

Ken Lawson, Secretary

Rick Scott, Governor

**Minutes of
THE FLORIDA REAL ESTATE APPRAISAL BOARD
APPRAISAL MANAGEMENT COMPANY WORK GROUP
August 7, 2015**

Board Member Matthew Simmons, called the meeting to order at approximately 10:10 a.m., in Orlando, Florida, on this Friday, the seventh day of August, 2015.

The industry participants present at the meeting introduced themselves: Matthew Simmons, Beth Buell, Jeff Dickstein, Andrew Fier, Frank Gregoire, Joni Herndon, Juana Watkins, Denise Johnson, Nick Pilz, Ken Pratt, Wesley Sanders, Marcia Tabak, Mark Shiffman, Rachel Clark, Jennie Schwartz, Rachel Clark, Johanne Knudson and Beverly Ridenauer. There were approximate twenty-seven participants who viewed the meeting via the live-stream option. American Court Reporting, Inc. (407.896.1813) provided court reporter services.

Welcome and Opening Comments

Mr. Simmons stated the objective for the group at this meeting will be the discussion of Appraisal Management Company (AMC) regulation in Florida, to understand how Florida's current regulations were established, and the open exchange of ideas about what AMC regulation in Florida should be moving forward.

Currently, the FREAB is considering a position for legislative changes on AMC regulation and statutory implementation of the recently published Minimum Requirements for Appraisal Management Companies Final Rules (Final Rules). The purpose of this meeting is to gather subject matter experts who will participate in a dialog about the issues and present suggestions the Florida Real Estate Appraisal Board (FREAB) can consider to make position statements and recommendations to the Florida Legislature for the 2016 Legislative Session.

Juana Watkins thanked everyone for their willingness to use their time and financial resources to be at the meeting today on behalf of the Department of Business and Professional Regulation and Secretary Lawson. She acknowledged that those present are well respected in the industry as is evidenced by the fact that their names were submitted by a member of our Board as someone we should reach out to participate on this work group.

Ms. Watkins agreed with Mr. Simmons that this meeting is intended to be a free exchange of ideas. She explained that the FREAB will be given an explanation of the areas of consensus, but also the areas of dissent. She encouraged open discussion of any perspective, especially points of disagreement.

General Information Items:

- Florida established its AMC regulatory program in 2011 through House Bill 303, based upon the existing language of the Dodd-Frank Act
- The publication of the Interim Rules created discussion of Florida's program vs. the content of the Final Rules when it would be published
- Publication in the Federal Register on June 9, 2015 of the Minimum Requirements for Appraisal Management Companies (AMCs) Final Rules
- The content of the Final Rules did not exactly match the Dodd-Frank Act

Topics for Discussion:

- Should there be an enforcement program for the regulation of AMCs? The Final Rules are written with the suggestion of the ability of States to "opt in" or "opt out" and contains no language to aid with the creation an enforcement program?
- The Federal Government has placed the responsibility on the States to organize an AMC regulatory plan or to make the decision to opt out with the understanding that without a regulatory plan in place, the AMCs within the state cannot participate in federally regulation transactions (FRTs).
- If this is the case, it is a different premise than what existed when Florida put together its regulatory program.
- States must decide on the best definition of an AMC. The options are: Florida's definition, the Federal definition, or a hybrid of both.
- The definition should consider that the AMC National Registry is based upon panel size
- The definition should consider the issue of Appraisal Firms vs. AMC

Discussion of Opt In or Opt Out Regulatory Program:

The Work Group discussed the potential ramifications to Florida if the State choses to opt-out of the regulation of AMCs.

- There are a variety of reasons why Florida should remain an opt-in state.
- An analysis of the Final Rule and the impact of unintended consequences were presented by Mr. Gregoire.
- The majority of the participants agreed that there is a need and the AMCs want the regulation to continue.
- The regulations should be reasonable and fair to all.
- The Final Rule discusses FRTs only and AMCs are involved in all kinds of appraisal assignments and appraisal services that are not FRTs.
- The existing legislation was a measure to protect the public trust for appraisers and the general public in Florida.
- Regulated AMCs provide value for service. Many banks don't want to run a program similar to an AMC because it is burdensome and removes the firewall protection provided by an AMC.
- AMCs provide banks with some flexibility to decide if they want to use an AMC or have their own subsidiary of the bank.

