STATE OF CALIFORNIA

OFFICE OF REAL ESTATE APPRAISERS

IMPLEMENTATION OF SB 237 (CHAPTER 173, STATUTES OF 2009)

(REGISTRATION OF APPRAISAL MANAGEMENT COMPANIES)

TEXT OF PROPOSED CHANGES

UNDER THE REAL ESTATE APPRAISERS' LICENSING AND CERTIFICATION LAW

CALIFORNIA CODE OF REGULATIONS, TITLE 10, CHAPTER 6.5

PURSUANT TO NOTICE

October 19, 2010

ARTICLE 1. DEFINITIONS, Section 3500 is amended to read:

3500. Meaning of Words and General Definitions

(a) Words shall have their usual meaning unless the context or a definition clearly indicates a different meaning. Words used in their present tense include the future tense and words in the singular form include the plural form. Use of the word "shall" or "must" denotes mandatory conduct; "may" denotes permissive conduct; and "should" denotes recommended conduct.

(b) As used in these regulations, the following words and phrases shall have the following definitions:

(1) "Applicant" means a natural person who has made application to be a State Licensed Real Estate Appraiser, a State Certified Real Estate Appraiser, a Course Provider or a person who has applied for a Trainee License, a Reciprocal License or a Temporary Practice permit. Applicant also means an entity or Controlling Person that has applied for a Certificate of Registration as an Appraisal Management Company;

(2) (A) "Appraisal Management Company" means any person or entity that satisfies all of the following conditions:

1. Maintains an approved list or lists, containing 11 or more independent contractor appraisers licensed or certified pursuant to Part 3 (commencing with section 11300), of Division 4 of the Business and Professions Code or employs 11 or more appraisers licensed or certified pursuant to that Part.
2. Receives requests for appraisals from one or more clients.
3. For a fee paid by one or more of its clients, delegates appraisal assignments for completion by its independent contractor or employee appraisers.

(B) "Appraisal Management Company" does not include any of the following, when that person or entity directly contracts with an independent appraiser:

1. Any bank, credit union, trust company, savings and loan association, or industrial loan

company doing business under the authority of, or in accordance with, a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States that is authorized to transact business in this state.
2. Any finance lender or finance broker licensed pursuant to Division 9 (commencing with Section 22000) of the Financial Code, when acting under the authority of that license.
3. Any residential mortgage lender or residential mortgage servicer licensed pursuant to Division 20 (commencing with Section 50000) of the Financial Code, when acting under the authority of that license.
4. Any real estate broker licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code, when acting under the authority of that license.

(C) "Appraisal Management Company" does not include any person licensed to practice law in this state who is working with or on behalf of a client of that person in connection with one or more appraisals for that client;

(3) "Appraisal Standards Board (ASB)" means the board of The Appraisal Foundation;

(4) "Appraisal Subcommittee (ASC)" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council;

(5) "Appraiser" means an individual who holds a license issued by the Office of Real Estate Appraisers;

(6) "Appraiser Qualifications Board (AQB)" means the subcommittee of The Appraisal Foundation. The "Appraiser Qualifications Board" (AQB) is the board of The Appraisal Foundation which promulgates the minimum national requirements for licensure for licensed appraisers. The minimum national requirements includes the interpretations and clarifications of the appraiser qualifications criteria issued by AQB;

(7) "Certificate of Registration" means a certificate issued by the California Office of Real Estate Appraisers verifying the registration of a person or entity as approved to conduct business in California as an Appraisal Management Company.

(8) "Controlling Person" means one of more of the following:
(A) An officer or director of an Appraisal Management Company, or an individual that holds 10% or greater ownership interest in an Appraisal Management Company.
(B) An individual employed, appointed or authorized by an Appraisal Management Company that has the authority to enter into a contractual relationship with clients for the performance of appraisal services and that has the authority to enter into agreements with independent appraisers for the completion of appraisals.
(C) An individual who possesses the power to direct or cause the direction of the management or policies of an Appraisal Management Company.

(9) "Course Provider" means a person or organization that has been approved by the Office of Real Estate Appraisers to provide educational courses within the parameters set forth herein.

(10) "Designated Officer" means a Controlling Person authorized by the governing structure of the Appraisal Management Company to act on behalf of the company for purposes of application for, and compliance with, a Certificate of Registration to operate as an Appraisal Management Company pursuant to California law. The Designated Officer shall be responsible for the supervision and control of activities conducted on behalf of the Appraisal Management Company by its officers and employees as necessary to secure full compliance with the provisions of SB 237 (Chapter 173, Statutes of 2009), including contract services provided to the Appraisal Management Company for the performance of appraisal activities for which a California Real Estate Appraisal license is required.

