

**SCR 41**

# HAWAII FINANCIAL SERVICES ASSOCIATION

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February 17, 2010

Sen. Rosalyn H. Baker, Chair  
and members of the Senate Committee on Commerce and Consumer Protection  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Re: **Senate Concurrent Resolution 41**  
**Requesting the Auditor to Conduct a Sunrise Review of the Regulation of Real Estate**  
**Appraisal Management Companies.**  
**Hearing Date/Time: Wednesday, February 17, 2010, 9:15 A.M.**

I am the attorney for the **Hawaii Financial Services Association** ("HFSA"). The HFSA is the trade association for Hawaii's financial services loan companies, which are regulated by the Hawaii Commissioner of Financial Institutions. Financial services loan companies make mortgage loans and other loans.

The HFSA wants to **comment** on this Resolution.

The purpose of this Resolution is to request that the Auditor conduct a review of the regulation of real estate appraisal management companies ("AMCs").

This Resolution refers to SCR 53, which passed the 2009 legislature. SCR 53 stated that "real estate appraisal management companies are business entities administering a network of independent real estate appraisers to fulfill real estate appraiser assignments on behalf of mortgage lending institutional clients."

AMCs act on behalf of regulated lenders, which have outsourced the appraisal management process to AMCs as their agents. AMCs work with lenders and with appraisers to ensure that an appraiser's work meets the lender's requirements. Lenders use AMCs as a "buffer" between lenders and appraisers to avoid improper pressure on appraisers. This system to avoid pressure benefits consumers and appraisers.

Financial services loan companies and other mortgage lenders obtain real estate appraisals as part of the mortgage loan process. In our testimony on SCR 53 in 2009, we stated that we are unaware of any factual finding or proof by a Hawaii governmental agency that demonstrates a need for State regulation of AMCs.

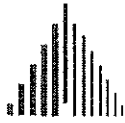
Some appraisers may claim that AMCs are unregulated, but that is a very narrow and inaccurate view of AMC operations and the obligations of AMCs to their lender clients. We understand that federal regulations require AMCs to adhere to the same standards and regulations that are required of their lender clients. AMCs are hired specifically to manage the entire appraisal process, including compliance with the Uniform Standards of Professional Appraisal Practices and with applicable federal banking guidances. Various lenders employ a chief appraiser to oversee AMC quality and appraisal compliance in general. The Home Valuation Code of Conduct ("HVCC") was adopted by Fannie Mae and Freddie Mac and took effect in May, 2009. HVCC has guidelines for AMCs and lenders on the issue of appraiser pressure.

Additional regulation by the State seems unwarranted. Unnecessarily regulating AMCs will likely increase the cost of appraisals, which will be passed on to consumers. For the reasons stated above, an analysis of the AMC industry by the Auditor using the policies in HRS Sec. 26H-2 should conclude that State regulation of AMCs is neither necessary nor recommended.

Thank you for considering our comments.

  
MARVIN S.C. DANG  
Attorney for Hawaii Financial Services Association

(MSCD/hfsa)



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February 13, 2010

Senator Rosalyn H. Baker, Chair  
Senator David Y. Ige, Vice Chair  
Committee on Commerce and Consumer Protection  
Hawaii State Capitol  
415 South Beretania Street, Suite No.  
Honolulu, Hawaii 96813

Regarding: Testimony in favor of SCR No 41  
By the Hawaii Chapter of the Appraisal Institute

Senators:

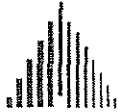
We strongly support the State Auditor's sunrise review of real estate appraisal management companies ("AMC") to assess whether the enactment of the regulatory measure contained in SB1606 is consistent with the policies set forth in section 26H-6 that was originally requested in SCR No 53. The Appraisal Institute submitted testimony in favor of SB1606 in the last legislative session, TWENTY FOURTH LEGISLATURE, 2009, a copy of which is attached.

There have been cases in which AMCs have been accused of false advertising, intentional misrepresentation, conversion, misappropriation, breach of bailment, inflating appraised value of homes, and illegally rigging the appraisal process in a scheme to boost profits, at the expense of homeowners and appraisers. Please refer to the attached testimony dated February 12, 2009 for more details.

