

**TITLE 73. PROFESSIONS AND VOCATIONS**  
**CHAPTER 34. REAL ESTATE APPRAISERS**  
**REAL ESTATE APPRAISER LICENSING AND CERTIFICATION**  
**ACT**

**§ 73-34-1. Short title:**

This chapter shall be known and may be cited as "The Real Estate Appraiser Licensing and Certification Act."

**§ 73-34-3. Definitions:**

As used in this chapter, the following terms and phrases shall have the following meanings unless the context clearly indicates otherwise:

**(a)** "Appraisal" means an analysis, opinion or conclusion prepared by a real estate appraiser relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate or identified real property performed in accordance with the Uniform Standards for Professional Appraisal Practice. An appraisal may be classified by the nature of the assignment into either a valuation assignment or an evaluation assignment. The term "valuation assignment" means an analysis, opinion or conclusion prepared by a real estate appraiser that estimates the value of an identified parcel of real estate or identified real property at a particular point in time. The term "evaluation assignment" means an analysis, opinion or conclusion prepared by a real estate appraiser that relates to the nature, quality or utility of identified real estate or identified real property.

**(b)** "Appraisal report" means any communication, written or oral, of an appraisal. For the purposes of this chapter, the testimony of an appraiser dealing with the appraiser's analyses, conclusions or opinions concerning identified real property is deemed to be an oral appraisal report.

**(c)** "Board" means the Mississippi Real Estate Appraiser Licensing and Certification Board that is established under the provisions of this chapter.

**(d)** "Certified appraisal report" means an appraisal report given or signed and certified as such by a state certified real estate appraiser. When a state certified real estate appraiser identifies an appraisal report as "certified," such state certified real estate appraiser must indicate which type of certification he holds. The certification of an appraisal report by a state certified real estate appraiser represents to the public that it meets the appraisal standards established under this chapter.

**(e)** "Commission" means the Mississippi Real Estate Commission as established under Section 73-35-5, Mississippi Code of 1972.

**(f)** "Licensed real estate appraiser" means a person who holds a current, valid appraisal license issued to him under the provisions of this chapter.

**(g)** "Real estate or real property" means an identified parcel or tract of land, with improvements, and includes easements, rights-of-way, undivided or future interest, or similar rights in a tract of land, but does not include mineral rights, timber rights, growing crops, water rights, or similar interests severable from the land when the transaction does not involve the associated parcel or tract of land.

**(h)** "Real estate appraisal activity" means the act or process of making an appraisal of real estate or real property and preparing an appraisal report.

**(i)** "Real estate appraiser" means a person who engages in real estate appraisal activity for a fee or other valuable consideration.

**(j)** "Real property" means one or more defined interests, benefits or rights inherent in the ownership of real estate.

**(k)** "State certified real estate appraiser" means a person who holds a current, valid license as a real estate appraiser issued to him under the provisions of this chapter for certified real estate appraisers.

**(l)** "Appraisal management company" or "AMC" means, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party that oversees a network or panel of more than fifteen (15) certified or licensed appraisers in this state or twenty-five (25) or more nationally within a given year, that is 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 to:

**(i)** Recruit, select, and retain appraisers;

**(ii)** Contract with licensed and certified appraisers to perform appraisal assignments;

**(iii)** Manage the process of having an appraisal performed, including providing administrative duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from creditors and underwriters for

services provided, and reimbursing appraisers for services performed;  
or

**(iv)** Review and verify the work of appraisers.

**(m)** "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, except that a quality control examination of an appraisal shall not be an appraisal review.

**(n)** "Appraiser" means an individual who holds a license or certification as an appraiser and is expected to perform valuation services competently and in a manner that is independent, impartial and objective.

**(o)** "Appraiser panel" means a network, list or roster of licensed or certified appraisers approved by an AMC to perform appraisals as independent contractors for the AMC.

**(p)** "Controlling person" means:

**(i)** An officer or director, or owner of greater than a ten percent (10%) interest, of a corporation, partnership or other business entity, seeking to act as an appraisal management company in this state;

**(ii)** 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 services requiring registration as an appraisal management company and has the authority to enter into agreements with appraisers for the performance of appraisals; or

**(iii)** 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.

**(q)** "Federal financial institutions regulatory agencies" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration.

**(r)** "Federally related transaction" means any real estate-related financial transaction which a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates, and which requires the services of an appraiser.

**(s)** "Person" means an individual, firm, partnership, limited partnership, limited liability company, association, corporation, or other group engaged in joint business activities, however organized.

**(t)** "Quality control examination" means an examination of an appraisal report for compliance and completeness including grammatical, typographical or other similar errors.

**(u)** "Real estate-related financial transaction" means any transaction involving:

**(i)** The sale, lease, purchase, auction, investment in or exchange of real property, including interests in property, or the financing thereof;

**(ii)** The refinancing of real property or interests in real property; and

**(iii)** The use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

**(v)** "Uniform Standards of Professional Appraisal Practice" means the current standards of the appraisal profession, developed for appraisers and users of appraisal services by the Appraisal Standards Board of the Appraisal Foundation.

**(w)** "USPAP" means the Uniform Standards of Professional Appraisal Practice.

**(x)** "Appraisal Foundation" means the Appraisal Foundation, as defined by 12 USC Section 3350, or its successor.

**(y)** "Appraisal Standards Board" means the Appraisal Standards Board of the Appraisal Foundation, or its successor.

**(z)** "Appraisal Subcommittee" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, or its successor.

**(aa)** "Appraiser Qualifications Board" means the Appraiser Qualifications Board of the Appraisal Foundation, or its successor.

**(bb)** "Supervisory appraiser" means a supervisory appraiser as defined by the Appraiser Qualifications Board.

**(cc)** "Trainee appraiser" means a trainee appraiser as defined by the Appraiser Qualifications Board.

**§ 73-34-5. Persons required to obtain real estate appraisal license; exceptions; "significant professional assistance" defined:**

(1) Except as otherwise provided for in this section, it shall be unlawful for anyone to engage in real estate appraisal activity in this state without first obtaining one (1) of the three (3) real estate appraiser licenses as provided in this chapter.