(11) "Director" means the Director of OREA or his or her designee;

(12) "FIRREA" means the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law 101-73 and any amendments thereto;

(13) "Non-Residential Property" means all other property except one to four unit residential structures and land suitable for one to four unit residential use;

(14) "Office" means the Office of Real Estate Appraisers, and/or the Director;

(15) "OREA" means the Office of Real Estate Appraisers;

(16) "Registrant" means a person or entity authorized to conduct business as an Appraisal Management Company in California through issuance of a Certificate of Registration by the California Office of Real Estate Appraisers.

(17) "Registration" means the procedures and requirements with which a person or entity shall comply in order to qualify to conduct business as an Appraisal Management Company;

(18) "Residential Property" means real property containing, and land suitable for, four or fewer residential units;

(19) "Uniform Standards of Professional Appraisal Practice (USPAP)" means those standards as adopted by the Appraisal Standards Board of The Appraisal Foundation.

Note: Authority cited: Sections 11310, 11313, 11314, 11316, 11350 and 11361, Business and Professions Code. Reference: Sections 10, 11302, 11310, 11360 and 11361, Business and Professions Code.

ARTICLE 2. GENERAL REQUIREMENTS, Sections 3522, 3523, 3524, 3526, 3527, 3528, 3529, and 3530 are amended to read:

3522. License or Certificate of Registration

Each license or Certificate of Registration shall show on its face in clear and concise language the following information:

(a) The name of the holder;

(b) The license number or Certificate of Registration number;

(c) The scope of authority conferred by the document;

(d) Whether restricted or limited in any manner, and if so, the nature of the restriction or limitation; and

(e) The dates of issuance and expiration of the document.

Note: Authority cited: Section 11314, Business and Professions Code. Reference: Sections 11320 and 11321, Business and Professions Code.

3523. License or Certificate of Registration Property of the Office

Each license or Certificate of Registration shall remain the property of the Office and shall be surrendered to the Office or its authorized representative upon order of the Director, unless otherwise ordered pursuant to these regulations.

Note: Authority cited: Sections 11313 and 11314, Business and Professions Code. Reference: Sections 11315 and 11319, Business and Professions Code.

3524. Term of License or Certificate of Registration

Every original license or Certificate of Registration shall be valid for the term set forth in Sections 11341 and 11345.1 of the Business and Professions Code unless otherwise ordered pursuant to these regulations.

Note: Authority cited: Sections 11313 and 11314, Business and Professions Code. Reference: Section 11341~~,~~ and 11345.1, Business and Professions Code.

3526. Consent to Service of Process

(a) Each applicant for and holder of a license or temporary practice permit, who is a non-resident of California shall complete the Consent to Service of Process Form REA 3006 (Rev. 5/8/00), which is herein incorporated by reference, or any federally-approved equivalent form.

(b) Any Controlling Person applicant who is a non-resident of California shall complete the Consent to Service of Process Form REA 3006 (Rev.5/8/00).

Note: Authority cited: Sections 11313, 11314 and 11340, Business and Professions Code. Reference: Section 1018, Code of Civil Procedure.

3527. Personal Information or Contact Change

(a) All applicants for and holders of a license, temporary practice permit~~,~~ or course provider approval permit~~, Certificate of Registration, or approval as a Controlling Person for an Appraisal Management Company~~ shall submit written notice to OREA of any change to the following within 10 days on the Change Notification and Miscellaneous Requests Form REA 3011 (Rev. 5/8/00), which is herein incorporated by reference:

(1) Name;

(2) Residence telephone number;

(3) Business telephone number;

(4) Residence address;

(5) Business name or address; or

(6) Mailing address.

(b) All holders of a Certificate of Registration, or a Controlling Person for an Appraisal Management Company shall submit written notice to OREA of any change to the following within 10 days on the Appraisal Management Company Change Notification and Miscellaneous Requests Form REA 5011 (New 09/01/10), which is herein incorporated by reference:

(1) Name Change (addition or deletion of a Controlling Person);

(2) Residence telephone number;

(3) Business telephone number;

(4) Residence address;

(5) Business name or address; or

(6) Mailing address.

Any Form REA 5011 (New 09/01/10) submitted to OREA must be signed by the Designated Officer of the Appraisal Management Company.

~~(b)~~ (c) The business name, address and telephone number shall be considered the applicant's,

licensee's or Registrant's address and telephone number of record for all purposes unless otherwise requested in writing by the applicant, ~~or~~ licensee or Registrant and shall be considered a matter of public record. If no business address is provided, the mailing address shall be the address of record. A physical address is required as the address of record (a P.O. Box, Rural Route, Star Route, or mail box rental service location is not allowed).

