



Senate

General Assembly

File No. 644

February Session, 2010

Substitute Senate Bill No. 13

Senate, April 27, 2010

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING REAL ESTATE APPRAISAL MANAGEMENT COMPANIES.

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

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 Section 20-500 of the general statutes is repealed and the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

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

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

8 [(1)] (2) "Appraisal Foundation" means the not-for-profit
9 corporation referred to in Section 1121 of Title XI of FIRREA.

10 (3) "Appraisal management company" means any person,
11 partnership, association, limited liability company or corporation that
12 performs appraisal management services. "Appraisal management

13 company" does not include:

14 (A) An appraiser that enters into a written or oral agreement with
15 another appraiser for the performance of an appraisal, which is signed
16 by both appraisers upon completion;

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

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

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

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

32 (A) The administration of an appraiser panel;

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

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

39 (5) "Appraiser panel" means a network of appraisers who are
40 certified or licensed in accordance with the requirements established
41 by the commission by regulation, who are independent contractors of

42 an appraisal management company and who have:

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

47 (B) Been selected and approved by such company.

48 [(2)] (6) "Certified appraiser" means a person who has satisfied the
49 minimum requirements for a category of certification established by
50 the commission by regulation. Such minimum requirements shall be
51 consistent with guidelines established by the Appraisal Qualification
52 Board of the Appraisal Foundation. The categories of certification shall
53 include, but may be modified by the commission thereafter, one
54 category denoted as "certified residential appraiser" and another
55 denoted as "certified general appraiser".

56 [(3)] (7) "Limited appraiser" means a person who held a real estate
57 appraisal license as of January 1, 1991, and has satisfied the minimum
58 requirements for a license as a limited appraiser as established by the
59 commission by regulation. The categories of limited appraisal shall
60 include one category denoted as "limited residential appraiser" and
61 another denoted as "limited general appraiser".

62 [(4)] (8) "Commission" means the Connecticut Real Estate Appraisal
63 Commission appointed under the provisions of section 20-502.

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

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

70 (A) Verify that a person being added to the appraiser panel of the
71 company holds a license in good standing in accordance with section

72 20-509;

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

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

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

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

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

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

92 [(5)] (12) "Engaging in the real estate appraisal business" means the
93 act or process of estimating the value of real estate for a fee or other
94 valuable consideration.

95 [(6)] (13) "FIRREA" means the Financial Institutions, Reform,
96 Recovery and Enforcement Act of 1989, P.L. 101-73, 103 Stat. 183.

97 [(7)] (14) "Licensed appraiser" means a person who has satisfied the
98 minimum requirements for a category of licensing, other than licensed
99 limited appraiser, established by the commission by regulation. Such
100 minimum requirements may be consistent with guidelines established

101 by the Appraisal Qualification Board of the Appraisal Foundation. The
102 categories of licensing shall include, but may be modified by the
103 commission thereafter, one category denoted as "licensed residential
104 appraiser" and another denoted as "licensed general appraiser".

105 [(8)] (15) "Person" means any individual.

106 [(9)] (16) "Provisional appraiser" means a person engaged in the
107 business of estimating the value of real estate for a fee or other
108 valuable consideration under the supervision of a licensed or certified
109 real estate appraiser and who meets the minimum requirements, if
110 any, established by the commission by regulation for provisional
111 appraiser status.

112 [(10)] (17) "Real estate appraiser" or "appraiser" means a person
113 engaged in the business of estimating the value of real estate for a fee
114 or other valuable consideration.

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

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

124 (b) Each appraisal management company shall apply to the
125 Commissioner of Consumer Protection, in writing, on a form provided
126 by the commissioner. The application shall include (1) the company's
127 name, business address and telephone number; (2) if such company is
128 domiciled in another state, the name, address and telephone number of
129 the company's agent for service of process in this state, and the
130 Uniform Consent to Service of Process form to be completed by the
131 company; (3) the name, address and telephone number of any person

132 or business entity owning ten per cent or more of an equity interest, or
133 the equivalent, of the company; (4) a certification by the company that
134 no person or business entity named in subdivision (3) of this
135 subsection has had an appraiser license or certificate denied, refused to
136 be renewed, suspended or revoked in any state; (5) the name, address
137 and telephone number of a controlling person of the company who
138 will serve as the main contact for communications between the
139 commissioner and the appraisal management company; (6) the name,
140 address and telephone number of a compliance manager of the
141 company; and (7) any other information the commissioner may
142 require. Each such application shall be accompanied by a fee of one
143 thousand dollars.

