

SECOND REGULAR SESSION

SENATE BILL NO. 648

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LeVOTA.

Pre-filed December 20, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

4915S.01I

AN ACT

To repeal sections 339.500, 339.501, 339.503, 339.505, 339.507, 339.509, 339.511, 339.513, 339.515, 339.517, 339.519, 339.521, 339.523, 339.525, 339.527, 339.529, 339.530, 339.532, 339.533, 339.535, 339.537, 339.539, 339.541, 339.543, 339.544, 339.545, 339.546, and 339.549, RSMo, and to enact in lieu thereof twenty-nine new sections relating to the real estate appraisers commission, with existing penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 339.500, 339.501, 339.503, 339.505, 339.507, 339.509, 339.511, 339.513, 339.515, 339.517, 339.519, 339.521, 339.523, 339.525, 339.527, 339.529, 339.530, 339.532, 339.533, 339.535, 339.537, 339.539, 339.541, 339.543, 339.544, 339.545, 339.546, and 339.549, RSMo, are repealed and twenty-nine new sections enacted in lieu thereof, to be known as sections 361.800, 361.801, 361.803, 361.805, 361.806, 361.807, 361.809, 361.811, 361.813, 361.815, 361.817, 361.819, 361.821, 361.823, 361.825, 361.827, 361.829, 361.830, 361.832, 361.833, 361.835, 361.837, 361.839, 361.841, 361.843, 361.844, 361.845, 361.846, and 361.849, to read as follows:

[339.500.] **361.800.** This act shall be known and may be cited as the "Missouri Certified and Licensed Real Estate Appraisers and Appraisal Management Company Regulation Act".

[339.501.] **361.801.** 1. Beginning July 1, 1999, it shall be unlawful for any person in this state to act as a real estate appraiser, or to directly or indirectly, engage or assume to engage in the business of real estate appraisal or to advertise or hold himself or herself out as engaging in or conducting such business without first obtaining a license or certificate issued by the Missouri

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

6 real estate appraisers commission as provided in sections [339.500 to 339.549]
7 **361.800 to 361.849.**

8 2. Except for licenses issued to appraisal management companies under
9 section [339.511] **361.811**, no license or certificate shall be issued pursuant to
10 sections [339.500 to 339.549] **361.800 to 361.849** to a partnership, association,
11 corporation, firm or group; except that, nothing in this section shall preclude a
12 state-licensed or state-certified real estate appraiser from rendering appraisals
13 for, or on behalf of, a partnership, association, corporation, firm or group,
14 provided the appraisal report is prepared by, or under the immediate personal
15 direction of the state-licensed or state-certified real estate appraiser and is
16 reviewed and signed by such state-licensed or state-certified appraiser.

17 3. Any person who is not state licensed or state certified pursuant to
18 sections [339.500 to 339.549] **361.800 to 361.849** may assist a state-licensed or
19 state-certified real estate appraiser in the performance of an appraisal; provided
20 that, such person is personally supervised by a state-licensed or state-certified
21 appraiser and provided further that any appraisal report rendered in connection
22 with the appraisal is reviewed and signed by the state-licensed or state-certified
23 real estate appraiser.

24 4. Nothing in sections [339.500 to 339.549] **361.800 to 361.849** shall
25 abridge, infringe upon or otherwise restrict the right to use the term "certified ad
26 valorem tax appraiser" or any similar term by persons performing ad valorem tax
27 appraisals.

28 5. The provisions of sections [339.500 to 339.549] **361.800 to 361.849**
29 shall not be construed to require a license or certificate for:

30 (1) Any person, partnership, association or corporation who, as owner,
31 performs appraisals of property owned by such person, partnership, association
32 or corporation;

33 (2) Any licensed real estate broker or salesperson who prepares a
34 comparative market analysis or a broker price opinion;

35 (3) Any employee of a local, state or federal agency who performs
36 appraisal services within the scope of his or her employment; except that, this
37 exemption shall not apply where any local, state or federal agency requires an
38 employee to be registered, licensed or certified to perform appraisal services;

39 (4) Any employee of a federal or state-regulated lending agency or
40 institution;

41 (5) Any agent of a federal or state-regulated lending agency or institution

42 in a county of third or fourth classification.

[339.503.] **361.803.** As used in sections [339.500 to 339.549] **361.800 to**
2 **361.849**, the following words and phrases mean, unless the context clearly
3 indicates otherwise:

4 (1) "Appraisal" or "real estate appraisal", an objective analysis, evaluation,
5 opinion, or conclusion relating to the nature, quality, value or utility of specified
6 interests in, or aspects of, identified real estate. An appraisal may be classified
7 by subject matter into either a valuation or an analysis;

8 (2) "Appraisal assignment", an engagement for which a person is
9 employed or retained to act as a disinterested third party in rendering an
10 objective appraisal;

11 (3) "Appraisal firm", a person, limited liability company, partnership,
12 association, or corporation whose principal is an appraiser licensed under sections
13 [339.500 to 339.549] **361.800 to 361.849** which for compensation prepares and
14 communicates appraisals, reviews appraisals prepared by others, provides
15 appraisal consultation services, and supervises, trains, and reviews work
16 produced or certified by persons licensed under sections [339.500 to 339.549]
17 **361.800 to 361.849** who produce appraisals;

18 (4) "Appraisal foundation", the organization of the same name that was
19 incorporated as an Illinois not-for-profit corporation on November 20, 1987, whose
20 operative boards are the appraisal standards board and the appraiser
21 qualifications board;

22 (5) "Appraisal management company", an individual or business entity
23 that utilizes an appraisal panel and performs, directly or indirectly, appraisal
24 management services;

25 (6) "Appraisal management services", to directly or indirectly perform any
26 of the following functions on behalf of a lender, financial institution, client, or any
27 other person:

28 (a) Administer an appraiser panel;

29 (b) Recruit, qualify, verify licensing or certification, and negotiate fees and
30 service level expectations with persons who are part of an appraiser panel;

31 (c) Receive an order for an appraisal from one person and deliver the
32 order for the appraisal to an appraiser that is part of an appraiser panel for
33 completion;

34 (d) Track and determine the status of orders for appraisals performed by
35 appraisers who are part of an appraisal panel;

36 (e) Conduct quality control of a completed appraisal performed by an
37 appraiser who is part of an appraisal panel prior to the delivery of the appraisal
38 to the person who ordered the appraisal; and

39 (f) Provide a completed appraisal performed by an appraiser who is part
40 of an appraisal panel to one or more persons who have ordered an appraisal;

41 (7) "Appraisal report", any communication, written or oral, of an
42 appraisal. The purpose of an appraisal is immaterial, therefore valuation reports,
43 real estate counseling reports, real estate tax counseling reports, real estate
44 offering memoranda, mortgage banking offers, highest and best use studies,
45 market demand and economic feasibility studies and all other reports
46 communicating an appraisal analysis, opinion or conclusion are appraisal reports,
47 regardless of title;

48 (8) "Appraisal standards board (ASB)", the independent board of the
49 appraisal foundation which promulgates the generally accepted standards of the
50 appraisal profession and the uniform standards of professional appraisal
51 practices;

52 (9) "Appraiser", an individual who holds a license as a state-licensed real
53 estate appraiser or certification as a state-certified real estate appraiser under
54 sections [339.500 to 339.549] **361.800 to 361.849**;

