

1 services for clients; receives requests for residential real
2 estate appraisal services from clients and, for a fee paid by
3 the client, enters into an agreement with one or more
4 independent appraisers to perform the residential real estate
5 appraisal services contained in the request; or otherwise serves
6 as a third-party broker of residential appraisal management
7 services between clients and appraisers.

8 "Appraisal management services" means the process of
9 receiving a request for the performance of residential real
10 estate appraisal services from a client and, for a fee paid by
11 the client, entering into an agreement with one or more
12 independent appraisers to perform the real estate appraisal
13 services contained in the request.

14 "Appraiser" means a person who provides an opinion of the
15 market value of real property.

16 "Appraiser fee schedule" means a list of the various real
17 estate appraisal services requested by an appraisal management
18 company in the State from independent appraisers and the amount
19 that the appraisal management company is willing to pay to an
20 independent appraiser for the performance of each of the listed
21 real estate appraisal services.



1 "Appraiser panel" means a group of independent appraisers
2 that have been selected by an appraisal management company to
3 perform residential real estate appraisal services for the
4 appraisal management company.

5 "Client" means any person or entity that contracts with or
6 otherwise enters into an agreement with an appraisal management
7 company for the performance of residential real estate appraisal
8 services.

9 "Commission" means the real estate commission.

10 "Controlling person" means an owner, officer or director of
11 a corporation, partnership or other business entity seeking to
12 offer appraisal management services in the State; an individual
13 employed, appointed, or authorized by an appraisal management
14 company who has the authority to enter into a contractual
15 relationship with clients for the performance of appraisal
16 management services and has the authority to enter into
17 agreements with independent appraisers for the performance of
18 residential real estate appraisal services; or an individual who
19 possesses, directly or indirectly, the power to direct the
20 management or policies of an appraisal management company.

21 "Real estate appraisal services" means the practice of
22 developing an opinion of the value of real property in



1 conformity with the Uniform Standards of Professional Appraisal
2 Practice published by The Appraisal Foundation.

3 § -C **Registration required; form; fee.** (a) It shall be
4 unlawful for a person, corporation, partnership, sole
5 proprietorship, subsidiary, unit, or any other entity to
6 directly or indirectly engage or attempt to engage in business
7 as an appraisal management company, either gratuitously or for
8 pay; to directly or indirectly perform or attempt to perform
9 appraisal management services; or to advertise or announce
10 oneself, either publicly or privately, as engaging in or
11 conducting business as an appraisal management company without a
12 valid, unexpired registration issued by the commission under
13 this chapter, regardless of the entity's use of the term
14 "appraisal management company", "mortgage technology company",
15 or any other name.

16 (b) The registration required by subsection (a) shall, at
17 a minimum, include the following:

- 18 (1) Name of the entity seeking registration;
19 (2) Business address of the entity seeking registration;
20 (3) Telephone contact information of the entity seeking
21 registration;



- 1 (4) Name and contact information for the company's agent
2 for service of process in the State if the entity is
3 not a corporation that is domiciled in the State;
- 4 (5) Name, address, and contact information for any
5 individual, corporation, partnership, or other entity
6 that owns at least a ten per cent share of the
7 appraisal management company;
- 8 (6) Name, address, and contact information for a
9 controlling person of the appraisal management
10 company;
- 11 (7) A certification that the appraisal management company
12 has a system and process in place to verify that a
13 person being added to the appraiser panel of the
14 appraisal management company holds a license in good
15 standing in the State pursuant to chapter 466K;
- 16 (8) A certification that the appraisal management company
17 has a system in place to review the work of all
18 independent appraisers who perform real estate
19 appraisal services for the appraisal management
20 company to ensure that real estate appraisal services
21 are conducted in accordance with the Uniform Standards
22 of Professional Appraisal Practice;



1 (9) A certification that the entity maintains a detailed
2 record of each service request that it receives and
3 the independent appraiser that performs the
4 residential real estate appraisal services for the
5 appraisal management company;

6 (10) An irrevocable Uniform Consent to Service of Process;
7 and

8 (11) Any other information required by the commission.

9 (c) An applicant for registration as an appraisal
10 management company in the State shall submit to the commission
11 an application on a form prescribed by the commission.

12 (d) The commission is authorized to impose and collect a
13 fee of \$ from each appraisal management company
14 seeking registration under this chapter.

15 (e) An appraisal management company applying for
16 registration under this chapter shall file an irrevocable
17 Uniform Consent to Service of Process with the commissioner of
18 securities.

19 (f) A registration granted by the commission pursuant to
20 this chapter shall be valid for one year from the date on which
21 it is issued.

1 § -D **Ownership; requirements.** (a) No person who has
2 had a license or certificate to act as an appraiser refused,
3 denied, canceled, or revoked in the State or in any other state
4 shall own more than a ten per cent interest in an appraisal
5 management company.

