



Volume 5

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KREAB Board Staff Change

The board and staff are pleased to welcome Tom Veit as the KREAB Chief Investigator. Tom began work at the board office on July 1, 2013, he now resides in Richmond.

Kentucky Real Estate Appraisers Board Office and Contact Numbers

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BOARD MEMBERS

Harold G. Brantley, Appraiser Member
ChairpersonBowling Green

Sam E. Blackburn , Lender Member
Vice-ChairpersonFrankfort

G. Herbert Pritchett
Appraiser MemberMadisonville

Dorsey G. Hall, II
Lender MemberLexington

Kathy J. Mayfield
Consumer MemberWinchester

STAFF

Larry Disney, Executive Director
Tom Veit, Executive Assistant
Angie Thomas, Staff Assistant
James Grawe, Legal Counsel

APPRAISER COUNT

(As of October 9, 2013)

Associates214
Licensed Residential 17
Certified Residential . . . 751
Certified General 561
Total Number1,543

BOARD NEWS

The Appraiser Qualifications Board (AQB) adopted changes to the Real Property Appraiser Qualification Criteria (Criteria) that will become effective January 1, 2015. These changes represent minimum national requirements that each state must implement no later than January 1, 2015.

The above means that anyone who files an initial application for Kentucky Associate Real Property Appraiser will be required to meet the 2015 criteria, including the following:

- A Bachelor's degree will be required for either a certified residential or certified general credential.
- All qualifying education must have been completed within 5 years of the initial application date.
- There will be no recognition of current criteria being carried over. Each applicant must have been approved by the board to receive a credential prior to January 1, 2015; otherwise, all of the 2015 criteria requirements must but be met.
- Both Supervisors and Associates must complete the KREAB Supervisor/Associate Course prior to beginning training or supervision.

Also, Beginning January 1, 2014 each initial applicant for a Kentucky Real Property Appraisal Credential, shall be required to complete a background check that includes Fingerprinting.

The AQB Criteria summary of changes can be reviewed at The Appraisal Foundation's (TAF) website. Please cut and paste the following into your browser.

<https://appraisalfoundation.sharefile.com/download.aspx?id=s09bdb8c8c4e5f8>

APPRAISER EXAMINATION

Examinations are administered by a national testing service. To apply for the examination, please contact Angie Thomas at the Board Office. Please download a candidate handbook for KY Appraisers @

www.psiexams.com

The Chair of the Appraisal Foundation’s Appraisal Practices Board (APB), Kentucky Certified General Real Property Appraiser Rick Baumgardner, has informed the Board staff that the “APB” is in immediate need of Subject Matter Experts for various projects.

The “APB” offers voluntary guidance to appraisers, regulators and users of appraisal services on recognized valuation methods and techniques for all valuation disciplines.

If a Kentucky credentialed real property appraiser has an interest in providing a beneficial service to the profession, please request an application by contacting Staci L. Steward, Practices Administrator/CAP Administrator for the Appraisal Foundation by email at the following address:

staci@appraisalfoundation.org

Continuing Education Completion Date for Appraisers and Education Providers Has Changed and will be effective for the 2014-2015 Renewal Cycle

Each year, during the renewal period, the board staff is continually requested by appraisers to renew credentials as early as possible. The staff is told that early renewal is a necessity due to client requests, i.e., AMC, FHA, VA, etc.

The one impediment to early renewal has continually been the failure of licensees to complete continuing education in time to do so. Therefore, the board amended the administrative regulation for completion of continuing education making it not only possible, but mandatory, for every licensee to renew early.

The amendment will require each Kentucky credential holder to complete 14-hours of continuing education, including the 7-hour USPAP Update Course when required, on or before **May 16** of each year, beginning with the 2014 renewal year. Although the date for completing continuing education will change, the renewal period will continue to begin July 1 and end June 30,

Credentialed appraisers, and Education providers currently approved by the board, are urged to read the following administrative regulations. Failure to read and be familiar with the requirements shall not be considered a cause for late renewal.

