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For *emergency regulations*, use form REGS-1-E instead.
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State of Connecticut
REGULATION
of the

NAME OF AGENCY:

DEPARTMENT OF CONSUMER PROTECTION

Concerning

SUBJECT MATTER OF REGULATION:

Appraisal Management Companies

(NEW) Section 1. The Regulations of Connecticut State Agencies are hereby amended by adding sections 20-529e-1 through 20-529e-17, inclusive, as follows:

Appraisal Management Companies

Section 20-529e-1. Definitions

For the purposes of sections 20-529e-1 to 20-529e-17, inclusive, of the Regulations of Connecticut State Agencies, the terms defined in section 20-500 of the Connecticut General Statutes shall apply, and the following terms shall have the meanings indicated:

(1) "Appraisal experience" means appraisal related experience obtained by performing fee and staff appraisals, ad valorem tax appraisals, condemnation appraisals, appraisal reviews, appraisal analyses, real estate consulting, highest and best use analyses, feasibility analyses or studies, and by teaching appraisal courses;

(2) "Appraisal practice" means the work or services performed by appraisers, defined by two terms: 1. appraisal, and 2. appraisal review;

(3) "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work;

(4) "Appraisal Standards Board" means the Appraisal Standards Board of The Appraisal Foundation, located in Washington, D.C.;

(5) "Appraisal Subcommittee or (ASC)" means The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC). The ASC oversees the real estate appraisal process as it relates to federally related transactions as defined in Title XI.3. of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989;

(6) "Appraiser" means a real estate appraiser;

(7) "Appraiser Qualifications Board" or "AQB" means the Appraiser Qualifications Board of The Appraisal Foundation, located in Washington, D.C.;

(8) "Department" means the Department of Consumer Protection;

(9) "Federal financial institutions regulatory agency" or "FIRREA" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, or the National Credit Union Administration, any successor agency, or any combination of such agencies;

(10) "Federally related transaction" means any real estate related financial transaction which

(A) a federal financial institutions regulatory agency engages in, contracts for, or regulates;
and

(B) requires the services of an appraiser pursuant to FIRREA;

(11) "National Registry" means a database containing selected information about state certified and licensed appraisers maintained by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (FFIEC) which was created on August 9, 1989, pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI).

Section 20-529e-2. Qualifications for registration.

(a) Registration of appraisal management companies shall be granted only to persons or recognized

legal entities who have, as determined to the commissioner's satisfaction, an appropriate knowledge of real estate appraisal practice, are competent to transact the business of an appraisal management company in such manner as to safeguard the interests of the public, and who bear a good reputation for honesty, truthfulness and fair dealing. Appraisal management companies shall:

- (1) Register with and be subject to supervision by the Department of Consumer Protection;
- (2) Verify that only certified appraisers or properly licensed provisional appraisers are used to complete appraisals on properties located within the state of Connecticut;
- (3) Ensure that all company employees or agents directly involved with the review of appraisals comply with the Uniform Standards of Professional Appraisal Practice (USPAP) as published by The Appraisal Foundation; and chapter 400g of the Connecticut General Statutes;
- (4) Require that appraisals are conducted independently and are free from inappropriate influence or coercion, and that appraisers are not encouraged by any means to misstate or misrepresent the value of a subject property, pursuant to section 20-529b(d) of the Connecticut General Statutes.

(b) An appraisal management company may, after a hearing held pursuant to chapter 54 of the Connecticut General Statutes, be denied registration by the department if ten (10) percent or more of such company is owned directly or indirectly, by any person who has had an appraiser certificate refused, denied, suspended, revoked or surrendered in lieu of revocation in any state or jurisdiction.

(c) The controlling person, compliance manager and each person who owns ten (10) percent or more of an appraisal management company shall be of good moral character, as determined by the department, and shall submit to a criminal background investigation at the request of the department. Each individual shall pay all required fees to perform the requested criminal background investigation, or shall provide a certified copy of the criminal background investigation conducted in the applicant's home state. The criminal background investigation shall have been performed within sixty (60) days of the date the completed application for registration, or amendment thereof, is received by the department.

