

NOTICE OF FINAL RULEMAKING

EFFECTIVE JUNE 11, 2022

TITLE 4. PROFESSIONS AND OCCUPATIONS

**CHAPTER 46. DEPARTMENT OF FINANCIAL INSTITUTIONS – REAL ESTATE
APPRAISAL DIVISION**

**No changes have been made to Section R4-46-407.
Please refer to the Administrative Code for the unchanged Section:
https://apps.azsos.gov/public_services/Title_04/4-46.pdf**

ARTICLE 1. GENERAL PROVISIONS

R4-46-101. Definitions

The definitions in A.R.S. §§ 32-3601, 32-3651, and 32-3661 apply to this Chapter. Additionally, unless the context otherwise requires, in this Chapter:

“Accredited” means approved by an accrediting agency recognized by the Council for Higher Education Accreditation or the U.S. Secretary of Education.

“Administrative law judge” has the meaning stated at A.R.S. § 41-1092(1).

“AMC” means appraisal management company as defined at A.R.S. § 32-3661.

“Appealable agency action” has the meaning stated at A.R.S. § 41-1092(3).

“Appraisal practice” means valuation services performed by an individual acting as an appraiser, including but not limited to an appraisal or appraisal review.

“Appraiser” means an individual, other than a property tax agent as defined at A.R.S. § 32-3651, registered, licensed, or certified by the Department to complete valuation assignments regarding real estate competently in a manner that is independent, impartial, and objective.

“AQB” means the Appraisal Qualifications Board as defined at A.R.S. § 32-3601.

“Assignment” means the valuation service that an appraiser provides as a consequence of an agreement between the appraiser and a client.

“Classroom education” means appraisal education delivered in a setting where there is no geographical separation between the instructor and student.

“Complaint” means a written allegation against a party.

“Conditional dismissal” means an agreement which allows the Director to dismiss the complaint upon the respondent’s completion of a Department specified continuing education course.

“Contested case” has the meaning stated at A.R.S. § 41-1001(6).

“Conviction” means a judgment by any state or federal court of competent jurisdiction in a criminal case, regardless of whether an appeal is pending or could be taken, and includes any judgment or order based on a plea of no contest.

“Course owner” means a person or a combination of persons that own the proprietary rights to a course. A course owner may have developed the course or may have purchased the proprietary rights to the course.

“Department” has the meaning stated at A.R.S. § 6-101(5).

"Director" has the meaning stated at A.R.S. § 6-101(7).

“Disciplinary action” means any regulatory sanction imposed by the Director, other than remedial action imposed through a letter of remedial action, and may include corrective education, a civil money penalty, restriction on the nature and scope of the respondent’s practice, monitoring, probation, mentorship, suspension, revocation, or an acceptance of surrender of a license or certificate or a combination of the above.

“Distance education” means appraisal education delivered in a setting in which the learner and instructor are geographically separated.

“Federally Regulated Appraisal Management Company” has the meaning stated at A.R.S. § 32-3661(9).

“Investigation” means a fact-finding process and review that is initiated when the Department receives a complaint.

“Investigator” means an individual who is a Department employee or operates under a contract with the Department to carry out investigations of alleged violations.

“Jurisdictional criteria” means the statutory standards of A.R.S. §§ 6-123, 6-124, and A.R.S. Title 32, Chapter 36, used by the Department to determine whether a complaint falls within its jurisdiction.

“Letter of concern” means a non-disciplinary advisory letter to notify a respondent that the finding of the Director does not warrant disciplinary action, but is nonetheless cause for concern and that its continuation may result in disciplinary action.

“Letter of remedial action” means a non-disciplinary letter that requires a respondent to take remedial action when any minor violation of A.R.S. Title 32, Chapter 36 or this Chapter is found.

“Mentor” means a certified appraiser authorized by the Department to supervise the work product of an appraiser who is subject to disciplinary action by the Director.

“Party” means each person or agency named or admitted as a party or properly seeking and entitled to participate in any proceeding.

“Person” means a natural person or any legal or commercial entity including a corporation, business trust, estate, trust, partnership, limited partnership, joint venture, association, limited liability company, limited liability partnership, or limited liability limited partnership.

“Probation” means a term of oversight by the Department, imposed upon a respondent as part of a disciplinary action, which may include submission of logs, working under the supervision of a mentor, or other conditions intended to protect the public and educate the respondent.

“Property Tax Agent” has the meaning stated at A.R.S. § 32-3651(3).

“Remedial action” means any corrective remedy that is designed to assist the respondent in improving the respondent’s professional practice.

“Respondent” means an appraiser, course owner, property tax agent, or appraisal management company against whom a complaint has been filed or any other party responding to an investigation, an action, a motion or a proceeding before the Director.

“Secondary provider” means a person that purchases or otherwise lawfully acquires the right to provide a course independently of the course owner that retains proprietary rights to the course.

“USPAP” means the Uniform Standards of Professional Appraisal Practice, issued and updated by The Appraisal Foundation and made state law under A.R.S. § 32-3610.

“Work file” means the documentation necessary to support the analysis, opinions, and conclusions of an appraisal assignment or tax appeal.

R4-46-102. Powers of Director

- A.** The Director may appoint advisory committees the Director deems appropriate. The committees shall make advisory recommendations which may be accepted, rejected, or modified at the Director’s discretion.
- B.** Under the authority provided by A.R.S. § 32-3605(B), the Director may designate, train, and supervise volunteer licensees to conduct compliance audits of approved courses under Section R4-46-508.

