, the General Assembly adopted § 54.1-2021.1 of the Code of Virginia, which permits the board, beginning July 1, 2014, to issue a license to do business as an appraisal management company in the Commonwealth to any applicant who has submitted a complete application. The proposed regulations complement the law enacted in Chapter 405 of the 2012 Acts of Assembly and provide minimum burdens on regulants while still protecting the public.

The board provides protection to the safety and welfare of the citizens of the Commonwealth by ensuring that only those individuals who meet specific criteria set forth in the statutes and regulations are eligible to receive an appraisal management company license. The board sets minimum standards for licensure in compliance with the federal requirements to help protect the health and safety of the citizens of the Commonwealth.

Substance: The new chapter has several parts, as follows:

General: Defines the terms used throughout the regulations.

Entry: States the application procedures and provides qualifications for licensure of appraisal management companies, including responsible person and controlling person information, bond and letter of credit requirements, and past criminal conviction and disciplinary action information.

Fees: Lists all fees, including application fees, federal registry fees, renewal fees, and reinstatement fees.

Renewal and Reinstatement: Establishes requirements for renewal and reinstatement of license, including qualifications, procedures, and fees; status of license during period prior to reinstatement; and board discretion to deny renewal or reinstatement.

Standards of Practice: Describes grounds for disciplinary action, license maintenance requirements, and prohibited acts.

Issues: The Code of Virginia establishes the board as the state agency that oversees the licensure and regulation of appraisal management companies providing services in Virginia. The board's primary mission is to protect the citizens of the Commonwealth by prescribing requirements for minimal competencies, by prescribing standards of conduct and practice, and by imposing penalties for not complying with the regulations. The proposed regulations provide clarification and guidance to licensees so

they can better serve the public and comply with industry standards. The proposed regulations pose no disadvantages to the public or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis: Summary of the Proposed Amendments to Regulation. As permitted by Chapter 405 of the 2012 Acts of the Assembly, the Real Estate Appraisal Board (Board) proposes to promulgate new regulations for the licensure of real estate appraisal management companies.

Result of Analysis. There is insufficient information to ascertain whether benefits will outweigh costs for these proposed regulations.

Estimated Economic Impact. Legislative History: In 2010, the United States Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank). This act, among other things, requires states to register appraisal management companies and also requires a group of governmental entities to jointly establish minimal requirements that states must apply to such registration.¹ Dodd-Frank mandates that regulations promulgated by these federal entities:

- 1) Require that appraisal management companies register with, and be supervised by, a state appraiser certifying and licensing agency in each state in which companies operate,
- 2) Verify that only licensed or certified appraisers are used for federally related transactions,
- 3) Require that appraisals coordinated by an appraisal management company comply with the Uniform Standards of Professional Appraisal Practice and
- 4) Require that appraisals are conducted independently and free from inappropriate influence and coercion.

Dodd-Frank states that no appraisal management company may perform services that are related to federal transactions in a state that has not set up a registration program that complies with Dodd-Frank 36 months after federal regulations are promulgated and in their final form. Dodd-Frank also allows a 12-month extension to the 36-month time limit for states that have made substantial progress in establishing an appraisal management company registration program. Board staff reports that, to their knowledge, the federal entities tasked with promulgation of federal regulations have not yet begun to write them.

In 2012, the Virginia General Assembly passed HB210 which amended some rules for appraisers and appraisal management companies and added § 54.1-2021.1 to the Code of Virginia. Section 54.1-2021.1 states that "(b)eginning July 1, 2014, the Board may issue a license to do business as an appraisal management company" and goes on to list required information for an application for licensure and some requirements for bond that are conditioned upon companies applying for

licensure. Neither Chapter 405 of the 2012 Acts of Assembly nor any other part of the Code of Virginia requires appraisal management companies to be licensed by the Board to do business. Additionally, the Code of Virginia does not currently make unlicensed practice for appraisal management companies a crime with punishments attached. Given the permissive but not mandatory nature of the language that allows licensure, the lack of other licensure requirements in the Code of Virginia and the Board's lack of authority to punish unlicensed individuals or companies, the Board sought counsel from the Attorney General's office which advised that the licensure program proposed by the Board in these regulations cannot be enforced against companies that decide not to be licensed. This program will be, in effect, voluntary. Although Chapter 405 does not create or authorize a mandatory licensure program, other parts of the Code do meet three of the four requirements that Dodd-Frank lays out for federal regulations. Licensure for real estate appraisers is mandatory and, since 1992, § 54.1-2011 of the Code of Virginia has explicitly stated that only licensed appraisers may perform appraisals in connection with a federally related transaction (#2 on the list above). Section 54.1-2022 of the Code of Virginia appears to require that appraisal management companies follow the Uniform Standards of Professional Appraisal Practice as required by #3 on the list. Section 54.1-2022 also explicitly states that "(n)o employee, director, officer, or agent of an appraisal management company shall influence or attempt to influence the development, reporting, result or review of a real estate appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, bribery or in any other manner" and goes on to list some, but not all, specific acts that are prohibited; this language in the Code would seem to handily satisfy the requirements in #4 on the list above.

