

JAN 19 2024

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 the Dodd-Frank Wall
2 Street Reform and Consumer Protection Act of 2010 (Dodd-Frank
3 Act) required, among other things, federal regulatory agencies
4 to establish minimum requirements for state registration and
5 supervision of appraisal management companies. While states
6 were not required to enact these minimum requirements, if a
7 state failed to do so by August 10, 2018, certain appraisal
8 management companies would be barred from providing services for
9 federally related transactions within that state.

10 In response, the legislature enacted Act 118, Session Laws
11 of Hawaii 2017 (Act 118), formerly codified as chapter 466L,
12 Hawaii Revised Statutes, to establish a regulatory framework for
13 appraisal management companies in Hawaii in conformance with the
14 Dodd-Frank Act. However, the framework established by Act 118
15 was subject to a statutory sunset, and has since been repealed
16 as of June 30, 2023.



1 The legislature finds that the continuation of the
2 appraisal management company registration program established by
3 Act 118 is in the public's best interest. The lack of a program
4 could result in serious unintended and adverse consequences for
5 Hawaii consumers and others involved in the residential
6 appraisal process in the State, especially because a large
7 source of Hawaii's funding for residential mortgage loans comes
8 from lenders outside the State that frequently employ appraisal
9 management companies to perform appraisals relating to those
10 loans. The office of the auditor likewise concluded in its
11 sunset review of Act 118 (Report No. 23-01) that, while
12 appraisal management companies are not a "profession" or
13 "vocation" that would require regulation pursuant to the Hawaii
14 Regulatory Licensing Reform Act, the public interest justifies
15 the reenactment of the appraisal management company registration
16 program.

17 Accordingly, the purpose of this Act is to permanently
18 reenact the appraisal management company registration program
19 established by Act 118.



1 "Affiliate" has the same meaning as defined under title 12
2 United States Code section 1841, or any successor federal
3 statute.

4 "AMC national registry" means the registry of state-
5 registered appraisal management companies and federally
6 regulated appraisal management companies maintained by the
7 Appraisal Subcommittee.

8 "Appraisal management company" means a person that:

- 9 (1) Provides appraisal management services to creditors or
10 secondary mortgage market participants, including
11 affiliates;
- 12 (2) Provides appraisal management services in connection
13 with valuing a consumer's principal dwelling as
14 security for a consumer credit transaction or
15 incorporating these transactions into securitizations;
16 and
- 17 (3) Within a twelve-month calendar year, beginning
18 January 1 of each year and ending on December 31 of
19 each year, oversees an appraiser panel of more than
20 fifteen state-certified or state-licensed appraisers
21 in a state or twenty-five or more state-certified or



1 state-licensed appraisers in two or more states, as
2 described in section -5.

3 "Appraisal management company" does not include a department or
4 division of an entity that provides appraisal management
5 services only to that entity.

6 "Appraisal management services" means one or more of the
7 following:

- 8 (1) Recruiting, selecting, and retaining appraisers;
- 9 (2) Contracting with state-certified or state-licensed
10 appraisers to perform appraisal assignments;
- 11 (3) Managing the process of having an appraisal performed,
12 including providing administrative services such as
13 receiving appraisal orders and appraisal reports,
14 submitting completed appraisal reports to creditors
15 and secondary market participants; collecting fees
16 from creditors and secondary market participants for
17 services provided; and paying appraisers for services
18 performed; and
- 19 (4) Reviewing and verifying the work of appraisers.

20 "Appraiser panel" means a network, list, or roster of
21 licensed or certified appraisers approved by an appraisal



1 management company to perform appraisals as independent
2 contractors for the appraisal management company. Appraisers on
3 an appraisal management company's "appraiser panel" include:

4 (1) Appraisers accepted by the appraisal management
5 company for consideration for future appraisal
6 assignments in covered transactions or for secondary
7 mortgage market participants in connection with
8 covered transactions; and

9 (2) Appraisers engaged by the appraisal management company
10 to perform one or more appraisals in covered
11 transactions or for secondary mortgage market
12 participants in connection with covered transactions.

13 For purposes of this chapter, an appraiser is an independent
14 contractor if the appraiser is treated as an independent
15 contractor by the appraisal management company for purposes of
16 federal income taxation.

17 "Appraisal review" means the process of developing and
18 communicating an opinion about the quality of another
19 appraiser's work that was performed as part of an appraisal
20 assignment or appraisal review assignment related to the
21 appraiser's data collection, analysis, opinions, conclusions,



1 estimate of value, or compliance with the Uniform Standards of
2 Professional Appraisal Practice.