55 (10) "Appraiser panel", a network of licensed or certified appraisers that
56 have:

57 (a) Responded to an invitation, request, or solicitation from an appraisal
58 management company, in any form, to perform appraisals for persons who have
59 ordered appraisals through the appraisal management company, or to perform
60 appraisals for the appraisal management company directly; and

61 (b) Been selected and approved by an appraisal management company to
62 perform appraisals for any client of the appraisal management company, or to
63 perform appraisals for the appraisal management company directly;

64 (11) "Appraiser qualifications board (AQB)", the independent board of the
65 appraisal foundation which establishes minimum experience, education and
66 examination criteria for state licensing of appraisers;

67 (12) "Boat dock", a structure for loading and unloading boats and
68 connecting real property to water, public or private. A boat dock is real property
69 and has riparian rights, provided:

70 (a) The lender includes the boat dock as a fixture both in the lender's deed
71 of trust and a uniform commercial code fixture filing under section 400.9-502;

72 (b) The boat dock is attached to the real property by steel cable, bar, or
73 chain that is permanently imbedded in concrete or rock, and otherwise securely
74 attached to the dock; and

75 (c) The owner of the dock has riparian rights by means of real estate
76 rights bordering the body of water, including such rights by license, grant, or
77 other means allowing access to the body of water, which access may be seasonal
78 because the water may be reduced for electric power production or flood control;

79 (13) "Boat slip" or "watercraft slip", a defined area of water, including the
80 riparian rights to use such area, whether by grant, lease, or license, in accordance
81 with all applicable laws and regulations, which is a part of a boat dock serving
82 a common interest community, including by way of example and not of limitation
83 condominiums and villas; and the exclusive right to such use being allocated as
84 a limited common element or being assigned to an owner of real estate in the
85 common interest community in which the boat dock is located, whether by grant,
86 lease, or otherwise. The rights of the real estate owner in such slip are included
87 as collateral in any deed of trust and uniform commercial code filings of a lender,
88 if any, taking a security interest in the owner's real estate;

89 (14) "Broker price opinion", an opinion of value, prepared by a real estate
90 licensee for a fee, that includes, but is not limited to, analysis of competing
91 properties, comparable sold properties, recommended repairs and costs or
92 suggested marketing techniques. A broker price opinion is not an appraisal and
93 shall specifically state it is not an appraisal;

94 (15) "Certificate", the document issued by the Missouri real estate
95 appraisers commission evidencing that the person named therein has satisfied the
96 requirements for certification as a state-certified real estate appraiser and
97 bearing a certificate number assigned by the commission;

98 (16) "Certificate holder", a person certified by the commission pursuant
99 to the provisions of sections [339.500 to 339.549] **361.800 to 361.849**;

100 (17) "Certified appraisal report", an appraisal prepared or signed by a
101 state-certified real estate appraiser. A certified appraisal report represents to the
102 public that it meets the appraisal standards defined in sections [339.500 to
103 339.549] **361.800 to 361.849**;

104 (18) "Commission", the Missouri real estate appraisers commission,
105 created in section [339.507] **361.807**;

106 (19) "Comparative market analysis", the analysis of sales of similar
107 recently sold properties in order to derive an indication of the probable sales price

108 of a particular property undertaken by a licensed real estate broker or agent, for
109 his or her principal. A comparative market analysis is not an appraisal and shall
110 specifically state it is not an appraisal;

111 (20) "Controlling person":

112 (a) An owner, officer, or director of a corporation, partnership, or other
113 business entity seeking to offer appraisal management services in this state;

114 (b) An individual employed, appointed, or authorized by an appraisal
115 management company that has the authority to enter into a contractual
116 relationship with other persons for the performance of appraisal management
117 services and has the authority to enter into agreements with appraisers for the
118 performance of appraisals; or

119 (c) An individual who possesses, directly or indirectly, the power to direct
120 or cause the direction of the management or policies of an appraisal management
121 company;

122 (21) "Disinterested third party" shall not exclude any state-certified real
123 estate appraiser or state-licensed real estate appraiser employed or retained by
124 any bank, savings association, credit union, mortgage banker or other lender to
125 perform appraisal assignments, provided that the appraisal assignments are
126 rendered with respect to loans to be extended by the bank, savings association,
127 credit union, mortgage banker or other lender, and provided further that the
128 state-certified real estate appraiser or state-licensed real estate appraiser is not
129 requested or required to report a predetermined analysis or opinion of value;

130 (22) "License" or "licensure", a license or licensure issued pursuant to the
131 provisions of sections [339.500 to 339.549] **361.800 to 361.849** evidencing that
132 the person or other legal entity named therein has satisfied the requirements for
133 licensure as a state-licensed real estate appraiser or licensed appraisal
134 management company and bearing a license number assigned by the commission;

135 (23) "Licensed appraisal management company", a person or other legal
136 entity who holds a current valid license as a licensed appraisal management
137 company under sections [339.500 to 339.549] **361.800 to 361.849**;

138 (24) "Real estate", an identified parcel or tract of land, including
139 improvements, if any;

140 (25) "Real estate appraiser" or "appraiser", a person who for a fee or
141 valuable consideration develops and communicates real estate appraisals or
142 otherwise gives an opinion of the value of real estate or any interest therein;

143 (26) "Real estate appraising", the practice of developing and

144 communicating real estate appraisals;

145 (27) "Real property", the interests, benefits and rights inherent in the
146 ownership of real estate;

147 (28) "Residential real estate", any parcel of real estate, improved or
148 unimproved, that is primarily residential in nature and that includes or is
149 intended to include a residential structure containing not more than four dwelling
150 units and no other improvements except those which are typical residential
151 improvements that support the residential use for the location and property type.
152 A residential unit is a condominium, town house or cooperative complex, or a
153 planned unit development is considered to be residential real
154 estate. Subdivisions are not considered residential real estate. Individual
155 parcels of property located within a residential subdivision shall be considered
156 residential property;

157 (29) "Specialized appraisal services", appraisal services which do not fall
158 within the definition of appraisal assignment. The term "specialized services"
159 may include valuation work and analysis work. Regardless of the intention of the
160 client or employer, if the appraiser is acting as a disinterested third party in
161 rendering an unbiased analysis, opinion or conclusion, the work is classified as
162 an appraisal assignment and not specialized services;

163 (30) "State-certified general appraiser trainee", a person who holds a
164 current valid certificate as a state-certified general appraiser trainee issued
165 under sections [339.500 to 339.539] **361.800 to 361.839**;

166 (31) "State-certified general real estate appraiser", a person who holds a
167 current, valid certificate as a state-certified general real estate appraiser issued
168 pursuant to the provisions of sections [339.500 to 339.549] **361.800 to 361.849**;

169 (32) "State-certified residential appraiser trainee", a person who holds a
170 current valid certificate as a state-certified residential appraiser trainee under
171 sections [339.500 to 339.539] **361.800 to 361.839**;

172 (33) "State-certified residential real estate appraiser", a person who holds
173 a current, valid certificate as a state-certified residential real estate appraiser
174 issued pursuant to the provisions of sections [339.500 to 339.549] **361.800 to**
175 **361.849**;

176 (34) "State-licensed appraiser trainee", a person who holds a current valid
177 license as a state-licensed appraiser trainee under sections [339.500 to 339.549]
178 **361.800 to 361.849**;

179 (35) "State-licensed real estate appraiser", a person who holds a current,

180 valid license as a state-licensed real estate appraiser pursuant to the provisions
181 of sections [339.500 to 339.549] **361.800 to 361.849**;

182 (36) "Subdivision", a tract of land that has been divided into blocks or
183 plots with streets, roadways, open areas and other facilities appropriate to its
184 development as residential, commercial or industrial sites;

185 (37) "Temporary appraiser licensure or certification", the issuance of a
186 temporary license or certificate by the commission to a person licensed or certified
187 in another state who enters this state for the purpose of completing a particular
188 appraisal assignment.

