

ASSEMBLY, No. 3827

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 22, 2011

Sponsored by:

Assemblyman VINCENT PRIETO

District 32 (Bergen and Hudson)

Assemblyman PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

SYNOPSIS

“Appraisal Management Company Registration Act.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the regulation of appraisal management
2 companies, and amending and supplementing P.L.1991, c.68.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. (New section) Sections 1 through 19 and section 21 of this
8 act shall be known and may be cited as the “Appraisal Management
9 Company Registration Act.”

10

11 2. (New section) As used in this act:

12 “Appraisal or real estate appraisal” means the same as that term
13 is defined pursuant to section 2 of P.L.1991, c.68 (C.45:14F-2).

14 “Appraisal management company” means, in connection with
15 valuing properties collateralizing mortgage loans or mortgages
16 incorporated into a securitization, any external third party that
17 oversees a network or panel of more than 15 certified or licensed
18 appraisers in New Jersey or 25 or more nationally within a given
19 year, that is authorized either by a creditor of a consumer credit
20 transaction secured by a consumer’s principal dwelling or by an
21 underwriter of or other principal in the secondary mortgage markets
22 to:

23 (1) Recruit, select, and retain appraisers;

24 (2) Contract with licensed and certified appraisers to perform
25 appraisal assignments;

26 (3) Manage the process of having an appraisal performed,
27 including providing administrative duties such as receiving
28 appraisal orders and appraisal reports, submitting completed
29 appraisal reports to creditors and underwriters, collecting fees from
30 creditors and underwriters for services provided, and reimbursing
31 appraisers for services performed; or

32 (4) Review and verify the work of appraisers.

33 “Appraisal review” means the act or process of developing and
34 communicating an opinion about the quality of another appraiser’s
35 work that was performed as part of an appraisal assignment, except
36 that a Quality Control Examination of an appraisal shall not be an
37 appraisal review.

38 “Appraiser” means a State certified real estate appraiser, State
39 certified general or residential real estate appraiser, or State
40 licensed real estate appraiser.

41 “Appraiser panel” means a group of licensed or certified
42 appraisers who are independent contractors that have been selected
43 to perform appraisals for a third party.

44 “Board” means the State Real Estate Appraiser Board established
45 pursuant to section 3 of P.L.1991, c.68 (C.45:14F-3).

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 “Controlling person” means:

2 (1) An officer, director, or owner of greater than a 10 percent
3 interest, of a corporation, partnership or other business entity,
4 seeking to act as an appraisal management company in this State;

5 (2) An individual employed, appointed, or authorized by an
6 appraisal management company who has the authority to enter into
7 a contractual relationship with other persons for the performance of
8 services requiring registration as an appraisal management company
9 and has the authority to enter into agreements with appraisers for
10 the performance of appraisals; or

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

14 “Federal financial institution regulatory agencies” means the
15 Board of Governors of the Federal Reserve System, the Federal
16 Deposit Insurance Corporation, the Office of the Comptroller of the
17 Currency, the Office of Thrift Supervision, or the National Credit
18 Union Administration.

19 “Federally related transaction” means the same as that term is
20 defined pursuant to section 2 of P.L.1991, c.68 (C.45:14F-2).

21 “Quality Control Examination” means an examination of an
22 appraisal report for compliance and completeness including
23 grammatical, typographical, or other similar errors.

24 “Uniform Standards of Professional Appraisal Practice”
25 (USPAP) means the current standards of the appraisal profession,
26 developed for appraisers and users of appraisal services by the
27 Appraisal Standards Board of the Appraisal Foundation.

28

29 3. (New section) a. No person shall, directly or indirectly,
30 engage or attempt to engage in business as an appraisal
31 management company, or advertise or hold itself out as engaging in
32 or conducting business as an appraisal management company
33 without first obtaining a registration issued by the board under the
34 provisions of this act.

