

**TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 46. BOARD OF APPRAISAL**

ARTICLE 1. GENERAL PROVISIONS

R4-46-701 Definitions/RESERVED

In these rules, unless the context otherwise requires:

R4-46-702 Registration

A.R.S. § 32-3662

A. An applicant for registration as an Appraisal Management Company pursuant to A.R.S. §32-3661 *et. seq* includes a business entity in which 75% (seventy-five percent) or more of staff, owners, controlling persons, managers, support staff, and independent contractors, excluding appraiser panel members, *are not* Arizona licensed or certified appraisers or trainees, and whose daily function *are not* involved in the estimation of value, preparation of appraisal reports or appraisal consultation, or are otherwise covered by the Definition of APPRAISAL MANAGEMENT COMPANY in A.R.S. § 32-3661, shall be required to register with the Arizona Board of Appraisal as an Appraisal Management Company.

B. Registration shall be written and on forms provided by the Board and accompanied by certifications that include, at a minimum, the following information:

(1) The name, business address, telephone contact, and the e-mail address of the person (entity) seeking registration plus the designation of an agent for service of process as follows:

a. An in-state appraisal management company, (Domestic) shall designate an agent for service of process in this state.

b. A foreign appraisal management company (Non-resident) shall provide either a certificate of authority issued by the Secretary of State or a copy of the company's filing with the Secretary of State appointing an agent for service of process in this state.

(2) The name, residential address, business address, day-time telephone number and email address for all individuals/entities (including stockholders) who own 10% or more of the appraisal management company.

(3) The name, residential address, business address, day-time telephone number and email address for all individual(s) authorized by the appraisal management company to contract with clients or independent appraisers for the performance of appraisals.

(4) The application shall include proof of a valid surety bond in the amount of \$20,000 and shall meet the additional specifications in R4-46-704. The surety bond shall indemnify the Arizona Board of Appraisal, panel appraisers, and public claimants. The bond shall be replenished to the original amount of \$20,000 within 30 days of being drawn down and shall be maintained for at least one year after an Appraisal Management Company's registration is terminated, canceled, revoked or otherwise ends.

(5) An application fee in the amount stipulated on the form and as provided for in the rule.

(6) On applications for registration and annually thereafter, applicants and registrants shall make the following certifications:

- 49 **a.** That the applicant/registrant has a system in place to verify that all Arizona appraisers
50 on its panel have a current and valid license or certificate in good standing issued by the
51 Board of Appraisal.
- 52 **b.** That the applicant/registrant has a system in place to review the work of all
53 independent appraisers performing appraisal services for the Appraisal Management
54 Company and that the services are conducted in conformity with the Uniform Standards
55 of Professional Appraisal Practice. These reviews shall include, at a minimum, 5% of
56 each appraiser’s work annually and completed as Standard 3 Reviews by certified
57 Arizona appraisers with geographic competency.
- 58 **c.** That the applicant/registrant shall maintain a record of each request for appraisal
59 services applicable to Arizona properties as well as the name of the appraiser performing
60 the appraisal service and the fee paid to the appraiser. Such records shall be made
61 available to the Arizona Board of Appraisal upon written request by the Board.
- 62 **d.** That the applicant/registrant has designated a controlling person and that individual
63 has accepted the responsibilities as the controlling person.
- 64 **e.** That the applicant/registrant has a system in place to train those who select individual
65 appraisers for real property services in this state, to ensure that the selectors have
66 appropriate training in placing appraisal assignments.
- 67 **f.** That there are no unpaid invoices or accounts payable to Arizona licensed or certified
68 appraisers for services received that are over 45 days past due at the time of certification.
- 69 **(7)** Any other information required by the Board deemed reasonable in scope and content
70 and necessary for the implementation and administration of the statutes and rules.
- 71 **C.** An Appraisal Management Company which operates in this state under more than one business
72 name (dbas or “doing business as”) shall apply for registration with the Board for each name under which it
73 does business.
- 74 **D.** An appraisal management company having been issued a valid registration shall comply with the
75 following:
- 76 **1.** Shall maintain with the Board the name and address of a registered agent for service of
77 process and shall furnish in writing to the Board any changes to the information on file
78 within 5 business days.
- 79 **2.** An Appraisal Management Company shall maintain a complete record of all requests
80 for appraisal services referred to state licensed and certified appraisers, the amount of
81 fees collected from clients, as well as payments made to the appraisers and shall make
82 such information available to the Board upon written request.
- 83 **3.** The applicant/registrant shall make available to the Board any and all records that are
84 required to be kept or records deemed by the Board to be pertinent to an investigation of
85 a complaint against an applicant/ registrant.
- 86 **4.** The registered entity shall designate a controlling person responsible for ensuring
87 compliance with all statutes and rules and shall file with the Board a certification
88 identifying the controlling person and that individual’s certification accepting
89 responsibilities as the controlling person.
- 90 **5.** A registrant shall notify the Board in writing within 5 business days of any change in
91 its designated controlling person or the controlling person’s contact information.