3 "Appraisal review" does not include:

- 4 (1) A general examination for grammatical, typographical,
5 mathematical, or other similar errors; or
- 6 (2) A general examination for completeness, including
7 regulatory or client requirements as specified in the
8 agreement process, that does not communicate an
9 opinion of value.

10 "Appraisal Subcommittee" means the Appraisal Subcommittee
11 of the Federal Financial Institutions Examination Council
12 created pursuant to title XI of the federal Financial
13 Institutions Reform, Recovery, and Enforcement Act of 1989.

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

16 "Controlling person" means:

- 17 (1) An officer, director, or owner of greater than a ten
18 per cent interest of a corporation, partnership, or
19 other business entity seeking to act as an appraisal
20 management company in the State;



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

3 (A) Enter a contractual relationship with other
4 persons for performance of services requiring
5 registration as an appraisal management company;
6 and

7 (B) Enter agreements with appraisers for the
8 performance of appraisals; or

9 (3) An individual who possesses, directly or indirectly,
10 the power to direct or cause the direction of the
11 management or policies of an appraisal management
12 company.

13 "Covered transaction" means any consumer credit transaction
14 secured by the consumer's principal dwelling.

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

21 A person regularly extends consumer credit if:



1 (1) The person extended credit (other than credit subject
2 to the requirements of title 12 Code of Federal
3 Regulations section 1026.32) more than five times for
4 transactions secured by a dwelling in the preceding
5 calendar year. If a person did not meet these
6 numerical standards in the preceding calendar year,
7 the numerical standards shall be applied to the
8 current calendar year; or

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

14 "Department" means the department of commerce and consumer
15 affairs.

16 "Director" means the director of commerce and consumer
17 affairs.

18 "Dwelling" means a residential structure that contains one
19 to four units, whether or not that structure is attached to real
20 property. "Dwelling" includes an individual condominium unit,
21 cooperative unit, mobile home, and trailer, if it is used as a



1 residence. A consumer can have only one principal dwelling at a
2 time. A vacation or other second home is not considered a
3 principal dwelling; provided that for purposes of this
4 definition, if a consumer buys or builds a new dwelling that
5 will become the consumer's principal dwelling within a year or
6 upon the completion of construction, the new dwelling shall be
7 considered the principal dwelling.

8 "Federally regulated appraisal management company" means an
9 appraisal management company that is owned and controlled by an
10 insured depository institution, as defined in title 12 United
11 States Code section 1813, and regulated by the Office of the
12 Comptroller of the Currency, the Board of Governors of the
13 Federal Reserve System, or the Federal Deposit Insurance
14 Corporation.

15 "Federally related transaction" means any real estate-
16 related financial transaction that involves an insured
17 depository institution regulated by the Office of the
18 Comptroller of the Currency, Board of Governors of the Federal
19 Reserve System, Federal Deposit Insurance Corporation, or
20 National Credit Union Administration, and that requires the
21 services of an appraiser under the interagency appraisal rules.



1 "Person" means a natural person or an organization,
2 including a corporation, partnership, proprietorship,
3 association, cooperative, estate, trust, or government unit.

4 "Real estate-related financial transaction" means any
5 transaction involving the sale, lease, purchase, investment in,
6 or exchange of real property, including interests in property or
7 the financing thereof, including the refinancing of real
8 property or interests in real property and the use of real
9 property or interests in property as security for a loan or
10 investment, including mortgage-backed securities.

11 "Secondary mortgage market participant" means a guarantor
12 or insurer of mortgage-backed securities or an underwriter or
13 issuer of mortgage-backed securities. "Secondary mortgage
14 market participant" only includes an individual investor in a
15 mortgage-backed security if that investor also serves in the
16 capacity of a guarantor, insurer, underwriter, or issuer for the
17 mortgage-backed security.

18 "Uniform Standards of Professional Appraisal Practice"
19 means the most recent iteration of the Uniform Standards of
20 Professional Appraisal Practice developed by the appraisal



1 standards board of The Appraisal Foundation and approved by the
2 director.

3 **§ -3 Appraisal management company registration program.**

4 There is established an appraisal management company
5 registration program, subject to the real estate appraiser
6 program established pursuant to section 466K-2, to be
7 administered by the director in the director's capacity as the
8 program administrator for both programs.

