

---

---

# A BILL FOR AN ACT

RELATING TO APPRAISAL MANAGEMENT COMPANIES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that in 2008, the  
2 nation's economy was shaken by the collapse of the sub-prime  
3 mortgage market, which threatened the country's financial  
4 system. While investigating the causes that led to this  
5 collapse, Congress determined one cause was the use of  
6 appraisals that did not conform to generally accepted standards  
7 of independence, objectivity, and impartiality. Extensive abuse  
8 was also discovered in the mortgage origination industry, with  
9 appraisers' close business relationships with lenders and the  
10 use of biased appraisals to facilitate the lending process found  
11 to be contributing factors.

12           In response, Congress enacted the Dodd-Frank Wall Street  
13 Reform and Consumer Protection Act, Pub. L. No. 111-203 (Dodd-  
14 Frank Act). The Dodd-Frank Act helped restore independence to  
15 the appraisal process by separating the lending process and  
16 appraisal functions and requiring these functions to be  
17 autonomous.



1           The legislature further finds that appraisal management  
2 companies, commonly referred to as AMCs, have proliferated as a  
3 result of the Dodd-Frank Act. One way of maintaining  
4 independence between the appraisal function and the loan  
5 origination function of an appraisal process is to have an  
6 intermediary separate from the lender that orders and receives  
7 appraisals, a function that has been fulfilled by the use of  
8 appraisal management companies.

9           Section 1473 of the Dodd-Frank Act requires five federal  
10 regulatory agencies to jointly promulgate rules that establish  
11 minimum requirements to be applied by states in the registration  
12 and supervision of appraisal management companies. The  
13 appraisal management companies final rule (AMC Final Rule) was  
14 published in the Federal Register on June 9, 2015, (80 Federal  
15 Register 32657 et seq.) and became effective August 10, 2015.  
16 The AMC Final Rule outlines certain minimum registration and  
17 oversight requirements for each state to adopt. While the AMC  
18 Final Rule does not force a state to enact these minimum  
19 requirements, it specifies that if a state fails to do so by  
20 August 10, 2018, certain non-federally regulated appraisal  
21 management companies will be barred from providing appraisal



1 management services for federally related transactions in that  
2 state.

3       The legislature additionally finds that Hawaii's failure to  
4 adopt regulation of appraisal management companies that conform  
5 with the AMC Final Rule could have unintended and adverse  
6 consequences for Hawaii consumers and others involved in the  
7 residential appraisal process in the State. The legislature  
8 notes that a large source of Hawaii's funding for residential  
9 mortgages comes from outside the State, through either direct  
10 lending or secondary market investments, which frequently use  
11 appraisal management companies. Furthermore, if conforming  
12 legislation is not enacted, there is a risk that direct lending  
13 for residential mortgages from outside the State could come to a  
14 standstill, as appraisal orders could not be economically placed  
15 by mainland lenders and Hawaii is too small a market for a large  
16 lender to customize a system for the State. There is also a  
17 risk that mortgage money may not be available to all people in  
18 the State who need it. This potential restriction of available  
19 mortgage funds could make home affordability even more elusive  
20 for residents of Hawaii and could adversely impact home  
21 ownership for many families.



1           The legislature also finds that at least forty other states  
2 have acted to preserve the flow of capital into their  
3 communities for residential lending and have enacted legislation  
4 in conformance with the AMC Final Rule. The legislature  
5 concludes that it is necessary for Hawaii to also enact  
6 legislation in conformity with the AMC Final Rule prior to the  
7 August 10, 2018, deadline.

8           Accordingly, the purpose of this Act is to establish a  
9 regulatory framework for appraisal management companies in  
10 Hawaii, which conforms with the minimum regulatory requirements  
11 of the AMC Final Rule and the Dodd-Frank Act.

12           SECTION 2. Chapter 466K, Hawaii Revised Statutes, is  
13 amended by adding a new part to be appropriately designated and  
14 to read as follows:

15                   **"PART           .    APPRAISAL MANAGEMENT COMPANIES**

16           **§466K-A Findings and purpose.** The legislature finds that  
17 the regulation of appraisal management companies is essential to  
18 protect consumers. The legislature further finds that it is  
19 necessary to establish a regulatory framework for appraisal  
20 management companies in the State in conformity with the  
21 requirements of the Dodd-Frank Wall Street Reform and Consumer



1 Protection Act, Pub. L. No. 111-203, and the final regulations  
2 published on June 9, 2015, at 80 Federal Register 32657 et seq.  
3 The purpose of this part is to establish minimum requirements  
4 for the regulation of certain non-federally regulated appraisal  
5 management companies.

6 **§466K-B Definitions.** As used in this part unless the  
7 context otherwise requires:

8 "Affiliate" means any company that controls, is controlled  
9 by, or is under control of another company, as defined under  
10 title 12 United States Code section 1841, or any successor  
11 federal statute.

12 "AMC national registry" means the registry of state-  
13 registered appraisal management companies and federally  
14 regulated appraisal management companies maintained by the  
15 Appraisal Subcommittee.

16 "Appraisal management company" means a person that:

- 17 (1) Provides appraisal management services to creditors or  
18 secondary mortgage market participants, including  
19 affiliates;
- 20 (2) Provides appraisal management services in connection  
21 with valuing a consumer's principal dwelling as



# H.B. NO. 50

1 security for a consumer credit transaction or  
2 incorporating these transactions into securitizations;  
3 and

4 (3) Within a twelve-month calendar year, beginning January  
5 1 of each year and ending on December 31 of each year,  
6 oversees an appraiser panel of more than fifteen  
7 state-certified or state-licensed appraisers in a  
8 state or twenty-five or more state-certified or state-  
9 licensed appraisers in two or more states, as  
10 described in section 466K-E.

11 "Appraisal management company" does not include a department or  
12 division of an entity that provides appraisal management  
13 services only to that entity.

