
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. The Hawaii Revised Statutes is amended by
13 adding a new chapter to be appropriately designated and to read
14 as follows:

15 **"CHAPTER**

16 **APPRAISAL MANAGEMENT COMPANIES**

17 **§ -1 Findings and purpose.** The legislature finds that
18 the regulation of appraisal management companies is essential to
19 protect consumers. The legislature further finds that it is
20 necessary to establish a regulatory framework for appraisal
21 management companies in the State in conformity with the



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

7 **§ -2 Definitions.** As used in this chapter, unless the
8 context otherwise requires:

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

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

17 "Appraisal management company" means a person that:

18 (1) Provides appraisal management services to creditors or
19 secondary mortgage market participants, including
20 affiliates;



1 (2) Provides appraisal management services in connection
2 with valuing a consumer's principal dwelling as
3 security for a consumer credit transaction or
4 incorporating these transactions into securitizations;
5 and

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

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

16 "Appraisal management services" means one or more of the
17 following:

- 18 (1) Recruiting, selecting, and retaining appraisers;
19 (2) Contracting with state-certified or state-licensed
20 appraisers to perform appraisal assignments;



1 (3) Managing the process of having an appraisal performed,
2 including providing completed appraisal reports to
3 creditors and secondary market participants;
4 collecting fees from creditors and secondary market
5 participants for services provided; and paying
6 appraisers for services performed; and

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

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

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

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



1 For purposes of this chapter, an appraiser is an independent
2 contractor if the appraiser is treated as an independent
3 contractor by the appraisal management company for purposes of
4 federal income taxation.

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

11 "Appraisal review" does not include:

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

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



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

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

5 "Controlling person" means:

- 6 (1) An officer, director, or owner of greater than a ten
7 per cent interest of a corporation, partnership, or
8 other business entity seeking to act as an appraisal
9 management company in the State;
- 10 (2) An individual employed, appointed, or authorized by an
11 appraisal management company who has the authority to:
- 12 (A) Enter a contractual relationship with other
13 persons for performance of services requiring
14 registration as an appraisal management company;
15 and
- 16 (B) Enter agreements with appraisers for the
17 performance of appraisals; or
- 18 (3) An individual who possesses, directly or indirectly,
19 the power to direct or cause the direction of the
20 management or policies of an appraisal management
21 company.



1 "Covered transaction" means any consumer credit transaction
2 secured by the consumer's principal dwelling.

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

9 A person regularly extends consumer credit if:

- 10 (1) The person extended credit (other than credit subject
11 to the requirements of 12 Code of Federal Regulations
12 section 1026.32) more than five times for transactions
13 secured by a dwelling in the preceding calendar year.
14 If a person did not meet these numerical standards in
15 the preceding calendar year, the numerical standards
16 shall be applied to the current calendar year; or
- 17 (2) In any twelve-month period, the person extends more
18 than one credit extension that is subject to the
19 requirements of 12 Code of Federal Regulations section
20 1026.32 or one or more such credit extensions through
21 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, regardless of whether that structure is attached
7 to real property. "Dwelling" includes an individual condominium
8 unit, cooperative unit, mobile home, and trailer, if it is used
9 as a residence. A consumer can have only one principal dwelling
10 at a 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 12 United States
19 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 **§ -3 Appraisal management company registration program.**

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

12 **§ -4 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 chapter; and

3 (9) Appoint members to the appraisal review committee to
4 assist with the implementation of this chapter.

5 **§ -5 Appraiser panel; annual size calculation.** (a) For
6 purposes of determining whether an appraisal management meets
7 the size requirement of an appraisal management company, as that
8 term is defined in section -2, an appraiser shall be deemed
9 part of the appraisal management company's appraiser panel as of
10 the earliest date on which the appraisal management company:

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

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

20 (b) An appraiser who is deemed part of the appraisal
21 management company's appraiser panel pursuant to subsection (a)



1 shall be deemed to remain on the appraiser panel until the date
2 on which the appraisal management company:

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

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

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

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

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

20 **§ -6 Registration required.** (a) No person may directly
21 or indirectly engage or attempt to engage in business as an



1 appraisal management company, directly or indirectly perform or
2 attempt to perform appraisal management services, or advertise
3 or hold oneself out as engaging in or conducting business as an
4 appraisal management company without first being registered
5 pursuant to this chapter.