- 92 6. All records required to be maintained under these rules shall be retained for five years
93 and for two additional years after the conclusion of any judicial proceeding or litigation
94 involving the matter.
- 95 7. At any time a document filed with the Board becomes inaccurate the
96 applicant/registrant shall promptly file with the Board an amendment correcting that
97 information within 10 business days.
- 98 8. A registrant shall disclose to its client the actual fees paid to an appraiser for appraisal
99 services, separately from any other fees or charges for appraisal management services
100 and, upon written request, shall make that information available to the Board.
- 101 9. The registrant shall disclose to an appraiser within their engagement documents
102 verification of the State Registration of the appraisal management company.
- 103 10. The registrant shall not attempt to coerce, directly or indirectly the appraiser to accept
104 an assignment if the appraiser states that he/she lacks competency or lacks geographic
105 competency to complete the appraisal assignment and the registrant shall in no way
106 penalize the appraiser by reducing the number of assignments made to that appraiser,
107 refusing to pay fees owed or imposing any other penalty.
- 108 11. A registrant shall, at all times, maintain a current list of their appraisal panel and
109 shall provide a copy of that list to the Board upon written request.
- 110

111 **R4-46-703 Exemptions**

112 **A.R.S. § 32-3663**

- 113
- 114 A. A business entity in which 75% (seventy-five percent) or more of staff, owners, controlling
115 persons, managers, support staff, and independent contractors, excluding appraiser panel members, *are*
116 Arizona licensed or certified appraisers or trainees, and whose daily function *are* involved in the estimation
117 of value, preparation of appraisal reports or appraisal consultation, or are otherwise not covered by the
118 Definition of APPRAISAL MANAGEMENT COMPANY in A.R.S. § 32-3661, shall not be required to
119 register with the Arizona Board of Appraisal as an Appraisal Management Company.
- 120 B. Attorneys or other persons or entities not involved in appraisal management as described herein
121 and who may order appraisals from independent appraisers from time to time for use in litigation, judicial
122 process, and other specific use shall be exempt.
- 123 C. Any other entity already described in A.R.S. § 32-3663.
- 124

125 **R4-46-704 Fee; Bond**

126 **A.R.S. § 32-3667**

- 127
- 128 A. The fee for initial registration shall be \$2,500 regardless of the number of appraisers on the
129 appraiser panel. The two year renewal registration fees shall be \$2,500 regardless of the number of
130 appraisers on the appraiser panel.
- 131 B. Registration fees shall be deposited into the Board's general fund and pursuant to A.R.S. § 35-146
132 and § 35-147, the Board shall deposit ten per cent of the monies in the state general fund and deposit the
133 remaining ninety per cent in the Board of Appraisal Fund. All monies deposited in the Board of Appraisal
134 fund are subject to section § 35-143.01.
- 135 C. At the time of application, the applicant shall submit proof of a valid surety bond in the amount of
136 \$20,000. In addition to the requirements of R4-46-702(B)(4):