Note: Authority cited: Sections 11313, 11314 and 11340, Business and Professions Code. Reference: Section 11340~~,~~ and 11345.05, Business and Professions Code.

3528. Minimum Requirements

(a) All applicants for, and holders of, any license or permit authorized by this chapter shall meet the minimum requirements set forth in this chapter or those established by the Appraiser Qualifications Board, whichever is greater.

(b) Effective January 1, 2008, all applicants for licensure must meet all of the minimum requirements effective on that date. Applications received on or before December 31, 2007, that are not complete as to education and/or experience, will be evaluated based on the completion date of the education and/or experience component requirements. Applicants who have completed the education requirements prior to January 1, 2008, may complete the experience requirement after January 1, 2008.

(c) Any holder of a Certificate of Registration issued by the Office of Real Estate Appraisers as authorized by this chapter, and any person or entity acting in a capacity that requires a Certificate of Registration under this chapter, shall meet the requirements set forth in Article 4 for registration as an Appraisal Management Company.

~~(d) The Office shall issue a Conditional Certificate of Registration to an applicant for a Certificate of Registration as an Appraisal Management Company that has satisfied the minimum requirements for registration, pursuant to Business and Professions Code Sections 11345, 11345.2 and 11345.3. The Conditional Certificate of Registration shall expire on either of the following dates, whichever is earlier:~~

~~(1) No more than 150 days from the date of issuance of the Conditional Certificate of Registration; or~~

~~(2) Date on which the Office issues a Certificate of Registration to the applicant.~~

~~(e) On the effective date of permanent regulations, pursuant to the Office's compliance with Government Code Sections 11346.2 – 11347.3, the Office will no longer issue Conditional Certificates of Registration.~~

Note: Authority cited: Sections 11313, 11314 and 11340, Business and Professions Code. Reference: Sections 11328, 11328.1 and 11340, Business and Professions Code; and Section

1112, Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law 101-73 (FIRREA).

3529. Audits

The Office may review and audit the records of applicants, licensees, educational providers, registered Appraisal Management Companies and persons or entities acting in a capacity that requires a Certificate of Registration, to determine compliance with the requirements of this chapter and state and federal law. Applicants, licensees, educational providers, and registered Appraisal Management Companies shall cooperate with the Office in the conduct of such audits and provide access during normal business hours to records and such information as the Office deems reasonably necessary for the completion of the audit.

Note: Authority cited: Sections 11313, 11314, 11328 and 11340, Business and Professions Code. Reference: Sections 11320.5, 11328, 11328.1, 11340 and 11345.45, Business and Professions Code.

3530. Limitations on Licenses and Certificates of Registration for Aliens

(a) All eligibility requirements contained herein shall be applied without regard to the race, creed, color, gender, religion, or national origin of the individual applying for the public benefit.

(b) Pursuant to Section 411 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104-193 (PRWORA)), (8 U.S.C. § 1621), and notwithstanding any other provision of this division, aliens who are not qualified aliens, nonimmigrant aliens under the Immigration and Nationality Act (INA) (8 U.S.C. § 1101 et seq.), or aliens paroled into the United States under Section 212 (d) (5) of the INA (8 U.S.C. § 1182 (d) (5)) for less than one year, are not eligible to receive any license to act as a state licensed real estate appraiser or Controlling Person of an Appraisal Management Company as set forth in California Business and Professions Code, Division 4, Part 3, Sections 11300 et seq., except as provided in 8 U.S.C. § 1621(c)(2).

[Subdivisions (c) through (i): No change]

Note: Authority cited: Sections 11313, 11314, 11327, 11340, 11350 and 11352, Business and Professions Code. Reference: Sections 11320 and 11321, Business and Professions Code; and 8 U.S.C. §§ 1621, 1641 and 1642.

ARTICLE 4. APPLICATION PROCESS, Sections 3575, 3576, and 3577, are adopted to read:

3575. Appraisal Management Company Certificate of Registration Application

(a) Applications for a Certificate of Registration shall be valid for one year from the date of receipt by the Office. The one-year period shall not be extended.

(b) Applicants for a Certificate of Registration shall have an appropriate knowledge of the English language, including reading, writing and spelling, and of arithmetic computations common to real estate and appraisal practice.

(c) Applicants for a Certificate of Registration must submit an Appraisal Management Company Certificate of Registration Application form, REA 5001 (~~New 01/20/10~~ Rev 09/01/10), which is hereby incorporated by reference.

(d) Applicants for a Certificate of Registration must also submit a separate application for each Controlling Person for the company. Each Controlling Person must complete an Appraisal Management Company Controlling Person Application form, REA 5002 (~~New 01/01/10~~ Rev 09/01/10) which is hereby incorporated by reference.

