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**PRESENTATION OF THE  
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

**TO THE SENATE COMMITTEE ON WAYS AND MEANS**

**TWENTY-NINTH LEGISLATURE  
Regular Session of 2017**

**Thursday, February 23, 2017  
1:35 p.m.**

**WRITTEN TESTIMONY**

**TESTIMONY ON SENATE BILL NO. 390, S.D. 1, RELATING TO APPRAISAL  
MANAGEMENT COMPANIES.**

**TO THE HONORABLE JILL N. TOKUDA, CHAIR,  
AND MEMBERS OF THE COMMITTEE:**

My name is Celia Suzuki, Licensing Administrator of the Professional and Vocational Licensing Division ("PVLD"), Department of Commerce and Consumer Affairs ("Department"). The Department appreciates the opportunity to submit testimony in support of Senate Bill No. 390, S.D. 1, Relating to Appraisal Management Companies, with suggested amendments.

The purpose of Senate Bill No. 390, S.D.1, is to establish an appraisal management company ("AMC") program within the Department to conform to minimum standards of the Appraisal Management Companies Final Rule and the Dodd-Frank Wall Street Reform and Consumer Protection Act. The bill establishes registration requirements, standards, and penalties for violations.

The Department has prepared a proposed S.D. 2 for the Committee's consideration. Many safeguards for the consumers of the State have been included, such as, the definitions of "appraisal management services", "appraisal review", and "uniform standards of professional appraisal practice" have been expanded to strengthen protections for the consumer. In addition, one of the amendments included clearly states that the appraiser management company shall verify that the appraiser receiving an assignment meets the competency rule of the uniform standards of professional appraisal practice. A section on violating appraiser independence has also been added to the proposed S.D. 2. Also, standard PVLD placeholder provisions have been included that is reflected in other licensing laws in PVLD and the amendments would bring this new chapter in line with those laws.

The Department views the proposed draft as a work in progress as it continues to review the applicable federal laws and rules, and consults with stakeholders.

Thank you for the opportunity to provide testimony in support of this Senate Bill No. 390, S.D. 1, with the Department's suggested amendments. The proposed S.D. 2 is attached.

STATE OF HAWAII

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# 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 required six 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 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 title 12 Code of Federal  
4 Regulations, sections 1222.20, et. Seq., 80 Federal Register  
5 32657 et seq. The purpose of this chapter is to establish  
6 minimum requirements for the regulation of certain non-federally  
7 regulated appraisal management companies.

8       **§ -B Definitions.** As used in this chapter unless the  
9 context otherwise requires:

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

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

18       "Appraisal management company" means a person that:

19       (1) Provides appraisal management services to creditors or  
20             secondary mortgage market participants, including  
21             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       -E.

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 administrative services such as  
3 receiving appraisal orders and appraisal reports,  
4 submitting completed appraisal reports to creditors  
5 and secondary market participants; collecting fees  
6 from creditors and secondary market participants for  
7 services provided; and paying appraisers for services  
8 performed; and

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

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

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

20 (2) Appraisers engaged by the appraisal management company  
21 to perform one or more appraisals in covered

1 transactions or for secondary mortgage market  
2 participants in connection with covered transactions.

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

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

14 "Appraisal review" does not include:

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

1 "Appraisal Subcommittee" means the Appraisal Subcommittee  
2 of the Federal Financial Institutions Examination Council  
3 created pursuant to Title XI of the federal Financial  
4 Institutions Reform, Recovery, and Enforcement Act of 1989.

5 [~~"Appraisal review committee" means the advisory committee~~  
6 ~~established pursuant to section — D(9).]~~

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

9 "Controlling person" means:

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

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

16 (A) Enter a contractual relationship with other  
17 persons for performance of services requiring  
18 registration as an appraisal management company;  
19 and

20 (B) Enter agreements with appraisers for the  
21 performance of appraisals; or

1           (3) An individual who possesses, directly or indirectly,  
2           the power to direct or cause the direction of the  
3           management or policies of an appraisal management  
4           company.

5           "Covered transaction" means any consumer credit transaction  
6 secured by the consumer's principal dwelling.

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

13          A person regularly extends consumer credit if:

14          (1) The person extended credit (other than credit subject  
15          to the requirements of title 12 Code of Federal  
16          Regulations section 1026.32) more than five times for  
17          transactions secured by a dwelling in the preceding  
18          calendar year. If a person did not meet these  
19          numerical standards in the preceding calendar year,  
20          the numerical standards shall be applied to the  
21          current calendar year; or

1           (2) In any twelve-month period, the person extends more  
2           than one credit extension that is subject to the  
3           requirements of title 12 Code of Federal Regulations  
4           section 1026.32 or one or more such credit extensions  
5           through a mortgage broker.

6           "Department" means the department of commerce and consumer  
7           affairs.

8           "Director" means the director of commerce and consumer  
9           affairs.

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

1 "Federally regulated appraisal management company" means an  
2 appraisal management company that is owned and controlled by an  
3 insured depository institution, as defined in title 12 United  
4 States Code section 1813, and regulated by the Office of the  
5 Comptroller of the Currency, the Board of Governors of the  
6 Federal Reserve System, or the Federal Deposit Insurance  
7 Corporation.

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

15 "Person" means a natural person or an organization,  
16 including a corporation, partnership, proprietorship,  
17 association, cooperative, estate, trust, or government unit.

18 "Real estate-related financial transaction" means any  
19 transaction involving the sale, lease, purchase, investment in,  
20 or exchange of real property, including interests in property or  
21 the financing thereof, including the refinancing of real

1 property or interests in real property and the use of real  
2 property or interests in property as security for a loan or  
3 investment, including mortgage-backed securities.

4 "Secondary mortgage market participant" means a guarantor  
5 or insurer of mortgage-backed securities or an underwriter or  
6 issuer of mortgage-backed securities. "Secondary mortgage  
7 market participant" only includes an individual investor in a  
8 mortgage-backed security if that investor also serves in the  
9 capacity of a guarantor, insurer, underwriter, or issuer for the  
10 mortgage-backed security.

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

16 **§ -C Appraisal management company registration program.**

17 There is established an appraisal management company  
18 registration program subject to the real estate appraisal  
19 program~~[within the department,]~~ to be administered by the director~~[ ]~~in  
20 the director's capacity as the program administrator for both  
21 programs.

1           **§ -D Powers and duties of the director.** In addition to  
2 any other powers and duties authorized by law, the director  
3 shall have the following powers and duties:

- 4           (1) Review and approve or deny an appraisal management  
5                 company's application for initial registration;
- 6           (2) Renew or deny an appraisal management company's  
7                 registration periodically;
- 8           (3) Examine the books and records of an appraisal  
9                 management company operating in the State and require  
10                the appraisal management company to submit reports,  
11                information, and documents;
- 12           (4) Verify that the appraisers on the appraisal management  
13                company's appraiser panel hold valid state licenses or  
14                certifications, as applicable;
- 15           (5) Conduct investigations of appraisal management  
16                companies to assess potential violations of applicable  
17                appraisal-related laws, regulations, or orders;
- 18           (6) Discipline, suspend, terminate, or deny renewal of the  
19                registration of an appraisal management company that  
20                violates applicable appraisal-related laws,  
21                regulations, or orders;



1 (7) Report an appraisal management company's violation of  
2 applicable appraisal-related law, regulations, or  
3 orders, as well disciplinary and enforcement actions  
4 and other relevant information about an appraisal  
5 management company's operations, to the Appraisal  
6 Subcommittee; and

7 (8) Adopt, amend, and repeal rules, pursuant to chapter  
8 91, as may be necessary to establish the appraisal  
9 management company registration program and implement,  
10 administer, and enforce this chapter[, and

11 ~~(9) Appoint members to an advisory committee to assist~~  
12 ~~with the implementation of this chapter.]\_.~~

13 **§ -E Appraiser panel; annual size calculation. (a)**

14 For purposes of determining whether an appraisal management  
15 meets the size requirement of an appraisal management company,  
16 as that term is defined in section -B, an appraiser shall be  
17 deemed part of the appraisal management company's appraiser  
18 panel as of the earliest date on which the appraisal management  
19 company:

20 (1) Accepts the appraiser for the appraisal management  
21 company's consideration for future appraisal

1 assignments in covered transactions or for secondary  
2 mortgage market participants in connection with  
3 covered transactions; or

4 (2) Engages the appraiser to perform one or more  
5 appraisals on behalf of a creditor for covered  
6 transactions or a secondary mortgage market  
7 participant in connection with covered transactions.