“201 KAR 30:125 Continuing education for appraisers

Section 1. Continuing Education: Number of Hours Required. (1)
Certified general real property appraisers, certified residential real

property appraisers, licensed real property appraisers, and associate real property appraisers shall:

- (a) Complete fourteen (14) hours of approved continuing education each license year prior to **May 16** of the current renewal year; and
 - (b) *Submit to the board* proof of course completion prior to **May 31** of the current renewal year.
- (2) Non-compliance with either of the requirements specified in this section shall cause the applicant's renewal application to be deemed to be late, *which shall result in a **\$200 late fee for renewal.***"

Temporary Practice Permit Fees Will Increase November 1, 2013

The following administrative regulation was revised to increase the KREAB temporary Practice Permit fee from \$50 to \$150. The rule will be enforced for all applications received in the KREAB office beginning November 1, 2013. The revision represents the same fee currently charged by most states bounding Kentucky, and it is the first fee increase for a temporary practice permit since the board was created by statute in 1990.

*"201 KAR 30:120 - Section 1. **Scope and Applicability.** This administrative regulation shall apply to the licensure and certification process for appraisal of a federally related property.*

***Section 2.** A real estate appraiser from another state who is licensed or certified by the appraiser licensing or certifying agency in that state shall apply for registration to receive temporary appraiser licensing or certification privileges in this state by paying a **fee of \$150** and filing with the board a notarized application on a form prescribed by the board."*

Regardless of 1) state residency or 2) whether the appraiser actually enters the State of Kentucky, a temporary practice permit is required for **any** assignment intended for an appraisal or appraisal review of a property that is located in Kentucky.

Statute Amended to Require a Temporary Practice Permit or a Reciprocal Credential

Effective June 25, 2013, the following statutes require that "**any**" person who completes a real property appraisal or appraisal review for a property located in Kentucky must be certified by the Kentucky Real Estate Appraisers Board, when the assignment requires the appraisal or appraisal review to be completed by a state credentialed real property appraiser.

The Kentucky Real Estate Appraisers Board structure is identified as Mandatory FRT. In the past the structure has been mistakenly perceived to imply that any appraisal or appraisal review assignment that does not involve an FRT or a real estate related financial

transaction will 1) not require a Kentucky state credentialed appraiser to comply with USPAP or 2) that it exempts an out-of-state credentialed appraiser from the requirement to apply for a Kentucky temporary practice permit or a reciprocal credential.

The following statutes have been added to clarify the above two misconceptions. As of June 25, 2013, all credentialed appraisers who are residents of Kentucky must perform all appraisal and appraisal review assignments, regardless of the assignment intended use, in compliance with KRS 324A and the administrative regulations of 201 KAR Chapter 30, including compliance with USPAP.

The amended language also requires appraisers who live outside Kentucky and hold a credential issued by a state appraiser regulatory agency to 1) apply to the KREAB and 2) have received a temporary practice permit or reciprocal credential prior to beginning an appraisal or appraisal review assignment for a property located in Kentucky.

“KRS 324A.030

(8) A person shall not provide appraisal, appraisal review, or appraisal consulting assignments or perform any of the duties usually performed by a licensed or certified real property appraiser for a federally related transaction unless the person at the time holds a license or certification of real property appraiser issued and validly existing under the laws of the Commonwealth of Kentucky, as provided in this chapter.”

“324A.075 Reciprocity with other states

If, in the determination by the board, another state is deemed to have substantially equivalent or greater certification or licensure requirements for real property appraisers, an applicant who is certified or licensed under the laws of another state seeking to practice in this state shall apply to obtain a certificate as a state certified or licensed real property appraiser in this state upon terms and conditions determined by the board.”

The administrative regulations for reciprocity include one exemption for out-of-state credentialed appraisers from being required to obtain a temporary practice or reciprocity credential.

“No provision of this administrative regulation shall be construed to prohibit the professional appraisal practice activities of any out-of-state certified appraiser who is performing the duties and responsibilities while a direct full-time employee of any entity of the United States Government”.

If anyone has questions about the process for receiving a temporary practice permit or reciprocity credential, please visit the board website at www.kreab.ky.gov or call the board office at 859-623-1658.