(e) All applicants for a Certificate of Registration must submit the names of all Controlling Persons, including the name of the Designated Officer, as these terms are defined herein.

Note: Authority cited: Sections 11314, Business and Professions Code. Reference: Sections 11320.5 and 11345, Business and Professions Code.

3576. Background Requirements for Controlling Persons in Appraisal Management Companies

(a) No individual can act as a Controlling Person of an Appraisal Management Company who has entered a plea of guilty or no contest to, or been convicted of, a felony.

(b) No individual can act as a Controlling Person of an Appraisal Management Company who has had a license or certificate to act as an appraiser, or to engage in any activities related to real estate lending or the transfer of real property refused, denied, canceled, or revoked in California or any other state.

(c) A Controlling Person of an Appraisal Management Company that holds a Certificate of Registration who has entered a plea of guilty or no contest to, or been convicted of, a felony, or who has had a real estate appraiser's license or real estate sale's license revoked, surrendered, or denied in California or any other state must report this occurrence to the Office within 10 days of the date he or she has knowledge of that fact.

(d) Any Controlling Person applicant who is licensed or certified as a real estate appraiser in any other jurisdiction must have a license in good standing in that jurisdiction and provide the Office with a certificate of license history.

(e) Any Controlling Person applicant who is not licensed or certified by the Office must submit fingerprint images to be used by the Department of Justice for the purpose of obtaining

information relating to the existence or content of state and federal records of arrests or convictions.

(f) An Appraisal Management Company must disclose the name of the Designated Officer of the Appraisal Management Company.

Note: Authority cited: Sections 11314 and 11343, Business and Professions Code. Reference: Section 11345.2 Business and Professions Code.

3577. Minimum Standards of Practice for Appraisal Management Companies

All Appraisal Management Companies must ensure that they adhere to the following business practices when performing appraisal management services for properties located within the State of California:

(a) Appraisal Management Companies will ~~contract~~ delegate appraisal assignments for completion only ~~with~~ to independent contractor or employee appraisers that possess the licenses and certificates required by the Office.

(b) Appraisal Management Companies must adopt reasonable procedures designed to ensure that all appraisal assignments completed by ~~the contracted~~ its independent contractor or employee appraisers are performed in accordance with the Uniform Standards of Professional Appraisal Practice.

(c) Appraisal Management Companies must maintain records of each of the following for each service request:

(1) Date of the receipt of the request;

(2) The name of the person from whom the request was received;

(3) The name of the client for whom the request was made, if different from the name of the person from whom the request was received.

(4) The name of the appraiser or appraisers assigned to perform the contracted service; and

(5) The date of delivery of the appraisal product to the client.

(d) Appraisal Management Companies must maintain records of all appraisal fees dispersed to contracted appraisers and the final fee charged to the lender/client.

(e) An Appraisal Management Company cannot prohibit a contracted appraiser/client from disclosing the fee paid to the appraiser/client for an appraisal assignment in the body of the appraisal report.

(f) (1) No Appraisal Management Company shall improperly influence or attempt to improperly influence the development of an appraisal report, review or consulting assignment by engaging in, without limitation, any of the following actions:

(A)Withholding or threatening to withhold the timely payment for a contracted appraisal assignment that is completed in accordance with the Uniform Standards of Professional Appraisal Practice and with contractual provisions as agreed to by the Appraisal Management Company and the appraisal contractor;

(B) Withholding or threatening to withhold future business with an appraisal contractor solely based on an appraisal result;

(C) Basing the appraisal fee for an appraisal assignment on a pre-determined value;

(D) Attempting to influence the development of an appraisal assignment through coercion, extortion or bribery;

(E) Expressly or impliedly promising future business, promotions, or increased compensation for a contracted appraiser based on certain business practices not in compliance with the Uniform Standards of Professional Appraisal Practice;

(2) Subdivision (f)(1) of this Section does not prohibit an Appraisal Management Company or an individual with an interest in a real estate transaction from requesting an appraiser to:

(A) Consider additional appropriate property information including relevant sales comparables not considered in the initial appraisal report;

(B) Provide further detail, substantiation or explanation of the appraiser's conclusion of value; or

(C) Correct errors in the appraisal report.

~~(g) The Appraisal Management Company shall not require the appraiser to collect the appraisal fee from a borrower, homeowner, or third party. Disbursement of appraisal fees must be directly from the Appraisal Management Company.~~

~~(h)~~ (g) The Appraisal Management Company shall not base the payment of an appraisal fee on a mortgage-related event occurring subsequent to completion of the appraisal, i.e. close of escrow.