- 137 1. The bond shall be in favor of the State Board of Appraisal for the benefit of any person covered
138 by this section. The bond is subject to claims by the Board for failure to pay any amount required
139 pursuant to the statutes and rules governing appraisal management companies or by any person
140 who is damaged by the failure of the principal to provide appraisal management services.
- 141 2. A person claiming against the bond may maintain an action against the principal and the surety
142 bond. The principal's surety bond may be sued upon in successive actions until the full amount is
143 exhausted. A suit shall not be commenced on the bond after the expiration of one year following
144 the commission or omission of the act on which the suit is based, except that time for purposes of
145 claims for fraud shall be measured pursuant to A.R.S. § 12-543.
- 146 3. On receipt by the Board of notice of intent to cancel a bond by a corporate surety, the Board
147 shall immediately notify the principal of the bond of the effective date of the cancellation and that
148 the principal must furnish a like bond before the cancellation date or within thirty days after
149 mailing the notice by the Board or the Board may pursue disciplinary action against the principal
150 of the bond. Bond must be maintained at \$20,000 after each draw down and remain in effect for 1
151 year after registration is terminated, cancelled, revoked, or otherwise ended.

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153 **R4-46-705 Owner Requirements**

154 **A.R.S. § 32-3668**

- 155
156 **A.** An Appraisal Management Company applying for registration in this state may not be owned by a
157 person or have any principal of the company who has had any financial, appraisal, real estate, or mortgage
158 lending industry license or certificate refused, denied, canceled, revoked or voluntarily surrendered in this
159 state or in any other state. This requirement may be waived by appeal and at the discretion of the Board.
- 160 **B.** An Appraisal Management Company whose owner(s) or principal(s) have had a financial,
161 appraisal, real estate or mortgage lending industry license or certificate refused, denied, canceled, revoked
162 or voluntarily surrendered, in this state or any other state are not prohibited from seeking registration in this
163 state. The Board shall consider the following factors when determining whether such an Appraisal
164 Management Company may be granted registration in this state:
- 165 1. The facts underlying the refusal, denial, cancellation, revocation or voluntary surrender of the
166 license or certificate.
 - 167 2. Whether the refusal, denial, cancellation, revocation or voluntary surrender of the license or
168 certificate involved findings of relating to fraud, dishonesty, misrepresentation, or deceit on the
169 part of the license/certificate holder.
 - 170 3. The length of time that has elapsed since the refusal, denial, cancellation, revocation or
171 voluntary surrender of the license or certificate.
 - 172 4. Any efforts undertaken by the owner/principal to rehabilitate himself/herself and make
173 restitution to the any victims, if applicable.
 - 174 5. Other factors in mitigation or aggravation deemed relevant by the Board.
- 175 **C.** Each person who owns, is an officer of, or has a financial interest of 10% or more, including
176 stockholders, in an appraisal management company applying for registration in this state shall:
- 177 1. Be of good moral character.
 - 178 2. Submit to a background investigation. The background investigation shall include:
 - 179 a) Department of Public Safety fingerprint check
 - 180 b) FBI background check
 - 181 c) Search of participating states for AMC license revocation, suspension, or other action

- 182 d) Search of the National Registry Database for negative action regarding an appraisal
183 license or certification
184 e) Search of any Federal Databases that may result from future Federal legislation
185 enacted.

186 **D.** The Board shall conduct the searches for participating state AMC registration and licensing checks
187 through the National Registry, or other venues as directed by the Board.

188 **E.** The FBI background check and DPS fingerprint check are to be initiated and paid for by the
189 applicant at the direction of the Board of Appraisal with the results to be sent directly to the Board of
190 Appraisal from DPS and the FBI.

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192 **R4-46-706 Controlling Person**

193 **A.R.S. § 32-3669**

194

195 **A.** The Appraisal Management Company's controlling person shall:

- 196 1. Certify to the Board that the person has never had any financial, appraisal, real estate or
197 mortgage lending industry license or certificate issued by this state, or any other state, refused,
198 denied, canceled, revoked or voluntarily surrendered. This requirement may be waived by
199 appeal and at the discretion of the Board.
200 2. Submit to a background investigation as determined by the Board in accordance with R4-
201 46-704B.
202 3. Be of good moral character.