6 (b) An appraisal management company shall:

7 (1) Register with the appraisal management company
8 registration program administered by the department;

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

13 (3) Establish and comply with processes and controls
14 reasonably designed to ensure that the appraisal
15 management company, in engaging an appraiser, selects
16 an appraiser who shall be independent of the
17 transaction and has the requisite education,
18 expertise, and experience necessary to competently
19 complete the appraisal assignment for the particular
20 market and property type;



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

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

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

18 **§ -7 Registration process.** An applicant for
19 registration under this chapter shall file an application for
20 registration with the director on a form prescribed by the
21 director and pay a fee established by the director. The form



1 shall require any information necessary to determine eligibility
2 for registration.

3 **§ -8 Criminal history record checks.** (a) The
4 application submitted pursuant to section -7 shall contain
5 the information and authorizations necessary to conduct a
6 criminal history record check in accordance with section 846-2.7
7 for:

8 (1) Each person applying for registration who owns more
9 than ten per cent of an appraisal management company;
10 and

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

12 (b) The information and authorizations shall be
13 accompanied by the appropriate payment of the applicable fee for
14 each record check.

15 **§ -9 Appraisal management company registration numbers.**

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

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

20 (c) An appraisal management company registered in this
21 State shall place its registration number on engagement



1 documents utilized by the appraisal management company to
2 procure appraisal services in this State.

3 **§ -10 Expiration of registration.** Registrations shall
4 expire on December 31 of each odd-numbered year. The expiration
5 date of the registration shall appear on the appraisal
6 management company registration certificate issued to the
7 registrant, and no other notice of its expiration need be given
8 to the registrant.

9 **§ -11 Compliance with the Uniform Standards of**
10 **Professional Appraisal Practice.** As a condition of registration
11 or renewal of registration, each appraisal management company in
12 the State shall certify that the company requires appraisers
13 completing appraisals at the company's request to comply with
14 the Uniform Standards of Professional Appraisal Practice.

15 **§ -12 Consent to service of process.** An applicant for
16 registration under this chapter that is not domiciled in the
17 State shall complete an irrevocable consent to service of
18 process, in a form approved by the attorney general.

19 **§ -13 Reporting requirements; non-federally regulated**
20 **appraisal management companies.** The director shall collect from
21 each appraisal management company registered or seeking



1 registration in the State all information and fees required by
2 the Appraisal Subcommittee to be submitted to the Appraisal
3 Subcommittee by the State, pursuant to regulations or guidance
4 promulgated by the Appraisal Subcommittee.

5 **§ -14 Reporting requirements; federally regulated**
6 **appraisal management companies; reporting information for**
7 **appraisal management companies.** A federally regulated appraisal
8 management company operating in the State shall report to the
9 director the information required to be submitted by the State
10 to the Appraisal Subcommittee, pursuant to the Appraisal
11 Subcommittee's policies regarding the determination of the AMC
12 national registry fee. These reporting requirements shall
13 include:

- 14 (1) A notice of intent to operate in the State;
- 15 (2) Information related to whether the appraisal
16 management company is owned in whole or in part,
17 directly or indirectly, by any person who has had an
18 appraiser license or certification refused, denied,
19 cancelled, surrender in lieu of revocation, or revoked
20 in any state for a substantive cause, as determined by
21 the Appraisal Subcommittee; and



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

8 **§ -15 Owner requirements.** (a) An appraisal management
9 company applying for, holding, or renewing a registration under
10 this chapter shall not be owned, in whole or in part, directly
11 or indirectly, by any person who has had an appraiser license or
12 certification refused, denied, canceled, surrendered in lieu of
13 revocation, or revoked in any state for a substantive cause, as
14 determined by the appropriate state appraiser certifying and
15 licensing agency; provided that an appraisal management company
16 may be registered under this chapter if the license or
17 certification of the appraiser with an ownership interest was
18 not revoked for a substantive cause and the license or
19 certification has been reinstated by the state in which the
20 appraiser was licensed or certified.



1 (b) Each person that owns more than ten per cent of an
2 appraisal management company and applies for, holds, or renews a
3 registration under this chapter shall:

4 (1) Be of good moral character; and

5 (2) Submit to a criminal history record check pursuant to
6 section -8.

