



STATE OF WISCONSIN

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REAL ESTATE APPRAISERS BOARD
Room 121A, 1400 E. Washington Avenue, Madison
Contact: Berni Mattsson 608-266-8741
May 9, 2012

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions and deliberations of the Board.

9:30 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-3)

B. Approval of Minutes – February 22, 2012 (5-12)

C. Executive Director Matters

D. Review of Discretionary Disciplinary Action Matrix (13-38)

E. Presentation of Proposed Stipulations, Final Decisions and Orders by the Division of Enforcement including any received after printing of the agenda

- 1) 10 APP 046 and 11 APP 042 – James Monette (39-44)
- 2) 10 APP 070 – Steven Palmer (45-52)
- 3) 11 APP 004 – Gretta Haun (53-60)
- 4) 11 APP 031 – Dennis Lura (61-70)
- 5) 10 APP 020, 10 APP 053, and 11 APP 017 – Larry Kilgore (71-77)
- 6) 10 APP 068 – Joseph Michalowitz (79-85)
- 7) 11 APP 039 – April Konczal (87-94)
- 8) 12 APP 026 – Michael Walsh (95-100)

F. 10:00 a.m.-Public Comment opportunity on the following topics (101):

- 1) Appraisal Management Company Regulation
- 2) Mandatory real estate appraiser licensing.

G. Board Discussion Items including any received after printing of agenda

- 1) Division of Enforcement Matters
- 2) Education and Examination Issues Matters
- 3) Credentialing Matters
- 4) Practice Questions/Issues

- a. Board review of DSPS Real Estate Appraisers web pages. (103)

5) Legislation/Administrative Rule Matters

- a) Review of WRA report comparing and contrasting WI Realtors Association Appraisal Management Company legislation proposal and Appraisal Management Company Registration and Regulation Model Act. (105-131)
 - b) Report by Lydia Thompson, re: Board question on whether fees can be charged for CE approval. (133)
 - c) Update on modifications Wisconsin will need to make in rules in response to changes in the Real Property Appraisers Qualifications Criteria adopted by the Appraisers Qualifications Board of the Appraisal Foundation. (135)
 - d) Discussion of public comments received on Mandatory Licensure and the Appraisal Management Company regulation. (137)
- 6) Liaison Reports
- 7) Speaking Engagement, Travel, Public Relation Requests

H. Informational Items

I. New Business

J. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.; consider closing disciplinary investigation with administrative warning (s. 19.85(1)(b), Stats. And 440.205, Stats., to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats.)

K. Deliberation of Proposed Stipulations, Final Decisions and Orders including any received after printing of the agenda

- 1) 10 APP 046 and 11 APP 042 – James Monette (39-44)
- 2) 10 APP 070 – Steven Palmer (45-52)
- 3) 11 APP 004 – Gretta Haun (53-60)
- 4) 11 APP 031 – Dennis Lura (61-70)
- 5) 10 APP 020, 10 APP 053, and 11 APP 017 – Larry Kilgore (71-77)
- 6) 10 APP 068 – Joseph Michalowitz (79-85)
- 7) 11 APP 039 – April Konczal (87-94)
- 8) 12 APP 026 – Michael Walsh (95-100)

L. Case Closings, Citations, and Case Status Report or any received after printing of agenda (139)

- 1) 11 APP 009 (141-145)
- 2) 12 APP 011 (147-150)
- 3) 12 APP 010 (151-154)
- 4) 12 APP 012 (155-157)
- 5) 12 APP 013 (158-161)
- 6) 12 APP 014 (163-165)
- 7) 12 APP 016 (167-169)
- 8) 12 APP 017 (171-173)
- 9) 12 APP 025 (175-179)

- 10) 12 APP 027 (181-184)
- 11) 12 APP 029 (185-188)
- 12) 12 APP 020 (189-192)
- 13) 11 APP 022 (193-199)

M. Monitoring Cases including any received after printing of the agenda

N. Deliberation of other items received after printing of agenda

- 1) Case Closings
- 2) Case Status Report
- 3) Proposed Decisions
- 4) Summary Suspensions
- 5) Objections and Responses to Objections
- 6) Complaints
- 7) **Administrative Warnings**
 - a) 12 APP 018 (201-202)
 - b) 12 APP 019 (203-204)
 - c) 12 APP 023 (205-206)
 - d) 12 APP 024 (207-208)
 - e) 12 APP 028 (209-210)
 - f) 12 APP 030 (211-212)
 - g) 12 APP 031 (213-214)
- 8) Matters Relating to Costs
- 9) Monitoring Cases
- 10) Appearances from Requests Received or Renewed
- 11) Examination Issues
- 12) Application Issues
- 13) PAP Cases
- 14) Motions

O. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

P. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

Q. Other Board Business

ADJOURNMENT

Next meeting: August 22, 2012.

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**REAL ESTATE APPRAISERS BOARD
MINUTES
February 22, 2012**

PRESENT: Marla Britton, Sharon Fiedler, Lawrence Nicholson, Henry Simon

ABSENT: Jose Perez

STAFF: Berni Mattsson, Bureau Director; Lydia Thompson, Legal Counsel; David Carlson, Bureau Assistant; other DSPS staff

GUESTS: Jeffrey Hauser-WCRA #802 WRA and Debbi Conrad-WRA.

CALL TO ORDER

Marla Britton, Chair, called the meeting to order at 9:25 a.m. A quorum of four (4) members was confirmed.

APPROVAL OF AGENDA

Amendments:

- Delete Item E. 7:

MOTION: Nicholson moved, seconded by Simon, to approve the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF AUGUST 24, 2011

MOTION: Simon moved, seconded by Nicholson, to approve the minutes of August 24, 2011 as written. Motion carried unanimously.

ADMINISTRATIVE REPORT

Election of Officers

NOMINATION: Larry Nicholson nominated Marla Britton for the Office of Chair.

Berni Mattsson called for other nominations three (3) times.

Marla Britton was elected as Chair.

VICE CHAIR

NOMINATION: Larry Nicholson nominated Sharon Fiedler for the Office of Vice Chair.

Berni Mattsson called for other nominations three (3) times.

Sharon Fiedler was elected as Vice Chair.

SECRETARY

NOMINATION:

Henry Simon nominated Larry Nicholson for the Office of Secretary. Berni Mattsson called for other nominations three (3) times.

Henry Simon was elected as Secretary.

Board Appointments for 2012

Chair Britton designated Sharon Fielder as Monitoring Liaison. Larry Nicholson will serve as CE Liaison.

Berni Mattsson introduced herself as the new Executive Director for the Board and gave a summary of her background and current assignments. David Carlson is also the new Bureau Assistant. Berni also reviewed the 2012 meeting schedule and the new Board Member Guidebook.

MOTION: Simon moved and Nicholson seconded to move start times to 9:30 a.m. for future meetings. Motion carried.

PRESENTATION OF PROPOSED STIPULATION(S)

All proposed stipulations will be deliberated in closed session.

Board Review and Discussion of the Fifth Exposure Draft of Proposed Revisions to the Future Real Property Appraiser Qualification Criteria. Sharon Fiedler noted that the criteria proposed in the fifth exposure draft have been implemented.

New AQB criteria. Board discussed adding information to DSPPS website (homepage, education and profession pages), information about the new AQB Criteria and removing the 2008 criteria from the website.

ASC preliminary compliance report and WI response-The Board reviewed the correspondence included in the agenda packet.

Review of Discretionary Disciplinary Action Matrix

Sharon Fiedler will forward changes reflecting USPAP changes to Heather. An updated matrix will be sent to board members so it can be finalized at the next meeting.

Education and Examination Issues Matters

- a. **Review new form to be used for renewal/retirement of Real Estate Appraiser Continuing Education Courses - Form** created in response to ASC Audit. Form will be sent out every two years. It helps the department determine which courses are current and still being offered.
- b. **2009-2011 Real Estate Appraiser Continuing Education Compliance Audit Report.** Jill and Dawn reviewed the audit report with the board.

MOTION: Nicholson moved, seconded by Fiedler, to allow the Office of Education and Exams to refer licensees who are not in compliance following the Continuing Education Biennium Audit to the Division of Enforcement, without prior approval by the Board. Motion carried.

PRACTICE ISSUES

There were no practice issues.

LEGISLATION AND ADMINISTRATIVE RULES

Report comparing and contrasting WI Realtors Association Appraisal Management Company legislation proposal and Appraisal Management Company Registration and Regulation Model Act. Board Legal Counsel Lydia Thompson reviewed her report with the board.

Jeff Houser certified residential appraiser and Debbie Conrad appeared before the board in support of the WI Realtors Association legislative proposal. Debbie Conrad offered to prepare a document from WRA's perspective comparing and contrasting the WRA and AMC proposals.

Board recessed at 12:41 p.m. and reconvened at 12:56 p.m.

Mandatory Licensure or Certification of Providers of Appraisals

Marla Britton appointed Larry Nicholson to contact assessor, appraisal and real estate organizations in the State to inform them of important upcoming legislation on AMCs and mandatory licensure of appraisers. Issues will be discussed again at May 2012 meeting. **There will be an opportunity for public comment provided at the beginning of the meeting.**

BOARD MEMBER ACTIVITY

There were no activities to report.

NEW BUSINESS

There was no new business

INFORMATIONAL ITEMS

There were no informational items

PUBLIC COMMENTS

There were no public comments.

CONVENE TO CLOSED SESSION

MOTION: Simon moved, seconded by Fiedler, to convene to Closed Session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.; to consider licensure or discipline (s. 19.85(1)(b), Stats.; to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats. Motion carried by roll call vote: Marla Britton-yes, Sharon Fiedler-yes; Lawrence Nicholson-yes; Henry Simon - yes.

Open Session recessed at 1:45 p.m.

RECONVENE TO OPEN SESSION

MOTION: Simon moved, seconded by Nicholson, to reconvene into Open Session. Motion carried unanimously.

Open session reconvened at 4:32 p.m.

**VOTING ON ITEMS CONSIDERED OR DELIBERATED UPON
IN CLOSED SESSION**

PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS

**JUNE JACKSON
10 APP 029**

MOTION: Nicholson moved, seconded by Simon to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against June Jackson. Motion carried unanimously.
(VOTED ON IN CLOSED SESSION).

**VICKI KNOBLE
11 APP 008**

MOTION: Simon moved, seconded by Nicholson, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Vicki Knoble. Motion carried unanimously.

**SEAN BROWN
09 APP 091**

MOTION: Nicholson moved, seconded by Fiedler, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Sean Brown. Motion carried unanimously.

**JOHN SPENCE
10 APP 010**

MOTION: Simon moved, seconded by Fiedler, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against John Spence. Motion carried unanimously. Larry Nicholson recused himself from deliberations and voting in this matter.

JAMES KAYSEN

10 APP 019

MOTION: Nicholson moved, seconded by Fiedler, to accept the signed stipulation, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order. In addition the board will accept the respondent's agreement to take either the General Appraiser Market Analysis and Highest and Best Use course or the Subdivision Valuation: A Comprehensive Guide to Valuing Improved Subdivisions course on or before December 14, 2013. Motion carried unanimously. **(VOTED ON IN CLOSED SESSION)**

MATTHEW HAASCH

10 APP 052

MOTION: Fiedler moved, seconded by Simon to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary proceedings against Matthew Haasch. The Board hereby notifies the Department Monitors that the respondent's license is limited. Motion carried unanimously.

DELEGATION FROM REA BOARD TO DSPS 09 APP 063

MOTION: Nicholson moved, seconded by Fiedler, to agree that ALJ decisions in this case will be adopted as written by the ALJ. Any other disciplinary reviews, such as a case closing, a stipulation or other discipline, and all non-disciplinary reviews such as an administrative warning, shall be delegated to the Secretary of the Department or his designee. Motion carried unanimously.

CASE CLOSINGS

10 APP 041

MOTION: Simon moved, seconded by Nicholson, to close case **10 APP 041** pursuant to prosecutorial discretion (P5). Motion carried unanimously.

11 APP 007

MOTION: Fiedler moved, seconded by Nicholson, to close case **11 APP 007** pursuant to prosecutorial discretion (P1). Motion carried unanimously.

11 APP 010

MOTION: Nicholson moved, seconded by Fiedler, to close case **11 APP 010** pursuant to prosecutorial discretion (P7). Motion carried unanimously.

11 APP 016

MOTION: Simon moved, seconded by Fiedler, to close case **11 APP 016** for insufficient evidence. Motion carried unanimously.

10 APP 014

MOTION: Simon moved, seconded by Fiedler, to close case **10 APP 014** for insufficient evidence. Motion carried unanimously. **(VOTED ON IN CLOSED SESSION)**

10 APP 018, 10 APP 023, 10 APP 058, 10 APP 062

MOTION: Nicholson moved, seconded by Fiedler, to close cases **10 APP 018, 10 APP 023, 10 APP 058, and 10 APP 062** for prosecutorial discretion (P7). Motion carried unanimously.

11 APP 036

MOTION: Simon moved, seconded by Nicholson, to close case **11 APP 036** for no violation. Motion carried unanimously.

10 APP 059

MOTION: Nicholson moved, seconded by Simon, to close case **10 APP 059** for prosecutorial discretion (P7). Motion carried unanimously.

10 APP 046

MOTION: Fiedler moved, seconded by Nicholson, to close case **10 APP 046** for prosecutorial discretion (P5). Motion carried unanimously.

11 APP 042

MOTION: Fiedler moved, seconded by Nicholson, to close case **11 APP 042** for prosecutorial discretion (P5). Motion carried unanimously.

11 APP 014

MOTION: Simon moved, seconded by Nicholson, to close case **11 APP 014** for prosecutorial discretion (P2). Motion carried unanimously.

MONITORING

ROBERT SHOVERS

MOTION: Nicholson moved, seconded by Simon to suspend Mr. Shovers' license indefinitely until he demonstrates six consecutive months of compliance with sections C and D of the Boards Final Decision and Order dated May 21, 2008 and petitions the Board for removal of the suspension, upon meeting those requirements. Motion carried unanimously.

DONALD WERGIN

MOTION: Simon moved, seconded by Fiedler, to suspend Mr. Wergin's license indefinitely until he demonstrates completion of the following education courses, Basic Appraisal Principles and Basic Appraisal Procedure, and petitions the Board to remove the suspension, and provides the Board with a roster of appraisals completed from August 2010 through the date of the petition. Motion carried unanimously.