(a) Any person who is engaged in real estate appraisal activity on July 1, 1990, shall continue through June 30, 1991, to be subject to the provisions of the Real Estate Brokers License Law of 1954, but, thereafter, all real estate appraisal activity shall be governed by and licensed pursuant to the provisions of this chapter. However, if the United States Congress or the Appraisal Subcommittee of the Federal Financial Institutions Examination Council extends the effective date for the use of certified or licensed appraisers in federally related transactions, then the above date of June 30, 1991, shall be extended to the date immediately preceding such extended effective date. In addition, if such Appraisal Subcommittee waives any requirement relating to certification or licensing of persons to perform appraisals in Mississippi, then such waiver shall also be effective in Mississippi under the Real Estate Appraiser Licensing and Certification Act and such requirement shall be waived by the Real Estate Appraiser Licensing and Certification Board until the waiver is terminated by the Appraisal Subcommittee. The Mississippi Real Estate Appraiser Licensing and Certification Board shall waive or modify statutory minimum requirements for hours of courses of study and provide by regulation for applicants who desire to do so to challenge the examinations, or one or some of them, by taking an examination on such courses without actually taking such courses, if such waivers or modifications are allowed or allowable under law or regulations adopted and promulgated by the United States Congress or the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(b) The provisions of this chapter shall not apply to any director, officer or salaried employee of commercial banks, savings banks, credit unions, and savings and loan associations, when engaged in appraisal or evaluation activities for and on behalf of such financial institution unless there is a fee charged for the appraisal or evaluation; provided that a federal statute, rule or regulation does not require such appraisal or evaluation activities to be performed by a state licensed appraiser.

(c) This section shall not be construed to apply to individuals who do not render significant professional assistance in arriving at a real estate appraisal analysis, opinion or conclusion. Examples of the type of assistance

which are not considered "significant professional assistance" under this section include the following: (i) assistance in obtaining the data upon which the appraisal is based; (ii) assistance in the physical preparation of the appraisal report (such as taking photographs, preparing charts, maps or graphs, or typing or printing the report); and (iii) any other assistance that does not directly involve the exercise of judgment in arriving at the analysis, opinions or conclusions concerning real estate or real property set forth in the appraisal report.

(2) The provisions of this chapter shall not apply to:

(a) Any state, county, or municipal public officers or their salaried employees while performing their duties as such;

(b) The employees of private firms engaged pursuant to Section 27-35-165(2) (a) who perform work under the direction of the county tax assessor; or

(c) Private consultants hired pursuant to Section 27-35-165(2) (b) and all personnel employed or otherwise engaged by private consultants to appraise property who perform work under the direction of the county tax assessor.

(3) No license shall be issued under the provisions of this chapter to a corporation, partnership, firm or group.

(4) The provisions of this chapter shall not apply to individuals performing timber cruises, valuation on timberland real estate appraisals for non-federally related transactions.

(5) The provisions of this chapter shall not apply to real estate licensees who are on active status and who perform a broker price opinion pursuant to Section 73-35-4.

### **§ 73-34-7. Mississippi Real Estate Appraiser Licensing and Certification Board:**

(1) (a) There is hereby established, as an adjunct board to the Mississippi Real Estate Commission, a board to be known as the Mississippi Real Estate Appraiser Licensing and Certification Board, which shall consist of six (6) members. Five (5) members shall be appointed by the Governor, with the advice and consent of the Senate, one (1) from each congressional district as such district existed on January 1, 1989; the Administrator of the Mississippi Real Estate Commission shall be an ex officio, nonvoting member.

(b) The initial appointments made by the Governor shall be in compliance with guidelines issued by the Federal Financial Institutions Examination Council or its designee; and the appointees shall serve for terms ending on December 31, 1991. Not more than two (2) positions on the board shall be filled with appointees who hold membership in the same professional appraisal organization.

(c) From and after January 1, 1992, gubernatorial appointments shall be made pursuant to the procedure established in this paragraph (c). The five (5) members shall be appointed by the Governor, with the advice and consent of the Senate, one (1) from each congressional district as such district existed on July 1, 2004, and one (1) from the state at large. The provisions of this paragraph (c) shall not affect persons who are members of the Real Estate Appraiser Licensing and Certification Board as of January 1, 2004. Such member shall serve out their respective terms, upon the expiration of which the provisions of this paragraph (c) shall take effect. Nothing provided herein shall be construed as prohibiting the reappointment of any member of the said board.

(d) At least three (3) members shall be certified general real estate appraisers or at least two (2) members shall be certified general real estate appraisers and one (1) member may be a certified residential real estate appraiser. Not more than two (2) positions on the board shall be filled with appointees who hold membership in the same professional appraisal organization. Of the initial appointments made pursuant to this paragraph (d), two (2) shall serve for three (3) years, two (2) shall serve for two (2) years and one (1) shall serve for one (1) year. Thereafter, each member shall serve for a term of four (4) years. Upon the expiration of a member's term, such member shall continue to serve until the appointment and qualification of a successor. Commencing with appointments made in 1992, no person shall be appointed as a member of the board for more than two (2) consecutive terms. The Governor may remove an appointed member for cause.

(2) The board shall meet not less than twice a calendar year. Written notice shall be given to each member of the time and place of each meeting of the board at least ten (10) days prior to the scheduled date of the meeting.

(3) A quorum of the board shall be three (3) voting members; commencing January 1, 1992, at least one (1) present must be a licensed certified general real estate appraiser or a certified residential real estate appraiser. Appointed members of the board are entitled to mileage and actual expenses as authorized by Section 25-3-41 and per diem as provided by Section 25-3-69; ex officio members are entitled to mileage and actual expenses only.

(4) The board shall elect a chairman and such other officers as it deems necessary. Such officers shall serve as such for terms established by the board.