(d) An appraisal management company shall assure that any appraiser being added to its appraiser panel to appraise properties in Connecticut holds a valid Connecticut license or certification, as applicable, pursuant to chapter 400g of the Connecticut General Statutes. The appraisal management company shall verify the status of the appraiser by contacting the department or utilizing the National Registry of the Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC), which was created on August 9, 1989, pursuant to Title XI of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI).

- (e) If an appraisal management company has a good faith belief that a real estate appraiser in Connecticut has violated applicable law or the Uniform Standards of Professional Appraisal Practice, or has engaged in unethical conduct regarding an appraisal, it shall file a complaint with the department. The complaint shall be filed within a reasonable time frame, not to exceed two (2) years from the date the appraisal is submitted to the client. A copy of the complaint shall be forwarded by the appraisal management company to the real estate appraiser.
- (f) An appraisal management company seeking registration shall demonstrate to the department that each person who approves an appraiser for the company or reviews an appraiser's work for the company is a certified appraiser in good standing.

Section 20-529e-3. Application and renewal procedure.

- (a) Appraisal management companies shall be registered with the Secretary of the State prior to submitting an application for registration with the department.
- (b) An application for registration shall be submitted on a form prescribed by the department using the name or names of the legal entity under which it conducts or will conduct the business of appraisal management in Connecticut and in other states.
- (c) An application for registration as an appraisal management company or any amendment thereto, shall be accompanied by the application fee prescribed in section 20-529(b) of the Connecticut General Statutes. Application fees accompanying complete applications are not refundable. The department may return to the applicant any application which is incomplete or not accompanied by the required fee. Applications shall be valid for one (1) year from the date of receipt by the department. The one-year period shall not be extended.
- (d) Payment of application fees shall be made by certified check, bank check or money order payable to "Treasurer, State of Connecticut," or via an electronic payment method acceptable to the department.
- (e) Any payment found to be dishonored, having insufficient funds, or being fraudulent or having a like quality shall be returned to the sender and the application associated with that payment shall be denied.
- (f) An appraisal management company shall:
- (1) Notify the department of any trade name, doing business as, or assumed business name under which it will operate in Connecticut at the time of registration, or if applicable, immediately upon operating under such trade name, doing business as, or assumed business name;
 - (2) Notify the department when it changes its registered name, trade name, doing business as,

or assumed business name. Such notice shall be in writing and be received by the department not later than fourteen business days after making the change; and

(3) Notify the department of any change of contact information not later than fourteen days after making the change.

(g) The department may not register or renew the registration of an appraisal management company that fails to comply with:

- (1) Any provision of chapter 400g of the Connecticut General Statutes; or
- (2) Any provision of sections 20-529e-1 through 20-529e-17, inclusive, of the Regulations of Connecticut State Agencies.

Section 20-529e-4. Adherence to standards.

Upon applying for a registration with the department and continuing with each renewal thereafter, an appraisal management company shall provide a statement to the department, signed by its designated controlling person, certifying that the appraisal management company verifies that each appraisal assignment is offered to an appraiser who is in good standing per the National Registry. For appraisers acting as independent contractors, the appraisal management company shall:

- (1) Ensure the appraisal report is signed by an appraiser included on the appraisal management company's panel or is an employee appraiser of the company at the time the assignment is offered;
- (2) Review work of all such appraisers periodically for compliance with the Uniform Standards of Professional Appraisal Practice; and
- (3) Maintain a record of each appraisal request. Each such record shall include the:
 - (a) Name of appraiser;
 - (b) Property address;
 - (c) Borrower's name, where applicable;
 - (d) Lender's name; and
 - (e) Date of assignment.

Section 20-529e-5. Recordkeeping.

(a) The statement of recordkeeping required to be filed by an appraisal management company upon registration with the department and annually thereafter pursuant to section 20-529a(a) of the Connecticut General Statutes shall be signed by its designated controlling person and shall contain:

- (1) A description of the appraisal management company's system for maintaining required records, including the name of the record's custodian and all locations where such records are kept;

and

(2) A list of all appraisal assignments given by the appraisal management company that have been accepted during the relevant period, together with the names of the individual appraisers or entities who accepted each assignment and the individual appraiser who signed the corresponding appraisal report.