35 b. The registration required by subsection a. of this section
36 shall include the following written information on a form prescribed
37 by the board:

38 (1) The name of the entity or individual seeking registration,
39 and the fictitious name or names, if any, under which it does
40 business in any state;

41 (2) The business address of the entity or individual seeking
42 registration;

43 (3) The telephone number of the entity or individual seeking
44 registration;

45 (4) The name and contact information for the individual’s or
46 entity’s agent for service of process in this State, if the entity or
47 individual is not a corporation that is domiciled in this State;

1 (5) The name, address, and contact information for any
2 individual or any corporation, partnership, or other business entity
3 that owns 10 percent, or more, of the appraisal management
4 company;

5 (6) The name, address, and telephone number for one
6 controlling person designated as the main contact for all
7 communication between the appraisal management company and
8 the board;

9 (7) A certification that the entity or individual has a system and
10 process in place to verify that a person being added to the appraiser
11 panel of the appraisal management company holds a license or
12 certification in good standing in this State pursuant to the "Real
13 Estate Appraisers Act," P.L.1991, c.68 (C.45:14F-1 et seq.);

14 (8) A certification that the entity or individual requires
15 appraisers completing appraisals at its request to comply with the
16 Uniform Standards of Professional Appraisal Practice (USPAP)
17 promulgated by the Appraisal Standards Board of the Appraisal
18 Foundation, including the requirements for geographic and product
19 competence;

20 (9) A certification that the entity or individual has a system in
21 place to verify that only licensed or certified appraisers are used for
22 federally related transactions;

23 (10) A certification that the entity or individual has a system in
24 place to require that appraisals are conducted independently and
25 free from inappropriate influence and coercion as required by the
26 appraisal independence standards established under section 1639e
27 of the federal Truth in Lending Act (15 U.S.C. s.1639e), including
28 the requirements for payment of customary and reasonable
29 compensation to fee appraisers when the appraisal management
30 company is providing services for a consumer credit transaction
31 secured by the principal dwelling of a consumer;

32 (11) A certification by the board that the entity maintains a
33 detailed record of each service request that it receives and the name
34 of the appraiser that performs the residential real estate appraisal
35 services for the appraisal management company;

36 (12) Whenever applicable, an irrevocable Uniform Consent to
37 Service of Process pursuant to section 5 of this act; and

38 (13) Any other information as required by the board that is
39 reasonably necessary to implement this act.

40 c. An application for the renewal of a registration shall include
41 information substantially similar to that required under subsection
42 b. of this section for an initial registration, as determined by the
43 board.

44

45 4. (New section) The provisions of this act shall not apply to
46 an appraisal management company that is a subsidiary owned and
47 controlled by a financial institution regulated by a federal financial
48 institutions regulatory agency.

1 5. (New section) An entity or individual applying for a
2 registration as an appraisal management company that is not
3 domiciled in this State shall complete an irrevocable Uniform
4 Consent to Service of Process, as prescribed by the board.

5
6 6. (New section) a. The board shall establish by regulation a
7 processing fee to be paid by each appraisal management company
8 seeking registration under this act that is sufficient for the
9 administration of the registration process, but in no case shall the
10 fee be more than \$500.

11 b. A processing fee, similar to that provided for in subsection a.
12 of this section not to exceed \$500, may be charged by the board in
13 connection with the renewal of a registration.

14 c. A registration granted by the board pursuant to this act shall
15 be effective for a one-year period and may be renewed annually.

16
17 7. (New section) a. An appraisal management company
18 applying to the board for registration in this State shall not:

19 (1) In whole or in part, directly or indirectly, be owned by any
20 person who has had an appraiser license or certificate in this State
21 or in any other state, refused, denied, cancelled, surrendered in lieu
22 of revocation, or revoked;

23 (2) Be more than 10 percent owned by a person who is not of
24 good moral character, which for purposes of this section shall
25 require that such person has not been convicted of, or entered a plea
26 of nolo contendere to, a crime relating to the practice of appraisal or
27 any crime involving fraud, misrepresentation or moral turpitude.