~~(i)~~ (h) The appraiser shall not be required to provide the Appraisal Management Company with the appraiser's digital signature.

~~(j)~~ (i) The Appraisal Management Company shall not alter, amend, or change an appraisal report submitted by a licensed or certified appraiser by removing the appraiser's signature or seal or by adding information to or removing information from the appraisal report with an intent to change the value conclusion.

~~(k)~~ (j)The Appraisal Management Company shall not remove an independent appraiser from their panel of approved appraisers without prior written notice that includes evidence which supports the basis of fact that the appraiser has violated the Uniform Standards of Professional Appraisal Practice or other applicable appraisal regulations or state statutes, or evidence which demonstrates substandard performance, improper or unprofessional behavior, or other substantive deficiencies.

~~(l)~~ (k) An Appraisal Management Company shall notify the Office within 10 business days of any change to or addition of a Controlling Person of the company.

Note: Authority cited: Sections 11313 and11314, Business and Professions Code. Reference: Sections 11345.4, 11345.45, 11345.6, Business and Professions Code, and Section 1090.5, Civil Code.

ARTICLE 5. FEES, Section 3582 is amended to read:

3582. Fee Schedule

(a) Fees are scheduled pursuant to Sections 11400 through 11408, Business and Professions Code.

(b) In addition to (a) above, the following is a schedule of additional fees:

1) Application Review – (all classifications-new renewal, upgrades and Certificate of Registration)	$ 150
2) Issuance Fees (new and renewals)	
Trainee Level	$ 300
Residential Level	$ 300
Certified Levels	$ 375
Appraisal Management Company Certificate of Registration	$1,600
3) Issuance Fees (upgrades)	
To Certified Levels	$ 75
4) Late Renewal Fee (all license levels and Certificate of Registration)	
0-less than 12 months	$ 125
5) Background Investigation Fees	$ 70
6) Child Support Review Fee	$ 10
Reinstatement After Child Support Suspension	$ 140
7) Federal Registry Fees (every two years)	
Federal ~~($25 per year)~~ – Appraiser	~~$50~~ (as prescribed by the ASC)
Federal – Appraisal Management Company	(as prescribed by the ASC)
State Processing	$ 25
8) Temporary Practice Permit	$ 80
9) Petition for Equivalency (per course)	$ 45
10) Basic Education Provider Fees	
Course Provider Application Review Fee	$150 per

	submission
Course Review Fee	$350 per course
Multiple Courses Review Fee (Submitted at same time)	
1 to 5 courses	$350 per course
6 or more courses	$250 per course for each course over 5 courses
11) Continuing Education Provider Fees	
Course Provider Application Review Fee	$150
Course Review Fee	
Up to 14 hours	$ 50
15 to 29 hours	$100
Each additional 14 hour segment or portion thereof	$ 50
12) Miscellaneous Fees	
Certificate of Good Standing	$ 15
Certification of Documents	$ 5
Change of Name (Business or Personal)	$ 10
Duplicate License	$ 50 with certification of loss
Duplicate Admit Letter	$ 10 with certification of loss
Dishonored Check Fee	$ 25 plus collection costs
Federal and State Laws & Regulations	
Course Materials Package	$ 50 plus tax and postage
Laws & Regulations Package	$ 15 plus tax and postage
Letter of License History	$ 40
Photocopy Costs	$.10 each page Plus postage
Retrieve File/Records from Archives	$ 25
State Registry (available on disk only)	
Full List	$ 55 plus tax and postage
Special Request (up to 5,000 records)	$90 plus tax and postage

(c) Notwithstanding any other provision, a license or Certificate of Registration shall be automatically suspended if payment of any fees is dishonored by the issuing institution for any reason. The license or Certificate of Registration shall remain suspended and shall not be renewed until receipt of all accumulated fees and penalties. Such a suspension shall be in addition to and not in place of any penalties imposed pursuant to this chapter and shall not relieve the licensee of his or her continuing education requirements.

(d) The fee to take an examination or reexamination for a license shall be set at an amount not to exceed the cost to the Office as determined by competitive bid. The director may provide that the applicant pay the fee directly to the examination provider.

Note: Authority cited: Sections 11313, 11350, 11400, 11401, 11402, 11403, 11404, 11405, 11406 and 11422, Business and Professions Code; and Section 11350.6, Welfare and Institutions Code. Reference: Sections 11350, 11401, 11402, 11403, 11404, 11406 and 11406.5, Business and Professions Code.