We believe that the State Auditor will find that State regulation of AMCs will provide proactive and necessary protection to homeowners and appraisers via a framework for State registration and oversight, standards of ethical behavior, disclosure, accountability, reporting and recourse.

It is important that we take action now before members of our community are seriously damaged by these large out of state companies, which have already abused citizens of other states.

Wayne Y. Sadoyama, Chairman  
Legislative Committee



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February 12, 2009

Senator Rosalyn H. Baker, Chair  
Senator David Y. Ige, Vice-Chair  
Committee on Commerce and Consumer Protection  
The Hawaii Chapter of the Appraisal Institute  
Thursday, February 12, 2009  
(808) 270-0604

### **Testimony in support of SB 1606, Relating to Real Estate Appraisal Management Companies**

The Hawaii Chapter of the Appraisal Institute is part of an international organization of professional real estate appraisers with nearly 24,000 members and 91 chapters throughout the world. Its mission is to advance professionalism and ethics, global standards, methodologies, and practices through the professional development of property economics worldwide.

We strongly support SB 1606, Relating to Real Estate Appraisal Management Companies, which would provide for state registration, standards of ethical behavior, disclosure, accountability, reporting and recourse.

#### **What are Appraisal Management Companies (AMC's).**

Appraisal management companies (AMC) are business entities that administer networks of independent appraisers to fulfill real estate appraisal assignments on behalf of lenders. AMCs are third-party brokers of appraisal services that sit between banks and other mortgage originators and licensed or certified appraisers who perform real estate appraisals. The AMC recruits, qualifies, verifies licensure, negotiates fees and service level expectations with a network of third-party appraisers. In some cases, the AMC is also responsible for many tasks associated with the collateral valuation process, including appraisal review, quality control, market value dispute resolution, warranty administration, and record retention. Upon the completion of an appraisal, the appraisal management company is responsible for forwarding the report to the lender.

While appraisal management companies have been in existence for many years, the industry has experienced growth as a result of outsourcing by financial institutions and the perceived need for an independent third-party in the appraisal process in order to ensure that an appraiser is not subject to outside coercion or influence. The growth of the industry has resulted in numerous instances of abuse.

The following are examples of litigation involving lenders and appraisal management companies that provides some perspective of problems with their industry. The people that are ultimately hurt by unregulated conduct of AMC's are homeowners and real estate appraisers.

(1) 5/9/2007 – Class action lawsuit filed in Maryland against Appraisal Port/FNC (appraisal management company) for (a) false advertising, (b) intentional misrepresentation (fraud), (c) negligent misrepresentation, (d) conversion, misappropriation, and breach of bailment, and (e) breach of implied contract.

(2) 11/1/2007 - The lawsuit by Attorney General Andrew Cuomo against eAppraiseIT was the impetus behind the final HVCC. The suit claims eAppraiseIT was colluding with Washington Mutual to inflate appraisal values of homes.

(3) 1/12/2009 – Class action lawsuit filed by homeowners in Washington against Countrywide Home Loans and Landsafe Appraisal Services (appraisal management company) claiming the lender illegally rigged the appraisal process in a scheme to boost profits at the expense of homeowners and independent appraisers; and LandSafe who skimmed off part of the appraisal fee for themselves.

(4) 1/30/2009 – Class action lawsuit filed by homeowners in Arizona against Wells Fargo and RELS (appraisal management company) claiming the lender illegally rigged the appraisal process in a scheme to boost profits at the expense of homeowners. The lawsuit claims RELS Valuation subcontracts its appraisal work to a network of independent appraisers, but offers them below market rates for appraisals. The company then marks up the cost of the appraisal when invoicing the homeowners. The suit claims that homeowners pay for inflated fees resulting in tens of millions of dollars in additional profit for Wells Fargo for little to no work completed.

#### **Intent of the Legislation**

To date, appraisal management companies are not required to register with any government agency, and are not subject to any state or federal regulation. In fact, the appraisal management company is the only entity in the appraisal process that is not subject to licensing or regulation by any government agency, or any laws or regulations specific to their activity. Because of this, no one is protected from questionable business practices.