28 b. For purposes of paragraph (2) of subsection a. of this
29 section, each owner of more than 10 percent of an appraisal
30 management company shall submit to a background investigation to
31 be carried out by the board, in accordance with standards as
32 established by the board by regulation.

33
34 8. (New section) An appraisal management company applying
35 to the board for registration in this State shall designate one
36 controlling person that will be the designated contact for all
37 communication between the board and the appraisal management
38 company.

39
40 9. (New section) An appraisal management company that
41 applies to the board for registration in this State shall not:

42 a. Knowingly employ any individual to perform appraisal
43 services, who has had a license or certificate to act as an appraiser
44 in this State or in any other state, refused, denied, cancelled,
45 surrendered in lieu of revocation, or revoked; or

46 b. Knowingly enter into any independent contractor
47 arrangement, whether in verbal, written, or other form, with any
48 individual, to perform appraisal services, who has had a license or

1 certificate to act as an appraiser in this State or in any other state,
2 refused, denied, cancelled, surrendered in lieu of revocation, or
3 revoked.

4

5 10. (New section) Prior to assigning appraisal orders, an
6 appraisal management company shall have a system in place to
7 verify that a person being added to the appraiser panel holds the
8 appropriate appraiser credential in good standing.

9

10 11. (New section) An employee of, or independent contractor
11 to, an appraisal management company that performs a Uniform
12 Standards of Professional Appraisal Practice Standard 3 review of
13 an appraisal report on property located in this State shall be an
14 appraiser with the proper level of licensure, as prescribed pursuant
15 to P.L.1991, c.68 (C.45:14F-1 et seq.). The provisions of this
16 section shall not apply to any individual conducting a Quality
17 Control Examination.

18

19 12. (New section) An appraisal management company seeking
20 to be registered in this State shall certify to the board, biannually,
21 on a form prescribed by the board, that the appraisal management
22 company has a system in place to verify that an individual on the
23 appraiser panel has not had a license or certification as an appraiser
24 refused, denied, cancelled, revoked, or surrendered in lieu of a
25 pending revocation.

26

27 13. (New section) An appraisal management company seeking
28 to be registered in this State shall certify to the board, biannually,
29 that it:

30 a. Requires appraisers completing appraisals at its request to
31 comply with the Uniform Standards of Professional Appraisal
32 Practice, including the requirements for geographic and product
33 competence;

34 b. Has a system in place to verify that only licensed or certified
35 appraisers are used for federally related transactions; and

36 c. Has a system in place to require that appraisals are
37 conducted independently and free from inappropriate influence and
38 coercion as required by the appraisal independence standards
39 established under section 1639e of the federal Truth in Lending Act
40 (15 U.S.C. s.1639e), including the requirements for payment of
41 customary and reasonable compensation to fee appraisers when the
42 appraisal management company is providing services for a
43 consumer credit transaction secured by the principal dwelling of a
44 consumer.

45

46 14. (New section) An appraisal management company seeking
47 to be registered in this State shall certify to the board, biannually,
48 that it maintains a detailed record of each service request that it

1 receives and the name of the appraiser that performs the appraisal
2 for the appraisal management company. Records shall be retained
3 for a period of at least five years after an appraisal is completed or
4 two years after final disposition of a judicial proceeding related to
5 the assignment, whichever period expires later.

6
7 15. (New section) An appraisal management company shall not
8 alter, modify, or otherwise change a completed appraisal report
9 submitted by an appraiser without the appraiser's written consent,
10 except as necessary to comply with statutory and regulatory
11 requirements.

12
13 16. (New section) a. The board shall issue a unique registration
14 number to each appraisal management company that is registered in
15 this State.

16 b. The board shall maintain a published list of the appraisal
17 management companies that have registered with the board
18 pursuant to this act and have been issued a registration number
19 pursuant to subsection a. of this section.

20 c. An appraisal management company registered in this State
21 shall disclose the registration number provided to it by the board on
22 any engagement documents presented to the appraiser.

