

Administrative Rules of South Dakota Currentness  
Department of Labor and Regulation (Article 20:77)  
Article 20:77 Appraisal Management Companies  
Chapter 20:77:01 General Provisions.

ARSD 20:77:01:01

20:77:01:01. Appraisal management services.

“Appraisal management services,” is the act or process to (a) recruit, select, and retain appraisers; (b) contract with licensed or certified appraisers to perform appraisal assignments; and (c) manage the process of having an appraisal performed.

Appraisal management services includes 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. It also includes the review and verification of the work of appraisers for compliance with the Uniform Standards of Professional Appraisal Practice.

**Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** [SDCL 36-21D-4](#).

**Law Implemented:** [SDCL 36-21D-1](#), [36-21D-2](#), [36-21D-4\(2\)](#).

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ARSD 20:77:01:02

20:77:01:02. Appraisal review.

“Appraisal review,” is an 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 related to the appraiser's data collection, analysis, opinions, conclusions, estimate of value, or compliance with the Uniform Standards of Professional Appraisal Practice. The term does not include a general examination for grammatical, typographical or other similar errors, or a general examination for completeness including regulatory, or client requirements or both as specified in the agreement process that does not communicate an opinion.

**Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** [SDCL 36-21D-4](#).

**Law Implemented:** [SDCL 36-21D-2\(4\)](#), [36-21D-4\(2\)](#).

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ARSD 20:77:01:03

20:77:01:03. Controlling person.

A “controlling person,” is one or more of the following:

- (1) An officer or director of an appraisal management company, or an individual that holds 10% or greater ownership interest in an appraisal management company;
- (2) An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with clients for performance of appraisal services and that has the authority to enter into agreements with independent appraisers for the completion of appraisals; or
- (3) An individual who possesses the power to direct or cause the direction of the management or policies of an appraisal management company.

**Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** [SDCL 36-21D-4](#).

**Law Implemented:** [SDCL 36-21D-4\(2\)](#).

Current through rules published in the South Dakota register dated December 14, 2015.

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ARSD 20:77:01:04

20:77:01:04. Designated officer.

A “designated officer,” is a controlling person authorized by the governing structure of the appraisal management company to act on behalf of the company for purposes of application for, and compliance with, requirements of this article and responsible for the supervision and control of activities conducted on behalf of the appraisal management company.

**Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** [SDCL 36-21D-4](#).

**Law Implemented:** [SDCL 36-21D-4\(2\)](#).

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Chapter 20:77:01 General Provisions.

ARSD 20:77:01:05

20:77:01:05. Definitions.

Terms used in this article mean:

- (1) “Appraisal Subcommittee,” the Appraisal Subcommittee of the Federal Financial Institutions Examination Council;
- (2) “Appraiser,” a person who has been issued a state-certified general, state-certified residential, state-licensed, or state-registered appraiser license or certificate by the State of South Dakota;
- (3) “Certificate of Registration,” the certificate verifying the registration of any person or entity approved as an appraisal management company by the State of South Dakota;
- (4) “Department,” the Department of Labor and Regulation;
- (5) “Financial institutions,” institutions regulated by the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Office of Thrift Supervision, and National Credit Union Administration;
- (6) “FIRREA,” the Financial Institution Reform Recovery and Enforcement Act of 1989, [Pub. L. No. 101-73, 103 Stat. 183 \(1989\)](#), [12 U.S.C. § 3310, et seq](#);
- (7) “Real estate,” as defined in [SDCL 36-21A-11](#);
- (8) “Secretary,” the secretary of the Department of Labor and Regulation;
- (9) “TILA,” means Truth in Lending Act of 1968 ([15 U.S.C. 1631 et seq](#)) and any amendments thereto;
- (10) “Uniform Standards,” Uniform Standards of Professional Appraisal Practice as incorporated in § 20:14:06:01.

**Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** [SDCL 36-21D-4\(2\)](#).

**Law Implemented:** [SDCL 36-21D-4\(2\)](#).

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Article 20:77 Appraisal Management Companies  
Chapter 20:77:02 Administration.

ARSD 20:77:02:01

20:77:02:01. Roster of appraisal management companies.

The secretary shall maintain a roster of appraisal management companies registered under the provisions of this article. The secretary shall transmit the roster to the Appraisal Subcommittee as required by FIRREA.

**Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** [SDCL 36-21D-4\(9\)](#).

**Law Implemented:** [SDCL 36-21D-1](#), [36-21D-4\(9\)](#).

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Article 20:77 Appraisal Management Companies  
Chapter 20:77:02 Administration.

ARSD 20:77:02:02

20:77:02:02. Notice of change of address.

Each appraisal management company registered under the provisions of this article shall, within five days, give written notice of any change of physical and mailing address, change of company name, telephone number, website, facsimile, or email address to the secretary.

**Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** [SDCL 36-21D-4\(9\)](#).

**Law Implemented:** [SDCL 36-21D-1](#), [36-21D-4\(9\)](#).

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Department of Labor and Regulation (Article 20:77)  
Article 20:77 Appraisal Management Companies  
Chapter 20:77:02 Administration.

ARSD 20:77:02:03

20:77:02:03. Notice of change of designated officer.

Each appraisal management company registered under the provisions of this article shall, within five days, give written notice of change of designated officer of the appraisal management company to the secretary.

**Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** [SDCL 36-21D-4\(9\)](#).

**Law Implemented:** [SDCL 36-21D-1](#), [36-21D-4\(9\)](#).

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Department of Labor and Regulation (Article 20:77)  
Article 20:77 Appraisal Management Companies  
Chapter 20:77:02 Administration.

ARSD 20:77:02:04

20:77:02:04. Notice of change of controlling person.

Each appraisal management company registered under the provisions of this article shall, within five days, give written notice of change of controlling person of the appraisal management company to the secretary.

**Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** [SDCL 36-21D-4\(9\)](#).

**Law Implemented:** [SDCL 36-21D-1](#), [36-21D-4\(9\)](#).

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Administrative Rules of South Dakota Currentness  
Department of Labor and Regulation (Article 20:77)  
Article 20:77 Appraisal Management Companies  
Chapter 20:77:03 Application Procedure.

ARSD 20:77:03:01

20:77:03:01. Application for registration.

An appraisal management company desiring to provide appraisal management services in South Dakota shall apply in writing for a certificate of registration on a form approved by the secretary. An application is only valid for 90 days. The secretary may extend the time for an application upon the written request of the applicant or to allow the applicant reasonable time to comply with the department's request for information or records. The registration fee prescribed in § 20:77:04:01 shall accompany the application form. The application form shall contain the following:

- (1) Legal name and any trade or business name of the appraisal management company;
- (2) Business contact information;
- (3) Name and contact information of the designated officer and all other controlling persons;
- (4) A signed and notarized irrevocable Uniform Consent to Service of Process;
- (5) Name and contact information of each individual authorized by the appraisal management company to contract with clients or independent appraisers for performance of appraisals; and
- (6) An affidavit by the applicant signed before a notary public.

Contact information includes, but is not limited to: Mailing and physical address, telephone and facsimile number, email, and website address.

**Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** [SDCL 36-21D-4\(1\)\(4\)](#).

**Law Implemented:** [SDCL 36-21D-1](#), [36-21D-4\(1\)\(4\)](#).

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Article 20:77 Appraisal Management Companies  
Chapter 20:77:03 Application Procedure.

ARSD 20:77:03:02

20:77:03:02. Uniform consent to service of process.

An appraisal management company applying for registration under this article shall complete an irrevocable Uniform Consent to Service of Process on a form approved by the secretary.

**Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** [SDCL 36-21D-4\(1\)\(4\)](#).

**Law Implemented:** [SDCL 36-21D-1](#), [36-21D-4\(1\)\(4\)](#).

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Chapter 20:77:03 Application Procedure.