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

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

155 (2) Determine to the commissioner's satisfaction that each person
156 owning more than ten per cent of an appraisal management company
157 is of good moral character and such person has submitted to a
158 background investigation, as deemed necessary by the commissioner;
159 and

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

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

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

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

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

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

185 (d) No appraisal management company shall prohibit or attempt to
186 prohibit an appraiser from including or referencing in an appraisal
187 report the appraisal fee, the name of the appraisal management
188 company or the client or lender's name or identity.

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

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

194 (2) Be owned by any partnership, association, limited liability

195 company or corporation that is more than ten per cent owned by any
196 person who has had an appraiser license or certificate denied, refused
197 to be renewed, suspended or revoked in any state;

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

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

211 (b) Any employee of an appraisal management company or any
212 contractor working on behalf of such company who has any
213 involvement in the performance of appraisals in this state or review
214 and analysis of completed appraisals in this state shall be licensed or
215 certified and in good standing pursuant to the provisions of sections
216 20-500 to 20-528, inclusive, of the general statutes, as amended by this
217 act. This subsection shall not prohibit an individual who is not so
218 licensed or certified from performing job functions that (1) are
219 confined to an examination of an appraisal or an appraisal report for
220 grammatical, typographical or clerical errors, and (2) do not involve
221 the formulation of opinions or comments about (A) the appraiser's
222 data collection, analyses, opinions, conclusions or valuation, or (B)
223 compliance of such appraisal or appraisal report with the USPAP.

224 (c) Except in cases of breach of contract or substandard performance
225 of services or where the parties have mutually agreed upon an
226 alternate payment schedule in writing, each appraisal management
227 company operating in this state shall make payment to an appraiser

228 for the completion of an appraisal or valuation assignment not later
229 than sixty days after the date on which such appraiser transmits or
230 otherwise provides the completed appraisal or valuation study to the
231 appraisal management company or its assignee.

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

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

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

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

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

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

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

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

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

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

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

269 (e) Nothing in subsection (d) of this section shall be construed to
270 prohibit an appraisal management company from requesting that an
271 appraiser provide additional information about the basis for a
272 valuation or correct objective factual errors in an appraisal report.

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

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

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

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

286 (b) (1) Any appraiser who is removed from an appraiser panel

287 of an appraisal management company for alleged illegal conduct,
288 violation of the USPAP or violation of state licensing standards may
289 file a complaint with the commissioner and request a review of the
290 removal decision, except that the commissioner shall not make any
291 determination regarding the nature of the business relationship
292 between the appraiser and the appraisal management company that is
293 unrelated to the actions specified in subsection (a) of this section.

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

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

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

309 Sec. 6. (NEW) (*Effective October 1, 2010*) (a) Upon the verified
310 complaint, in writing, of any person concerning a violation by an
311 appraisal management company of the provisions of sections 2 to 5,
312 inclusive, of this act, the Department of Consumer Protection may
313 investigate such company. Upon a determination by the commissioner
314 that an appraisal management company has made any materially false,
315 fictitious or fraudulent statement or violated any provision of sections
316 2 to 5, inclusive, of this act, the commissioner may deny, refuse to
317 renew, suspend or revoke a certificate of registration issued in
318 accordance with section 2 of this act and may impose a civil penalty of
319 not more than twenty-five thousand dollars.