[339.505.] **361.805.** 1. It shall be unlawful for any person in this state
2 to assume or use the title "state-licensed real estate appraiser" or "state-certified
3 real estate appraiser", or any title, designation or abbreviation likely to create the
4 impression of licensure or certification by the state of Missouri as a real estate
5 appraiser, unless the person has first been licensed or certified by the Missouri
6 real estate appraisers commission pursuant to the provisions of sections [339.500
7 to 339.549] **361.800 to 361.849**. The commission may adopt, for the exclusive
8 use of persons licensed or certified pursuant to sections [339.500 to 339.549]
9 **361.800 to 361.849**, a seal, symbol or other mark identifying the user as a
10 state-licensed or state-certified real estate appraiser.

11 2. Any person certified as a real estate appraiser by an appraisal trade
12 organization, on August 28, 1998, shall retain the right to use the term "certified"
13 or any similar term in identifying himself or herself to the public; provided that,
14 in each instance wherein such term is used, the name of the certifying
15 organization or body is prominently and conspicuously displayed immediately
16 adjacent to such term, and provided further that the use of such term does not
17 create the impression of certification by the state of Missouri. Nothing in this
18 section shall entitle any person certified only by a trade organization, and not
19 certified or licensed by the state, the right to conduct any appraisal.

20 3. The term "state-licensed real estate appraiser", "state-certified real
21 estate appraiser" or any similar term shall not be used following or immediately
22 in connection with the name of a partnership, association, corporation or other
23 firm or group or in such manner that it might create the impression of licensure
24 or certification by the state of Missouri as a real estate appraiser.

25 4. No person shall, directly or indirectly, engage or attempt to engage in
26 the business as an appraisal management company, to directly or indirectly
27 engage or attempt to perform appraisal management services, or to advertise or

28 hold itself out as engaging in or conducting business as an appraisal management
29 company without first obtaining a registration issued by the commission under
30 sections [339.500 to 339.549] **361.800 to 361.849**; except for:

- 31 (1) The performance of services as an appraisal firm;
- 32 (2) A national or state bank, federal or state savings institution, or credit
33 union that is subject to direct regulation or supervision by an agency of the
34 United States government, or by the Missouri department of insurance, financial
35 institutions and professional registration, that receives a request for the
36 performance of an appraisal from one employee of the financial institution, and
37 another employee of the same financial institution assigns the request for the
38 appraisal to an appraiser who is an independent contractor to the institution;
- 39 (3) An appraisal management company that is a subsidiary owned and
40 controlled by a financial institution and regulated by a federal institution
41 regulatory agency;
- 42 (4) An appraiser that enters into an agreement, whether written or
43 otherwise, with an appraiser for the performance of an appraisal, and upon the
44 completion of the appraisal, the report of the appraiser performing the appraisal
45 is signed by both the appraiser who completed the appraisal and the appraiser
46 who requested the completion of the appraisal;
- 47 (5) A state agency or local municipality that orders appraisals for ad
48 valorem tax purposes or any other business on behalf of the state of Missouri;
- 49 (6) Any person licensed to practice law in this state, a court-appointed
50 personal representative, or a trustee who orders an appraisal in connection with
51 a bona fide client relationship when such person directly contracts with an
52 independent appraiser.

**361.806. The Missouri real estate appraisers commission is
2 hereby assigned by specific type transfer to the division of
3 finance. The commission shall exercise all its respective duties and
4 powers, except those clerical and other staff services involving
5 collecting and accounting for moneys and financial management
6 relating to the issuance and renewal of licenses, which services shall
7 be provided by the division of finance.**

[339.507.] **361.807.** 1. [There is hereby created within the division of
2 professional registration] The "Missouri Real Estate Appraisers Commission"[,
3 which] shall consist of seven members appointed by the governor with the advice
4 and consent of the senate, six of whom shall be appraiser members, and one shall

5 be a public member. Each member shall be a resident of this state and a
6 registered voter for a period of one year prior to the person's appointment. The
7 president of the Missouri Appraiser Advisory Council in office at the time shall,
8 at least ninety days prior to the expiration of the term of the commission member,
9 other than the public member, or as soon as feasible after the vacancy on the
10 commission otherwise occurs, submit to the director of the division of
11 [professional registration] **finance** a list of five appraisers qualified and willing
12 to fill the vacancy in question, with the request and recommendation that the
13 governor appoint one of the five persons so listed, and with the list so submitted,
14 the president of the Missouri Appraiser Advisory Council shall include in his or
15 her letter of transmittal a description of the method by which the names were
16 chosen by that association. The public member shall have never been engaged
17 in the businesses of real estate appraisal, real estate sales or making loans
18 secured by real estate.

19 2. The real estate appraiser members appointed by the governor shall be
20 Missouri residents who have real estate appraisal experience in the state of
21 Missouri for not less than five years immediately preceding their
22 appointment. Appraiser members of the commission shall be appointed from the
23 registry of state-certified real estate appraisers and state-licensed real estate
24 appraisers.

25 3. All members shall be appointed for three-year terms. All members
26 shall serve until their successors have been appointed and qualified. Vacancies
27 occurring in the membership of the commission for any reason shall be filled by
28 appointment by the governor for the unexpired term. Upon expiration of their
29 terms, members of the commission shall continue to hold office until the
30 appointment and qualification of their successors. No more than four members
31 of the commission shall be members of the same political party. No person shall
32 be appointed for more than two consecutive terms. The governor may remove a
33 member for cause.

34 4. The commission shall meet at least once each calendar quarter to
35 conduct its business. A quorum of the commission shall consist of four members.

36 5. Each member of the commission shall be entitled to a per diem
37 allowance of fifty dollars for each meeting of the commission at which the member
38 is present and shall be entitled to reimbursement of the member's expenses
39 necessarily incurred in the discharge of the member's official duties. Each
40 member of the commission shall be entitled to reimbursement of travel expenses

41 necessarily incurred in attending meetings of the commission.