ADJOURNMENT

MOTION: Simon moved, seconded by Nicholson, to adjourn the meeting at 4:46 p.m. Motion carried unanimously.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Heather Curnutt, Attorney Supervisor		2) Date When Request Submitted: April 23, 2012 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Real Estate Appraisers Board			
4) Meeting Date: May 9, 2012	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Discretionary Disciplinary Action Matrix	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Per Board request, this is to remain a standing Board agenda item until the Board determines otherwise.			
11) Authorization			
Signature of person making this request			Date
Supervisor (if required)			Date
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)			Date
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

Discretionary Disciplinary Action Matrix
of the
WISCONSIN REAL ESTATE APPRAISERS BOARD

ver. 8.24.2011

STATE OF WISCONSIN
Department of Safety and Professional Services

1400 E Washington Ave
PO Box 8935
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PURPOSE AND NATURE OF SANCTIONS

The purpose of appraiser discipline is to protect the public from appraisers who have not, or will not, ethically and competently perform their duties to their clients. The ultimate disposition of appraiser discipline is public in cases of formal discipline. Only first instances of minor misconduct merit non-disciplinary Administrative Warnings.

SANCTIONS

Revocation

Revocation terminates a person's status as a credentialed appraiser.

Suspension

The temporary removal of an appraiser's credential for a specified period of time.

- Short suspension: up to two months
- Medium suspension up to one year
- Significant suspension: more than one year

Reprimand

A form of public discipline which declares the conduct of the appraiser improper; often accompanied by corrective education and/or monitoring limitations.

Administrative Warning

Administrative warnings do not constitute an adjudication of guilt or the imposition of discipline and may not be used as evidence that the credential holder is guilty of the alleged misconduct. However, if a subsequent allegation of misconduct by the credential holder is received by the Department or the Wisconsin Real Estate Appraisers Board ("Board"), the administrative warning may be used in any subsequent disciplinary proceeding as

evidence that the credential holder had actual knowledge that the misconduct that was the basis for the administrative warning was contrary to law. The record that an administrative warning was issued is a public record. The contents of the administrative warning are private and confidential. It is important to note that continuing education courses recommended in conjunction with an Administrative Warning are simply recommendations.

Forfeitures; Assessment of Costs; Restitution

Wisconsin law permits forfeitures to be imposed as a form of sanction. Additionally, assessments of Department of Safety and Professional Services (Department) costs are permitted by law, and constitute a part of every disciplinary order.

- Forfeiture: A sum of money required to be paid as a deterrence of future violations. Pursuant to Wis. Stat. § 458.26(4), in addition to or in lieu of a reprimand or denial, limitation, suspension or revocation of a certificate, the Board may assess against a certified appraiser, licensed appraiser or applicant for a certificate under this chapter a forfeiture of not less than \$100 nor more than \$1,000 for each violation enumerated under § 458.26(3).
 - Small: \$100.00 – \$250.00
 - Moderate \$250.00 – \$750.00
 - Large \$750.00 – \$1,000.00

- Costs of enforcement activities (investigation and prosecution).

Continuing education

Education intended to correct or improve deficient skills in a specific area. Board ordered continuing education (BOCE) courses cannot be applied toward continuing education requirements or credential upgrade requirements; BOCE courses are imposed in addition to any continuing education requirements established by the Department or the Board. BOCE may include longer, more in-depth qualifying education and/or continuing education courses. All BOCE must be successfully completed, including any exams offered as part of the courses. The Department maintains a list of approved continuing education courses, updated annually, at its website, www.dsps.wi.gov. BOCE may include courses selected from this list, or the Board may order other courses from other providers at its discretion.

Monitoring

The Department Monitor is charged with overseeing the terms of Board orders after they have been approved by the Board. Respondents who are subject to a Board Order will often need to demonstrate to the Department Monitor compliance with an Order in order to have limitations removed from their license.

Limitation on practice

The Department Monitor oversees limitations on practice, which pertain to a period of time during which an appraiser is:

- prohibited from performing certain types of appraisal assignments
- prohibited from supervising or training other appraisers or appraiser trainees
- limited to performing a specified number of appraisals per week, month, or year
- limited to performing appraisals in a specific geographic area
- prohibited from relying on the assistance of others in conducting an appraisal or preparing an appraisal report
- limited to performing appraisals only under the direct supervision of a supervisory appraiser pre-approved by the Board, or its designee
- limited in his/her practice or prohibited from certain practice as may be deemed appropriate by the Board

The length of a limitation on practice relates to the seriousness of the violation:

- short limitation on practice: up to three months
- medium limitation on practice: up to six months
- significant limitation on practice: up to one year or more

Violation

The use of the term “violation” in this Matrix is intended to refer to any action or failure to act that constitutes a failure to adhere to real estate appraisal practice requirements set forth in the Wisconsin Statutes, the Wisconsin Administrative Code, and/or the Uniform Standards of Professional Appraisal Practice.

Disciplinary Orders Checklist:

_____ Deadline for payment of forfeitures and/or costs

_____ Deadline for completion of any BOCE

_____ Specify that BOCE be taken in a classroom setting or whether online courses are an acceptable option

_____ Specify that BOCE shall not be applied toward continuing education requirements or credential upgrade requirements

_____ Specify how a limitation is lifted, including whether a respondent will need to petition the Board to request lifting a limitation

_____ In cases involving voluntary surrender or revocation, include language prohibiting a respondent from practicing real estate appraisal in the State of Wisconsin without a license

_____ In cases involving voluntary surrender or revocation, specify if/when a respondent can reapply and indicate what conditions must be met in the event of reapplication.

Levels of Sanctions

LEVEL	VIOLATION	SANCTION
I	Minor violations that do not involve the Ethics Rule or Competency Rule.	Administrative Warning or letter of education; 3-15 hours of BOCE; small forfeiture; or any combination of above.
II	Technical violations or carelessness where appraiser would benefit from education and that do not involve the Ethics Rule or Competency Rule.	Reprimand; 7-30 hours of BOCE; short limitation; small to moderate forfeiture; or any combination of above.
III	Minor violations of the Ethics Rule and/or Competency Rule. Other violations that rise to the level of affecting the credibility of an assignment.	Reprimand; 15-60 hours of BOCE; short suspension; medium limitation; moderate forfeiture; or any combination of above.
IV	Significant violations, including violations of the Ethics Rule and/or Competency Rule.	Reprimand; 45-120 hours of BOCE; significant suspension; significant limitation; large forfeiture; successful completion of national exam; or any combination of above.
V	Significant Ethics Rule and/or Competency Rule violations or willful violations.	Revocation or Voluntary Surrender in lieu of disciplinary action, with or without large forfeiture, and costs.

NOTES:

- *BOCE is additional continuing education imposed by the Board pursuant to Wis. Stat. § 458.26(3). Unless otherwise indicated, BOCE cannot be applied toward continuing education requirements or credential upgrade requirements in Wisconsin or any other state.*
- *Departmental costs of investigation and prosecution are assessed in all cases of formal discipline.*
- *This chart is intended to be used in conjunction with the Aggravating and Mitigating Circumstances lists, below.*
- *The potential Sanction in the chart is an average sanction where aggravating and mitigating circumstances balance each other.*
- *Where aggravating circumstances outweigh mitigating circumstances, the level of sanction will increase; where mitigating circumstances outweigh aggravating circumstances, the level of sanction will decrease.*

AGGRAVATING AND MITIGATING CIRCUMSTANCES

AGGRAVATING CIRCUMSTANCES

An aggravating circumstance is any factual information or evidence regarding the appraiser or the violation that might result in an increased sanction. Aggravating circumstances include:

- Prior disciplinary history
- Number of appraisals involved in the case
- Number of total violations involved in the case
- Pattern of similar violations
- Serious harm to a consumer or others
- Evidence that the violation was willful or intentional
- Evidence that the violation was grossly negligent
- Failure to exercise due diligence in the supervision of others
- Refusal to acknowledge violation
- Lack of cooperation with investigation
- Submission of false statements or evidence, or other deceptive practices (e.g., creating or adding to work file after complaint filed)
- Intimidation of or threats to witnesses or others involved with the investigation
- Violation of a prior Board order

MITIGATING CIRCUMSTANCES

A mitigating circumstance is any information or evidence regarding the appraiser or the violation that might result in a decreased sanction. Mitigating circumstances include:

- Length of time since the date of violation
- No prior disciplinary history
- No other complaints currently pending against licensee
- No pattern of similar offenses
- No evidence that the violation was willful or intentional
- No evidence that the violation was grossly negligent
- License level at the time of violation
- Licensee was under the supervision of another appraiser at the time (e.g., trainees)
- Additional education taken and/or experience gained after violation occurred

- Cooperation with investigation
- Little or no serious harm to consumer or others
- Timely mitigation of financial loss
- Reissuance of a corrected appraisal report before the complaint was filed
- Understanding and acknowledgement of violation
- Personal problems such as physical, mental or emotional problems at the time of the violation that have since been addressed

EXAMPLE OF THE APPLICATION OF LEVELS AND AGGRAVATING AND MITIGATING CIRCUMSTANCES

The following are generic examples of how to apply sanction levels and aggravating and mitigating circumstances.

When determining an appropriate sanction, the highest level of sanction should be considered unless substantial mitigating circumstances exist.

Example 1:

An appraiser accepted an appraisal assignment in an area where he is not geographically competent, failed to notify the client that he was not geographically competent and failed to take the necessary steps to become competent. As a result, he produced an appraisal that was not supported by market data.

With no aggravating or mitigating circumstances, the sanction would be Level III.

Example 1A:

Assume in the above scenario that there are no aggravating circumstances and that the following **mitigating** circumstances exist:

- a. The appraisal was done 3 years ago and the appraiser now has achieved competency in that market and others.
- b. The appraiser has no prior disciplinary history.
- c. The appraiser cooperated with the investigation.
- d. Since the appraisal was completed, the appraiser has taken additional education that will help him avoid this issue in the future.

Based on these circumstances, the sanction would be Level I or Level II.

Example 1B:

Assume in the above scenario that there are no mitigating circumstances and that the following **aggravating** circumstances exist:

- a. The appraiser has been disciplined for similar conduct in the past.
- b. The appraiser had already taken education designed to address this issue before he did the appraisal in question.

- c. As a result of the violation, there was significant financial harm to the lender and the consumer.

Based on these circumstances, the sanction would be Level IV or Level V.

Example 2:

An appraiser performs an appraisal where she used inappropriate comparable sales with inadequate and unsupported adjustments, resulting in an inflated opinion of value. This is one of several appraisals she has performed for a lender where all properties were sold by the same investor.

With no aggravating or mitigating circumstances, the sanction would be Level IV.

Example 2A:

Assume in the above scenario that there are no aggravating circumstances and that the following **mitigating** circumstances exist:

- a. The appraiser was under severe emotional stress at the time the appraisals were performed due to the illness of a child.
- b. The appraiser had been licensed for only 8 months when she did the assignments.

Based on these circumstances, the sanction would be Level II or Level III.

Example 2B:

Assume in the above scenario that there are no mitigating circumstances and that the following **aggravating** circumstances exist:

- a. There are 10 appraisals involved in this case.
- b. The appraiser altered the engagement letters in her work files before sending them the state regulatory agency by removing the “value needed” from them.
- c. The appraiser did not cooperate with the investigation, refusing to meet with the investigator or to provide more information when requested.

Based on these circumstances, the sanction would be Level V.

Example 3:

An appraiser states in his certification on an appraisal that he inspected the interior and exterior of the subject property, when in fact he only drove by the property. As a result, he stated that the subject property was in average condition when it was actually in poor condition and essentially uninhabitable. He did not use any extraordinary assumptions or hypothetical conditions in the assignment. He knew that the lender required an interior inspection.

With no aggravating or mitigating circumstances, the sanction would be Level IV.

Example 3A:

Assume in the above scenario that there are no aggravating circumstances and that the following **mitigating** circumstances exist:

- a. The appraiser took the 15-hour National USPAP course after the appraisal was done but before the complaint was received.
- b. The appraiser cooperated with the investigation and acknowledged his error.
- c. The loan never went through, so there was little or no financial harm to the consumer or others.

Based on these circumstances, the sanction would be Level III.

Example 3B:

Assume in the above scenario that there are no mitigating circumstances and that the following **aggravating** circumstances exist:

- a. The violation was intentional.
- b. The appraiser has been licensed since 1991.
- c. When confronted with the issue by the lender, the appraiser refused to inspect the subject property and reissue a new appraisal report.

Based on these circumstances, the sanction would be Level V.

Example 3C:

Assume in the above scenario that there are **both** the mitigating circumstances in Example 3A and the aggravating circumstances in Example 3B.

Based on these circumstances, it would appear that the aggravating circumstances are more serious and outweigh the mitigating circumstances, thus the sanction would be Level IV or Level V.

Example 4:

An appraiser values the subject property at \$120,000. Among the findings:

- The subject had sold one month prior to the effective date of the appraisal for \$80,000, but the appraisal stated that the property had not sold within the past thirty-six months.
- The appraisal states that the subject property contains 2400 square feet of gross living area when it actually has only 1200 square feet of finished area and an unfinished, below grade basement.
- The appraiser used comparable sales that contained 2300 – 2800 square feet, which resulted in an inflated appraised value.

- The photographs of the subject property in the appraisal report were of a ranch with a fully finished basement. The appraiser states that his trainee sent the wrong photos with the appraisal.
- Although the trainee did most of the work on the assignment, the appraiser did not mention the trainee’s assistance in the report.
- The workfile, which was kept electronically, contained only a copy of the engagement letter and the invoice. The appraiser could not find the appraisal or any of the supporting documentation.

Discussion:

In this scenario, there are several violations of the Ethics Rule, such as conduct and record keeping, and violations of Standards 1 and 2. In determining an appropriate sanction, one would start at the lowest level violation (Level II for record keeping) and consider the highest level violation (Level V for preparing a fraudulent appraisal or communicating results in a misleading or fraudulent manner).

Example 4A:

Assume in the above scenario that there are no aggravating circumstances and that the following **mitigating** circumstances exist:

- a. There are no other complaints pending or previous disciplinary actions against the appraiser and there is no indication that there has been a pattern of similar offenses.
- b. It appears that the trainee altered the report after the appraiser signed it. It also appears that the trainee deleted the appraisal and supporting documentation for the assignment from the work file.
- c. The appraiser acknowledged that he failed to supervise his trainee.

Based on these circumstances, the sanction would be Level IV or possibly even Level III.

Example 4B:

Assume in the above scenario that there are no mitigating circumstances and that the following **aggravating** circumstances exist:

- a. There were several violations in the case.
- b. The loan was made and went into foreclosure. The lender subsequently sold the property for \$65,000.
- c. The appraiser’s failure to supervise his trainee was grossly negligent as he knew his trainee had altered his reports in the past.

Based on these circumstances, the sanction would be Level V.