23
24 17. (New section) a. Except within the first 90 days after an
25 appraiser is first added to the appraiser panel of an appraisal
26 management company, an appraisal management company shall not
27 remove an appraiser from its appraiser panel, or otherwise refuse to
28 assign requests for real estate appraisal services to an appraiser
29 without:

30 (1) Notifying the appraiser in writing of the reasons why the
31 appraiser is being removed from the appraiser panel of the appraisal
32 management company;

33 (2) Notifying the appraiser of the nature of any alleged conduct
34 or violation, if the appraiser is being removed from the panel for
35 illegal conduct, violation of the Uniform Standards of Professional
36 Appraisal Practice, or a violation of State licensing standards; and

37 (3) Providing an opportunity for the appraiser to respond to the
38 notification of the appraisal management company.

39 b. An appraiser that is removed from the appraiser panel of an
40 appraisal management company for alleged illegal conduct,
41 violation of the Uniform Standards of Professional Appraisal
42 Practice or violation of State licensing standards may file a
43 complaint with the board for review of the decision of the appraisal
44 management company. The scope of the board's review in any
45 such case shall be limited to determining whether the appraisal
46 management company has complied with the provisions of
47 subsection a. of this section and whether illegal conduct, a violation

1 of the Uniform Standards of Professional Appraisal Practice, or a
2 violation of State licensing standards has occurred.

3 c. If an appraiser files a complaint against an appraisal
4 management company pursuant to subsection b. of this section, the
5 board shall adjudicate the complaint within 180 days of receiving
6 the complaint.

7 d. If after opportunity for hearing and review, the board
8 determines that an appraisal management company acted
9 improperly in removing the appraiser from the appraiser panel, or
10 that the appraiser did not commit a violation of law, a violation of
11 the Uniform Standards of Professional Appraisal Practice, or a
12 violation of State licensing standards, the board shall:

13 (1) Provide written findings to the involved parties;

14 (2) Provide an opportunity for the appraisal management
15 company and appraiser to respond to the findings; and

16 (3) Make recommendations for action.

17

18 18. (New section) a. The board may suspend or revoke any
19 registration issued under this act, levy fines, or impose civil
20 penalties not to exceed \$5,000 for each violation if, after
21 appropriate investigation, the board concludes that an appraisal
22 management company is attempting to perform, has performed, or
23 has attempted to perform any of the following:

24 (1) Any action in violation of this act or regulations adopted
25 hereunder; or

26 (2) Procuring a registration for itself or any other person by
27 fraud, misrepresentation, or deceit.

28 b. When deciding whether to impose a sanction, determining
29 the sanction that is most appropriate in a specific instance, or
30 making any other discretionary decision regarding the enforcement
31 of this act, the board shall consider whether an appraisal
32 management company:

33 (1) Has an effective program reasonably designed to ensure
34 compliance with this act;

35 (2) Has taken prompt and appropriate steps to correct and
36 prevent the recurrence of any detected violations; and

37 (3) Has independently reported to the board any significant
38 violations or potential violations of this act, prior to an imminent
39 threat of disclosure or investigation and within a reasonably prompt
40 time after becoming aware of their occurrence.

41

42 19. (New section) Whenever the board finds cause to refuse to
43 renew, suspend or revoke any registration, or to levy a fine or
44 impose a civil penalty, the board shall notify the registrant of the
45 reasons therefor, in writing, and provide opportunity for a hearing
46 in accordance with the "Administrative Procedure Act," P.L.1968,
47 c.410 (C.52:14B-1 et seq.).