On the other hand, real estate appraisers are governed by the Federal FIRREA Act of 1989, State of Hawaii HRS 466K and HAR Chapter 16-114.

Currently, North Carolina, Florida, Mississippi, and Connecticut are considering some form of AMC legislation. There is also a joint nationwide effort by the Appraisal Institute (AI), American Society of Appraisers (ASA), American Society of Farm Managers and Rural Appraisals (ASFMRA), and the National Association of Independent Fee Appraisers (NAIFA) to initiate AMC legislation in every state.

It is not the intent of SB 1606 to interfere with the normal course of business of AMCs, but it does provide a framework for state registration, standards of ethical behavior, disclosure, accountability, reporting and recourse.

As currently drafted, SB 1606 would:

- Require AMCs operating in Hawaii that order residential appraisals to register with the Real Estate Commission (Section C);

- Prohibit AMCs from being owned by individuals who have had an appraiser license or certification denied, refused, cancelled or revoked (Section D);
- Require the identification of a “controlling person” for each AMC that will serve as the main point of contact for the Real Estate Commission (Section E);
- Enact requirements that employees of AMCs are familiar with the real estate appraisal process and applicable standards (Section F);
- Require AMCs to have systems in place to: 1) verify that they only utilize licensed or certified appraisers; 2) ensure that all appraisals are in compliance with the Uniform Standards of Professional Appraisal Practice; and 3) ensure that appropriate records regarding the ordering and performance of appraisals are maintained (Section G);
- Require that AMCs disclose if they utilize an appraisal fee schedule. If yes, requires that the fee schedule be developed utilizing valid methodologies and that the fees paid to appraisers are based upon the market rates that are paid to appraisers for the specific appraisal assignments (Section H);
- Enact requirements that ensure that appraisers are free from coercion or inappropriate influence from AMCs, including provisions that prohibit an AMC from withholding payment to an appraiser that doesn't hit a predetermined property value (Section I);
- Institute a guaranty of payment (Section J);
- Prohibit the alteration of appraisal reports by AMCs (Section K);
- Provide for the adjudication of disputes between AMCs and independent appraisers (Section L); and
- Establish violations (Section M).

We urge the Committee to pass SB 1606. Thank you for this opportunity to testify.



Ted Yamamura  
 Chair, Government Relations Committee  
 Hawaii Chapter of the Appraisal Institute



February 16, 2010

**Sent Via Email**

Committee on Commerce and Consumer Protection  
[CPNTestimony@Capitol.hawaii.gov](mailto:CPNTestimony@Capitol.hawaii.gov)

Re: Hearing on SCR 41; Wednesday February 17, 2010 at 9:15 a.m.

Ladies and Gentlemen:

We are writing in response to SCR 41, requesting a Sunrise Review of SB 1606 that would require the registration of appraisal management companies ("AMCs") in Hawaii. ClearCapital.com, Inc. ("Clear Capital") is a premium provider of data and solutions for real estate asset valuation and risk assessment for large financial services companies. As our services include the delivery of appraisal reports nationwide, we would be impacted by AMC legislation in Hawaii.

AMCs are a critical part of the mortgage lending process and have been for more than 25 years. Like credit bureaus, title companies, flood certification providers, AMCs deliver timely information—in this case home valuations—needed to make a sound mortgage decision. In particular, AMCs offer the following advantages:

- AMCs create a firewall between loan officers and appraisers to prevent undue pressure on the appraiser.
- The AMC business model is an efficient way for lenders and loan servicers to find, retain and deal with qualified appraisers in multiple markets.
- AMCs maintain large client networks, assuring workflow for appraisers on their panel.
- AMCs offer operational support to clients and appraisers at the AMCs' expense. For example, AMCs provide the following services, which increase efficiencies and lower operational costs for both lenders and appraisers: sales and marketing, recruiting and panel administration, order management, fee collection, dispute resolution, record retention and errors and omissions insurance.
- AMCs add professional expertise to support the appraisal process. In particular, due diligence and quality assurance services provided by AMCs improve the overall reliability of the appraisal process, thus benefitting appraisers, lenders, loan servicers, and homeowners.

