

# NEWSLETTER

Winter 2010-2011 Issue

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Governor of Ohio

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## Dodd-Frank Reform Act Amends Title XI of FIRREA, Impacts Ohio's Appraiser Program

The passage of the Dodd-Frank Reform Act will bring many changes to Ohio's Appraiser program. The Division of Real Estate & Professional Licensing and the Ohio Real Estate Appraiser Board are charged with implementing the mandates included in the Act, among which are:

- Licensed appraisers and appraiser assistants (trainees) will need to meet the qualification criteria set by the Appraiser Qualifications Board (AOB). Previously, the criteria mandate was limited to certified appraisers.
- Appraisers serving as supervisors to appraiser assistants will need to meet requirements determined by the AOB.
- An Appraisal Complaint National Hotline will be established. Complaints from the hotline will be forwarded to the states for investigation.
- State programs will need to meet standards established by the Appraisal Subcommittee (ASC) in areas of office staffing levels, operational funding, office practices and procedures, and the imposition of appropriate discipline issued for violations.
- Broker Price Opinions (BPOs) will be prohibited for use as the primary basis to determine the value of a piece of property used as security in conjunction with a loan origination of a residential mortgage loan for the purchase of a consumer's principal dwelling.

Ohio's appraiser program will also be required to develop a system to register and regulate Appraisal Management Companies (AMCs) operating in the state. The minimum requirements for AMC regulation will be developed by the federal regulators of financial institutions, but the Act generally requires that AMCs:

- Register with and be supervised by the state appraiser programs;
- Use only licensed or certified appraisers;
- Ensure appraisals coordinated by an AMC comply with USPAP;

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## Dodd-Frank Reform Act continued...

- Promote appraisal independence, free from inappropriate influence;
- Not be owned in whole or part by a person who has been denied an appraiser license or certificate or who has had an appraiser license or certificate refused, cancelled, surrendered in lieu of revocation, or revoked;
- Submit each owner of 10% or more of the AMC to a background investigation prior to registration.

The Act defines an AMC as an external third party connected with valuing properties for collateralizing mortgage loans or mortgages incorporated into a securitization, or for consumer credit transactions secured by a consumer's principal dwelling, when the third party has a network or panel of more than 15 certified or licensed appraisers in a state or 25 or more nationally, to:

1. Recruit, select, and retain appraisers;
2. Contract with appraisers to perform appraisal assignments;
3. Manage the process of having an appraisal performed; or
4. Review and verify the work of appraisers.

Ohio and other states will have three years after the federal regulators prescribe rules in final form to adopt similar laws and rules governing AMCs.

While the state will serve as the collector for the ASC of additional fees assessed to appraisers and AMCs (see article in this newsletter, "ASC Votes to Raise Appraiser National Registry Fee"), Ohio will receive no dedicated funding for taking on the additional responsibilities mandated in the Act. The Act does permit the ASC to give grants to states for enforcement and reporting activities, but the details of such funding mechanisms have not yet been released.

The Division will closely monitor federal progress in the implementation of the mandates set forth in the Dodd-Frank Act and will post any updates on the Division's website and in future newsletter articles.

## Leto and McKinniss Named to Appraiser Board

Governor Ted Strickland recently appointed Donald Leto and Ted McKinniss to the Ohio Real Estate Appraiser Board.

Donald Leto began his real estate career in 1976 and received his broker license shortly thereafter. In 1982, he became a residential appraiser. After practicing as a residential appraiser for a few years, he purchased Appraisal Services, Inc., in Norwalk, Ohio – a company he continues to own and operate today. Mr. Leto is currently working toward his appraiser certification and plans to achieve that goal in early 2011. His term on the Ohio Real Estate Appraiser Board commenced on September 1, 2010, and will end on June 30, 2013.