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20:77:03:03. Term of registration.

The secretary shall issue a certificate of registration to an applicant who qualifies in accordance with this article. Any registration issued under this article expires on December 31 of each year, unless otherwise revoked or suspended during said term.

**Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** [SDCL 36-21D-4\(1\)\(4\)](#).

**Law Implemented:** [SDCL 36-21D-1](#), [36-21D-4\(1\)\(4\)](#).

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Chapter 20:77:03 Application Procedure.

ARSD 20:77:03:04

20:77:03:04. Registration renewal.

To renew any current valid certificate of registration the holder of the registration must file an application on a form approved by the secretary and pay the renewal fee prescribed in § 20:77:04:02 to the secretary by November 15 of each year.

**Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** SDCL 36-21D-4(1)(4)(5).

**Law Implemented:** SDCL 36-21D-1, 36-21D-4(1)(4)(5).

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Chapter 20:77:03 Application Procedure.

ARSD 20:77:03:05

20:77:03:05. Late renewal.

If renewal of a certificate of registration is not accomplished within the period prescribed in § 20:77:03:04, the applicant may renew the certificate at any time prior to three months after its date of expiration by satisfying all of the requirements for renewal, including paying the renewal fee prescribed in § 20:77:04:02, and paying the applicable late renewal fee prescribed in § 20:77:04:03.

**Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** SDCL 36-21D-4(1)(4)(5).

**Law Implemented:** SDCL 36-21D-1, 36-21D-4(1)(4)(5).

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Administrative Rules of South Dakota Currentness  
Department of Labor and Regulation (Article 20:77)  
Article 20:77 Appraisal Management Companies  
Chapter 20:77:04 Fee Schedule.

ARSD 20:77:04:01

20:77:04:01. Registration fees.

The registration fee is \$1,000.

**Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** [SDCL 36-21D-5](#).

**Law Implemented:** [SDCL 36-21D-5\(1\)](#).

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Administrative Rules of South Dakota Currentness  
Department of Labor and Regulation (Article 20:77)  
Article 20:77 Appraisal Management Companies  
Chapter 20:77:04 Fee Schedule.

ARSD 20:77:04:02

20:77:04:02. Renewal fees.

The renewal fee is \$750.

**Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** [SDCL 36-21D-5](#).

**Law Implemented:** [SDCL 36-21D-5\(2\)](#).

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Department of Labor and Regulation (Article 20:77)  
Article 20:77 Appraisal Management Companies  
Chapter 20:77:04 Fee Schedule.

ARSD 20:77:04:03

20:77:04:03. Late renewal fees.

The late renewal fee is \$50 for each month or fraction of a month that has passed since the first day of January, not to exceed \$150.

**Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** [SDCL 36-21D-5](#).

**Law Implemented:** [SDCL 36-21D-5\(3\)](#).

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Administrative Rules of South Dakota Currentness  
Department of Labor and Regulation (Article 20:77)  
Article 20:77 Appraisal Management Companies  
Chapter 20:77:04 Fee Schedule.

ARSD 20:77:04:04

20:77:04:04. Refund of fees.

Each fee is nonrefundable.

**Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** [SDCL 36-21D-5](#).

**Law Implemented:** [SDCL 36-21D-5](#).

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Administrative Rules of South Dakota Currentness  
Department of Labor and Regulation (Article 20:77)  
Article 20:77 Appraisal Management Companies  
Chapter 20:77:05 Responsibilities and Duties.

ARSD 20:77:05:01

20:77:05:01. Responsibilities and duties.