9 **§ -4 Powers and duties of the director.** In addition to
10 any other powers and duties authorized by law, the director
11 shall have the following powers and duties:

- 12 (1) Review and approve or deny an appraisal management
13 company's application for initial registration;
- 14 (2) Renew or deny an appraisal management company's
15 registration periodically;
- 16 (3) Examine the books and records of an appraisal
17 management company operating in the State and require
18 the appraisal management company to submit reports,
19 information, and documents;



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



1 § -5 Appraiser panel; annual size calculation. (a) For
2 purposes of determining whether an appraisal entity meets the
3 size requirement of an appraisal management company, as that
4 term is defined in section -2, an appraiser shall be deemed
5 part of the appraisal management company's appraiser panel as of
6 the earliest date on which the appraisal management company:

- 7 (1) Accepts the appraiser for the appraisal management
8 company's consideration for future appraisal
9 assignments in covered transactions or for secondary
10 mortgage market participants in connection with
11 covered transactions; or
12 (2) Engages the appraiser to perform one or more
13 appraisals on behalf of a creditor for covered
14 transactions or a secondary mortgage market
15 participant in connection with covered transactions.

16 (b) An appraiser who is deemed part of the appraisal
17 management company's appraiser panel pursuant to subsection (a)
18 shall be deemed to remain on the appraiser panel until the date
19 on which the appraisal management company:

- 20 (1) Sends written notice to the appraiser removing the
21 appraiser from the appraiser panel, with an



1 explanation of the appraisal management company's
2 action; or

3 (2) Receives written notice from the appraiser asking to
4 be removed from the appraiser panel or notice of the
5 death or incapacity of the appraiser.

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

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

13 (2) The appraiser shall be deemed to have been part of the
14 appraisal management company's appraiser panel without
15 interruption.

16 § -6 **Registration required.** (a) No person may directly
17 or indirectly engage or attempt to engage in business as an
18 appraisal management company, directly or indirectly perform or
19 attempt to perform appraisal management services, or advertise
20 or hold oneself out as engaging in or conducting business as an



1 appraisal management company without first being registered
2 pursuant to this chapter.

3 (b) An appraisal management company shall:

4 (1) Register with the real estate appraiser program
5 administered by the department pursuant to chapter
6 466K;

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

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

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



- 1 (5) Establish and comply with processes and controls
2 reasonably designed to ensure that the appraisal
3 management company conducts its appraisal management
4 services in accordance with the requirements of
5 section 129E(a) through 129E(i) of the Truth in
6 Lending Act, title 15 United States Code sections
7 1639e(a) through 1639e(i), and regulations adopted
8 thereunder.
- 9 (c) This section shall not apply to:
- 10 (1) A person that exclusively employs appraisers on an
11 employer and employee basis for the performance of
12 appraisals in this State;
- 13 (2) A federally regulated appraisal management company;
- 14 (3) A department or unit within a financial institution
15 that is subject to direct regulation by an agency of
16 the federal government that is a member of the Federal
17 Financial Institutions Examination Council or its
18 successor, or to regulation by the commissioner of
19 financial institutions under chapter 412, that
20 receives a request for the performance of an appraisal
21 from one employee of the financial institution, and



1 another employee of the same financial institution
2 assigns the request for the appraisal to an appraiser
3 that is an independent contractor to the institution,
4 except that an appraisal management company that is a
5 wholly owned subsidiary of a financial institution
6 shall not be considered a department or unit within a
7 financial institution to which the provisions of this
8 chapter do not apply; or

9 (4) An appraiser who enters into an agreement with another
10 appraiser for the performance of an appraisal that
11 upon completion results in a report signed by both the
12 appraiser who completed the appraisal and the
13 appraiser who requested the completion of the
14 appraisal.

15 (d) Any person who engages in an activity requiring
16 registration as an appraisal management company issued by the
17 director and who fails to obtain the required registration, or
18 who uses any work, title, or representation to induce the false
19 belief that the person is registered to engage in said activity,
20 shall be guilty of a misdemeanor and shall be subject to a fine
21 of not more than \$1,000 or imprisoned not more than one year, or



1 both, and each day of violation shall be deemed a separate
2 offense.

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

7 § -7 **Registration process.** An applicant for
8 registration under this chapter shall file an application for
9 registration with the director on a form prescribed by the
10 director and pay a fee established by the director. The form
11 shall require any information necessary to determine eligibility
12 for registration.

13 § -8 **Criminal history record checks.** (a) The
14 application submitted pursuant to section -7 shall contain
15 the information and authorizations necessary to conduct a
16 criminal history record check in accordance with section 846-2.7
17 for:

- 18 (1) Each person applying for registration who owns more
19 than ten per cent of an appraisal management company;
20 and
21 (2) Each of the applicant's controlling persons.



1 (b) The information and authorizations shall be
2 accompanied by the appropriate payment of the applicable fee for
3 each record check.

4 **§ -9 Appraisal management company registration numbers.**

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

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

9 (c) An appraisal management company registered in this
10 State shall place its registration number on engagement
11 documents utilized by the appraisal management company to
12 procure appraisal services in this State.