8 (b) An appraiser who is deemed part of the appraisal  
9 management company's appraiser panel pursuant to subsection (a)  
10 shall be deemed to remain on the appraiser panel until the date  
11 on which the appraisal management company:

12 (1) Sends written notice to the appraiser removing the  
13 appraiser from the appraiser panel, with an  
14 explanation of the appraisal management company's  
15 action; or

16 (2) Receives written notice from the appraiser asking to  
17 be removed from the appraiser panel or notice of the  
18 death or incapacity of the appraiser.

19 (c) If an appraiser is removed from an appraisal  
20 management company's appraiser panel pursuant to subsection (b),  
21 and the appraisal management company subsequently accepts the

1 appraiser for consideration for future assignments or engages  
2 the appraiser at any time during the twelve months after the  
3 appraiser's removal:

- 4 (1) The removal shall be deemed not to have occurred; and  
5 (2) The appraiser shall be deemed to have been part of the  
6 appraisal management company's appraiser panel without  
7 interruption.

8 **§ -F Registration required.** (a) No person may  
9 directly or indirectly engage or attempt to engage in business  
10 as an appraisal management company; directly or indirectly  
11 perform or attempt to perform appraisal management services; or  
12 advertise or hold oneself out as engaging in or conducting  
13 business as an appraisal management company without first being  
14 registered pursuant to this chapter.

- 15 (b) An appraisal management company shall:  
16 (1) Register with the appraisal management company  
17 registration program administered by the department;  
18 (2) Engage only state-licensed or state-certified  
19 appraisers for federally related transactions in  
20 conformity with any federally related transaction  
21 regulations;

1           (3) Establish and comply with processes and controls  
2                   reasonably designed to ensure that the appraisal  
3                   management company, in engaging an appraiser, selects  
4                   an appraiser who is independent of the transaction and  
5                   has the requisite education, expertise, and experience  
6                   necessary to competently complete the appraisal  
7                   assignment for the particular market and property  
8                   type;

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

12           (5) Establish and comply with processes and controls  
13                   reasonably designed to ensure that the appraisal  
14                   management company conducts its appraisal management  
15                   services in accordance with the requirements of  
16                   section 129E(a) through 129E(i) of the Truth in  
17                   Lending Act, title 15 United States Code sections  
18                   1639e(a) through 1639e(i), and regulations adopted  
19                   thereunder.

20           (c) This section shall not apply to ~~[appraisal management~~  
21 ~~companies that are owned and controlled by an insured depository~~

1 ~~institution and regulated by the Consumer Financial Protection~~  
2 ~~Bureau, the Federal Housing Finance Agency, the Board of~~  
3 ~~Governors of the Federal Reserve System, the Federal Deposit~~  
4 ~~Insurance Corporation, or the National Credit Union~~  
5 ~~Administration.]:~~

- 6       (1) A person that exclusively employs appraisers on an  
7       employer and employee basis for the performance of  
8       appraisals in this state;
- 9       (2) A federally regulated appraisal management company;
- 10      (3) A department or unit within a financial institution that  
11      is subject to direct regulation by an agency of the United  
12      States government that is a member of the federal  
13      financial institutions examination council or its  
14      successor, or to regulation by an agency of this state,  
15      that receives a request for the performance of an  
16      appraisal from one employee of the financial  
17      institution, and another employee of the same financial  
18      institution assigns the request for the appraisal to an  
19      appraiser that is an independent contractor to the  
20      institution, except that an AMC that is a wholly owned  
21      subsidiary of a financial institution shall not be

1 considered a department or unit within a financial  
2 institution to which the provisions of this act do not  
3 apply;

4 (4) An appraiser who enters into an agreement with another  
5 appraiser for the performance of an appraisal that upon  
6 completion results in a report signed by both the  
7 appraiser who completed the appraisal and the appraiser  
8 who requested the completion of the appraisal.

9 (d) Any person, who engages in an activity requiring  
10 registration as an appraisal management company issued by the  
11 director and who fails to obtain the required registration, or  
12 who uses any work, title, or representation to induce the false  
13 belief that the person is registered to engage in said activity,  
14 shall be guilty of a misdemeanor and shall be subject to a fine  
15 of not more than \$1,000 or imprisoned not more than one year,  
16 or both, and each day of violation shall be deemed a separate  
17 offense.

18 (e) The director may maintain a suit to enjoin the  
19 performance or the continuance of any act or acts by a person  
20 acting without a registration where a registration is required  
21 by law, and if injured thereby, for the recovery of damages.

1           **§ -G Registration process.** An applicant for  
2 registration under this chapter 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           **§ -H Criminal history record checks.** (a) The  
8 application submitted pursuant to section -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           **§ -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 **§ -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 **§ -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 **§ -L Consent to service of process.** An applicant for  
20 registration under this chapter that is not domiciled in the



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

3       **§ -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       **§ -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 canceled, 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 **§ -O Owner requirements.** (a) An appraisal management  
14 company applying for, holding, or renewing a registration under  
15 this chapter shall not be owned, in whole or in part, directly  
16 or 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 chapter 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 chapter shall:

8 (1) Be of good moral character; and

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

11 **§ -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 chapter 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 or certification  
4 in this State or any other state refused, denied,  
5 canceled, revoked, or surrendered in lieu of a pending  
6 disciplinary proceeding in any jurisdiction and not  
7 subsequently reinstated or granted;
- 8 (3) Be of good moral character; and
- 9 (4) Submit to a criminal history record check pursuant to  
10 section -H.

11 **§ -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[-] and verify that the appraiser receiving the assignment  
18 meets the competency rule of the uniform standards of professional  
19 appraisal practice. An attestation provided by an appraiser that  
20 such appraiser is geographically competent within the appraiser's

1 scope of practice will satisfy an appraisal management company's  
2 responsibility under this section.

3       **§ -R Appraisal review.** Any employee of or independent  
4 contractor to an appraisal management company who performs an  
5 appraisal review for a property located in this State shall be a  
6 licensed or certified appraiser in good standing in the State  
7 and any other jurisdiction in which the appraiser is licensed or  
8 certified.

9       **§ -S Verification of licensure or certification.** (a)  
10 An appraisal management company registered in the State may not  
11 enter any contract or agreement with an appraiser for the  
12 performance of appraisals in the State unless the company  
13 verifies that the appraiser is licensed or certified in good  
14 standing in the State.

15       (b) An appraisal management company seeking registration  
16 or renewal of registration in the State shall certify that the  
17 company has a system and process in place to verify that an  
18 individual added to the appraiser panel of the company for  
19 appraisal services holds an appraiser license or certification  
20 in good standing in this State.

1           **§ -T Fee disclosure.** An appraisal management company  
2 registered in the State shall not prohibit an independent  
3 appraiser who is part of the appraiser panel from recording the  
4 fee that the appraiser was paid by the appraisal management  
5 company for the performance of an appraisal within the  
6 communication of the appraisal.