6 (b) Every person who owns more than a ten per cent
7 interest in an appraisal management company in the State shall:

8 (1) Be of good moral character, as determined by the
9 commission;

10 (2) Submit to a background investigation, as determined by
11 the commission; and

12 (3) Certify to the commission that the person has never
13 had a license to act as an appraiser refused, denied,
14 cancelled, or revoked in the State or in any other
15 state.

16 § -E **Controlling person; requirements.** (a) Each
17 appraisal management company shall designate one controlling
18 person to serve as the primary contact for all communication
19 between the commission and the appraisal management company.

20 (b) A person designated by an appraisal management company
21 as a controlling person shall:



1 (1) Certify to the commission that the person has never
2 had a certificate or a license issued by the State or
3 any other state, to act as an appraiser refused,
4 denied, canceled, or revoked;

5 (2) Be of good moral character, as determined by the
6 commission; and

7 (3) Submit to a background investigation, as determined by
8 the commission.

9 § -F **Employees; requirements; limitations.** (a) Any
10 employee of an appraisal management company, or any person
11 working on behalf of the appraisal management company, who is
12 responsible for selecting independent appraisers to perform
13 residential real estate appraisal services or for reviewing
14 completed appraisals shall be appropriately trained and
15 qualified in the performance of residential real estate
16 appraisals as determined by the commission.

17 (b) Any employee of the appraisal management company who
18 is responsible for reviewing the work of independent appraisers
19 shall have demonstrated knowledge of the Uniform Standards of
20 Professional Appraisal Practice, as determined by the
21 commission.



1 (c) An appraisal management company registered in the
2 State pursuant to this chapter shall not enter into contracts or
3 agreements with any person for the performance of residential
4 real estate appraisal services unless that person is licensed or
5 certified in good standing pursuant to the chapter 466K.

6 § -G Adherence to standards; recordkeeping. (a) Every
7 appraisal management company in the State shall maintain a
8 system and process to verify that any person being added to the
9 appraiser panel of the appraisal management company holds a
10 license in good standing in the State pursuant chapter 466K.

11 (b) Every appraisal management company in the State shall
12 maintain a system and process to review the work of all
13 independent appraisers who perform real estate appraisal
14 services for the appraisal management company on a periodic
15 basis to ensure that the real estate appraisal services are
16 conducted in accordance with the Uniform Standards of
17 Professional Appraisal Practice.

18 (c) Each appraisal management company in the State shall
19 maintain detailed records of each service request and the
20 disposition of each service request, including the appraiser
21 performing the residential real estate appraisal services for
22 the appraisal management company.



1 § -H Appraiser fee schedule. (a) An appraisal
2 management company in the State that utilizes an appraiser fee
3 schedule shall develop the appraiser fee schedule or schedules
4 through one or more surveys of the market rates paid to
5 independent fee appraisers in the State for the performance of
6 real estate appraisal services.

7 (b) The surveys performed pursuant to subsection (a) shall
8 use statistically valid methodologies and techniques, and
9 reliable data sources including representative samples of
10 independent fee appraisers.

11 (c) Every appraisal management company that uses or has
12 developed an appraiser fee schedule shall disclose that
13 information to the commission at the time of initial
14 registration or ninety days before the schedule is adopted by
15 the appraisal management company, whichever is sooner. The
16 commission may review any appraiser fee schedule developed or
17 utilized by an appraisal management company in the State, along
18 with the methodologies, techniques, and data sources used in its
19 development, to ensure that it complies with this section.

20 (d) Following a review of any fee schedule conducted
21 pursuant to subsection (c), the commission shall make the
22 substantive results of the review available to the public.



1 § -I **Appraiser independence; prohibitions.** (a) It
2 shall be unlawful for any employee, director, officer, or agent
3 of an appraisal management company registered in the State to
4 influence or attempt to influence the development, reporting, or
5 review of an appraisal through coercion, extortion, collusion,
6 compensation, instruction, inducement, intimidation, bribery, or
7 in any other manner, including but not limited to:

8 (1) Withholding or threatening to withhold timely payment
9 for an appraisal;

10 (2) Withholding or threatening to withhold future business
11 for an independent appraiser, or demoting or
12 terminating or threatening to demote or terminate an
13 independent appraiser;

14 (3) Expressly or impliedly promising future business,
15 promotions, or increased compensation for an
16 independent appraiser;

17 (4) Conditioning the request for an appraisal service or
18 the payment of an appraisal fee or salary or bonus on
19 the opinion, conclusion, or valuation to be reached,
20 or on a preliminary estimate or opinion requested from
21 an independent appraiser;