13 **§ -10 Expiration of registration.** Registrations shall
14 expire on December 31 of each odd-numbered year. The expiration
15 date of the registration shall appear on the appraisal
16 management company registration certificate issued to the
17 registrant, and no other notice of its expiration need be given
18 to the registrant.

19 **§ -11 Compliance with the Uniform Standards of**
20 **Professional Appraisal Practice.** As a condition of registration
21 or renewal of registration, each appraisal management company in



1 the State shall certify that the company requires appraisers
2 completing appraisals at the company's request to comply with
3 the Uniform Standards of Professional Appraisal Practice.

4 **§ -12 Consent to service of process.** An applicant for
5 registration under this chapter that is not domiciled in the
6 State shall complete an irrevocable consent to service of
7 process, in a form approved by the attorney general.

8 **§ -13 Reporting requirements; non-federally regulated**
9 **appraisal management companies.** The director shall collect from
10 each appraisal management company registered or seeking
11 registration in the State all information and fees required by
12 the Appraisal Subcommittee to be submitted to the Appraisal
13 Subcommittee by the State, pursuant to regulations or guidance
14 promulgated by the Appraisal Subcommittee.

15 **§ -14 Reporting requirements; federally regulated**
16 **appraisal management companies; reporting information for**
17 **appraisal management companies.** A federally regulated appraisal
18 management company operating in the State shall report to the
19 director the information required to be submitted by the State
20 to the Appraisal Subcommittee, pursuant to the Appraisal
21 Subcommittee's policies regarding the determination of the AMC



1 national registry fee. These reporting requirements shall
2 include:

- 3 (1) A notice of intent to operate in the State;
- 4 (2) Information related to whether the appraisal
5 management company is owned in whole or in part,
6 directly or indirectly, by any person who has had an
7 appraiser license or certification refused, denied,
8 canceled, surrendered in lieu of revocation, or
9 revoked in any state for a substantive cause, as
10 determined by the Appraisal Subcommittee; and
- 11 (3) If a person has had such action taken on the person's
12 appraisal license or certification, the director shall
13 collect information related to whether the license or
14 certification was revoked for a substantive cause and
15 if the license or certification has been reinstated by
16 the state or states in which the appraiser was
17 licensed or certified.

18 § -15 Owner requirements. (a) An appraisal management
19 company applying for, holding, or renewing a registration under
20 this chapter shall not be owned, in whole or in part, directly
21 or indirectly, by any person who has had an appraiser license or



1 certification refused, denied, canceled, surrendered in lieu of
2 revocation, or revoked in any state for a substantive cause, as
3 determined by the appropriate state appraiser certifying and
4 licensing agency; provided that an appraisal management company
5 may be registered under this chapter if the license or
6 certification of the appraiser with an ownership interest was
7 not revoked for a substantive cause and the license or
8 certification has been reinstated by the state in which the
9 appraiser was licensed or certified.

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

13 (1) Be of good moral character; and

14 (2) Submit to a criminal history record check pursuant to
15 section -8.

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



1 (1) Be in good standing in the State and in any other
2 state that has at any time issued the controlling
3 person an appraiser license or certification; provided
4 that nothing in this chapter shall require that a
5 designated controlling person hold or continue to hold
6 an appraiser license or certification in any
7 jurisdiction;

8 (2) Never have had an appraiser license or certification
9 in this State or any other state refused, denied,
10 canceled, revoked, or surrendered in lieu of a pending
11 disciplinary proceeding in any jurisdiction and not
12 have had the license or certification subsequently
13 reinstated or granted;

14 (3) Be of good moral character; and

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

17 § -17 **Appraiser engagement.** Before or at the time of
18 placing an assignment to appraise real property in the State
19 with an appraiser on the appraiser panel of an appraisal
20 management company, the appraisal management company shall
21 verify that the appraiser receiving the assignment holds an



1 appraiser license or certification in good standing in this
2 State and verify that the appraiser receiving the assignment
3 meets the competency rule of the Uniform Standards of
4 Professional Appraisal Practice. An attestation provided by an
5 appraiser that such appraiser is geographically competent within
6 the appraiser's scope of practice will satisfy an appraisal
7 management company's responsibility under this section.

8 **§ -18 Appraisal review.** Any employee of or independent
9 contractor to an appraisal management company who performs an
10 appraisal review for a property located in this State shall be a
11 licensed or certified appraiser in good standing in the State
12 and any other jurisdiction in which the appraiser is licensed or
13 certified.

14 **§ -19 Verification of licensure or certification.** (a)
15 An appraisal management company registered in the State may not
16 enter into any contract or agreement with an appraiser for the
17 performance of appraisals in the State unless the company
18 verifies that the appraiser is licensed or certified in good
19 standing in the State.

