



Substitute Senate Bill No. 13

Public Act No. 10-77

**AN ACT CONCERNING REAL ESTATE APPRAISAL
MANAGEMENT COMPANIES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 20-500 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

As used in sections 20-500 to 20-528, inclusive, as amended by this act, and sections 2 to 7, inclusive, of this act, unless the context otherwise requires:

(1) "Appraisal" means the practice of developing an opinion of the value of real property, in conformance with the USPAP.

[(1)] (2) "Appraisal Foundation" means the not-for-profit corporation referred to in Section 1121 of Title XI of FIRREA.

(3) "Appraisal management company" means any person, partnership, association, limited liability company or corporation that performs appraisal management services. "Appraisal management company" does not include:

(A) An appraiser that enters into a written or oral agreement with another appraiser for the performance of an appraisal, which is signed

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by both appraisers upon completion;

(B) An appraisal management company that (i) is wholly owned by a financial institution subject to regulation by an agency or department of the United States government or an agency of this state, and (ii) only receives appraisal requests from an employee of such financial institution. For the purposes of this subdivision, "financial institution" means a bank, as defined in section 36a-2, an out-of-state bank, as defined in section 36a-2, an institutional lender, any subsidiary or affiliate of such bank, out-of-state bank or institutional lender, or other lender licensed by the Banking Department;

(C) A department or unit of a financial institution subject to regulation by an agency or department of the United States government or an agency of this state that only receives appraisal requests from an employee of such financial institution; or

(D) Any local, state or federal agency or department thereof.

(4) "Appraisal management services" means any of the following:

(A) The administration of an appraiser panel;

(B) The recruitment of certified or licensed appraisers to be part of an appraiser panel, including, but not limited to, the negotiation of fees to be paid to, and services to be provided by, such appraisers for their participation on such panel; or

(C) The receipt of an appraisal request or order and the delivery of such request or order to an appraiser panel.

(5) "Appraiser panel" means a network of appraisers who are certified or licensed in accordance with the requirements established by the commission by regulation, who are independent contractors of an appraisal management company and who have:

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(A) Responded to an invitation, request or solicitation from an appraisal management company to perform appraisals (i) requested or ordered through such company, or (ii) directly for such company on a periodic basis as assigned by the company; and

(B) Been selected and approved by such company.

[(2)] (6) "Certified appraiser" means a person who has satisfied the minimum requirements for a category of certification established by the commission by regulation. Such minimum requirements shall be consistent with guidelines established by the Appraisal Qualification Board of the Appraisal Foundation. The categories of certification shall include, but may be modified by the commission thereafter, one category denoted as "certified residential appraiser" and another denoted as "certified general appraiser".

[(3)] (7) "Limited appraiser" means a person who held a real estate appraisal license as of January 1, 1991, and has satisfied the minimum requirements for a license as a limited appraiser as established by the commission by regulation. The categories of limited appraisal shall include one category denoted as "limited residential appraiser" and another denoted as "limited general appraiser".

[(4)] (8) "Commission" means the Connecticut Real Estate Appraisal Commission appointed under the provisions of section 20-502.

(9) "Commissioner" means the Commissioner of Consumer Protection.

(10) "Compliance manager" means a person who holds an appraiser license or certificate in at least one state and who is responsible for overseeing the implementation of, and compliance with, procedures for an appraisal management company to:

(A) Verify that a person being added to the appraiser panel of the

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company holds a license in good standing in accordance with section 20-509;

(B) Maintain detailed records of each appraisal request or order the company receives and of the appraiser who performs such appraisal; and

(C) Review on a periodic basis the work of all appraisers performing appraisals for the company to ensure that such appraisals are being conducted in accordance with the USPAP.