203 **B.** An Appraisal Management Company whose designated controlling person has had a financial,
204 appraisal, real estate or mortgage lending industry license or certificate refused, denied, canceled, revoked
205 or voluntarily surrendered, in this state or any other state are not prohibited from seeking registration in this
206 state. The Board shall consider the following factors when determining whether such an Appraisal
207 Management Company may be granted registration in this state:

- 208 1. The facts underlying the refusal, denial, cancellation, revocation or voluntary surrender of
209 the license or certificate.
210 2. Whether the refusal, denial, cancellation, revocation or voluntary surrender of the license
211 or certificate refusal, denial, cancellation, revocation or voluntary surrender of the license or
212 certificate.
213 3. Findings of fraud, dishonesty, misrepresentation, or deceit on the part of the
214 license/certificate holder.
215 4. The length of time that has elapsed since the refusal, denial, cancellation, revocation or
216 voluntary surrender of the license or certificate.
217 5. Any efforts undertaken by the owner/principal to rehabilitate himself/herself and make
218 restitution to the any victims, if applicable.
219 6. Other factors in mitigation or aggravation deemed relevant by the Board.

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221 **R4-46-707 Employee Requirements**

222 **A.R.S. § 32-3670**

223

224 An Appraisal Management Company shall require that all employees of an Appraisal Management
225 Company, or any person working on behalf of an appraisal management company, who have the
226 responsibility of selecting independent appraisers for the performance of real property appraisal services for

227 the appraisal management company or providing administrative appraisal review services on a completed
228 appraisal, be appropriately trained and qualified in compliance with the statutes and rules. The training
229 may consist of courses prepared by qualified and recognized educators or may be written by the Appraisal
230 Management Company and shall be repeated and updated as deemed necessary by the Appraisal
231 Management Company. The class may consist of courses prepared by qualified and recognized educators
232 or may be written by the entity itself but in either case, shall be developed, implemented and delivered
233 within 6 months of an Appraisal Management Company’s initial registration. Criterion for the training
234 shall include:

- 235 1) USPAP overview
- 236 2) The Appraisal Process
- 237 3) Scope of Work
- 238 4) Complexity of various assignments
- 239 5) Competency in product type and geographic location
- 240 6) Understanding scope of work for each license or certification level

241

242 **R4-46-708 Annual Certifications**

243 **A.R.S. § 32-3672**

244

245 **A.** Each Appraisal Management Company registered in this state shall certify to the Board on an
246 annual basis all certifications as stated in R4-46-702(B)(6).

247

248 **R4-46-709 Appraiser Independence; Prohibitions**

249 **A.R.S. § 32-3674**

250

251 **A.** An Appraisal Management Company shall not provide to an independent appraiser an anticipated,
252 estimated, encouraged or desired value for a subject property or a proposed or target amount to be loaned to
253 the borrower, except that a copy of the sales contract for purchase transaction may be provided. “Owner’s
254 estimates of value” or other value opinions may not be included on any forms or communications sent by
255 Appraisal Management Company to the appraiser.

256 **B.** An Appraisal Management Company shall not remove an independent appraiser from an appraiser
257 panel, without prior written notice to the appraiser. The appraiser may file a complaint with the Arizona
258 Board of Appraisal to review the decision of the Appraisal Management Company. Reasons for removal
259 from a panel include:

- 260 1) Alleged illegal conduct;
- 261 2) Violation of the Uniform Standards of Professional Appraisal Practice; or
- 262 3) Violation of State Licensing Standards.

263 **C.** The registrant shall not permit any employee, agent, third party, or controlling principal to engage in
264 any of the following activities:

- 265 1) The registrant shall not require the appraiser to collect the appraisal fee from a borrower,
266 homeowner, or third party.
- 267 2) The appraiser shall not be required to provide the registrant with the appraiser’s digital
268 signature or seal.

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273 **R4-46-710 Payment**

274 **A.R.S. § 32-3675**

275

276 A. Except in cases of breach of contract or substandard performance of services, each appraisal
277 management company shall make payment to an independent appraiser for the completion of an appraisal
278 or valuation assignment within forty-five days after the date on which the independent appraiser transmits
279 or otherwise provides the completed appraisal or valuation study to the appraisal management company or
280 its assignee. Failure to remit payments timely may be grounds for disciplinary action by the Board up to
281 and including the assessment of civil penalties, suspension or revocation of the Appraisal Management
282 Company's registration.