20 (b) An appraisal management company seeking registration
21 or renewal of registration in the State shall certify that the



1 company has a system and process in place to verify that an
2 individual added to the appraiser panel of the company for
3 appraisal services holds an appraiser license or certification
4 in good standing in this State.

5 § -20 **Fee disclosure.** An appraisal management company
6 registered in the State shall not prohibit an independent
7 appraiser who is part of the appraiser panel from recording the
8 fee that the appraiser was paid by the appraisal management
9 company for the performance of an appraisal within the
10 communication of the appraisal.

11 § -21 **Retention of records.** (a) Each appraisal
12 management company seeking registration or renewal of
13 registration in the State shall certify that the appraisal
14 management company maintains a detailed record of each service
15 request the company receives for appraisals of real property
16 located in the State.

17 (b) An appraisal management company registered in the
18 State shall retain all records required to be maintained under
19 this chapter for at least five years after the file is submitted
20 to the appraisal management company or at least two years after
21 final disposition of any related judicial proceeding of which



1 the appraisal management company is provided notice, whichever
2 period expires last.

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

6 § -22 **Payments to appraisers.** (a) An appraisal
7 management company shall, except in bona fide cases of breach of
8 contract or substandard performance of services, make payment to
9 an independent appraiser for the completion of an appraisal or
10 valuation assignment within forty-five days of the date on which
11 the appraiser transmits or otherwise provides the completed
12 appraisal or valuation assignment to the appraisal management
13 company or the company's assignee, unless a mutually agreed-upon
14 alternate arrangement has been previously established.

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



1 appraisal in connection with a consumer credit transaction
2 secured by the principal dwelling.

3 § -23 **Appraiser independence.** (a) It shall be a
4 violation of this chapter for any employee, director, officer,
5 or agent of an appraisal management company registered in this
6 State to engage in any act or practice that violates appraisal
7 independence as described in subsection (b).

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

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



1 appraisal, to the property to be based on any fact
2 other than the independent judgment of the appraiser;

3 (2) Mischaracterizing, or suborning any
4 mischaracterization of, the appraised value of the
5 property securing the extension of credit;

6 (3) Seeking to influence an appraiser or otherwise to
7 encourage a targeted value in order to facilitate the
8 making or pricing of the transaction; and

9 (4) Withholding or threatening to withhold timely payment
10 for an appraisal report or for appraisal services
11 rendered when the appraisal report or services are
12 provided in accordance with the contract between the
13 parties.

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

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



1 (2) Provide further detail, substantiation, or explanation
2 for the appraiser's consideration in the appraisal; or

3 (3) Correct objective errors in the appraisal report.

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

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



1 accordance with the requirements of title 15 United States Code
2 section 1639e(a) through (i), and regulations adopted
3 thereunder.

4 **§ -24 Mandatory reporting of violations.** An appraisal
5 management company that has a reasonable basis to believe an
6 appraiser has materially failed to comply with applicable laws
7 or rules or has materially violated the Uniform Standards of
8 Professional Appraisal Practice shall refer the matter to the
9 director in conformance with applicable federal laws and
10 regulations.

11 **§ -25 Prohibited conduct.** (a) No employee, director,
12 officer, agent, independent contractor, or other third party
13 acting on behalf of an appraisal management company shall:

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

19 (2) Wilfully violate this chapter or rules adopted by the
20 director pursuant to this chapter;



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



1 remove an independent appraiser from an appraiser
2 panel without prior written notice to the appraiser;
3 provided that the prior written notice shall include
4 the following, if applicable:

- 5 (A) The appraiser's illegal conduct;
- 6 (B) The appraiser's violation of the Uniform
7 Standards of Professional Appraisal Practice,
8 this chapter, or rules adopted pursuant to this
9 chapter;
- 10 (C) The appraiser's improper or unprofessional
11 conduct; or
- 12 (D) The appraiser's substandard performance or other
13 substantive deficiencies;

14 (6) Require an appraiser to sign any indemnification
15 agreement that would require the appraiser to defend
16 and hold harmless the appraisal management company or
17 any of its agents or employees for any liability,
18 damage, losses, or claims arising out of the services
19 performed by the appraisal management company or its
20 agents, employees, or independent contractors, and not
21 the services performed by the appraiser;



- 1 (7) Prohibit lawful communications between the appraiser
2 and any other person to whom the appraiser, in the
3 appraiser's professional judgment, believes possesses
4 information that would be relevant;
- 5 (8) Engage in any other act or practice that impairs or
6 attempts to impair a real estate appraiser's
7 independence, objectivity, and impartiality;
- 8 (9) Fail to timely respond to any subpoena or other
9 request for information;
- 10 (10) Fail to timely obey an administrative order of the
11 director or department; or
- 12 (11) Fail to cooperate in any investigation.
- 13 (b) 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 § -26 **Disciplinary proceedings.** The director may deny,
19 suspend, or revoke the registration of an appraisal management
20 company; impose a monetary penalty of an amount not to exceed
21 \$5,000 per violation; issue a letter of reprimand; refuse to



1 issue or renew the registration of an appraisal management
2 company; or take other disciplinary action against an appraisal
3 management company for any one or more of the following acts or
4 conditions:

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

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) The appraisal management company violates this
14 chapter, chapter 436B, or any rule or order of the
15 director.