We appreciate the opportunity to offer our comments on SB 1606. While we support the registration of AMCs, we believe it is important that any legislation appropriately reflect the important role that AMCs play in the mortgage lending process. We would therefore like to provide our comments on the following specific aspects of the proposed legislation:

Sections (C)(b)(8) and (G)(b): These sections require a registered AMC to "ensure" that appraisers complete all appraisal assignments in accordance with the Uniform Standards of Professional Appraisal Practice ("USPAP"). While AMCs take many steps to promote and require an appraiser's compliance with USPAP, USPAP compliance is ultimately the responsibility of the licensed appraiser (see for



example the USPAP preamble). This treatment is appropriate as many aspects of USPAP compliance, such as an appraiser's expertise in a particular geographic area or product, are specifically within the appraiser's individual knowledge and control.

Therefore, neither an AMC (nor for that matter a lender contracting directly with an appraiser) has the ability to ensure that all of the unique and individual knowledge requirements of USPAP are satisfied. Rather, professional standards, licensing requirements and enforcement provisions are the appropriate mechanism to hold appraisers accountable for USPAP compliance, regardless of who requests the appraisal.

**We suggest that these sections be deleted as USPAP compliance is a primary responsibility of the appraiser completing the report.**

Section (C)(d): There is no amount entered on the registration fee that may be charged to an AMC.

**We recommend that the legislature insert a maximum fee of \$500 that may be charged to an AMC.**

Section (F)(a): This section requires that any employee or independent contractor who is responsible for selecting appraisers or reviewing completed appraisals must be "appropriately trained and qualified in the performance of residential real estate appraisals as determined by the commission." This standard is vague and offers AMCs little guidance in their hiring decisions. Further, it is unclear what is intended by the term "reviewing" completed appraisals. Presumably this section is not intended to apply to employees or independent contractors who merely check completed appraisals for grammatical or typographical errors or lack of completeness.

**We recommend that this section be deleted or further refined to offer AMCs more guidance on the training and qualifications that would be required.**

Section F(b): This section requires that any employee who is responsible for reviewing the work of independent appraisers must have "demonstrated knowledge of the Uniform Standards of Professional Appraisal Practice, as determined by the commission." Again, this standard is vague and offers AMCs little guidance in their hiring decisions. Further, it is unclear what is intended by the term "reviewing" completed appraisals. Presumably this section is not intended to apply to employees or independent contractors who merely check completed appraisals for grammatical or typographical errors or lack of completeness.

**We recommend that this section be deleted or further refined to offer AMCs more guidance on the "demonstrated knowledge" that would be required.**

Section (H): This section would require an AMC to base any fee schedule on one or more surveys of market rates in the area. It further allows the commission to "review" any appraiser fee schedule to ensure it complies with this section, and to make its findings public. This provision inappropriately interferes with an AMC's business model and will negatively impact the AMC's contractual relationship with both its customers and its appraisal panel. Further it is improper, anti-competitive and arguably unenforceable as it seeks to fix the prices an AMC would pay to its suppliers. For example, how would





this provision impact an AMC that wishes to pay above-market rates to its suppliers based on a belief that this would offer the AMC a competitive advantage in the marketplace? Further, an AMC's fee schedule may be subject to confidentiality arrangements that would be violated by the commission publishing its findings.

**We recommend that this section be deleted.**

Section (J): Fee payment is a standard commercial term that is subject to contractual agreements. While the AMC industry supports the prompt payment of appraisers, such matters are better left to industry standards and the contractual agreements between AMCs and appraisers. See, for example, the Standards of Good Practice for Appraisal Management that were recently announced by TAVMA, the Title/Appraisal Vendor Management Association. The Standards provide, in part, that "Appraisers should be paid fairly and promptly for work completed, provided the work meets USPAP and client specific guidelines and is compliant with state and federal law." The Standards may be found by following the following link: <http://www.tavma.org/images/tavma%20standards%20of%20good%20practice.pdf>.

We are not aware of other industries where commercial terms such as this are the subject of regulations. Should independent appraisers likewise be obligated by regulation to pay their service providers within a set number of days?