- 1 (5) Requesting that an independent appraiser provide an
2 estimated, predetermined, or desired valuation in an
3 appraisal report, or provide estimated values or
4 comparable sales at any time prior to the independent
5 appraiser's completion of an appraisal service;
- 6 (6) Providing to an independent appraiser an anticipated,
7 estimated, encouraged, or desired value for a subject
8 property or a proposed or target amount to be loaned
9 to the borrower, except that a copy of the sales
10 contract for purchase transactions may be provided;
- 11 (7) Providing to an independent appraiser, or any entity
12 or person related to the appraiser, any financial or
13 non-financial benefit;
- 14 (8) Removing or allowing the removal of an independent
15 appraiser from an appraiser panel, without prior
16 written notice to the appraiser;
- 17 (9) Obtaining, using, or paying for a second or subsequent
18 appraisal or ordering an automated valuation model in
19 connection with a mortgage financing transaction
20 unless there is a reasonable basis to believe that the
21 initial appraisal was flawed or tainted and that basis
22 is clearly and appropriately noted in the loan file,



1 or unless the appraisal or automated valuation model
2 is done pursuant to a bona fide pre- or post-funding
3 appraisal review or quality control process; or

4 (10) Any other act or practice that impairs or attempts to
5 impair an appraiser's independence, objectivity, or
6 impartiality.

7 (b) Nothing in subsection (a) of this section shall be
8 construed to prohibit the appraisal management company from
9 requesting that an independent appraiser:

10 (1) Provide additional information about the basis for a
11 valuation; or

12 (2) Correct objective factual errors in an appraisal
13 report.

14 § -J **Guaranty of payment.** Every appraisal management
15 company operating in the State shall, except in cases of breach
16 of contract or substandard performance of services, make payment
17 to an independent appraiser for the completion of an appraisal
18 or valuation assignment within sixty days of the date on which
19 the independent appraiser transmits or otherwise provides the
20 completed appraisal or valuation study to the appraisal
21 management company or its assignee.



1 § -K Alteration of appraisal reports. An appraisal
2 management company may not alter, modify, or otherwise change a
3 completed appraisal report submitted by an independent
4 appraiser.

5 § -L Adjudication of disputes between an appraisal
6 management company and an independent appraiser. (a) Except
7 within the first thirty days after an independent appraiser is
8 added for the first time to the appraiser panel of an appraisal
9 management company, an appraisal management company shall not
10 remove an appraiser from its appraiser panel, or otherwise
11 refuse to assign requests for real estate appraisal services to
12 an independent appraiser without:

- 13 (1) Notifying the appraiser in writing of the reasons why
14 the appraiser is being removed from the appraiser
15 panel of the appraisal management company;
- 16 (2) Notifying the appraiser of the nature of the alleged
17 conduct or violation if the appraiser is removed from
18 the panel for illegal conduct, violation of the
19 Uniform Standards of Professional Appraisal Practice,
20 or a violation of licensing standards; and



1 (3) Providing a reasonable opportunity for the appraiser
2 to respond to the notification of the appraisal
3 management company.

4 (b) An appraiser who is removed from the appraiser panel
5 of an appraisal management company for alleged illegal conduct,
6 violation of the Uniform Standards of Professional Appraisal
7 Practice, or violation of licensing standards, may file a
8 complaint pursuant to chapter 91 with the commission for a
9 review of the decision of the appraisal management company. The
10 commission's review shall be limited to the actions specified in
11 subsection (a).

12 (c) The commission shall adjudicate all complaints
13 pursuant to subsection (b) against an appraisal management
14 company within one hundred eighty days.

15 (d) If after opportunity for hearing and review, the
16 commission determines that an appraiser did not commit a
17 violation of law, a violation of the Uniform Standards of
18 Professional Appraisal Practice, or a violation of state
19 licensing standards, the commission shall order that the
20 appraiser be added, without prejudice, to the appraiser panel of
21 the appraisal management company that was the subject of the
22 complaint.



1 (e) Following the adjudication of a complaint to the
2 commission by an appraiser against an appraisal management
3 company, an appraisal management company may not refuse to make
4 assignments for real estate appraisal services to an appraiser,
5 or reduce the number of assignments, or otherwise penalize the
6 appraiser, where the commission has found that the appraisal
7 management company acted improperly in removing the appraiser
8 from the appraiser panel.

9 § -M Violations. The following shall constitute
10 violations of this chapter punishable by suspension or
11 revocation of registration, fines, or civil penalties:

- 12 (1) Committing an act in violation of this chapter;
13 (2) Violating any rule adopted by the commission pursuant
14 to this chapter; and
15 (3) Procuring a license for oneself or another person by
16 fraud, misrepresentation, or deceit.

17 § -N Rules. Pursuant to chapter 91, the commission may
18 adopt, amend, and repeal rules necessary to effectuate the
19 purposes of this chapter."

20 SECTION 2. In codifying the new sections added by section
21 1 of this Act, the revisor of statutes shall substitute



H.B. NO. 1577

1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 3. This Act shall take effect on July 1, 2009.

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INTRODUCED BY: ~~SEN. C. KATHAN~~ SEN. C. KATHAN B/R

JAN 28 2009



Report Title:

Real Estate Appraisals; Real Property

Description:

Provides for registration of real estate appraisal management companies with the real estate commission of the department of commerce and consumer affairs. Establishes standards and violations.