16 § -27 Fees; bond required. (a) The director may charge
17 the appraisal management company reasonable fees to offset costs
18 of operating the appraisal management company registration
19 program established pursuant to this chapter. The following
20 fees shall apply:

21 (1) Nonrefundable application fee...\$60;



1 (2) Biennial registration fee...\$4,200; and

2 (3) Biennial compliance resolution fund fee...\$500.

3 In addition, upon the issuance of a new registration and at each
4 renewal period, each appraisal management company shall pay a
5 special assessment fee of \$300 that shall be deposited into the
6 compliance resolution fund established pursuant to section
7 26-9(o). Fees assessed pursuant to this chapter shall be used
8 to defray costs incurred by the department in implementing this
9 chapter.

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

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

16 (1) The bond shall be in a form satisfactory to the
17 director;

18 (2) The bond will accrue to the program for the benefit of
19 a claimant against the registrant to secure the
20 faithful performance of the registrant's obligations
21 under applicable laws and rules and to a real estate



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



1 management company in the State. A registered
2 appraisal management company that voluntarily ceases
3 operations in this State shall ensure a surety bond
4 remains in place for not less than two years after the
5 registered appraisal management company ceases
6 operations.

7 § -28 Federal registry requirements. (a) The director
8 shall collect from each appraisal management company registered
9 or seeking to be registered in this State the information that
10 the Appraisal Subcommittee requires to be submitted to it by the
11 State pursuant to regulations or guidance adopted by the
12 Appraisal Subcommittee.

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

- 19 (1) A report to the director of the intent of the
20 federally regulated appraisal management company to
21 operate in this State;



1 (2) Information related to whether the appraisal
2 management company is owned in whole or in part,
3 directly or indirectly, by any person who has had an
4 appraiser license or certificate refused, denied,
5 canceled, surrendered in lieu of revocation, or
6 revoked in any state for a substantive cause, as
7 determined by the Appraisal Subcommittee; and

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

14 § -29 Exemption. This chapter shall not apply to an
15 appraiser who enters an agreement with another appraiser for the
16 performance of an appraisal that, upon completion, results in a
17 report signed by the appraiser who completed the appraisal and
18 the appraiser who requested completion of the appraisal."

19 SECTION 3. Section 26H-4, Hawaii Revised Statutes, is
20 amended to read as follows:



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

7 ~~[(b) Chapter 466L (appraisal management companies) shall~~
8 ~~be repealed on June 30, 2023.~~

9 ~~(e)]~~ (b) Chapter 457J (midwives) shall be repealed on
10 June 30, 2025."

11 SECTION 4. Section 846-2.7, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

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

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

19 (2) The department of health or its designee on
20 prospective employees, persons seeking to serve as
21 providers, or subcontractors in positions that place



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



- 1 administration, law enforcement, and liquor control
2 investigations;
- 3 (8) The department of human services on operators and
4 employees of child caring institutions, child placing
5 organizations, and resource family homes as provided
6 by section 346-17;
- 7 (9) The department of human services on prospective
8 adoptive parents as established under section
9 346-19.7;
- 10 (10) The department of human services or its designee on
11 applicants to operate child care facilities, household
12 members of the applicant, prospective employees of the
13 applicant, and new employees and household members of
14 the provider after registration or licensure as
15 provided by section 346-154, and persons subject to
16 section 346-152.5;
- 17 (11) The department of human services on persons exempt
18 pursuant to section 346-152 to be eligible to provide
19 child care and receive child care subsidies as
20 provided by section 346-152.5;



- 1 (12) The department of health on operators and employees of
2 home and community-based case management agencies and
3 operators and other adults, except for adults in care,
4 residing in community care foster family homes as
5 provided by section 321-15.2;
- 6 (13) The department of human services on staff members of
7 the Hawaii youth correctional facility as provided by
8 section 352-5.5;
- 9 (14) The department of human services on employees,
10 prospective employees, and volunteers of contracted
11 providers and subcontractors in positions that place
12 them in close proximity to youth when providing
13 services on behalf of the office or the Hawaii youth
14 correctional facility as provided by section 352D-4.3;
- 15 (15) The judiciary on employees and applicants at detention
16 and shelter facilities as provided by section 571-34;
- 17 (16) The department of corrections and rehabilitation on
18 employees and prospective employees who are directly
19 involved with the treatment and care of persons
20 committed to a correctional facility as provided by
21 section 353-1.5 and the department of law enforcement