2 **[339.509.] 361.809.** The commission shall have the following powers and
3 duties:

4 (1) To establish educational programs and research projects related to the
5 appraisal of real estate;

6 (2) To establish administrative procedures for processing applications and
7 issuing trainee licenses, certificates of state-certified real estate appraisers,
8 licenses of state-licensed real estate appraisers, and licenses of appraisal
9 management companies, and for conducting disciplinary proceedings pursuant to
10 the provisions of sections **[339.500 to 339.549] 361.800 to 361.849** or as required
11 by federal law or regulation; and shall have authority to determine who meets the
12 criteria for certification and licensure, and shall have authority to renew, censure,
13 suspend or revoke certifications and licenses;

14 (3) To further define by regulation, with respect to each category of
15 trainee, state-certified real estate appraiser, and for state-licensed real estate
16 appraisers and for appraisal management companies, the type of educational
17 experience, appraisal experience and equivalent experience, and other criteria
18 that will meet the statutory requirements of sections **[339.500 to 339.549]**
19 **361.800 to 361.849** or as required by federal law or regulation; provided that
20 such standards shall be equivalent to the minimum criteria for certification and
21 licensure issued by the appraiser qualifications board of the appraisal foundation
22 and the provisions of section **[339.517] 361.817** or as required by federal law or
23 regulation;

24 (4) To further define by regulation, with respect to each category of
25 trainee, state-certified real estate appraiser, and for state-licensed real estate
26 appraisers, the continuing education requirements for the renewal of certification
27 and licensure that will meet the statutory requirements provided in section
28 **[339.530] 361.830** or as required by federal law or regulation;

29 (5) To adopt standards for the development and communication of real
30 estate appraisals and to adopt regulations explaining and interpreting the
31 standards; provided that such standards shall meet the standards specified by the
32 appraisal standards board of the appraisal foundation or as required by federal
33 law or regulation;

34 (6) To establish an examination for each category of state-certified real
35 estate appraiser, and for state-licensed real estate appraisers, to provide or
procure appropriate examination questions and answers, and to establish

36 procedures for grading examinations; provided that such standards for
37 examinations for certification shall meet the minimum criteria specified by the
38 appraiser qualifications board of the appraisal foundation or as required by
39 federal law or regulation;

40 (7) To maintain a registry of the names and addresses of trainees,
41 state-certified real estate appraisers, state-licensed real estate appraisers, and
42 appraisal management companies;

43 (8) To perform such other functions and duties as may be necessary to
44 carry out the provisions of sections [339.500 to 339.549] **361.800 to 361.849** or
45 to comply with the requirements of federal law or regulation; and

46 (9) To establish by rule the standards of practice for appraisal
47 management companies.

[339.511.] **361.811.** 1. There shall be six classes of licensure for
2 individuals including:

- 3 (1) State-licensed appraiser trainee;
- 4 (2) State-licensed real estate appraiser;
- 5 (3) State-certified residential appraiser trainee;
- 6 (4) State-certified residential real estate appraiser;
- 7 (5) State-certified general appraiser trainee; and
- 8 (6) State-certified general real estate appraiser.

9 2. There shall be one class of license for appraisal management
10 companies.

11 3. Persons desiring to obtain licensure as a state-licensed appraiser
12 trainee, state-licensed real estate appraiser, state-certified residential appraiser
13 trainee, certification as a state-certified residential real estate appraiser,
14 state-certified general appraiser trainee, or state-certified general real estate
15 appraiser shall make written application to the commission on such forms as are
16 prescribed by the commission setting forth the applicant's qualifications for
17 licensure or certification and present to the commission satisfactory proof that the
18 person is of good moral character and bears a good reputation for honesty,
19 integrity and fair dealing.

20 4. Each applicant for licensure as a state-licensed appraiser trainee,
21 state-licensed real estate appraiser, a state-certified residential appraiser trainee,
22 a state-certified residential real estate appraiser, a state-certified general
23 appraiser trainee, or a state-certified general real estate appraiser shall have
24 demonstrated the knowledge and competence necessary to perform appraisals of

25 residential and other real estate as the commission may prescribe by rule not
26 inconsistent with any requirements imposed by the appraiser qualifications
27 board. The commission shall prescribe by rule procedures for obtaining and
28 maintaining approved courses of instruction. The commission shall, also,
29 prescribe the hours of training in real estate appraisal practices and the
30 minimum level of experience acceptable for licensure or certification.

31 5. Persons who receive certification after March 30, 1991, or who have a
32 state license or certificate to engage in business as a real estate appraiser issued
33 by the commission, shall receive the same license or certificate from the
34 commission as such persons are currently holding without further education,
35 experience, examination or application fee, but shall be required to meet all
36 continuing education requirements prescribed by the commission.

37 6. Appraisal management companies desiring to obtain licensure shall:

38 (1) Make application to the commission on such forms as are prescribed
39 by the commission setting forth the applicant's qualifications for licensure;

40 (2) Remit the fee or fees as established by rule;

41 (3) Post with the commission and maintain on renewal a surety bond in
42 the amount of twenty thousand dollars as further promulgated by rule; and

43 (4) Submit to the commission satisfactory proof that any controlling
44 person, defined in section [339.503] **361.803**, is of good moral character and bears
45 a good reputation for honesty, integrity, and fair dealing.

 [339.513.] **361.813.** 1. Applications for examination, original certification
2 and licensure, and renewal certification and licensure shall be made in writing
3 to the commission on forms provided by the commission. The application shall
4 specify the classification of certification, or licensure, for which application is
5 being made.

6 2. Appropriate fees shall accompany all applications for examination,
7 original certification or licensure, and renewal certification or licensure; provided
8 that such fees shall be in amounts set by the commission in order to offset the
9 cost and expense of administering sections [339.500 to 339.549] **361.800 to**
10 **361.849**, and in amounts to be determined by the commission with reference to
11 the requirements of Section 1109 of the United States Public Law 101-73, as later
12 codified and as may be amended. All fees collected pursuant to this subsection
13 shall be collected by the commission and deposited with the state treasurer into
14 a fund to be known as the "Missouri Real Estate Appraisers and Appraisal
15 Management Company Fund". The provisions of section 33.080 to the contrary

16 notwithstanding, money in this fund shall not be transferred and placed to the
17 credit of general revenue until the amount in the fund at the end of the biennium
18 exceeds two times the amount of the appropriation from the board's funds for the
19 preceding fiscal year or, if the board requires by rule permit renewal less
20 frequently than yearly, then three times the appropriation from the board's funds
21 for the preceding fiscal year. The amount, if any, in the fund which shall lapse
22 is that amount in the fund which exceeds the appropriate multiple of the
23 appropriations from the board's funds for the preceding fiscal year. In any
24 proceeding in which a remedy provided by subsection 1 or 2 of section
25 [339.532] **361.832** is imposed, the commission may also require the respondent
26 licensee to pay the costs of the proceeding if the commission is a prevailing party
27 or in settlement. The moneys shall be placed in the state treasury to the credit
28 of the Missouri real estate appraisers fund.

29 3. At the time of filing an application for certification or licensure, each
30 applicant shall sign a pledge to comply with the standards set forth in sections
31 [339.500 to 339.549] **361.800 to 361.849** and state that he or she understands
32 the types of misconduct for which disciplinary proceedings may be initiated.

 [339.515.] **361.815.** 1. An original certification as a state-certified real
2 estate appraiser may be issued to any person who meets the qualification
3 requirements for certification and who has achieved a passing grade on a written
4 examination which is consistent with and equivalent to the uniform state
5 certification examination issued or endorsed by the appraiser qualifications board
6 of the appraisal foundation and the commission.

7 2. An original license as a state-licensed real estate appraiser may be
8 issued to any person who meets the qualification requirements for licensure and
9 who has achieved a passing grade on a written examination which is consistent
10 with and equivalent to the uniform state licensure examination issued or
11 endorsed by the appraiser qualifications board of the appraisal foundation and
12 the commission.

13 3. If an applicant, other than an appraisal management company, is not
14 certified or licensed within two years after passing an examination given
15 pursuant to the provisions of this section, he or she shall be required to retake
16 the examination prior to certification or licensure.