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

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

327 Sec. 7. (NEW) (*Effective October 1, 2010*) The Commissioner of
 328 Consumer Protection may adopt regulations, in accordance with
 329 chapter 54 of the general statutes, to carry out the provisions of
 330 sections 2 to 5, inclusive, of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	20-500
Sec. 2	<i>October 1, 2010</i>	New section
Sec. 3	<i>October 1, 2010</i>	New section
Sec. 4	<i>October 1, 2010</i>	New section
Sec. 5	<i>October 1, 2010</i>	New section
Sec. 6	<i>October 1, 2010</i>	New section
Sec. 7	<i>October 1, 2010</i>	New section

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$
Consumer Protection, Dept.	GF - Revenue Gain	50,000	50,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill results in an estimated revenue gain of \$50,000 due to the imposition of a \$1,000 initial application fee and subsequent renewals for appraisal management companies with the Department of Consumer Protection (DCP). An additional revenue gain may occur through the imposition of civil penalties on appraisal management companies by DCP.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 13****AN ACT CONCERNING REAL ESTATE APPRAISAL MANAGEMENT COMPANIES.****SUMMARY:**

This bill requires appraisal management companies to register with the Department of Consumer Protection (DCP) before doing business in Connecticut and pay a \$1,000 application fee. It sets out requirements for such companies and authorizes the DCP commissioner to adopt implementing regulations. It also authorizes the commissioner to investigate the companies and impose penalties for violations.

EFFECTIVE DATE: October 1, 2010

§ 1 — APPRAISAL MANAGEMENT COMPANY

The bill defines an “appraisal management company” as any person, partnership, association, limited liability company, or corporation that performs appraisal management services. It excludes:

1. an appraiser who enters into a written or oral agreement with another appraiser to conduct an appraisal, which must be signed by both appraisers upon completion;
2. an appraisal management company that is wholly owned by a state or federally regulated financial institution (e.g., bank) or a department of such a bank that only receives appraisal requests from an employee of the bank; or
3. any local, state, or federal agency or department.

“Appraisal management services” means:

1. administering an appraiser panel;
2. recruiting certified or licensed appraisers to be part of an appraiser panel, including negotiating fees to be paid to, and services to be provided by, such appraisers; or
3. receiving an appraisal request or order and delivering it to an appraiser panel.

An “appraiser panel” is a network of certified or licensed appraisers who are independent contractors of an appraisal management company and who have:

1. responded to an invitation, request, or solicitation from an appraisal management company to perform appraisals (a) requested or ordered through the company or (b) directly for the company on a periodic basis as assigned by the company and
2. been selected and approved by the company.

§§ 2 & 4 — REGISTRATION PROCESS

The bill requires an appraisal management company to register with DCP before doing business in Connecticut, including:

1. engaging or attempting to engage in business,
2. performing or attempting to perform appraisal management services, or
3. advertising or holding itself out as engaging in business.

Under the bill, an appraisal management company applying for a certificate of registration cannot:

1. be more than 10% owned by a 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 10% owned by a 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 order, prepare, perform, or review 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, to procure appraisal services in Connecticut, 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.

The registration application must be in writing on a form the commissioner prescribes, be accompanied by a \$1,000 fee, and include:

1. the company's name, business address, and telephone number;
2. for out-of-state companies, the name, address, and telephone number of the company's agent for service of process in Connecticut and a completed Uniform Consent to Service of Process form;
3. the name, address, and telephone number of (a) any person or business entity owning 10% or more of an equity interest, or the equivalent, of the company, (b) the company's controlling person who will serve as the main contact for communications between the commissioner and the company, and (c) the company's compliance manager;
4. a certification that no 10% owner has had an appraiser license or

certificate denied, refused to be renewed, suspended, or revoked in any state; and

5. any other information the commissioner may require.

Before issuing or renewing a certificate of registration, the bill authorizes the commissioner to:

1. certify that the company has procedures in place to (a) verify that a person being added to the company's appraiser panel holds a license in good standing, (b) maintain detailed records of each appraisal request or order it receives and of the appraiser who performs each appraisal, and (c) review periodically the work of all appraisers to ensure that appraisals are being conducted in accordance with the Appraisal Foundation's Uniform Standards of Professional Appraisal Practice (USPAP);
2. determine to the commissioner's satisfaction that each 10% owner is of good moral character and has submitted to a 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.

Certificates of Registration

The commissioner may issue registration certificates that are valid for two years. The registration can be renewed by paying a \$1,000 fee. The bill requires the commissioner to (1) issue a registration number to each appraisal management company registered in Connecticut and (2) publish annually a list of those registered.

§§ 3 & 4 — COMPANY REQUIREMENTS

Annual Certification

The bill requires each appraisal management company to 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 each appraisal.