14 "Appraisal management services" means one or more of the  
15 following:

- 16 (1) Recruiting, selecting, and retaining appraisers;
- 17 (2) Contracting with state-certified or state-licensed  
18 appraisers to perform appraisal assignments;
- 19 (3) Managing the process of having an appraisal performed,  
20 including providing completed appraisal reports to  
21 creditors and secondary market participants;



1 collecting fees from creditors and secondary market  
2 participants for services provided; and paying  
3 appraisers for services performed; and

4 (4) Reviewing and verifying the work of appraisers.

5 "Appraiser panel" means a network, list, or roster of  
6 licensed or certified appraisers approved by an appraisal  
7 management company to perform appraisals as independent  
8 contractors for the appraisal management company. Appraisers on  
9 an appraisal management company's "appraiser panel" include:

10 (1) Appraisers accepted by the appraisal management  
11 company for consideration for future appraisal  
12 assignments in covered transactions or for secondary  
13 mortgage market participants in connection with  
14 covered transactions; and

15 (2) Appraisers engaged by the appraisal management company  
16 to perform one or more appraisals in covered  
17 transactions or for secondary mortgage market  
18 participants in connection with covered transactions.

19 For purposes of this part, an appraiser is an independent  
20 contractor if the appraiser is treated as an independent



1 contractor by the appraisal management company for purposes of  
2 federal income taxation.

3 "Appraisal review" means the process of developing and  
4 communicating an opinion about the quality of another  
5 appraiser's work that was performed as part of an appraisal  
6 assignment related to the appraiser's data collection, analysis,  
7 opinions, conclusions, estimate of value, or compliance with the  
8 Uniform Standards of Professional Appraisal Practice.

9 "Appraisal review" does not include:

- 10 (1) A general examination for grammatical, typographical,  
11 or other similar errors; or
- 12 (2) A general examination for completeness, including  
13 regulatory or client requirements as specified in the  
14 agreement process that does not communicate an opinion  
15 of value.

16 "Appraisal Subcommittee" means the Appraisal Subcommittee  
17 of the Federal Financial Institutions Examination Council  
18 created pursuant to Title XI of the federal Financial  
19 Institutions Reform, Recovery, and Enforcement Act of 1989.

20 "Appraisal review committee" means the advisory committee  
21 established pursuant to section 466K-3(6).





1 "Consumer credit" means credit offered or extended to a  
2 consumer primarily for personal, family, or household purposes.

3 "Controlling person" means:

4 (1) An officer, director, or owner of greater than a ten  
5 per cent interest of a corporation, partnership, or  
6 other business entity seeking to act as an appraisal  
7 management company in the State;

8 (2) An individual employed, appointed, or authorized by an  
9 appraisal management company who has the authority to:

10 (A) Enter a contractual relationship with other  
11 persons for performance of services requiring  
12 registration as an appraisal management company;  
13 and

14 (B) Enter agreements with appraisers for the  
15 performance of appraisals; or

16 (3) An individual who possesses, directly or indirectly,  
17 the power to direct or cause the direction of the  
18 management or policies of an appraisal management  
19 company.

20 "Covered transaction" means any consumer credit transaction  
21 secured by the consumer's principal dwelling.



1 "Creditor" means a person who regularly extends consumer  
2 credit that is subject to a finance charge or is payable by  
3 written agreement in more than four installments (not including  
4 a down payment) and to whom the obligation is initially payable,  
5 either on the face of the note or contract, or by agreement when  
6 there is no note or contract.

7 A person regularly extends consumer credit if:

- 8 (1) The person extended credit (other than credit subject  
9 to the requirements of title 12 Code of Federal  
10 Regulations section 1026.32) more than five times for  
11 transactions secured by a dwelling in the preceding  
12 calendar year. If a person did not meet these  
13 numerical standards in the preceding calendar year,  
14 the numerical standards shall be applied to the  
15 current calendar year; or
- 16 (2) In any twelve-month period, the person extends more  
17 than one credit extension that is subject to the  
18 requirements of title 12 Code of Federal Regulations  
19 section 1026.32 or one or more such credit extensions  
20 through a mortgage broker.



1 "Department" means the department of commerce and consumer  
2 affairs.

3 "Director" means the director of commerce and consumer  
4 affairs.

5 "Dwelling" means a residential structure that contains one  
6 to four units, whether or not that structure is attached to real  
7 property. "Dwelling" includes an individual condominium unit,  
8 cooperative unit, mobile home, and trailer, if it is used as a  
9 residence. A consumer can have only one principal dwelling at a  
10 time. A vacation or other second home is not considered a  
11 principal dwelling; provided that for purposes of this  
12 definition, if a consumer buys or builds a new dwelling that  
13 will become the consumer's principal dwelling within a year or  
14 upon the completion of construction, the new dwelling shall be  
15 considered the principal dwelling.

16 "Federally regulated appraisal management company" means an  
17 appraisal management company that is owned and controlled by an  
18 insured depository institution, as defined in title 12 United  
19 States Code section 1813, and regulated by the Office of the  
20 Comptroller of the Currency, the Board of Governors of the



1 Federal Reserve System, or the Federal Deposit Insurance  
2 Corporation.

3 "Federally related transaction" means any real estate-  
4 related financial transaction that involves an insured  
5 depository institution regulated by the Office of the  
6 Comptroller of the Currency, Board of Governors of the Federal  
7 Reserve System, Federal Deposit Insurance Corporation, or  
8 National Credit Union Administration, and that requires the  
9 services of an appraiser under the interagency appraisal rules.

10 "Person" means a natural person or an organization,  
11 including a corporation, partnership, proprietorship,  
12 association, cooperative, estate, trust, or government unit.

13 "Real estate-related financial transaction" means any  
14 transaction involving the sale, lease, purchase, investment in,  
15 or exchange of real property, including interests in property or  
16 the financing thereof, including the refinancing of real  
17 property or interests in real property and the use of real  
18 property or interests in property as security for a loan or  
19 investment, including mortgage-backed securities.

20 "Secondary mortgage market participant" means a guarantor  
21 or insurer of mortgage-backed securities or an underwriter or



1 issuer of mortgage-backed securities. "Secondary mortgage  
2 market participant" only includes an individual investor in a  
3 mortgage-backed security if that investor also serves in the  
4 capacity of a guarantor, insurer, underwriter, or issuer for the  
5 mortgage-backed security.