Background Checks shall be required by the KREAB in 2014

The AQB criteria have been amended to include the following, “All candidates for a real property appraiser credential must undergo background screening. State appraiser regulatory agencies shall, at a *minimum*, obtain fingerprints of the individual, in digital form if practicable, and any appropriate identifying information for submission to the Federal Bureau of Investigation and/or any governmental agency or entity authorized to receive such information in connection with a State and national background check.”

Please be advised, at this time only the applicants who will be approved by the board to receive a credential after December 31, 2013 shall be required to complete the background check. The requirement will not apply to credential holders identified as being in good standing prior to January 1, 2014.

The following statute outlines the steps required for a Kentucky appraiser background check. If anyone has a question concerning the process, please contact the board staff.

“324A.100 Criminal background checks for initial applicants for licensure or certification as real property appraiser.

(1) The Kentucky Real Estate Appraisers Board shall require a national and state criminal background check for each initial application to be a licensed or certified real property appraiser under the following requirements:

(a) The applicant shall provide his or her fingerprints to the Department of Kentucky State Police for submission to the Federal Bureau of Investigation after a state criminal background check is conducted;

(b) The results of the national and state criminal background check shall be sent to the board; and

(c) Any fee charged by the Department of Kentucky State Police and the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the check.

(2) The board shall issue a license or certification to an applicant authorizing the applicant to act or offer to act as a licensed or certified real property appraiser in this state upon:

(a) Receipt of a properly completed application;

(b) Successful completion of all applicable education, experience, and examination;

(c) Successful completion of all statutory and administrative regulation requirements for licensing and certification of a real property appraiser; and

(d) Payment of the required application fee.

Effective: June 25, 2013

History: Created 2013 Ky. Acts ch. 46, sec. 12, effective June 25, 2013.”

The following Appraisal Management Company statutes were effective June 25, 2013:

The significant change added for the definition of an Appraisal Management Company was the addition of, “the use of software products or online.” The change was made to capture the below listed management services (a) through (h), whether provided online or using computer software.

**“Kentucky Appraisal Management Company Registration Act
324A.150 Definitions for KRS 324A.150 to 324A.164**

As used in KRS 324A.150 to 324A.164, unless the context otherwise requires:

(1) "Appraisal management company" means a person who performs the actions necessary to administer a network of state-licensed appraisers to fulfill requests for appraisal management services on behalf of a client, whether directly or through the use of software products or online, including but not limited to any of the following actions:

- (a) Recruiting appraisers;
- (b) Contracting with appraisers to perform appraisal services;
- (c) Collecting fees from clients;
- (d) Negotiating fees with appraisers or reimbursing appraisers for appraisal services;
- (e) Receiving appraisal orders and appraisal reports;
- (f) Submitting appraisal reports received from appraisers to the company's clients;
- (g) Reviewing or verifying appraisal reports; or
- (h) Managing the process of having an appraisal performed, including providing related administrative and clerical duties.”

Requirement for a Kentucky Registered AMC to Pay into a Recovery Fund

The most significant amendment to the AMC registration act was the omission of a surety bond and the addition of a requirement for AMCs to pay into a recovery fund.

**“324A.155 Appraisal management company recovery fund _ Purposes
-- Lapsing.**

(1) There is hereby created and established in the State Treasury the appraisal management company recovery fund. The fund shall be administered by the board for the purposes set forth in Section 2 of this Act.

(2) In addition to the license fees provided for in Section 5 of this Act, upon issuance of every appraisal management company's registration, and every regular annual renewal date thereafter, the board shall charge each registrant an amount not to exceed eight hundred dollars (\$800) per year to be deposited in the appraisal management company recovery fund.

(3) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse, but shall be carried forward into the succeeding fiscal year. Any interest earnings of the fund shall become a part of the fund and shall not lapse.

Effective: June 25, 2013

History: Created 2013 Ky. Acts ch. 46, sec. 1, effective June 25, 2013.”