17 4. An applicant, other than an appraisal management company, who has
18 failed an examination taken pursuant to this section may apply for reexamination
19 by submitting an application with the appropriate examination fee within ninety

20 days after the date of having last taken and failed the examination.

[339.517.] **361.817.** 1. Any person who files with the commission an application for state licensure or certification as a real estate appraiser shall be required to pass an examination to demonstrate his or her competence. The commission shall, also, make such investigation as is required to verify such qualifications. If the results of the investigation are satisfactory to the commission and the applicant is otherwise qualified, then the commission shall issue to the applicant a license or certificate authorizing the applicant to act as a state-licensed real estate appraiser or a state-certified real estate appraiser in Missouri. If the results of the investigation are unsatisfactory, action on the application may be deferred pending a hearing before the real estate appraisal commission.

2. The commission shall promulgate and adopt regulations which prescribe and define the subjects related to real estate appraisal and the experience in real estate appraisal that will satisfy the qualification requirements for licensure or certification. The commission may approve courses of instruction in an accredited college or university relating to the appraisal of real estate and related disciplines including, but not limited to, economics, finance, statistics, principles of capitalization, real estate and such other areas deemed relevant by the commission. The commission may also approve similar courses of instruction offered by recognized professional appraisal organizations and real estate organizations and agencies of the state and federal government, and other qualified providers which may be approved by the commission. The commission may require by rule that some or all of an applicant's qualifying experience in real estate appraising be obtained on appraisals of real estate located in this state.

3. Each applicant for certification or licensure, except for appraisal management companies, shall furnish under oath a detailed statement of the real estate appraisal assignments or file memoranda for each year in which real estate appraisal experience is claimed by the applicant. Upon request, the applicant shall furnish to the commission a sample of appraisal reports or file memoranda which the applicant has prepared in the course of his or her appraisal practice.

4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and

36 if any of the powers vested with the general assembly pursuant to chapter 536 to
37 review, to delay the effective date or to disapprove and annul a rule are
38 subsequently held unconstitutional, then the grant of rulemaking authority and
39 any rule proposed or adopted after August 28, 2003, shall be invalid and void.

[339.519.] **361.819.** 1. The term of an original certificate or license
2 issued pursuant to sections [339.500 to 339.549] **361.800 to 361.849** shall be for
3 a period set by the commission. All certificates and licenses shall be subject to
4 renewal on the same date. The expiration date of the certificate or license shall
5 appear on the certificate or license and no other notice of its expiration need be
6 given to its holder.

7 2. The commission shall require every state-certified or state-licensed real
8 estate appraiser to provide satisfactory evidence of the completion of the required
9 continuing education hours as promulgated by the appraiser qualifications board.

[339.521.] **361.821.** An applicant who is certified or licensed under the
2 laws of another state may obtain certification as a state certified real estate
3 appraiser or licensure as a state licensed real estate appraiser in this state upon
4 such terms and conditions as may be determined by the board, provided that such
5 terms and conditions shall comply with the minimum criteria for certification or
6 licensure issued by the appraiser qualifications board of the appraisal foundation.

[339.523.] **361.823.** 1. A nonresident of this state who has complied with
2 the provisions of sections [339.511, 339.513, 339.515 and 339.517 or section
3 339.521] **361.811, 361.813, 361.815, and 361.817, or 361.821** may obtain
4 certification as a state-certified real estate appraiser or licensure as a
5 state-licensed real estate appraiser by conforming to all of the provisions of
6 sections [339.500 to 339.549] **361.800 to 361.849** relating to state-certified real
7 estate appraisers or state-licensed real estate appraisers.

8 2. Every applicant for certification or licensure pursuant to sections
9 [339.500 to 339.545] **361.800 to 361.845** who is not a resident of this state shall
10 submit, with the application for certification, an irrevocable consent that service
11 of process in any action against the applicant arising out of the applicant's
12 activities as a state-certified real estate appraiser or state-licensed real estate
13 appraiser may be made by delivery of the process to the executive director of the
14 commission, if the plaintiff cannot, in the exercise of due diligence, effect personal
15 service upon the applicant. The executive director shall immediately mail a copy
16 of the materials served on the executive director by ordinary mail to the
17 state-certified real estate appraiser or state-licensed real estate appraiser at both

18 his or her principal place of business and his or her residence address.

[339.525.] **361.825.** 1. To obtain a renewal certificate or license, a state
2 certified real estate appraiser or state licensed real estate appraiser shall make
3 application and pay the prescribed fee to the commission not earlier than one
4 hundred twenty days nor later than thirty days prior to the expiration date of the
5 certificate or license then held. With the application for renewal, the state
6 certified real estate appraiser or state licensed real estate appraiser shall present
7 evidence in the form prescribed by the commission of having completed the
8 continuing education requirements for renewal specified in section [339.530]
9 **361.830.**

10 2. If a person is otherwise eligible to renew the person's certification or
11 license, the person may renew an expired certification or license within two years
12 from the date of expiration. To renew such expired certification or license, the
13 person shall submit an application for renewal, pay the renewal fee, pay a
14 delinquent renewal fee as established by the commission, and present evidence
15 in the form prescribed by the commission of having completed the continuing
16 education requirements for renewal specified in section [339.530] **361.830.** Upon
17 a finding of extenuating circumstances, the commission may waive the payment
18 of the delinquent fee.

19 3. If a person has failed to renew the person's license within two years of
20 its expiration, the license shall be void.

21 4. The commission is authorized to issue an inactive certificate or license
22 to a state-certified real estate appraiser or a state-licensed real estate appraiser
23 who makes written application for such on a form provided by the commission
24 and remits the fee for an inactive certificate or license established by the
25 commission. An inactive certificate or license may be issued only to a person who
26 has previously been issued a certificate or license to practice as a real estate
27 appraiser in this state, who is no longer regularly engaged in such practice, and
28 who does not hold himself or herself out to the public as being professionally
29 engaged in such practice in this state. Each inactive certificate or license shall
30 be subject to all provisions of this chapter, except as otherwise specifically
31 provided. Each inactive certificate or license may be renewed by the commission
32 subject to all provisions of this section and all other provisions of this chapter. An
33 inactive licensee may apply for a certificate or license to regularly engage in the
34 practice of real estate appraising upon filing a written application on a form
35 provided by the commission, submitting the reactivation fee established by the

36 commission and submitting satisfactory proof of current competency as
37 established by the commission.

38 5. To obtain a renewal license, an appraisal management company shall
39 make application on a form prescribed by the commission and pay the prescribed
40 fee.

41 6. To obtain a renewal license, a state-licensed appraiser trainee,
42 state-certified residential appraiser trainee, or state-certified general appraiser
43 trainee shall request an extension in writing at least thirty days prior to the
44 expiration date as required by rule.

 [339.527.] **361.827.** 1. A state-certified real estate appraiser may
2 designate or identify an appraisal report rendered by him or her as a certified
3 appraisal for the type of property included in his or her certification.