6 "Uniform Standards of Professional Appraisal Practice"  
7 shall have the same meaning as in section 466K-5.

8 **§466K-C Appraisal management company registration program.**

9 There is established an appraisal management company  
10 registration program within the department, to be administered  
11 by the director.

12 **§466K-D Powers and duties of the director.** In addition to  
13 any other powers and duties authorized by law, the director  
14 shall have the following powers and duties:

- 15 (1) Review and approve or deny an appraisal management  
16 company's application for initial registration;  
17 (2) Renew or deny an appraisal management company's  
18 registration periodically;  
19 (3) Examine the books and records of an appraisal  
20 management company operating in the State and require



- 1           the appraisal management company to submit reports,  
2           information, and documents;
- 3           (4) Verify that the appraisers on the appraisal management  
4           company's appraiser panel hold valid state licenses or  
5           certifications, as applicable;
- 6           (5) Conduct investigations of appraisal management  
7           companies to assess potential violations of applicable  
8           appraisal-related laws, regulations, or orders;
- 9           (6) Discipline, suspend, terminate, or deny renewal of the  
10          registration of an appraisal management company that  
11          violates applicable appraisal-related laws,  
12          regulations, or orders;
- 13          (7) Report an appraisal management company's violation of  
14          applicable appraisal-related law, regulations, or  
15          orders, as well disciplinary and enforcement actions  
16          and other relevant information about an appraisal  
17          management company's operations, to the Appraisal  
18          Subcommittee;
- 19          (8) Adopt, amend, and repeal rules, pursuant to chapter  
20          91, as may be necessary to establish the appraisal



1 management company registration program and implement,  
2 administer, and enforce this part; and

3 (9) Appoint members to the appraiser review committee  
4 established pursuant to section 466K-3(6), to assist  
5 with the implementation of this part.

6 **§466K-E Appraiser panel; annual size calculation.** (a)

7 For purposes of determining whether an appraisal management  
8 meets the size requirement of an appraisal management company,  
9 as that term is defined in section 466K-B, an appraiser shall be  
10 deemed part of the appraisal management company's appraiser  
11 panel as of the earliest date on which the appraisal management  
12 company:

13 (1) Accepts the appraiser for the appraisal management  
14 company's consideration for future appraisal  
15 assignments in covered transactions or for secondary  
16 mortgage market participants in connection with  
17 covered transactions; or

18 (2) Engages the appraiser to perform one or more  
19 appraisals on behalf of a creditor for covered  
20 transactions or a secondary mortgage market  
21 participant in connection with covered transactions.



1 (b) An appraiser who is deemed part of the appraisal  
2 management company's appraiser panel pursuant to subsection (a)  
3 shall be deemed to remain on the appraiser panel until the date  
4 on which the appraisal management company:

5 (1) Sends written notice to the appraiser removing the  
6 appraiser from the appraiser panel, with an  
7 explanation of the appraisal management company's  
8 action; or

9 (2) Receives written notice from the appraiser asking to  
10 be removed from the appraiser panel or notice of the  
11 death or incapacity of the appraiser.

12 (c) If an appraiser is removed from an appraisal  
13 management company's appraiser panel pursuant to subsection (b),  
14 and the appraisal management company subsequently accepts the  
15 appraiser for consideration for future assignments or engages  
16 the appraiser at any time during the twelve months after the  
17 appraiser's removal:

18 (1) The removal shall be deemed not to have occurred; and

19 (2) The appraiser shall be deemed to have been part of the  
20 appraisal management company's appraiser panel without  
21 interruption.





1           **§466K-F Registration required.** (a) No person may  
2 directly or indirectly engage or attempt to engage in business  
3 as an appraisal management company; directly or indirectly  
4 perform or attempt to perform appraisal management services; or  
5 advertise or hold oneself out as engaging in or conducting  
6 business as an appraisal management company without first being  
7 registered pursuant to this part.

8           (b) An appraisal management company shall:

9           (1) Register with the appraisal management company  
10 registration program administered by the department;

11           (2) Engage only state-licensed or state-certified  
12 appraisers for federally related transactions in  
13 conformity with any federally related transaction  
14 regulations;

15           (3) Establish and comply with processes and controls  
16 reasonably designed to ensure that the appraisal  
17 management company, in engaging an appraiser, selects  
18 an appraiser who is independent of the transaction and  
19 has the requisite education, expertise, and experience  
20 necessary to competently complete the appraisal



1 assignment for the particular market and property  
2 type;

3 (4) Direct an appraiser to perform the assignment in  
4 accordance with the Uniform Standards of Professional  
5 Appraisal Practice; and

6 (5) Establish and comply with processes and controls  
7 reasonably designed to ensure that the appraisal  
8 management company conducts its appraisal management  
9 services in accordance with the requirements of  
10 section 129E(a) through 129E(i) of the Truth in  
11 Lending Act, title 15 United States Code sections  
12 1639(a) through 1639(i), and regulations adopted  
13 thereunder.

14 (c) This section shall not apply to appraisal management  
15 companies that are owned and controlled by an insured depository  
16 institution and regulated by the Consumer Financial Protection  
17 Bureau, the Federal Housing Finance Agency, the Board of  
18 Governors of the Federal Reserve System, the Federal Deposit  
19 Insurance Corporation, or the National Credit Union  
20 Administration.



1           **§466K-G Registration process.** An applicant for  
2 registration under this part shall file an application for  
3 registration with the director on a form prescribed by the  
4 director and pay a fee established by the director. The form  
5 shall require any information necessary to determine eligibility  
6 for registration.

7           **§466K-H Criminal history record checks.** (a) The  
8 application submitted pursuant to section 466K-G shall contain  
9 the information and authorizations necessary to conduct a  
10 criminal history record check in accordance with section 846-2.7  
11 for:

12           (1) Each person applying for registration who owns more  
13 than ten per cent of an appraisal management company;  
14 and

15           (2) Each of the applicant's controlling persons.