“324A.163 Administration of appraisal management company recovery fund --Restitution to real property appraisers – Administrative regulations --Annual public statement of income and expenses

(1) The board shall administer the appraisal management company recovery fund solely to provide restitution to each Kentucky licensed or certified real property appraiser who has suffered pecuniary loss:

(a) As a result of an appraisal management company ceasing to be Registered with the board, either voluntarily or involuntarily;

(b) If an appraiser has received a final judgment from a court of competent jurisdiction within the Commonwealth; and

(c) If no viable alternative for full restitution is available, as determined by the board.

(2) Each fund distribution for restitution shall be made payable to the appropriate appraiser as determined by the board. The amount to be paid to the appraiser shall equal the actual amount of appraisal fees that are proven to be owed to the appraiser by the relevant appraisal management company and any reasonable and appropriate court costs associated with determining the final judgment in favor of the appraiser. If the amount of restitution to be paid to any one (1) or more appraisers at any one (1) time exceeds the balance in the fund, the board shall:

(a) Distribute as much of the restitution amount as possible, which shall be deemed to satisfy in full any claim the relevant appraisers have on payments from the recovery fund; and

(b) In the case of distributions to more than one (1) appraiser, provide for a pro rata distribution of the available fund balance, which shall be deemed to satisfy in full any claim the relevant appraisers have on payments from the recovery fund.

(3) Whenever restitution is paid by the fund, the fund shall be subrogated to the amount of the restitution.

(4) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

(a) Ensure that the balance of the fund established in KRS 324A.155 shall not fall below three hundred thousand dollars (\$300,000); and

(b) Impose the fees assessed upon appraisal management companies under KRS 324A.155 whenever the balance of the fund is less than three hundred thousand dollars (\$300,000). The board shall cease imposing the fees when the balance of the fund is three hundred thousand dollars (\$300,000).

(5) Within one hundred twenty (120) days after the end of each fiscal year, the board shall make public, in accordance with KRS 424.180 and 424.190, a statement of income and expenses of the appraisal management company recovery fund, the details of which are in accordance with generally accepted accounting principles.

Effective: June 25, 2013

History: Created 2013 Ky. Acts ch. 46, sec. 2, effective June 25, 2013.”

Status of the Kentucky AMC/Appraiser Contract

Recently, the KREAB submitted a request for amendment of administrative regulation 201 KAR 30:360 to include one “Uniform Appraiser Services Agreement” intended to be used by all AMC companies registered with the Kentucky Real Estate Appraisers Board (KREAB) for each appraisal assignment requested from a Kentucky credentialed real property appraiser.

The board received written comments from Kentucky registered AMCs claiming the following points:

- The Kentucky Appraisal Management Company Registration Act does not authorize the Board to regulate any and all contractual provisions between an AMC and its appraiser partners.
- Mandating the use of the Uniform Agreement denies AMCs the freedom to contract – in fact, AMCs may have contractual provisions above and beyond the Uniform Agreement in order to address a number of other issues. The Board is clearly exceeding its authority under the Act in seeking to dictate how AMCs can contract with an appraiser.
- The proposed rule is also not necessary to set standards for the operation of an AMC as provided in the regulatory impact analysis for the proposed rule, because the Act does not require or otherwise define how an AMC must contract with an appraiser.
- The AMC groups informed the board that if the proposed language should move through the process and be enacted, there would be no alternative but to seek relief through the court system because in their opinion the requirement would be considered a violation of “free trade.”
- The KREAB legal counsel and the LRC advised the board that there was no specific statutory reference within KRS 324A that would grant the board authority to approve and enforce a single uniform agreement for use by registered AMCs when ordering appraisal assignments from Kentucky credentialed appraisers.

Following discussion of all responses presented in the Statement of Consideration, including those above, the board voted four to one, with appraiser member Herb Pritchett

voting no, to request that LRC remove the amended language for a “Uniform Agreement from the Administrative Regulations Review Sub-Committee (ARRS) agenda.

Although the board voted not to pursue the amendment at this time, the members pointed out that language within the existing statutes and regulations was believed sufficient to carry out the Board’s limited authority to protect the public in contractual relationships, without overly involving the government in private contractual relationship(s).