4 2. Each state-certified real estate appraiser or state-licensed real estate
5 appraiser shall place the certificate or license number adjacent to or immediately
6 below the designation "Missouri State-certified (Residential/General) Real Estate
7 Appraiser" or "Missouri State-licensed Real Estate Appraiser" when used in an
8 appraisal report or in a contract or other instrument used by the holder of the
9 certificate or license in conducting an appraisal assignment or specialized
10 appraisal services. A state-licensed real estate appraiser trainee, state-certified
11 residential appraiser trainee, and state-certified general appraiser trainee shall
12 place his or her license number adjacent to or immediately below the title
13 "State-licensed Appraiser Trainee", "State-certified Residential Appraiser
14 Trainee", or "State-certified General Appraiser Trainee".

15 3. Each appraisal management company shall be required to disclose its
16 license number on each engagement letter utilized in assigning an appraisal
17 request for real estate appraisal assignments within the state of Missouri.

18 4. The terms "Missouri State-certified (Residential/General) Real Estate
19 Appraiser", "Missouri State-licensed Real Estate Appraiser", "Missouri
20 State-licensed Appraiser Trainee", "Missouri State-certified Residential Appraiser
21 Trainee", and "Missouri State-certified General Appraiser Trainee" may only be
22 used to refer to individuals who hold a certificate or license and may not be used
23 following or immediately in connection with the name or signature of a firm,
24 partnership, corporation, or group or in such manner that it might be interpreted
25 as referring to certification or licensure of the firm, partnership, corporation,
26 group, or to certification or licensure of anyone other than an individual holder
27 of the certificate or license.

28 5. Except for licensed appraisal management companies, a certificate or
29 license shall be issued pursuant to sections [339.500 to 339.549] **361.800 to**
30 **361.849** only to a natural person. However, nothing in this section shall preclude
31 a state-certified real estate appraiser or state-licensed real estate appraiser from
32 rendering appraisals for or on behalf of a corporation, partnership or association,
33 provided that the appraisal report is prepared by, or under the immediate
34 direction of, a state-certified real estate appraiser or state-licensed real estate
35 appraiser, and further provided that the appraisal report is signed by the
36 state-certified real estate appraiser or state-licensed real estate appraiser.

 [339.529.] **361.829.** 1. Each state-certified real estate appraiser,
2 state-certified appraiser trainee, state-licensed appraiser trainee, and
3 state-licensed real estate appraiser shall advise the commission of the address of
4 his or her principal place of residence, business and all other addresses at which
5 he or she is currently engaged in the business of preparing real property
6 appraisal reports.

7 2. Whenever a state-certified real estate appraiser, state-certified
8 appraiser trainee, state-licensed appraiser trainee, or state-licensed real estate
9 appraiser changes the location of his or her place of business, he or she shall
10 amend the certificate or license issued by the commission to reflect the change
11 and shall give written notification of the change to the commission within thirty
12 working days of the change.

13 3. Whenever a state-certified real estate appraiser or state-licensed real
14 estate appraiser changes the location of his or her residence, he or she shall
15 notify the commission of the new residence address within thirty working days
16 of the change.

17 4. Each appraisal management company shall notify the commission
18 within thirty days of a change in its controlling person, agent of record,
19 ownership composition, or address.

 [339.530.] **361.830.** 1. As a prerequisite of renewal of certification or
2 licensure, a state-certified real estate appraiser or state-licensed real estate
3 appraiser shall present evidence satisfactory to the commission of having met the
4 continuing education requirements as provided in this section. The basic
5 continuing education requirements for renewal of certification or licensure shall
6 be the completion by the state-certified real estate appraiser or state-licensed real
7 estate appraiser, during the immediately preceding term of certification or
8 licensure, of continuing education as prescribed by the appraiser qualifications

9 board and approved by the commission.

10 2. In lieu of meeting the requirements of subsection 1 of this section, an
11 applicant for renewal of certification or licensure may satisfy all or part of the
12 requirements of this section by presenting evidence of the following:

13 (1) Completion of courses of study determined by the commission to be
14 equivalent, for continuing education purposes, to courses approved by the
15 commission pursuant to subsection 1 of this section;

16 (2) Participation, other than as a student, in educational processes and
17 programs in real property appraisal theory, practices, or techniques, including,
18 but not limited to, teaching, program development, and preparation of textbooks,
19 monographs, articles, and other instructional materials, all to be approved by the
20 commission.

21 3. The commission shall adopt regulations for implementation of the
22 provisions of this section to assure that state-certified real estate appraisers
23 renewing their certifications and state-licensed real estate appraisers renewing
24 their licenses have current knowledge of real property appraisal theories,
25 practices, and techniques which will provide a high degree of service and
26 protection to those members of the public with whom they deal in a professional
27 relationship under authority of the certification or licensure. Such regulations
28 shall prescribe the following:

29 (1) Policies and procedures for obtaining commission approval of courses
30 of instruction pursuant to this section;

31 (2) Standards, policies, and procedures to be applied by the commission
32 in evaluating an applicant's claims of equivalency pursuant to this section;

33 (3) Standards, monitoring methods, and systems for recording attendance
34 to be employed by course sponsors as a prerequisite to commission approval of
35 courses for credit.

36 4. In adopting regulations pursuant to this section, the commission shall
37 give favorable consideration to courses of instruction, seminars, and other real
38 property appraisal education courses or programs previously or hereafter
39 developed by or under the auspices of professional appraisal organizations and
40 utilized by those associations for purposes of designation, certification, licensure,
41 recertification or relicensure of the members of the association.

42 5. No amendment or repeal of a regulation adopted by the commission
43 pursuant to this section shall operate to deprive a state-certified real estate
44 appraiser or state-licensed real estate appraiser of credit toward renewal of

45 certification or licensure for any course of instruction completed prior to the
46 amendment or repeal of the regulation, if the course would have qualified for
47 continuing education credit under the regulation as it existed prior to the repeal
48 or amendment.

[339.532.] **361.832.** 1. The commission may refuse to issue or renew any
2 certificate or license issued pursuant to sections [339.500 to 339.549] **361.800 to**
3 **361.849** for one or any combination of causes stated in subsection 2 of this
4 section. The commission shall notify the applicant in writing of the reasons for
5 the refusal and shall advise the applicant of the right to file a complaint with the
6 administrative hearing commission as provided by chapter 621.

7 2. The commission may cause a complaint to be filed with the
8 administrative hearing commission as provided by chapter 621 against any
9 state-certified real estate appraiser, state-licensed real estate appraiser,
10 state-licensed appraiser trainee, state-certified residential appraiser trainee,
11 state-certified general appraiser trainee, state-licensed appraisal management
12 company that is a legal entity other than a natural person, any person who is a
13 controlling person as defined in this chapter, or any person who has failed to
14 renew or has surrendered his or her certificate or license for any one or any
15 combination of the following causes:

16 (1) Procuring or attempting to procure a certificate or license pursuant to
17 section [339.513] **361.813** by knowingly making a false statement, submitting
18 false information, refusing to provide complete information in response to a
19 question in an application for certification or licensure, or through any form of
20 fraud or misrepresentation;

21 (2) Failing to meet the minimum qualifications for certification or
22 licensure or renewal established by sections [339.500 to 339.549] **361.800 to**
23 **361.849**;

24 (3) Paying money or other valuable consideration, other than as provided
25 for by section [339.513] **361.813**, to any member or employee of the commission
26 to procure a certificate or license pursuant to sections [339.500 to 339.549]
27 **361.800 to 361.849**;