ARTICLE 10. RENEWAL PROCEDURES, Section 3681 is amended to read:

3681. Renewal Application

(a) A license may be renewed by submitting the following to the Office:

(1) Appropriate fees including state and federal registry fees pursuant to Section 3582;

(2) Every other renewal period, proof of completion of approved continuing education by one of the following:

(A) Official transcript;

(B) Report card; or

(C) Completion certificates.

(3) Every renewal period, proof of completion of the 7-hour National USPAP Update Course;

(4) Form REA 3012 (Rev. 5/8/00) Renewal Application which is herein incorporated by reference.

(b) The renewed license shall be valid for a maximum of two years from the date of expiration of the prior license, provided the Renewal Application is received by the Office before midnight of the last day of the period for which the previous license was issued, accompanied by the applicable renewal fees and evidence of good faith compliance with the provisions of this Article.

(c) Complete applications for renewal of licenses should be submitted to the Office at least 90 days prior to the license expiration date. However, applications for renewal shall not be accepted by the Office more than 180 days prior to the expiration of the existing license.

(d) A Certificate of Registration may be renewed by submitting the following to the Office:

(1) Appropriate fees including state and federal registry fees pursuant to section 3582;

(2) Every renewal period, a designated Controlling Person with the authority to enter into contractual relationships with independent appraisers or who is involved in the appraiser selection approval process must submit proof of completion of ~~the 7-hour continuing education course, USPAP for non-appraisers. A licensed or certified appraiser with the Office functioning as a Controlling Person can substitute~~ the 7-hour National USPAP ~~update course to meet this requirement~~ Update Course, approved by the Appraiser Qualifications Board of the Appraisal Foundation; and

(3) ~~Written certification by the Designated Officer that the Registrant has complied with state statutes and regulations governing the operation of Appraisal Management Companies in California during the previous two-year certification period.~~ Appraisal Management Company Renewal Application Form REA 5012 (New 09/01/10) which is herein incorporated by reference.

(e) The renewed Certificate of Registration shall be valid for a maximum of two years from the date of expiration of the prior registration, provided the Renewal Application is received by the Office before 5 p.m. Pacific Standard Time of the last day of the period for which the previous Certificate of Registration was issued, accompanied by the applicable renewal fees.

(f) Complete applications for renewal of Certificate of Registration should be submitted to the Office at least 90 days prior to the Certificate of Registration expiration date. However, application for renewal shall not be accepted by the Office more than 180 days prior to the expiration of the existing Certificate of Registration.

Note: Authority cited: Sections 11313, 11314, 11340, 11341, 11360 and 11361, Business and Professions Code. Reference: Sections 11340, 11341, 11345.1, 11345.3, 11360 and 11361, Business and Professions Code

ARTICLE 11. RULES OF PROFESSIONAL CONDUCT, Sections 3702 and 3703 are amended to read:

3702. Special Qualifications of Appraisers and Controlling Persons of Appraisal Management Companies

(a) The Director finds and declares as follows:

(1) That the profession of real estate appraisal is vested with a fiduciary relationship of trust and confidence as to clients, lending institutions, and both public and private guarantors or insurers of funds in federally-related real estate transactions and that the qualifications of honesty, candor, integrity and trustworthiness are directly and substantially related to and indispensable to the practice of the appraisal profession;

(2) That registered Appraisal Management Companies are vested with a relationship of trust and confidence as to their clients, lending institutions, and both public and private guarantors or insurers of funds in federally-related real estate transactions and that the qualifications of honesty, candor, integrity, and trustworthiness are directly and substantially related to and indispensable to their business operations; and

(3) Every holder of a license to practice real estate appraisal, Registrant, Controlling Person of an Appraisal Management Company, or person or entity acting in a capacity requiring a license or Certificate of Registration shall be required to demonstrate by his or her conduct that he or she possesses the qualifications of honesty, candor, integrity and trustworthiness.

(b) The Director may require such proof as he may deem advisable concerning the special qualifications of an applicant for or holder of an appraiser's license or a Certificate of Registration.

Note: Authority cited: Sections 11313 and 11314, Business and Professions Code. Reference: Chapter 491 Statutes of 1991, Section 4; Sections 11340(c), 11345.1, 11345.2, 11345.3, 11345.4. 11345.45, and 11345.6, Business and Professions Code; Section 1103 of Public Law 101-73 (12 USC 3301, etc.) Title XI (Real Estate Reform Amendment).

3703. Complaints of Unlawful or Unprofessional Conduct

Any person may file a complaint alleging that any applicant for a license, holder of a license, or any Registrant or person or entity acting in a capacity requiring a Certificate of Registration, has committed acts or omissions constituting unethical or unprofessional conduct by following the procedure set forth in Section 3726 (Initiation of Disciplinary Proceedings). Such complaint may, but need not, specify the provisions of law, regulations or USPAP alleged to have been violated.