(b) Records required to be maintained pursuant to section 20-529a(a) of the Connecticut General Statutes may be kept in an electronic format.

Section 20-529e-6. Required disclosure.

(a) An appraisal management company shall, at the time an assignment is offered, disclose to the appraiser:

- (1) The total amount that the appraiser may expect to earn from the assignment, disclosed as a dollar amount;
- (2) The property address, or equivalent information that would allow the appraiser to determine whether the appraiser has been involved with any service regarding the subject property within the three years preceding the date on which the assignment is offered;
- (3) The assignment conditions and scope of work requirements in sufficient detail to allow the appraiser to determine whether the appraiser is competent to complete the assignment; and
- (4) Any known deadlines within which the assignment shall be completed.

(b) An appraisal management company shall, at or before the time the appraiser accepts an assignment, obtain the appraiser's acknowledgment as to the appraisal management company's competency requirements as defined by the Uniform Standards of Professional Appraisal Practice.

(c) An appraisal management company may, before requiring the appraiser to submit a completed report, disclose to the appraiser:

- (1) The total fee that will be collected by the appraisal management company for the assignment; and
- (2) The total amount that the appraisal management company will retain from the fee charged, disclosed as a dollar amount.

(d) The appraisal management company's Connecticut registration number shall be included on all correspondence with appraisers who are certified in Connecticut.

Section 20-529e-7. Unprofessional conduct.

(a) An appraisal management company commits unprofessional conduct when the appraisal management company:

- (1) Intentionally influences or attempts to intentionally influence the development of an appraisal report, review or consulting assignment;
 - (2) Requires an appraiser to modify any aspect of the appraisal report, unless the modification complies with section 20-529b(e) of the Connecticut General Statutes;
 - (3) Requires the appraiser to do anything that conflicts with the Uniform Standards of Professional Appraisal Practice or any assignment conditions or certifications required by the client; or
 - (4) Makes any portion of the appraiser's fee or the appraisal management company's fee contingent on a favorable outcome, including but not limited to, a loan closing or a specific dollar amount being achieved by the appraiser in the appraisal report.
- (b) A person or entity commits unprofessional conduct when said person or entity:
- (1) Presents or attempts to present, as such person's own, another person's or entity's certificate of registration; or
 - (2) Knowingly gives false evidence of a material nature to the commissioner for the purpose of procuring a certificate of registration.

Section 20-529e-8. Controlling person.

- (a) After a hearing held pursuant to chapter 54 of the Connecticut General Statutes, the Commissioner may prohibit an individual from acting as a controlling person, as defined by section 20-500 of the Connecticut General Statutes, of an appraisal management company if such person has entered a plea of guilty or no contest to, or been convicted of, a felony or has had an appraisal license or certification refused, denied, suspended, revoked or surrendered in lieu of revocation in Connecticut or any other state.
- (b) A controlling person of an appraisal management company that holds a valid Connecticut registration and who has entered a plea of guilty or no contest to, or been convicted of, a felony, or who has had a real estate appraisal license or certification, or a real estate broker or salesperson license refused, denied, suspended, revoked or surrendered in lieu of revocation in Connecticut or any other state shall report such occurrence to the department not later than fourteen days after receiving notification of such occurrence.
- (c) Any controlling person who is licensed or certified as a real estate appraiser in a jurisdiction other than Connecticut shall have a license or certification in good standing in such other jurisdiction and shall provide the department with a certificate of license or certification history.
- (d) An appraisal management company shall notify the department not later than fourteen business days after any change to or addition of a controlling person of such company.

Section 20-529e-9. Compliance manager.