1 20. Section 3 of P.L.1991, c.68 (C.45:14F-3) is amended to read
2 as follows:

3 3. There is created within the Division of Consumer Affairs in
4 the Department of Law and Public Safety a State Real Estate
5 Appraiser Board. The board shall consist of ~~【nine】~~ 10 members
6 who are residents of the State, two of whom shall be public
7 members and one of whom shall be a State executive department
8 member appointed pursuant to the provisions of section 2 of
9 P.L.1971, c.60 (C.45:1-2.2). Of the remaining ~~【six】~~ seven
10 members, three shall be, except for those first appointed, State
11 licensed real estate appraisers ~~【and】~~, three shall be, except for those
12 first appointed, State certified real estate appraisers, and one shall
13 be a representative of the appraisal management company industry.
14 The initial real estate appraiser members of the board may hold a
15 real estate appraisal designation from an organization recognized by
16 the Appraisal Foundation, but these appointments shall not be
17 granted or denied on the basis of organizational membership alone.

18 The Governor shall appoint the public members ~~【and】~~, the real
19 estate appraiser members, and the representative of the appraisal
20 management company industry to the board with the advice and
21 consent of the Senate. The Governor shall appoint each member for
22 a term of three years, except that with regard to the real estate
23 appraiser members first appointed, two shall serve for terms of
24 three years, two shall serve for terms of two years, and two shall
25 serve for terms of one year. Each member shall serve until his
26 successor has been qualified. Any vacancy in the membership of
27 the board shall be filled for the unexpired term in the manner
28 provided by the original appointment. No member of the board
29 shall serve more than two successive terms in addition to any
30 unexpired term to which he has been appointed. The Governor may
31 remove a member of the board for cause.

32 (cf: P.L.1991, c.68, s.3)

33

34 21. (New section) The State Real Estate Appraiser Board shall
35 adopt rules and regulations pursuant to the “Administrative
36 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to
37 effectuate the provisions of this act.

38

39 22. This act shall take effect 120 days after the adoption by the
40 State Real Estate Appraiser Board of regulations to effectuate the
41 purposes of this act.

42

43

44

STATEMENT

45

46 This bill establishes registration requirements for real estate
47 appraisal management companies that employ licensed and certified
48 real estate appraisers to provide appraisal services in New Jersey.

1 An appraisal management company (“AMC”) is a business entity
2 that administers a network of certified and licensed appraisers to
3 fulfill real estate appraisal assignments on behalf of mortgage
4 lending institutions, as well as other entities. AMCs recruit,
5 qualify, verify licensing, and negotiate fees and service level
6 expectations with a network of third-party appraisers. AMCs also
7 provide administrative duties such as tracking and providing clients
8 with the status of their appraisal requests and preparing preliminary
9 and hard copy reports for delivery to clients.

10 Currently, State law only prescribes licensing and certification
11 requirements for individual appraisers, which are enforced by the
12 State Real Estate Appraiser Board. Real estate appraisal
13 management companies are unregulated and are not currently
14 required to register with any State agency or department in order to
15 provide services in New Jersey.

16 The bill prohibits any individual or business entity from
17 engaging or providing real estate appraisal management services, or
18 advertising or holding himself or the business entity out as engaging
19 in or conducting business as an AMC without being registered with
20 the State Real Estate Appraiser Board, which is within the Division
21 of Consumer Affairs in the Department of Law and Public Safety.

22 Specifically, the bill: (1) requires AMCs to register with the
23 board prior to providing appraisal services and to renew such
24 registration on an annual basis; (2) prohibits AMCs from hiring or
25 entering into contracts with third-parties who contract with
26 individuals who are not licensed or certified as real estate appraisers
27 in this State for federally related transactions; (3) requires AMCs to
28 submit biannual certifications to the board confirming that all of its
29 employees are licensed or certified appraisers, that appraisals are
30 conducted independently and free from inappropriate influence and
31 coercion, and that detailed records of service requests are retained;
32 and (5) establishes grounds for which the board may refuse to
33 renew, suspend or revoke any registration issued, or levy fines or
34 impose civil penalties.

35 In addition, the bill amends section 3 of P.L.1991, c.68
36 (C.45:14F-3) to increase the membership of the State Real Estate
37 Appraiser Board from nine to ten members by adding a
38 representative of the appraisal management company industry to the
39 board. Currently, the board consists of three licensed real estate
40 appraisers, three certified real estate appraisers, two public
41 members and one State executive department member.