**Wisconsin Real Estate Appraisers Board
Discretionary Disciplinary Action Matrix**

	Type of Violation(s)	2010-11 USPAP Citation(s)	Examples	SANCTION (also refer to the sanction matrix and aggravating and mitigating circumstances)		
				1st offense	2nd offense	3rd offense
ETHICS RULE						
	Failure to perform valuation services ethically while acting as an appraiser.	Ethics Rule	Intentionally preparing a fraudulent appraisal.	Level V		
	Misrepresentation of role.	Ethics Rule, Conduct				
		Example #1	Preparing an appraisal while pursuing a listing for the subject property without proper disclosure.	Level III	Level IV	Level V
		Example #2	Testifying as an expert without proper experience.	Level II	Level III	Level IV
		Example #3	Acting as unbiased party when there is an interest in the property.	Level IV	Level V	
Conduct Section						
	Being an advocate for the client's interests.	Conduct & Management				
		Example #1	Inflating the value to benefit a client's position in litigation.	Level IV	Level V	
		Example #2	Selecting only comparable sales that support the contract price when there are more appropriate sales available.	Level III	Level IV	Level V
	Accepting an appraisal assignment that includes the reporting of predetermined opinions and conclusions.	Conduct	Accepting an assignment when the engagement letter specifies that the value must exceed a certain amount.	Level III	Level IV	Level V
	Relying upon any unsupported characteristic of race, national origin, gender, marital status, familial status, age, receipt of public assistance income, handicap, or unsupported conclusion that homogeneity of such characteristics is necessary to maximize value.	Conduct	Assuming that a subdivision where most of the properties are owned by individuals from a certain country will not be desirable to the general market.	Level II	Level III	Level IV
	Allowing an employee or other person to communicate a misleading or fraudulent appraisal report.	Conduct	Knowing that an employee will issue an appraisal report with an inflated opinion of value that is based on incorrect square footage for the subject property.	Level IV	Level V	
	Communicating assignment results with the intent to mislead or to defraud.	Conduct		Level V		
		Example #1	Using a large portion of another appraiser's report without permission.	Level III	Level IV	Level V
		Example #2	Intentionally leaving out the fact that the subject property is listed for sale and substantially less than the contract amount.	Level IV	Level V	

**Wisconsin Real Estate Appraisers Board
Discretionary Disciplinary Action Matrix**

	Type of Violation(s)	2010-11 USPAP Citation(s)	Examples	SANCTION (also refer to the sanction matrix and aggravating and mitigating circumstances)		
				1st offense	2nd offense	3rd offense
		Example #3	Intentionally claiming property was inspected under false pretenses.	Level IV	Level V	
	Failure to disclose things of value in connection with the procurement of an assignment.	Conduct	Failing to report any gratuity outside of the fee typically charged by the appraiser	Level IV	Level V	
	Criminal Conduct	Conduct				
		Example #1	Being convicted of a crime the circumstances of which substantially relate to the practice of an appraiser that does not result in incarceration.	Level IV	Level V	
		Example #2	Being convicted of a crime the circumstances of which substantially relate to the practice of an appraiser that does result in incarceration.	Level V		
	Failure to disclose interest with respect to the subject property .	Conduct	Issuing a report where the intended use of the appraisal assignment is for a foreclosure and the appraiser plans to bid on the property at auction.	Level III	Level IV	Level V
	Failure to disclose to the client that services were provided by the appraiser regarding the subject property within the three years immediately preceding the date of the assignment.	Conduct	Failing to inform a client prior to accepting an assignment that he appraiser performed an appraisal of the subject property for another client two weeks ago.	Level II	Level III	Level IV
Management Section						
	Failure to disclose payment of undisclosed fees, commissions, or things of value in connection with the procurement of the assignment.	Management	Paying a real estate broker \$50 for each appraisal assignment the broker arranges but failing to report that in the report.	Level II	Level IV	Level V
	False, deceptive or misleading advertising.	Management		Level IV	Level V	Level V
		Example #1	Advertising that an appraiser, who is also a real estate agent, will include an appraisal at no fee for mortgage lending purposes when a broker fee will be received from closing.	Level II	Level IV	Level V
		Example #2	Advertising that an appraiser's firm guarantees the value or the client will not owe the appraiser a fee.	Level IV	Level V	
	Accepting an assignment when the employment and/or fee to be paid is contingent upon the opinion, conclusion, or valuation reached.	Management				
		Example #1	Charging a fee based upon a percentage of value conclusion.	Level IV	Level V	
		Example #2	Charging a fee based upon the appraised value.	Level IV	Level V	
	Accepting an assignment based on the attainment of a stipulated result.	Management	Agreeing that the appraiser will not be paid unless the loan closes (in an appraisal done for refinance) or the property taxes are reduced (in an appraisal done to challenge a reevaluation).	Level II	Level III	Level IV

**Wisconsin Real Estate Appraisers Board
Discretionary Disciplinary Action Matrix**

	Type of Violation(s)	2010-11 USPAP Citation(s)	Examples	SANCTION (also refer to the sanction matrix and aggravating and mitigating circumstances)		
				1st offense	2nd offense	3rd offense
	Attaching the signature of another appraiser without that appraiser's consent.	Management	Attaching an appraiser's signature to a report while the appraiser is on vacation without the consent of the appraiser.	Level III	Level IV	
Confidentiality Section						
	Violation of Appraiser-Client Confidentiality	Confidentiality				
		Example #1	Revealing the name of a client to a third party when the client had requested the appraiser not disclose the client name or identity.	Level I or II	Level III or IV	Level V
		Example #2	Supplying a copy of an appraisal report to a borrower who was not an intended user when the lender has gone out of business.	Level II	Level III	Level IV
		Example #3	Sending sample appraisal reports to potential clients without that client's permission and without redacting confidential information or assignment results.	Level I	Level II	Level III
Record Keeping Section						
	Failure to retain required work files for 5 years commencing on the date signed or 2 years after the final disposition of any litigation the appraisal or report may be involved in.	Record Keeping	Testifying 4 years after the appraisal was signed but destroying the file 5 years after it was signed.	Level II or III	Level IV	Level V
	Failure to produce workfile when required.	Record Keeping				
		Example #1	Failure to provide the workfile to a state enforcement agency, when requested.	Level III	Level IV	Level V
		Example #2	Failure to provide the workfile to someone who has provided significant professional assistance in the completion of the assignment.	Level III	Level IV	Level V
	Failure to maintain necessary data, information, and documentation in the workfile.	Record Keeping		Level II or III	Level IV	Level V
		Example #1	Keeping only the last revision of an appraisal report and not the original.	Level I	Level II	Level III
		Example #2	Performing an oral appraisal report by testifying in court and then failing to maintain a summary or transcript of the testimony.	Level II	Level III	Level IV
COMPETENCY RULE						
	Failure to determine whether the appraiser is competent to perform an assignment prior to accepting the assignment.	Competency				
		Example #1	Accepting an assignment to appraise a golf course without having the requisite competency to do so.	Level III	Level IV	Level V

**Wisconsin Real Estate Appraisers Board
Discretionary Disciplinary Action Matrix**

	Type of Violation(s)	2010-11 USPAP Citation(s)	Examples	SANCTION (also refer to the sanction matrix and aggravating and mitigating circumstances)		
				1st offense	2nd offense	3rd offense
		Example #2	Accepting an assignment to appraise a wetlands area for the EPA without the necessary knowledge or understanding of federal laws and regulations applying to restrictions on the uses of wetlands.	Level III	Level IV	Level V
	Failure to disclose the lack of knowledge or experience to the client before accepting the assignment.	Competency	Accepting an assignment to appraise a citrus orchard without informing the client that the appraiser has never done anything similar before.	Level III	Level IV	Level V
	Failure to take all the steps necessary or appropriate to complete the assignment competently.	Competency				
		Example #1	Accepting an assignment in an unfamiliar market without having access to data sources for comparable sales.	Level II	Level III	Level IV
		Example #2	Accepting an assignment in an unfamiliar market where there are several niche markets that would be unknown to anyone outside the area.	Level II	Level III	Level IV
	Failure to describe the lack of knowledge and/or experience and the steps taken to complete the assignment competently in the report.	Competency	Accepting an assignment in an unfamiliar market and associating with a local appraiser, but failing to explain the process in the report.	Level III	Level IV	Level V
	Failing to withdraw from an assignment when it is discovered that the appraiser lacks the required knowledge and experience to complete the assignment competently.	Competency	Accepting an assignment with the understanding that the appraiser would be able to retain experts with knowledge and experience in a specific appraisal methodology needed but not being able to retain such experts and completing the assignment in an incompetent manner as a result.	Level IV	Level V	
SCOPE OF WORK RULE						
	Failure to gather and analyze information about assignment elements that are necessary to properly identify the problem to be solved.	Scope of Work				
		Example #1	Appraising a property "subject to plans and specifications" for a property under construction when the client wants it done "as is".	Level II	Level III	Level IV
		Example #2	Accepting an appraisal assignment without first asking about all intended users and then failing to meet conditions imposed by those intended users.	Level II	Level III	Level IV
	Failure to determine and perform the research and analysis necessary to develop credible assignment results.	Scope of Work				

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Discretionary Disciplinary Action Matrix**

	Type of Violation(s)	2010-11 USPAP Citation(s)	Examples	SANCTION (also refer to the sanction matrix and aggravating and mitigating circumstances)		
				1st offense	2nd offense	3rd offense
		Example #1	Using three comparable sales in the sales comparison analysis when the client required four or more.	Level II	Level III	Level IV
		Example #2	Performing a drive by appraisal on an older property that has been abandoned without determining from the client what type of inspection is required for the intended use of the report.	Level II	Level III	Level IV
	Allowing assignment conditions to limit the scope of work to such a degree that the assignment results are not credible.	Scope of Work				
		Example #1	Using only properties that sold within 6 months of the effective date of the assignment, per the client's instructions, even though those properties were not comparable to the subject.	Level III	Level IV	Level V
		Example #2	Performing a drive by appraisal on a newly constructed property without the use of an extraordinary assumption or hypothetical condition, per the client's instructions, when an occupancy permit has not been issued.	Level III	Level IV	Level V
	Allowing the intended use of an assignment or a client's objectives to cause the assignment results to be biased.	Scope of Work				
		Example #1	Appraising a subject property for tax purposes then appraising it for the same party on the same effective date at three times the value of the tax appraisal for a condemnation case.	Level IV	Level V	
		Example #2	Choosing comparable sales that support the sales contract, and not sales that are most comparable to the subject.	Level IV	Level V	
	Failing to disclose sufficient information in the report to allow intended users to understand the scope of work performed.	Scope of Work				
		Example #1	Failing to disclose that a hypothetical condition was used in an appraisal.	Level II	Level III	Level IV
		Example 2	Failing to disclose that the appraiser signing the appraisal did not inspect the subject property but that he relied on an inspection performed by another.	Level III	Level IV	Level V
JURISDICTIONAL EXCEPTION RULE						
	Failure to identify or cite the law or regulation that precludes compliance with USPAP.	Jurisdictional Exception	Appraising a property for a state agency that requires, by law, the appraiser to use a specific form to report the appraisal, but not citing the law that precludes compliance with Standard 2 of USPAP.	Level II	Level III	Level IV

**Wisconsin Real Estate Appraisers Board
Discretionary Disciplinary Action Matrix**

	Type of Violation(s)	2010-11 USPAP Citation(s)	Examples	SANCTION (also refer to the sanction matrix and aggravating and mitigating circumstances)		
				1st offense	2nd offense	3rd offense
	Failure to comply with the law or regulation that precludes compliance with USPAP.	Jurisdictional Exception	Appraising a property for a federal agency that requires, by law, an appraiser to report a value on a specific form, but then sending a letter reporting value instead of the required form.	Level III	Level IV	Level V
STANDARD 1						
	Failure to comply with Standards Rule 1-1.	SR 1-1				
	Failure to be aware of, understand, and correctly employ recognized methods and techniques necessary to produce credible assignment results.	SR 1-1(a)				
		Example #1	An appraiser failed to utilize the sales comparison approach to value in appraising a single family residence in a neighborhood consisting of recent, proximate, similar comparable sale properties.	Level III or IV	Level V	
		Example #2	An appraiser developed an opinion of market value without analyzing and adjusting for sales concessions that existed in the comparable sales.	Level III or IV	Level V	
	Committing a substantial error of omission or commission that significantly affects an appraisal.	SR 1-1(b)				
		Example #1	An appraiser failed to apply any discounting to account for the absorption of vacant space in a retail center which was only 15% occupied, and was not anticipated to reach stabilized occupancy for 4 years.	Level IV	Level V	
		Example #2	An appraiser provided an opinion of the leasehold interest in a property, when the bundle of rights being appraised was the leased fee interest.	Level IV	Level V	
		Example #3	An appraiser miscalculates the square footage of a home, basing the opinion of value on 3,800 square feet when the home only consisted of 1,600 square feet.	Level III or IV	Level V	
	Rendering appraisal services in a careless or negligent manner by making a series of errors that, in the aggregate, affect the credibility of the assignment results.	SR 1-1(c)				
		Example #1	An appraiser inaccurately describes the subject property's roof covering, type of windows, insulation, and type of heating. The appraiser also misstates the subject property's year built, type of foundation, and topography.	Level II or III	Level III or IV	Level V

**Wisconsin Real Estate Appraisers Board
Discretionary Disciplinary Action Matrix**

		Type of Violation(s)	2010-11 USPAP Citation(s)	Examples	SANCTION (also refer to the sanction matrix and aggravating and mitigating circumstances)		
					1st offense	2nd offense	3rd offense
		Failure to comply with Standards Rule 1-2.	SR 1-2				
		Example #1	SR 1-2(b)	An appraiser identifies that the appraisal is being used for mortgage finance purposes, when it is actually being used for a divorce settlement proceeding.	Level II or III	Level III or IV	Level V
		Example #2	SR 1-2(g)	An appraiser fails to identify that the appraisal is based on a lot split being considered by the property owner that has not yet occurred.	Level III or IV	Level V	
		Example #3	SR 1-2(h)	An appraiser fails to perform the sales comparison approach although it was necessary for credible assignment results.	Level IV	Level V	
		Failure to comply with Standards Rule 1-3.	SR 1-3				
		Example #1	SR 1-3(a)	An appraiser fails to recognize that the major employer in the region has announced that it will be closing, which has resulted in declining market values for the area.	Level III or IV	Level V	
		Example #2	SR 1-3(b)	An appraiser fails to consider the subject property's zoning in developing an opinion of the highest and best use.	Level III or IV	Level V	
		Failure to comply with Standards Rule 1-4.	SR 1-4				
		Example #1	SR 1-4(b)(i)	An appraiser develops a cost approach but does not develop an opinion of the site value using an appropriate method or technique.	Level II or III	Level III or IV	Level V
		Example #2	SR 1-4(e)	In providing an opinion of seven (7) contiguous buildable lots, an appraiser simply adds together the value of the individual parcels to arrive at an overall opinion of value.	Level II or III	Level III or IV	Level V
		Example #3	SR 1-4(g)	In performing an appraisal for the purchase of a hotel, an appraiser does not analyze the effect on value of the personal property included in the sale price.	Level III or IV	Level V	
		Failure to comply with Standards Rule 1-5.	SR 1-5				
		Example #1	SR 1-5(a)	An appraiser fails to analyze the current agreement of sale on the subject property, even though it was available during the normal course of business.	Level II or III	Level III or IV	Level V
		Example #2	SR 1-5(b)	An appraiser fails to analyze the fact that the subject property sold 18 months prior for an amount 30% above its current pending sale price.	Level IV	Level V	