1 on employees and prospective employees whose duties
2 involve or may involve the exercise of police powers
3 including the power of arrest as provided by section
4 353C-5;

5 (17) The board of private detectives and guards on
6 applicants for private detective or private guard
7 licensure as provided by section 463-9;

8 (18) Private schools and designated organizations on
9 employees and prospective employees who may be in
10 positions that necessitate close proximity to
11 children; provided that private schools and designated
12 organizations receive only indications of the states
13 from which the national criminal history record
14 information was provided pursuant to section 302C-1;

15 (19) The public library system on employees and prospective
16 employees whose positions place them in close
17 proximity to children as provided by section
18 302A-601.5;

19 (20) The State or any of its branches, political
20 subdivisions, or agencies on applicants and employees
21 holding a position that has the same type of contact



1 with children, vulnerable adults, or persons committed
2 to a correctional facility as other public employees
3 who hold positions that are authorized by law to
4 require criminal history record checks as a condition
5 of employment as provided by section 78-2.7;

6 (21) The department of health on licensed adult day care
7 center operators, employees, new employees,
8 subcontracted service providers and their employees,
9 and adult volunteers as provided by section 321-15.2;

10 (22) The department of human services on purchase of
11 service contracted and subcontracted service providers
12 and their employees and volunteers, as provided by
13 sections 346-2.5 and 346-97;

14 (23) The department of human services on foster grandparent
15 program, senior companion program, and respite
16 companion program participants as provided by section
17 346-97;

18 (24) The department of human services on contracted and
19 subcontracted service providers and their current and
20 prospective employees that provide home and community-
21 based services under section 1915(c) of the Social



1 Security Act, title 42 United States Code section
2 1396n(c), or under any other applicable section or
3 sections of the Social Security Act for the purposes
4 of providing home and community-based services, as
5 provided by section 346-97;

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

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

15 (27) The department of commerce and consumer affairs on the
16 original chartering applicants and proposed executive
17 officers of a credit union as provided by section
18 412:10-103;

19 (28) The department of commerce and consumer affairs on:
20 (A) Each principal of every non-corporate applicant
21 for a money transmitter license;



1 (B) Each person who upon approval of an application
2 by a corporate applicant for a money transmitter
3 license will be a principal of the licensee; and

4 (C) Each person who upon approval of an application
5 requesting approval of a proposed change in
6 control of licensee will be a principal of the
7 licensee,

8 as provided by sections 489D-9 and 489D-15;

9 (29) The department of commerce and consumer affairs on
10 applicants for licensure and persons licensed under
11 title 24;

12 (30) The Hawaii health systems corporation on:

13 (A) Employees;

14 (B) Applicants seeking employment;

15 (C) Current or prospective members of the corporation
16 board or regional system board; or

17 (D) Current or prospective volunteers, providers, or
18 contractors,

19 in any of the corporation's health facilities as
20 provided by section 323F-5.5;

21 (31) The department of commerce and consumer affairs on:



1 (A) An applicant for a mortgage loan originator
2 license, or license renewal; and

3 (B) Each control person, executive officer, director,
4 general partner, and managing member of an
5 applicant for a mortgage loan originator company
6 license or license renewal,
7 as provided by chapter 454F;

8 (32) The state public charter school commission or public
9 charter schools on employees, teacher trainees,
10 prospective employees, and prospective teacher
11 trainees in any public charter school for any position
12 that places them in close proximity to children, as
13 provided in section 302D-33;

14 (33) The counties on prospective employees who work with
15 children, vulnerable adults, or senior citizens in
16 community-based programs;

17 (34) The counties on prospective employees for fire
18 department positions that involve contact with
19 children or vulnerable adults;



1 (35) The counties on prospective employees for emergency
2 medical services positions that involve contact with
3 children or vulnerable adults;

4 (36) The counties on prospective employees for emergency
5 management positions and community volunteers whose
6 responsibilities involve planning and executing
7 homeland security measures including viewing,
8 handling, and engaging in law enforcement or
9 classified meetings and assisting vulnerable citizens
10 during emergencies or crises;

11 (37) The State and counties on employees, prospective
12 employees, volunteers, and contractors whose position
13 responsibilities require unescorted access to secured
14 areas and equipment related to a traffic management
15 center;