R4-46-106. Fees

- A.** Under the specific authority provided by A.R.S. §§ 32-3607, 32-3619, and 32-3667, the Director establishes and shall collect the following fees:
 - 1. Application for original license or certificate: \$400.
 - 2. Application for registration as a trainee appraiser: \$300.
 - 3. Examination: The amount established by the AQB-approved examination provider.
 - 4. Biennial renewal of a license or certificate: \$425.
 - 5. Renewal of registration as a trainee appraiser: \$300.
 - 6. Delinquent renewal (in addition to the renewal fee): \$25.
 - 7. National Registry: The amount established by the Appraisal Subcommittee.
 - 8. Application for license or certificate by reciprocity: \$400.
 - 9. Application for non-resident temporary license or certificate: \$150.
 - 10. Course approval:
 - a. Core-curriculum qualifying education
 - i. Initial course approval: \$200.
 - ii. Renewal of course approval: \$200.
 - b. Continuing education
 - i. Initial course approval: \$200.
 - ii. Renewal of course approval: \$200.
 - 11. Application for initial registration as an appraisal management company: \$2,500.
 - 12. Biennial renewal of registration as an appraisal management company: \$2,500.
- B.** The fees established in subsection (A) and those specified in A.R.S. § 32-3652 are not refundable unless the provisions of A.R.S. § 41-1077 apply.

- C. A person shall pay fees by cash or credit or debit card, or by certified or cashier's check, or money order payable to the Department of Insurance and Financial Institutions.

R4-46-107. Procedures for Processing Applications

- A. To comply with A.R.S. Title 41, Chapter 6, Article 7.1, the following time-frames are established for processing applications for registration, licensure, certification, and designation, including renewal applications, and applications for course approval:
 - 1. The Department shall notify the applicant within 60 days after receipt of the application that it is either administratively complete or incomplete. If the application is incomplete, the Department shall specify in the notice what information is missing.
 - 2. A final decision shall be rendered not later than 60 days after the applicant successfully completes all requirements in statute or this Chapter.
 - 3. The overall time-frame for action is 120 days, 60 days for administrative completeness review and 60 days for substantive review.
- B. An applicant whose application is incomplete shall supply the missing information within 60 days after the date of the notice unless the time-frame is extended by mutual agreement. The administrative completeness review time-frame stops running on the date of the Department's written notice of an incomplete application and resumes when the Department receives a complete application. If the applicant fails to submit a complete application within the specified time limit, the Department may reject the application and close the file. An applicant may reapply.
- C. If the Director denies registration, licensure, certification, designation, or course approval to an applicant, the Department shall send the applicant written notice explaining:
 - 1. The reason for denial, with citations to supporting statutes or rules,
 - 2. The applicant's right to seek a hearing to appeal the denial, and
 - 3. The time for appealing the denial.

ARTICLE 2. REGISTRATION, LICENSURE, AND CERTIFICATION AS AN APPRAISER

R4-46-201. Appraiser Qualification Criteria

- A. Classifications. As specified in A.R.S. § 32-3612, Arizona recognizes five classifications of appraisers. These classifications are:
 - 1. Registered trainee appraiser,
 - 2. State licensed real estate appraiser,
 - 3. State certified residential real estate appraiser,
 - 4. State certified general real estate appraiser, and
 - 5. Designated supervisory appraiser.
- B. Qualification criteria. Except as provided elsewhere in this Article, an applicant for an original or renewal of a registration, licensure, certification, or designation shall meet the classification-specific qualification criteria established and updated January 1, 2022 by the AQB, which is incorporated by reference. A copy of the incorporated materials is on file with the Department and may be obtained from the Department or the Appraisal Foundation. This rule does not incorporate any later date or edition of this material.

- C. Regardless of whether a transaction is federally related:
 1. A state licensed residential appraiser is limited to the scope of practice in A.R.S. § 32-3612(3), and
 2. A state certified residential appraiser is limited to the scope of practice in A.R.S. § 32-3612(2).
- D. If an applicant for registration, licensure, or certification meets the qualification criteria prescribed in A.R.S. Title 32, Chapter 36 and this Article, including evidence that the applicant has applied for a valid fingerprint clearance card pursuant to A.R.S. § 32-3620(B) and has submitted the application and the biennial National Registry fees specified in Section R4-46-106, the registration, license, or certificate that entitles the applicant to practice within the appropriate scope specified in A.R.S. § 32-3612 for the term specified in A.R.S. § 32-3616 shall be issued.

R4-46-201.01. Application for Designation as a Supervisory Appraiser; Supervision of a Registered Trainee Appraiser

- A. An individual who wishes to act as a supervisory appraiser for a registered trainee appraiser shall:
 1. Apply for and obtain designation as a supervisory appraiser before providing supervision to a registered trainee appraiser,
 2. Have been state certified for at least three years, and
 3. Apply for designation under A.R.S. § 32-3614.02.
- B. To apply for designation as a supervisory appraiser, a certified appraiser shall submit to the Department:
 1. An application for designation;
 2. A statement whether the applicant for designation has been disciplined in any jurisdiction in the last three years in a manner that affects the applicant's eligibility to engage in appraisal practice and if so, the name of the jurisdiction, date of the discipline, circumstances leading to the discipline, and date when the discipline was completed;
 3. Evidence that the applicant for designation completed a training course that complies with the course content established by the AQB and that is specifically oriented to the requirements and responsibilities of supervisory and trainee appraisers;
 4. A signed affirmation that the applicant for designation will comply with the USPAP Competency Rule for the property type and geographic location in which the supervision will be provided; and
 5. Any other information and documentation that is necessary to meet the qualification criteria established and updated by the AQB.
- C. Supervision requirements:
 1. A registered trainee appraiser may have more than one designated supervisory appraiser.
 2. A designated supervisory appraiser shall not supervise more than three registered trainee appraisers at any one time.
 3. A registered trainee appraiser shall maintain a separate appraisal log for each designated supervisory appraiser and, at a minimum, include the following in each log for each appraisal:
 - a. Type of property,
 - b. Date of report,

- c. Address of appraised property,
 - d. Description of work performed by the registered trainee appraiser,
 - e. Scope of review and supervision provided by the designated supervisory appraiser,
 - f. Number of actual work hours worked by the registered trainee appraiser on the assignment, and
 - g. Signature and state certificate number of the designated supervisory appraiser.
4. A designated supervisory appraiser shall provide to the Department in writing the name and address of each registered trainee appraiser within 10 days of engagement and notify the Department in writing within 10 days when the engagement ends.
 5. If a registered trainee appraiser or designated supervisory appraiser fails to comply with the applicable requirements of this Section:
 - a. The registered trainee appraiser or the designated supervisory appraiser may be subject to disciplinary action under A.R.S. § 32-3631(A)(8), and
 - b. The registered trainee appraiser shall not receive experience credit for hours logged during the period that the registered trainee appraiser or designated supervisory appraiser failed to comply with the applicable requirements of this Section.

