



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

July 19, 2016

SENT VIA FIRST CLASS MAIL

Mr. James R. Park
Executive Director
Appraisal SubCommittee
Suite 760
1401 H. Street NW
Washington, D.C. 20005

SENT VIA EMAIL

webmaster@asc.gov

Federal eRulemaking Portal
www.regulations.gov

Re: Comment for Docket Number AS16-06 (Proposed Rulemaking for Collection and Transmission of Annual AMC Registry Fees)

Dear Mr. Park:

On behalf of the Pennsylvania State Board of Certified Real Estate Appraisers (Board), I am submitting a comment in response to the Appraisal Subcommittee's notice of proposed rulemaking for the collection and transmission of annual AMC registry fees.

1. *The ASC considered three options with respect to interpreting "working for or contracting with," and chose to utilize the third option.*

The Board supports the third option, which is contained in the Proposed Rule. This option is the least burdensome to appraisers and AMCs because the registry fee will only be applied to those appraisers that have performed work in the state. Additionally, of the three options, the third option will be the least burdensome to the Board, from an administrative standpoint, because it provides clear direction as to whether an appraiser worked with or contracted with an AMC by applying the registry fee to those appraisers that provided an appraisal service to an AMC.

The first option, which includes every appraiser on an AMC appraiser panel in a particular state, including appraisers who did not perform an appraisal in the state during the 12 month period, is overly burdensome and may encourage AMCs to limit the number of appraisers on its panel. Therefore, the Board does not support this option.

The Board does not support the second option because defining "working for or contracting with" to include those appraisers engaged by the AMC to perform an appraisal on a covered transaction will create confusion and will be difficult to administer because whether an appraiser is engaged on a particular assignment could be interpreted inconsistently. Additionally, applying a registry fee to an appraiser who has been engaged but did not perform work is overly burdensome.

2. *The ASC requested comment on all aspects of proposed collection and transmission of annual AMC registry fees.*

Annual collection of registry fees.

Unlike the national registry fee for certified real estate appraisers, the Proposed Rule requires states to collect the AMC registry fee on an annual basis. As is the case with most states, Pennsylvania renews its AMC registrations on a biennial basis. This is a Pennsylvania statutory requirement. Collecting AMC registry fees on an annual basis will be difficult to administer because the Board will have to collect and transmit registry fees outside of its renewal period. The Board will have to set up administratively, and from an IT standpoint, a system to collect the registry fees on an annual basis. This will add costs to the Board's operating expenses. The Board urges the ASC to consider allowing collection of registry fee on a biennial basis to lessen the burden on states.

Collecting fees outside of the normal renewal period also raises questions from an enforcement standpoint. Under the Pennsylvania Appraisal Management Company Registration Act (AMC Act), the Board has the authority to impose disciplinary action where an AMC's application for registration or renewal of registration contains false or misleading information. To the extent that ASC anticipates that states will engage in enforcement efforts for false information relating to registry fees, the Board may not have the authority to impose discipline if the registry fee is collected outside of an initial or renewal application.

Administrative burden on Pennsylvania

The Proposed Rule creates a significant administrative burden on the Board. Unlike the national registry fee for certified real estate appraisers, the AMC registry fee is not a flat fee, but rather, a fee that must be calculated by the AMCs, and presumably, verified to some extent by the Board. The Board will have to create an administrative process, which will include IT expenditures, to administer and transmit the registry fee.

The Board has concerns about collecting registry fees from AMCs that operate as a subsidiary of a federally regulated financial institutions, which are exempt from the AMC Act. Unlike collecting fees from AMCs that are registered with the Board, the Board does not have record or information about these federally regulated AMCs. Thus, determining the extent to which the Board will be burdened is difficult, if not impossible. However, the Board would have to set up

a system, both administratively and from an IT standpoint, to track and administer the registry fees for the exempt AMCs.

Only those AMCs that meet the federal definition of AMC are eligible to be on the AMC Registry. It is unclear to what extent the Board staff will have to verify or determine whether AMCs meet the federal definition of AMCs. In Pennsylvania, an AMC is defined as a person that provides appraisal management service and acts as a third-party intermediary between a person seeking a valuation of real estate located in Pennsylvania and an appraiser or firm of appraisers. Because the Board does not currently analyze the size of AMC panels for the purposes of registration, the Board will have to develop procedures and train staff on this determination.

3. *The ASC requested comment on federally regulated AMCs operating in a State that does not elect to register and supervise AMCs.*

Pennsylvania has elected to register and supervise AMCs; therefore, the Board neither supports nor opposes ASC collecting information and fees from federally regulated AMCs in states that have not elected to register and supervise AMCs. However, if ASC sets up a system to collect registry fees in those states, then the Board questions the efficiency and prudence of having states that have elected to register and supervise AMCs set up separate and individualized systems for collecting AMC fees. Presumably, ASC would set up an automated electronic/computerized system for collecting fees, which could be utilized for the collection of all AMC registry fees.

4. *The ASC requested comment on what costs (both direct and in terms of fees and indirect in terms of administrative costs) would be associated with collection and transmission of AMC registry fees?*

The Board would incur additional costs for the collection and transmission of AMC registry fees, including but not limited to: initial start-up costs to set up a system to collect registry fees on an annual basis and to document registry fees received for the exempt AMCs; IT costs; creation of appropriate forms and revision of applications; training for staff for the implementation of collection and transmission of fees; increased staff costs due to processing registry applications and fees; and increased legal fees to ensure compliance with federal law. The Board has not had sufficient time to quantify these costs; therefore, it cannot provide specific projected expenses.

5. *The ASC requested comment on what aspects of the Proposed Rule, if any, would be challenging for States to implement? To the extent such challenges would exist, what alternative approached do commenters suggest that would make implementation easier, while maintaining consistency with the statute?*


As discussed above, one of the most challenging aspects is the collection of fees on an annual basis. The Board strongly urges ASC to consider allowing states to collect the registry fees on a biennial basis and in conjunction with biennial renewal. Additionally, the Board urges ASC to consider implementing and coordinating with states to develop a centralized computerized

system for collecting registry fees. To have states set up separate and unique systems is not a prudent use of state and federal monies.

Section 1109 of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, 12 U.S.C. § 3338, provides that amounts collected by ASC shall be used for specified purposes. ASC should consider using money collected for a centralized internet based or computerized system for states to utilize that would collect the necessary information and allow for the submission of registry fees. Additionally, ASC has the authority to provide grants to State appraiser certifying and licensing agencies to support the efforts of state agencies, including but not limited to the submission of data on state licensed/certified appraiser and appraisal management companies to the registry. Given the burden placed on state agencies, such grants are necessary and appropriate. The Board urges the ASC to incorporate in the Proposed Rule, the provision of grants to states for the implementation of the registry. The Board asks the ASC to consider calculating grants based upon actual costs incurred by states or, in the alternative, based upon a percentage of monies received by ASC.

On behalf of the Board, I thank you for the opportunity to comment on the Proposed Rule. Please feel free to contact the Board if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Thomas Smith".

D. Thomas Smith, Chairman
Pennsylvania State Board of Certified
Real Estate Appraisers

cc: Lori Schuster, Management and Program Analyst



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