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

19 (39) The State and counties on current and prospective
20 systems analysts and others involved in an agency's
21 information technology operation whose position



1 responsibilities provide them with access to
2 proprietary, confidential, or sensitive information;
3 (40) The department of commerce and consumer affairs on:
4 (A) Applicants for real estate appraiser licensure or
5 certification as provided by chapter 466K;
6 (B) Each person who owns more than ten per cent of an
7 appraisal management company who is applying for
8 registration as an appraisal management company,
9 as provided by section [~~466L-7+~~] -7; and
10 (C) Each of the controlling persons of an applicant
11 for registration as an appraisal management
12 company, as provided by section [~~466L-7+~~] -7;
13 (41) The department of health or its designee on all
14 license applicants, licensees, employees, contractors,
15 and prospective employees of medical cannabis
16 dispensaries, and individuals permitted to enter and
17 remain in medical cannabis dispensary facilities as
18 provided under sections 329D-15(a)(4) and
19 329D-16(a)(3);
20 (42) The department of commerce and consumer affairs on
21 applicants for nurse licensure or license renewal,



1 reactivation, or restoration as provided by sections
2 457-7, 457-8, 457-8.5, and 457-9;

3 (43) The county police departments on applicants for
4 permits to acquire firearms pursuant to section 134-2,
5 on individuals registering their firearms pursuant to
6 section 134-3, and on applicants for new or renewed
7 licenses to carry a pistol or revolver and ammunition
8 pursuant to section 134-9;

9 (44) The department of commerce and consumer affairs on:

10 (A) Each of the controlling persons of the applicant
11 for licensure as an escrow depository, and each
12 of the officers, directors, and principals who
13 will be in charge of the escrow depository's
14 activities upon licensure; and

15 (B) Each of the controlling persons of an applicant
16 for proposed change in control of an escrow
17 depository licensee, and each of the officers,
18 directors, and principals who will be in charge
19 of the licensee's activities upon approval of the
20 application,

21 as provided by chapter 449;



- 1 (45) The department of taxation on current or prospective
2 employees or contractors who have access to federal
3 tax information in order to comply with requirements
4 of federal law, regulation, or procedure, as provided
5 by section 231-1.6;
- 6 (46) The department of labor and industrial relations on
7 current or prospective employees or contractors who
8 have access to federal tax information in order to
9 comply with requirements of federal law, regulation,
10 or procedure, as provided by section 383-110;
- 11 (47) The department of human services on current or
12 prospective employees or contractors who have access
13 to federal tax information in order to comply with
14 requirements of federal law, regulation, or procedure,
15 and on current or prospective employees, volunteers,
16 contractors, or contractors' employees or volunteers,
17 subcontractors, or subcontractors' employees or
18 volunteers, whose position places or would place them
19 in close proximity to minors, young adults, or
20 vulnerable adults, as provided by section 346-2.5;



1 (48) The child support enforcement agency on current or
2 prospective employees, or contractors who have access
3 to federal tax information in order to comply with
4 federal law, regulation, or procedure, as provided by
5 section 576D-11.5;

6 (49) The department of the attorney general on current or
7 prospective employees or employees or agents of
8 contractors who have access to federal tax information
9 to comply with requirements of federal law,
10 regulation, or procedure, as provided by section
11 28-17;

12 (50) The department of commerce and consumer affairs on
13 each control person, executive officer, director,
14 general partner, and managing member of an installment
15 loan licensee, or an applicant for an installment loan
16 license, as provided in chapter 480J;

17 (51) The University of Hawaii on current and prospective
18 employees and contractors whose duties include
19 ensuring the security of campus facilities and
20 persons; and



1 (52) Any other organization, entity, or the State, its
2 branches, political subdivisions, or agencies as may
3 be authorized by state law."

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

8 SECTION 6. There is appropriated out of the compliance
9 resolution fund established pursuant to section 26-9(o), Hawaii
10 Revised Statutes, the sum of \$ or so much thereof as
11 may be necessary for fiscal year 2024-2025 to implement the
12 appraisal management company registration program.

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

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

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



1 SECTION 9. This Act shall take effect on January 1, 2025;
2 provided that section 6 of this Act shall take effect on July 1,
3 2024.

4

INTRODUCED BY: Carol Fuhman



S.B. NO. 2728

Report Title:

Appraisal Management Companies; Registration; Real Property; Appropriation

Description:

Reestablishes the Appraisal Management Company Registration Program within the Department of Commerce and Consumer Affairs to conform with the minimum standards of the Appraisal Management Companies Final Rule and federal Dodd-Frank Wall Street Reform and Consumer Protection Act. Reestablishes registration requirements, standards, and penalties for violations. Makes an appropriation from the Compliance Resolution Fund.

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