**§ 73-34-9. Powers and duties of commission and board; immunity of members of commission and board:**

(1) The commission shall have the following powers and duties:

(a) To receive applications for licensure as a real estate appraiser and applications for registration as an appraisal management company under this chapter; to establish appropriate administrative procedures for the processing of those applications; to issue licenses to qualified applicants under the provisions of this chapter; and to maintain a registry of the names and addresses of individuals who are currently licensed under this chapter.

(b) To administer licensing examinations in the places and at the times as may be required to carry out its responsibilities under this chapter.

(c) To implement recommendations made to the commission by the Real Estate Appraiser Licensing and Certification Board with respect to upgrading and improving the experience, education and examination requirements that are required for an appraiser license and each classification of licensed state certified real estate appraiser in this state.

(d) To implement recommendations made to the commission by the board with respect to upgrading and improving the continuing education requirements that are required for renewal of a license.

(e) To collect all licensing fees required or permitted by this chapter.

(f) To take appropriate action upon a decision and the related findings of fact made by the board if, after an administrative hearing, the board (i) determines that a licensed appraiser or a licensed state certified real estate appraiser under this chapter has violated the standards of appraisal practice or ethical rules established under Section 73-34-37, or has committed one or more of the acts that are prohibited by Section 73-34-35, and (ii) recommends that the license of the appraiser be suspended or revoked, that renewal be denied, or that some other disciplinary action be taken.

(g) To solicit bids and enter into contracts with one or more educational testing services or organizations approved by the board for the preparation of a bank of questions and answers for licensure examinations under this chapter.



(h) To promote research and conduct studies relating to the profession of real estate appraising and sponsor real estate appraisal educational activities.

(i) To adopt rules and regulations for the administration of this chapter that are not inconsistent with the provisions of this chapter or the Constitution and laws of Mississippi or of the United States.

(j) To employ an assistant to the Mississippi Real Estate Commission Administrator who shall keep a record of all proceedings, transactions, communications and official acts of the commission and board and perform any other duties as the commission and board may require.

(k) To employ an appropriate staff to investigate allegations that licensed appraisers or licensed state certified real estate appraisers under this chapter failed to comply with the terms or provisions of this chapter.

(l) To employ any other professional, clerical and technical assistance as may be necessary to properly administer the work of this chapter.

(2) The board shall have the following powers and duties:

(a) To be responsible for matters relating to real estate appraisal standards, real estate appraiser qualifications, testing standards, appraisal management companies and disciplinary functions.

(b) To hold meetings; to hold public hearings and administrative hearings; and to prepare examination specifications for licensed appraisers and licensed state certified appraisers.

(c) To enable the board to carry out its responsibilities under this chapter with respect to licensing and registering, the board shall have:

(i) The power to compel the attendance of witnesses;

(ii) The power to require a licensed appraiser or an applicant for licensure to produce books, appraisal documents, records and other papers;

(iii) The power to administer oaths; and

(iv) The power to take testimony and receive evidence concerning all matters within its jurisdiction.

These powers may be exercised directly by the board in such manner as

the board shall determine.

(d) To establish appropriate administrative procedures for disciplinary proceedings conducted under the provisions of this chapter.

(e) To keep a record of its proceedings and issue an annual report of its activities.

(f) To further define by regulation, and with respect to each of the categories of licensed appraiser, the type of educational experience, appraisal experience and equivalent experience that will meet the statutory requirements of this chapter and of the Appraiser Qualifications Board.

(g) To approve or disapprove applications for licensing or registration under this chapter.

(h) To suspend or revoke licenses or registrations under the disciplinary proceedings provided for in this chapter.

(i) To present an annual budget to the Mississippi Legislature for approval. A copy of the budget shall be given to the commission.

(j) To implement all requirements directed by the Appraiser Qualifications Board, Appraisal Subcommittee of the Federal Financial Institutions Examination Council or their designated agent.

(k) To make rules and regulations providing for an inactive license or registration status and for the reactivation thereof.

(l) To make rules and regulations necessary to implement its powers and duties under this chapter.

(m) To do all other things necessary to carry out the provisions of this chapter.

(n) To adopt rules consistent with the provisions of this chapter which may be reasonably necessary to implement, administer, and enforce the provisions of this chapter.

(o) To provide for at least one (1) member of the board to represent the appraisal management company industry.

(p) To establish the standard for measuring residential properties up to four (4) family buildings as promulgated by the American National Standards

Institute or as provided in the American Measurement Standard Manual. The board shall require appraisals required to use those standards to indicate on the appraisal or separately appended document which standard was used.

(q) To conduct surveys as necessary.

(3) The members of the commission and board shall be immune from any civil action or criminal prosecution for initiating or assisting in any lawful investigation of the actions of, or participating in any disciplinary proceeding concerning, an appraiser licensed under this chapter, provided that the action is taken without malicious intent and in the reasonable belief that the action was taken in accordance with the powers and duties vested in the members of the commission and board under this chapter.

**§ 73-34-11. License required to use title of certified real estate appraiser and to prepare and sign certified appraisal report:**

No person other than a licensed certified real estate appraiser under this chapter shall assume or use that title or any title, designation or abbreviation likely to create the impression of certification as a real estate appraiser by this state.

An individual who has qualified as a licensed certified real estate appraiser under this chapter is authorized to prepare and sign a certified appraisal report relating to real estate or real property in this state. An individual who has not qualified as a licensed certified real estate appraiser under this chapter shall not prepare or sign any appraisal or appraisal report relating to real estate or real property in this state using the term "State Certified Appraisal Report" unless the report is also signed by a licensed certified real estate appraiser.

**§ 73-34-13. Applications to be in writing accompanied by fee; pledge to comply with standards of professional appraisal practices; certification of understanding of conduct constituting misconduct:**

Applications for one (1) of the appraisal licenses, applications for renewal, applications to take an examination, and applications for registration as an appraisal management company shall be made in writing to the commission on approved forms.