Ted McKinniss graduated from Miami University (Ohio) in 1973 and from Ohio Northern University's School of Law in 1976. He has practiced law in Marion, Ohio, for 34 years, serving as counsel with the Columbus firm Kegler, Brown, Hill, and Ritter for the last 15 years. Mr. McKinniss' legal expertise covers a wide range of disciplines but concentrates primarily on business law with an emphasis in commercial real estate transactions. In addition to his legal career, he serves as a director of the Ohio State Bank with offices in Marion and Lewis Center. Mr. McKinniss began serving as the public member on the Ohio Real Estate Appraiser Board effective August 25, 2010, and will continue to serve until June 30, 2013.

## Ohio Brokerage Takes on Property “Flopping” Issue in a Proactive Way

In response to the Division’s recent [newsletter article](#) and other guidance published on the practice of property “flopping,” a respected Ohio brokerage issued the following communication to its associates. This is a proactive, effective policy, and we encourage each brokerage in Ohio to follow this broker’s lead and issue something similar. The names have been stricken from the directive below so that it can be used as a template for other brokerages to employ.

### Policy:

It’s come up before and in a variety of ways. With the abundance of short sales in the market, there is always a new investor/negotiator/flopping plan being proposed. While some of these plans are perfectly legal, all are complicated and fraught with potential misunderstandings, deficiencies in disclosure, and future liability. There always seems to be a new wrinkle that someone thinks makes it better and more acceptable to our business ethics...we don’t think so.

So we’ve tried to boil it down to its simplest form...sales involving a simultaneous close will not be represented by a *[Brokerage]* agent.

Those transactions where a *[Brokerage]* agent represents an investor who submits a short sale offer, negotiates a short sale price, and then resells the property at a profit to an end-user buyer, with both closings happening in close proximity (simultaneous or within a couple of days) are not welcome at *[Brokerage]*.

Certainly we will participate in transactions in which an investor negotiates to buy a short sale property, closes on the property, then remarkets to an end user, closing however much later it takes...but no simultaneous closes. Flipping is acceptable, flopping is not.

(For more information see:

[http://www.com.state.oh.us/documents/real\\_newsletterSpring10.pdf](http://www.com.state.oh.us/documents/real_newsletterSpring10.pdf) or

[http://www.freddiemac.com/singlefamily/news/2010/0412\\_payoff\\_fraud.html?attr=EMC-SFNCAEFTSPF](http://www.freddiemac.com/singlefamily/news/2010/0412_payoff_fraud.html?attr=EMC-SFNCAEFTSPF))

Please consider this company policy and advise agents accordingly.

## ASC Votes to Raise Appraiser National Registry Fee

The Appraisal Subcommittee (ASC) voted unanimously on October 13, 2010, to increase the National Registry Fee of certified or licensed appraisers from \$25 to \$40. The increase will become effective January 1, 2012.

This marks the first increase in the National Registry Fee since the ASC's inception. The Dodd-Frank Act gave the ASC explicit authority to increase the fee to "not more than" \$40 immediately. Additionally, the Dodd-Frank Act requires the ASC to reconsider the fee every five years and permits increases to a maximum of \$80 per credential with the approval of the Federal Financial Institutions Examination Council.

Under federal law, Ohio and other state appraiser regulatory agencies are required to collect the National Registry fees and pass the payments along to the ASC. Licensed and certified appraisers in Ohio pay this fee when first credentialed and upon renewal each year thereafter.