R4-46-202.01. Application for Licensure or Certification by Reciprocity

- A. To be eligible to obtain a license or certificate by reciprocity in the same classification, as specified in Section R4-46-201(A), in which an individual is currently licensed or certified, the individual shall submit:
 1. Evidence that the applicant is licensed or certified in a state that meets the standards established at A.R.S. § 32-3618;
 2. A completed application form;
 3. Disclosure of the state(s) in which the individual is currently licensed or certified;
 4. Evidence that the individual has applied for a valid fingerprint clearance card pursuant to A.R.S. § 32-3620(B); and
 5. The application and biennial National Registry fees specified under Section R4-46-106.
- B. The Department shall verify the following information:
 1. License or certification number;
 2. Classification, as specified in Section R4-46-201(A), in which the individual is currently licensed or certified; and
 3. Whether the license or certificate is in good standing.

R4-46-203. Application for Non-resident Temporary Licensure or Certification

- A. To be eligible to obtain a non-resident temporary license or certificate, an individual shall:
 1. Be licensed or certified as an appraiser in a state other than Arizona;
 2. Not be licensed or certified as an appraiser in Arizona; and
 3. Have a dated and signed letter from a client that names the individual and indicates the client has engaged the individual to conduct an appraisal in Arizona, identifies the property or properties to be appraised, and specifies a date certain for completion of the assignment that is no more than one year from the date on which the Director issues a non-resident temporary license or certificate.

- B.** To apply for a non-resident temporary license or certificate, an individual who meets the pre-requisites in subsection (A) shall submit:
 - 1. A completed application form;
 - 2. An irrevocable consent to service of process;
 - 3. Evidence that the applicant has applied for a valid fingerprint clearance card pursuant to A.R.S. § 32-3620(B); and
 - 4. The application fee specified under Section R4-46-106.
- C.** The Director shall grant an extension of no more than 120 days to an individual to whom a non-resident temporary license or certificate has been issued if the individual provides written notice before the date specified in subsection (A)(3) that more time is needed to complete the assignment described in subsection (A)(3).
- D.** An appraiser to whom a non-resident temporary license or certificate has previously been issued may, if qualified under subsection (A), apply for another non-resident temporary license or certificate by complying with subsection (B), except the applicant is not required to comply again with subsection (B)(3) unless the card has expired, or is suspended or cancelled.
- E.** The Director shall issue no more than 10 non-resident temporary licenses or certificates to an individual in any 12-month period.

R4-46-204. Licensure and Certification Examinations

An applicant for licensure or certification may schedule an examination after the Department provides written notice to the applicant, to the extent written notice is required by the AQB. In such case, an applicant shall have 90 days from the written notice to successfully complete the AQB-approved examination for the classification for which application is made unless the time-frame is extended by mutual agreement.

R4-46-209. Registration, License, or Certificate; Name Change; Conviction and Judgment Disclosure

- A.** If the name of an appraiser is legally changed, the appraiser shall submit written notice of the change to the Department and provide documentation showing the circumstances under which the name change occurred. A new registration, license, or certificate with the correct name shall be issued.
- B.** Within 30 days after the filing date of a criminal conviction in any jurisdiction, an appraiser or property tax agent who has been convicted shall report the conviction to the Department. The report shall include a copy of the initial indictment, information or complaint filed, the final judgment entered by the court, and all other relevant legal documents.
- C.** Within 30 days after the final disposition of a matter, an appraiser or property tax agent shall report to the Department any civil judgment based on fraud, misrepresentation, or deceit in the making of any appraisal entered against the appraiser or property tax agent.

ARTICLE 3. COMPLAINT INVESTIGATIONS

R4-46-301. Complaints and Investigations; Complaint Resolution

A. Complaints and Investigations

1. The Department shall investigate a complaint, if the complaint meets the minimum jurisdictional criteria.
2. The Department may notify the respondent of a complaint.
3. The Department may require that the respondent file a written response to the complaint and provide any one or more of the following:
 - a. Appraisal report,
 - b. Appraisal review,
 - c. Consulting assignment,
 - d. Property tax appeal at issue,
 - e. Work file, and
 - f. Any other relevant records.
4. The Department may assign or contract with an investigator.
5. Under A.R.S. §§ 6-123(3), 6-124, 12-2212, and 32-3631(C), the Director may compel testimony or document production, regardless of whether an investigation is in process.

B. Complaint Resolution

1. Without limiting any other remedy allowed by statute, if the Director finds a violation of A.R.S. Title 32, Chapter 36, or this Chapter, the Director may:
 - a. Dismiss the matter based upon mitigating factors;
 - b. Issue a letter of concern;
 - c. Issue an order, which may include disciplinary action and/or remedial action; or
 - d. Resolve the matter by settlement.
2. Any time after a complaint has been filed against a respondent, the matter may be resolved by a settlement in which the respondent agrees to accept disciplinary action and/or remedial action by consent. If the Director determines that the proposed settlement will adequately protect the public, the Director may issue a letter of remedial action, or enter into another form of stipulation, agreed settlement, or consent with the respondent. The Director may also allow for a conditional dismissal.