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Discretionary Disciplinary Action Matrix**

	Type of Violation(s)	2010-11 USPAP Citation(s)	Examples	SANCTION (also refer to the sanction matrix and aggravating and mitigating circumstances)		
				1st offense	2nd offense	3rd offense
	Failure to comply with Standards Rule 1-6.	SR 1-6				
	Example #1	SR 1-6(a)	In the sales comparison approach, an appraiser simply adds the adjusted value of the three comparable sales used and divides by three for an indicated value, even though some sales were far better indicators of value than others.	Level III or IV	Level V	
	Example #2	SR 1-6(b)	An appraiser is asked by a builder to perform an appraisal only using the sales comparison approach; however, the home is newly constructed in an area where lot sales are abundant and cost figures are readily available. Because the builder requested only a sales comparison approach, the appraiser gives no consideration to the cost approach in rendering a final opinion of value.	Level III or IV	Level V	
STANDARD 2						
	Failure to clearly and accurately set forth the appraisal in a manner that is not misleading.	SR 2-1(a)				
	Example #1		Preparing a restricted use report knowing that there are more intended users than just the client.	Level III	Level IV	Level V
	Failure to contain sufficient information to enable the intended user(s) of the appraisal to understand the report properly.	SR 2-1(b)				
	Example #1		Preparing a cost approach solely at the client's request even though the results were not meaningful. Failing to report that the cost approach was given no weight in the final reconciliation and why.	Level I	Level II	Level III
	Example #2		An appraiser submitted a written report identified as a "summary appraisal report." The assignment agreement signed by the client and the appraiser contained a requirement that the appraiser must include a summary of each adjustment, including the paired sales analysis, applied within the sales comparison approach. However, the report contents included only a listing of each of the five adjustments for each sale without summary of analysis or reasoning.	Level I	Level II	Level III
	Failure to clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment.	SR 2-1(c)				

**Wisconsin Real Estate Appraisers Board
Discretionary Disciplinary Action Matrix**

		Type of Violation(s)	2010-11 USPAP Citation(s)	Examples	SANCTION (also refer to the sanction matrix and aggravating and mitigating circumstances)		
					1st offense	2nd offense	3rd offense
		Failure to prepare a written real property appraisal report under one of the following three options and prominently state which option is used: Self Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report.	SR 2-2				
		Example # 1		An appraiser submitted the results of an appraisal assignment on a form listed as "Multi-Purpose Appraisal Assignment Report". Although the depth of reported information was summarized, there was no identification of the reporting option used.	Level I	Level II	Level III
		Example # 2		An appraiser sent a text message to his client notifying him of his final value conclusion. No other information was included.	Level III	Level IV	Level V
		In a Self-Contained report, failure to include content consistent with the intended use of the report.	SR 2-2(a)				
		In a Self-Contained report, failure to state the identity of the client and any intended users by name or type.	SR 2-2(a)(i)				
		Example # 1		An appraiser was engaged by a local attorney to complete an appraisal assignment for use in litigation. The appraiser submitted a report, labeled as self-contained, to the Judge and identified "Court" as the client and named no intended users.	Level II	Level III	Level IV
		In a Self-Contained report, failure to state the intended use of the report.	SR 2-2(a)(ii)				
		In a Self-Contained report, failure to describe information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment.	SR 2-2(a)(iii)				
		Example # 1		An appraiser was engaged to develop an opinion of market value for a property that included a building that had been partially destroyed by a recent fire. The engagement agreement requested a self-contained report that would be used for insurance settlement purposes. The insurance company requested that the appraiser describe the "as is" condition of the building interior. The appraiser delivered a report containing only a statement that the building interior exhibited significant damage.	Level I	Level II	Level III

**Wisconsin Real Estate Appraisers Board
Discretionary Disciplinary Action Matrix**

		Type of Violation(s)	2010-11 USPAP Citation(s)	Examples	SANCTION (also refer to the sanction matrix and aggravating and mitigating circumstances)		
					1st offense	2nd offense	3rd offense
		In a Self-Contained report, failure to state the real property interest appraised.	SR 2-2(a)(iv)				
		In a Self-Contained report, failure to state the type and definition of value and its source.	SR 2-2(a)(v)				
		In a Self-Contained report, failure to state the effective date of the appraisal and the date of the report.	SR 2-2(a)(vi)				
		In a Self-Contained report, failure to describe the scope of work used to develop the appraisal.	SR 2-2(a)(vii)				
		Example # 1		A self-contained report of a strip take in an eminent domain proceeding did not include the scope of work used to develop the appraisal.	Level I	Level II	Level III
		In a Self-Contained report, failure to describe the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions. Failure to explain exclusion of any of the approaches to value.	SR 2-2(a)(viii)				
		In a Self-Contained report, failure to state the use of the real estate existing as of the date of value and the use of the real estate reflected in the appraisal; and, when an opinion of highest and best use was developed by the appraiser, failure to describe the support and rationale for that opinion.	SR 2-2(a)(ix)				
		Example # 1		A self-contained report of a tract of land with a large commercial building did not include the support and rationale for the highest and best use opinion of multi-family residential development.	Level II	Level III	Level IV
		In a Self-Contained report, failure to clearly and conspicuously: • state all extraordinary assumptions and hypothetical conditions; and • state that their use might have affected the assignment results.	SR 2-2(a)(x)				

**Wisconsin Real Estate Appraisers Board
Discretionary Disciplinary Action Matrix**

	Type of Violation(s)	2010-11 USPAP Citation(s)	Examples	SANCTION (also refer to the sanction matrix and aggravating and mitigating circumstances)		
				1st offense	2nd offense	3rd offense
	In a Self-Contained report, failure to include a signed certification in accordance with Standards Rule 2-3.	SR 2-2(a)(xi)				
	In a Summary report, failure to include content consistent with the intended use of the report.	SR 2-2(b)				
	In a Summary report, failure to state the identity of the client and any intended users by name or type.	SR 2-2(b)(i)				
	In a Summary report, failure to state the intended use of the report.	SR 2-2(b)(ii)				
	Example # 1		An Appraiser was engaged to prepare a real property appraisal for use in setting the listing price for property. The Summary report was delivered to the client without identification of the intended use of the report.	Level II	Level III	Level IV
	In a Summary report, failure to summarize information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment.	SR 2-2(b)(iii)				
	In a Summary report, failure to state the real property interest appraised.	SR 2-2(b)(iv)				
	In a Summary report, failure to state the type and definition of value and its source.	SR 2-2(b)(v)				
	Example # 1		An appraiser was engaged to develop a value opinion and prepare a summary report of the replacement cost of a residential dwelling for insurance purposes. The appraiser reported the opinion, including the cost and sales comparison approaches to value, but failed to state the type and definition of value.	Level I	Level II	Level III
	In a Summary report, failure to state the effective date of the appraisal and the date of the report.	SR 2-2(b)(vi)				
	In a Summary report, failure to summarize the scope of work used to develop the appraisal.	SR 2-2(b)(vii)				

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		Type of Violation(s)	2010-11 USPAP Citation(s)	Examples	SANCTION (also refer to the sanction matrix and aggravating and mitigating circumstances)		
					1st offense	2nd offense	3rd offense
		In a Summary report, failure to summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions. Failure to explain exclusion of any of the approaches to value.	SR 2-2(b)(viii)				
		Example # 1		A summary report included the sales comparison approach as the only approach to value developed. The report contained no explanation for the exclusion of the cost and the income approaches to value.	Level I	Level II	Level III
		In a Summary report, failure to state the use of the real estate existing as of the date of value and the use of the real estate reflected in the appraisal; and, when an opinion of highest and best use was developed by the appraiser, failure to describe the support and rationale for that opinion.	SR 2-2(b)(ix)				
		In a Summary report, failure to clearly and conspicuously: <ul style="list-style-type: none"> • state all extraordinary assumptions and hypothetical conditions; and • state that their use might have affected the assignment results. 	SR 2-2(b)(x)				
		In a Summary report, failure to include a signed certification in accordance with Standards Rule 2-3.	SR 2-2(b)(xi)				
		In a Restricted Use report, failure to include content consistent with the intended use of the report.	SR 2-2(c)				

**Wisconsin Real Estate Appraisers Board
Discretionary Disciplinary Action Matrix**

		Type of Violation(s)	2010-11 USPAP Citation(s)	Examples	SANCTION (also refer to the sanction matrix and aggravating and mitigating circumstances)		
					1st offense	2nd offense	3rd offense
		In a Restricted Use report, failure to state the identity of the client by name or type. Failure to state a prominent use restriction that limits use of the report to the client and warns that the appraiser's opinions and conclusions set forth in the report may not be understood properly without additional information in the appraiser's work file.	SR 2-2(c)(i)				
		Example # 1		An appraiser was requested by a Judge to complete an assignment of market value for property settlement purposes with instructions that the Judge would be the client and there would be two additional intended users. Upon completion of the assignment a written report was submitted that was labeled "Restricted Use Report." The report did not include a prominent use restriction.	Level III	Level IV	Level V
		In a Restricted Use report, failure to state the intended use of the report.	SR 2-2(c)(ii)				
		In a Restricted Use report, failure to state information sufficient to identify the real estate involved in the appraisal.	SR 2-2(c)(iii)				
		In a Restricted Use report, failure to state the real property interest appraised.	SR 2-2(c)(iv)				
		In a Restricted Use report, failure to state the type of value and the source of its definition.	SR 2-2(c)(v)				
		In a Restricted Use report, failure to state the effective date of the appraisal and the date of the report.	SR 2-2(c)(vi)				
		In a Restricted Use report, failure to state the scope of work used to develop the appraisal.	SR 2-2(c)(vii)				
		In a Restricted Use report, failure to state the appraisal methods and techniques employed, state the value opinion(s) and conclusion(s) reached, and reference the work file. Failure to explain the exclusion of an approach to value.	SR 2-2(c)(viii)				
		Example # 1		A restricted use report on a new residential dwelling was delivered to a client. The cost approach to value was not reported and there was no explanation for its exclusion.	Level I	Level II	Level III

**Wisconsin Real Estate Appraisers Board
Discretionary Disciplinary Action Matrix**

		Type of Violation(s)	2010-11 USPAP Citation(s)	Examples	SANCTION (also refer to the sanction matrix and aggravating and mitigating circumstances)		
					1st offense	2nd offense	3rd offense
		In a Restricted Use report, failure to state the use of the real estate existing as of the date of value and the use of the real estate reflected in the appraisal; and, when an opinion of highest and best use was developed by the appraiser, failure to describe the support and rationale for that opinion.	SR 2-2(c)(ix)				
		In a Restricted Use report, failure to clearly and conspicuously: • state all extraordinary assumptions and hypothetical conditions; and • state that their use might have affected the assignment results.	SR 2-2(c)(x)				
		Example # 1		Although the restricted use report included an extraordinary assumption that a building could be placed upon the site and a hypothetical condition that zoning approval must be obtained to do so, there was no statement that the assumption and the condition might have affected the assignment results developed.	Level II	Level III	Level IV
		In a Restricted Use report, failure to include a signed certification in accordance with Standards Rule 2-3.	SR 2-2(c)(xi)				
		Failure to include in each written appraisal report a signed certification with content similar to the one in SR 2-3.	SR 2-3				
		Example # 1		A certified appraiser failed to include in the certification a statement regarding significant real property assistance. A Trainee did provide significant real property assistance on the report.	Level II	Level III	Level IV
		In an oral appraisal report, failure to address to the extent possible and appropriate, the substantive matters set forth in SR2-2(b).	SR 2-4				
		Example # 1		An appraiser reported an opinion of value verbally to his client with no other documentation. The state appraiser regulatory agency investigator was informed by the appraiser that the assignment was considered ongoing and not complete; therefore, there was no requirement to create workfile documentation until the client acknowledged completion.	Level III	Level IV	Level V

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APPRAISAL MANAGEMENT COMPANY DRAFT LEGISLATION

It is the intent of the legislature to provide for the regulation of those persons or entities engaged as appraisal management companies for the protection of the public and for the maintenance of high standards of professional conduct by those registered as appraisal management companies and to ensure appraisal independence in the determination of real estate valuations.

15.405 Same; attached boards and examining boards.

(10r) REAL ESTATE APPRAISERS BOARD. (a) There is created a real estate appraisers board in the department of regulation and licensing consisting of the following members appointed for 4-year terms:

1. ~~Three~~ Three appraisers who are certified or licensed under ch. 458.
2. One assessor, as defined in s. 458.09 (1).
3. ~~Three~~ Two public members.
4. One representative of an appraisal management company.

(b) Of the appraiser members of the board, one shall be certified under s. 458.06 as a general appraiser, ~~one~~ one shall be certified under s. 458.06 as a residential appraiser and ~~one~~ one shall be licensed under s. 458.08 as an appraiser. No public member of the board may be connected with or have any financial interest in an appraisal business or in any other real estate-related business. Section 15.08 (1m) (am) applies to the public members of the board. No member of the board may serve more than 2 consecutive terms.

(c) Notwithstanding s. 15.07 (4), a majority of the board constitutes a quorum to do business only if at least 22 of the members present are appraiser members and at least one of the members present is a public member.

440.03 General duties and powers of the department.

(13)(b) The department may investigate whether an applicant for or holder of any of the following credentials has been charged with or convicted of a crime only pursuant to rules promulgated by the department under this paragraph, except as provided in par. (c):

1. Accountant, certified public.
2. Acupuncturist.
3. Advanced practice nurse prescriber.
4. Aesthetician.
5. Aesthetics instructor.
- 5m. Substance abuse counselor, clinical supervisor, or prevention specialist.
6. Appraiser, real estate, certified general.
7. Appraiser, real estate, certified residential.
8. Appraiser, real estate, licensed.
- 8m. Appraisal management company.
9. Architect.
10. Athletic trainer.

440.08 Credential renewal.

(2) RENEWAL DATES, FEES AND APPLICATIONS. (a) Except as provided in par. (b) and in ss. 440.51, 442.04, 444.03, 444.11, 447.04 (2) (c) 2., 448.065, 449.17 (1m) (d), and 449.18 (2) (d), the renewal dates for credentials are as follows: ...

- 11. Appraiser, real estate, certified general: December 15 of each odd-numbered year.
- 11m. Appraiser, real estate, certified residential: December 15 of each odd-numbered year.
- 12. Appraiser, real estate, licensed: December 15 of each odd-numbered year.
- 12m. Appraisal management company: December 15 of each odd-numbered year.
- 13. Architect: August 1 of each even-numbered year.
- 14. Architectural or engineering firm, partnership or corporation: February 1 of each even-numbered year.