This increased fee will be required on applications due on or after January 1, 2012. The state fees portion of the total will not change. The current and future fee comparison is as follows:

### Appraiser Application Fee Schedule

Credential	Current	As of January 1, 2012
<b>Certified General Appraiser; Certified Residential Appraiser; or Licensed Residential Appraiser:</b>		
New Applicant	\$175 (OH application) \$50 (OH recovery fund) <u>\$25 (ASC National Registry)</u> <b>\$250 Total</b>	\$175 (OH application) \$50 (OH recovery fund) <u>\$40 (ASC National Registry)</u> <b>\$265 Total</b>
Renewal	\$125 (OH renewal) <u>\$25 (ASC National Registry)</u> <b>\$150 Total</b>	\$125 (OH renewal) <u>\$40 (ASC National Registry)</u> <b>\$165 Total</b>
<b>Registered Assistant:</b>		
New Applicant	\$100 (OH applicant) \$50 (OH recovery fund) <u>\$0 (ASC National Registry)</u> <b>\$150 Total</b>	\$100 (OH applicant) \$50 (OH recovery fund) <u>\$0 (ASC National Registry)</u> <b>\$150 Total</b>
Renewal	<b>\$50 (OH renewal)</b>	<b>\$50 (OH renewal)</b>

## **Warning from the Ohio Real Estate Commission:**

### **Never Provide a Lock-Box Code to a Potential Buyer**

The Ohio Real Estate Commission considers providing a potential buyer with a lock-box code and allowing them to view a property unattended a serious offense. In fact, the Commission recently ordered a licensee to serve a 10-day suspension, pay a \$600 civil penalty, and complete three hours of education in ethics for providing a lock-box code to a client which resulted in the client's unsupervised entry into the property.

A licensed real estate agent should always be present at showings and should never provide a lock-box code to a potential buyer. If you are unable to attend a previously-scheduled showing, you should have another licensed agent attend on your behalf or simply explain the situation to your client and reschedule the showing.



## **Hambleton Appointed to Appraisal Standards Board**

The Appraisal Foundation appointed Margaret A. "Maggie" Hambleton, a Certified Residential Appraiser from Columbus, to the Appraisal Standards Board (ASB) for a three-year term beginning January 1, 2011. The appointment was made at the Foundation's Board of Trustees meeting on October 30, 2010. The ASB is authorized by Congress to develop, interpret, and amend the Uniform Standards of Professional Appraisal Practice (USPAP).

Hambleton is the President of Hambleton, Inc., and has been in the appraisal business since 1978. She served as a member of the Ohio Real Estate Appraiser Board from 2001 – 2009, during which time she was elected Chair on multiple occasions. Hambleton is well-respected throughout the country as a teacher of appraisal courses and is a certified USPAP instructor.

The appointment to the ASB is a testament to Hambleton's stellar career as an appraiser and is an accomplishment that makes those involved with Ohio's appraiser profession extremely proud. Congratulations, Maggie!

## **Reporting Appraiser Renewals to the Appraisal Subcommittee**

Appraisers often contact the Division to inquire about when appraiser renewals are reported to the Appraisal Subcommittee (ASC) and when the ASC will update its National Registry. Per Federal law and ASC policy, state appraiser regulatory agencies must send a list of updated credentials to the ASC at least once per month. Despite being required to submit this information only once per month, the Division sends its list of appraiser renewals to the ASC once per week as a courtesy.

## Helpful License Maintenance Tips

### Helpful Tip #1: Answering the Division's Ethical Conduct/Legal History Questions

Many of the Division's applications require individuals to answer a series of ethical and legal questions regarding their past. Answering "yes" to any of these questions does not automatically exclude an applicant from obtaining or maintaining a license.

If you need to answer "yes" to any of the questions, you should include a letter of explanation with your application that fully explains the circumstances. You may also submit additional documentation that will help the Superintendent determine if you are honest, truthful, and of good reputation, such as:

- A certified copy of the Judgment Entry of Conviction or the equivalent document from the court where the conviction occurred. A Judgment Entry can be obtained from the Clerk of Courts office in the county in which you were convicted.
- A copy of the document of release from incarceration and/or probation, if applicable.
- Letters of recommendation that would help to establish your honesty, truthfulness, and good reputation.
- A letter from your sponsoring broker acknowledging the past infraction and giving support.

If you answer "yes" to any of the questions on your renewal application, you should allow additional time for the Division's staff to review your application and supporting documentation.