If three of the four requirements for appraisal management companies that are explicitly listed in Dodd-Frank are already in the Code of Virginia, and absent the federal regulating agencies adding any other requirements in the yet to be promulgated federal regulations, Virginia might only have to require registration of appraisal management companies, similar to what is currently required for appraisal companies formed by independent licensed appraisers, in order to meet all requirements of Dodd-Frank.

Proposed Regulatory Requirements:

As allowed by Chapter 405 of the 2012 Acts of the Assembly, the Board now proposes to promulgate new regulations for licensure of appraisal management companies that operate in Virginia. These regulations will:

- 1) Define terms that are not already defined in the statute,
- 2) Create application procedures to list qualifications for appraisal

management company licensure including requiring:

- A listing of the company's designated responsible person and controlling person information,
- A \$25,000 bond or letter of credit requirements (as required of licensees in § 54.1-2021.1) and
- Disclosure of any past felony conviction, any misdemeanor convictions in the five years immediately prior to application for licensure and any disciplinary action information for responsible persons, controlling persons and any individual who owns 10% or more of an appraisal management company.

3) Establish a licensure fee of \$490 plus the National Registry fee of \$50 per appraiser employed by or contracting with a firm, a renewal fee of \$300 plus the National Registry fee of \$50 per appraiser, and a reinstatement fee of \$790 plus the National Registry fee of \$50 per appraiser,

4) Describe requirements for biennial renewal and reinstatement, including qualifications, procedures and fees, status of license during the time prior to reinstatement, and board discretion to deny renewal or reinstatement,

5) List grounds for disciplinary action, license maintenance requirements, and prohibited acts,

6) Specify that a change of business entity requires a new license and that licenses may not be transferred from one entity to another,

7) Clarify that licensees are required to notify the board of certain adverse actions, like criminal convictions or regulatory disciplinary actions, taken against any individual who is required to report such adverse actions on an application for licensure and

8) Mandate that licensees respond to the board's requests for information and provide records within certain timeframes.

All proposed regulatory requirements will only apply to licensees. As noted above, licensure under these proposed regulations will, in effect, be voluntary absent some changes to the Code of Virginia. Absent those changes, appraisal management companies will likely not have an incentive to become licensed until at least 36 months after federal regulations are promulgated when they would lose the right to perform services related to federal transactions if they are not registered with the state.

Individuals who choose to be licensed under these proposed regulations will incur time and possibly copying costs on account of having to compile and send information required as a part of the initial and renewal application processes. Companies who choose to be licensed will incur costs for the \$25,000 bond or letter of credit that legislation requires they carry as security against claims due to poor service or non-payment of

monies owed for contracted appraisal services. Companies will also incur costs for licensure fees listed above plus payment of a National Registry fee for each appraiser that works for or with them. Board staff reports that the Board does not have information about how many appraisers, on average, work for any particular appraisal management company but that they would estimate that 90% of appraisers work in some capacity for such companies. Information available on the Department of Professional and Occupational Regulations (DPOR) website indicates that there are approximately 3,390 real estate appraisers who hold a current active license from the Board; 90% of these would be approximately 3,055. This number multiplied by \$50 (or \$152,730) will approximate the total biennial costs for fees paid to the National Registry if all 150 appraisal management companies in the Commonwealth chose to be licensed (approximately \$1,018 per firm). These costs would need to be weighed against any benefit that accrues to the public if appraisal management firms act in a more ethical, less profligate manner on account of licensure.

Businesses and Entities Affected. Board staff reports that there are approximately 150 appraisal management companies in the Commonwealth, all of which would qualify as small businesses. Any of these companies that choose to be licensed will be affected by these proposed regulations.

Localities Particularly Affected. No locality will be particularly affected by this proposed regulatory action.

Projected Impact on Employment. Right now, firms are unlikely to choose licensure unless the benefits of being licensed outweigh its costs. Accordingly, these proposed regulations are unlikely to have an adverse impact on employment. In the future, if licensure is required by the state or when Dodd-Frank bans firms from performing services relating to federal transactions if they are not registered with the state, the costs of licensure may cause appraisal management companies to hire or contract with fewer appraisers. At that time, appraisal management firms that are only marginally attached to the market place may choose to stop working in appraisal management altogether.

Effects on the Use and Value of Private Property. As a voluntary program, these proposed regulations are unlikely to affect the use or value of private property in the Commonwealth. If licensure becomes required or when Dodd-Frank bans firms from performing services relating to federal transactions if they are not registered with the state, the costs of licensure may have a negative effect on the value of private firms.