**We recommend that section (J) be removed from the proposed legislation.**

Section (L)(e): Prohibiting an AMC from penalizing or reducing the number of assignments given to a appraiser that is ultimately determined by the commission to have been wrongfully removed from a panel should be narrowed. This section should only prohibit the AMC from taking these actions on the basis of the over-ruled incident at issue; if there are future problems that arise the appraiser should not have indefinite immunity, and the number of assignments may also be reduced by business factors unrelated to that incident.

**We recommend that this section be revised to clarify that the AMC may not penalize the appraiser or reduce the number of assignments on the basis of the reported incident.**

Thank you for allowing us to submit our comments on SB 1606. We believe that the regulation of AMCs in Hawaii must be done in a reasonable and appropriate manner to best serve the interests of appraisers, lenders, servicers and ultimately consumers. In this regard, we are available to offer additional information and assistance to the extent necessary.

Sincerely,

A handwritten signature in black ink, appearing to read 'Helge Hukari', written over a white background.

Helge Hukari  
General Counsel



February 16, 2010

Delivered Via Email

CPNTestimony@Capitol.hawaii.gov

<mailto:DelGOder@house.virginia.gov>

Distinguished Committee Members

Committee on Commerce and Consumer Protection

Hawaii State Capitol

415 South Beretania St.

Honolulu, HI 96813

Dear Senators:

I am writing to provide comments/testimony on Senate Bill #1606, Hawaii Appraisal Management Company Registration and Regulation Act. I am a Certified Residential Appraiser, licensed in the state of California and an analyst for LSI, a division of Lender Processing Services, Inc. based in Pittsburgh, PA. The LSI division of Lender Processing Services, Inc. is the oldest Appraisal Management Company (AMC) operating in the United States.

LSI has been an active market participant in the mortgage settlement services industry for decades. We are dedicated to preserving a high level of public trust in the appraisal process and support appraiser independence standards. Reputable AMCs such as LSI provide invaluable services to clients, appraisers and consumers as follows:

- Full support of the appraisal process including ordering, tracking, pre and post-delivery quality assurance and secure delivery options
- Function as an intermediary between client and appraiser sustaining appraiser independence standards
- Maintain large client networks and a diverse variety of valuation products assuring an adequate workflow for appraisers as well as guaranteed payment for services
- Timely processing of quality appraisals, thereby expediting the mortgage loan process

We are not opposed to the registration of AMCs and believe that responsible legislation can benefit both consumers and market participants in the mortgage lending industry. We appreciate the opportunity to offer comments/testimony regarding the AMC legislative process in your state. I have reviewed the proposed legislation and would offer the following comments for your consideration:

**Section C (b)(8):** This provision has two sections with the first being a requirement to have a system in place to review the work of all independent appraisers. AMCs typically review completed appraisals for quality and completeness. The term 'review' needs to be clarified to differentiate the AMC's standard quality control review function from a USPAP Standard 3 appraisal review function. Additionally, the review of 'all' appraisers is excessive.

- **Recommendation:** It is recommended the language be amended to require the AMC to provide a non-USPAP, quality control review on a statistically appropriate number of appraisals, but not more than 5%.

The second part of this provision requires the AMC to 'ensure' appraisal services are being conducted in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP). USPAP is a requirement on the part of the appraiser and there are many factors that cannot be 'ensured' by parties other than the appraiser. AMCs and lenders certainly take many steps to promote adherence to all regulatory requirements, however, it is ultimately only the appraiser who has the ability to 'ensure' adherence to all aspects of USPAP.

- **Recommendation:** The proposed language should be amended to read that the AMC's review is to 'confirm' that appraisals are being performed in accordance with USPAP.

**Section C (d):** The registration fees are not identified and should be assigned a reasonable ceiling figure.

- **Recommendation:** Define a maximum registration fee of \$500.

**Section F (a):** This provision requires employees that order appraisal services or review completed appraisals to be appropriately trained and qualified in the performance of real property appraisals as determined by the commission. The term 'review' is not defined and it is unclear if this stipulation is referring to a USPAP Standard 3 review or a clerical/quality review for completeness.