Audits

The bill allows each appraisal management company to audit appraisals performed by its appraiser panel to ensure that they are performed in accordance with the USPAP.

Compensation Disclosure

The bill requires each appraisal management company to disclose to a client before providing, or along with, the appraisal report the (1) appraiser's total compensation for performing the appraisal and (2) total amount to be retained by the company.

An appraisal management company cannot prohibit or attempt to 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.

Employees or Contractors

The bill requires any employee of an appraisal management company or any contractor working on behalf of the company who has any involvement performing appraisals in Connecticut or reviewing and analyzing completed appraisals to be licensed or certified and in good standing. This does not prohibit an unlicensed or uncertified person from:

1. examining an appraisal or an appraisal report for grammatical, typographical, or clerical errors and
2. doing work that does not involve formulating opinions or comments about (a) the appraiser's data collection, analyses, opinions, conclusions, or valuation or (b) the appraisal's compliance with the USPAP.

Paying Appraisers

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 Connecticut must pay an appraiser for completing an appraisal or valuation assignment within 60 days after the date the appraiser transmits or otherwise provides the completed appraisal or valuation study to the appraisal management company or its assignee.

No Intentional Influence to Misrepresent a Property's Value

The bill prohibits an appraisal management company's employee, owner, controlling person, director, officer, or agent from intentionally influencing, coercing, or encouraging or attempting to influence, coerce, or encourage, an appraiser to misstate or misrepresent a property's value 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;
4. conditioning an appraisal request or payment of a fee, salary, or bonus on the appraiser's opinion, preliminary estimate, conclusion, or valuation;
5. requesting that an appraiser provide a predetermined or desired valuation in an appraisal report or estimated values or comparable sales at any time before completing an appraisal;
6. providing an appraiser an anticipated, estimated, encouraged, or desired value for a 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 an appraiser or 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 as set forth in the bill;
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 the basis is clearly noted in the transaction file or (b) such subsequent appraisal or automated valuation model is performed pursuant to a bona fide pre- or post-funding 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.

The bill specifies that it does not prohibit an appraisal management company from requesting an appraiser to provide additional information about the basis for a valuation or correct objective factual errors in an appraisal report.

§ 5 — REMOVING APPRAISER FROM APPRAISAL PANEL

The bill prohibits an appraisal management company from removing an appraiser from its appraisal panel, or refusing to assign him or her appraisals, after 30 days from when the appraiser is initially added to the panel without:

1. notifying the appraiser in writing of (a) the reasons for the removal and (b) any alleged illegal conduct, USPAP violation, or violation of state licensing standards and
2. providing the appraiser with an opportunity to respond to such

notice.

Complaint Process

An appraiser removed from an appraiser panel for alleged illegal conduct, USPAP violation, or violation of state licensing standards may file a complaint with the DCP commissioner and request a review of the removal decision.

The commissioner must notify the company within 10 days after any complaint is filed and render a decision within 180 days thereafter. He may hold a hearing before making his decision. If he determines that the appraiser did not engage in illegal conduct, violate the USPAP, or violate state licensing standards, he must order the appraiser to be reinstated.

The company cannot (1) refuse to assign requests or orders for appraisals or reduce the number of assignments to the reinstated appraiser or (2) penalize him or her.

§ 6 — DCP INVESTIGATIONS AND PENALTIES

The bill authorizes the DCP commissioner to investigate an appraisal management company upon the verified written complaint of any person alleging a violation of the bill. If the commissioner determines that a company made any materially false, fictitious, or fraudulent statement or violated the bill, he may, after giving notice and an opportunity for hearing, (1) deny, refuse to renew, suspend, or revoke a certificate of registration and (2) impose a civil penalty of up to \$25,000.

Any hearing held must conform to the Uniform Administrative Procedures Act (UAPA). Aggrieved individuals may appeal to Superior Court.

BACKGROUND

Legislative History

The Senate referred the bill (File 287) to the Judiciary Committee, which reported out a substitute bill. The substitute requires the DCP

commissioner to hold hearings as permitted under § 6 of the bill in accordance with the UAPA and affords aggrieved individuals a right to appeal to Superior Court.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/18/2010)

Judiciary Committee

Joint Favorable Substitute

Yea 39 Nay 0 (04/20/2010)