7           **§ -U Retention of records.** (a) Each appraisal  
8 management company seeking registration or renewal of  
9 registration in the State shall certify that the appraisal  
10 management company maintains a detailed record of each service  
11 request the company receives for appraisals of real property  
12 located in the State.

13           (b) An appraisal management company registered in the  
14 State shall retain all records required to be maintained under  
15 this chapter for at least five years after the file is submitted  
16 to the appraisal management company or at least two years after  
17 final disposition of any related judicial proceeding of which  
18 the appraisal management company is provided notice, whichever  
19 period expires last.

20           (c) All records required to be maintained pursuant to this  
21 section shall be made available for inspection by the director[-

1 ~~upon reasonable notice given to the appraisal management~~  
2 ~~company.]~~ upon request.

3       **§ -V Payments to appraisers.** (a) An appraisal  
4 management company shall, except in bona fide cases of breach of  
5 contract or substandard performance of services, make payment to  
6 an independent appraiser for the completion of an appraisal or  
7 valuation assignment within forty-five days of the date on which  
8 the appraiser transmits or otherwise provides the completed  
9 appraisal or valuation assignment to the appraisal management  
10 company or the company's assignee, unless a mutually agreed-upon  
11 alternate arrangement has been previously established.

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

1           § -W Appraiser independence. (a) It shall be a  
2 violation of this chapter for any employee, director, officer or  
3 agent of an appraisal management company registered in this state  
4 to engage in any act or practice that violates appraisal  
5 independence as described in or pursuant to the provisions of this  
6 chapter.

7           (b) For purposes of subsection (a) of this section, acts  
8 or practices that violate appraisal independence shall include:

9           (1) Any appraisal of a property offered as security for  
10 repayment of the consumer credit transaction that is  
11 conducted in connection with such transaction in which a  
12 person with an interest in the underlying transaction  
13 compensates, coerces, extorts, colludes, instructs,  
14 induces, bribes or intimidates a person, appraisal  
15 management company, firm or other entity conducting or  
16 involved in an appraisal, or attempts to compensate,  
17 coerce, extort, collude, instruct, induce, bribe, or  
18 intimidate such a person, for the purpose of causing the  
19 appraisal value assigned, under the appraisal, to the  
20 property to be based on any fact or other than the  
21 independent judgment of the appraiser;



1           (2) Mischaracterizing, or suborning any  
2           mischaracterization of, the appraised value of the  
3           property securing the extension of credit;  
4           (3) Seeking to influence an appraiser or otherwise to  
5           encourage a targeted value in order to facilitate the  
6           making or pricing of the transaction; and  
7           (4) Withholding or threatening to withhold timely payment  
8           for an appraisal report or for appraisal services  
9           rendered when the appraisal report or services are  
10          provided for in accordance with the contract between the  
11          parties.

12          (c) The requirements of subsections (a) and (b) of this  
13          section shall not be construed as prohibiting an appraisal  
14          management company, employee of an appraisal management company,  
15          consumer or any other person with an interest in a real estate  
16          transaction from asking an appraiser to undertake one or more of  
17          the following:

18               (1) Consider additional appropriate property  
19               information, including the consideration of additional  
20               comparable properties to make or support an appraisal;

1           (2) Provide further detail, substantiation or explanation  
2           for the appraiser's consideration in the value conclusion;  
3           (3) Correct objective errors in the appraisal report.

4           (d) Any appraisal management company, employee of an appraisal  
5           management company or any other person involved in a real estate  
6           transaction involving an appraisal in connection with a consumer  
7           credit transaction who has a reasonable basis to believe an  
8           appraiser is failing to comply with the uniform standards of  
9           professional appraisal practice, is violating applicable laws, or  
10          is otherwise engaging in unethical or unprofessional conduct,  
11          shall refer the matter to the board.

12          (e) Every appraisal management company shall establish and  
13          comply with processes and controls reasonably designed to  
14          ensure that the appraisal management company, in engaging an  
15          appraiser, selects an appraiser who is independent of the  
16          transaction and who has the requisite education, expertise and  
17          experience necessary to competently complete the appraisal  
18          assignment for the particular market and property type. Every  
19          appraisal management company shall establish and comply with  
20          processes and controls reasonably designed to ensure that the  
21          appraisal management company conducts its appraisal management

1 services in accordance with the requirements of 15 U.S.C. 1639e  
2 (a) through (i), and regulations thereunder.

3 § ~~[W]~~X **Mandatory reporting of violations.** An appraisal  
4 management company that has a reasonable basis to believe an  
5 appraiser has materially failed to comply with applicable laws  
6 or rules or has materially violated the Uniform Standards of  
7 Professional Appraisal Practice shall refer the matter to the  
8 director in conformance with applicable federal laws and  
9 regulations.

10 § ~~[X]~~Y **Prohibited conduct.** (a) A violation of this  
11 section may constitute grounds for discipline against an  
12 appraisal management company registered in this State; provided  
13 that nothing in this chapter shall prevent an appraisal  
14 management company from requesting an appraiser to provide  
15 additional information about the basis for a valuation, correct  
16 objective factual errors in an appraisal report, or consider  
17 additional appropriate property information.

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

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

- 1           (D) Requesting that an appraiser report a  
2                   predetermined opinion, conclusion, or valuation  
3                   or the desired valuation of any person or entity;
- 4       (4) Alter, amend, or change an appraisal report submitted  
5           by an appraiser without the appraiser's knowledge and  
6           written consent;
- 7       (5) Except within the first ninety days after an  
8           independent appraiser is added to an appraiser panel,  
9           remove an independent appraiser from an appraiser  
10          panel without prior written notice to the appraiser;  
11          provided that the prior written notice shall include  
12          the following evidence, if applicable:
- 13           (A) The appraiser's illegal conduct;
- 14           (B) A violation of the Uniform Standards of  
15                  Professional Appraisal Practice, this chapter, or  
16                  rules adopted pursuant to this chapter;
- 17           (C) Improper or unprofessional conduct; or
- 18           (D) Substandard performance or other substantive  
19                  deficiencies;
- 20       (6) Require an appraiser to sign any indemnification  
21          agreement that would require the appraiser to defend

1 and hold harmless the appraisal management company or  
2 any of its agents or employees for any liability,  
3 damage, losses, or claims arising out of the services  
4 performed by the appraisal management company or its  
5 agents, employees, or independent contractors, and not  
6 the services performed by the appraiser;

7 (7) Prohibit lawful communications between the appraiser  
8 and any other person who the appraiser, in the  
9 appraiser's professional judgment, believes possesses  
10 information that would be relevant;

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

14 (9) Fail to timely respond to any subpoena or other  
15 request for information;

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

18 (11) Fail to [~~fully~~] cooperate in any investigation.

19 **§ -Y Disciplinary proceedings.** The director may deny,  
20 suspend, or revoke the registration of an appraisal management  
21 company; impose a monetary penalty of an amount not to exceed

1 \$5,000 per violation; issue a letter of reprimand; refuse to  
2 issue or renew the registration of an appraisal management  
3 company; or take other disciplinary action against an appraisal  
4 management company for any one or more of the following acts or  
5 conditions:

- 6 (1) The applicant is not of a good moral character;
- 7 (2) The applicant has had a registration revoked or  
8 suspended for cause, or surrendered in lieu of  
9 disciplinary proceedings;
- 10 (3) An applicant for renewal of registration would not be  
11 eligible for such registration on a first application;
- 12 (4) The issuance of a registration would result in a  
13 violation of this chapter or any rules adopted  
14 pursuant to this chapter;
- 15 (5) In the conduct of affairs under the registration, the  
16 registrant demonstrated incompetency,  
17 untrustworthiness, or conduct or practices rendering  
18 the registrant unfit to carry on appraisal management  
19 services; made continuance in the business detrimental  
20 to the public interest; or is no longer in good faith  
21 carrying on appraisal management services, and for

1           this conduct is found by the director to be a source  
2           of detriment, injury, or loss to the public;

3           (6) The appraisal management company committed any act in  
4           violation of this chapter;

5           (7) The appraisal management company violated any rule  
6           adopted by the department in the interest of the  
7           public and consistent with this chapter; [~~or~~]

8           (8) The appraisal management company procured a  
9           registration or renewal of registration for the  
10          appraisal management company or intentionally  
11          committed any other act by fraud, misrepresentation,  
12          or deceit[-]; or

13          (9) Violation of this chapter, chapter 436B, or any rule  
14          or order of the director.