- (a) The compliance manager shall be a certified real estate appraiser pursuant to sections 20-500 through 20-528, inclusive, of the Connecticut General Statutes or pursuant to the applicable laws of another state.
- (b) Each appraisal management company shall, in its initial registration application and not later than fourteen days after any applicable change, provide the department with its compliance manager's name, mailing and physical addresses, phone and email contact information, which shall be signed by the compliance manager.
- (c) The compliance manager shall be responsible for:
 - (1) The retention and maintenance of records relating to appraisals conducted by or on behalf of the appraisal management company;
 - (2) The maintenance of a record of all appraisers in Connecticut who perform appraisals for the appraisal management company, including a log of payments to such appraisers.
- (d) If an appraisal management company intends to change its compliance manager, it shall submit an application for approval of the new compliance manager not later than fourteen days prior to the effective date of the change.
- (e) All records required to be maintained pursuant to sections 20-529e-1 through 20-529e-17, inclusive, of the Regulations of Connecticut State Agencies may be stored and submitted to the department in an electronic form approved by the department.

Section 20-529e-10. Renewals.

- (a) Each application for the renewal of a registration as an appraisal management company shall be made on such forms and in such manner as is prescribed by the department, accompanied by such supporting information as is required by the department.
- (b) All registrations expire on the thirty-first day of December, biennially, in even-numbered years.

Section 20-529e-11. Audits.

The department may review and audit the records of applicants, certificate holders, licensees, registered appraisal management companies and persons or entities acting in a capacity that requires registration pursuant to sections 20-529 to 20-529b, inclusive, of the Connecticut General Statutes, to determine compliance with the requirements of sections 20-529e-1 through 20-529e-17, inclusive, of the Regulations of Connecticut State Agencies, and applicable state and federal law. Applicants, certificate holders, licensees and registered appraisal management companies shall cooperate with the

department in the conduct of such audits and provide access during normal business hours to records and any information the department deems reasonably necessary for the completion of such a review and audit.

Section 20-529e-12. Appraisal management company prohibitions and requirements. Payment to appraisers.

(a) Appraisal management companies shall adhere to the following business practices when performing appraisal management services related to properties located within the state of Connecticut:

- (1) Appraisal management companies shall delegate appraisal assignments for completion only to appraisers who possess the certifications required by the department.
- (2) Appraisal management companies shall adopt reasonable procedures designed to ensure that all appraisal assignments completed by its independent contractors or employee appraisers are performed in accordance with USPAP.

(b) Appraisal management companies shall maintain records of each of the following for each appraisal request:

- (1) Date of the receipt of the request for the appraisal;
- (2) The name of the person from whom the request was received, if not an employee of the client;
- (3) The name of the client for whom the request was made;
- (4) The name of the appraiser or appraisers assigned to perform the contracted service; and
- (5) The date of delivery of the appraisal product to the client.

(c) Appraisal management companies shall maintain records of all appraisal fees dispersed to contracted appraisers and the final fee charged to the lender or client.

(d) An appraisal management company shall not prohibit a contracted appraiser or client from disclosing the fee paid to the appraiser or client for an appraisal assignment in the body of the appraisal report.

(e) Nothing in section 20-529e-7 of the Regulations of Connecticut State Agencies shall be construed to prohibit an appraisal management company or the client in a real estate transaction from requesting that an appraiser:

- (1) Consider additional appropriate property information including relevant sales comparables not considered in the initial appraisal report;
 - (2) Provide further detail, substantiation or explanation of the appraiser's conclusion of value;
- or

(3) Correct errors in the appraisal report.

(f) The appraisal management company shall not base the payment of an appraisal fee on a mortgage-related event occurring subsequent to completion of the appraisal.

(g) The appraiser shall not be required to provide the appraisal management company with the appraiser's digital signature.

(h) The appraisal management company shall not alter, amend, or change an appraisal report submitted by a certified appraiser by removing the appraiser's signature or seal or by adding information to or removing information from the appraisal report.

(i) Unless by contractual agreement, the appraisal management company shall not remove an independent appraiser from its panel of approved appraisers without prior written notice that includes evidence the appraiser has violated the Uniform Standards of Professional Appraisal Practice, Connecticut General Statutes, or other applicable appraisal regulations or evidence which demonstrates substandard performance, improper or unprofessional behavior, or other substantive deficiencies.