16           (b) The information and authorizations shall be  
17 accompanied by the appropriate payment of the applicable fee for  
18 each record check.

19           **§466K-I Appraisal management company registration numbers.**

20           (a) The director shall issue a unique registration number to  
21 each appraisal management company registered in this State.



1 (b) The director shall maintain a list of the appraisal  
2 management companies that are registered with the director.

3 (c) An appraisal management company registered in this  
4 State shall place its registration number on engagement  
5 documents utilized by the appraisal management company to  
6 procure appraisal services in this State.

7 **§466K-J Expiration of registration.** Registrations shall  
8 expire on December 31 of each odd-numbered year. The expiration  
9 date of the registration shall appear on the appraisal  
10 management company registration certificate issued to the  
11 registrant, and no other notice of its expiration need be given  
12 to the registrant.

13 **§466K-K Compliance with the Uniform Standards of**  
14 **Professional Appraisal Practice.** As a condition of registration  
15 or renewal of registration, each appraisal management company in  
16 the State shall certify that the company requires appraisers  
17 completing appraisals at the company's request to comply with  
18 the Uniform Standards of Professional Appraisal Practice.

19 **§466K-L Consent to service of process.** An applicant for  
20 registration under this part that is not domiciled in the State



1 shall complete an irrevocable consent to service of process, in  
2 a form approved by the attorney general.

3       **§466K-M Reporting requirements; non-federally regulated**  
4 **appraisal management companies.** The director shall collect from  
5 each appraisal management company registered or seeking  
6 registration in the State all information and fees required by  
7 the Appraisal Subcommittee to be submitted to the Appraisal  
8 Subcommittee by the State, pursuant to regulations or guidance  
9 promulgated by the Appraisal Subcommittee.

10       **§466K-N Reporting requirements; federally regulated**  
11 **appraisal management companies; reporting information for**  
12 **appraisal management companies.** A federally regulated appraisal  
13 management company operating in the State shall report to the  
14 director the information required to be submitted by the State  
15 to the Appraisal Subcommittee, pursuant to the Appraisal  
16 Subcommittee's policies regarding the determination of the AMC  
17 national registry fee. These reporting requirements shall  
18 include:

- 19           (1) A notice of intent to operate in the State;  
20           (2) Information related to whether the appraisal  
21           management company is owned in whole or in part,



1 directly or indirectly, by any person who has had an  
2 appraiser license or certification refused, denied,  
3 cancelled, surrender in lieu of revocation, or revoked  
4 in any state for a substantive cause, as determined by  
5 the Appraisal Subcommittee; and

- 6 (3) If a person has had such action taken on the person's  
7 appraisal license or certification, the director shall  
8 collect information related to whether the license or  
9 certification was revoked for a substantive cause and  
10 if the license or certification has been reinstated by  
11 the state or states in which the appraiser was  
12 licensed or certified.

13 **§466K-0 Owner requirements.** (a) An appraisal management  
14 company applying for, holding, or renewing a registration under  
15 this part shall not be owned, in whole or in part, directly or  
16 indirectly, by any person who has had an appraiser license or  
17 certification refused, denied, canceled, surrendered in lieu of  
18 revocation, or revoked in any state for a substantive cause, as  
19 determined by the appropriate state appraiser certifying and  
20 licensing agency; provided that an appraisal management company  
21 may be registered under this part if the license or



1 certification of the appraiser with an ownership interest was  
2 not revoked for a substantive cause and the license or  
3 certification has been reinstated by the state in which the  
4 appraiser was licensed or certified.

5 (b) Each person that owns more than ten per cent of an  
6 appraisal management company and applies for, holds, or renews a  
7 registration under this part shall:

8 (1) Be of good moral character; and

9 (2) Submit to a criminal history record check pursuant to  
10 section 466K-H.

11 **§466K-P Controlling person.** An appraisal management  
12 company applying for registration or renewal of registration in  
13 the State shall designate one controlling person to serve as the  
14 main contact for all communication between the department and  
15 the company. The controlling person shall:

16 (1) Remain in good standing in the State and in any other  
17 state that has at any time issued the controlling  
18 person an appraiser license or certification; provided  
19 that nothing in this part shall require that a  
20 designated controlling person hold or continue to hold



- 1 an appraiser license or certification in any  
2 jurisdiction;
- 3 (2) Never have had an appraiser license in this State or  
4 any other state refused, denied, canceled, revoked, or  
5 surrendered in lieu of a pending disciplinary  
6 proceeding in any jurisdiction and not subsequently  
7 reinstated or granted;
- 8 (3) Be of good moral character; and
- 9 (4) Submit to a criminal history record check pursuant to  
10 section 466K-H.

11 **§466K-Q Appraiser engagement.** Before or at the time of  
12 placing an assignment to appraise real property in the State  
13 with an appraiser on the appraiser panel of an appraisal  
14 management company, the appraisal management company shall  
15 verify that the appraiser receiving the assignment holds an  
16 appraiser license or certification in good standing in this  
17 State.

18 **§466K-R Appraisal review.** Any employee of or independent  
19 contractor to an appraisal management company who performs an  
20 appraisal review for a property located in this State shall be a  
21 licensed or certified appraiser in good standing in the State





1 and any other jurisdiction in which the appraiser is licensed or  
2 certified.

3 **§466K-S Verification of licensure or certification.** (a)

4 An appraisal management company registered in the State may not  
5 enter any contract or agreement with an appraiser for the  
6 performance of appraisals in the State unless the company  
7 verifies that the appraiser is licensed or certified in good  
8 standing in the State.

9 (b) An appraisal management company seeking registration  
10 or renewal of registration in the State shall certify that the  
11 company has a system and process in place to verify that an  
12 individual added to the appraiser panel of the company for  
13 appraisal services holds an appraiser license or certification  
14 in good standing in this State.

15 **§466K-T Fee disclosure.** An appraisal management company  
16 registered in the State shall not prohibit an independent  
17 appraiser who is part of the appraiser panel from recording the  
18 fee that the appraiser was paid by the appraisal management  
19 company for the performance of an appraisal within the  
20 communication of the appraisal.