The payment of the appropriate fee, as fixed under Section 73-34-45, must accompany all applications for licensure and renewal thereof, all applications to take an examination and all applications for registration as an appraisal management company. At the time of filing an application for

licensure under this chapter, for renewal, or for registration as an appraisal management company, each applicant shall sign a pledge to comply with the standards of professional appraisal practices that are established from time to time for licensed appraisers and for licensed certified real estate appraisers under this chapter. Each applicant shall also certify that he understands the types of misconduct, as set forth in this chapter, for which disciplinary proceedings may be initiated against a licensed appraiser or a licensed certified real estate appraiser.

Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64, Mississippi Code of 1972.

**§ 73-34-14. Background investigations required of applicants for real estate appraiser license or certification:**

(1) (a) To qualify for a Mississippi real estate appraiser license, an applicant must have successfully been cleared for licensure through an investigation that shall consist of a determination that the applicant does not possess a background which calls into question public trust, as set forth below in subsection (2), and verification that the prospective licensee is not guilty of or in violation of any statutory ground for denial of licensure as set forth in Section 73-34-35.

(b) To assist the board in conducting its licensure investigation, on and after January 1, 2015, all applicants for a real estate appraiser license as a licensed real estate appraiser (license), licensed certified residential real estate appraiser (certification), or a licensed certified general real estate appraiser (certification), and all applicants for renewal of any real estate appraiser license or certification shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the board, which shall be forwarded to the Mississippi Department of Public Safety (department) and the Federal Bureau of Investigation Identification Division for this purpose.

(c) Any and all state or national criminal history records information obtained by the board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the board, its members, officers, investigators, agents and attorneys in evaluating the applicant's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the board to determine

licensure, no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

(d) The board shall provide to the department the fingerprints of the applicant, any additional information that may be required by the department, and a form signed by the applicant consenting to the check of the criminal records and to the use of the fingerprints and other identifying information required by the state or national repositories.

(e) The board shall charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the board in requesting and obtaining state and national criminal history records information on the applicant.

(2) (a) The board must ensure that applicants for a real estate appraiser license or certification do not possess a background that could call into question public trust. An applicant found by the board to possess a background which calls into question the applicant's ability to maintain public trust shall not be issued a real estate appraiser license or certification.

(b) The board shall not issue a real estate appraiser license or certification if:

(i) The applicant has had an appraiser license or certification revoked in any governmental jurisdiction within the five (5) year period immediately preceding the date of the application;

(ii) The applicant has been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, or foreign court:

1. During the five-year period immediately preceding the date of the application for licensing or certification; or

2. At any time preceding the date of the application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering.

(iii) The applicant has failed to demonstrate character and general fitness such as to command the confidence of the community and to warrant a determination that the appraiser will operate honestly, fairly and efficiently within the purpose of these criteria.

(c) The board shall evaluate and consider, by rules and regulations, additional background issues, including, but not limited to, those required by the Appraiser Qualifications Board of the Appraisal Foundation in compliance with federal requirements, prior to issuing (or taking disciplinary action against) a real estate appraiser.

(d) The board shall adopt rules and regulations necessary to implement, administer and enforce the provisions of this section.

**§ 73-34-15. Activities authorized by real estate appraisal license:**

A person licensed as a real estate appraiser is authorized to appraise all types of real estate and real property in this state, including but not limited to, commercial, industrial, residential and special purpose, provided that such appraisal does not involve federally related transactions which would require a certified appraisal.

**§ 73-34-16. Qualifications to be trainee appraiser.**

To qualify as a trainee appraiser, an applicant must have successfully completed the number and type of qualifying education hours and other qualifications that meet or exceed the qualifications required by the Appraiser Qualifications Board.

**§ 73-34-17. Qualifications to be licensed real estate appraiser:**

To qualify to be a licensed real estate appraiser, an applicant must:

**(a)** Successfully complete the number and type of classroom hours or other educational qualifications that meet or exceed the qualifications required by the Appraiser Qualifications Board.

**(b)** Provide evidence satisfactory to the board that the applicant has completed the number of hours of experience in performing appraisals over the specified number of calendar years that meet or exceed the number of hours of experience over the specified number of calendar years as required by the Appraiser Qualifications Board.

**(c)** Pass any examination administered by the commission or its designated agent that is consistent with other requirements of this chapter and approved by the Appraiser Qualifications Board when such approval is required.

(d) Be trustworthy and competent to transact the business of real estate appraising.

(e) Comply with such other requirements as may be prescribed by the board.

The courses of study referred to in paragraph (a) above must (i) be conducted by an accredited university, college or junior college; (ii) be conducted by an approved appraisal society, institute or association; or (iii) be conducted by such other school as may be approved by the board; or (iv) consist of courses relating to appraisal education that were approved by the Mississippi Real Estate Commission prior to July 1, 1990.

**§ 73-34-19. Two classes of real estate appraiser license; applications to specify classification of licensing; applicants to comply with requirements of board:**

The following shall be the two (2) classes for licensed certified real estate appraisers:

(a) Licensed certified residential real estate appraiser. The licensed certified residential real estate appraiser classification shall consist of those persons who meet the requirements that relate to the appraisal of residential real property of one (1) to four (4) units without regard to transaction value or complexity. In addition, when nonfederally related transactions are involved, the licensed certified residential real estate appraiser shall enjoy the same privileges as set forth for the licensed real estate appraiser.

(b) Licensed certified general real estate appraiser. The licensed certified general real estate appraiser classification shall consist of those persons who meet the requirements relating to the appraisal of all types of real estate.

Each application for licensing as a licensed certified real estate appraiser, or for the renewal of a license, and each application to take an examination, shall specify the classification of licensing being applied for and, if applicable, the class of license previously granted. Each applicant shall be trustworthy and competent to transact the business of real estate appraising and comply with such other requirements as may be prescribed by the board.