(j) The appraiser shall have thirty days to respond to such notice. Such notice shall be sent to the appraiser by registered mail, return receipt requested, to the appraiser's business address contained in the records of the appraisal commission.

(k) The commissioner shall make the final determination as to any alleged violations. There shall be no adverse action taken against an appraiser who had been accused of a violation of an applicable section of sections 20-529e-1 through 20-529e-17, inclusive, of the Regulations of Connecticut State Agencies or chapter 400g of the Connecticut General Statutes upon a finding of no cause by the commissioner. Such prohibited adverse action includes, but is not limited to, a reduction in assignments, a reduction in order of appraisals, or otherwise penalizing the appraiser.

Section 20-529e-13. Fees.

In order to obtain a registration, an entity or person who has met, to the satisfaction of the department, the minimum requirements established by the department for such registration, shall pay to the department the application fees as specified in section 20-529 of the Connecticut General Statutes.

Section 20-529e-14. Investigations; Penalty; Appeal.

(a) A person or entity registered pursuant to chapter 400g of the Connecticut General Statutes shall cooperate with the department staff if such registration holder is contacted in connection with an investigation performed by the department concerning possible violations of chapter 400g of the

Connecticut General Statutes or sections 20-529e-1 through 20-529e-17, inclusive, of the Regulations of Connecticut regulations. Such registrant shall not make any untruthful or misleading statements in connection with any department investigation or hearing.

(b) Any person may request the department to initiate disciplinary action against an applicant, a certified appraiser, registrant or person or entity acting in a capacity requiring a registration pursuant to chapter 400g of the Connecticut General Statutes as follows:

(1) The request shall be in writing or submitted in a form prescribed by the commissioner, shall identify the applicant, certified appraiser, or registrant, and shall set forth the nature of the complaint. Such request may, but need not, specify the statutes or regulations alleged to have been violated;

(2) The complainant shall be notified that a confidential investigation has been commenced not later than fourteen working days after receipt of the verified complaint; and the complainant shall be notified of final action taken on the complaint.

(c) If the complaint is not within the jurisdiction of the department, or the department is unable to make a satisfactory disposition of the complaint, the department, if appropriate, shall transmit the complaint, together with any appropriate evidence or information in its possession concerning the complaint to the agency, public or private, whose authority in the opinion of the department will provide the most effective means to secure the relief sought. The department shall notify the complainant of such action and of any other appropriate means which may be available to the complainant to secure relief.

(d) An investigation may be initiated by the department upon information and belief.

(e) Before issuing any private or public reprimand or denying, suspending, or revoking any certificate of registration issued or issuable pursuant to sections 20-529e-1 through 20-529e-17, inclusive, of the Regulations of Connecticut State Agencies, the department shall proceed as prescribed by chapter 54 of the Connecticut General Statutes and the department shall have all the powers granted therein.

(f) Any person issued a complaint may contest the complaint by filing a written notice that states with specificity the basis of the appeal with the department not later than 30 calendar days after receiving the complaint. Upon receipt of such notice, the department shall proceed as prescribed by chapter 54 the Connecticut General Statutes.

Section 20-529e-15. Penalty, Civil Penalty

(a) Upon the verified complaint, in writing, of any person concerning a violation by an appraisal management company of the provisions of sections 20-529 to 20-529c, inclusive, of the Connecticut General Statutes, or sections 20-529e-1 through 20-529e-17, inclusive, of the Regulations of

Connecticut Agencies the department may investigate such company.

(b) Upon a determination by the department that an appraisal management company has made any materially false, fictitious or fraudulent statement or violated any provision of sections 20-529 through 20-529c, inclusive, of the Connecticut General Statutes, or sections 20-529e-1 through 20-529e-17, inclusive, of the Regulations of Connecticut State Agencies the department may refuse to renew, suspend or revoke a certificate of registration issued in accordance with chapter 400g of the Connecticut General Statutes and may impose a civil penalty of not more than twenty-five thousand dollars (\$25,000.00).