7 **§ -16 Controlling person.** An appraisal management
8 company applying for registration or renewal of registration in
9 the State shall designate one controlling person to serve as the
10 main contact for all communication between the department and
11 the company. The controlling person shall:

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

19 (2) Never have had an appraiser license in this State or
20 any other state refused, denied, canceled, revoked, or
21 surrendered in lieu of a pending disciplinary



1 proceeding in any jurisdiction and not subsequently
2 reinstated or granted;

3 (3) Be of good moral character; and

4 (4) Submit to a criminal history record check pursuant to
5 section -8.

6 **§ -17 Appraiser engagement.** Before or at the time of
7 placing an assignment to appraise real property in the State
8 with an appraiser on the appraiser panel of an appraisal
9 management company, the appraisal management company shall
10 verify that the appraiser receiving the assignment holds an
11 appraiser license or certification in good standing in this
12 State.

13 **§ -18 Appraisal review.** Any employee of or independent
14 contractor to an appraisal management company who performs an
15 appraisal review for a property located in this State shall be a
16 licensed or certified appraiser in good standing in the State
17 and any other jurisdiction in which the appraiser is licensed or
18 certified.

19 **§ -19 Verification of licensure or certification.** (a)
20 An appraisal management company registered in the State may not
21 enter any contract or agreement with an appraiser for the



1 performance of appraisals in the State unless the company
2 verifies that the appraiser is licensed or certified in good
3 standing in the State.

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

10 **§ -20 Fee disclosure.** An appraisal management company
11 registered in the State shall not prohibit an independent
12 appraiser who is part of the appraiser panel from recording the
13 fee that the appraiser was paid by the appraisal management
14 company for the performance of an appraisal within the
15 communication of the appraisal.

16 **§ -21 Retention of records.** (a) Each appraisal
17 management company seeking registration or renewal of
18 registration in the State shall certify that the appraisal
19 management company maintains a detailed record of each service
20 request the company receives for appraisals of real property
21 located in the State.



1 (b) An appraisal management company registered in the
2 State shall retain all records required to be maintained under
3 this chapter for at least five years after the file is submitted
4 to the appraisal management company or at least two years after
5 final disposition of any related judicial proceeding of which
6 the appraisal management company is provided notice, whichever
7 period expires last.

8 (c) All records required to be maintained pursuant to this
9 section shall be made available for inspection by the director,
10 upon reasonable notice given to the appraisal management
11 company.

12 **§ -22 Payments to appraisers.** (a) An appraisal
13 management company shall, except in bona fide cases of breach of
14 contract or substandard performance of services, make payment to
15 an independent appraiser for the completion of an appraisal or
16 valuation assignment within forty-five days of the date on which
17 the appraiser transmits or otherwise provides the completed
18 appraisal or valuation assignment to the appraisal management
19 company or the company's assignee, unless a mutually agreed-upon
20 alternate arrangement has been previously established.



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

10 **§ -23 Mandatory reporting of violations.** An appraisal
11 management company that has a reasonable basis to believe an
12 appraiser has materially failed to comply with applicable laws
13 or rules or has materially violated the Uniform Standards of
14 Professional Appraisal Practice shall refer the matter to the
15 director in conformance with applicable federal laws and
16 regulations.

17 **§ -24 Prohibited conduct.** (a) A violation of this
18 section may constitute grounds for discipline against an
19 appraisal management company registered in this State; provided
20 that nothing in this chapter shall prevent an appraisal
21 management company from requesting an appraiser to provide



1 additional information about the basis for a valuation, correct
2 objective factual errors in an appraisal report, or consider
3 additional appropriate property information.

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

- 7 (1) Procure or attempt to procure a registration or
8 renewal by knowingly making a false statement,
9 submitting false information, or refusing to provide
10 complete information in response to a question in an
11 application for registration or renewal;
- 12 (2) Wilfully violate this chapter or rules adopted by the
13 department pursuant to this chapter;
- 14 (3) Improperly influence or attempt to improperly
15 influence the development, reporting, result, or
16 review of an appraisal through intimidation, coercion,
17 extortion, bribery, or any other manner, including but
18 not limited to:
- 19 (A) Withholding payment for appraisal services;
- 20 (B) Threatening to exclude an appraiser from future
21 work or threatening to demote or terminate the