15          §    -~~[Z]~~AA Fees; [~~bonds~~] bond required. (a) The  
16          director may charge the appraisal management company reasonable  
17          fees to offset costs of operating the appraisal management  
18          company registration program established pursuant to this  
19          chapter. The following fees shall apply: Non-refundable  
20          application fee = \$100; biennial registration fee = \$5,000;  
21          biennial CRF fee = \$500. In addition, upon the issuance of a



1 new registration and at each renewal period, each appraisal  
2 management company shall pay a special assessment fee of \$390  
3 that shall be deposited into the compliance resolution fund  
4 established pursuant to section 26-9(o). Fees assessed pursuant  
5 to this chapter shall be used to defray costs incurred by the  
6 department in implementing this chapter.

7 (b) Pursuant to section 26-9(1), the director shall  
8 establish other fees relating to the administration of this  
9 chapter by rule.

10 [~~(b) The director may require a surety bond of not more than~~  
11 ~~\$25,000.] (c) Each appraisal management company applying for or~~

12 renewing a registration shall post with the director and  
13 maintain a surety bond in the amount of \$25,000 as follows:

14 (1) The bond shall be in a form satisfactory to the  
15 director.

16 (2) The bond will accrue to the program for the benefit of  
17 a claimant against the registrant to secure the  
18 faithful performance of the registrant's obligations  
19 under applicable laws and rules and to a real estate  
20 appraiser who has performed an appraisal for the  
21 registrant for which the appraiser has not been paid.

- 1        (3) The aggregate liability of the surety shall not exceed  
2        the principal sum of the bond.
- 3        (4) A party having a claim against the registrant may  
4        bring suit directly on the surety bond, or the  
5        director may bring suit on behalf of the party having  
6        a claim against the registrant, either in one action  
7        or in successive actions.
- 8        (5) A claim reducing the face amount of the bond shall be  
9        annually restored upon renewal of the registrant's  
10       registration.
- 11       (6) The bond shall remain in effect until cancellation,  
12       which may occur only after 90 days written notice to  
13       the program. Cancellation shall not affect any  
14       liability incurred or accrued during that period.
- 15       (7) Upon termination or cancellation of the bond required  
16       in this subsection, a registered appraisal management  
17       company shall file a replacement bond or shall  
18       surrender its registration to do business in the State  
19       and shall immediately cease operation as an appraisal  
20       management company in the State. A registered  
21       appraisal management company that voluntarily ceases

1           operations in this State, shall ensure a surety bond  
2           remains in place for no less than two years after the  
3           registered appraisal management company ceases  
4           operations.

5           §     -[AA]BB Federal registry requirements. (a) The

6           director shall collect from each appraisal management company  
7           registered or seeking to be registered in this state the information  
8           that the Appraisal Subcommittee requires to be submitted to it by  
9           the state pursuant to regulations or guidance promulgated by the  
10          Appraisal Subcommittee.

11          (b) A federally regulated appraisal management company  
12          operating in this state shall report to the director the  
13          information required to be submitted by the state to the Appraisal  
14          Subcommittee, pursuant to the Appraisal Subcommittee's policies  
15          regarding the determination of the appraisal management company  
16          national registry fee. These reports shall include:

17               (1) A report to the director of the intent of the  
18               federally regulated appraisal management company to  
19               operate in this 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 certificate refused, denied,  
3                   canceled, surrendered in lieu of revocation, or  
4                   revoked in any state for a substantive cause, as  
5                   determined by the Appraisal Subcommittee; and  
6           (3) If such person or persons has had such action taken  
7                   on their appraisal license, the director shall  
8                   collect information related to whether the license  
9                   was revoked for a substantive cause and if it has  
10                   been reinstated by the state or states in which the  
11                   appraiser was licensed.

12                   §     -[AA]CC   **Exemption.** This chapter shall not  
13 apply to an appraiser who enters an agreement with another  
14 appraiser for the performance of an appraisal that, upon  
15 completion, results in a report signed by the appraiser who  
16 completed the appraisal and the appraiser who requested  
17 completion of the appraisal."

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

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

- 1           (1) The department of health or its designee on operators  
2           of adult foster homes for individuals with  
3           developmental disabilities or developmental  
4           disabilities domiciliary homes and their employees, as  
5           provided by section 321-15.2;
- 6           (2) The department of health or its designee on  
7           prospective employees, persons seeking to serve as  
8           providers, or subcontractors in positions that place  
9           them in direct contact with clients when providing  
10          non-witnessed direct mental health or health care  
11          services as provided by section 321-171.5;
- 12          (3) The department of health or its designee on all  
13          applicants for licensure or certification for,  
14          operators for, prospective employees, adult  
15          volunteers, and all adults, except adults in care, at  
16          healthcare facilities as defined in section 321-15.2;
- 17          (4) The department of education on employees, prospective  
18          employees, and teacher trainees in any public school  
19          in positions that necessitate close proximity to  
20          children as provided by section 302A-601.5;

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

- 1           the provider after registration or licensure as  
2           provided by section 346-154, and persons subject to  
3           section 346-152.5;
- 4       (11) The department of human services on persons exempt  
5           pursuant to section 346-152 to be eligible to provide  
6           child care and receive child care subsidies as  
7           provided by section 346-152.5;
- 8       (12) The department of health on operators and employees of  
9           home and community-based case management agencies and  
10          operators and other adults, except for adults in care,  
11          residing in community care foster family homes as  
12          provided by section 321-15.2;
- 13       (13) The department of human services on staff members of  
14          the Hawaii youth correctional facility as provided by  
15          section 352-5.5;
- 16       (14) The department of human services on employees,  
17          prospective employees, and volunteers of contracted  
18          providers and subcontractors in positions that place  
19          them in close proximity to youth when providing  
20          services on behalf of the office or the Hawaii youth  
21          correctional facility as provided by section 352D-4.3;

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



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

1 companion program participants as provided by section  
2 346-97;

3 (24) The department of human services on contracted and  
4 subcontracted service providers and their current and  
5 prospective employees that provide home and community-  
6 based services under section 1915(c) of the Social  
7 Security Act, title 42 United States Code section  
8 1396n(c), or under any other applicable section or  
9 sections of the Social Security Act for the purposes  
10 of providing home and community-based services, as  
11 provided by section 346-97;

12 (25) The department of commerce and consumer affairs on  
13 proposed directors and executive officers of a bank,  
14 savings bank, savings and loan association, trust  
15 company, and depository financial services loan  
16 company as provided by section 412:3-201;

17 (26) The department of commerce and consumer affairs on  
18 proposed directors and executive officers of a  
19 nondepository financial services loan company as  
20 provided by section 412:3-301;