(11) "Controlling person" means a person who has not had an appraiser license or certificate denied, refused to be renewed, suspended or revoked in any state and who:

(A) Is an owner, officer or director of a partnership, association, limited liability company or corporation offering or seeking to offer appraisal management services in this state;

(B) Is employed by an appraisal management company and has the authority to enter into contracts or agreements for the performance of appraisal management services or appraisals, or is appointed or authorized by such company to enter into such contracts or agreements; or

(C) May exercise authority over or direct the management or policies of an appraisal management company.

[(5)] (12) "Engaging in the real estate appraisal business" means the act or process of estimating the value of real estate for a fee or other valuable consideration.

[(6)] (13) "FIRREA" means the Financial Institutions, Reform, Recovery and Enforcement Act of 1989, P.L. 101-73, 103 Stat. 183.

[(7)] (14) "Licensed appraiser" means a person who has satisfied the

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minimum requirements for a category of licensing, other than licensed limited appraiser, established by the commission by regulation. Such minimum requirements may be consistent with guidelines established by the Appraisal Qualification Board of the Appraisal Foundation. The categories of licensing shall include, but may be modified by the commission thereafter, one category denoted as "licensed residential appraiser" and another denoted as "licensed general appraiser".

[(8)] (15) "Person" means any individual.

[(9)] (16) "Provisional appraiser" means a person engaged in the business of estimating the value of real estate for a fee or other valuable consideration under the supervision of a licensed or certified real estate appraiser and who meets the minimum requirements, if any, established by the commission by regulation for provisional appraiser status.

[(10)] (17) "Real estate appraiser" or "appraiser" means a person engaged in the business of estimating the value of real estate for a fee or other valuable consideration.

(18) "USPAP" means the Uniform Standards of Professional Appraisal Practice as developed by the Appraisal Foundation.

Sec. 2. (NEW) (*Effective October 1, 2010*) (a) No appraisal management company shall (1) engage or attempt to engage in business as an appraisal management company in this state; (2) perform or attempt to perform appraisal management services in this state; or (3) advertise or hold itself out as engaging in business as an appraisal management company in this state without first registering with the Department of Consumer Protection.

(b) Each appraisal management company shall apply to the Commissioner of Consumer Protection, in writing, on a form provided by the commissioner. The application shall include (1) the company's

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name, business address and telephone number; (2) if such company is domiciled in another state, the name, address and telephone number of the company's agent for service of process in this state, and the Uniform Consent to Service of Process form to be completed by the company; (3) the name, address and telephone number of any person or business entity owning ten per cent or more of an equity interest, or the equivalent, of the company; (4) a certification by the company that no person or business entity named in subdivision (3) of this subsection has had an appraiser license or certificate denied, refused to be renewed, suspended or revoked in any state; (5) the name, address and telephone number of a controlling person of the company who will serve as the main contact for communications between the commissioner and the appraisal management company; (6) the name, address and telephone number of a compliance manager of the company; and (7) any other information the commissioner may require. Each such application shall be accompanied by a fee of one thousand dollars.

(c) Before issuing or renewing a certificate of registration, the commissioner may:

(1) Certify that each appraisal management company applying for a certificate of registration has procedures in place to (A) verify that a person being added to the appraiser panel of the company holds a license in good standing in accordance with section 20-509 of the general statutes, (B) maintain detailed records of each appraisal request or order it receives and of the appraiser who performs such appraisal, and (C) review on a periodic basis the work of all appraisers performing appraisals for the company, to ensure that such appraisals are being conducted in accordance with the USPAP;

(2) Determine to the commissioner's satisfaction that each person owning more than ten per cent of an appraisal management company is of good moral character and such person has submitted to a

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background investigation, as deemed necessary by the commissioner;
and

(3) Determine to the commissioner's satisfaction that the controlling person (A) has never had an appraiser license or certificate denied, refused to be renewed, suspended or revoked in any state, (B) is of good moral character, and (C) has submitted to a background investigation, as deemed necessary by the commissioner.

(d) The commissioner shall issue a registration number to each appraisal management company registered in this state and shall publish annually a list of appraisal management companies that are registered with the Department of Consumer Protection.