- 1 appraiser in order to improperly obtain a desired
2 result;
- 3 (C) Conditioning payment of an appraisal fee upon the
4 opinion, conclusion, or valuation to be reached;
5 or
- 6 (D) Requesting that an appraiser report a
7 predetermined opinion, conclusion, or valuation
8 or the desired valuation of any person or entity;
- 9 (4) Alter, amend, or change an appraisal report submitted
10 by an appraiser without the appraiser's knowledge and
11 written consent;
- 12 (5) Except within the first ninety days after an
13 independent appraiser is added to an appraiser panel,
14 remove an independent appraiser from an appraiser
15 panel without prior written notice to the appraiser;
16 provided that the prior written notice shall include
17 the following evidence, if applicable:
- 18 (A) The appraiser's illegal conduct;
- 19 (B) A violation of the Uniform Standards of
20 Professional Appraisal Practice, this chapter, or
21 rules adopted pursuant to this chapter;



- 1 (C) Improper or unprofessional conduct; or
- 2 (D) Substandard performance or other substantive
- 3 deficiencies;
- 4 (6) Require an appraiser to sign any indemnification
- 5 agreement that would require the appraiser to defend
- 6 and hold harmless the appraisal management company or
- 7 any of its agents or employees for any liability,
- 8 damage, losses, or claims arising out of the services
- 9 performed by the appraisal management company or its
- 10 agents, employees, or independent contractors, and not
- 11 the services performed by the appraiser;
- 12 (7) Prohibit lawful communications between the appraiser
- 13 and any other person who the appraiser, in the
- 14 appraiser's professional judgment, believes possesses
- 15 information that would be relevant;
- 16 (8) Engage in any other act or practice that impairs or
- 17 attempts to impair a real estate appraiser's
- 18 independence, objectivity, and impartiality;
- 19 (9) Fail to timely respond to any subpoena or other
- 20 request for information;



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

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

4 **§ -25 Disciplinary proceedings.** The director may deny,
5 suspend, or revoke the registration of an appraisal management
6 company; impose a monetary penalty of an amount not to exceed
7 \$5,000 per violation; issue a letter of reprimand; refuse to
8 issue or renew the registration of an appraisal management
9 company; or take other disciplinary action against an appraisal
10 management company for any one or more of the following acts or
11 conditions:

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

13 (2) The applicant has had a registration revoked or
14 suspended for cause, or surrendered in lieu of
15 disciplinary proceedings;

16 (3) An applicant for renewal of registration would not be
17 eligible for such registration on a first application;

18 (4) The issuance of a registration would result in a
19 violation of this chapter or any rules adopted
20 pursuant to this chapter;



- 1 (5) In the conduct of affairs under the registration, the
2 registrant demonstrated incompetency,
3 untrustworthiness, or conduct or practices rendering
4 the registrant unfit to carry on appraisal management
5 services; made continuance in the business detrimental
6 to the public interest; or is no longer in good faith
7 carrying on appraisal management services, and for
8 this conduct is found by the director to be a source
9 of detriment, injury, or loss to the public;
- 10 (6) The appraisal management company committed any act in
11 violation of this chapter;
- 12 (7) The appraisal management company violated any rule
13 adopted by the department in the interest of the
14 public and consistent with this chapter; or
- 15 (8) The appraisal management company procured a
16 registration or renewal of registration for the
17 appraisal management company or intentionally
18 committed any other act by fraud, misrepresentation,
19 or deceit.
- 20 **§ -26 Fees; bonds.** (a) The director may charge the
21 appraisal management company reasonable fees to offset costs of



1 operating the appraisal management company registration program
2 established pursuant to this chapter.

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

5 **§ -27 Exemption.** This chapter shall not apply to an
6 appraiser who enters an agreement with another appraiser for the
7 performance of an appraisal that, upon completion, results in a
8 report signed by the appraiser who completed the appraisal and
9 the appraiser who requested completion of the appraisal."

10 SECTION 3. Section 846-2.7, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

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

13 (1) The department of health or its designee on operators
14 of adult foster homes for individuals with
15 developmental disabilities or developmental
16 disabilities domiciliary homes and their employees, as
17 provided by section 321-15.2;

18 (2) The department of health or its designee on
19 prospective employees, persons seeking to serve as
20 providers, or subcontractors in positions that place
21 them in direct contact with clients when providing