1           **§466K-U Retention of records.** (a) Each appraisal  
2 management company seeking registration or renewal of  
3 registration in the State shall certify that the appraisal  
4 management company maintains a detailed record of each service  
5 request the company receives for appraisals of real property  
6 located in the State.

7           (b) An appraisal management company registered in the  
8 State shall retain all records required to be maintained under  
9 this part for at least five years after the file is submitted to  
10 the appraisal management company or at least two years after  
11 final disposition of any related judicial proceeding of which  
12 the appraisal management company is provided notice, whichever  
13 period expires last.

14           (c) All records required to be maintained pursuant to this  
15 section shall be made available for inspection by the director,  
16 upon reasonable notice given to the appraisal management  
17 company.

18           **§466K-V Payments to appraisers.** (a) An appraisal  
19 management company shall, except in bona fide cases of breach of  
20 contract or substandard performance of services, make payment to  
21 an independent appraiser for the completion of an appraisal or



1 valuation assignment within forty-five days of the date on which  
2 the appraiser transmits or otherwise provides the completed  
3 appraisal or valuation assignment to the appraisal management  
4 company or the company's assignee, unless a mutually agreed-upon  
5 alternate arrangement has been previously established.

6 (b) An appraisal management company seeking registration  
7 or renewal of registration shall certify that the company will  
8 require appraisals to be conducted independently, as required by  
9 the appraisal independence standards under section 129E of the  
10 Truth in Lending Act, title 15 United States Code section  
11 1639(e), including the requirement that a customary and  
12 reasonable fee be paid to an independent appraiser who completes  
13 an appraisal in connection with a consumer credit transaction  
14 secured by the principal dwelling.

15 **§466K-W Mandatory reporting of violations.** An appraisal  
16 management company that has a reasonable basis to believe an  
17 appraiser has materially failed to comply with applicable laws  
18 or rules or has materially violated the Uniform Standards of  
19 Professional Appraisal Practice shall refer the matter to the  
20 director in conformance with applicable federal laws and  
21 regulations.



1           **§466K-X Prohibited conduct.** (a) A violation of this  
2 section may constitute grounds for discipline against an  
3 appraisal management company registered in this State; provided  
4 that nothing in this part shall prevent an appraisal management  
5 company from requesting an appraiser to provide additional  
6 information about the basis for a valuation, correct objective  
7 factual errors in an appraisal report, or consider additional  
8 appropriate property information.

9           (b) No employee, director, officer, agent, independent  
10 contractor, or other third party acting on behalf of an  
11 appraisal management company shall:

12           (1) Procure or attempt to procure a registration or  
13 renewal by knowingly making a false statement,  
14 submitting false information, or refusing to provide  
15 complete information in response to a question in an  
16 application for registration or renewal;

17           (2) Wilfully violate this part or rules adopted by the  
18 department pursuant to this part;

19           (3) Improperly influence or attempt to improperly  
20 influence the development, reporting, result, or  
21 review of an appraisal through intimidation, coercion,



- 1 extortion, bribery, or any other manner, including but  
2 not limited to:
- 3 (A) Withholding payment for appraisal services;
  - 4 (B) Threatening to exclude an appraiser from future  
5 work or threatening to demote or terminate the  
6 appraiser in order to improperly obtain a desired  
7 result;
  - 8 (C) Conditioning payment of an appraisal fee upon the  
9 opinion, conclusion, or valuation to be reached;  
10 or
  - 11 (D) Requesting that an appraiser report a  
12 predetermined opinion, conclusion, or valuation  
13 or the desired valuation of any person or entity;
- 14 (4) Alter, amend, or change an appraisal report submitted  
15 by an appraiser without the appraiser's knowledge and  
16 written consent;
- 17 (5) Except within the first ninety days after an  
18 independent appraiser is added to an appraiser panel,  
19 remove an independent appraiser from an appraiser  
20 panel without prior written notice to the appraiser;



- 1 provided that the prior written notice shall include  
2 the following evidence, if applicable:
- 3 (A) The appraiser's illegal conduct;
  - 4 (B) A violation of the Uniform Standards of  
5 Professional Appraisal Practice, this part, or  
6 rules adopted pursuant to this part;
  - 7 (C) Improper or unprofessional conduct; or
  - 8 (D) Substandard performance or other substantive  
9 deficiencies;
- 10 (6) Require an appraiser to sign any indemnification  
11 agreement that would require the appraiser to defend  
12 and hold harmless the appraisal management company or  
13 any of its agents or employees for any liability,  
14 damage, losses, or claims arising out of the services  
15 performed by the appraisal management company or its  
16 agents, employees, or independent contractors, and not  
17 the services performed by the appraiser;
- 18 (7) Prohibit lawful communications between the appraiser  
19 and any other person who the appraiser, in the  
20 appraiser's professional judgment, believes possesses  
21 information that would be relevant;



1 (8) Engage in any other act or practice that impairs or  
2 attempts to impair a real estate appraiser's  
3 independence, objectivity, and impartiality;

4 (9) Fail to timely respond to any subpoena or other  
5 request for information;

6 (10) Fail to timely obey an administrative order of the  
7 director or department; or

8 (11) Fail to fully cooperate in any investigation.

9 **§466K-Y Disciplinary proceedings.** The director may deny,  
10 suspend, or revoke the registration of an appraisal management  
11 company; impose a monetary penalty of an amount not to exceed  
12 \$5,000 per violation; issue a letter of reprimand; refuse to  
13 issue or renew the registration of an appraisal management  
14 company; or take other disciplinary action against an appraisal  
15 management company for any one or more of the following acts or  
16 conditions:

17 (1) The applicant is not of a good moral character;

18 (2) The applicant has had a registration revoked or  
19 suspended for cause, or surrendered in lieu of  
20 disciplinary proceedings;



- 1           (3) An applicant for renewal of registration would not be
- 2                   eligible for such registration on a first application;
- 3           (4) The issuance of a registration would result in a
- 4                   violation of this part or any rules adopted pursuant
- 5                   to this part;
- 6           (5) In the conduct of affairs under the registration, the
- 7                   registrant demonstrated incompetency,
- 8                   untrustworthiness, or conduct or practices rendering
- 9                   the registrant unfit to carry on appraisal management
- 10                  services; made continuance in the business detrimental
- 11                  to the public interest; or is no longer in good faith
- 12                  carrying on appraisal management services, and for
- 13                  this conduct is found by the director to be a source
- 14                  of detriment, injury, or loss to the public;
- 15           (6) The appraisal management company committed any act in
- 16                  violation of this part;
- 17           (7) The appraisal management company violated any rule
- 18                  adopted by the department in the interest of the
- 19                  public and consistent with this part; or
- 20           (8) The appraisal management company procured a
- 21                  registration or renewal of registration for the





1 appraisal management company or intentionally  
 2 committed any other act by fraud, misrepresentation,  
 3 or deceit.