Chapter 458

SUBCHAPTER I REAL ESTATE APPRAISERS

JUST FOR REFERENCE – NO CHANGES HERE

458.01 Definitions. In this chapter:

- (1) “Appraisal” means an analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in or aspects of real estate.
- (2) “Appraisal foundation” has the meaning given in 12 USC 3350(9).
- (3) “Appraisal report” means a written communication of an appraisal.
- (4) “Appraiser” means a general appraiser or residential appraiser.
- (5) “Board” means the real estate appraisers board.
- (7) “Certified appraiser” means an appraiser who is certified as a general appraiser or as a residential appraiser under s. 458.06.
- (8) “Certified general appraiser” means an individual who is certified as a general appraiser under s. 458.06.
- (9) “Certified residential appraiser” means an individual who is certified as a residential appraiser under s. 458.06.
- (9m) “Commercial real estate” means real estate other than residential real estate.
- (10) “Federally related transaction” has the meaning given in 12 USC 3350(4).
- (11) “General appraiser” means an individual who conducts appraisals of commercial real estate, or of both commercial real estate and residential real estate, without regard to transaction value.
- (11m) “Licensed appraiser” means an individual who is licensed as an appraiser under s. 458.08.
- (12) “Real estate” means an identified parcel or tract of land and any improvements to the land.
- (13) “Residential appraiser” means an individual who conducts appraisals of residential real estate or of commercial real estate having a transaction value of not more than \$250,000.
- (14) “Residential real estate” means real estate that, in the opinion of the appraiser who conducts an appraisal of the real estate, has the highest and best use as a residence of not more than 4 dwelling units.

History: 1989 a. 340; 1991 a. 39, 78; 1997 a. 35.

JUST FOR REFERENCE – NO CHANGES HERE

NEW

Chapter 458

SUBCHAPTER II
APPRAISAL MANAGEMENT COMPANIES

[Note: intent is to build from the definitions in 458.01 and add additional definitions with regard to AMCs]

458.41 Definitions. In this subchapter, the following definitions shall apply in addition to the definitions in s. 458.01(1)-(3), (5)-(14):

- (1) “Appraisal management company” means, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated in a securitization, any external third party authorized either by a creditor of a consumer credit transaction secured by a consumer’s principal dwelling, or by an underwriter of or other principal in the secondary mortgage markets, that directly or indirectly performs appraisal management services.
- (2) “Appraisal management services” means to directly or indirectly perform any of the following functions on behalf of a lender, financial institution, client, or any other person in conjunction with a consumer credit transaction that is secured by a consumer’s primary dwelling:
 - (a) Administer an appraiser panel;
 - (b) Recruit, retain, or select appraisers;
 - (c) Qualify, verify licensing or certification, and negotiate fees and service level expectations with persons who are part of an appraiser panel;
 - (d) Contract with appraisers to perform appraisal assignments;
 - (e) Receive an order for an appraisal from one person, and deliver the order for the appraisal to an appraiser that is part of an appraiser panel for completion;
 - (f) Manage the process of having an appraisal performed, including providing administrative duties, such as receiving appraisal orders and reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from creditors and underwriters for services provided, and reimbursing appraisers for services performed;
 - (g) Track and determine the status of orders for appraisals;
 - (h) Conduct quality control of a completed appraisal prior to the delivery of the appraisal to the person that ordered the appraisal; or
 - (i) Provide a completed appraisal performed by an appraiser to one or more clients.
- (3) “Appraiser” means a person who holds a license or certification to complete an appraisal in the state where the real property that is the subject of the appraisal is located. [458.01 defines appraiser as a certified general or certified residential appraiser, not encompassing licensed appraisers (apparent historical accident), would it create problems to have two definitions?, would it cause problems to change 458.01?]
- (4) “Appraisal panel” means a pool of licensed or certified appraisers who perform appraisals as independent contractors for an appraisal management company.
- (5) “Appraisal review” means the act or process of developing and communicating an opinion about the quality of another appraiser’s work that was performed as part of an appraisal

assignment. "Appraisal review" does not include an examination of an appraisal for grammatical, typographical, or other similar errors that do not make a substantive valuation change.

(6) "Appraisal subcommittee" has the meaning given in 12 USC 3350(2).

(7) "Competent appraiser" means an appraiser that satisfies each provision of the Competency Rule of the Uniform Standards of Professional Appraisal Practice for a specific appraisal assignment that the appraiser has received, or may receive, from an appraisal management company.

(8) "Controlling person" means:

(a) An owner, officer or director of an appraisal management company; or

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

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

(8) "Federal financial institution regulatory agency" has the meaning given in 12 USC 3350(5).

(9) "Person" means an individual, firm, partnership, association, corporation, limited liability company, or any other entity.

(10) "Uniform Standards of Professional Appraisal Practice" means the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation and as amended from time to time.

458.43 General duties and powers of department and board. (1) In addition to the other duties and powers of the department under this chapter, the department shall do all of the following:

(a) Register and supervise appraisal management companies.

(b) Submit to the board a copy of any legislation proposed by the department relating to appraisal management companies, prior to introduction in the legislature.

(c) Collect from each appraisal management company registered under this subchapter or operating as a subsidiary of a federally regulated financial institution the annual registry fee determined by the appraisal subcommittee to be a national registry fee for each appraiser on the appraiser panel of an appraisal management company pursuant to Section 1109(a)(4) of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

(d) Transmit the fees collected under sub. (c) to the appraisal subcommittee, or its successor agency, as required by federal law.

(e) Promulgate rules, as the department finds necessary, establishing professional conduct and ethical standards for appraisal management company practice not inconsistent with the provisions of this subchapter.

(f) Promulgate rules which may be reasonably necessary to implement, administer, and enforce the provisions of this subchapter.

(2) In addition to the other duties and powers of the board under this chapter, the board shall do all of the following:

(a) Advise the secretary on matters relating to appraisal management companies.

(b) At least once each year, submit information about appraisal management companies to the national registry.

458.45 Advisory committee. If the secretary creates an advisory committee on appraisal management companies under s. 15.04(1)(c), the advisory committee shall have three members including a representative of an appraisal management company, a public member and an appraiser member of the board who shall serve as chairperson, and shall report to the board and the secretary.

458.47 Registration required. (1) No person may engage in the following within this state without a registration issued by the department under this subchapter:

- (a) To directly or indirectly engage or attempt to engage in business as an appraisal management company,
- (b) To directly or indirectly engage or attempt to perform appraisal management services, or
- (c) To advertise or hold itself out as engaging in or conducting business as an appraisal management company.

(2) All applications for registration under this section shall be submitted to the department on a form prescribed and provided by the department, and shall be accompanied by the fee specified in s. 440.05(1). The application for registration required by sub. (1) shall, at a minimum, include the following:

- (a) The name of the person seeking registration;
- (b) The business address of the person seeking registration;
- (c) Telephone contact information of the person seeking registration;
- (d) If the person seeking registration is an entity other than a corporation domiciled in this state, the name and contact information for the company's agent for service of process in this state;
- (e) The name, address, and contact information for any person that owns 10% or more of the person seeking registration;
- (f) The name, address, and contact information for one controlling person;
- (g) A certification that the person seeking registration has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a license or certification in good standing;
- (h) A certification that the person seeking registration requires appraisers completing appraisals at its request to comply with the Uniform Standards of Professional Appraisal Practice, including the requirements for geographic and product competence;
- (j) A certification that the person seeking registration has a system in place to require that appraisals are conducted independently and free from inappropriate influence and coercion as required by the appraisal independence standards under Subchapter D and Section 129E of the Truth in Lending Act (15 USC 1601 et seq.) including the requirements for payment of a reasonable and customary fee to appraisers when the appraisal management company is providing services for a consumer credit transaction secured by the principal dwelling of a consumer;
- (k) A certification that the employees of the appraisal management company directly involved in providing appraisal management services, will be appropriately trained and familiar with the appraisal process to competently provide appraisal management services;

- (l) A certification that the person seeking registration maintains a detailed record of each service request that it receives and the appraiser who performs the residential real estate appraisal services for the appraisal management company;
- (m) An irrevocable consent for service of process if the person seeking registration is a nonresident entity, on a form provided by the department; and
- (n) Any other information that the department determines, by rule, is necessary to implement this subchapter.

(3) The department shall grant and issue an appraisal management company registration to any person which completes and submits the application and pays the fee described in sub. (2); and satisfies the requirements of this subchapter and any other requirements that the department determines, by rule, are necessary to ensure that the person is qualified to perform appraisal management services in compliance with the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010; Subchapter D and Section 129E of the Truth in Lending Act (15 USC 1601 et seq.) and all other applicable federal law standards for the performance of appraisal management services.

(4) If the registration process required in this section has not been established as of the effective date of this subchapter, an appraisal management company may, without being registered under this subchapter, continue to provide appraisal management services in accordance with this subchapter for 180 days after a registration process becomes available.

458.49 Expiration and renewal. Renewal applications shall be submitted to the department on a form provided by the department on or before the applicable renewal date specified under s. 440.08(2)(a) and shall include the applicable renewal fee determined by the department under s. 440.03(9)(a).

458.51 Exemptions. The provisions of this subchapter do not apply to:

- (1) A person that exclusively employs appraisers on an employer and employee basis for the performance of appraisals;
- (2) An appraisal management company that is a subsidiary owned and controlled by a financial institution and regulated by a federal financial institution regulatory agency.

458.53 Owner Eligibility Requirements. (1) Each person applying for a registration under this subchapter shall not be owned in whole or in part, directly or indirectly, by:

(a) A person who has had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation in any state may not own in whole or in part, directly or indirectly, ~~an appraisal management company registered or applying for registration under this subchapter~~ unless the person has subsequently had a license or certificate to act as an appraiser granted or reinstated.

(b) An entity that is more than 10 percent owned by a person who has had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation in any state ~~may not own more than 10 percent of an appraisal management company registered or applying for registration under this subchapter~~ unless the person has subsequently had a license or certificate to act as an appraiser granted or reinstated.

(2) A person owning more than 10 percent of an appraisal management company registered or applying for a registration under this subchapter must:

- (a) Be of good character, as determined by the department; and
 - (b) Submit to a background investigation, as determined by the department.
- (3) Each person applying for a registration under this subchapter shall certify to the department that:
- (a) It has reviewed each entity that owns more than 10 percent of the appraisal management company; and
 - (b) No entity reviewed under sub. (a) is more than 10 percent owned by a person who has had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation and who has not subsequently had a license or certificate to act as an appraiser granted or reinstated.
- (4) Each person applying for a registration under this subchapter shall satisfy any other requirements that the department determines, by rule, are necessary to ensure that the owners of appraisal management companies registered under this subchapter are reputable and competent persons capable of operating a lawful appraisal management company.

458.55 Designation of Primary Contact. (1) Each person applying for registration under this subchapter shall designate one controlling person that will be the main contact for all communication between the department and the appraisal management company.

- (2) The controlling person designated pursuant to sub. (a) shall:
- (a) Have never had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of a pending revocation in any state unless the person has subsequently had a license or certificate to act as an appraiser granted or reinstated;
 - (b) Be of good character, as determined by the department; and
 - (c) Submit to a background investigation, as determined by the department.

458.57 Employee Requirements. (1) Each person registered under this subchapter as an appraisal management company shall not knowingly:

- (a) Employ any person in a position in which the person has the responsibility to order appraisals or to review completed appraisals who has had a license or certificate to act as an appraiser refused, denied, cancelled, revoked, or surrendered in lieu of revocation in any state unless the license or certificate was subsequently granted or reinstated;
- (b) Enter into any independent contractor arrangement for the provision of real estate appraisal or appraisal management services with any person who has had a license or certificate to act as an appraiser refused, denied, cancelled, revoked, or surrendered in lieu of revocation in any state unless the license or certificate was subsequently granted or reinstated; and
- (c) Enter into any contract, agreement, or other business relationship for the provision of real estate appraisal or appraisal management services with any entity that employs, has entered into an independent contract arrangement, or has entered into any contract, agreement, or other business relationship with any person who has ever had a license or certificate to act as an appraiser in this state or in any other state, refused, denied, cancelled, revoked, or surrendered in lieu of revocation unless the license or certificate was subsequently granted or reinstated.

458.59 Appraiser Competency and Appraisal Review. (1) Prior to placing an assignment with an appraiser on the appraiser panel, an appraisal management company shall verify that the appraiser receiving the appraisal assignment is a competent appraiser for the performance of the appraisal being assigned.

(2) Any employee of, or independent contractor to, an appraisal management company, who performs an appraisal review shall be an appraiser licensed or certified in the state in which the property that is the subject of the appraisal is located and shall have at least the same certification as the appraiser who completed the report being reviewed.

(3) An appraisal management company registered in this state may not enter into any contracts or agreements with an appraiser for the performance of appraisals in conjunction with federally related transactions unless it verifies that the individual is licensed or certified in good standing to perform the appraisal under this chapter.

458.61 Recordkeeping. (1) Each person applying for registration under this subchapter shall certify to the department on an annual basis that it maintains a detailed record of:

(a) each service request that it receives and

(b) the appraiser who performs the appraisal for the appraisal management company.

(2) An appraisal management company shall retain the records required under sub. (1) of this section for a period of at least five years after an appraisal is completed, or two years after final disposition of a judicial proceeding related to the assignment, whichever is later.

458.63 Statement of Appraiser Fees. (1) In reporting to a client, lender, or other person, an appraisal management company shall separately state the fees:

(a) paid to the appraiser for the completion of an appraisal; and

(b) charged by the appraisal management company for appraisal management services.

(2) It shall be unlawful for an appraisal management company to knowingly:

(a) Fail to compensate an appraiser at a rate that is reasonable and customary for appraisals of comparable complexity being performed in the market area of the property being appraised without the services of an appraisal management company;

(b) Include any fees for appraisal management services that are performed by the appraisal management company for a lender, client, or other person in the amount that it charges a lender, client, or other person for the actual completion of an appraisal by an appraiser who is part of the appraiser panel of the appraisal management company;

(c) Fail to separate any and all fees charged to a client by the appraisal management company for the actual completion of an appraisal by an appraiser from the fees charged to a lender, client, or any other person by an appraisal management company for appraisal management services;

(d) Prohibit an appraiser from recording the fee that the appraiser was paid by the appraisal management company for the performance of the appraisal within the appraisal report that is submitted by the appraiser to the appraisal management company; or

(e) Fail to separately state the fees paid to an appraiser for appraisal services and the fees charged by the appraisal management company for services associated with the management of the appraisal process to the client, borrower and any other payer.