- 1 non-witnessed direct mental health or health care
2 services as provided by section 321-171.5;
- 3 (3) The department of health or its designee on all
4 applicants for licensure or certification for,
5 operators for, prospective employees, adult
6 volunteers, and all adults, except adults in care, at
7 healthcare facilities as defined in section 321-15.2;
- 8 (4) The department of education on employees, prospective
9 employees, and teacher trainees in any public school
10 in positions that necessitate close proximity to
11 children as provided by section 302A-601.5;
- 12 (5) The counties on employees and prospective employees
13 who may be in positions that place them in close
14 proximity to children in recreation or child care
15 programs and services;
- 16 (6) The county liquor commissions on applicants for liquor
17 licenses as provided by section 281-53.5;
- 18 (7) The county liquor commissions on employees and
19 prospective employees involved in liquor
20 administration, law enforcement, and liquor control
21 investigations;



- 1 (8) The department of human services on operators and
2 employees of child caring institutions, child placing
3 organizations, and foster boarding homes as provided
4 by section 346-17;
- 5 (9) The department of human services on prospective
6 adoptive parents as established under section
7 346-19.7;
- 8 (10) The department of human services or its designee on
9 applicants to operate child care facilities, household
10 members of the applicant, prospective employees of the
11 applicant, and new employees and household members of
12 the provider after registration or licensure as
13 provided by section 346-154, and persons subject to
14 section 346-152.5;
- 15 (11) The department of human services on persons exempt
16 pursuant to section 346-152 to be eligible to provide
17 child care and receive child care subsidies as
18 provided by section 346-152.5;
- 19 (12) The department of health on operators and employees of
20 home and community-based case management agencies and
21 operators and other adults, except for adults in care,



1 residing in community care foster family homes as
2 provided by section 321-15.2;

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

6 (14) The department of human services on employees,
7 prospective employees, and volunteers of contracted
8 providers and subcontractors in positions that place
9 them in close proximity to youth when providing
10 services on behalf of the office or the Hawaii youth
11 correctional facility as provided by section 352D-4.3;

12 (15) The judiciary on employees and applicants at detention
13 and shelter facilities as provided by section 571-34;

14 (16) The department of public safety on employees and
15 prospective employees who are directly involved with
16 the treatment and care of persons committed to a
17 correctional facility or who possess police powers
18 including the power of arrest as provided by section
19 353C-5;



- 1 (17) The board of private detectives and guards on
2 applicants for private detective or private guard
3 licensure as provided by section 463-9;
- 4 (18) Private schools and designated organizations on
5 employees and prospective employees who may be in
6 positions that necessitate close proximity to
7 children; provided that private schools and designated
8 organizations receive only indications of the states
9 from which the national criminal history record
10 information was provided pursuant to section 302C-1;
- 11 (19) The public library system on employees and prospective
12 employees whose positions place them in close
13 proximity to children as provided by section
14 302A-601.5;
- 15 (20) The State or any of its branches, political
16 subdivisions, or agencies on applicants and employees
17 holding a position that has the same type of contact
18 with children, vulnerable adults, or persons committed
19 to a correctional facility as other public employees
20 who hold positions that are authorized by law to



- 1 require criminal history record checks as a condition
2 of employment as provided by section 78-2.7;
- 3 (21) The department of health on licensed adult day care
4 center operators, employees, new employees,
5 subcontracted service providers and their employees,
6 and adult volunteers as provided by section 321-15.2;
- 7 (22) The department of human services on purchase of
8 service contracted and subcontracted service providers
9 and their employees serving clients of the adult
10 protective and community services branch, as provided
11 by section 346-97;
- 12 (23) The department of human services on foster grandparent
13 program, senior companion program, and respite
14 companion program participants as provided by section
15 346-97;
- 16 (24) The department of human services on contracted and
17 subcontracted service providers and their current and
18 prospective employees that provide home and community-
19 based services under section 1915(c) of the Social
20 Security Act, title 42 United States Code section
21 1396n(c), or under any other applicable section or



1 sections of the Social Security Act for the purposes
2 of providing home and community-based services, as
3 provided by section 346-97;

4 (25) The department of commerce and consumer affairs on
5 proposed directors and executive officers of a bank,
6 savings bank, savings and loan association, trust
7 company, and depository financial services loan
8 company as provided by section 412:3-201;

9 (26) The department of commerce and consumer affairs on
10 proposed directors and executive officers of a
11 nondepository financial services loan company as
12 provided by section 412:3-301;

13 (27) The department of commerce and consumer affairs on the
14 original chartering applicants and proposed executive
15 officers of a credit union as provided by section
16 412:10-103;