ARTICLE 3.1. RULES OF PRACTICE AND PROCEDURE BEFORE THE DIRECTOR

R4-46-301.01. Scope of Article

This Article governs procedures in all contested cases and appealable agency actions, including administrative appeals, filed with the Department. The Department shall use the authority of A.R.S. §§ 41-1092 through 41-1092.12, and the Office of Administrative Hearings' procedural rules to govern the initiation and conduct of proceedings. In a case or action, special procedural requirements in state statute or another Section in this Chapter shall also govern the proceedings unless the requirements are inconsistent with either A.R.S. §§ 41-1092 through 41-1092.12 or the Office of Administrative Hearings' rules. This Article does not apply to rulemaking or to investigative proceedings before the Director.

R4-46-302.01. Commencement of Proceedings; Notice of Hearing

A person may obtain a hearing under A.R.S. § 41-1092.03 (B) on any appealable agency action or contested case, including the following, unless otherwise provided by law:

1. A letter or order granting or denying a license;
2. A cease and desist order;
3. An order to remedy unsafe or unsound conditions;
4. An order assessing a fine;
5. Any other order or matter reviewable in a hearing either under the authority of these rules, a statute, or an administrative rule enforced by the Director, or by the order's express terms.

R4-46-303.01. Answer to Notice of Hearing

- A. The Director may, in a notice of hearing, direct one or more parties to file an answer to the assertions in the notice of hearing. Any party to the proceeding may file an answer without being directed to do so.
- B. A party directed to file an answer shall do so within 20 days after issuance of a notice of hearing, unless the notice of hearing states a different period for the answer. The Director may require any party to answer, in a reasonable time, amendments to the assertions in the notice made after service of the original notice.
- C. An answer filed under this Section shall briefly state the party's position or defense to the proceeding and shall specifically admit or deny each of the assertions in the notice of hearing. An answering party that does not have, or cannot easily obtain, knowledge or information sufficient to admit or deny an assertion shall state that inability in its answer. That statement shall have the effect of a denial. A party admits each assertion that it does not deny. An answering party that intends to deny only a part or a qualification of an assertion, or to qualify an assertion, shall expressly admit as much of that assertion as is true and shall deny the remainder.
- D. A party that fails to file an answer required by this Section within the time allowed is in default. The Director may resolve the proceeding against a defaulting party. In doing so, the Director may regard any assertions in the notice of hearing as admitted by the defaulting party.
- E. An answering party waives all defenses not raised in its answer.

R4-46-304.01. Filing; Service

- A. A person shall either personally deliver all papers permitted or required to be filed with the Director or shall mail them by first class, certified, or express mail, or send them electronically to the Department, or shall serve them by any method permitted under R2-19-108. The Department considers papers filed when actually received at the Director's address stated in this subsection.
- B. A party in a contested case or appeal from an agency action shall make any required or permitted service in the manner permitted under R2-19-108. A party shall make service upon each represented party's attorney unless the administrative law judge orders separate service on the actual party. A party shall make service upon each unrepresented party by service on the actual party.

R4-46-305.01. Stays

A person aggrieved by the Department's action or order who files a timely written request for a hearing may ask, in the request for a hearing, that the Director stay an action or any part of an order that will become effective before the Department can hold a hearing. The Director may, in the Director's discretion, stay the legal effectiveness of any action or order until the matter can be heard and finally decided if the aggrieved person's request demonstrates that:

1. The person has a reasonable defense that might prevail on the merits at the hearing,
2. The person will suffer irreparable injury unless the Director grants the stay,
3. The stay would not substantially or irreparably harm other interested persons, and
4. The stay would not jeopardize the public interest or contravene public policy.

R4-46-306.01. Rehearing

- A.** Except as provided in subsection (H), any party in a contested case who is aggrieved by a decision rendered in that case may file with the Director, within time limits and other procedural guidelines contained in A.R.S. § 41-1092.09, a written motion for rehearing or review of the decision specifying the particular reason for rehearing.
- B.** A party requesting rehearing under this Section may amend a motion for rehearing at any time before the Director rules on the motion. Any other party, or the Attorney General, may file a response to the motion for rehearing within 15 days after service of the motion for rehearing, or the amended motion for rehearing. The Director may require a written brief of the issues raised in the motion and may allow oral argument.
- C.** The Director may grant a motion for rehearing for any of the following causes:
 1. Irregularity in the proceedings before the Director, in any order, or any abuse of discretion that deprives the moving party of a fair hearing;
 2. Misconduct of the Department, the administrative law judge, or the prevailing party;
 3. Accident or surprise that could not have been prevented by ordinary care;
 4. Newly discovered material evidence that could not reasonably have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. Error in admitting or rejecting evidence or other legal errors occurring at the hearing;
 7. The decision is not justified by the evidence or is contrary to law.
- D.** The Director may affirm or modify the decision or grant a rehearing as to all or any of the parties and on all or part of the issues for any reason listed in subsection (C). An order granting a rehearing shall specify the reason for granting the rehearing, and the rehearing shall cover only those matters specified.
- E.** The Director, within the time for filing a motion for rehearing, may without a motion order a rehearing or review of a decision for any reason that would allow the granting of a motion for rehearing by a party. The order for rehearing, granted without a motion, shall specify the reason for granting the rehearing.
- F.** After giving the parties notice and an opportunity to be heard on the matter, the Director may grant a motion for rehearing, timely served, for a reason not stated in the motion. The order for rehearing, granted for a reason not stated in the motion, shall specify the reason for granting the rehearing.

- G.** When a motion for rehearing is based on an affidavit, the moving party shall serve the affidavit with the motion. An opposing party or the Attorney General may serve opposing affidavits within 10 days after service of the motion for rehearing.
- H.** The Director may issue a final decision, subject only to judicial review and without an opportunity for rehearing or administrative review, if the Director includes in the decision:
 1. An express finding that the decision needs to be made immediately effective to preserve the public peace, health, and safety; and
 2. An express finding that a rehearing or review is:
 - a. Impossible,
 - b. Unnecessary, or
 - c. Contrary to the public interest.