283 B. "Completed appraisal" means delivery of the finished product appraisal report to the Appraisal
284 Management Company. Subsequent requests by the Appraisal Management Company to the appraiser for
285 additional support of valuation or correction of factual and objective data shall not extend the payment date
286 beyond 45 days from delivery of assigned appraisal.

287 C. An Appraiser shall comply with an Appraisal Management Company's request for additional data
288 support of estimate of value or correction of factual and objective data errors within 3 business day of
289 request or as otherwise agreed upon in writing by both parties or be subject to complaint process to the
290 Board by the AMC.

291

292 **R4-46-711 Appraisal reports; alterations; use**

293 **A.R.S. § 32-3676**

294

295 A. Remove data or portions thereof from the report for use in any form or reason.

296 B. The registrant shall not alter, amend, or change an appraisal report submitted by a licensed or
297 certified appraiser by removing the appraiser's signature or seal or by adding or removing information to or
298 from the appraisal report.

299 C. The registrant shall not remove any portion of data from within an appraisal report for use in any
300 databases or automated valuation database.

301

302 **R4-46-712 Enforcement; Grounds for disciplinary action**

303 **A.R.S. § 32-3678**

304

305

306 A. The Board may censure an appraisal management company, conditionally or unconditionally
307 suspend or revoke any registration issued under this article or impose civil penalties not to exceed fifteen
308 thousand dollars (\$15,000) per violation if, in the opinion of the Board, an appraisal management company
309 is attempting to perform, has performed or has attempted to perform any of the following acts:

310

1. Committing any act in violation of applicable statutes.

311

2. Violating any rule adopted by the Board in the interest of the public and consistent with this
312 article.

313

3. Violating any order of the Board or refusing to comply with a Board subpoena.

314

4. Making any false or misleading statement.

315

5. Suppressing or withholding from the board any information that the applicant possesses and
316 that, if submitted by the applicant, would have rendered the applicant ineligible to be registered
317 pursuant to rules adopted by the board.

318

6. Violating the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989.

319
320 **R4-46-713. Complaints; Investigations; Informal Proceedings;**
321 **Refusal to Appear**
322 **A.R.S. § 32-3679**
323

324 A. Complaints

325 1. The Board shall investigate a written complaint, including an anonymous complaint or a
326 complaint made on the Board's own motion, against an Appraisal Management Company alleging
327 violations of A.R.S. Title 32, Chapter 36, or this Chapter, if the complaint provides information
328 that meets the minimum criteria. Minimum criterion for a complaint include but are not limited to:

- 329 a. The name of the respondent/Appraisal Management Company against
330 whom allegations are being made;
331 b. The action that is the basis of the complaint;
332 c. The time-frame in which the action occurred;
333 d. Each violation alleged to have been committed by the respondent; and
334 e. A copy of the report, if the complaint includes allegations concerning an appraisal or
335 consulting assignment.

336

337 2. Upon receipt of a complaint:

338 a. Board staff shall review the complaint and determine, in consultation with Board
339 counsel if necessary, whether the complaint meets jurisdictional criteria.

340 b. Within 14 days after receipt of a complaint the Board shall notify the respondent, as
341 prescribed in A.R.S. § 41-1092.04, of the complaint and the requirement that the
342 respondent file a written response within 30 days from the date on the notice. The Board
343 shall provide a copy of the complaint with the notice and request that the respondent
344 address the issues in the complaint. If relevant to the allegations contained in the
345 complaint, the Board shall also require that the respondent provide all of the following to
346 the Board: the appraisal report, appraisal review, or consulting assignment, and the
347 workfile.

348 c. If the respondent requests more time to respond, the Board shall grant a single
349 extension of time that does not exceed 30 days.

350 B. Initial Review and Investigation

351 1. Within 90 days after receipt of a response or expiration of the time for response, the
352 Board shall conduct an initial Review of the matter to determine whether further
353 investigation is necessary. If the Board determines further investigation is necessary, the
354 Board may employ an investigator or investigators and shall notify the respondent of the
355 pending investigation.

