

**ADOPTED REGULATION OF THE
COMMISSION OF APPRAISERS OF REAL ESTATE**

LCB File No. R091-09

Effective April 20, 2010

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-4, 7, 10, 13, 15, 17, 18, 20 and 21, NRS 645C.210; §5, NRS 645C.210 and 645C.600; §6, NRS 645C.210, 645C.650, 645C.655 and 645C.670; §8, NRS 645C.210, 645C.655 and 645C.665; §9, NRS 645C.680; §§11 and 12, NRS 645C.210 and 645C.650; §14, NRS 645C.210 and 645C.220; §16, NRS 645C.210 and 645C.320; §19, NRS 645C.210 and 645C.460.

A REGULATION relating to appraisals of real estate; defining the circumstances in which an appraisal management company enters into more than nine contracts annually with independent contractors in this State; establishing requirements for applications for the issuance and renewal of a registration as an appraisal management company; prescribing the fees for the issuance and renewal of a registration as an appraisal management company; establishing grounds for the denial of an application for a registration as an appraisal management company; enacting certain disclosure and recordkeeping requirements for appraisal management companies; enacting various regulatory requirements pertaining to appraisal management companies; providing that the Commission of Appraisers of Real Estate will consider certain conduct by an appraiser or appraiser's intern in relation to an unregistered appraisal management company when determining whether the appraiser or intern has engaged in unprofessional conduct; and providing other matters properly relating thereto.

Section 1. Chapter 645C of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 13, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Branch office” means any office of an appraisal management company, other than a principal office, from which an appraisal of property located in this State is ordered.*

Sec. 4. *“Principal office” means the headquarters or main office of an appraisal management company.*

Sec. 5. *For the purposes of subsection 2 of NRS 645C.600, an appraisal management company enters into more than nine contracts annually with independent contractors in this State if, pursuant to a contract or contracts, the appraisal management company assigns more than nine appraisals annually to independent contractors in this State.*

Sec. 6. 1. *An application for the initial registration of an appraisal management company provided by the Division must include the following information:*

(a) The name, residence address and business address of the applicant.

(b) The name under which the applicant will conduct business as an appraisal management company.

(c) The address of the principal office of the applicant.

(d) The address of each branch office of the applicant.

(e) If the applicant is a natural person, the social security number of the applicant.

(f) If the applicant is not a natural person:

(1) The name, residence address, business address and social security number of each person who will have an interest in the applicant as a principal, general partner, director, officer or trustee; and

(2) The name of the qualified employee designated by the applicant.

(g) Such other pertinent information as the Division may require.

2. *The application must be accompanied by:*

(a) A complete set of the fingerprints of the applicant or, if the applicant is not a natural person, a complete set of the fingerprints of each person who will have an interest in the

applicant as a principal, partner, officer, director or trustee, and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; or

(b) Written verification, on a form prescribed by the Division, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background.

3. In addition to the information required by subsection 2, the application must be accompanied by the following:

(a) A recent photograph of the applicant or, if the applicant is not a natural person, a recent photograph of each person who will have an interest in the applicant as a principal, partner, director, officer or trustee.

(b) The certifications required by NRS 645C.650.

(c) The statement required by NRS 645C.655.

(d) If the applicant uses an appraiser fee schedule, a copy of the appraiser fee schedule.

4. As used in this section, "qualified employee" means a natural person who is a principal, general partner, director, officer, manager or registered agent of an appraisal management company and who is designated by the appraisal management company to act on its behalf.