It is important to remember that, by signing the application, you are certifying that all of the statements on the application and in the supporting documentation are complete and accurate. A false answer may be deemed a criminal offense and could result in jail time. Additionally, the Real Estate Commission and the Real Estate Appraiser Board view dishonesty as a serious offense and may impose a more severe sanction for lying on the form than would have been imposed for the underlying matter. Therefore, you should always answer "yes" and offer a full explanation if you are uncertain of the answer.

In addition, pursuant to O.R.C. 4735.13, a current licensee who is convicted of a felony, a crime of moral turpitude, or for violating any federal, state, or municipal civil rights law pertaining to discrimination in housing must notify the Superintendent within 15 days of the conviction. The Superintendent may immediately revoke the licensee's license if he or she fails to notify the Superintendent of the conviction in a timely manner.

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## Helpful License Maintenance Tips continued...

### Helpful Tip #2: Want to Create a Real Estate Company? Reserve Your Company Name with the Division First

When creating a new real estate company, individuals should reserve a company or DBA name with the Division of Real Estate & Professional Licensing before obtaining a business registration with the Secretary of State's office. This allows the Division to ensure that the proposed business name has not already been reserved or is being used by another party and to verify that the name does not conflict with any other existing company names.

The name reservation process is easy. First, submit a Name Reservation Application to the Division along with a \$10.00 check or money order. The Division will research the name to determine compliance with Ohio Revised Code 4735.06(A) and to confirm that the name has not already been used or reserved and that it does not conflict with an existing company name. Within 14 days of receiving the name reservation application, the Division will send a letter to the applicant to inform them of the approval or denial of their name request.

If the request is approved, the applicant should contact the Secretary of State's office to register the name and then submit the appropriate business application (Association Application, Corporation Application, Limited Liability Company Application, Partnership Application, etc.) and all supporting documents to the Division. The applicant must complete these steps within 60 days from the approval of the name reservation request, as the Division can only reserve the name for that amount of time. If 60 days expire before completing the steps necessary to create a business, the Division will release the name and make it available to other parties.

Individuals interested in creating a company should contact the Division at **614-466-4100** if they have any questions during the name and company registration process.

### Helpful Tip #3: Completing Your Continuing Education Compliance Form Properly

The most common error that licensees make when submitting their renewal paperwork to the Division is forgetting to sign the Continuing Education Compliance Form. Licensees must sign the Continuing Education Compliance Form to certify that the information within the form is complete and accurate and that they attended at least 90% of their continuing education courses. Failure to timely file the completed form without a signature will result in the suspension or revocation of your license.

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**REAL ESTATE CONTINUING EDUCATION COMPLIANCE FORM**

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any false statement on this form or any of the attached materials may subject me to criminal prosecution and the loss of my Ohio real estate license. I attest that I did, in fact, attend the courses listed for at least 90 percent of the time indicated.

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SIGNATURE OF APPLICANT \_\_\_\_\_ DATE \_\_\_\_\_

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To prevent your license from being suspended due to a problem with your paperwork or any other renewal requirement, you should never wait until the last minute to submit information to the Division. Licensees can submit their renewal requirement to the Division as early as 60 days before their expiration date. Early submission can give applicants time to correct errors or provide missing information before the license expiration date.

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## Helpful License Maintenance Tips continued...

### Helpful Tip #4: Continuing Education Certification Numbers: What Do the Letters Mean?

Real estate licensees must submit 30 hours of continuing education with their renewal every three years. Nine of those hours must be core class hours and 21 must be elective class hours. One quick way to determine if you have completed all of the required courses is to look at the letter within the certification number on your course certificate. The certification number below, for example, includes an "E"; which means that course was an Elective.

**COURSE CERTIFICATION NUMBER**

913905808E 09

The other letters to look for when trying to determine which course requirements you have fulfilled – or still need to fulfill – are as follows:

- B = Computer Basics (an elective)
- C = Canons of Ethics
- D = Core Law
- G = Civil Rights/Fair Housing

Using this method will help you determine if you have satisfied the required courses or to understand which courses you still need to complete.