Note: Authority cited: Sections 11313 and 11314, Business and Professions Code. Reference: Sections 11313, 11314 and 11328, Business and Professions Code.

ARTICLE 12. DISCIPLINE, Sections 3721, 3724, 3726, 3728, and 3731 are amended to read:

3721. Revocation, Suspension, Denial of Licenses or Certificate of Registration

(a) The Director may issue a citation, order of abatement, assess a fine or private or public reproval, suspend or revoke any license or Certificate of Registration, and/or may deny the issuance or renewal of a license or Certificate of Registration of any person or entity acting in a capacity requiring a license or Certificate of Registration who has:

(1) Been convicted of a felony or any crime which is substantially related to the qualifications, functions, or duties of the profession of real estate appraisal;

(2) Done any act involving dishonesty, fraud or deceit with the intent to benefit himself or another, or to injure another;

(3) Been convicted for a commission or solicitation of a criminal act which involved or threatened bodily harm to others;

(4) Done any act which if done by the holder of a license to practice real estate appraisal would be grounds for revocation or suspension of such license;

(5) Knowingly made a false statement of material fact required to be disclosed in an application

for a license authorizing the practice of real estate appraisal;

(6) Violated any provision of USPAP;

(7) Violated any provision of the Real Estate Appraisers' Licensing and Certification Law, Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code, or regulations promulgated pursuant thereto; or any provision of the Business and Professions Code applicable to applicants for or holders of licenses authorizing appraisals;

(8) Been prohibited from participating in the affairs of an insured depository institution pursuant to Section 19(a) of the Federal Deposit Insurance Act (12 USC, Section 1829.); or

(9) Submitted a financial instrument to OREA for the payment of any fee, fine or penalty which instrument is subsequently dishonored by the issuing institution due to an act or omission of that person.

(b) Before issuing any private or public reproval or denying, suspending or revoking any license or Certificate of Registration issued or issuable under the provisions of the Real Estate Appraisers Licensing and Certification Law or these regulations, the Office shall proceed as prescribed by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code (the Administrative Procedure Act) and the Office shall have all the powers granted therein.

(c) Any person issued a citation containing a fine or order of abatement may contest the citation by filing a written notice with the Office within 30 calendar days that states with specificity the basis of the appeal. Upon receipt of such notice, the Office shall proceed as prescribed by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code (the Administrative Procedure Act) and the Office shall have all the powers granted therein.

Note: Authority cited: Sections 11313, 11314, 11315 and 11315.1, Business and Professions Code. Reference: Sections 480, 490, 11315.5, 11320 and 11321, Business and Professions Code; Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

3724. Citations for Unprofessional Conduct

(a) Where the Director has verified a notice of acts or omissions by a licensed appraiser, Registrant or person or entity acting in a capacity requiring a license or Certificate of Registration which constitute a violation of statute, regulation or USPAP, he/she may issue a citation in writing which describes with particularity the nature of the violation and including specific reference to the law, regulation or professional practice standard, determined to have been violated. The citation may include a notice of abatement fixing a reasonable period of time for abatement of the violation, assessment of private or public reproval, suspension, revocation, restriction of license, fine or any combination of these actions.

(b) Fines shall not exceed $10,000 per incident. In assessing a fine, the Director shall give due consideration to:

(1) The gravity of the violation;

(2) The good or bad faith of the person cited;

(3) The history of previous violations;

(4) Evidence that the violation was willful;

(5) The extent to which the cited person has cooperated with the Office;

(6) The extent to which the cited person has mitigated or attempted to mitigate any loss or potential loss caused by the violation; and

(7) Such other matters as the Director determines are in the interest of justice.

(c) Citations issued hereunder shall be subject to review as provided in subsection (b) of Section 3721.

Note: Authority cited: Sections 11313, 11314, 11315 and 11315.1, Business and Professions Code. Reference: Section 11314, Business and Professions Code.

3726. Initiation of Disciplinary Proceedings

(a) Any person may request the Director to initiate disciplinary action against an applicant, licensed appraiser, Registrant or person or entity acting in a capacity requiring a license or Certificate of Registration as follows:

(1) The request shall be in writing, shall identify the applicant, licensed appraiser, or Registrant to be charged and shall set forth in ordinary and concise language the particular acts or omissions with which the applicant, licensed appraiser, or Registrant is charged in such detail as is reasonably necessary to enable the Director to understand the nature of the charges and their significance. Such request may, but need not, specify the statutes or regulations alleged to have been violated;

(2) Where the acts or omissions alleged are not within the personal knowledge of the person filing the request, such request shall be accompanied by verified statements of facts from one or more persons who do have personal knowledge of the acts or omissions alleged;

(3) Each such request shall be dated and signed and shall include the following verification: "I certify under penalty of perjury of the laws of the State of California that the facts stated herein are true and correct", and shall show the county or place where subscribed.