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

- 1 (B) Applicants seeking employment;
- 2 (C) Current or prospective members of the corporation
- 3 board or regional system board; or
- 4 (D) Current or prospective volunteers, providers, or
- 5 contractors,
- 6 in any of the corporation's health facilities as
- 7 provided by section 323F-5.5;
- 8 (31) The department of commerce and consumer affairs on:
- 9 (A) An applicant for a mortgage loan originator
- 10 license; and
- 11 (B) Each control person, executive officer, director,
- 12 general partner, and manager of an applicant for
- 13 a mortgage loan originator company license,
- 14 as provided by chapter 454F;
- 15 (32) The state public charter school commission or public
- 16 charter schools on employees, teacher trainees,
- 17 prospective employees, and prospective teacher
- 18 trainees in any public charter school for any position
- 19 that places them in close proximity to children, as
- 20 provided in section 302D-33;

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

- 1 (38) The State and counties on employees and prospective  
2 employees whose positions involve the handling or use  
3 of firearms for other than law enforcement purposes;
- 4 (39) The State and counties on current and prospective  
5 systems analysts and others involved in an agency's  
6 information technology operation whose position  
7 responsibilities provide them with access to  
8 proprietary, confidential, or sensitive information;
- 9 (40) The department of commerce and consumer affairs on  
10 [applicants]:
- 11 (A) Applicants for real estate appraiser licensure or  
12 certification as provided by chapter 466K;
- 13 (B) Each person who owns more than ten per cent of an  
14 appraisal management company who is applying for  
15 registration as an appraisal management company,  
16 as provided by section -H; and
- 17 (C) Each of the controlling persons of an applicant  
18 for registration as an appraisal management  
19 company, as provided by section -H;
- 20 (41) The department of health or its designee on all  
21 license applicants, licensees, employees, contractors,

1 and prospective employees of medical marijuana  
2 dispensaries, and individuals permitted to enter and  
3 remain in medical marijuana dispensary facilities as  
4 provided under sections 329D-15(a)(4) and  
5 329D-16(a)(3);

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

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

14 [+](44)[+] The department of commerce and consumer affairs on:

15 (A) Each of the controlling persons of the applicant  
16 for licensure as an escrow depository, and each  
17 of the officers, directors, and principals who  
18 will be in charge of the escrow depository's  
19 activities upon licensure; and

20 (B) Each of the controlling persons of an applicant  
21 for proposed change in control of an escrow

1           depository licensee, and each of the officers,  
2           directors, and principals who will be in charge  
3           of the licensee's activities upon approval of  
4           such application,

5           as provided by chapter 449; and

6    [+] (45) [+] Any other organization, entity, or the State, its  
7           branches, political subdivisions, or agencies as may  
8           be authorized by state law."

9           SECTION 4. Section 26H-4, Hawaii Revised Statutes, is  
10   amended to read as follows:

11           **"§26H-4 Repeal dates for newly enacted professional and**  
12   **vocational regulatory programs.** (a) Any professional or  
13   vocational regulatory program enacted after January 1, 1994, and  
14   listed in this section shall be repealed as specified in this  
15   section. The auditor shall perform an evaluation of the  
16   program, pursuant to section 26H-5, prior to its repeal date.

17           (b) Chapter 436H (athletic trainers) shall be repealed on  
18   June 30, 2018.

19           (c) Chapter 465D (behavior analysts) shall be repealed on  
20   June 30, 2021.



1        (d) Chapter \_\_\_\_\_ (appraisal management companies) shall be  
2 repealed on June 30, 2023.

3        SECTION 5. The department of commerce and consumer affairs  
4 may employ necessary personnel without regard to chapter 76,  
5 Hawaii Revised Statutes, to assist with the implementation and  
6 continuing functions of this chapter.

7        SECTION 6. There is appropriated out of the compliance  
8 resolution fund established pursuant to section 26-9(o), Hawaii  
9 Revised Statutes, the sum of \$140,000 or so much thereof as may  
10 be necessary for fiscal year 2018-2019 to implement the  
11 appraisal management company registration program.

12        The sum appropriated shall be expended by the department of  
13 commerce and consumer affairs for the purposes of this Act.

14        SECTION 7. The provisions of this Act shall be enforced to  
15 the extent they are not held to conflict with any federal law.  
16 If any provision of this Act is held in conflict with any  
17 federal law, this Act in its entirety, shall be invalid.

18        SECTION 8. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

1           SECTION 9. This Act shall take effect on January 1, 2018;  
2 provided that section 6 of this Act shall take effect on July 1,  
3 2017.

**Report Title:**

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

**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. Appropriates funds to the department for costs associated with the registration program, to take effect on 7/1/2017. Takes effect on 1/1/2018. (SD1)

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







DAVID Y. IGE  
GOVERNOR  
SHAN S. TSUTSUI  
LT. GOVERNOR

**STATE OF HAWAII**  
**OFFICE OF THE DIRECTOR**  
**DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**  
335 MERCHANT STREET, ROOM 310  
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CATHERINE P. AWAKUNI COLÓN  
DIRECTOR  
JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

**PRESENTATION OF  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
REGULATED INDUSTRIES COMPLAINTS OFFICE**

**TO THE SENATE COMMITTEE  
ON  
WAYS AND MEANS**

**TWENTY-NINTH STATE LEGISLATURE  
REGULAR SESSION, 2017**

**THURSDAY, FEBRUARY 23, 2017  
1:35 P.M.**

**WRITTEN TESTIMONY ONLY  
ON  
SENATE BILL NO. 390 S.D.1  
RELATING TO APPRAISAL MANAGEMENT COMPANIES**

**TO THE HONORABLE JILL N. TOKUDA, CHAIR,  
AND TO THE HONORABLE DONOVAN M. DELA CRUZ, VICE CHAIR,  
AND MEMBERS OF THE COMMITTEE:**

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to submit written testimony on Senate Bill No. 390 S.D.1, Relating to Appraisal Management Companies. My name is Daria Loy-Goto and I am the Complaints and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). RICO offers enforcement-related comments on this bill.

Senate Bill No. 390 S.D.1 establishes a new chapter for the registration of appraisal management companies within the Department.

RICO acknowledges the complexity in creating an appraisal management company program within the Department that conforms to federal law. RICO respectfully requests the following enforcement-related amendments to Senate Bill No. 390 S.D.1, but notes that efforts to improve the enforcement provisions of the bill are necessarily ongoing as the bill moves through the legislative process<sup>1</sup>:

**1) Add two new subsections, (d) and (e), to § -F at page 19, line 3 to provide for fines for conduct by an unregistered appraisal management company:**

(d) Any person, who engages in an activity requiring registration as an appraisal management company issued by the director and who fails to obtain the required registration, or who uses any work, title, or representation to induce the false belief that the person is registered to engage in said activity, shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$1,000 or imprisoned not more than one year, or both, and each day of violation shall be deemed a separate offense.

(e) The director may maintain a suit to enjoin the performance or the continuance of any act or acts by a person acting without a registration where a registration is required by law, and if injured thereby, for the recovery of damages.

**2) Amend § -U(c) at page 26, lines 14-17 to delete "reasonable notice" to make this chapter consistent with requirements for real estate appraisers:**

(c) All records required to be maintained pursuant to this section shall be made available for inspection by the director, upon request.

**3) Amend § -X(b)(11) on page 31, line 8, to delete "fully" because it is vague and ambiguous from an enforcement perspective:**

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<sup>1</sup> RICO notes that these amendments were also requested and adopted in a House Draft 2 version of a similar bill to regulate appraisal management companies, House Bill No. 50.

(11) Fail to cooperate in any investigation.

**4) Add new subparagraph (9) to § -Y on page 33, line 4 to include any violation of the new Chapter:**

(9) Violation of this chapter, chapter 436B, or any rule or order of the director.