### ATTENTION LICENSEES!

It is a good idea to submit your license requirements to the Division several weeks before your due-date (up to 60 days in advance for renewals) to allow enough time to review your paperwork for completeness. If submitted early, the Division will attempt to notify you of any errors and ask you to correct them before your due date passes.



## Real Estate Disciplinary Actions

Listed below are the Real Estate Disciplinary Actions for August 2010 to November 2010. Details of each action can be found on the website at: <http://www.com.ohio.gov/documents/Winter11REdiscipline.pdf>

### REVOCATIONS/PERMANENT SURRENDER/RESIGNATIONS

Chad E. Fields	Salesperson	Delaware
Veronica A. Lanning	Broker	Amanda
Richard Lewis, Jr.	Broker	Columbus
Marcia L. McGee	Broker	Huber Heights
Jamie A. Paliath	Salesperson	Santa Rosa Beach, Florida

### SUSPENSIONS, FINES, EDUCATION and REPRIMANDS

Kathryn R. Boschert	Salesperson	Cincinnati
Carol A. Goff	Salesperson	Zanesville
Donna Green	Broker	Hillsboro
Alexis K. Karasarides	Salesperson	Canton
Lynn A. Nevel	Broker	Hamilton
Craig A. Steele	Salesperson	Cincinnati
Tammy K. Thome	Salesperson	Hamilton
Matthew J. Vaneck	Salesperson	Cleveland

### UNLICENSED ACTIVITY

Kathryn R. Boschert	Newport, Kentucky
Chateau Management	Cleveland
Crossroads Management	Akron
Matthew Fairfield	Cleveland
Key Asset Solutions, LLC and Lance Grubb	Columbus

## Appraiser Disciplinary Actions

Listed below are the Appraiser Disciplinary Actions for August 2010 to November 2010. Details of each action can be found on the website at:

<http://www.com.ohio.gov/documents/Winter11appraiserdiscipline.pdf>

### REVOCATIONS/PERMANENT SURRENDERS

William Werner	Certified Residential Appraiser	Broadview Heights
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### SUSPENSIONS, FINES, ADDITIONAL EDUCATION AND REPRIMANDS

Benjamin Carter	Licensed Residential Appraiser	Las Vegas, Nevada
Brian Hopkins	Certified Residential Appraiser	Columbus
Tiffany Hughes	Licensed Residential Appraiser	Columbus
Matthew Madden	Licensed Residential Appraiser	Northfield
Brenda Morris	Certified Residential Appraiser	Grove City
Heather Nobles	Certified Residential Appraiser	Granville
Surander Saini	Certified Residential Appraiser	North Olmsted
Su Chi Straka	Certified Residential Appraiser	Parma

## The Division Demonstrates Tremendous Generosity During the 2010 Combined Charitable Campaign

The Department of Commerce participated in the 2010 Combined Charitable Campaign to raise money for various statewide charities from September 7 through October 15. The leadership of employees Quiana Taylor and Rae Ann Anderson made the Division's campaign slogan, "Don't Be Greedy, Let's Help the Needy," come alive in a fun and responsive way. In just six weeks, members of the Real Estate team raised \$6,246.90, exceeding the Division's original goal by 61%!

Michael Banister, another member of the Division's staff, served as the Combined Charitable Campaign's co-coordinator for the Department of Commerce for the second year in a row.

Thank you Quiana, Rae Ann, and Michael for your outstanding dedication and hard work!



### Department of Commerce

Division of Real Estate & Professional Licensing

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Terry Hankner, Vice President  
Gary Froelich  
Rosetta Hayes-Borders  
Ann Thompson

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Patricia Costello, Vice Chair  
Don Leto  
C. Patrick McAllister  
Ted McKinniss

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