The minority of the Work Group does not agree that AMCs are a regulated industry or a profession because there is no established set of professional standards; nor does the minority agree that the issuance of an AMC credential in Florida at this time is protecting the public trust.

The majority of the Work Group agreed there is a need for the State of Florida to maintain its current policy of opt-in with regulation of Appraisal Management Companies.

Discussion of Florida's Existing Definition

The Work Group discussed the definition of AMC as stated in the Final Rule and the definition of AMC as stated in Florida Statutes. Mr. Simmons presented the existing definition of an Appraisal Management Company as defined in F.S. 4753.611(c) and (d)(1) and (2).

The Group discussed the Florida definition with the following comments:

- The existing definition may be too broad and have the unintended consequence of capturing too many groups.
- The federal definition is more narrow, considering panel size and FRTs.
- Individual appraisers must be properly credentialed regardless of the type of transactions.
- AMCs generally do not know if a transaction is an FRT at the time the order is placed, thus not knowing if a licensed in required in an FRT only state.
- The exact number of FRTs in Florida is unknown. There was discussion from 60 to 80%.
- Most AMC business models use appraisers as 1099 contractors for appraisal assignments
- It's difficult to identify what business model is being used in Florida because the Department doesn't recognize appraisal firms as a separately licensed entity. There was discussion whether firms should be licensed.
- Is there a need to create an exemption for a traditional firm that is not an AMC? If the federal definition did not intend to capture firms, how can Florida exempt firms? What about hybrid firms?
- Adopting the existing federal definition could create unintended consequences as it is based upon numbers of appraisers and it absolves smaller AMC that should fall under the regulatory program.
- Any definition should focus on the activity performed not the term to determine what makes up a firm vs. an AMC. There was overwhelming consensus that a firm should be exempt from Florida's definition.
- What are the attributes of a panel member? Does the definition of the panel or the management of a panel distinguish a firm from an AMC?
- Relocation companies and commercial work should be exempt from the AMC definition.

At the conclusion of the discussion, a minority of the Work Group felt that the federal definition of an Appraisal Management Company is sufficient and the Florida definition should be modified to exclude small companies that work as either firms or AMCs with 15 or less panel members.

The majority of the Work Group concluded that AMCs want to be regulated. The definition as it exists should be re-evaluated to consider the following points:

- Firms vs. AMCs
- Residential vs. Commercial
- Federally related transactions only vs. All transaction types
- Panel size
- Relocation Company Exemption

Discussion of Florida's Existing Definition

The Work Group discussed the enforcement of the regulatory program and what, if any, changes need to be made to Chapter 61J1, F.A.C. The discussion included the following comments:

- The record keeping requires a strong provision in the rule. The rule will need to be amended to include records that prove the method of payment to appraisers (1099 or W-2).
- With the passage of recent legislation, Florida now has a statute for an “order file” to be retained for a minimum of five years.
- There is now a requirement for States to require AMCs to establish and comply with certain aspects of TILA.
- Rule 61J1-2.001 will be amended to include text about the renewal fees based upon panel size and reporting to the AMC National Registry.
- The existing Rule 61J1-9.002 should be reviewed to determine any potential changes that will need to be made.
- A request that Board composition should be included in the 2016 Legislative Proposals. There was a discussion about reducing the size of the board back to 7 members.

The discussion concluded with the entire Work Group agreeing that the existing Statutes and Rules will need to be re-evaluated and amendments made to bring them into compliance with the Final Rule.


Mr. Simmons summarized the day’s discussions and explained this information will be presented to the FREAB for further discussion on Tuesday, August 11, 2015. The goal for Tuesday will be:

- To have a final discussion of whether Florida will opt-in or opt-out of the regulation of AMCs
- Discuss the statutory changes that must be made in order for the proposal to be included in the 2016 Legislative Proposals
- Rulemaking will continue throughout 2016.

Mr. Simmons expressed his gratitude to all who participated in the Work Group, acknowledging that their expertise in their respective areas helped to create meaningful dialog as he had hoped.

The meeting adjourned at 3:10 p.m.

ATTEST:



 Matthew Simmons,
 AMC Work Group Facilitator



 Juana Watkins, Executive Director
 Florida Real Estate Appraisal Board