**5) Amend the title for § -Z on page 33, line 4 and add a surety bond requirement as subsection (c) on page 33, line 10 as follows:**

**§ -Z Fees; bond required....**

(c) Each appraisal management company applying for or renewing a registration shall post with the director and maintain a surety bond in the amount of \$25,000 as follows:

- (1) The bond shall be in a form satisfactory to the director.
- (2) The bond will accrue to the program for the benefit of a claimant against the registrant to secure the faithful performance of the registrant's obligations under applicable laws and rules and to a real estate appraiser who has performed an appraisal for the registrant for which the appraiser has not been paid.
- (3) The aggregate liability of the surety shall not exceed the principal sum of the bond.
- (4) A party having a claim against the registrant may bring suit directly on the surety bond, or the director may bring suit on behalf of the party having a claim against the registrant, either in one action or in successive actions.
- (5) A claim reducing the face amount of the bond shall be annually restored upon renewal of the registrant's registration.
- (6) The bond shall remain in effect until cancellation, which may occur only after 90 days written notice to the program. Cancellation shall not affect any liability incurred or accrued during that period.
- (7) Upon termination or cancellation of the bond required in this subsection, a registered appraisal management company shall file a replacement bond or shall surrender its registration to do business in the State and shall immediately cease operation as an appraisal management company in the State. A registered appraisal management company that voluntarily ceases operations in this State, shall ensure a surety bond remains in place for no less than two years after the registered appraisal management company ceases operations.

Written Testimony on Senate Bill No. 390 S.D.1

February 23, 2017

Page 4

RICO appreciates the Committee's consideration of these amendments and notes that the requested amendments are included in the proposed S.D. 2 draft submitted by the Professional and Vocational Licensing Division as part of that division's testimony to the Committee.

Thank you for the opportunity to submit written testimony on Senate Bill No. 390 S.D.1.





DAVID Y. IGE  
GOVERNOR  
SHAN S. TSUTSUI  
LT. GOVERNOR

**STATE OF HAWAII**  
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**DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**  
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DEPUTY DIRECTOR

**PRESENTATION OF THE  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

TO THE SENATE COMMITTEE ON  
WAYS AND MEANS

THE TWENTY-NINTH LEGISLATURE  
REGULAR SESSION OF 2017

THURSDAY, FEBRUARY 23, 2017  
1:35 p.m.

**TESTIMONY ON S.B. NO. 390, S.D. 1  
RELATING TO APPRAISAL MANAGEMENT COMPANIES**

TO THE HONORABLE JILL N. TOKUDA, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Iris Ikeda, Commissioner of Financial Institutions of the Division of Financial Institutions ("DFI"), offering comments on S.B. No. 390, S.D. 1. Banks and mortgage loan originators are two industries under DFI licensure, examination and regulatory purview that make mortgage loans and may be impacted by this bill. Outside of DFI, the program for licensing or certification of real estate appraisers is overseen by DCCA's Professional and Vocational Licensing Division.

Appraisal management companies (“AMCs”) are business entities that manage networks of independent appraisers who prepare appraisals on behalf of lenders. An AMC may also be responsible for the collateral valuation process, including appraisal review, quality control, market value dispute resolution, warranty administration, and record retention. Although the government sponsored enterprises (“GSEs”) are exempt from the AMC laws, they each use an automated valuation model (“AVM”) to value the residential mortgage transaction<sup>1</sup>. The majority of Hawaii’s residential mortgages are sold through and to GSEs that now use an AVM. According to REVAA<sup>2</sup>, about 12% of residential mortgage transactions would be impacted by the AMC registration law.

Registration of AMCs is not mandatory under federal law. If Hawaii does not implement an AMC registration scheme, a lender would need to maintain its own independent appraiser panel and ensure that appraisal orders are randomly assigned. DFI recognizes that AMCs are used by bank and nonbank lenders that do not have a physical presence in Hawaii. Registration of AMCs would enable such lenders to continue to manage appraisers through AMC, and may result in greater choices of lenders for consumers.

Finally, if this bill becomes law, DFI will need to add to its bank and mortgage loan originator examination procedures the determination whether the AMC is duly

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<sup>1</sup> Fannie Mae, Freddie Mac, US Department of Veterans Affairs, and Federal Housing Administration use an automated appraisal risk assessment application aimed to help lenders manage appraisal quality, originate mortgages with more certainty and efficiency, and lower costs.

<sup>2</sup> Real Estate Valuation Advocacy Association

registered pursuant to State law. DFI would not be examining the AMC itself for the AMC's compliance with State law. DFI would examine whether the bank or MLOC conducted the due diligence to ensure that an AMC is properly licensed. Because this review would be part of an examination, federal supervisory confidentiality laws would prohibit DFI from sharing any violations of the AMC unlicensed activity. These violations would be the bank or MLOC's violations. DFI notes that this review would add to the cost paid by our licensees for the examinations.

Thank you for this opportunity to provide comments on S.B. No 390, S.D.1. I would be pleased to respond to any questions that you may have.



Testimony to the Senate Committee on Ways & Means  
February 23, 2017

Testimony in Support of Intent of SB 390 HD1, Relating to Appraisal Management Companies

To: The Honorable Jill Tokuda, Chair  
The Honorable Donovan Dela Cruz, Vice-Chair  
Members of the Committee

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 61 Hawaii credit unions, representing over 800,000 credit union members across the state. We are in support of the intent of SB 390 HD1.

The majority of Hawaii credit unions offer mortgage loans to their members. All mortgage loans require independent appraisals of the property involved. The registration program of appraisal management companies would ensure federal compliance of these agencies, and ensure that financial institutions that utilize them are still able to do so.

Thank you for the opportunity to testify.

Presentation To  
Senate Committee on Ways and Means  
February 23, 2017 at 1:35PM  
State Capitol Conference Room 211

**Testimony in Support of Senate Bill 390, SD1**

TO: The Honorable Jill N. Tokuda, Chair  
The Honorable Donovan M. Dela Cruz, Vice Chair  
Members of the Committee

My name is Edward Pei and I am the Executive Director of the Hawaii Bankers Association (HBA). HBA is the trade association representing eleven FDIC insured depository institutions with branch offices in the State of Hawaii.

We support the intent of Senate Bill 390, which would establish a registration program for Appraisal Management Companies (AMC) wishing to do business in Hawaii. Most other states in the country have already established a registration program for AMCs and we are concerned that the lack of AMC regulation in Hawaii would create unintended consequences for consumers, including lessening the availability of credit for mortgages and other real estate secured lending. We join with the Real Estate Valuation Advocacy Association (REVAA), the Mortgage Bankers Association (MBA), and the American Bankers Association (ABA) in supporting nationwide adoption of this registration program.

Thank you for the opportunity to submit this testimony and please let us know if we can provide further information.



Edward Y. W. Pei  
(808) 524-5161



February 22, 2017

The Honorable Jill N. Tokuda, Chair  
The Honorable Donovan M. Dela Cruz, Vice Chair  
Senate Ways and Means Committee  
State Capitol, Room 211  
Honolulu, Hawaii 96813

## **RE: SB 390 – Appraisal Management Company (AMC) Regulation**

Aloha Chair Tokuda, Vice Chair Dela Cruz, and Members of the Committee:

On behalf of the Appraisal Management Companies (AMCs) represented by the Real Estate Valuation Advocacy Association (REVA), **we are grateful for your consideration and strongly support passage of S.B. 390, S.D.1. Overall, we believe this legislation will enact fair and balanced regulation of AMCs in Hawaii.** However, we do have concerns about the biennial renewal fee of \$5,000 on top of a biennial Compliance Resolution Fund fee. Based on a comparison to other state AMC application and renewal fees, the proposed fee in S.B. 390 will be noticeably higher and we don't want this to be a deterrent to doing business in Hawaii. Hopefully, the committee considers a reasonable amount that adequately supports the regulatory program but is not prohibitive.