**§ 73-34-21. Prerequisites to taking examinations for licensing as a licensed certified residential real estate appraiser or licensed certified general real estate appraiser.**

As a prerequisite to taking the examination for licensing as a licensed

certified residential real estate appraiser or licensed certified general real estate appraiser, an applicant shall present acceptable evidence that such applicant has successfully completed:

- (a) The number and type of classroom hours or other educational qualifications that meet or exceed the qualifications required by the Appraiser Qualifications Board; and
- (b) The number of hours of experience in performing appraisals over the specified number of calendar years that meet or exceed the number of hours of experience over the specified number of calendar years as required by the Appraiser Qualifications Board.

The board may adopt rules and regulations as may be necessary to implement the requirements established by the Appraiser Qualifications Board.

**§ 73-34-23. Knowledge required to be demonstrated through written examination prior to issuing license:**

An original license as a licensed certified real estate appraiser shall not be issued to any person who has not demonstrated through a written examination process that he possesses the following:

- (a) Appropriate knowledge of technical terms commonly used in or related to real estate appraising, appraisal report writing and economic concepts applicable to real estate;
- (b) An understanding of the basic principles of land economics and the basic problems likely to be encountered in gathering, interpreting and processing the data that is required in the real estate appraisal process;
- (c) An understanding of the standards for the development and communication of real estate appraisals as provided in this chapter;
- (d) Knowledge of theories of depreciation, cost estimating, methods of capitalization, and the mathematics of real estate appraisal that are appropriate for the classification of licensure applied for;
- (e) Knowledge of such other principles and procedures as may be appropriate for the classification of licensure applied for; and
- (f) An understanding of the types of misconduct for which disciplinary



proceedings may be initiated against a licensed certified real estate appraiser as set forth in this chapter.

**§ 73-34-25. Expiration of license:**

Except as provided in Section 33-1-39, a license issued under the authority of this chapter shall expire two (2) years from the last day of the month of issuance; however, a registration granted under the authority of this chapter shall expire one (1) year from the date of issuance.

**§ 73-34-27. Application for renewal of license; late filing:**

To obtain a renewal of any of the real estate appraisal licenses or a renewal of any registration issued under this chapter, the holder of a current, valid license or registration shall make application and pay the prescribed fee to the commission not earlier than one hundred twenty (120) days nor later than the expiration date, as defined in Section 73-34-25, of the license then held. Each application for renewal shall be accompanied by evidence, in the form prescribed by the board, of having completed the continuing education requirements for renewal specified in this chapter.

If a licensed appraiser or licensed certified real estate appraiser under this chapter fails to renew his license, or an appraisal management company fails to renew its registration before its expiration or within any period of extension granted under this chapter, that person or company may obtain a renewal of their license or registration by satisfying all of the requirements for renewal and filing an application for renewal, accompanied by a late renewal fee, within sixty (60) days of the date that the license or registration expired.

From and after January 1, 2015, all applicants for a real estate appraisal license renewal shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database pursuant to the provisions of Section 73-34-14.

**§ 73-34-29. Authority of board to deny issuance of license:**

The board may, upon compliance with the provisions of this chapter relating to administrative hearings, deny the issuance of a license or registration to an applicant on any of the grounds provided in this chapter.

**§ 73-34-31. Term "certified real estate appraiser" to refer only to individual licensed:**

The term "certified real estate appraiser" may only be used to refer to an individual who is a licensed certified real estate appraiser as provided by this chapter and may not be used following, or immediately in connection with, the name or signature of a firm, partnership, corporation or group, or in such manner that it might be interpreted as referring to a firm, partnership, corporation, group or to anyone other than the individual who is licensed as a licensed certified appraiser under this chapter. This requirement shall not be construed to prevent a licensed certified real estate appraiser from signing an appraisal report on behalf of a corporation, partnership, firm or group practice if it is clear that only the individual is licensed and that the corporation, partnership, firm or group practice is not.

**§ 73-34-33. Continuing education requirements for license renewal; requirements for inactive status license renewal; regulations generally:**

(1) As a prerequisite to renewal of license, an active status licensed appraiser shall present evidence satisfactory to the board that such appraiser has met the continuing education requirements of this section. The basic continuing education requirement for renewal of a license shall be completed by the applicant, during the immediately preceding term of licensure, of not less than twenty-one (21) class hours of instruction in courses or seminars which have received the approval of the board in addition to a seven (7) hour USPAP update course, for a total of twenty-eight (28) hours. Inactive status licensees are not required to meet the continuing education requirements specified in this section; however, such inactive licensees, before activating their license to active status, shall cumulatively meet the requirements missed during the period their license was inactive.

(2) In lieu of meeting the requirements set forth above, an applicant for renewal may satisfy all or part of the requirements by presenting evidence of the following:

(a) Completion of an educational program of study determined by the board to be equivalent, for continuing education purposes, to courses or seminars approved by the board; or

(b) Participation, other than as a student, in educational processes and programs approved by the board which relate to real property appraisal theory, practices or techniques, including, but not necessarily limited to,

teaching, program development and preparation of textbooks, monographs, articles and other instructional materials.

(3) The board shall develop regulations for the implementation of the provisions of this section to ensure that an individual who renews his or her license as a licensed appraiser or as a licensed certified real estate appraiser under this chapter has a working knowledge of current real estate appraisal theories, practices and techniques that will enable him to provide competent real estate appraisal services to the members of the public with whom he deals in a professional relationship under the authority of his licensure. The regulations developed by the board shall prescribe the following:

(a) Policies and procedures to be followed in obtaining board approval of courses of instruction and seminars;

(b) Standards, policies and procedures to be used by the board in evaluating an applicant's claims of equivalency; and

(c) Standards, monitoring methods, and systems for recording attendance to be employed by course and seminar sponsors as a prerequisite to board approval of courses and seminars for credit.

In developing and proposing regulations under this section, the board shall give consideration to courses of instruction, seminars and other appraisal education programs developed by or under the authority of organizations or associations of professional real estate appraisers which are utilized by such organizations or associations for the purpose of awarding real estate appraisal designations or indicating compliance with the continuing education requirements of such organizations or associations.

(4) No amendment or repeal of a regulation adopted by the board pursuant to this section shall operate to deprive a licensed appraiser or licensed certified real estate appraiser of credit toward renewal of such appraiser's license for any course of instruction or seminar that had been completed by such individual prior to the amendment or repeal of the regulation.