17 (28) The department of commerce and consumer affairs on:
18 (A) Each principal of every non-corporate applicant
19 for a money transmitter license;
20 (B) The executive officers, key shareholders, and
21 managers in charge of a money transmitter's



- 1 activities of every corporate applicant for a
2 money transmitter license; and
- 3 (C) The persons who are to assume control of a money
4 transmitter licensee in connection with an
5 application requesting approval of a proposed
6 change in control of licensee,
7 as provided by sections 489D-9 and 489D-15;
- 8 (29) The department of commerce and consumer affairs on
9 applicants for licensure and persons licensed under
10 title 24;
- 11 (30) The Hawaii health systems corporation on:
- 12 (A) Employees;
- 13 (B) Applicants seeking employment;
- 14 (C) Current or prospective members of the corporation
15 board or regional system board; or
- 16 (D) Current or prospective volunteers, providers, or
17 contractors,
18 in any of the corporation's health facilities as
19 provided by section 323F-5.5;
- 20 (31) The department of commerce and consumer affairs on:



- 1 (A) An applicant for a mortgage loan originator
2 license; and
- 3 (B) Each control person, executive officer, director,
4 general partner, and manager of an applicant for
5 a mortgage loan originator company license,
6 as provided by chapter 454F;
- 7 (32) The state public charter school commission or public
8 charter schools on employees, teacher trainees,
9 prospective employees, and prospective teacher
10 trainees in any public charter school for any position
11 that places them in close proximity to children, as
12 provided in section 302D-33;
- 13 (33) The counties on prospective employees who work with
14 children, vulnerable adults, or senior citizens in
15 community-based programs;
- 16 (34) The counties on prospective employees for fire
17 department positions which involve contact with
18 children or vulnerable adults;
- 19 (35) The counties on prospective employees for emergency
20 medical services positions which involve contact with
21 children or vulnerable adults;



- 1 (36) The counties on prospective employees for emergency
2 management positions and community volunteers whose
3 responsibilities involve planning and executing
4 homeland security measures including viewing,
5 handling, and engaging in law enforcement or
6 classified meetings and assisting vulnerable citizens
7 during emergencies or crises;
- 8 (37) The State and counties on employees, prospective
9 employees, volunteers, and contractors whose position
10 responsibilities require unescorted access to secured
11 areas and equipment related to a traffic management
12 center;
- 13 (38) The State and counties on employees and prospective
14 employees whose positions involve the handling or use
15 of firearms for other than law enforcement purposes;
- 16 (39) The State and counties on current and prospective
17 systems analysts and others involved in an agency's
18 information technology operation whose position
19 responsibilities provide them with access to
20 proprietary, confidential, or sensitive information;



- 1 (40) The department of commerce and consumer affairs on
2 applicants for real estate appraiser licensure or
3 certification as provided by chapter 466K;
- 4 (41) The department of health or its designee on all
5 license applicants, licensees, employees, contractors,
6 and prospective employees of medical marijuana
7 dispensaries, and individuals permitted to enter and
8 remain in medical marijuana dispensary facilities as
9 provided under sections 329D-15(a)(4) and
10 329D-16(a)(3);
- 11 (42) The department of commerce and consumer affairs on
12 applicants for nurse licensure or license renewal,
13 reactivation, or restoration as provided by sections
14 457-7, 457-8, 457-8.5, and 457-9;
- 15 [+] (43) [+] The county police departments on applicants for
16 permits to acquire firearms pursuant to section 134-2
17 and on individuals registering their firearms pursuant
18 to section 134-3;
- 19 [+] (44) [+] The department of commerce and consumer affairs on:
20 (A) Each of the controlling persons of the applicant
21 for licensure as an escrow depository, and each



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

10 as provided by chapter 449; [~~and~~]

11 [+](45)[+] The department of commerce and consumer affairs on:

12 (B) Each person who owns more than ten per cent of an
13 appraisal management company who is applying for
14 registration as an appraisal management company,
15 as provided by section -8; and

16 (C) Each of the controlling persons of an applicant
17 for registration as an appraisal management
18 company, as provided by section -8; and

19 (46) Any other organization, entity, or the State, its
20 branches, political subdivisions, or agencies as may
21 be authorized by state law."



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect on July 1, 2099.



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 of the Appraisal Management Companies Final Rule and Dodd-Frank Wall Street Reform and Consumer Protection Act. Establishes registration requirements, standards, and penalties for violations.

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