(c) Before denying, refusing to renew, suspending or revoking a certificate of registration, or imposing any civil penalty, the department shall give notice and afford an opportunity for a hearing in accordance with chapter 54 of the Connecticut General Statutes and any applicable regulations.

Section 20-529e-16. Background investigation

(a) The department shall have the authority to conduct investigations and examinations for:

(1) The purposes of initial registration, registration renewal, registration suspension, registration conditioning, registration revocation or termination, or general or specific inquiry or investigation to determine compliance with sections 20-529e-1 to 20-529-17, inclusive of the Regulations of Connecticut State Agencies. The department shall have the authority to access, receive and use any books, accounts, records, files, documents, information or evidence including, but not limited to: (A) criminal, civil and administrative history information, including non-conviction data as specified in applicable provisions of the Connecticut General Statutes; and (B) any other documents, information or evidence the department deems relevant to the inquiry or investigation regardless of the location, possession, control or custody of such documents, information or evidence; and

(2) The purposes of investigating violations or complaints arising pursuant to sections 20-529e-1 through 20-529e-17, inclusive, of the Regulations of Connecticut State Agencies, or for the purposes of examination, the department may review, investigate, or examine any licensee, individual or person subject to sections 20-529e-1 to 20-529-17, inclusive, of the Connecticut Regulations of Connecticut State Agencies, in order to carry out the purposes of said regulations.

(b) The department may conduct a background check as part of the initial application for registration as an appraisal management company or the renewal thereof. The department shall review any information regarding a criminal conviction in accordance with the criteria set forth in Connecticut General Statute Section 46a-80.

(c) If an applicant, registrant, controlling person, compliance manager, owner or managing principal's criminal history background investigation reveals one or more convictions, the conviction shall not automatically bar registration, provided the conviction is not related to the transfer of real property. The department shall consider the provisions as set forth in section 46a-80(c) of the Connecticut General Statutes, as well as all of the following factors regarding the conviction:

- (1) The level of seriousness of the crime;
- (2) The age of the person at the time of the conviction;
- (3) The factual circumstances surrounding the commission of the crime, if known; and
- (4) The person's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.

Section 20-529e-17. Department record keeping; Reports.

(a) The department shall keep a record of proceedings and orders pertaining to the matters under its jurisdiction regarding appraisal management companies and of related certifications granted, refused, denied, suspended, revoked or surrendered in lieu of revocation by it and of all reports sent to its office. The department may furnish, for official use only, certified copies of certifications, provisional licenses and documents relating thereto, to officials of this state or any municipality in this state, to officials of any other state and to any court in this state.

(b) Pursuant to Title XI of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) the department shall transmit reports on a timely basis to the National Appraisal Subcommittee (ASC), any and all supervisory activities involving appraisal management companies or other third-party providers of appraisals and appraisal management services, including any disciplinary actions taken, to the ASC's National Registry.

Statement of Purpose

Pursuant to CGS Section 4-170(b)(3), "Each proposed regulation shall have a statement of its purpose following the final section of the regulation." Enter the statement here.

(A) **Purpose:** To set guidelines for the certification of appraisal management companies operating in Connecticut, as well as for the supervision of their operations and activities. To maintain a registry of appraisal management companies who are registered with, and subject to the supervision of the department, or who are operating subsidiaries of a federally regulated financial institution, as determined by federal law including FIRREA. The department shall monitor compliance with appropriate federal law, including USPAP. The department and the ASC shall have the authority to impose sanctions pending state agency action.

(B) **Summary:** These regulations would create new "certifications" that would be issued to businesses that manage and aggregate assignments for Connecticut-based real estate appraisers. These changes are being made pursuant to the direction of the Appraisal Subcommittee, an instrumentality of the federal government whose statutory authority is based upon FIRREA.

(C) **Legal Effects:** This proposed new set of regulations implement Public Act 2010-77, which allows the department to issue new "certifications" covering the business of real estate appraisal management companies.