**§ 73-34-35. Grounds for denial, suspension or revocation of license or registration, or other disciplinary action:**

(1) An application for licensure or renewal may be denied, and the rights of any licensed appraiser or licensed certified real estate appraiser may be revoked or suspended, or the holder of the license may be otherwise disciplined, in accordance with the provisions of this chapter for any of the following acts or omissions:

(a) Failing to meet the minimum qualifications for licensure established under this chapter;

(b) Procuring or attempting to procure licensure under this chapter by knowingly making a false statement, submitting false information or making a material misrepresentation in an application filed with the commission or procuring or attempting to procure licensure through any form of fraud or misrepresentation;

(c) Paying money other than the fees provided for by this chapter to any member or employee of the commission or the board to procure licensure under this chapter;

(d) An act or omission in the practice of real estate appraising which constitutes dishonesty, fraud or misrepresentation with the intent to substantially benefit the licensee or another person or with the intent to substantially injure another person;

(e) Entry of a final civil or criminal judgment against a licensee on grounds of fraud, misrepresentation or deceit;

(f) Conviction, including a conviction based upon a plea or finding of guilty, of a crime which is substantially related to the qualifications, functions or duties of a person developing real estate appraisals and communicating real estate appraisals to others;

(g) Engaging in the business of real estate appraising under an assumed or fictitious name not properly registered in this state;

(h) Paying a finder's fee or a referral fee;

(i) Making a false or misleading statement in that portion of a written appraisal report that deals with professional qualifications or in any testimony concerning professional qualifications;

(j) Issuing an appraisal on any real property in which the appraiser has an interest through fee simple ownership, leasehold, rental agreement or auction agreement;

(k) Taking a listing for the sale of a property within ninety (90) days of appraising such property, except as may be otherwise agreed upon by all parties and disclosed in the listing agreement; or

(1) Any act or conduct, whether the same or of a different character than specified above, which constitutes or demonstrates bad faith, incompetency or untrustworthiness; or dishonest, fraudulent or improper dealing; or any other violation of the provisions of this chapter and of rules and regulations established by the board.

(2) In accordance with the laws of this state, and to the extent permitted by any applicable federal legislation or regulation, the board may censure an appraisal management company, conditionally or unconditionally suspend or revoke any registration issued under this chapter, or deny renewal of any registration issued under this chapter, or levy fines or impose civil penalties not to exceed Five Thousand Dollars (\$ 5,000.00), if after appropriate investigation the board concludes that an appraisal management company is attempting to perform, has performed, or has attempted to perform any of the following acts:

(a) Committed any act in violation of this chapter;

(b) Violated any rule or regulation adopted by the board in the interest of the public and consistent with the provisions of this chapter; or

(c) Procured a registration for itself or any other person by fraud, misrepresentation or deceit.

(3) In order to promote voluntary compliance, encourage appraisal management companies to correct errors promptly, and ensure a fair and consistent approach to enforcement, the board is authorized to impose fines or civil penalties that are reasonable in light of the nature, extent and severity of the violation. The board is also authorized to take action against an appraisal management company's registration, if at all, only after less severe sanctions have proven insufficient to ensure behavior consistent with this chapter. When deciding whether to impose a sanction permitted by subsection (2), determining the sanction that is most appropriate in a specific instance, or making any other discretionary decision regarding the enforcement of this chapter, the board shall consider whether an appraisal management company:

(a) Has an effective program reasonably designed to ensure compliance with this chapter;

(b) Has taken prompt and appropriate steps to correct and prevent the recurrence of any detected violations; and

(c) Has independently reported to the board any significant violations or

potential violations of this chapter, before an imminent threat of disclosure or investigation and within a reasonably prompt time after becoming aware of their occurrence.

(4) In addition to the reasons specified in subsection (1) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

**§ 73-34-37. Standards of professional appraisal practice and ethical rules:**

Each real estate appraiser licensed under this chapter must comply with generally accepted standards of professional appraisal practice and generally accepted ethical rules to be observed by a real estate appraiser. Generally accepted standards of professional appraisal practice are currently evidenced by the uniform standards of professional appraisal practice as directed by the Appraisal Subcommittee of the Federal Financial Institutions Examinations Council or its agent; however, after a public hearing held in accordance with the laws of this state applicable to public hearings, the board may make such modifications in excess of those standards as the board deems appropriate for this state.

**§ 73-34-39. Record keeping requirements for licensed appraisers; inspection of records:**

(1) A licensed real estate appraiser shall retain for a period of five (5) years the original or a true copy of: (a) each appraisal report prepared or signed by such real estate appraiser; and (b) all supporting data assembled and formulated by the appraiser in preparing each such appraisal report.

(2) The five-year period for retention of records is applicable to each engagement of the services of the appraiser and shall commence upon the date of the delivery of each appraisal report to the client unless, within such five-year period, the appraiser is notified that the appraisal or the appraisal report is involved in litigation, in which event a minimum of a two-year period for the retention of records shall commence upon the date of the final disposition of such litigation.

(3) Upon reasonable notice, a licensed real estate appraiser shall make all records required to be maintained under the provisions of this chapter available for inspection and copying by the board or its designated agent.

**§ 73-34-41. Investigations by commission; issuance of formal complaint; response to complaint; hearings:**

The commission may investigate at the direction of the board the actions of an individual licensed or entity registered under this chapter or an applicant for licensure, renewal or registration. Upon compliance with the procedural requirements set forth in this chapter, the board may revoke or suspend the license or otherwise discipline a licensed appraiser, licensed certified real estate appraiser or registered appraisal management company, or deny an application or registration, for any of the acts or omissions set forth in Section 73-34-35.

Upon receipt of information indicating that a licensed appraiser, licensed certified real estate appraiser or a registered appraisal management company may have committed a violation under Section 73-34-35, the board may, upon compliance with the procedural requirements set forth in this chapter, revoke or suspend the license or otherwise discipline the licensee or registrant, or deny an application or registration, for any of the acts or omissions set forth in Section 73-34-35.