An appraisal management company registered under the provisions of this article shall:

- (1) Have a system in place to verify that utilized appraisers are licensed or certified and in good standing by this state;
- (2) Require each utilized appraiser who performs appraisals in this state to certify in writing the area of geographic competency and the specific appraisal assignments competent to appraise;
- (3) Have a system in place to review the work of utilized appraisers who perform appraisal services to validate that the services were conducted in conformity with the uniform standards;
- (4) Have a system in place to verify that any employee of, or independent contractor to, the appraisal management company that is utilized to perform an appraisal review, of the work of utilized appraisers who perform an appraisal assignment for a property located in South Dakota, be licensed or certified and in good standing by this state;
- (5) File a referral with the department if there is evidence that a utilized appraiser is in violation of the laws, rules, or uniform standards regarding appraisers, including but not limited to grounds for disciplinary action as prescribed in § 20:14:11:03;
- (6) Authorize a designated officer, who will be responsible for accepting the responsibilities for compliance with SDCL chapter 36-21D and the provisions of this article, and notify the department, within five days, of any change in its designated officer;
- (7) Maintain with the department the name and address of a registered agent for service of process; and notify the department, within five days, of any change to the information on file;
- (8) Disclose to its client the actual fees paid to an appraiser for appraisal services, separate from any other fees or charges for appraisal management services, and make the information available to the department upon request; and
- (9) Disclose its certificate of registration number within its engagement document with each utilized appraiser.

**Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** [SDCL 36-21D-4\(3\)](#).

**Law Implemented:** [SDCL 36-21D-1](#), [36-21D-2\(2\)\(4\)](#), [36-21D-4\(3\)](#).

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Administrative Rules of South Dakota Currentness  
Department of Labor and Regulation (Article 20:77)  
Article 20:77 Appraisal Management Companies  
Chapter 20:77:06 Records.

ARSD 20:77:06:01

20:77:06:01. Retention of records.

An appraisal management company registered under the provisions of this article shall retain the following records:

(1) A detailed record of each service request that it receives for appraisals of real property located in South Dakota, which shall include, but is not limited to, the following:

- (a) Letter of engagement with the utilized appraiser;
- (b) Appraisal report received from the utilized appraiser, including the original report, any revised reports, and any addenda or other material furnished subsequent to the delivery of the original report;
- (c) Any and all assignment related correspondence sent to and received from the utilized appraiser;
- (d) Letter of engagement with the utilized reviewing appraiser for the purpose of reviewing the requested appraisal;
- (e) Review of the requested appraisal, including the original review report, any and all correspondence sent to and received from the utilized reviewing appraiser, and each subsequent revised review report;
- (f) Requests received from the client, all documentation supplied to that client, and any and all correspondence sent to and received from the client; and
- (g) Fees paid to utilized appraisers and the fees received from the client;

(2) The appraiser fee schedules, with beginning and ending effective dates, which is developed, maintained, and is currently being used.

Records must be retained for a minimum of five years. However, if, within the five-year period, an appraisal or report is involved in an investigation, litigation, or state or federal review, the five-year period for the retention of the records begins on the date of the final disposition of that investigation, litigation, or state or federal review. Records may be retained as a photocopy or electronic copy type of media.

**Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** [SDCL 36-21D-4\(8\)](#).

**Law Implemented:** [SDCL 36-21D-1](#), [36-21D-4\(3\)\(8\)](#).

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Chapter 20:77:06 Records.

ARSD 20:77:06:02

20:77:06:02. Inspection and copying.

An appraisal management company registered under the provisions of this article shall make all records required to be maintained or records deemed to be pertinent to an investigation of a complaint under this article available for inspection and copying upon request of the department.

**Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** [SDCL 36-21D-4](#).

**Law Implemented:** [SDCL 36-21D-1](#), [36-21D-4\(3\)\(8\)\(10\)\(11\)](#).

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Administrative Rules of South Dakota Currentness  
Department of Labor and Regulation (Article 20:77)  
Article 20:77 Appraisal Management Companies  
Chapter 20:77:07 Complaints, Investigations, and Discipline.

ARSD 20:77:07:01

20:77:07:01 Complaints and investigations.

The department shall upon written and signed complaint or referral, or may, upon the secretary's own motion, initiate an investigation of any registration holder or applicant for registration.

**Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** SDCL 36-21D-4(6)(7)(10)(11).

**Law Implemented:** SDCL 36-21D-1, 36-21D-4(6)(7)(10)(11).

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Department of Labor and Regulation (Article 20:77)  
Article 20:77 Appraisal Management Companies  
Chapter 20:77:07 Complaints, Investigations, and Discipline.

ARSD 20:77:07:02

20:77:07:02 Disciplinary actions.

The secretary may, in compliance with SDCL chapter 1-26, either fine, deny, suspend, censure, reprimand, or revoke a registration required by SDCL chapter 36-21D on any of the grounds for disciplinary action provided in this article. In addition, the secretary may enter into consent agreements to contractually resolve disciplinary actions.

**Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** [SDCL 36-21D-4\(7\)](#).

**Law Implemented:** [SDCL 36-21D-1](#), [36-21D-4\(7\)](#), [36-21D-8](#), [36-21D-9](#).

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Article 20:77 Appraisal Management Companies  
Chapter 20:77:07 Complaints, Investigations, and Discipline.

ARSD 20:77:07:03

20:77:07:03. Grounds for disciplinary action.

The grounds for disciplinary action are:

- (1) Prohibiting an appraiser from reporting the fee paid to the appraiser in the body of the appraisal report. However, a registered appraisal management company may require an appraiser to present any such disclosure in a specified format and location;
- (2) Using an appraisal report submitted by an independent appraiser, or any data or information contained therein, for any purpose other than its intended use without the appraiser's or the intended end user's written consent, except as necessary to comply with regulatory mandates or legal requirements;
- (3) Failing to meet the requirements for registration established pursuant to this article;
- (4) Procuring or attempting to procure registration under this article by knowingly making a false statement, submitting false information, or making a material misrepresentation in an application filed with the department or procuring or attempting to procure a registration through fraud or misrepresentation;
- (5) Paying money or other valuable consideration other than the fees provided for by this article to any employee of the department to procure a registration;
- (6) Any act which constitutes dishonesty, fraud, or misrepresentation;
- (7) Having the designated officer or a controlling person pleading guilty or nolo contendere to or being found guilty of a felony; pleading guilty or nolo contendere to or being convicted of a misdemeanor involving mortgage lending or real estate appraising; or having committed an offense involving breach of trust, moral turpitude, fraudulent or dishonest dealings;
- (8) Having the designated officer or a controlling person, who is registered, licensed, or certified as an appraiser in this state or another state or jurisdiction, disciplined with suspension, denial, censure, reprimand, voluntary surrender in lieu of disciplinary action, or revocation of the certificate or license;
- (9) Having disciplinary action of the designated officer or a controlling person by any agency of the State of South Dakota or another state or jurisdiction;

(10) Being permanently or temporarily prohibited by a court of competent jurisdiction from engaging in or continuing to conduct any practice involving appraisal management services or operating an appraisal management company;

(11) Violating any provision of this article or SDCL chapter 36-21D;

(12) Being disciplined with suspension, denial, censure, reprimand, or revocation of a registration by another state or jurisdiction;

(13) Submitting fraudulent documents to another state or jurisdiction to become registered;

(14) Being disciplined by any agency of the federal government, State of South Dakota, or another state or jurisdiction;

(15) Failing to comply with a final order of the secretary;

(16) Voluntary surrender of a registration in lieu of disciplinary action by another state or jurisdiction;

(17) Altering, modifying, or otherwise changing a completed requested appraisal report without written consent from the utilized appraiser who prepared the appraisal report; or

(18) Being sanctioned for failing to compensate utilized appraisers, who complete appraisal assignments on properties located within the State of South Dakota, with reasonable and customary fees as required by TILA.

#### **Credits**

**Source:** 38 SDR 40, effective September 20, 2011.

**General Authority:** [SDCL 36-21D-4\(7\)](#)

**Law Implemented:** [SDCL 36-21D-1](#), [36-21D-4\(7\)](#), [36-21D-10](#).

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