458.66 Appraiser Independence; Unlawful Acts.

(1) Each appraisal management company seeking registration under this subchapter shall ensure that appraisals are conducted independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established under Section 129E of the Truth in Lending Act (15 USC 1601 et seq.).

(2) Notwithstanding any other provision of this chapter, it shall be unlawful for any employee, controlling person, director, officer, manager, independent contractor, or agent of an appraisal management company [registered under this subchapter](#) to:

(a) Compensate, coerce, extort, collude, instruct, induce, bribe, or intimidate, or to attempt to compensate, coerce, extort, collude, instruct, induce, bribe, or intimidate a person, firm or other entity conducting or involved in an appraisal for the purpose of causing the appraised value assigned under the appraisal to the property to be based on any factor other than the independent judgment of the appraiser;

(b) Mischaracterize, or to suborn any mischaracterization of, the appraised value of a property in conjunction with a consumer credit transaction;

(c) Seek to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of a consumer credit transaction;

(d) Withhold or threaten to withhold timely payment for an appraisal report or for appraisal services rendered when the appraisal report or services are provided in accordance with the contract between the parties;

(e) Withhold or threaten to withhold future business for an, or to demote or terminate or threaten to demote or terminate an appraiser;

(f) Expressly or impliedly promise future business, promotions, or increased compensation for an appraiser;

(g) Require an appraiser to indemnify an appraisal management company or hold an appraisal management company harmless for any liability, damage, losses, or claims arising out of the services performed by the appraisal management company, and not the services performed by the appraiser.

(h) Condition the request for an appraisal or the payment of an appraisal fee or salary or bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate or opinion requested from an appraiser;

(i) Request that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal report, or provide estimated values or comparable sales at any time prior to the appraiser's completion of an appraisal;

(j) Provide to an appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for purchase transactions shall be provided in accordance with the Uniform Standards of Professional Appraisal Practice;

(k) Provide to an appraiser, or any entity or person related to the appraiser, stock or other financial or non-financial benefits;

(l) Allow the removal of an appraiser from an appraiser panel, without prior written notice to such appraiser;

(m) Obtain, use, or pay for a second or subsequent appraisal or order an automated valuation model in connection with a mortgage financing transaction unless there is a reasonable basis to believe that the initial appraisal was flawed or tainted and such basis is clearly and appropriately noted in the loan file, or unless such appraisal or automated valuation model is done pursuant to a bona fide pre- or post-funding appraisal review or quality control process; or

(n) Engage in any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality.

(3) Nothing in subsection (1) or subsection (2) of this section shall be construed as prohibiting the appraisal management company from asking an appraiser to undertake one or more of the following:

- (a) Consider additional, appropriate property information, including the consideration of additional comparable properties to make or support an appraisal;
- (b) Provide further detail, substantiation, or explanation for the appraiser's value conclusion; or
- (c) Correct errors in the appraisal report.

458.69 Unprofessional Conduct. An appraisal management company commits unprofessional conduct if the appraisal management company:

- (1) Requires an appraiser to modify any aspect of an appraisal report;
- (2) Requires an appraiser to prepare an appraisal report if the appraiser, in the appraiser's own professional judgment, believes the appraiser does not have the necessary expertise for the specific geographic area;
- (3) Requires an appraiser to prepare an appraisal report under a time frame that the appraiser, in the appraiser's own professional judgment, believes does not afford the appraiser the ability to meet all the relevant legal and professional obligations;
- (4) Prohibits or inhibits communication between the appraiser and: (a) the lender; (b) a real estate licensee; or (c) any other person from whom the appraiser, in the appraiser's own professional judgment, believes information would be relevant;
- (5) Requires the appraiser to do anything that does not comply with (a) the Uniform Standards of Professional Appraisal Practice; or (b) any assignment conditions and certifications required by the client;
- (6) Makes any portion of the appraiser's fee or the appraisal management company's fee contingent on a favorable outcome, including but not limited to (a) a loan closing; or (b) a specific dollar amount being achieved by the appraiser in the appraisal report; or
- (7) Requests, for the purpose of facilitating a mortgage loan transaction, (a) a broker price opinion; or (b) any other real property price or value estimation that does not qualify as an appraisal.

458.72 Prompt Fees Payments. Each appraisal management company operating in this state shall, except in cases of breach of contract or substandard performance of services, make payment to an appraiser for the completion of an appraisal or valuation assignment within **ninety sixty (690) days** of the date on which the appraiser transmits or otherwise provides the completed appraisal or valuation study to the appraisal management company or its assignee.

458.75 Alteration of appraisal reports. (1) An appraisal management company may not alter, modify, or otherwise change a completed appraisal report submitted by an appraiser by doing any of the following:

- (a) Permanently removing the appraiser's signature or seal.
 - (b) Adding information to, or removing information from, the appraisal report with an intent to change the valuation conclusion.
- (2) No registered appraisal management company may require an appraiser to provide the appraisal management company with the appraiser's digital signature or seal, but nothing in this subsection shall be deemed to prohibit an appraiser from voluntarily providing his or her digital signature to another person.

458.78 Registration number. (1) The department shall issue a unique registration number to each appraisal management company that is registered in this state and shall place the number upon each registration certificate prior to its issuance.

(2) The department shall publish annually a list of the appraisal management companies that have registered with the department pursuant to this subchapter and have been issued a registration number pursuant to sub. (1) of this section.

458.81 Advertising. An appraisal management company registered under this subchapter shall disclose the registration number provided to it by the department on all print and electronic advertising, including any electronic advertising or communication via the internet.

458.83 Prohibited conduct. No person may use the title “Wisconsin registered appraisal management company” or any similar title unless the person holds an applicable appraisal management company registration issued under s. 458.47(3).

458.84 Adjudication of Disputes between Appraisal Management Company and

Appraiser. (1) Except within the first ~~thirty ninety??(30 days)-(90??)~~ after an appraiser is first added to the appraiser panel of an appraisal management company, an appraisal management company may not remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real estate appraisal services to an appraiser, without:

- (a) Notifying the appraiser in writing of the reasons why the appraiser is being removed from the appraiser panel of the appraisal management company;
- (b) Identifying the illegal conduct, violation of the Uniform Standards of Professional Appraisal Practice, or a violation of state licensing or certification standards, that the appraisal management company has a reasonable basis to believe that the appraiser has engaged in; and
- (c) Providing an opportunity for the appraiser to respond to the notification by the appraisal management company.

(2) An appraiser who is removed from the appraiser panel of an appraisal management company for alleged illegal conduct, violation of the Uniform Standards of Professional Appraisal Practice, or violation of state licensing or certification standards, may file a complaint with the department for a review of the decision of the appraisal management company, except that the department’s review in any such case is limited to determining whether the appraisal management company has complied with sub. (1) and whether the appraiser has committed a violation of state law, state licensing or certification standards, or a violation of the Uniform Standards of Professional Appraisal Practice.

(3) If an appraiser files a complaint against an appraisal management company pursuant to sub. (2) of this section, the department shall adjudicate the complaint within 180-days.

(4) If after opportunity for hearing and review, the department determines that an appraisal management company acted improperly in removing an appraiser from the appraiser panel, or that an appraiser did not commit a violation of law, a violation of the Uniform Standards of Professional Appraisal Practice, or a violation of state licensing or certification standards, the department shall order that the appraiser be restored to the appraiser panel of the appraisal management company that was the subject of the complaint.

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(5) Following the adjudication of a complaint to the department by an appraiser against an appraisal management company, an appraisal management company may not refuse to make assignments for real estate appraisal services to an appraiser, or reduce the number of assignments, or otherwise penalize the appraiser, if the department has found that the appraisal management company acted improperly in removing the appraiser from the appraiser panel.

458.87 Disciplinary proceedings and actions. (1) The department shall, upon motion of the board or upon its own determination, conduct investigations in regard to the action of any appraisal management company.

(2) The department shall present the findings of any investigation of an appraisal management company or an applicant for a registration under this subchapter to the board for its consideration. The department shall, upon motion of the board, and may, upon its own determination, commence disciplinary proceedings on any matter under investigation concerning an appraisal management company or applicant.

(3) Disciplinary proceedings shall be conducted by the board according to the rules promulgated under s. 440.03(1). The department may deny any registration under this chapter, and the board may conditionally or unconditionally limit, suspend or revoke any registration issued under this subchapter or reprimand the holder of a registration issued under this subchapter, if the department or board finds that the applicant for or holder of the registration has done any of the following:

(a) Made a material misstatement in an application for registration or renewal of registration under this subchapter, or in any other information furnished to the board or department.

(b) Engaged in unprofessional or unethical conduct in violation of rules promulgated under s. 458.43.

(c) Engaged in conduct while practicing as an appraiser which evidences a lack of knowledge or ability to apply professional principles or skills.

(d) Subject to ss. 111.321, 111.322 and 111.335, been arrested or convicted of an offense the circumstances of which substantially relate to the provision of appraisal management services.

(e) Advertised in a manner that is false, deceptive or misleading.

(f) Advertised, practiced or attempted to practice as an appraisal management company under another's name.

(g) Subject to ss. 111.321, 111.322 and 111.34, provided appraisal management services while the person's ability to practice was impaired by alcohol or other drugs.

(h) Provided an appraisal report where the value of real estate was based on the racial composition of the area in which the real estate is located.

(i) Violated this subchapter or any rule promulgated under this subchapter.

(4) In addition to or in lieu of a reprimand or denial, limitation, suspension or revocation of a registration under sub. (3), the board may assess against an appraisal management company or applicant for a registration under this subchapter a forfeiture of not less than \$100 nor more than \$10,000 for each violation enumerated under sub. (3).

(5) The department may seek judicial review under ch. 227 of any final decision of the board. The department shall be represented in such review proceedings by an attorney within the department. Upon request of the board, the attorney general may represent the board.

458.92 Penalties. Any person who violates this subchapter or any rule promulgated under this subchapter may be fined not more than \$10,000 or imprisoned for not more than 6 months or both.

1. Not later than *[date]*, the department shall adopt all rules, fees, and forms as added in this subchapter. [this will require a substantial ramp up time for the department]
2. The Real Estate Department at the Business School of the University of Wisconsin shall conduct a study of the reasonable and customary rates of compensation for appraisals performed by appraisers in various market areas in Wisconsin. Not later than *[date]*, the Real Estate Department at the Business School of the University of Wisconsin shall submit to the appropriate standing committees of the legislature a report containing the findings of the study conducted. If approved this shall be forwarded to the department and the board for use as a study or survey indicating reasonable and customary fees paid to appraisers in Wisconsin.

NOTE: Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et. seq.) was amended by Dodd-Frank to add § 129E regarding appraisal independence requirements. § 129E(i)(1) provides: "Lenders and their agents shall compensate fee appraisers at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised. Evidence for such fees may be established by objective third-party information, such as government agency fee schedules, academic studies, and independent private sector surveys. Fee studies shall exclude assignments ordered by known appraisal management companies."

See the interim rules implementing Section 129E of the Truth in Lending Act (TILA), which was enacted on July 21, 2010, as Section 1472 of the Dodd-Frank Wall Street Reform and Consumer Protection Act online at <http://edocket.access.gpo.gov/2010/pdf/2010-26671.pdf>.

AMC_draft2Mar2012

DATE: April 2, 2012
TO: Lydia Thompson, Legal Counsel and Real Estate Appraiser Board Members
FROM: Debbi Conrad, Senior Attorney and Director of Legal Affairs, Wisconsin REALTORS® Association
SUBJECT: Report Comparing and Contrasting Wisconsin REALTORS® Association Appraisal Management Company Legislation Proposal and Appraisal Institute's Appraisal Management Company Registration and Regulation Model Act (as of 10/12/2010)

The Wisconsin REALTORS® Association (WRA) has drafted proposed AMC legislation and would like to have the Board's comments and feedback. The Board Chair requested that the Board's Legal Counsel provide a report that compares and contrasts the Appraisal Management Company Registration and Regulation Model Act ("Model Act") and the WRA's proposed legislation. The Board Chair asked the WRA to update Legal Counsel's comparison memo because the WRA created its Appraisal Management Company Draft Legislation based upon the 10/12/2010 version of the Model Act rather than the 10/8/2009 version.

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The following uses the tracking function to modify the comments made by Legal Counsel in light of the differences between the two versions of the Model Act. The WRA legislative proposal has been slightly modified as shown in tracking in the accompanying draft labeled "AMC_draft2Mar2012." The modifications are in response to the Board's initial comments at the February 22, 2012 meeting and the comments/suggestions made by a few of the appraisers working on the WRA proposal.

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Background: Model Act:

According to the Appraisal Institute, as the number of appraisal AMCs continues to grow across the United States, the nation's largest professional organizations of real estate appraisers are releasing draft model legislation calling for the registration and regulation of AMCs. The model legislation is a joint effort of the Appraisal Institute (AI), the American Society of Appraisers (ASA), the American Society of Farm Managers and Rural Appraisers (ASFMRA), and the National Association of Independent Fee Appraisers (NAIFA). The language in the model is intended to give state appraiser boards the statutory authority that they need to develop and implement registration requirements for appraisal management companies operating in their states.¹

GENERAL OVERVIEW OF MODEL ACT AND WRA PROPOSED LEGISLATION
As currently drafted, the Model Act contains the following provisions:

¹ See http://www.appraisalinstitute.org/about/news/2008/11_03_08_ModelAMCLegislation.aspx.

- Requires the registration of AMCs operating in the state that order residential appraisals from independent appraisers. Provides exemptions for “in-house” appraisal departments, AMCs that order less than 10 appraisals in a state in a year, and for appraisers that subcontract to other appraisers on an incidental basis;
- Prohibits AMCs from being owned by individuals who have had an appraiser license or certification denied, refused, cancelled or revoked;
- Requires the identification of a “controlling person” for each AMC;
- Requires AMCs to have systems in place to verify that they only utilize licensed or certified appraisers, and that all appraisals are in compliance with USPAP;
- Enacts requirements that ensure that appraisers are free from coercion or inappropriate influence from AMCs; and
- Provides for the adjudication of disputes between AMCs and independent appraisers.