Sec. 7. *The registration of a branch office of an appraisal management company expires on the same day as the registration of the appraisal management company.*

Sec. 8. 1. *To renew a registration as an appraisal management company, a registrant must submit to the Division:*

- (a) An application for renewal furnished by the Division;*
- (b) The information required by NRS 645C.665;*
- (c) The information required by NRS 645C.655; and*
- (d) The renewal fee required by section 9 of this regulation.*

2. *An application for renewal and the renewal fee must be received by the Division on or before the expiration date of the registration. If the application for renewal and renewal fee are not received by the Division on or before the expiration date of the registration, the registration expires and the person who held the registration must comply with the provisions of section 6 of this regulation in order to obtain a registration.*

Sec. 9. 1. *At the time an applicant submits an application for the issuance or renewal of a registration as an appraisal management company, the Division shall collect:*

(a) For the issuance of an initial registration, a fee of \$2,500 and an additional fee of \$100 for each branch office of the applicant.

(b) For the renewal of a registration, a fee of \$500 and an additional fee of \$100 for each branch office of the applicant.

2. *The registration fees prescribed by this section are nonrefundable.*

Sec. 10. 1. *An appraisal management company shall notify the Division in writing of any change in the address of its principal office or any branch office within 10 days after the change.*

2. If the Division determines that an appraisal management company has discontinued business at its principal office or any branch office, and the discontinuation has not been reported to the Division by the appraisal management company, the Division may cancel the registration of the appraisal management company.

Sec. 11. *1. An appraisal management company shall establish and maintain a process to review the work of each independent contractor who provides services to the appraisal management company to ensure that those services are conducted in accordance with the USPAP.*

2. The review process required by this section must include the review of the work of each independent contractor who provides services to the appraisal management company by a person who is a licensed appraiser or certified appraiser in good standing in this State.

Sec. 12. *1. An appraisal management company shall give written notice to the Division of the exact location of the records of the appraisal management company and may not remove the records until the appraisal management company has delivered a notice which informs the Division of the new location of the records.*

2. An appraisal management company shall maintain a detailed record of each request for appraisal services it receives and the appraiser who fulfills the request. The record must include the license or certificate number of the appraiser who fulfills the request for appraisal services.

Sec. 13. *1. An appraisal management company shall disclose to an appraiser who has performed an appraisal as an independent contractor for the appraisal management company the total amount of money, expressed as a dollar amount:*

(a) Paid to the appraiser; and

(b) Retained by the appraisal management company,

↳ in connection with the appraisal.

2. An appraiser who has performed an appraisal assignment for an appraisal management company shall disclose in the body of the appraisal report prepared by the appraiser the total amount of money, expressed as a dollar amount:

(a) Paid to the appraiser; and

(b) Retained by the appraisal management company,

↳ in connection with the appraisal.

Sec. 14. NAC 645C.040 is hereby amended to read as follows:

645C.040 The Division will, unless otherwise ordered by a court, keep confidential:

1. The criminal or financial records of an appraiser , *appraisal management company* or intern or an applicant for a certificate, license , *registration as an appraisal management company* or registration card;
2. The examination and the results of the examination for a certificate or license; and
3. The social security number of an appraiser , *a natural person registered as an appraisal management company* or *an* intern or an applicant for a certificate, license , *registration as an appraisal management company* or registration card, except when reporting information concerning an appraiser, *appraisal management company*, intern or applicant to the National Registry of ~~[Real Estate Appraisers.]~~ *the Appraisal Subcommittee.*

Sec. 15. NAC 645C.045 is hereby amended to read as follows:

645C.045 The Commission may report any disciplinary action it takes against a licensee *or a person registered as an appraisal management company* or any denial of an application for a license *or a registration as an appraisal management company* to:

1. Any national repository which records disciplinary action taken against licensees;
2. Any agency of another state which regulates *appraisal management companies or* the practice of the appraisal of real estate; or
3. Any agency or board of the State of Nevada.