REVA is an industry trade association whose membership includes 21 AMCs that collectively provide more than 80 percent of the residential appraisal transaction volume nationwide on behalf of mortgage lenders, many of whom serve Hawaii mortgage consumers. In addition, many REVA members also provide other important lender valuation services such as Broker Price Opinions (BPO) and Alternative Valuation Methods (AVM).

AMC's are in a precarious situation whereby they need to advocate for their own regulation by all 50 states and the five U.S. territories to avoid a massive disruption in the residential mortgage servicing for consumers and lenders in Federally Related Transactions. Therefore, while generally we believe in less state government regulation, REVA members do support minimal state regulation that complies with the federal mandate under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

Dodd-Frank added section 1124, Appraisal Management Company Minimum Requirements, to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 19893 (Title XI). Section 1124 required the Office of the Comptroller of the Currency (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); National Credit Union Administration (NCUA); Bureau of Consumer Financial Protection (Bureau); and Federal Housing Finance Agency (FHFA) (collectively, the agencies) to establish, by rule, minimum requirements for State registration and supervision of AMCs. In accordance with the statute, the agencies recently issued a final rule (referred to as the AMC Rule) which was published on June 9, 2015, with an effective date of August 10, 2015. States have 36 months to comply – August 10, 2018.

### **AMCs Play a Vital Role in Protecting Consumers**

- **Safeguard Appraiser Independence and Protect Against Fraud** – AMCs help ensure that appraisals are completed in compliance with federal and state law and that the opinion of value was achieved by the appraiser independently, without undue influence. Prevention of coercion is critical to avoiding collusion within the valuation process and therefore potential fraud.
  - » A lack of appraiser independence has led to previous housing bubbles and predatory lending. Long before the HVCC and Dodd-Frank the nation had been adversely affected by prior valuation crises in the 1930s and 1980s. FIRREA was part of an effort to rein in abuse but was inadequate. The same independence protects consumers and lenders by providing assurance that real estate assets are correctly valued as there are reams of federal/state reports estimating the losses to the economy from valuation fraud.
  - » Most AMCs have systems and processes in place to:
    - Investigate appraiser concerns regarding attempts to influence valuation
    - Investigate consumer complaints regarding unprofessional conduct
    - Communications with consumers to help educate them regarding misunderstandings of appraisal practices and/or principles

- **Help Lower Costs Associated with Borrowing** – While compliance with state and federal laws and rules is a big reason for lenders use of AMCs, another one is that lenders have high overhead and must compete in a competitive marketplace and the use of AMCs helps them provide the service efficiently and cost effectively to benefit the consumer while ensuring payment of Customary and Reasonable Fees to appraisers.
- **Provide Quality Controls** - AMCs employ quality control measures to ensure the integrity of a supportable, dependable and credible appraisal, which can identify mistakes and fraud in appraisal reports that protect consumers from faulty opinions of value.
- **Reduce Turnaround Times** - AMCs employ valuation experts to screen appraisal reports to identify issues early, and have a much larger success rate in resolving valuation issues without causing unnecessary delays and mitigation consumer dissatisfaction.
- **Assure that a Competent Appraiser is Selected** - Ensure only the most qualified and geographically competent appraisers are sent to a consumer's home.
- **Protect Public Safety** – Consumers are provided an extra layer of safety and protection as AMCs complete background checks of appraisers before they can be employed or empaneled. Further, AMCs continue to monitor their appraisers while they are employed or empaneled to ensure that unqualified appraisers or those that may pose a threat to public trust or safety are removed.
- **Assist Appraisers with Consumer Questions** - AMCs work with appraisers to resolve borrower questions and provide the borrower/lender an ability to submit value appeals while complying with appraiser independence.
- **Provide Customer Service Issue Resolutions** - AMCs resolve customer service escalations that are not directly related to the appraisal process through their access to lenders that the consumer may not otherwise have.
- **Support Hawaii Appraiser Regulatory Function** - In fulfilling their responsibilities, AMCs will help support the obligations that Hawaii has in regulating appraisers (i.e., by reporting on appraiser violations of the USPAP and other relevant professional licensing standards).

### **AMCs are Integrated into America's Mortgage Lending and Secondary Markets**

It is estimated that nearly 70% of lenders now use AMCs exclusively for their facilitation of residential appraisals. The remaining one-third of lenders (primarily smaller lenders) manage their own in-house appraiser panels, many of which use their own panels which often include the use of AMCs.

- **Act as a Compliance Partner for AMC Regulations** - Serve as invaluable partners for ensuring efficiency and compliance with state and federal AMC regulations.
- **Ensure Lender Compliance with Banking and Mortgage Regulations** - Support lender compliance with federal banking regulations (e.g., Fed, FDIC, OCC, CFPB) governing mortgage lending (i.e., appraisal review).
- **Help Reduce Costs & Ensure Appraiser Independence** - Large and medium sized lending institutions have indicated that they need independent AMCs, because of the cost for them to establish and maintain the necessary internal firewalls for effective appraiser independence compliance.
- **Protects Against Marketplace Disruption** - Ensures that lenders who use AMCs get their valuation work completed. If AMCs were not to be regulated in Hawaii, lenders would be forced to create elaborate internal controls and firewalls that they would not have to create in other states to obtain their appraisal procurement functions on FRTs, with the least disruption to mortgage lending in the state.

Mahalo for considering our comments. Please do not hesitate to contact me with questions.

Respectfully,



Mark Schiffman  
Executive Director

# HAWAII FINANCIAL SERVICES ASSOCIATION

c/o Marvin S.C. Dang, Attorney-at-Law

P.O. Box 4109

Honolulu, Hawaii 96812-4109

Telephone No.: (808) 521-8521

February 23, 2017

Senator Jill N. Tokuda, Chair  
Senator Donovan M. Dela Cruz, Vice Chair  
and members of the Senate Committee on Ways & Means  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Re: **S.B. 390, S.D. 1 (Appraisal Management Companies)**  
**Decision Making Date/Time: Thursday, February 23, 2017, 1:35 p.m.**

I am Marvin Dang, the attorney for the **Hawaii Financial Services Association** (“HFSA”). The HFSA is a trade association for Hawaii’s consumer credit industry. Its members include Hawaii financial services loan companies (which make mortgage loans and other loans, and which are regulated by the Hawaii Commissioner of Financial Institutions), mortgage lenders, and financial institutions.

The HFSA **supports** this Bill.

This Bill: (a) 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; (b) establishes registration requirements, standards, and penalties for violations; (c) appropriates funds to the Department for costs associated with the registration program, to take effect on 7/1/2017; and (d) takes effect on 1/1/2018.

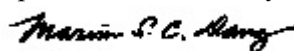
Because of a federal law requiring that the real estate appraisal function of a financial institution be separate and independent from the financial institution’s loan origination function, over 60% of lenders nationally use “appraisal management companies” (“AMC”) for residential appraisals. AMCs ensure appraisal independence by being the liaisons between lenders and appraisers. AMCs maintain lists of qualified appraisers, arrange for appraisals to be done, and provide quality control reviews of the appraisals before the AMCs send the appraisals to the lenders.

A federal interagency group issued a Final Rule in 2015 regarding AMCs. Beginning on August 10, 2018, lenders will be barred from using AMCs for “federally regulated transactions” in a state which doesn’t have an AMC registration and supervision program in place that meets the Rule’s minimum requirements.

A “federally regulated transaction” is generally a real estate-related financial transaction that involves an insured depository financial institution and that requires the services of an appraiser. An example is a mortgage loan by a bank to a consumer to purchase a home or to refinance a home loan. The appraisals are for loans that are on origination or for the secondary market (e.g. VA, Fannie Mae, etc.).