Therefore, the provision is overly broad as written and would apply to AMC staff members who are tracking order status and those performing basic, non-USPAP quality control functions. The qualification requiring competence in the performance of appraisals suggests that licensing is required; it is unnecessary for the party ordering an appraisal or performing a clerical/quality review to be qualified to 'perform' an appraisal. Additionally, specific qualifications should be identified at this stage, since the term 'as determined by the commission' is ambiguous and unnecessarily allows for discretion by the commission.

- **Recommendation:** 1) Revise language to differentiate the term 'review' from a USPAP Standard 3 review as compared with a clerical/quality review for completeness. 2) Delete the qualification requirement for those employees selecting appraisers and performing a clerical/quality review of appraisals as unnecessary and unreasonable. 3) Delete language that would allow the commission unlimited authority to impose qualifications. Such a provision is unreasonable and overly broad.

**Section F (b):** This provision requires employees responsible for reviewing the work of independent appraisers have demonstrated knowledge of the Uniform Standards of Professional Appraisal Practice as determined by the commission. Again, the term 'review' is not defined and it is unclear if this stipulation is referring to a USPAP Standard 3 review or a clerical/quality review for completeness. Additionally, the specific qualifications should be identified as the term 'as determined by the commission' is ambiguous in nature and unnecessarily allows for discretionary actions by the commission.

- **Recommendation:** 1) Revise language to differentiate the term 'review' from a USPAP Standard 3 review as compared with a clerical/quality review for completeness. 2) Define the specific demonstrated knowledge required and delete language that would allow the commission unlimited authority to impose qualifications. Such a provision is unreasonable and overly broad.

**Section G (b):** This provision is similar to Section C (b)(8) with two sections, the first being a requirement to have a system and process in place to review the work of all independent appraisers. AMC's typically review completed appraisals for quality and completeness. The term 'review' needs to be clarified to differentiate the AMC's standard quality control review function from a USPAP Standard 3 appraisal review function. Additionally, the review of 'all' appraisers is excessive.

- **Recommendation:** It is recommended the language be amended to require the AMC to provide a non-USPAP, quality control review on a statistically appropriate number of appraisals, but not more than 5%, on a periodic basis.

The second part of this provision requires the AMC to 'ensure' appraisal services are being conducted in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP). USPAP is a requirement on the part of the appraiser and there are many factors that cannot be 'ensured' by parties other than the appraiser. AMC's and lenders certainly take many steps to promote adherence to all regulatory requirements, however, it is ultimately only the appraiser who has the ability to 'ensure' adherence to all aspects of USPAP.

- **Recommendation:** The proposed language should be amended to read that the AMC's review is to 'confirm' that appraisals are being performed in accordance with USPAP.

**Section H (a)(b)(c)(d):** Section H addresses the AMC's fee schedules and dictates the methodology in which fees are to be determined. Many AMC's obtain fee schedules directly from the appraisers they use via free trade and contract negotiations. Some AMC's receive specific instructions about fees and their limits from their lender clients. Confidentiality provisions in their contracts with lenders would prohibit the sharing of such fee schedules or instructions. Furthermore, to require each individual fee schedule to be delivered to the commission would place an unnecessary burden on both the commission and AMC clerical staff, as well as violate confidentiality. Mandating the fee negotiation process would result in price setting and would interfere with the parties' rights to contract and free trade. This provision is not designed to protect the consumer but to illegally interfere with free trade. It will likely encourage improper comparisons of appraisal prices and could actually cause fee increases. Additionally, providing a public review of private contract negotiations violates privacy and confidentiality clauses. Finally, there is no precedent for a legislative process like this mandating fee structures for AMC's; it is a restraint on trade that is unsupported by the facts of law.

- **Recommendation:** Delete this section in its entirety.

**Section I (a):** One of the prohibitions regarding the development, reporting, or review of an appraisal is listed as 'instruction'. Appraisals prepared for AMC's are subject to specific requirements including completion in accordance with current regulatory standards, compliance with standard appraisal guidelines, and adherence to client specifications as noted in the Letter of Engagement. Some of these requirements may be viewed as 'instruction' and would appear to violate this provision, yet they are necessary to communicate the Scope of Work to the appraiser as required by USPAP. This provision, as written, contradicts USPAP guidelines and is unenforceable.