Upon receipt of information indicating that a licensed appraiser, licensed certified real estate appraiser or registered appraisal management company may have committed a violation under Section 73-34-35, the commission, at the direction of the board, may cause one or more of the investigators on its staff to make an investigation of the facts to determine whether or not there is evidence of any such violation. If technical assistance is required, a staff investigator may consult with not more than two (2) of the voting members of the board. If a voting member of the board is consulted and renders assistance in an investigation, such member shall be excused from service on the board in connection with any administrative hearing that results from such investigation.

In any investigation made by the commission's investigative staff, the board shall have the power to compel the attendance of witnesses and the production of books, appraisal documents, records and other papers, the power to administer oaths, and the power to take testimony and receive evidence concerning all matters within its jurisdiction.

If an investigation indicates that a licensed appraiser, licensed certified

real estate appraiser or registered appraisal management company has committed a violation under Section 73-34-35, a formal complaint shall be prepared by the commission staff at the direction of the board and served upon such real estate appraiser or appraisal management company. This complaint shall require the accused party to file an answer to the complaint within twenty (20) days of the date of service.

In responding to a complaint filed by the staff of the commission, the accused party may admit the allegations of the complaint, deny the allegations of the complaint, or otherwise plead. Failure to make a timely response shall be deemed an admission of the allegations of the complaint.

Upon completion of the investigation of the complaint, the board shall set a date, time and place for an administrative hearing on the complaint.

**§ 73-34-43. Formal decision of board on complaint; appeals; standard of review of decision of board:**

If, at the conclusion of the hearing, the board determines that a licensed appraiser, licensed certified real estate appraiser or appraisal management company is guilty of a violation of any of the provisions of this chapter, it shall prepare a formal decision that shall contain findings of fact concerning the appropriate disciplinary action to be taken.

The decision and order of the board shall be final. Any applicant, licensee, registrant or person aggrieved by a decision or order of the board shall have the right of appeal from such adverse order or decision of the board to the circuit court of the county of residence of the applicant, licensee, registrant or person, or of the First Judicial District of Hinds County, within thirty (30) days from the service of notice of the action of the board upon the parties in interest. Notice of appeals shall be filed in the office of the clerk of the court who shall issue an order directed to the board commanding it, within ten (10) days after service thereof, to certify to the court its entire record in the matter in which the appeal has been taken. The appeal shall thereupon be heard in due course by the court, without a jury, which shall review the record and make its determination of the cause between the parties. To be effective, an application for review made by an aggrieved party must be filed within thirty (30) days after the party's receipt of the final decision and order of the board.

If an application is filed for review of a final decision and order of the board, the case shall be set for trial within sixty (60) days from the date of the filing of an answer for the board. If the court finds that the board has regularly pursued its authority and has not acted arbitrarily, it shall affirm



the decision and order of the board.

Actions taken by the board in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section.

**§ 73-34-45. Fees; Real Estate Appraisal License Fund:**

(1) The commission shall charge and collect appropriate fees for its services under this chapter. The fees charged shall not exceed the amounts indicated below and shall be set by the board.

Application and examination.....	\$ 225.00
Application only.....	\$ 175.00
Initial and renewal license.....	\$ 325.00
Delinquent renewal penalty.....	100% of renewal fee
For each change of address.....	\$ 25.00
For each duplicate license.....	\$ 25.00
To change status as a licensee between active/inactive.....	\$ 25.00
For each bad check received by the commission.....	\$ 25.00

(2) (a) The board shall establish the fee to be paid by each appraisal management company making application for registration under this chapter that is sufficient for the administration regulation and enforcement of the provisions of the Mississippi Appraisal Management Company Registration Act (Section 73-34-101 et seq.), but in no case shall the fee for initial registration be more than One Thousand Dollars (\$ 1,000.00). However, beginning July 1, 2015, the board may increase the registration fee to an amount not to exceed One Thousand Five Hundred Dollars (\$ 1,500.00) if the board finds the increase necessary for the regulation and enforcement of this chapter.

(b) The board may establish a similar fee, not to exceed One Thousand Dollars (\$ 1,000.00), for the renewal of any registration, and a delinquent

renewal penalty not to exceed one hundred percent (100%) of the renewal fee. However, beginning July 1, 2015, the board may increase the renewal fee to an amount not to exceed One Thousand Five Hundred Dollars (\$ 1,500.00) if the board finds the increase necessary for the regulation and enforcement of this chapter, and a delinquent renewal penalty not to exceed one hundred percent (100%) of the renewal fee.

(3) The board by rule shall establish and collect from each appraisal management company (AMC) registered under this chapter the national registry fee required by the Appraisal Subcommittee for each person who is on the appraisal panel of the company and licensed or certified as an appraiser in this state.

(a) Unless exempted under provisions of this chapter or federal law/regulation, the board shall collect from each appraisal management company operating in this state:

(i) The national registry fee required by the Appraisal Subcommittee;

(ii) Information necessary for the board to determine the national registry fee as required by the Appraisal Subcommittee;

(iii) A fee in an amount that is sufficient for the administration of this subsection as established by board rule; and

(iv) Any other information required by state or federal law.

(b) The board shall deposit the national registry fees collected under this section into an account maintained only for purposes of collecting and disbursing the national registry fees collected pursuant to this subsection.

(c) The national registry fees collected under this section shall be transmitted to the Appraisal Subcommittee regularly as required by the Appraisal Subcommittee and federal law.

(d) The board may adopt such rules and regulations necessary to implement the requirements of this subsection.

(4) The board may charge additional fees for its services which the board deems appropriate to carry out its intent and purpose. These additional fees shall not exceed the cost of rendering the service.