Sec. 16. NAC 645C.070 is hereby amended to read as follows:

645C.070 1. The Division may deny any application for a license or certificate *or an application for registration as an appraisal management company* when one or more of the following conditions exist:

- (a) The application is not in the proper form.
- (b) The proper fees are not enclosed.
- (c) The accompanying forms are incomplete or otherwise unsatisfactory.
- (d) The application contains a false statement.
- (e) Any other deficiencies appear in the application.
- (f) An investigation fails to show affirmatively that the applicant possesses the necessary qualifications.
- (g) The applicant has willfully acted or attempted to act in violation of any provision of chapter 116, 119, 119A, 645, 645A, 645C or 645D of NRS or the regulations adopted pursuant thereto, or has willfully aided and abetted another person to act or attempt to act in violation of any provision of those chapters or regulations.
- (h) The applicant has had a license or certificate *or a registration as an appraisal management company* suspended or revoked in another state.
- (i) The check or other negotiable instrument used in paying a fee for an examination, license or certificate is not honored by the financial institution upon which it was drawn.

2. An applicant whose application is denied by the Division may appeal the denial to the Commission as provided in NRS 645C.370. If the Commission reverses the original decision and determines that the petitioner qualifies for a license or certificate, the application may be accepted as of the date of its original submission and no additional fee will be charged.

Sec. 17. NAC 645C.140 is hereby amended to read as follows:

645C.140 If a license or certificate *or a registration as an appraisal management company* must be surrendered and it is not, the licensee or holder of the certificate *or registration* shall file an affidavit with the Division showing that the license, ~~or~~ certificate *or registration* has been lost, destroyed or stolen. The affidavit must contain the licensee's or holder's promise to return the license, ~~or~~ certificate *or registration* if it is recovered.

Sec. 18. NAC 645C.150 is hereby amended to read as follows:

645C.150 A license, certificate, *registration as an appraisal management company* or registration card may be cancelled, revoked or suspended, or the licensee, holder of the certificate, *holder of the registration as an appraisal management company* or intern fined, if any instrument given to the Division is not honored by the financial institution upon which it is drawn.

Sec. 19. NAC 645C.405 is hereby amended to read as follows:

645C.405 In determining whether a licensed or certified appraiser or registered intern is guilty of unprofessional conduct or professional incompetence, the Commission will consider, among other things, whether the appraiser or intern:

1. Has failed to prepare an appraisal in compliance with the *USPAP*;
2. Has done his utmost to protect the public against fraud, misrepresentation or unethical practices related to real estate or appraisals;

3. Has ascertained all pertinent facts that may be reasonably ascertained concerning any property for which he prepares an appraisal;
4. Has attempted to make an appraisal of any property outside of his field of experience or competence without the assistance of a qualified authority, unless the facts of his lack of experience or competence are fully disclosed in writing to his client;
5. Has adequately documented any required disclosures of his interest in any property with which he is dealing;
6. Has kept informed of current statutes and regulations governing appraisals, real estate, time shares and related fields in which he provides appraisal services;
7. Properly applies federal and state laws governing the protection of customers; ~~and~~
8. Has acquired knowledge of all material facts that are reasonably ascertainable and are of customary or express concern and has conveyed that knowledge to his client ~~and~~; *and*
- 9. Has completed an appraisal assignment for an appraisal management company that is not registered in this State with the knowledge that the appraisal management company is not registered in this State.*

Sec. 20. NAC 645C.440 is hereby amended to read as follows:

645C.440 An appraiser, *appraisal management company* or intern shall, upon demand, provide the Division with the documents and the permission necessary to complete fully an inspection and audit of ~~his~~ *the* records ~~of~~ *of the appraiser, appraisal management company or intern.*

Sec. 21. NAC 645C.450 is hereby amended to read as follows:

645C.450 1. The Division may grant any appraiser, *appraisal management company* or intern up to 10 calendar days to correct any deficiency involving advertising, the location of ~~his~~

the business ~~[, his]~~ *of the appraiser, appraisal management company or intern, the* office operation *of the appraiser, appraisal management company or intern* or an appraiser's sign. A notice of the deficiency and a request to correct a deficiency must be mailed to the licensee, ~~[or]~~ holder of a certificate ~~[or]~~ *holder of a registration as an appraisal management company*. Failure to comply with the request may be grounds for the suspension or revocation of a license or certificate ~~[or]~~ *a registration as an appraisal management company*. The notice must be sent on a form provided by the Division and state the deficiencies or violations, the recommended action and the date by which the deficiencies must be corrected.