- 356 2. If a respondent's name is placed on a public meeting agenda, the Board shall mail a
357 letter to the respondent not less than seven days before the scheduled meeting, providing
358 the respondent with a copy of the posted notice of the public meeting.
- 359 3. If the respondent is present at the initial review, the Board may request that the respondent
360 participate in an informational interview. A respondent may refuse to participate in an
361 informational interview. The Board may use any Information presented at the informational
362 interview in other proceedings related to the complaint.
- 363 4. At the initial review, the Board shall consider the complaint; any response; the appraisal report,
364 appraisal review, consulting assignment, and the workfile. Based upon the information reviewed,
365 the Board may dismiss the matter, request or subpoena additional information, order a limited or
366 full investigation, or invite the respondent to an informal hearing, based on the information
367 reviewed.
- 368 5. Board staff shall assign each investigator according to the investigator's experience, expertise,
369 contract terms, and availability. Board staff shall select an investigator who does not have a
370 business or familial relationship with the respondent. Each investigative report shall contain the
371 signed certification specified in subsection (B)(6). An investigator's draft report is considered
372 work product and is, therefore, confidential. The Board may ask for clarification or additional
373 information after review of a draft report. Upon acceptance by the Board, an investigative report is
374 considered final. The Board may adopt any or all of the findings in the final report at a public
375 meeting and may consider any additional, relevant information that is discovered before the matter
376 is resolved. The investigative report becomes a nonconfidential public document upon resolution
377 of the complaint.
- 378 6. When the Board orders an investigation, the following certification shall be included in every
379 investigative report prepared for the Board and signed by the investigator: " I certify that, to the
380 best of my knowledge and belief:
- 381 a. The statements of fact contained in this report are true and correct.
- 382 b. The reported analyses, opinions, and conclusions are limited only by the reported
383 assumptions and limiting conditions, and they are my personal, impartial and unbiased
384 professional analyses, opinions, conclusions, and recommendations.
- 385 c. I have no present or prospective interest in the property that is the subject of this
386 investigation, and I have no personal interest with respect to the parties involved in this
387 investigation.
- 388 d. I have no bias with respect to any property that is the subject of this investigation or to
389 the parties involved in this investigation.
- 390 e. My engagement for this investigation was not contingent upon developing or reporting
391 any predetermined result or outcome.

392 f. My compensation for this investigation is not contingent upon developing or reporting
393 any predetermined result or outcome, nor have I been instructed as to any predetermined
394 result or outcome by the Board, the Board staff, or other parties.
395 g. I have (or have not) made a personal inspection of the property that is the subject of
396 this investigation.”

397
398 C. Settlement. Any time after a complaint has been filed against a respondent, the matter may be
399 resolved by a settlement in which the respondent agrees to accept disciplinary or remedial action by
400 consent. If the Board determines that the proposed settlement will adequately protect the public, the Board
401 may enter into a consent agreement with the respondent. A statement made for the purpose of settlement is
402 not admissible in a formal hearing.

403
404 D. Informal Hearing; Disciplinary Action

405 1. If, based on the initial review or its review of the investigative report, the Board determines that
406 the respondent is or may be in violation of the Board’s statutes or rules, the Board may request a
407 voluntary informal hearing with the respondent. The Board shall provide the respondent with a
408 copy of any final investigative report in the matter, any supporting documentation, and notice of
409 the date, time, and location of the informal hearing, as prescribed in A.R.S. § 41-1092.04, at least
410 30 days before the informal hearing. The notice of informal hearing shall include all of the
411 following:

- 412 a. A statement of the matters asserted and issues involved;
- 413 b. Any request for additional information needed by the Board to prepare for the hearing;
- 414 c. An explanation of the respondent’s right to appear voluntarily with or without legal
415 counsel who is admitted to practice law in the State of Arizona; and
- 416 d. An explanation of the respondent’s right to a formal hearing under R4-46-714.

417 2. The Board shall provide a copy of the informational material “Introduction to Informal
418 Hearing,” which explains the rights and responsibilities of the Board and respondent during the
419 informal hearing. (A copy is also available at the Board office).

420 3. The respondent may request and the Board may grant a continuance upon a showing of good
421 cause. During the informal hearing the Board shall swear witnesses, question the respondent and
422 witnesses, and deliberate. The respondent may respond to the Board’s questions, present
423 witnesses, and ask questions of the Board and all witnesses regarding the matter before it.