- **Recommendation:** Delete the term 'instruction' from the prohibitions.

**Section I (a)(1):** This provision prohibits "withholding or threatening to withhold timely payment for an appraisal." Appraisals prepared for AMC's are subject to specific requirements including completion in accordance with current regulatory standards, compliance with standard appraisal guidelines, and adherence to client specifications as noted in the Letter of Engagement. This provision, as written, does not allow for non-payment in the event the delivered appraisal does not meet these contracted requirements.



- **Recommendation:** Revise the language to include an exception in the event of a sub-standard or non-compliant report, as confirmed in writing by the AMC.

**Section I (b):** This section provides exceptions to prohibitions including allowing a request for additional information and the correction of objective factual errors. Standard appraisal guidelines make it incumbent upon the lender to determine if appropriate comparable data was utilized within the report. Therefore, the exceptions need to include the presentation of relevant comparables for consideration to accommodate the lender/clients regulatory obligations in this area.

- **Recommendation:** Add to (a) “...including consideration of additional comparable data.”

**Section J:** Payment for an appraisal is mandated to be within 60 days of the delivery of the appraisal. AMCs enter into contractual agreements with appraisers including a payment schedule. To mandate a payment schedule via legislation poses a restraint on trade and improperly interferes with the ability of the parties to negotiate and contract for services.

- **Recommendation:** Delete or revise by adding payment within 60 days or “by prior agreement”.

**Section L (a)(2):** The provision of notification of the reasons for removal from an AMCs panel needs to include an allowance for sub-standard performance and administrative purposes. In an effort to protect the consumer, the appraiser needs to be accountable for agreed upon delivery times and a compliant report, free from any significant errors or a series of errors that can impact the credibility of the report. Additionally, an AMC may have reduced business needs in a particular area and should have the right to reduce the appraiser panel in a given area.

- **Recommendation:** This provision needs to be revised to include sub-standard performance issues such as unacceptable customer service, noncompliant reports, or reports with significant errors or a series of errors that may impact the credibility of the report. The provision also needs to identify administrative actions by the AMC as an acceptable rationale for removal from a panel so as not to interfere with trade. (NOTE: This verbiage will also need to be added to the applicable sections of L (b) and L (d).)

**Section L (d):** The commission’s determination that an independent appraiser did not commit a violation of law, USPAP or state licensing standards, results in the commission’s authority to order the AMC to restore that appraiser on the AMC’s appraisal panel without prejudice. A stipulation should be inserted requiring the commission to make a formal finding of fact, to provide to the AMC all documentation that led to the finding and an opportunity for the AMC to appeal the decision.

- **Recommendation:** Revise to include a requirement that the commission furnish the AMC with all written documentation and investigation records in support of their findings. Revise to add an appeal process. Also please note that lenders often request that AMCs not use certain appraisers, based upon their internal policies and quality control efforts. Such client initiated instructions of non-use should be a specific exception to this provision.

**Continued Review by the Study Committee:** Although we have submitted our comments/testimony regarding the proposed legislation, it is clear that there is a great deal of misunderstanding and misinformation about AMCs. Therefore, we suggest that the legislature allow this matter to remain in a study committee to gather more facts and better understand the role that AMCs play in the appraisal process. Further, our company would request that we be allowed to participate in the study committee process to assist in clarifying any misconceptions regarding the role of an AMC in the appraisal process. We are committed to adhering to all regulatory appraisal policies at both the federal and state level and look forward to working with you during the AMC legislative process.



Thank you for allowing us to submit our comments/testimony on the proposed legislation in Hawaii. Please feel free to contact me at any time as you consider the myriad of issues inherent to the regulation of Appraisal Management Companies in your state.

Respectfully submitted,

**Beth Buell**  
Senior Analyst/Certified Appraiser  
Legal and Compliance Department  
**LSI, A Lender Processing Services Company**  
Office: 800.722.0300 Ext. 74208  
EMail: [bbuell@lsi-lps.com](mailto:bbuell@lsi-lps.com)

CC: Jeff Schurman, TAVMA  
Donald Blanchard, Chief Compliance Officer, LPS  
Alan Taniguchi, Executive Officer, Hawaii Professional & Vocational Licensing