(e) All certificates of registration issued under the provisions of this section shall expire biennially. The fee for renewal of a certificate of registration shall be one thousand dollars.

Sec. 3. (NEW) (*Effective October 1, 2010*) (a) Each appraisal management company shall certify annually to the commissioner that it maintains a detailed record of each appraisal request or order it receives and of the appraiser who performs such appraisal.

(b) Each appraisal management company may audit the appraisals completed by appraisers on its appraiser panel to ensure that such appraisals are being performed in accordance with the USPAP.

(c) Each appraisal management company shall disclose to a client prior to providing, or along with, the appraisal report (1) the dollar amount of the total compensation to be paid by such company to the appraiser who performed the appraisal; and (2) the dollar amount of the total compensation to be retained by such company from the appraisal fee paid to such company for such appraisal.

(d) No appraisal management company shall prohibit or attempt to

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prohibit an appraiser from including or referencing in an appraisal report the appraisal fee, the name of the appraisal management company or the client or lender's name or identity.

Sec. 4. (NEW) (*Effective October 1, 2010*) (a) No appraisal management company applying for a certificate of registration shall:

(1) Be more than ten per cent owned by any person who has had an appraiser license or certificate denied, refused to be renewed, suspended or revoked in any state;

(2) Be owned by any partnership, association, limited liability company or corporation that is more than ten per cent owned by any person who has had an appraiser license or certificate denied, refused to be renewed, suspended or revoked in any state;

(3) Employ any person to perform job functions related to the ordering, preparation, performance or review of appraisals who has had an appraiser license or certificate denied, refused to be renewed, suspended or revoked; or

(4) Enter into any contract, agreement or other business arrangement, written or oral, for the procurement of appraisal services in this state, with (A) any person who has had an appraiser license or certificate denied, refused to be renewed, suspended or revoked, or (B) any partnership, association, limited liability company or corporation that employs or has entered into any contract, agreement or other business arrangement, whether oral, written or any other form, with any person who has had an appraiser license or certificate denied, refused to be renewed, suspended or revoked.

(b) Any employee of an appraisal management company or any contractor working on behalf of such company who has any involvement in the performance of appraisals in this state or review and analysis of completed appraisals in this state shall be licensed or

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certified and in good standing pursuant to the provisions of sections 20-500 to 20-528, inclusive, of the general statutes, as amended by this act. This subsection shall not prohibit an individual who is not so licensed or certified from performing job functions that (1) are confined to an examination of an appraisal or an appraisal report for grammatical, typographical or clerical errors, and (2) do not involve the formulation of opinions or comments about (A) the appraiser's data collection, analyses, opinions, conclusions or valuation, or (B) compliance of such appraisal or appraisal report with the USPAP.

(c) Except in cases of breach of contract or substandard performance of services or where the parties have mutually agreed upon an alternate payment schedule in writing, each appraisal management company operating in this state shall make payment to an appraiser for the completion of an appraisal or valuation assignment not later than sixty days after the date on which such appraiser transmits or otherwise provides the completed appraisal or valuation study to the appraisal management company or its assignee.

(d) No employee, owner, controlling person, director, officer or agent of an appraisal management company shall intentionally influence, coerce or encourage or attempt to influence, coerce or encourage, an appraiser to misstate or misrepresent the value of a subject property, by any means, including:

(1) Withholding or threatening to withhold timely payment for an appraisal;

(2) Withholding or threatening to withhold business from, or demoting, terminating or threatening to demote or terminate, an appraiser;

(3) Expressly or impliedly promising future business, promotion or increased compensation to an appraiser;

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(4) Conditioning an appraisal request or payment of a fee, salary or bonus on the opinion, preliminary estimate, conclusion or valuation to be reached by the appraiser;

(5) Requesting that an appraiser provide a predetermined or desired valuation in an appraisal report or estimated values or comparable sales at any time prior to the completion of an appraisal;