R4-46-307.01. Settlement

- A.** The Department will enter into a settlement, either in litigation or in an administrative proceeding, only if the defendant or respondent admits to the allegations in the complaint, notice, or order relating to the jurisdiction of the Director or the jurisdiction of the tribunal that will enter the judgment or order.
- B.** The Director has sole discretion to decide whether to resolve a matter by settlement. Nothing in Article 3 or Article 3.1 gives the Director a duty to approve a settlement in any matter.

ARTICLE 4. APPRAISAL MANAGEMENT COMPANIES

R4-46-401. Application for Initial Registration

- A.** Unless exempt under A.R.S. § 32-3663 or 12 USC § 3353(c), a person shall not engage in business as an AMC and shall not provide any appraisal management services unless registered with the Department.
- B.** To register under subsection (A), a person shall submit:
 1. A registration application which is available from the Department and on its website, and provide the information and certifications required under A.R.S. § 32-3662(B);
 2. The name and contact information of the controlling person who will be the main contact for all communication between the Department and the AMC;
 3. For the controlling person, each officer, and each individual who owns 10% or more of the AMC:
 - a. A copy of a fingerprint clearance card application under A.R.S. § 41-1758.03, and
 - b. The certification required under A.R.S. §§ 32-3668(B)(3) or 32-3669(B)(1), as applicable;
 4. Proof of the surety bond required under A.R.S. § 32-3667 and Section R4-46-402; and
 5. The application fee specified under Section R4-46-106.
- C.** If an AMC operates in Arizona under more than one name, other than a DBA, the controlling person of the AMC shall ensure that a complete application, as described in subsection (B), is submitted in each name under which the AMC will operate. However, if an individual previously submitted a copy of a valid fingerprint clearance card application under subsection (B), the individual is not required to resubmit the fingerprint clearance card unless the card has expired, or is suspended, or cancelled.

R4-46-402. Bond Required

- A. The surety bond required under A.R.S. § 32-3667 shall be in the amount of \$20,000 and shall be issued by a surety company authorized to do business in Arizona.
- B. The controlling person of a registered AMC shall ensure that the surety bond required under A.R.S. § 32-3667 requires the issuing surety company to provide written notice to the Department by registered or certified mail at least 30 days before the surety company cancels the bond and within 30 days after the surety company pays a loss under the bond.
- C. The surety bond required under A.R.S. § 32-3667 is to be used exclusively to ensure that a registered AMC pays:
 - 1. All amounts owed to persons that perform real estate appraisal services for the AMC, and
 - 2. All amounts adjudged against the AMC as a result of either negligent or improper real property appraisal services or appraisal management services or of a breach of contract in performing real property appraisal services or appraisal management services.
- D. The controlling person of a registered AMC shall ensure that the required surety bond is:
 - 1. Maintained in the amount of \$20,000;
 - 2. Funded to \$20,000 within seven days after being drawn down; and
 - 3. Maintained for at least one year after the AMC's registration expires, is revoked or surrendered, or otherwise ends.
- E. If the Department receives notice from the surety company of intent to cancel the required bond, the Department shall notify the controlling person of the AMC and require that the controlling person submit proof of a replacement bond before the existing bond is cancelled. Under A.R.S. § 32-3678, failure to maintain the required bond is grounds for disciplinary action.
- F. If a registered AMC operates in Arizona under more than one name, other than a DBA, the controlling person shall ensure that a separate surety bond in the amount of \$20,000 is maintained in each name.
- G. If the name of a registered AMC is changed, the controlling person of the registered AMC shall ensure that a surety bond in the amount of \$20,000 is:
 - 1. Maintained in the former name for one year after the name is changed, and
 - 2. Obtained in the registered AMC's new name.
- H. A person damaged by a registered AMC's failure to pay an obligation listed in subsection (C) has a right of action against the surety bond. The damaged person shall begin the action in a court of competent jurisdiction within one year after the AMC failed to pay the amount owed or the amount adjudged against the AMC.
- I. If the surety bond required under A.R.S. § 32-3667 is cancelled, liability of the issuing surety company is not limited or cancelled regarding any claim against the surety bond for actions by the AMC while the surety bond was in force.

R4-46-403. Change in Controlling Person or Agent for Service of Process; Notice of Adverse Action

- A. If any of the information submitted under Section R4-46-401(B)(2) changes, the controlling person of the registered AMC shall provide to the Department written notice of the change within 10 business days.

- B. If an individual becomes the controlling person of a registered AMC and the information required under Section R4-46-401(B)(3) was not previously submitted for the individual, the new controlling person shall ensure that the required information is submitted to the Department within 10 business days after the change in controlling person.
- C. If a registered AMC is required under A.R.S. § 32-3662(B)(4) to provide the name and contact information for an agent for service of process in this state, the controlling person of the AMC shall provide the Department written notice of any change in the information within 10 business days.
- D. If the regulated entity, the responsible person, any controlling person, or any person who owns 10% or more of the firm has ever been, or is currently, the subject of any complaint, investigation, or disciplinary action against a license, certificate, registration, or membership by any state regulatory agency, or any professional or occupational credentialing authority that resulted in an adverse judgment against them, including any denial, or voluntary surrender, withdrawal, or resignation of a credential in lieu of disciplinary action, the controlling person of the AMC shall provide the Department with written notice of such action within 10 business days after such action has been finalized.