2. The Division may grant an extension for a definite time to correct the deficiency whenever the correction may, practicably, require additional time.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
LCB FILE NO. R091-09**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC).

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Notice of the proposed regulations were posted on the Real Estate Division website and in various other public locations where both the public and other interested persons would have access to that information. The Division conducted two public workshops, both were video conferenced between Las Vegas and Carson City. Public comment was also solicited at the public adoption hearing in Las Vegas and Carson City on December 2, 2010.

2. The number of persons who:

	<u>CC</u>	<u>LV</u>
Attended workshop: 09/15/09:	4	2
Submitted written comments:	0	0
Attended workshop: 12/01/09:	1	28
Submitted written comments:	0	0
Attended hearing 03/02/10:	2	40
Submitted written comments:	0	3

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

The public was invited to comment in the public workshops and at the adoption hearing. The notices for the workshops and adoption hearing contained information on who to submit written comment to and the deadlines for doing so.

Additionally, the Commission has had as a standing agenda item for their meetings to discussion and review Chapter 645C of NAC and make recommendations for proposed changes, additions, and deletions since September 2005 through March 2, 2010. At each meeting, the Commission considered possible changes to the Nevada Administrative Code for Chapter 645C, solicited public comment, and formulated their proposals for changes.

Interested persons are informed that they can obtain a copy of comment summaries by contacting Joanne Gierer, Legal Administrative Officer, at 702-486-4036.

Minutes of the Commission's meetings are available on the Division's website (www.red.state.nv.us) or by contacting Joanne Gierer, Legal Administrative Officer, at 702-486-4036.

4. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

N/A

5. **The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**

Business which it is to regulate:

- (1) **Both adverse and beneficial effects:**

Beneficial effects: Defines the circumstances in which an appraisal management company enters into more than nine contracts annually with independent contractors in this State; establishing requirements for applications for the issuance and renewal of a registration as an appraisal management company; prescribing the fees for the issuance and renewal of a registration as an appraisal management company; establishing grounds for the denial of an application for a registration as an appraisal management company; enacting certain disclosure and recordkeeping requirements for appraisal management companies; enacting various regulatory requirements pertaining to appraisal management companies; providing that the Commission of Appraisers of Real Estate will consider certain conduct by an appraiser or appraiser's intern in relation to an unregistered appraisal management company when determining whether the appraiser or intern has engaged in unprofessional conduct; and providing other matters properly relating thereto.

Adverse effects: There are no anticipated adverse effects to the public by the adoption of this regulation.

Beneficial effects:

- (2) **Both immediate and long-term effects.**

Immediate effects: Same as in (1) above.

Long-term effects: The appraisal industry will be in compliance with both federal and state regulations.

Public:

(1) Both adverse and beneficial effects:

Beneficial effects: Same as in (1) above.

Adverse effects: There are no anticipated adverse effects to the public by the adoption of this regulation.

(2) Both immediate and long-term effects:

Immediate effects: N/A

Long-term effects: N/A

6. The estimated cost to the agency for enforcement of the adopted regulation.

The Division will experience some additional expenses that will be addressed during the next biennial budget.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

Appraisers do fall under federal guidelines and although the adopted regulations do not overlap federal law, the proposed regulations are necessary in order to be in compliance with those laws.

8. If the regulation includes provisions, which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

None.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

This is a new program which will result in the following projected revenue for FY 10:

New AMC applications: \$2,500 each - 50 in FY 10 = \$125,000

New AMC branch registration: \$100 each - 10 in FY 10 = \$1,000

Beginning in FY 11 there will be a major decrease in new AMC applications. Existing registered AMC's will then be responsible for paying a \$500 renewal fee. The renewal fee is an existing fee.

The fees collected will be used to fund the operating costs of the Real Estate Division.