28 (4) The person has been finally adjudicated and found guilty, or entered
29 a plea of guilty or nolo contendere, in a criminal prosecution under the laws of
30 any state or the United States, for any offense reasonably related to the
31 qualifications, functions or duties of any profession licensed or regulated
32 pursuant to sections [339.500 to 339.549] **361.800 to 361.849** for any offense of

33 which an essential element is fraud, dishonesty or an act of violence, or for any
34 offense involving moral turpitude, whether or not sentence is imposed;

35 (5) Incompetency, misconduct, gross negligence, dishonesty, fraud, or
36 misrepresentation in the performance of the functions or duties of any profession
37 licensed or regulated by sections [339.500 to 339.549] **361.800 to 361.849**;

38 (6) Violation of any of the standards for the development or
39 communication of real estate appraisals as provided in or pursuant to sections
40 [339.500 to 339.549] **361.800 to 361.849**;

41 (7) Failure to comply with the Uniform Standards of Professional
42 Appraisal Practice promulgated by the appraisal standards board of the appraisal
43 foundation;

44 (8) Failure or refusal without good cause to exercise reasonable diligence
45 in developing an appraisal, preparing an appraisal report, or communicating an
46 appraisal;

47 (9) Negligence or incompetence in developing an appraisal, in preparing
48 an appraisal report, or in communicating an appraisal;

49 (10) Violating, assisting or enabling any person to willfully disregard any
50 of the provisions of sections [339.500 to 339.549] **361.800 to 361.849** or the
51 regulations of the commission for the administration and enforcement of the
52 provisions of sections [339.500 to 339.549] **361.800 to 361.849**;

53 (11) Accepting an appraisal assignment when the employment itself is
54 contingent upon the appraiser's reporting a predetermined analysis or opinion or
55 where the fee to be paid for the performance of the appraisal assignment is
56 contingent upon the opinion, conclusion, or valuation reached or upon the
57 consequences resulting from the appraisal assignment;

58 (12) Violating the confidential nature of governmental records to which
59 the person gained access through employment or engagement to perform an
60 appraisal assignment or specialized appraisal services for a governmental agency;

61 (13) Violating any term or condition of a certificate or license issued by
62 the commission pursuant to the authority of sections [339.500 to 339.549]
63 **361.800 to 361.849**;

64 (14) Violation of any professional trust or confidence;

65 (15) Obtaining or attempting to obtain any fee, charge, tuition or other
66 compensation by fraud, deception or misrepresentation;

67 (16) Assisting or enabling any person to practice or offer to practice any
68 profession licensed or regulated by sections [339.500 to 339.549] **361.800 to**

69 **361.849** who is not licensed or certified and currently eligible to practice
70 pursuant to sections [339.500 to 339.549] **361.800 to 361.849**;

71 (17) Use of any advertisement or solicitation which is false, misleading or
72 deceptive to the general public or persons to whom the advertisement or
73 solicitation is primarily directed;

74 (18) Disciplinary action against the holder of a license, certificate or other
75 right to practice any profession regulated pursuant to sections [339.500 to
76 339.549] **361.800 to 361.849**, imposed by another state, territory, federal agency
77 or country upon grounds for which revocation or suspension is authorized in this
78 state;

79 (19) Making any material misstatement, misrepresentation, or omission
80 with regard to any application for licensure or certification, or for license or
81 certification renewal. As used in this section, "material" means important
82 information about which the commission should be informed and which may
83 influence a licensing decision;

84 (20) Engaging in or committing, or assisting any person in engaging in or
85 committing, any practice or act of mortgage fraud, as defined in section 443.930;

86 (21) Influencing or attempting to influence the development, reporting, or
87 review of an appraisal through coercion, extortion, collusion, compensation,
88 instruction, inducement, intimidation, or bribery.

89 3. After the filing of such complaint, the proceedings shall be conducted
90 in accordance with the provisions of chapter 621. Upon a finding by the
91 administrative hearing commission that the grounds, provided in subsection 2 of
92 this section, for disciplinary action are met, the commission may, singly or in
93 combination, publicly censure or place the person named in the complaint on
94 probation on such terms and conditions as the commission deems appropriate for
95 a period not to exceed five years, or may suspend, for a period not to exceed three
96 years, or revoke, the certificate or license. The holder of a certificate or license,
97 or the legal entity and any controlling person in the case of an appraisal
98 management company, revoked pursuant to this section may not obtain
99 certification as a state-certified real estate appraiser, licensure as a state-licensed
100 real estate appraiser, or licensure as an appraisal management company for at
101 least five years after the date of revocation.

102 4. Notwithstanding other provisions of this section, a real estate appraiser
103 license or certification or an appraisal management company license shall be
104 revoked, or in the case of an applicant, shall not be issued, if the licensee or

105 applicant, or any controlling person in the case of an appraisal management
106 company, has pleaded guilty to, entered a plea of nolo contendere to, or been
107 found guilty of mortgage fraud as defined in section 570.310. The commission
108 shall notify the individual or legal entity of the reasons for the revocation in
109 writing, by certified mail.

110 5. A person, or the legal entity or controlling person in the case of an
111 appraisal management company, whose license is revoked under subsection 4 of
112 this section may appeal such revocation to the administrative hearing
113 commission, as provided by chapter 621, within ninety days from the time the
114 commission mails the notice of revocation. A person who fails to do so waives all
115 rights to appeal the revocation.

116 6. A certification of a state-certified real estate appraiser, a license of a
117 state-licensed real estate appraiser, or a license of an appraisal management
118 company that has been suspended as a result of disciplinary action by the
119 commission shall not be reinstated, and a person, controlling person, or legal
120 entity may not obtain certification as a state-certified real estate appraiser,
121 licensure as a state-licensed real estate appraiser, or licensure as an appraisal
122 management company subsequent to revocation, unless the applicant presents
123 evidence of completion of the continuing education required by section [339.530]
124 **361.830** during the period of suspension or revocation as well as fulfillment of
125 any other conditions imposed by the commission. Applicants for recertification,
126 relicensure or reinstatement also shall be required to successfully complete the
127 examination for original certification or licensure required by section [339.515]
128 **361.815** as a condition to reinstatement of certification or licensure, or
129 recertification or relicensure subsequent to revocation.

[339.533.] **361.833.** 1. The chairperson of the commission may
2 administer oaths, issue subpoenas, and issue subpoenas duces tecum requiring
3 the production of documents and records. Subpoenas and subpoenas duces tecum
4 shall be served by a person authorized to serve subpoenas of courts of record. In
5 lieu of requiring attendance of a person, controlling person, or other legal entity
6 to produce original documents in response to a subpoena duces tecum, the
7 commission may require sworn copies of such documents to be filed with it or
8 delivered to its designated representative.

9 2. The commission may enforce its subpoenas and subpoenas duces tecum
10 by applying to the circuit court of Cole County; the county of the investigation,
11 hearing, or proceeding; or any county where the person, controlling person, or

12 other legal entity subpoenaed resides or may be found for an order to show cause
13 why such subpoena should not be enforced, such order and a copy of the
14 application therefor to be served upon the person in the same manner as a
15 summons in a civil action, and if the circuit court shall, after a hearing,
16 determine that the subpoena should be sustained and enforced, such court shall
17 proceed to enforce the subpoena in the same manner as though the subpoena had
18 been issued in a civil case in the circuit court.