As currently drafted, the WRA’s proposed legislation contains the following provisions:²

- **Establishes “customary and reasonable” rates for appraisers** -- Dodd-Frank provides (as part of the appraiser independence standards) that AMCs must compensate appraisers at rates that are "customary and reasonable" in their geographic market area. This may be established by objective third-party information, such as government agency fee schedules, academic studies and independent private sector surveys. This legislation provides for the Real Estate Department at the UW Business School conduct a survey/study of reasonable and customary appraiser fees that may be used by the Board, along with other surveys and data sources, as a tool to evaluate any complaints that AMCs are not paying "customary and reasonable" fees.
- **Requires disclosure of fee structure between AMCs and appraisers** -- AMCs must separately state the portion of a fee that is for the actual appraisal completed by the appraiser and the portion of the fee that is for appraisal management services.
- **Requires appraisers to meet minimum competency and performance standards** -- AMCs are prohibited from requiring an appraiser to perform an appraisal if the appraiser does not have necessary expertise for the geographical area or does not have a sufficient timeframe for completion, or if the appraisal can’t not be completed in conformance with USPAP and the client assignment criteria.
- **Prohibits AMCs from influencing appraisals** -- AMCs are prohibited from exerting inappropriate influence and coercion designed to influence the outcome of the appraisal and impair appraiser objectivity and impartiality by withholding payments or future assignments, promising extra business or compensation, requiring appraiser indemnification of AMC liability, or providing target values.
- **Adds 2 Appraisers AMC Representative to Wisconsin’s Appraiser’s Board** -- The proposal adds 2 appraisers to the existing 7 person Board that is already overburdened just keeping up with the Appraisal Subcommittee requirement that all appraiser discipline be processed within one year; and changes one of the three public members to an AMC representative.

SPECIFICS OF MODEL ACT AND WRA PROPOSED LEGISLATION

² Per Memorandum from the WRA dated September 26, 2011 sent to all legislators.

- In an attempt to be comprehensive, the WRA draft first addresses Wis. Stat. § 15.405(10r) which lays out the composition of the Real Estate Appraisers Board. The WRA draft has been modified to withdraw the suggestion to add additional members to the Board to aid the Board as it fulfills its responsibilities because the Board Chair indicated that this was not desirable. The draft does change one public member to an AMC representative as the sole remaining proposed change in this section.
- The WRA draft adds “Appraisal management companies” to the list in Wis. Stat. § 440.03(13)(b) of credential applicants and holders subject to Department investigation regarding criminal charges and convictions.
- The WRA draft adds Appraisal management companies to Wis. Stat. § 440.08(2)(a) to establish a credential renewal date for AMCs as December 15 of each odd-numbered year, the same as it is for appraiser credentials. [This certainly can be changed should there be a reason to have AMCs not renew at the same time as appraisers.]

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As currently drafted, the Model Act contains the following provisions:

- Contains a “**Title**” section [2010 Model Act (1)] naming the chapter as the “Appraisal Management Company Registration and Regulation Act.” The WRA’s proposed legislation does not contain this provision. Instead the proposal is structured to take the existing Wis. Stat Chapter 458 and build the AMC legislation into the existing chapter. What exists presently in chapter 458 becomes “Subchapter I Estate Appraisers” and a new Subchapter II is created for “Appraisal Management Companies.” This was done in hopes of avoiding unnecessary duplication and keeping together the material regarding the credential holders (appraisers and AMCs) to be regulated by the Board. The Legislative drafting attorneys may very well see it differently and create a new separate Wis. Stat. Chapter. The numbers given to the various provisions are arbitrary and intended to simply show one vision of what this might look like. Again the Legislature may cast the legislation with different statute numbers – that is not what is important.
- Contains a “**Definitions**” section [2010 Model Act (2)], which defines the following terms: Appraisal, Appraisal management company, Appraisal management services, Appraiser, ~~Appraiser fee schedule~~, Appraiser panel, Appraisal review, Board, ~~Compliant~~ Competent appraiser, Controlling person, and Person. (This is the order in which they appear.)
 - The WRA draft does not define the following terms which appear in the Model Act: Appraisal, ~~Appraiser fee schedule~~, Board, and ~~Person~~. (This is the order in which they appear.) (The WRA draft relies upon the existing definitions of Appraisal and Board as they appear in Wis. Stat. § 458.01(1) & (5).
 - Please note that “Compliant appraiser” appears as “*Competent* appraiser” in the WRA draft. (“Competent appraiser” is the terminology used in the 2010 Model Act.)
 - The WRA draft defines the following terms which do not appear in the Model Act: Appraisal subcommittee, Federal financial institution regulatory agency and Uniform Standards of Professional Appraisal Practice. (This is the order in which they appear.) (These are similar to the existing definitions in Wis. Stat. § 458.01 for Appraisal foundation and Federally related transaction. Appraisal subcommittee appears in the WRA Draft in § 458.43(1)(c)&(d) regarding national registry fees. Federal financial institution regulatory agency appears in the WRA Draft in § 458.51(2) relating to AMCs that are exempt from state registration.

Uniform Standards of Professional Appraisal Practice appears in the definition of Competent appraiser in § 458.41(7) of the WRA Draft; in § 458.47(2)(h) stating AMC's seeking registration must require USPAP compliance; in § 458.66(2)(j) allowing the offer to be provided to an appraiser; in § 458.69(5) prohibiting AMC's from requiring appraisers to behave in a manner that does not comply with USPAP; and several times in § 458.84 limiting AMC's from removing appraisers from the appraiser panel for reasons other than illegal conduct, USPAP violations, etc.

- The WRA draft defines the following terms: Appraisal management company, Appraisal management services, Appraiser, Appraisal panel, Appraisal review, Appraiser subcommittee, Competent appraiser, Controlling person, Federal financial institution regulatory agency, person, and Uniform Standards of Professional Appraisal Practice. (This is the order in which they appear.)
 - The WRA's definition of "Appraisal management company" is substantially different from from the same as the 2010 Model Act except the phrase "in connection with valuing properties collateralizing mortgage loans or mortgages incorporated in a securitization" has been moved.
 - The WRA's definition of "Appraisal management services" is substantially similar to to the same as the 2010 Model Act, but adds to the end of "any other person" contained in the Model Act's definition [under s. (2)(e)] "...in conjunction with a consumer credit transaction that is secured by a consumer's primary dwelling." See s. 458.41(2). The WRA's definition places the subsections contained in the Model Act in a different order.
 - The WRA's definition of "Appraiser" is the same as the Model Act.
 - The WRA's definition of "Appraisal panel" is substantially different from the Model Act.
 - The WRA's definition of "Appraisal review" is substantially similar to the Model Act. (broken into 2 sentences but uses same words)
 - The WRA's definition of "Competent appraiser" is substantially similar to to the same as the 2010 Model Act's definition of "Compliant Competent appraiser." The biggest difference is the title of the definition.
 - The WRA's definition of "Controlling person" is substantially similar to to the same as the 2010 Model Act, except that in the WRA definition it means "an owner, officer or director of an appraisal management company..." and in the Model Act, it means "an owner, officer or director of a corporation, partnership or other business entity seeking to offer appraisal management services in this state...".
- Contains a "**Registration required**" section [2010 Model Act (3)], which "directly and indirectly" prohibits an AMC from performing/attempting to perform or conducting or advertising for AMC services without being registered.
 - The WRA's draft is substantially similar to the Model Act, except the WRA's draft is specifically tailored towards the current Department requirements for the application and fees. The WRA draft provides further statutory citations and references to federal law. For example, the WRA draft includes more detail as to requirements to follow appraisal independence standards under "Subchapter D

- and Section 1129E of the Truth in Lending Act.” See s. 458.47(2)(j) (this is the same as what is in the 2010 Model Act). See s. 458.47(3) for additional references to federal law that is not in the Model Act.
- Contains an “**Exemptions**” section [2010 Model Act (4)], which notes which types of entities are exempted from the requirement from registration.
 - ~~The Model Act contains more details regarding the types of entities, persons, or AMCs to which this exemption applies.~~ The WRA draft is substantially different from the same as the 2010 Model Act.
 - For example, the 2009 Model Act exempts AMCs which order ten or fewer appraisals in the state within a calendar year or maintains an appraiser panel consisting of fifteen or fewer appraisers. The 2009 Model Act further exempts a “department or unit within a financial institution that is subject to direct regulation” by the U.S. government or this state. The 2009 Model Act refers to the employer accepting “all liability associated with the performance of the appraisal by the employee.” The WRA draft does not contain any this language.
 - Contains a “**Forms**” section [2010 Model Act (5)] noting that AMC applicants shall submit applications to the Board on a form prescribed by the Board.
 - The WRA draft does not contain a specific section for this, but incorporates this into the proposed language in s. 458.47(2).
 - Contains an “**Expiration of License**” section [2010 Model Act (6)].
 - Although the WRA draft deviates from the Model Act by not containing a provision with the Model Act’s specific language, the WRA draft contains two similar provisions regarding this: In s. 440.08(2)(12m) (Renewal dates, fees, and applications) and s. 458.49 (Expiration and renewal.) (WRA Draft presumes two-year credentials like other DSPS credentials, not the one year in the 2010 Model Act).
 - Contains a “**Consent to Service of Process**” section [2010 Model Act (7)] which requires each AMC to “complete an irrevocable Uniform Consent to Service of Process, as prescribed by the Board.”
 - The WRA draft does not contain a separate section for “Consent to Service of Process” like the Model Act, but it contains a similar provision in s. 458.47(2)(m) (Registration required). (see <http://drl.wi.gov/docview.asp?docid=318&locid=0>)
 - Contains a “**Registration Fees**” section [2010 Model Act (8)] ~~section which is required for each AMC seeking registration and the language further sets the amount of the fee whereby the Board establishes fees based upon what is required to administer AMC the provisions regulating AMCs, but no more than \$25,000. The 2010 Model act also says the Board shall collect the national registry fees for appraisers on the AMC appraiser panel.~~
 - The WRA draft does not contain a separate section for fees in a manner that is similar to the Model Act, but it does contain a provision under § 458.47(2) that says registration fees that would be determined under the DSPS Standard Fees provision (§ 440.05(1)). In s. 458.43(1)(c) which the WRA Drafts says the department will collect the national registry fees from AMCs for transmittal to the appraisal subcommittee (very similar to the 2010 Model Act). The WRA draft

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- does not set the fee, but cites to federal laws in referring to how [the national registry](#) fees may be determined [\(as does the 2010 Model Act\)](#).
- Contains an “**Owner Requirements**” section [\[2010 Model Act \(9\)\]](#) which details that AMCs shall not be more than 10% owned by an AMC or persons who have had a license denied, or revoked, or surrendered, or substantially similar to this (refused or cancelled). [\(note edits in accompanying draft\)](#)
 - The WRA draft is substantially similar with a few exceptions. The title is “Owner *Eligibility* Requirements,” and it inserts language that AMCs “shall not be owned in whole or in part, directly or indirectly” by the persons who have had a license denied, or revoked, or surrendered, or substantially similar to this (refused or cancelled). [\(same as 2010 Model Act\)](#). [The WRA Draft adds language that conditions the prohibition based on license denial, etc. by stating “unless the person has subsequently had a license or certificate to act as an appraiser granted or reinstated.”](#) The other minor difference is the WRA draft requirement that AMC owners are “reputable and competent persons capable of operating a lawful appraisal management company.” *See* specifically s. 458.53~~(1)~~ and (4).
 - Contains a “**Controlling Persons**” section [\[2010 Model Act \(10\)\]](#) which sets requirements for one controlling person as the main contact for all communication between the Board and the AMC.
 - The WRA draft does not contain a section with the same title as the Model Act, but it contains substantially similar provisions in s. 458.55, entitled “Designation of Primary Contact.” [The WRA Draft adds language that conditions the prohibition based on license denial, etc. by stating “unless the person has subsequently had a license or certificate to act as an appraiser granted or reinstated.”](#)
 - Contains an “**Employee Requirements**” section [\[2010 Model Act \(11\)\]](#), to which the WRA draft is substantially similar and contains the same title. [The WRA Draft adds language that conditions the prohibition based on license denial, etc. by stating “unless the person has subsequently had a license or certificate to act as an appraiser granted or reinstated.”](#)
 - Contains an “**Appraiser Engagement; Competency**” section [\[2010 Model Act \(11a\)\]](#), which requires AMCs to verify that the appraiser receiving the assignment is a ~~compliant~~ [competent](#) appraiser.
 - The WRA draft does not contain a section with the same title as the Model Act, but it contains ~~substantially similar~~ [the same](#) provisions in s. 458.59~~(1)~~, entitled “Appraiser Competency and Appraisal Review.”
 - Contains an “**Appraisal Review**” section [\[2010 Model Act \(11b\)\]](#), which requires employees/independent contractors of AMCs to be licensed or certified in the state where the subject property of the appraisal is located.
 - The WRA draft does not contain a section with the same title as the Model Act, but it contains substantially similar provisions in s. 458.59~~(2)~~, entitled “Appraiser Competency and Appraisal Review.”
 - The WRA draft contains additional language that the appraiser “shall have at least the same certification as the appraiser who completed the report being reviewed.” *See* s. 458.59~~(3)~~[\(2\)](#).

- Contains a “**Limitations**” section [\[2010 Model Act \(12\)\]](#), which prohibits AMCs from entering into contracts or agreements with an appraiser unless the AMC verifies the appraiser’s licensure in good standing.
 - The WRA draft does not contain a section with the same title as the Model Act, but it contains substantially similar provisions in s. 458.59(3), entitled “Appraiser Competency and Appraisal Review.”
 - The [2010 Model Act](#) does **not** refer to the “performance of appraisals in conjunction with federally related transactions,” **but and** the WRA draft contains this language.
- Contains a “**Pre-Engagement Certification**” section [\(not in 2010 Model Act\)](#), which requires each AMC to certify to the Board on an annual basis that it has a system in place to verify that an appraiser on the AMC’s appraiser panel holds a license in good standing.
 - The WRA draft does not contain a section with the same title as the Model Act, but it contains a tangentially related, but not substantially similar provision in s. 458.61(1)(b), entitled “Recordkeeping.” [In WRA Draft, in § 458.47\(2\)\(g\), applicants for registration must certify they have a system and process in place to verify persons added to appraisal panel holds credential in good standing.](#)
- Contains a “**Verification of Continuing Licensure or Certification**” section [\(not in 2010 Model Act\)](#) requiring each AMC to certify that it has a system in place to verify that an individual assigned appraisal work has not had a license “refused, denied, cancelled, revoked, or surrendered in lieu of a pending revocation since the last time that the appraisal management company made an assignment for an appraisal to the appraiser.”
 - The WRA draft does not contain a section with the same title as the Model Act, but it contains a tangentially related, but not completely similar provision in s. 458.47(2)(g), entitled “Registration required:” “(g) A certification that the person seeking registration has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a license or certification in good standing...” This WRA provision does not require the AMC to perform the verification since the last time work was assigned to the appraiser.
- Contains an “**Adherence to Standards**” section [\(not in 2010 Model Act\)](#) requiring each AMC to ensure that appraisals are being conducted in accordance with USPAP standards.
 - The WRA draft does not contain a section with the same title as the Model Act, but it contains a **tangentially**-related, but not completely similar provision in s. 458.47(2)(h), entitled “Registration required:” “(h) A certification that the person seeking registration requires appraisers completing appraisals at its request to comply with the Uniform Standards of Professional Appraisal Practice, including the requirements for geographic and product competence...”
- Contains an “**Annual Audit**” section [\(not in 2010 Model Act\)](#) which requires each AMC to annually audit the appraisals received to ensure that they are in accordance with USPAP standards. This section also provides detailed requirements of how the audit must be performed
 - The WRA draft does not contain this type of section or type of language.
- Contains a “**Recordkeeping**” section [\[2010 Model Act \(13\)\]](#) which requires each AMC to certify to the Board on an annual basis that it maintains a detailed record of each service request it receives and each appraiser that performs the appraisal.