4 **§466K-Z Fees; bonds.** (a) The director may charge the  
 5 appraisal management company reasonable fees to offset costs of  
 6 operating the appraisal management company registration program  
 7 established pursuant to this part.

8 (b) The director may require a surety bond of not more  
 9 than \$25,000.

10 **§466K-AA Exemption.** This part shall not apply to an  
 11 appraiser who enters an agreement with another appraiser for the  
 12 performance of an appraisal that, upon completion, results in a  
 13 report signed by the appraiser who completed the appraisal and  
 14 the appraiser who requested completion of the appraisal."

15 SECTION 3. Chapter 466K, Hawaii Revised Statutes, is  
 16 amended by amending the title to read as follows:

17 **"CHAPTER 466K**

18 **REAL ESTATE APPRAISERS AND APPRAISAL MANAGEMENT COMPANIES**"

19 SECTION 4. Chapter 466K, Hawaii Revised Statutes, is  
 20 amended by designating sections 466K-1 to 466K-6, as part I and  
 21 inserting a title before section 466K-1, to read as follows:



1                                    **"PART I. REAL ESTATE APPRAISERS"**

2            SECTION 5. Section 466K-1, Hawaii Revised Statutes, is  
3 amended to read as follows:

4            **"§466K-1 Findings and purpose.** The legislature finds that  
5 the regulation of real estate appraisers is reasonably necessary  
6 to protect consumers. The legislature further finds that title  
7 12 United States Code [~~§3301~~] section 3301 et seq. requires that  
8 real estate appraisals utilized in connection with federally  
9 related transactions be performed by individuals who are  
10 certified appraisers. The purposes of this [~~chapter~~] part are  
11 to implement the requirements of title 12 United States Code  
12 [~~§3301~~] section 3301 et seq. and to require that all real estate  
13 appraisals be performed by licensed or certified appraisers.  
14 The requirements of this [~~chapter~~] part do not apply to any real  
15 estate appraiser employed by any county for purposes of valuing  
16 real property for ad valorem taxation."

17            SECTION 6. Section 466K-3, Hawaii Revised Statutes, is  
18 amended to read as follows:

19            **"§466K-3 Powers and duties of the director.** In addition  
20 to any other powers and duties authorized by law, the director  
21 shall have the following powers and duties:



- 1           (1) To grant permission to practice as a certified real  
2           estate appraiser in this State pursuant to this  
3           ~~[chapter]~~ part and title 12 United States Code [~~\$3301~~]  
4           section 3301 et seq. and the rules and regulations  
5           adopted pursuant thereto;
- 6           (2) To adopt, amend, or repeal rules as the director finds  
7           necessary to effectuate fully this ~~[chapter]~~ part and  
8           title 12 United States Code [~~\$3301~~] section 3301 et  
9           seq.;
- 10          (3) To enforce this ~~[chapter]~~ part and title 12 United  
11          States Code [~~\$3301~~] section 3301 et seq. and rules and  
12          regulations adopted pursuant thereto;
- 13          (4) To discipline a certified real estate appraiser for  
14          any cause prescribed by this ~~[chapter]~~ part or title  
15          12 United States Code [~~\$3301~~] section 3301 et seq. or  
16          for any violation of the rules and regulations and  
17          refuse to grant a person permission to practice as a  
18          certified real estate appraiser for any cause that  
19          would be grounds for disciplining a certified real  
20          estate appraiser;



- 1           (5) To act as the designated representative of this State
- 2           to implement title 12 United States Code [~~§3301~~
- 3           section 3301 et seq.; and
- 4           (6) To appoint an advisory committee to assist with the
- 5           implementation of this [~~chapter~~] part and title 12
- 6           United States Code [~~§3301~~] section 3301 et seq. and
- 7           the rules and regulations adopted pursuant thereto."

8           SECTION 7. Section 466K-4, Hawaii Revised Statutes, is

9 amended by amending subsection (a) to read as follows:

10           "(a) No person may practice as a real estate appraiser in

11 this State unless that person has been licensed or certified to

12 practice in accordance with this [~~chapter~~] part and rules

13 adopted by the director of commerce and consumer affairs

14 pursuant to chapter 91. All real estate appraisers who are

15 licensed or certified to practice in this State shall comply

16 with the current Uniform Standards of Professional Appraisal

17 Practice approved by the director when performing appraisals in

18 connection with a federally or non-federally related real estate

19 transaction, or certify compliance with the current Uniform

20 Standards of Professional Appraisal Practice in connection with

21 any arbitration proceeding to determine the fair market value,



1 fair market rental value, or fair and reasonable rent of real  
2 estate."

3 SECTION 8. Section 466K-5, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[~~+~~]**\$466K-5**[~~+~~] **Definitions.** For the purposes of this  
6 [~~chapter,~~] part, unless the context otherwise requires:

7 "Arbitrator" means an individual appointed to render an  
8 award in a controversy that is subject to an agreement to  
9 arbitrate.

10 "Uniform Standards of Professional Appraisal Practice"  
11 means the most recent iteration of the Uniform Standards of  
12 Professional Appraisal Practice developed by the appraisal  
13 standards board of The Appraisal Foundation and approved by the  
14 director."