Hawaii is one of only 10 states that doesn’t yet have an AMC registration and supervision program. If Hawaii doesn’t implement an AMC program, the residential mortgage market would be negatively impacted. We understand that while most local financial institutions don’t currently use AMCs, many mainland financial institutions which make mortgage loans in Hawaii do use AMCs. Because mainland lenders provide a large portion of mortgage loans in Hawaii, unless there is an AMC program in place in Hawaii, those lenders will not be able to use AMCs for federally regulated transactions. A consequence will be a disruption for consumers, lenders, and real estate professionals for mortgage loans for home purchases and refinancings. Reduced lending options and availability will not be in the best interest of consumers.

Accordingly, we ask that your Committee pass this Bill. Thank you for considering our testimony.






MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association





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February 23, 2017

**The Honorable Jill N. Tokuda, Chair**  
Senate Committee on Ways and Means  
State Capitol, Room 229  
Honolulu, Hawaii 96813

**RE: S.B. 390, S.D.1, Relating to Appraisal Management Companies**

**HEARING: Thursday, February 23, 2017, at 1:35 p.m.**

Aloha Chair Tokuda, Vice Chair Dela Cruz, and Members of the Committee.

I am Myoung Oh, Director of Government Affairs, **submitting written comments** on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 9,000 members. HAR **strongly supports** S.B. 390, S.D.1 which establishes an Appraisal Management Company (AMC) registration program within the Department of Commerce and Consumer Affairs to conform to minimum standards established under federal law and regulations.

An AMC is an entity that administers networks of independent appraisers to fulfill real estate appraisal assignments for lenders. AMCs serve as an intermediary to ensure independence between the appraisal and loan originator. Additionally, AMCs perform essential functions in many residential transactions, including coordinating appraisal completion, maintaining a roster (panel) of qualified appraisers, maintaining appraiser independence by serving as a liaison between the appraiser and lender, and performing quality control reviews of the appraisal before sending it to the lender.



The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank) directed that six federal financial regulatory agencies<sup>1</sup> promulgate rules on the minimum requirements for states to register AMCs. The final rules were published in the Federal Register on June 9, 2015, and became effective August 10, 2015. While the final rule does not force a State to enact these minimum requirements, it specifies that if a State fails to do so by August 10, 2018, non-federally regulated AMCs will be barred from providing appraisal management services for federally-related transactions in that State.


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<sup>1</sup> The six agencies include the Board of Governors of the Federal Reserve System, Comptroller of Currency, Federal Deposit Insurance Corporation, National Credit Union Administration Board, Federal Housing Finance Agency and Bureau of Consumer Financial Protection.





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In response to Dodd Frank and the federal rules, 40 states have enacted legislation to regulate AMCs. The impact of not adopting these rules could have a significant disruption on the mortgage market in Hawaii. It is estimated that a variety of lenders currently utilize between 60-100 AMCs in Hawaii. Without regulation, these lenders would have to create new ways to process appraisals, or might choose not to provide mortgages in the State. Ultimately, this may increase consumer costs, and limit the availability of mortgage products in Hawaii.

S.B. 390 enacts a regulatory structure to meet the minimum federal requirements, and to allow AMCs to continue to operate in Hawai'i. These regulations will ultimately help protect consumers by providing full oversight over all aspects of the appraisal process in real estate transactions.

**HAR is currently in discussions with the Department of Commerce and Consumer Affairs. We do not object to amendments they are proposing but we do have reservations with the proposed \$5,000 biennial fee on top of a biennial Compliance Resolution Fund fee. A set fee should be reasonable but not to the extent of making it cost prohibitive to do business here in Hawaii.**

**We share with the Committee information from other states and their registration fees. We hope that this this committee considers a reasonable amount that is not prohibitive.**

Mahalo for the opportunity to submit written comments in strong support of this measure.



**AMC Registration Fees**  
as of 2/17/17

State	1-, 2-, or 3-year renewal	Initial Registration Fee	Renewal Fee	Frequency of Payment
Alabama	1	3,500.00	2,000.00	Annual
Alaska				
American Samoa				
Arizona	2	2,500.00	2,500.00	Per renewal cycle
Arkansas	1	500.00	500.00	Annual
California	2	1,750.00	1,600.00	Per renewal cycle
Colorado	1	3,250.00	800.00	Annual
Connecticut	2	1,000.00	1,000.00	Per renewal cycle
Delaware	2	1,000.00	1,000.00	Per renewal cycle
District of Columbia				
Florida	2	450.00	450.00	Per renewal cycle
Georgia	1	1,000.00	500.00	Annual
Guam				
Hawaii				
Idaho		1,500.00	Unknown	Unknown
Illinois	2	2,500.00	4,000.00	Per renewal cycle
Indiana	2	500.00	500.00	Per renewal cycle
Iowa		750.00	Unknown	Unknown
Kansas	1	900.00	900.00	Annual
Kentucky	1	2,300.00	2,300.00	Annual
Louisiana	1	1,500.00	1,500.00	Annual
Maine				
Mariana Islands				
Maryland	1	2,000.00	2,500.00	Annual
Massachusetts				
Michigan	3	2,000.00	1,500.00	Per renewal cycle
Minnesota	1	5,000.00	2,500.00	Annual
Mississippi	1	1,500.00	1,500.00	Annual
Missouri	2	350.00	350.00	Per renewal cycle
Montana	1	3,000.00	3,000.00	Annual
Nebraska	2	2,350.00	1,500.00	Per renewal cycle
Nevada	1	2,500.00	500.00	Annual
New Hampshire	1	900.00	800.00	Annual
New Jersey				
New Mexico	1	1,000.00	550.00	Annual
New York				
North Carolina	1	3,500.00	2,000.00	Annual
North Dakota				
Ohio				
Oklahoma	1	1,000.00	1,000.00	Annual
Oregon	2	2,500.00	3,000.00	Per renewal cycle

<b>Pennsylvania</b>	2	2,500.00	1,000.00	Per renewal cycle
<b>Puerto Rico</b>				
<b>Rhode Island</b>				
<b>South Carolina</b>				
<b>South Dakota</b>	1	1,000.00	750.00	Annual
<b>Tennessee</b>	2	2,000.00	2,000.00	Per renewal cycle
<b>Texas</b>	2	3,110.00	3,110.00	Per renewal cycle
<b>Utah</b>	2	350.00	350.00	Per renewal cycle
<b>Vermont</b>	2	125.00	400.00	Per renewal cycle
<b>Virginia</b>	2	490.00	490.00	Per renewal cycle
<b>Virgin Islands</b>				
<b>Washington</b>	2	2,400.00	1,200.00	Per renewal cycle
<b>West Virginia</b>	1	2,500.00	2,000.00	Annual
<b>Wisconsin</b>				
<b>Wyoming</b>	1	1,800.00	1,800.00	Annual

AVERAGE

1,763.46

1,441.89

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 22, 2017 6:26 AM  
**To:** WAM Testimony  
**Cc:** ted@acmmaui.com  
**Subject:** Submitted testimony for SB390 on Feb 23, 2017 13:35PM

**SB390**

Submitted on: 2/22/2017

Testimony for WAM on Feb 23, 2017 13:35PM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ted Yamamura	Individual	Support	No

Comments: Honorable Chair Jill Tokuda and committee members. Over 40 states have enacted legislation regulating AMC's and I applaud the introduction and intent of this Bill. The AMC is the only entity in the real estate valuation process that is not subject to licensing or regulation by any government agency, or any laws or regulations specific to their activity. I wholeheartedly support this Bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**Cc:** mendezj@hawaii.edu  
**Subject:** \*Submitted testimony for SB390 on Feb 24, 2017 13:45PM\*

**SB390**

Submitted on: 2/24/2017

Testimony for WAM on Feb 24, 2017 13:45PM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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