R4-46-404. Application for Renewal Registration

- A. Under A.R.S. § 32-3665, an initial registration for an AMC expires one year after the date of issuance. A renewal registration for an AMC expires two years after the date of issuance.
- B. To renew registration for an AMC, the controlling person of the registered AMC shall, within 60 days before expiration, submit:
 1. A renewal registration application,
 2. The certifications required under A.R.S. § 32-3662(B),
 3. Proof of the surety bond required under A.R.S. § 32-3667 and Section R4-46-402,
 4. The renewal fee under Section R4-46-106,
 5. Evidence that each person who has at least a 10% ownership interest in the AMC and the controlling person have applied for a valid fingerprint clearance card unless a valid fingerprint clearance card is currently on file with the Department, and
 6. Disclose any changes to the percentage of ownership.
- C. If the controlling person of a registered AMC fails to comply with subsection (B) and the registration expires, the controlling person shall ensure that the AMC immediately ceases providing all appraisal management services. The Department may accept a renewal application after the expiration date if within 90 days of the date of expiration but shall assess a delinquent renewal fee in addition to the renewal fee.

R4-46-405. Certifications; National Registry Reporting

- A. Under A.R.S. § 32-3672, the controlling person of a registered AMC is required to make certain certifications to the Department at the time the AMC's registration is renewed.
- B. To make the certifications required under A.R.S. § 32-3672, the controlling person of a registered AMC shall use a form that is available from the Department and on its website.
- C. The controlling person of a registered AMC shall make available to the Department, upon request, evidence that the certifications are true and that the systems, processes, and records certified are effective in protecting the public.

- D.** In accordance with the provisions contained in 12 U.S.C. § 3338, each authorized representative or controlling person of an AMC that is either registered with the state or federally regulated and operating in Arizona shall annually submit an AMC National Registry Report to the Department at least 15 days prior to March 1st of each year for the period from January 1 to December 31 of the previous year. The AMC National Registry Report shall include:
 - 1. Identifying information for the AMC;
 - 2. The number of appraisers who have performed an appraisal for the AMC in connection with a covered transaction in the state during the previous year, or from the commencement of business for AMCs not in existence for the entire previous year; and
 - 3. A signed affirmation by written declaration.
- E.** The AMC shall pay, at the time it submits the National Registry Report to the Department, the fee required under 12 U.S.C. § 3338(a)(4).
- F.** A registered AMC or federally regulated AMC operating in Arizona who fails to timely submit a National Registry Report to the Department and to remit the AMC National Registry fee shall not appear on the AMC National Registry.
- G.** Under A.R.S. § 32-3678, failure to comply with this Section is grounds for disciplinary action.

R4-46-406. Appeal for Waiver

- A.** Under A.R.S. §§ 32-3668 and 32-3669, an AMC for which registration is sought under Section R4-46-401 may not have an owner, controlling person, officer, or other individual with a 10% or greater financial interest in the AMC who has ever had a financial, real estate, or mortgage lending industry license or certificate refused, denied, canceled, revoked, or voluntarily surrendered in any state.
- B.** The requirement in subsection (A) may be waived, at the discretion of the Director, when an appeal is made by the individual who has had a financial, real estate, or mortgage lending industry license or certificate refused, denied, canceled, revoked, or voluntarily surrendered.
- C.** To make an appeal for waiver under subsection (B), the individual who has had a financial, real estate, or mortgage lending industry license or certificate refused, denied, canceled, revoked, or voluntarily surrendered shall submit an appeal for waiver form, which is available from the Department and on its website.
- D.** In deciding whether to waive the requirement under subsection (A), the Director shall consider the following factors:
 - 1. Whether the refusal, denial, cancellation, revocation, or voluntary surrender of a license or certificate was based on a finding of fraud, dishonesty, misrepresentation, or deceit on the part of the appellant;
 - 2. The amount of time that has elapsed since the refusal, denial, cancellation, revocation, or voluntary surrender of a license or certificate;
 - 3. Whether the act leading to the refusal, denial, cancellation, revocation, or voluntary surrender of a license or certificate was an isolated occurrence or part of a pattern of conduct;
 - 4. Whether the act leading to the refusal, denial, cancellation, revocation, or voluntary surrender of a license or certificate appears to have been done for a self-serving purpose;
 - 5. The harm caused to victims, if any;

6. Efforts at rehabilitation, if any, undertaken by the appellant and evidence regarding whether the rehabilitation efforts were successful;
7. Restitution made by the appellant to victims, if any; and
8. Other factors in mitigation or aggravation that the Director determines are relevant.

R4-46-408. Voluntarily Relinquishing Registration

- A. The controlling person of a registered AMC may voluntarily relinquish the AMC's registration if:
 1. No complaint is currently pending against the AMC,
 2. All amounts owed under subsection R4-46-402(C) have been paid, and
 3. The AMC is in good standing with the Department.
- B. To voluntarily relinquish an AMC's registration, the controlling person of the AMC shall enter into an agreement with the Director that provides the AMC shall:
 1. Cease engaging in business as an AMC and cease providing appraisal management services immediately, and
 2. Maintain the surety bond required under A.R.S. § 32-3667 for one year after the agreement is entered.

ARTICLE 5. COURSE APPROVAL

R4-46-501. Course Approval Required; Definitions

- A. Under A.R.S. §§ 32-3601(10) and 32-3625, a course must be approved by the Director, including a course presented by distance education, before the course is offered in Arizona. A course shall be approved as either qualifying or continuing education.
- B. Prior to the approval of a course as either qualifying or continuing education, the Department shall determine whether the course satisfies the qualification criteria under subsection R4-46-201(B).
- C. A course owner shall ensure that the course is not offered as either qualifying or continuing education until the course owner receives notice that the course has been approved unless the course owner includes notice in the offering materials that course approval is pending and no credit may be claimed for participating in the course until approval is received.
- D. The Department shall include in the notice of course approval referenced in subsection (C):
 1. An index number for the approved course,
 2. The maximum number of hours of instruction (including examination time if applicable) that may be claimed for participating in the approved course, and
 3. Whether the course is approved as qualifying or continuing education.
- E. A course owner shall ensure that the course is not advertised or represented as approved until after receipt of the notice referenced in subsection (D). After receiving notice of course approval, the course owner may represent in any materials that the course is approved.
- F. As used in this Article:
"Continuing education" means the basic education requirement for renewal of a license or certification within the meaning of A.R.S. § 32-3625.