424 4. If the Board finds a violation of the statutes or rules, but the violation is not of sufficient
425 seriousness to merit suspension or revocation, it may offer a consent agreement including an order
426 of censure or order of discipline that sets a time period and terms of probation sufficient to protect
427 the public welfare and safety and rehabilitate respondent. The Board may require one or more of
428 the following as terms of probation:

- 429 i. Training or education;
430 ii. Enhanced reporting requirements; or
431 iii. Other reasonable measures designed to protect the public and educate or rehabilitate
432 the respondent.

433 5. For any Board action other than a letter of concern or a letter of remedial action, the Board shall
434 request that the respondent sign a consent agreement, which may include findings of fact and
435 conclusions of law, depending on the severity of the violation, but shall identify and explain each
436 violation found. If the respondent is aggrieved by the Board's decision to issue a letter of concern
437 or letter of remedial action, the respondent may request a formal hearing in writing, within 30 days
438 from the date the written notice of the outcome of the informal hearing is received.

439 6. In resolving a complaint, the Board shall consider mitigating and aggravating circumstances,
440 including but not limited to:

- 441 a. Whether a violation is intentional;
442 b. Whether the respondent has a prior disciplinary history;
443 c. The time that has elapsed since the violation, and any prior violation;
444 d. Whether any prior violation is similar to the present violation;
445 e. The complexity of the assignment;
446 f. Whether the assignment was outside the respondent's competence; and
447 g. Whether the respondent has taken courses after a violation to prevent future violations.

448 E. Summary Suspension. If the Board finds that the public health, safety, or welfare imperatively
449 requires emergency action, and incorporates a finding to that effect in its order, the Board may
450 order a summary suspension pending proceedings for revocation or other action. If an order of
451 summary suspension is issued, the Board shall serve the respondent with a written notice of
452 summary suspension and formal hearing, listing the charges against the respondent and setting the
453 date for the formal hearing as soon as is reasonably possible, but in no event more than 60 days
454 from service of the written notice.

455 F. Refusal to Appear. A respondent may refuse a request to appear at an informal hearing. If the
456 respondent refuses to appear or does not appear, the Board may schedule the matter for a formal
457 hearing.

458 G. 12-Month Review. If a matter is not resolved within 12 months from receipt of the response,
459 the Board shall schedule the matter for review at each regularly scheduled Board meeting to
460 determine whether good cause exists to continue the investigation. If, after completing its
461 investigation, the Board finds that further action against the respondent is not warranted, the Board
462 shall dismiss the matter.

463

464 **R4-46-714 Formal Hearing Procedures**

465 **A.R.S. § 32-3679**

466

- 467 A. The Board shall issue a notice of hearing and formal complaint for formal disciplinary
468 proceedings if:
- 469 1. After an informal hearing, the Board determines that censure, the assessment of civil
470 penalties, suspension or revocation may be warranted;
 - 471 2. After an informal hearing, the respondent refuses to sign a consent agreement offered
472 by the Board; or
 - 473 3. After completing its investigation, the Board finds that censure, the assessment of civil
474 penalties, suspension or revocation may be warranted.
- 475 B. Except as provided in R4-46-713(E), the Board shall provide notice of a formal hearing to a
476 respondent at least 30 days before the date set for the hearing. The Board shall notify the
477 respondent by certified mail to the statutory agent or the controlling person designated by the
478 Appraisal Management Company. Unless otherwise specified, any notice provided for in these
479 rules is complete upon deposit in the U.S. mail or by service as permitted under A.R.S. § 41-
480 1092.04.
- 481 C. On its own motion or the motion of a party, the Board may hear a case or have the case heard
482 by an administrative law judge. The Board may accept, reject, or modify the administrative law
483 judge's recommended decision as prescribed by A.R.S. § 41-1092.08, and shall issue a final order.
- 484 D. Board Hearings
- 485 1. The Board may conduct a hearing without adherence to the rules of evidence used in
486 civil proceedings. The Board shall include the respondent's application and disciplinary
487 records as evidence in the hearing record.
 - 488 2. In all hearings required or permitted by statute, order of the Board, or these rules, the
489 party seeking relief has the burden of proof and will present evidence first.
 - 490 3. The Board shall conduct each formal hearing according to A.R.S. Title 41, Chapter 6,
491 Article 10.
- 492 E. If a party fails to appear for a formal hearing without good cause, the Board shall act upon the
493 evidence without further notice.
- 494 F. The Board shall make and keep a record of the hearing and, in the case of disciplinary hearings
495 or if requested by a party or ordered by the Board, a transcript shall be prepared and filed with the
496 Board. If the transcript is prepared at the request of a party, the party making the request shall pay
497 for the cost of the transcript, unless the Board, for good cause shown waives assessment of this
498 cost.
- 499 G. A party may request and the Board may grant a continuance of a hearing date or any other
500 deadline imposed by these rules upon a showing of good cause.