(b) The complainant shall be notified that a confidential investigation has been commenced within ten working days of receipt of the verified complaint; and shall be notified of final action taken on the complaint.

(c) If the complaint is not within the jurisdiction of the Director, or if the Director is unable to make a satisfactory disposition of the complaint, the Director, if appropriate, shall transmit the complaint, together with any appropriate evidence or information he or she has concerning the complaint to the agency, public or private, whose authority in the opinion of the Director will provide the most effective means to secure the relief sought. The Director shall notify the complainant of such action and of any other appropriate means which may be available to the complainant to secure relief.

(d) An investigation may be initiated by the Director upon information and belief.

Note: Authority cited: Section 11314, Business and Professions Code; Section 11180, Government Code. Reference: Sections 480, 490, 11320 and 11328.1, Business and Professions Code.

3728. Confidential Report of Investigation

(a) Each complaint shall result in a confidential investigative report showing a summary of the acts and/or omissions alleged, and a summary of the supporting evidence together with a recommendation for appropriate enforcement action, if any.

(b) Where the confidential investigation report shows that the allegations are supported by credible evidence that a violation of law or regulation has occurred and that the applicant, ~~or~~ licensed appraiser, Registrant or person or entity acting in a capacity requiring a license or Certificate of Registration has committed the violation, and that the violation is substantially related to the qualifications, duties, or functions of an appraiser, the Office shall issue a citation and/or order of abatement, or shall file an accusation or statement of issues against the applicant, licensed appraiser, Registrant or person or entity acting in a capacity requiring a license or Certificate of Registration.

(c) Where the confidential investigative report shows that the allegations, even if true, do not constitute a violation of the law or regulations, that the allegations are not supported by sufficient credible evidence, or that the facts show a complete defense or legal justification, the investigation shall be closed.

(d) Notwithstanding any other provision of this chapter, the Director may release information concerning confidential investigations and complaints to a law enforcement agency or to another regulatory agency to which the appraiser or Registrant has applied for licensure.

Note: Authority cited: Sections 11314 and 11315, Business and Professions Code. Reference: Sections 480, 490 and 11320, Business and Professions Code.

3731. Renewal of Suspended or Revoked License or Certificate of Registration

(a) A license or Certificate of Registration which is suspended is subject to expiration.

(b) A licensee or Registrant whose license or Certificate of Registration is suspended may apply for renewal as provided in this chapter. Such renewal does not entitle the licensee or Registrant, while the license or Certificate of Registration remains suspended, and until it is reinstated, to engage in the licensed activity, or in any other activity or conduct in violation of the order or judgment by which the license or Certificate of Registration was suspended. The holder of a suspended license or the Controlling Person of an Appraisal Management Company with a suspended Certificate of Registration shall comply with all continuing education requirements.

(c) A license or Certificate of Registration which is revoked shall not be renewed. Petition for reinstatement may be made by the former licensee or Registrant not less than one year after revocation or denial of a prior petition for reinstatement by submitting a new application for licensure or Certificate of Registration in accordance with Article 4, including the payment of all fees, fines or penalties. The former licensee or Registrant shall include with the application a written statement signed and dated under penalty of perjury detailing how the Criteria of Rehabilitation contained in section 3723 apply to his or her circumstances.

Note: Authority cited: Sections 11313, 11314, 11320, 11321 and 11340, Business and Professions Code. Reference: Sections 11313, 11314 and 11340, Business and Professions Code.

ARTICLE 13. INVESTIGATIONS AND HEARINGS, Section 3741, is amended to read:

3741. Consent Determinations

(a) At any time after the Director has served a Notice of Conference, or after the Director has served a Statement of Issues or an Accusation against an applicant, licensed appraiser, or Registrant and a Notice of Defense has been filed, the applicant, licensee, or Registrant and the Office may enter into a settlement upon terms which include a plan for abatement of the violation or rehabilitation or re-qualification of the applicant, licensed appraiser, or Registrant within a specified time, consistent with other provisions of law and regulations.

(b) If the Director determines that the public interest would not be prejudiced by a settlement of the disputed facts by the issuance of a restricted license or Certificate of Registration he/she may order such issuance upon such lawful terms and conditions as he/she may deem appropriate to impose and which the applicant, licensed appraiser, or Registrant may deem appropriate to accept.

Note: Authority cited: Sections 11314 and 11340, Business and Professions Code. Reference: Section 11314, Business and Professions Code.