(6) Providing to an appraiser an anticipated, estimated, encouraged or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the contract to purchase may be provided;

(7) Providing or offering to provide to an appraiser or to any person or entity related to the appraiser stock or other financial or nonfinancial benefits;

(8) Removing an appraiser from an appraiser panel without prior written notice to such appraiser as set forth in section 5 of this act;

(9) Obtaining, using or paying for a subsequent appraisal or ordering an automated valuation model in connection with a mortgage financing transaction unless (A) there is a reasonable basis to believe that the initial appraisal was flawed or tainted and such basis is clearly noted in such transaction file, or (B) such subsequent appraisal or automated valuation model is performed pursuant to a bona fide prefunding or postfunding appraisal review, loan underwriting or quality control process; or

(10) Using any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity or impartiality.

(e) Nothing in subsection (d) of this section shall be construed to prohibit an appraisal management company from requesting that an appraiser provide additional information about the basis for a

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valuation or correct objective factual errors in an appraisal report.

Sec. 5. (NEW) (*Effective October 1, 2010*) (a) Except within the first thirty days after an appraiser is initially added to an appraiser panel of an appraisal management company, such company shall not remove an appraiser from its appraiser panel or otherwise refuse to assign requests or orders for appraisals without:

(1) Notifying the appraiser in writing of the reasons why the appraiser is being removed;

(2) If the appraiser is being removed for alleged illegal conduct, violation of the USPAP or violation of state licensing standards, notifying the appraiser in writing of the nature of the alleged conduct or violation; and

(3) Providing the appraiser with an opportunity to respond to such notice.

(b) (1) Any appraiser who is removed from an appraiser panel of an appraisal management company for alleged illegal conduct, violation of the USPAP or violation of state licensing standards may file a complaint with the commissioner and request a review of the removal decision, except that the commissioner shall not make any determination regarding the nature of the business relationship between the appraiser and the appraisal management company that is unrelated to the actions specified in subsection (a) of this section.

(2) If an appraiser files a complaint against an appraisal management company pursuant to subdivision (1) of this subsection, the commissioner shall notify such company not later than ten days after such complaint is filed. The commissioner may schedule a hearing and shall render a decision not later than one hundred eighty days after the date such complaint is filed.

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(3) If the commissioner determines to the commissioner's satisfaction that the appraiser did not engage in illegal conduct, violate the USPAP or violate state licensing standards, the commissioner shall order such appraiser to be reinstated to the appraiser panel of the appraisal management company.

(4) The appraisal management company that was the subject of the complaint shall not (A) refuse to assign requests or orders for appraisals or reduce the number of assignments to the reinstated appraiser, or (B) otherwise penalize the reinstated appraiser.

Sec. 6. (NEW) (*Effective October 1, 2010*) (a) Upon the verified complaint, in writing, of any person concerning a violation by an appraisal management company of the provisions of sections 2 to 5, inclusive, of this act, the Department of Consumer Protection may investigate such company. Upon a determination by the commissioner that an appraisal management company has made any materially false, fictitious or fraudulent statement or violated any provision of sections 2 to 5, inclusive, of this act, the commissioner may deny, refuse to renew, suspend or revoke a certificate of registration issued in accordance with section 2 of this act and may impose a civil penalty of not more than twenty-five thousand dollars.

(b) Before denying, refusing to renew, suspending or revoking a certificate of registration or imposing any civil penalty, the commissioner shall give notice and afford an opportunity for hearing in accordance with chapter 54 of the general statutes.

(c) Any person aggrieved by any decision or order of the commissioner under this section may appeal therefrom in accordance with section 4-183 of the general statutes.

Sec. 7. (NEW) (*Effective October 1, 2010*) The Commissioner of Consumer Protection may adopt regulations, in accordance with

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chapter 54 of the general statutes, to carry out the provisions of sections 2 to 5, inclusive, of this act.

Approved May 18, 2010