“Qualifying education” means the basic education requirement to apply as a state-licensed appraiser under A.R.S. § 32-3613(B) or state-certified real estate appraiser under A.R.S. § 32-3614(C).

R4-46-502. Approval of Distance-education Delivery Mechanism

If a course is to be delivered by distance education, the course owner shall obtain approval of the course-delivery mechanism from one of the following sources if required:

1. An organization approved by the AQB that provides approval of course design and delivery;
2. An accredited institution of higher education that approves the content of the course and offers and awards academic credit for the distance-education course; or
3. An accredited institution of higher education that approves the content of the course and a distance-education approval organization that approves the course design and delivery, which includes interactivity.

R4-46-503. Course Owners

A. Approval of a course granted to the course owner extends to a secondary provider. However, for a course delivered by distance education:

1. A course owner’s approval of the course-delivery mechanism, as required under Section R4-46-502, does not extend to a secondary provider; and
2. Both the course owner and secondary provider shall apply for and obtain approval of the course-delivery mechanism from a source listed in Section R4-46-502.

B. If a course owner allows an approved course to be offered by a secondary provider, the course owner shall ensure that the secondary provider:

1. Uses the course owner’s materials, including the same textbook and examination, if any;
2. Allows only the number of hours specified by the Department under subsection R4-46-501(D);
3. Uses an instructor who is qualified under the standards specified in subsection R4-46-506(7); and
4. Adheres to the course owner’s policies regarding student attendance, course scheduling, and prerequisites, if any.

C. Before allowing an approved course to be offered by a secondary provider using distance education, the course owner shall comply with subsection (B) and:

1. Ensure that the secondary provider has obtained approval of the course-delivery mechanism from a source listed in Section R4-46-502, and
2. Provide evidence that the secondary provider has obtained approval of the course-delivery mechanism for the approved course.

D. A course owner shall be held responsible if a secondary provider, authorized by the course owner under subsection (B) or (C), violates any provision of this Article.

R4-46-504. Application for Course Approval

Only a course owner may apply for course approval. To apply for course approval, a course owner shall submit to the Department:

1. An application for course approval, which is available from the Department and on its website;
2. Materials and other documents that demonstrate the course meets the minimum standards specified in Section R4-46-506;
3. If the course will be offered using distance education, evidence of approval of the course-delivery mechanism from a source listed in Section R4-46-502; and
4. The application fee specified under Section R4-46-106.

R4-46-505. Course Approval without Application

The Director approves without application the following:

1. A course approved through the AQB's voluntary Course Approval Program;
2. The 15-Hour National USPAP Course or its equivalent, approved by the AQB, if the course is taught by at least one instructor who is certified by the AQB as an USPAP instructor; and
3. The 7-Hour National USPAP Update Course or its equivalent, approved by the AQB, if the course is taught by at least one instructor who is certified-by the AQB as an USPAP instructor.

R4-46-506. Minimum Standards for Course Approval

The Director shall approve a course only if the course owner submits the following materials and documents with the application for approval required under Section R4-46-504 and demonstrates the course, including a course presented by distance education, meets the following minimum standards:

1. Course description. Clearly describe the subject matter content of the course.
2. Summary outline. Identify major topics and the number of classroom hours devoted to each.
3. Prerequisites. Specify necessary prerequisites for any course other than a course on:
 - a. Introductory real estate appraisal principles and practices, and
 - b. Appraisal standards and ethics.
4. Learning objectives. Specific learning objectives shall:
 - a. State clearly the specific knowledge and skills students are expected to acquire by completing the course;
 - b. Be consistent with the course description required under subsection (1);
 - c. Be consistent with the instructional materials described in subsection (5);
 - d. Be achievable in the number of hours allotted for the course;
 - e. If for qualifying education, specify the required core curriculum, module subtopic, and number of course hours; and
 - f. If for continuing education, specify the appraisal topic and number of course hours.
5. Instructional materials. Instructional materials used by students shall:
 - a. Cover the subject matter in sufficient depth to achieve the learning objectives specified in subsection (4);

- b. Reflect current knowledge and practice in the field of appraisal;
 - c. Contain no significant errors;
 - d. Use correct grammar and spelling;
 - e. Be written in a clear, concise, and understandable manner;
 - f. Be in a format that facilitates learning; and
 - g. Be bound or packaged and produced in a quality manner.
6. Examinations for qualifying education courses. Qualifying education courses shall include a series of examinations or a comprehensive final examination, or both. A course examination shall:
- a. Contain enough questions to assess adequately whether a student acquired knowledge of the subject matter covered by the course;
 - b. Contain questions directed towards assessing whether students achieved the learning objectives specified in subsection (4);
 - c. Be allotted sufficient time for students to complete;
 - d. Contain questions on information adequately addressed in the instructional material required under subsection (5);
 - e. Contain questions that are written in a clear, accurate, and unambiguous manner;
 - f. Contain questions for which the intended answer is clearly the best answer choice;
 - g. Be proctored and closed-book; and
 - h. Have a criterion for passing that is announced before the examination is given.
7. Instructor qualifications policy. The course owner has a written policy that requires use of instructors who meet at least one of the following:
- a. Has a baccalaureate degree in any field and at least three years of experience directly related to the subject matter to be taught,
 - b. Has a master's degree in any field and one year of experience directly related to the subject matter to be taught,
 - c. Has a master's or higher degree in a field directly related to the subject matter to be taught,
 - d. Has at least five years of real estate appraisal teaching experience directly related to the subject matter to be taught, or
 - e. Has at least seven years of real estate appraisal experience directly related to the subject matter to be taught.
8. Required policies. The course owner shall have the following written policies:
- a. Attendance policy that ensures student attendance is verified.
 - i. Stipulate that to receive credit, a student must be present for the entire course;
 - ii. Include the instructor's name on the attendance record; and
 - iii. Maintain attendance records for five years;
 - b. Scheduling policy.
 - i. Provide that a student may participate in a maximum of eight hours of instruction in a day, and
 - ii. Provide that appropriate breaks are included during each class session, and
 - c. Completion certificate policy.
 - i. Require that a signed and dated completion certificate be issued promptly to all students who complete a course, and
 - ii. Require that a completion certificate contain all information required on the form of certification provided by the Department.