15 SECTION 9. Section 466K-6, Hawaii Revised Statutes, is  
16 amended as follows:

17 1. By amending subsections (b) and (c) to read:

18 "(b) In an arbitration proceeding to determine the fair  
19 market value, fair market rental, or fair and reasonable rent of  
20 real property where the arbitrator is a real estate appraiser  
21 licensed or certified under this [~~chapter,~~] part, the record of



1 an award shall include but not be limited to findings of fact;  
2 the state-licensed or certified appraiser's rationale for the  
3 award; the state-licensed or certified appraiser's certification  
4 of compliance with the most current Uniform Standards of  
5 Professional Appraisal Practice as approved by the director; and  
6 information regarding the evidence, including the data,  
7 methodologies, and analysis that provided the basis for the  
8 award.

9 (c) A real estate appraiser licensed or certified under  
10 this [~~chapter~~] part who is named or appointed as an arbitrator  
11 in a submission agreement to appraise or arbitrate entered into  
12 after July 1, 2014, shall record with the bureau of conveyances  
13 all arbitration awards; records of awards, if separately issued;  
14 and any supplementary, dissenting, or explanatory opinions on  
15 awards within ninety days of the notification of the  
16 determination of the award to the parties."

17 2. By amending subsection (e) to read:

18 "(e) Failure to comply with this section shall be a  
19 violation of this [~~chapter~~] part for purposes of licensing or  
20 certification."



1 SECTION 10. Section 846-2.7, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) Criminal history record checks may be conducted by:

4 (1) The department of health or its designee on operators  
5 of adult foster homes for individuals with  
6 developmental disabilities or developmental  
7 disabilities domiciliary homes and their employees, as  
8 provided by section 321-15.2;

9 (2) The department of health or its designee on  
10 prospective employees, persons seeking to serve as  
11 providers, or subcontractors in positions that place  
12 them in direct contact with clients when providing  
13 non-witnessed direct mental health or health care  
14 services as provided by section 321-171.5;

15 (3) The department of health or its designee on all  
16 applicants for licensure or certification for,  
17 operators for, prospective employees, adult  
18 volunteers, and all adults, except adults in care, at  
19 healthcare facilities as defined in section 321-15.2;

20 (4) The department of education on employees, prospective  
21 employees, and teacher trainees in any public school



- 1 in positions that necessitate close proximity to  
2 children as provided by section 302A-601.5;
- 3 (5) The counties on employees and prospective employees  
4 who may be in positions that place them in close  
5 proximity to children in recreation or child care  
6 programs and services;
- 7 (6) The county liquor commissions on applicants for liquor  
8 licenses as provided by section 281-53.5;
- 9 (7) The county liquor commissions on employees and  
10 prospective employees involved in liquor  
11 administration, law enforcement, and liquor control  
12 investigations;
- 13 (8) The department of human services on operators and  
14 employees of child caring institutions, child placing  
15 organizations, and foster boarding homes as provided  
16 by section 346-17;
- 17 (9) The department of human services on prospective  
18 adoptive parents as established under section  
19 346-19.7;
- 20 (10) The department of human services or its designee on  
21 applicants to operate child care facilities, household





1 members of the applicant, prospective employees of the  
2 applicant, and new employees and household members of  
3 the provider after registration or licensure as  
4 provided by section 346-154, and persons subject to  
5 section 346-152.5;

6 (11) The department of human services on persons exempt  
7 pursuant to section 346-152 to be eligible to provide  
8 child care and receive child care subsidies as  
9 provided by section 346-152.5;

10 (12) The department of health on operators and employees of  
11 home and community-based case management agencies and  
12 operators and other adults, except for adults in care,  
13 residing in community care foster family homes as  
14 provided by section 321-15.2;

15 (13) The department of human services on staff members of  
16 the Hawaii youth correctional facility as provided by  
17 section 352-5.5;

18 (14) The department of human services on employees,  
19 prospective employees, and volunteers of contracted  
20 providers and subcontractors in positions that place  
21 them in close proximity to youth when providing



- 1 services on behalf of the office or the Hawaii youth  
2 correctional facility as provided by section 352D-4.3;
- 3 (15) The judiciary on employees and applicants at detention  
4 and shelter facilities as provided by section 571-34;
- 5 (16) The department of public safety on employees and  
6 prospective employees who are directly involved with  
7 the treatment and care of persons committed to a  
8 correctional facility or who possess police powers  
9 including the power of arrest as provided by section  
10 353C-5;
- 11 (17) The board of private detectives and guards on  
12 applicants for private detective or private guard  
13 licensure as provided by section 463-9;
- 14 (18) Private schools and designated organizations on  
15 employees and prospective employees who may be in  
16 positions that necessitate close proximity to  
17 children; provided that private schools and designated  
18 organizations receive only indications of the states  
19 from which the national criminal history record  
20 information was provided pursuant to section 302C-1;



- 1           (19) The public library system on employees and prospective  
2                   employees whose positions place them in close  
3                   proximity to children as provided by section  
4                   302A-601.5;
- 5           (20) The State or any of its branches, political  
6                   subdivisions, or agencies on applicants and employees  
7                   holding a position that has the same type of contact  
8                   with children, vulnerable adults, or persons committed  
9                   to a correctional facility as other public employees  
10                  who hold positions that are authorized by law to  
11                  require criminal history record checks as a condition  
12                  of employment as provided by section 78-2.7;
- 13          (21) The department of health on licensed adult day care  
14                  center operators, employees, new employees,  
15                  subcontracted service providers and their employees,  
16                  and adult volunteers as provided by section 321-15.2;
- 17          (22) The department of human services on purchase of  
18                  service contracted and subcontracted service providers  
19                  and their employees serving clients of the adult  
20                  protective and community services branch, as provided  
21                  by section 346-97;