- The WRA draft contains a section with the same title and with substantially similar provisions under s. 458.61, ~~with the exception of time limits for AMCS to retain the records. (same content as 2012 Model Act, just formatted/structured a little bit differently)~~
- Contains an “**Appraiser fees**” section [2010 Model Act (14)] which places requirements on how AMCs include fees for appraisal management services or to appraisers.
 - The WRA draft contains a section ~~with a similar title and some similar language to that is the same as~~ the 2010 Model Act, under s. 458.63(2), “Statement of Appraiser Fees,” ~~but the language substantially departs from the Model Act and includes fewer requirements.~~
- Contains an “**Appraiser Independence; prohibitions Unlawful Acts**” section [2010 Model Act (15)] which outlines unlawful/prohibited actions by each registered AMC.
 - The WRA draft contains a section with ~~a substantially similar the same~~ title and provisions to the 2010 Model Act under s. 458.66, (“Appraiser Independence; Unlawful Acts”). The WRA draft ~~contains greater detail on the unlawful acts is almost identical to the 2010 Model Act.~~
- Contains a “**Mandatory Reporting**” section [2010 Model Act (16)] which requires AMCs with a reasonable belief an appraiser is not complying with USPAP, violating law or engaging in unethical or unprofessional conduct to the Board.
 - The WRA draft does not contain this section for fear this will be abused by AMCs by filing petty or retaliatory complaints against appraisers.
- Contains an “**Unprofessional Conduct**” section [2010 Model Act (17)] which outlines unprofessional conduct by AMCs regarding factors such as geographical competency, assignment timeframes.
 - The WRA draft is the same as the 2010 Model Act.
- Contains a “**Guaranty of Payment**” section [2010 Model Act (18)] which requires each registered AMC to make payment to an appraiser for completed work within sixty days of providing the completed appraisal/valuation.
 - The WRA draft contains a section with ~~substantially the same~~ provisions ~~to as~~ the Model Act, but a different title under s. 458.72, (“Prompt Fees Payments”). The WRA draft contains a requirement of ~~ninety-sixty~~ days, ~~rather than sixty (this was changed).~~
- Contains an “**Alterations of appraisal reports**” section [2010 Model Act (19)] which prohibits AMCs from altering, modifying, or otherwise changing a completed appraisal report submitted by an appraiser.
 - The WRA draft contains a section with the same title as the Model Act under s. 458.75 and ~~incorporates is the same as the 2010 the Model Act’s language above, but includes additional language providing exact prohibitions each AMC must adhere to.~~
- Contains a “**Registration number**” section [2010 Model Act (20)] which requires the Department to issue a unique registration number to each registered AMC.
 - The WRA draft contains a section with the same title and with ~~substantially similar the same~~ provisions under s. 458.78. ~~(adds that number be on certificates)~~
- Contains an “**Advertising**” section [2010 Model Act (21)] which provides requirements for advertising.

The WRA draft contains a section with the same title and ~~with substantially similar~~ provisions under s. 458.81.

- Contains an “**Adjudication of Disputes between an Appraisal Management Company and an Appraiser**” section [\[2010 Model Act \(22\)\]](#) which provides a process for handling such disputes.
 - The WRA draft contains a section with nearly an identical title and with nearly identical provisions under s. 458.84. [\(note we are wondering if time frame should be longer\)](#)
- Contains an “**Enforcement**” section [\[2010 Model Act \(23\)\]](#), which provides the Board with authority to seek disciplinary action for certain violations.
 - The WRA draft does not contain this section; however, the draft appears to meet the intent of the Model Act by placing enforcement type of language and authority for the Department and Board under s. 458.87, entitled “Disciplinary proceedings and actions.”
 - The WRA’s provision is substantially similar to the existing statute under s. 458.26, entitled “Disciplinary proceedings and actions,” which grants authority to the Department and Board to conduct investigations and pursue disciplinary action.
- Contains a “**Disciplinary hearings**” section [\[2010 Model Act \(24\)\]](#), which outlines the process/procedures for such hearings.
 - The WRA’s draft does not contain this section; however, the law already outlines the process/procedures for disciplinary hearings in Wis. Admin. Code ch. SPS 2 (formerly RL 2) and the appendix.
- Contains a “**Rulemaking authority**” section [\[2010 Model Act \(25\)\]](#), which provides the Board with authority to “adopt rules not inconsistent” with the Model Act and “reasonably necessary to implement, administer, and enforce the provisions [of the Model Act].”
 - The WRA’s draft does not contain this section; however, the draft contains substantially similar provision granting authority to the Department to promulgate rules using similar language as the Model Act above.
 - Please note that the existing statute under S. 458.03(4) entitled, “General duties and powers of department and board,” expressly states that the “board does not have rule-making authority.”

As currently drafted, the WRA’s proposed legislation contains the following provisions:

- Creates provisions related to AMCs by beginning with a new section, 458.41.
 - Please note, the existing statutes under ch. 458 end at 458.30, Penalties.
- Creates new definitions related to AMCs, but also creates a new definition of “Appraiser,” under s. 458.41(3) that is different from the existing definition of “Appraiser” under s. 458.01(4).
- Creates a new provision related to the “General duties and powers of department and board” under s. 458.43, which grants power to the Board and Department to “register and supervise” AMCs. *See* s. 458.43(1)(a).
 - Please note, the existing statutes under s. 458.03, has a “General duties and powers of department and board” provision which does not grant power to the department or board to regulate AMCs.

- Creates a new provision providing an option for the Department Secretary to create an “Advisory committee” for appraisal management companies under s. 458.45.
 - Please note, the existing statutes under s. 458 provides an option for the Department Secretary to create an “Advisory committee” under s. 458.04, which does not include AMCs.
- Creates a new requirement for registration of AMCs under s. 458.47, which the existing statutes under ch. 458 do not provide for AMCs.
- Creates a new provision regarding the expiration and renewal of AMC registrations under s. 458.49.
 - Please note that the existing statutes under s. 458.11 only provides for the expiration and renewal of appraiser licenses/certifications.
- Creates a new provision under s. 458.51 for exemptions to the AMC registration requirement (under s. 458.47).
- Creates a new provision under s. 458.53 for “Owner Eligibility Requirements,” which requires that “each person applying for a registration under this subchapter shall not be owned in whole or in part, directly or indirectly, by” a person with a revoked, denied, or surrendered license or an entity that is more than 10% owned by such a person. This provision also creates requirements for a person who owns more than 10% of an AMC.
- Creates a new provision under s. 458.55, “Designation of Primary Contact” for a designation of “one controlling person that will be the main contact for all communication” between the Department and the AMC.
- Creates a new provision under s. 458.57 for “Employee Requirements,” which prevents AMCs from “knowingly” employing persons who review/order appraisers who has had a license denied/revoked/surrendered or who enters into any independent contractor arrangement for appraisal/AMC services, or contracting with an entity that has done the above.
- Creates a new provision under s. 458.59, “Appraiser Competency and Appraisal Review,” requiring that an AMC verify the competency of an appraiser.
- Creates a new provision under s. 458.61, “Recordkeeping,” which requires each AMC registrant to certify to the Department, on an annual basis, that it maintains a detailed record of each service request it receives and each appraiser who performs and appraisal for the AMC. AMCs would be required to retain records for 5 years (after appraisal completed) or two years (after judicial proceeding relating to assignment) – whichever is later.
 - Please note, the existing statutes under s. 458.18, “maintenance of records,” has a similar recordkeeping requirement for “certified or licensed” appraisers, except that these appraisers are only required to make the records available for copying and inspection to the Department or the Board, rather than certifying to the Department on an annual basis.
 - Please note, the existing rules under s. SPS 86.01(5) contains a provision regarding “certified and licensed appraisers” similar to the WRA’s proposed provision under s. 458.61.
- Creates a new provision under s. 458.66 for “Appraiser Independence; Unlawful Acts,” for which AMCs are required to “ensure that appraisals are conducted independently and free from inappropriate influence and coercion.”

- Creates a new provision under s. 458.69, “Unprofessional Conduct,” which details areas of unprofessional conduct committed by AMCs.
 - Please note, the existing statutes under ch. 458, do not contain a provision detailing areas of unprofessional conduct committed by appraisers. Instead, “Rules of Professional Conduct” related to appraisers are located in s. SPS 86 (formerly RL 86).
- Creates a new provision under s. 458.72, “Prompt Fees Payment” requiring that AMCs make payment to an appraiser within 90 days (except in cases of breach of contract or substandard performance).
- Creates a new provision under s. 458.75, “Alteration of appraisal reports,” which prohibits AMCs from altering/changing/modifying “a completed appraisal report submitted by an appraiser.”
 - Please note, the existing statutes under ch. 458, do not contain such a provision applicable to appraisers.
- Creates a new provision under s. 458.78, “Registration number,” which requires the Department to provide unique registration number to each AMC and annually publish a list of all registered AMCs.
 - Please note, the existing statutes under ch. 458, do not contain the same provision for appraisers.
 - The closest is under s. 458.105, “Certificate number,” which has a similar requirement to the WRA’s proposed language under s. 458.78(1).
 - The other tangentially related provision is under s. 458.03(3)(b) which requires the Department to transmit “a roster listing the names and addresses of certified appraisers and licensed appraisers” to the Appraisal Subcommittee of the federal financial institutions examination council (or successor agency).
- Create a new provision under s. 458.81, “Advertising,” requiring AMCs to disclose the registration number on all print/electronic ads.
 - Please note, the existing statutes under ch. 458, do not contain a similar provision for appraisers.
 - Please note, the existing rule under s. SPS 86.02, does not contain the same provision for appraisers. It merely requires the appraiser to disclose his/her name “as it is on file” with the Department on all ads.
- Create a new provision under s. 458.84 for the “Adjudication of Disputes between Appraisal Management Company and Appraiser.”
 - Please note, the existing statutes under ch. 458, do not contain a similar provision for disputes between appraisers.
 - Please note that the WRA’s proposed draft contains a requirement under s. 458.84(3) that “the department shall adjudicate the complaint within 180-days.” There is also a provision under s. 458.84(4) for the Department order that an appraiser “be restored to the appraiser panel of the appraisal management company that was the subject of the complaint” if, after an opportunity for a hearing and review, the Department determined that an AMC improperly removed an appraiser from the appraiser panel or an appraiser did not violate applicable laws.
 - This new provision is substantially similar to the Model Act.

- Creates a new provision under s. 458.87, “Disciplinary proceedings and actions,” which pertains to AMCs and is substantially similar to the existing statutes concerning appraiser disciplinary proceedings under s. 458.26.
- Creates a new provision under s. 458.92, “Penalties,” which pertains to AMCs and contains language that is substantially similar to the existing statutes concerning appraiser penalties under s. 458.26 (with the exception of \$10K fine assessed against AMCs and \$1K fine assessed against appraisers).
- Includes drafting/applicability/implementation notes indicating: 1. The effective date by which the Department would need to have fees determined, forms created, any needed rules promulgated, etc. and 2. A directive that the UW Business School’s Real Estate Department conduct a study of reasonable and customary appraisal fees in Wisconsin.

COPY OF APPLICABLE PROVISIONS FROM TITLE XI OF FIRREA REAL ESTATE APPRAISAL REFORM [12 U.S.C. 3331-335] AS AMENDED BY THE DODD-FRANK REFORM ACT:

§ 1124. Appraisal Management Company Minimum Requirements.

(a) *In General.*—The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, the Federal Housing Finance Agency, and the Bureau of Consumer Financial Protection shall jointly, by rule, establish minimum requirements to be applied by a State in the registration of appraisal management companies. Such requirements shall include a requirement that such companies—

- (1) register with and be subject to supervision by a State appraiser certifying and licensing agency in each State in which such company operates;
- (2) verify that only licensed or certified appraisers are used for federally related transactions;
- (3) require that appraisals coordinated by an appraisal management company comply with the Uniform Standards of Professional Appraisal Practice; and
- (4) require that appraisals are conducted independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established under section 129E of the Truth in Lending Act.

(b) *Relation to State Law.*—Nothing in this section shall be construed to prevent States from establishing requirements in addition to any rules promulgated under subsection (a).

(c) *Federally Regulated Financial Institutions.*—The requirements of subsection (a) shall apply to an appraisal management company that is a subsidiary owned and controlled by a financial institution and regulated by a Federal financial institution regulatory agency. An appraisal management company that is a subsidiary owned and controlled by a financial institution regulated by a Federal financial institution regulatory agency shall not be required to register with a State.

(d) *Registration Limitations.*—An appraisal management company shall not be registered by a State or included on the national registry if such company, in whole or in part, directly or indirectly, is owned by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State. Additionally, each person that owns more than 10 percent of an appraisal management company shall be of good moral character, as determined by the State appraiser certifying and licensing agency, and shall submit to a background investigation carried out by the State appraiser certifying and licensing agency.

(e) *Reporting.*—The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, the Federal Housing Finance Agency, and the Bureau of Consumer Financial Protection shall jointly promulgate regulations for the reporting of the activities of appraisal management companies to the Appraisal Subcommittee in determining the payment of the annual registry fee.

(f) *Effective Date.*—

(1) *In General.*—No appraisal management company may perform services related to a federally related transaction in a State after the date that is 36 months after the date on which the regulations required to be prescribed under subsection (a) are prescribed in final form unless such company is registered with such State or subject to oversight by a Federal financial institutions regulatory agency.

(2) *Extension of Effective Date.*—Subject to the approval of the Council, the Appraisal Subcommittee may extend by an additional 12 months the requirements for the registration and supervision of appraisal management companies if it makes a written finding that a State has made substantial progress in establishing a State appraisal management company registration and supervision system that appears to conform with the provisions of this title.

See Title XI of FIRREA Real Estate Appraisal Reform [12 U.S.C. 3331-335] as amended by the Dodd-Frank Reform Act:

https://docs.google.com/viewer?a=v&q=cache:fx4VYP7VtPAJ:appraisalnewsonline.typepad.com/files/title-xi-as-amended-by-the-dodd-frank-reform-act.pdf+12+U.S.C.+3331-3351&hl=en&gl=us&pid=bl&srcid=ADGEESi7hFmAYxwi8TastS0IEzuF4PCNE4BggVCN187_zLvZqqEPHzkCnXvKg9BFVcjIT4Q0xiVwO9sj7sbMt8S-dH-U4MZHHP2icisIfLYuR1HVLKzxMv--s8Ef40eRCqgwgra_gET&sig=AHIEtbQSH1bhlA1cmBD8wffKDq-GcIMgOA&safe=active

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