Small Businesses: Costs and Other Effects. Currently, small businesses that choose to be licensed under these proposed regulations will incur

costs for licensure fees, National Registry fees and for gathering and transmitting information required for licensure applications. These businesses will also incur costs associated with getting and keeping the \$25,000 bond or letter of credit required by § 54.1-2021.1.

Small Businesses: Alternative Method that Minimizes Adverse Impact. Since it appears that most of the requirements for appraisal management companies in Dodd-Frank are already met by language in the Code of Virginia, the Board or the General Assembly may wish to consider only requiring registration with the Board rather than moving toward requiring licensure of all companies if such a registration program would be less costly for regulated entities.

Real Estate Development Costs. At this time, this regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Administrative Process Act and Executive Order Number 14 (10). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, a determination of the public benefit, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

¹ The Board of Governors for the Federal Reserve System, the Comptroller of the Currency, representatives of the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, representatives of the Federal Housing Finance Agency and representatives of the Bureau of Consumer Financial Protection (that was newly formed by the Dodd-Frank Act) are jointly tasked with establishing minimum registration requirements for appraisal management companies.

Agency's Response to Economic Impact Analysis: The Real Estate Appraiser Board concurs with approval.

Summary:

To implement Chapter 405 of the 2012 Acts of Assembly, the proposed new chapter provides for the licensure and regulation of real estate appraisal management companies. The regulation establishes definitions, qualifications for licensure, fees, and standards of practice and conduct.

CHAPTER 30 APPRAISAL MANAGEMENT COMPANY REGULATIONS Part I General

18VAC130-30-10. Definitions.

A. 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"

B. The following words and phrases 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 or 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 who 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.

"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 that 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.) of Title 54.1 of the Code of Virginia 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 a 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.

Part II Entry

18VAC130-30-20. Application procedures.

An applicant 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 in this chapter and on the application. Applications will not be considered complete until all 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.

18VAC130-30-30. Qualifications for licensure as an appraisal management company.

A. Firms that 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 the court in the 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% 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% 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% or more of the firm has been subject to, any form of adverse disciplinary action, including but not limited to (i) reprimand; revocation, suspension, or denial of license; imposition of a monetary penalty; requirement to complete remedial education, or any other corrective action in any jurisdiction or by any board or administrative body or (ii) surrender of a license, a 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 10% or more or 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 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. The principal of the bond or letter of credit;
2. The beneficiary of the bond or letter of credit;
3. The name of the surety or financial institution that issued the bond or letter of credit;
4. The 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% or more of the appraisal management company.
- J. The firm shall designate a responsible person.

18VAC130-30-40. 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 the board may discipline a regulant.

Part III Fees

18VAC130-30-50. 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 payable to the Treasurer of Virginia.

18VAC130-30-60. Fee schedule.

Fee Type	Fee Amount
Initial Application - Appraisal Management Company	\$490 plus National Registry fee of \$50 per appraiser working for or contracting with appraisal management company
Renewal - Appraisal Management Company	\$300 plus National Registry fee of \$50 per appraiser working for or contracting with appraisal management company
Reinstatement - Appraisal Management Company	\$790 (includes a \$490 reinstatement addition to the regular \$300 renewal plus National Registry fee of \$50 per appraiser working for or contracting with the appraisal management company)

Each appraisal management company shall submit a \$50 National Registry fee assessment for each appraiser working for or contracting with the appraisal management company during the previous year in accordance with § 1109 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 USC §§ 3331-3351). This fee may be adjusted and charged to an appraisal management company in accordance with the Act.

Part IV Renewal and Reinstatement

18VAC130-30-70. 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.

18VAC130-30-80. 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. 18VAC130-30-90. 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.

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. 18VAC130-30-100. 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.

18VAC130-30-110. 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.

Part V Standards of Conduct and Practice

18VAC130-30-120. 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 (§ 54.1-2020 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the board, in accordance with subdivision 7 of § 54.1-201 and § 54.1-202 of the Code of Virginia and the provisions of the Administrative Process Act (§ 2.2-4000 et seq. 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.

18VAC130-30-130. 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 five business days of the discharge or termination and name a new responsible person.

18VAC130-30-140. 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.

18VAC130-30-150. 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, or any person who owns 10% 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 surrender 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 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.

18VAC130-30-160. 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, or any person who owns 10% 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, or any person who owns 10% 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 subsections A through D of § 54.1-2022 of the Code of Virginia.

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 who 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 USC § 1601 et seq.).

16. Failing to include the regulant's Virginia license number on all contracts, agreements, letters of engagement, or other documentation entered with an independent appraiser for the performance of appraisal services.

18VAC130-30-170. 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 agents within 21 days.

NOTICE: The following form used in administering the regulation was filed by the agency. The form is not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of the form to access it. The form is also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.