R4-46-507. Secondary Providers

The Director shall hold a course owner responsible for the activities of a secondary provider who conducts the course owner's approved course in Arizona. To protect the integrity of the approval, a course owner shall have a written agreement with a secondary provider that requires the secondary provider to:

1. Use the materials required under subsection R4-46-506(5) and the examination required under subsection R4-46-506(6) without change;
2. Conduct the course in accordance with the policies required under subsections R4-46-506(7) and (8);
3. Clearly state in advertising materials that the course has been lawfully acquired from the course owner and that approval was provided to the course owner and not to the secondary provider;
4. Cease using the materials and examination when the course approval expires under Section R4-46-510; and
5. If the course is to be delivered by distance learning, obtain approval of the course-delivery mechanism from a source listed in Section R4-46-502.

R4-46-508. Compliance Audit of Approved Courses

- A. To improve the quality of education available to appraisers in this state, the Department may regularly audit approved courses for compliance with this Chapter.
- B. The Director shall identify approved courses for audit using the following to establish the priority of audits:
 1. Approved courses about which a complaint has been received,
 2. Approved courses of a course owner that is new to this state, and
 3. Approved courses that have not been audited in the last five years.
- C. On request from the Director, the course owner of an approved course shall provide the dates, times, and locations at which the approved course will be taught and the name of the instructor who will teach each presentation of the approved course.
- D. The audit of an approved course may be conducted by a volunteer auditor trained by the Department.
- E. The course owner of an approved course shall allow an auditor described under subsection (D) to attend the approved course at no charge.
- F. The auditor shall be identified to the instructor before the approved course starts.
- G. On request from the auditor, the course owner shall allow the auditor to examine records, materials, and other documents relevant to the approved course audited.
- H. After review by the Director, the Department shall provide a copy of the audit report to the course owner. If the audit identifies ways in which the approved course fails to comply with this Article, the Department shall:
 1. Work with the course owner to establish a correction plan to bring the course into compliance,
 2. Establish a time within which the course owner is required to complete the correction plan and bring the course into compliance, and
 3. Inform the course owner of the manner in which to report the approved course is in compliance with this Article.

- I. Failure of a course owner to comply with this Article may lead to revocation of course approval.

R4-46-509. Changes to an Approved Course

The Director encourages revisions and updates that improve and keep an approved course current. However, if any of the information provided under subsections R4-46-506(1), (2), (4), or (5) changes so substantially as to alter the scope of the approved course as determined at the sole discretion of the Director, the course owner of the approved course shall submit a new application for approval under Section R4-46-504.

R4-46-510. Renewal of Course Approval

- A. Course approval expires a maximum of two years after approval is granted. Approval of a distance education course expires in two years or, if applicable, when the distance education delivery-mechanism approval required under Section R4-46-502 or approval under Section R4-46-505 expires, whichever is less.
- B. The Director may renew the approval of a course only if the information provided under subsections R4-46-506(1), (2), (4), and (5) has not changed substantially.
- C. If an approved course meets the standard in subsection (B), the course owner may apply for renewal of course approval within 90 days before the course approval expires.
- D. To apply for renewal of course approval, a course owner shall submit a renewal application, which is available from the Department and on its website, and pay the renewal fee specified in subsection R4-46-106(A)(10).

R4-46-511. Transfer of an Approved Course

- A. A course owner that transfers the proprietary rights to an approved course shall provide written notice of the transfer to the Department. The course owner shall include in the notice the name of and contact information for the new course owner and the date of the transfer.
- B. The new course owner to which the proprietary rights to an approved course are transferred shall attach to the notice required under subsection (A) a certification available from the Department and on its website, that the new course owner:
 - 1. Will adhere to the requirements in this Article, and
 - 2. Will be responsible for the actions of all secondary providers who have an agreement under Section R4-46-507.
- C. If proprietary rights to an approved course are transferred under this Section, the expiration date of the course approval does not change.

ARTICLE 6. PROPERTY TAX AGENTS

R4-46-601. Standards of Practice

The Director may revoke or suspend a property tax agent's registration or otherwise discipline a property tax agent to the extent permitted by A.R.S. § 32-3654 for any of the following acts or omissions:

1. Engaging in an activity that leads to a conviction for a crime involving the tax profession;
2. Operating beyond the boundaries of an agreed relationship with an employer or a client;
3. Inferring or implying representation of a person or firm that the agent does not represent, or filing a document on behalf of a taxpayer without specific authorization of the taxpayer;
4. Violating the confidential nature of the property tax agent-client relationship, except as required by law;
5. Inappropriately offering or accepting anything of value with the intent of inducing or in return for a specific action;
6. Assigning, accepting, or performing a tax assignment that is contingent upon producing a predetermined analysis or conclusion;
7. Issuing an appraisal analysis or opinion, in the performance of a tax assignment, that fails to disclose bias or the accommodation of a personal interest;
8. Willfully furnishing inaccurate, deceitful, or misleading information, or willfully concealing material information in the performance of a tax assignment;
9. Preparing or using, in any manner, a resume or statement of professional qualifications that is misleading or false;
10. Promoting a tax agent practice or soliciting assignments by using misleading or false advertising;
11. Soliciting a tax assignment by assuring a specific result or by stating a conclusion regarding that assignment without analysis of the facts; or
12. Performing an appraisal, as defined by A.R.S. § 32-3601, unless licensed or certified by the Director as an appraiser.