- 1           (23) The department of human services on foster grandparent  
2                   program, senior companion program, and respite  
3                   companion program participants as provided by section  
4                   346-97;
- 5           (24) The department of human services on contracted and  
6                   subcontracted service providers and their current and  
7                   prospective employees that provide home and community-  
8                   based services under section 1915(c) of the Social  
9                   Security Act, title 42 United States Code section  
10                  1396n(c), or under any other applicable section or  
11                  sections of the Social Security Act for the purposes  
12                  of providing home and community-based services, as  
13                  provided by section 346-97;
- 14          (25) The department of commerce and consumer affairs on  
15                  proposed directors and executive officers of a bank,  
16                  savings bank, savings and loan association, trust  
17                  company, and depository financial services loan  
18                  company as provided by section 412:3-201;
- 19          (26) The department of commerce and consumer affairs on  
20                  proposed directors and executive officers of a



- 1           nondepository financial services loan company as  
2           provided by section 412:3-301;
- 3       (27) The department of commerce and consumer affairs on the  
4           original chartering applicants and proposed executive  
5           officers of a credit union as provided by section  
6           412:10-103;
- 7       (28) The department of commerce and consumer affairs on:
- 8           (A) Each principal of every non-corporate applicant  
9           for a money transmitter license;
- 10          (B) The executive officers, key shareholders, and  
11          managers in charge of a money transmitter's  
12          activities of every corporate applicant for a  
13          money transmitter license; and
- 14          (C) The persons who are to assume control of a money  
15          transmitter licensee in connection with an  
16          application requesting approval of a proposed  
17          change in control of licensee,
- 18           as provided by sections 489D-9 and 489D-15;
- 19       (29) The department of commerce and consumer affairs on  
20           applicants for licensure and persons licensed under  
21           title 24;



- 1           (30) The Hawaii health systems corporation on:
  - 2                   (A) Employees;
  - 3                   (B) Applicants seeking employment;
  - 4                   (C) Current or prospective members of the corporation
  - 5                           board or regional system board; or
  - 6                   (D) Current or prospective volunteers, providers, or
  - 7                           contractors,
  - 8                           in any of the corporation's health facilities as
  - 9                           provided by section 323F-5.5;
- 10          (31) The department of commerce and consumer affairs on:
  - 11                   (A) An applicant for a mortgage loan originator
  - 12                           license; and
  - 13                   (B) Each control person, executive officer, director,
  - 14                           general partner, and manager of an applicant for
  - 15                           a mortgage loan originator company license,
  - 16                           as provided by chapter 454F;
- 17          (32) The state public charter school commission or public
- 18                   charter schools on employees, teacher trainees,
- 19                   prospective employees, and prospective teacher
- 20                   trainees in any public charter school for any position



- 1           that places them in close proximity to children, as  
2           provided in section 302D-33;
- 3           (33) The counties on prospective employees who work with  
4           children, vulnerable adults, or senior citizens in  
5           community-based programs;
- 6           (34) The counties on prospective employees for fire  
7           department positions which involve contact with  
8           children or vulnerable adults;
- 9           (35) The counties on prospective employees for emergency  
10          medical services positions which involve contact with  
11          children or vulnerable adults;
- 12          (36) The counties on prospective employees for emergency  
13          management positions and community volunteers whose  
14          responsibilities involve planning and executing  
15          homeland security measures including viewing,  
16          handling, and engaging in law enforcement or  
17          classified meetings and assisting vulnerable citizens  
18          during emergencies or crises;
- 19          (37) The State and counties on employees, prospective  
20          employees, volunteers, and contractors whose position  
21          responsibilities require unescorted access to secured



1 areas and equipment related to a traffic management  
2 center;

3 (38) The State and counties on employees and prospective  
4 employees whose positions involve the handling or use  
5 of firearms for other than law enforcement purposes;

6 (39) The State and counties on current and prospective  
7 systems analysts and others involved in an agency's  
8 information technology operation whose position  
9 responsibilities provide them with access to  
10 proprietary, confidential, or sensitive information;

11 (40) The department of commerce and consumer affairs on  
12 [applicants]:

13 (A) Applicants for real estate appraiser licensure or  
14 certification as provided by chapter 466K;

15 (B) Each person who owns more than ten per cent of an  
16 appraisal management company who is applying for  
17 registration as an appraisal management company,  
18 as provided by section 466K-H; and

19 (C) Each of the controlling persons of an applicant  
20 for registration as an appraisal management  
21 company, as provided by section 466K-H;





1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

(41) The department of health or its designee on all license applicants, licensees, employees, contractors, and prospective employees of medical marijuana dispensaries, and individuals permitted to enter and remain in medical marijuana dispensary facilities as provided under sections 329D-15(a)(4) and 329D-16(a)(3);

(42) The department of commerce and consumer affairs on applicants for nurse licensure or license renewal, reactivation, or restoration as provided by sections 457-7, 457-8, 457-8.5, and 457-9;

[+] (43) [+] The county police departments on applicants for permits to acquire firearms pursuant to section 134-2 and on individuals registering their firearms pursuant to section 134-3;

[+] (44) [+] The department of commerce and consumer affairs on:  
(A) Each of the controlling persons of the applicant for licensure as an escrow depository, and each of the officers, directors, and principals who




1 will be in charge of the escrow depository's  
2 activities upon licensure; and  
3 (B) Each of the controlling persons of an applicant  
4 for proposed change in control of an escrow  
5 depository licensee, and each of the officers,  
6 directors, and principals who will be in charge  
7 of the licensee's activities upon approval of  
8 such application,

9 as provided by chapter 449; and  
10 [†] (45) [†] Any other organization, entity, or the State, its  
11 branches, political subdivisions, or agencies as may  
12 be authorized by state law."

13 SECTION 11. In codifying the new sections added by section  
14 2 of this Act, the revisor of statutes shall substitute  
15 appropriate section numbers for the letters used in designating  
16 the new sections in this Act.

17 SECTION 12. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 13. This Act shall take effect on January 1, 2018.

20  
INTRODUCED BY: 

JAN 18 2017



# H.B. NO. 50

**Report Title:**

Appraisal Management Companies; Registration; Appraisal Management Company Registration Program; Real Property

**Description:**

Establishes an appraisal management company registration program within the department of commerce and consumer affairs to conform to minimum standards established under federal law and regulations. Establishes registration requirements, standards, and penalties for violations. Takes effect on 1/1/2018.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