(5) Except for those fees collected by the board as required for disbursement to national registries, all fees charged and collected under this chapter shall be paid by the commission at least once a week, accompanied by a detailed statement thereof, to the credit of the fund known as the "Real Estate Appraisal License Fund," hereby created in the State Treasury. All monies which are collected under this chapter shall be paid into and credited to the fund for the use of the board in carrying out the provisions of this chapter including the payment of salaries and expenses, printing an annual directory of licensees, and for educational purposes. The commission shall submit a monthly statement to the board detailing any expenses which it bears as a share in the expense of administering this chapter, for which expenses it shall be reimbursed in the amount approved by the board. The commission shall prepare an annual statement of income and expenses related to its appraisal-related administrative function.

**§ 73-34-47. Form and content of license; return of license; records of licenses:**

The commission at the direction of the board shall issue to each licensed appraiser or licensed certified real estate appraiser under this chapter a license evidencing such licensure. The commission shall at the direction of the board also issue a pocket card in such size and form as the board approves.

A license issued under this chapter shall bear a license number assigned by the commission. When signing an appraisal report or certified appraisal report, the licensee shall place such appraiser's license number adjacent to or immediately below the title of "licensed appraiser" or "licensed certified residential real estate appraiser" or "licensed certified general real estate appraiser" or "licensed timberland appraiser." Such license number shall also be used in all statements of qualification, contracts or other instruments used by the license holder when reference is made to such license holder's status as a licensed appraiser or licensed certified real estate appraiser.

The license must bear the current physical address of the licensee's place of business, which shall be a room either in his home or an office elsewhere, to be used for the transaction of the appraisal business. In case of removal from the designated address, the licensee shall make application to the commission before removal, or within ten (10) days after removal, designating the new location of such office, whereupon the commission at the direction of the board shall forthwith issue a new license for the new location.

Licenses and pocket cards shall remain the property of the state; and,

upon any suspension or revocation of a license pursuant to this chapter, the individual holding the related license and pocket card shall immediately return such license and pocket card to the commission.

The commission shall maintain and keep open for public inspection during office hours a complete and properly indexed record of all applications for licensure received and licenses issued, renewed, revoked, cancelled or suspended under the provisions of this chapter. A copy of any such record, except pending investigation files, shall be made available to the public, upon application to the commission, at such reasonable price per copy as may be fixed by the commission.

**§ 73-34-49. Roster of licensed appraisers and registered appraisal management companies:**

The commission shall prepare and issue at least once each calendar year a roster showing the name and place of business of each real estate appraiser currently licensed and appraisal management company registered under the provisions of this chapter. A copy of the roster shall be made available to the public, upon application to the commission, at a reasonable price per copy as may be fixed by the commission. The commission shall send a copy of this list to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, or its designated agent.

**§ 73-34-51. Nonresident applicants for license:**

(1) Each applicant for licensure under this chapter who is not a resident of this state shall submit, with his application, an irrevocable consent that legal action arising out of his activities as a real estate appraiser in this state may be commenced against him in the proper court of any county of this state in which a cause of action may arise or in which the plaintiff may reside by service of process or pleading authorized by laws of this state, by the Secretary of State, or by the Administrator of the Mississippi Real Estate Commission. The consent shall stipulate that the service of process or pleading shall be taken in all courts to be valid and binding as if personal service had been made upon the nonresident licensee in this state. The consent shall be duly acknowledged. Every nonresident licensee shall consent to have any hearings conducted by the board pursuant to Section 73-34-35 at a place designated by the board.

(2) Any service of process or pleading shall be served on the Administrator of the Mississippi Real Estate Commission by filing duplicate copies, one (1) of which shall be filed in the office of the board and the other forwarded by certified mail to the last-known principal address of the nonresident licensee

against whom the process or pleading is directed.

(3) If, in the determination of the board, another state or territory or the District of Columbia is deemed to have substantially equivalent licensure laws for real estate appraisers, an applicant for licensure in this state who is licensed under the law of such other state, territory or district may obtain a license as a real estate appraiser in this state upon such terms and conditions as may be determined by the board provided that disciplinary proceedings are not pending against such applicant in his state of licensure. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 73-50-1.

**§ 73-34-53. Penalties for violations; civil action by person aggrieved by violation:**

(1) Except as otherwise provided in Section 73-34-35, any person violating a provision of this chapter shall, upon conviction of a first violation thereof, be punished by a fine of not less than Five Hundred Dollars (\$ 500.00) nor more than One Thousand Dollars (\$ 1,000.00), or by imprisonment for a term not to exceed ninety (90) days, or both. A second or subsequent violation shall be punishable by a fine of not less than One Thousand Dollars (\$ 1,000.00) nor more than Two Thousand Dollars (\$ 2,000.00), or by imprisonment for a term not to exceed six (6) months, or both.

(2) In case any person shall have received any sum of money, or the equivalent thereof, as commission, compensation or profit by or in consequence of his violation of any provision of this chapter, that person shall also be liable to a penalty of not less than the amount of the sum of money so received and not more than four (4) times the sum so received, as may be determined by the court, which penalty may be sued for and recovered by any person aggrieved, and for his use and benefit, in any court of competent jurisdiction.

**§ 73-34-55. No cause of action for services rendered by nonlicensed appraiser.**

No person shall bring or maintain an action in any court of this state for the recovery of a commission, fee or compensation for any act done or services rendered, the doing or rendering of which is prohibited under the provisions of this chapter for persons other than licensed real estate appraisers, unless such person was duly licensed as a real estate appraiser at the time of the doing of such act or the rendering of such service.

**§ 73-34-57. Board authorized to employ legal counsel:**

The board may employ legal counsel to represent it in any proceedings when legal counsel is required.

**§ 73-34-59. Board authorized to implement rules and regulations necessary to bring chapter into compliance with federal requirements:**

If any provision of this chapter is found to be in noncompliance with the requirements of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council or its agent, the board is authorized to implement such rules and regulations as necessary to bring the requirements into federal compliance.

**§ 73-34-63. Severability:**

If any provision of this chapter or its application to any person or in any circumstance is declared by a court of competent jurisdiction to be invalid or unenforceable, provisions constituting the remainder of the act and the application of those provisions to other persons and in other circumstances shall not be affected.