501

502 **R4-46-715. Rehearing or Review of the Board's Decisions**

503 **A.R.S. § 32-3679**

504

- 505 A. Any party in a contested case or appealable agency action before the Board may file a motion for
506 rehearing or review within 30 days after service of the final administrative decision. Service is complete
507 upon personal service or five days after the date the decision is mailed by certified mail to the party's last
508 known address of record or to the statutory agent or controlling person as designated by the Appraisal
509 Management Company. The party shall attach a full supporting memorandum specifying the grounds for
510 the motion.
- 511 B. The opposing party may file a response within 15 days after service of the motion for rehearing or
512 review, or by a date ordered by the Board, whichever is later. The party shall support the response with a
513 memorandum discussing legal and factual issues.
- 514 C. Either party may request or the Board may order oral argument.
- 515 D. The Board may grant rehearing or review for any of the following causes materially affecting a
516 party's rights:
- 517 1. Irregularity in the administrative proceedings of the Board or any other abuse of discretion
518 which deprived the moving party of a fair hearing;
 - 519 2. Misconduct of the Board or any party;
 - 520 3. Accident or surprise which could not have been prevented by ordinary prudence;
 - 521 4. Newly discovered material evidence which could not with reasonable diligence have been
522 discovered and produced at the original hearing;
 - 523 5. Excessive or insufficient sanction;
 - 524 6. Error in the admission or rejection of evidence or other errors of law at the administrative
525 hearing or during the progress of the proceedings or;
 - 526 7. Unjustified decision based upon the evidence, or a decision that is contrary to law.
- 527 E. The Board may affirm or modify the decision or grant a rehearing to any party on all or part of the
528 issues for any of the reasons set forth in subsection
- 529 D. An order modifying a decision or granting a rehearing shall specify with particularity the grounds
530 for the order. The rehearing, if granted, shall be limited to matters specified by the Board.
- 531 F. Not later than 30 days after a decision is rendered, the Board may order a rehearing or review on
532 its own initiative, for any reason which it might have granted relief on motion of a party.
- 533 G. When a motion for rehearing or review is based upon affidavits, they shall be served with the
534 motion. An opposing party may submit opposing affidavits with the response. Reply affidavits may be
535 permitted.

536

537 **R4-46-716. Conviction and Judgment Disclosure**

538 **A.R.S. § 32-3679**

539

- 540 A. When an officer, principal, controlling person, or owner of an Appraisal Management Company is
541 convicted of any act which is or would be punishable as a felony, crime involving moral turpitude, or any
542 crime which is substantially related to the respective qualifications, functions, and duties of an Appraisal

543 Management Company, the Appraisal Management Company shall notify the Board within 20 days of
544 entry of a plea of guilty or conviction.

545

546 B. When a civil judgment based on fraud, misrepresentation, or deceit is entered against an officer,
547 principal, controlling person, or owner of an Appraisal Management Company, the Appraisal Management
548 Company shall notify the Board within 20 days of entry of judgment.

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550 **R4-46-717 Terms and Conditions of Reapplication After**

551 **Revocation**

552 **A.R.S. § 32-3679**

553

554 A. An Appraisal Management Company which reapplies after revocation of a registration shall
555 submit an application for registration consistent with these rules. The applicant shall attach substantial
556 evidence to the application that the issuance of a registration will no longer constitute a threat to the public
557 welfare and safety.

558 B. The Board shall make a determination of each application that is consistent with the public safety
559 and welfare.

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