[339.535.] **361.835.** State-certified real estate appraisers, state-licensed
2 real estate appraisers, state-licensed appraiser trainees, and state-certified
3 appraiser trainees shall comply with the Uniform Standards of Professional
4 Appraisal Practice promulgated by the appraisal standards board of the appraisal
5 foundation.

[339.537.] **361.837.** 1. State-certified real estate appraisers and state
2 licensed real estate appraisers shall retain originals or true copies of contracts
3 engaging an appraiser's services for appraisal assignments, specialized appraisal
4 services, appraisal reports, and supporting data assembled and formulated in
5 preparing appraisal reports, for five years. The period for retention of the records
6 applicable to each engagement of the services of the state-certified real estate
7 appraiser or state-licensed real estate appraiser shall run from the date of the
8 submission of the appraisal report to the client. Upon requests by the
9 commission, these records shall be made available by the state-certified real
10 estate appraiser or state-licensed real estate appraiser for inspection and copying
11 at his or her expense, by the commission on reasonable notice to the
12 state-certified real estate appraiser or state-licensed real estate appraiser. When
13 litigation is contemplated at any time, reports and records shall be retained for
14 two years after the final disposition.

15 2. All appraisal management company records shall be retained by the
16 appraisal management company for five years. Upon request by the commission,
17 such records shall promptly be made available to the commission for inspection
18 and copying at the expense of the appraisal management company.

[339.539.] **361.839.** No bank, savings and loan association, credit union,
2 mortgage banker or lending institution may exclude a state certified real estate
3 appraiser or state licensed real estate appraiser from consideration for an
4 appraisal assignment or specialized appraisal services by virtue of membership
5 or lack of membership of the state certified real estate appraiser or state licensed
6 real estate appraiser in any particular real estate appraisal organization.

[339.541.] **361.841.** 1. It shall be a class B misdemeanor for any person
2 to practice any deception or fraud with respect to his or her identity in connection
3 with an application for certification or licensure or in the taking of an
4 examination for certification as a state certified real estate appraiser or licensure
5 as a state licensed real estate appraiser or by holding himself or herself out to
6 any member of the public or representing himself or herself as a state certified
7 real estate appraiser or a state licensed real estate appraiser when, in fact, he or
8 she is not so.

9 2. It shall be a class B misdemeanor for any corporation, business, or
10 controlling person to practice any deception or fraud in its identity in connection
11 with an application or holding out to any member of the public or representation
12 as a licensed appraisal management company when in fact it is not so.

[339.543.] **361.843.** 1. If the commission believes that an appraiser,
2 business, corporation, or controlling person has engaged in, is engaging in, or has
3 willfully taken a substantial step toward engaging in an act, practice, omission,
4 or course of business constituting mortgage fraud, as defined in section 443.930,
5 or that a person, business, corporation, or controlling person has materially aided
6 or is materially aiding any such act, practice, omission, or course of business, the
7 commission may maintain an action in the circuit court of any county of the state
8 or any city not within a county to enjoin the person, business, corporation, or
9 controlling person. Upon a proper showing, the court may issue a permanent or
10 temporary injunction, restraining order, or declaratory judgment.

11 2. The court may impose a civil penalty against the person, business,
12 corporation, or controlling person not to exceed two thousand five hundred dollars
13 for each violation and may grant any other relief the court determines is just and
14 proper in the circumstances including, but not limited to, a temporary suspension
15 of any license issued by the commission.

16 3. The commission may initiate an investigation and take all measures
17 necessary to find the facts of any potential violation of this section, including
18 issuing subpoenas to compel the attendance and testimony of witnesses and the
19 production of documents and other evidence. The commission may conduct joint
20 investigations, enter into confidentiality agreements, and share information
21 obtained relating to an investigation under this section with other governmental
22 agencies.

23 4. The enforcement authority of the commission under this section is
24 cumulative to any other statutory authority of the commission.

[339.544.] **361.844.** Any rule or portion of a rule, as that term is defined
2 in section 536.010, that is promulgated by the commission to administer and
3 enforce sections [339.500 to 339.549] **361.800 to 361.849**, shall become effective
4 only if the agency has fully complied with all of the requirements of chapter 536
5 including but not limited to, section 536.028, if applicable, after August 28, 1998.
6 All rulemaking authority delegated prior to August 28, 1998, is of no force and
7 effect and repealed as of August 28, 1998, however nothing in this act shall be
8 interpreted to repeal or affect the validity of any rule adopted and promulgated
9 prior to August 28, 1998. If the provisions of section 536.028 apply, the
10 provisions of this section are nonseverable and if any of the powers vested with
11 the general assembly pursuant to section 536.028 to review, to delay the effective
12 date, or to disapprove and annul a rule or portion of a rule are held
13 unconstitutional or invalid, the purported grant of rulemaking authority and any
14 rule so proposed and contained in the order of rulemaking shall be invalid and
15 void, except that nothing in this act shall affect the validity of any rule adopted
16 and promulgated prior to August 28, 1998.

[339.545.] **361.845.** 1. The commission shall take such action as is
2 necessary to be able to issue general certificates, residential certificates and
3 licenses to qualified persons.

4 2. The commission shall take action as is necessary to be able to issue
5 licenses to qualified applicants seeking licensure as an appraisal management
6 company.

[339.546.] **361.846.** Any person or corporation who knowingly violates
2 any provision of sections [339.500 to 339.549] **361.800 to 361.849** is guilty of a
3 class B misdemeanor. Any officer or agent of a corporation, or member or agent
4 of a partnership or association, who knowingly and personally participates in or
5 is an accessory to any violation of sections [339.500 to 339.549] **361.800 to**
6 **361.849** is guilty of a class B misdemeanor. This section shall not be construed
7 to release any person from civil liability or criminal prosecution pursuant to any
8 other law of this state. The commission may cause a complaint to be filed for a
9 violation of section [339.501] **361.801** in any court of competent jurisdiction, and
10 perform such other acts as may be necessary to enforce the provisions of sections
11 [339.500 to 339.549] **361.800 to 361.849**.

[339.549.] **361.849.** 1. It is unlawful for any person, business,
2 corporation, or controlling person not certified or licensed pursuant to sections
3 [339.500 to 339.549] **361.800 to 361.849** to perform any act for which

4 certification or licensure is required. Upon application by the commission, and
5 the necessary burden having been met, a court may grant an injunction,
6 restraining order or other order as may be appropriate to enjoin a person,
7 business, corporation, or controlling person from:

8 (1) Offering to engage or engaging in the performance of any acts or
9 practices for which a certificate or license is required by sections [339.500 to
10 339.549] **361.800 to 361.849** upon a showing that such acts or practices were
11 performed or offered to be performed without a certificate or license; or

12 (2) Engaging in any practice or business authorized by a certificate or
13 license issued pursuant to sections [339.500 to 339.549] **361.800 to 361.849** upon
14 a showing that the holder presents a substantial probability of serious danger to
15 the health, safety or welfare of any resident of this state or client of the
16 certificate holder or licensee.

17 2. Any such action shall be commenced in the county in which such
18 conduct occurred or in the county in which the defendant resides.

19 3. Any actions brought pursuant to this section shall be in addition to and
20 not in lieu of any penalty provided by sections [339.500 to 339.549] **361.800 to**
21 **361.849** and may be brought concurrently with other actions to enforce the
22 provisions of this chapter.

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