

2015 Iowa House File No. 2436, Iowa Eighty-Sixth General Assembly - 2015 Session

IOWA BILL TEXT

TITLE: A bill for an act relating to real estate appraisal, including by requiring the superintendent of banking to regulate appraisal management companies and supervise the Iowa real estate appraiser board, making penalties applicable, and including effective date provisions. (Formerly HF 2393) (Formerly HSB 596)

VERSION: Adopted

May 27, 2016

Ways & Means.



[Image 1 within document in PDF format.](#)

SUMMARY: AN ACT RELATING TO REAL ESTATE APPRAISAL, INCLUDING BY REQUIRING THE SUPERINTENDENT OF BANKING TO REGULATE APPRAISAL MANAGEMENT COMPANIES AND SUPERVISE THE IOWA REAL ESTATE APPRAISER BOARD, MAKING PENALTIES APPLICABLE, AND INCLUDING EFFECTIVE DATE PROVISIONS.

TEXT:

House File 2436 - Enrolled

House File 2436

AN ACT

RELATING TO REAL ESTATE APPRAISAL, INCLUDING BY REQUIRING THE SUPERINTENDENT OF BANKING TO REGULATE APPRAISAL MANAGEMENT COMPANIES AND SUPERVISE THE IOWA REAL ESTATE APPRAISER BOARD, MAKING PENALTIES APPLICABLE, AND INCLUDING EFFECTIVE DATE PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

APPRAISAL MANAGEMENT COMPANIES

Section 1. **NEW SECTION.** 543E.1 Short title.

This chapter shall be known and may be cited as the "Iowa Appraisal Management Company Registration and Supervision Act".

Sec. 2. **NEW SECTION.** 543E.2 Purpose and scope.

The purpose of this chapter is to protect the independence and integrity of the appraisal process when an appraisal is provided through an appraisal management company in connection with a consumer credit transaction secured by the principal dwelling of an Iowa consumer or securitization of such a transaction.

Sec. 3. **NEW SECTION.** 543E.3 Definitions.

Unless the context otherwise requires, the definitions contained in section 543D.2 shall apply to this chapter. In addition, the following definitions shall apply for purposes of this chapter:

1. "Administrator" means the superintendent of the division of banking of the department of commerce or the superintendent's designee.
2. "Appraisal management company" means a person that oversees an appraiser panel of more than fifteen certified appraisers in this state or twenty-five or more certified or licensed appraisers nationally within a year, and that directly or indirectly performs appraisal management services for creditors or secondary mortgage market participants in connection with consumer credit transactions secured by the principal dwellings of Iowa consumers or securitizations of those transactions.
3. "Appraisal management company national registry" means the registry of state-registered appraisal management companies and federally regulated appraisal management companies maintained by the appraisal subcommittee.
4. "Appraisal management services" means any of the following:
 - a. Recruiting, selecting, and retaining appraisers.
 - b. Contracting with state certified or licensed appraisers to perform appraisal assignments.
 - c. Managing the process of having an appraisal performed, including providing administrative services such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and secondary mortgage market participants, collecting fees from creditors and secondary mortgage market participants for services provided, and paying appraisers for services performed.
 - d. Reviewing and verifying the work of appraisers.
5. "Appraisal review" means developing and communicating an opinion under the uniform standards of professional appraisal practice review standards regarding the quality of another appraiser's work product prepared as part of an appraisal assignment. An "appraisal review" does not include quality control solely to assure an appraisal report is complete, or to correct grammatical, typographical, or other similar errors.
6. "Appraisal subcommittee" means the appraisal subcommittee of the federal financial institutions examination council.
7. "Appraiser" means a person who holds a certificate as a certified real estate appraiser issued under chapter 543D.
8. "Appraiser panel" means a network, list, or roster of certified appraisers who are independent contractors with an appraisal management company and who have been selected and approved by the appraisal management company to perform appraisals directly for the appraisal management company or for persons that have ordered appraisals through the appraisal management company. Appraisers on an appraisal management company's appraiser panel may include both appraisers engaged to perform one or more appraisals for covered transactions or for secondary mortgage market

participants in connection with covered transactions, and appraisers accepted by the appraisal management company for consideration for future appraisal assignments for such purposes, as the administrator may further provide by rule.

9. "Associate real estate appraiser" means a person who is registered with the Iowa real estate appraiser examining board under section 543D.20.

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

11. "Controlling person" means any of the following:

a. An owner, officer, or director of an appraisal management company.

b. An individual employed, appointed, or authorized by an appraisal management company who has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and has the authority to enter into agreements with appraisers for the performance of appraisals.

c. An individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

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

13. "Creditor" means a person who regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four installments, not including a down payment, and to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract. For purposes of this subsection, a person "regularly extends consumer credit" if the person extended credit, other than credit subject to the requirements of 12 C.F.R. §1026.32, more than five times in the preceding calendar year for transactions secured by a dwelling. If a person did not meet those numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year. A person also "regularly extends consumer credit" if, in any twelve-month period, the person originates more than one credit extension that is subject to the requirements of 12 C.F.R. §1026.32 or one or more such credit extensions through a mortgage broker.

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

15. "Federally regulated appraisal management company" means an appraisal management company that is owned and controlled by an insured depository institution, as defined in 12 U.S.C. §1813 and regulated by the office of the comptroller of the currency, the board of governors of the federal reserve system, or the federal deposit insurance corporation.

16. "Federally related transaction regulations" means regulations established by the comptroller of the currency, the board of governors of the federal reserve system, the federal deposit insurance corporation, or the national credit union administration pursuant to sections 1112, 1113, and 1114 of Tit. XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act, 12 U.S.C. §§3341-3343.

17. "Nonsubstantive reason" means a reason for imposing discipline against a certified appraiser that is not described in section 543D.17 or a substantially similar provision in the jurisdiction that imposed the discipline, including but not limited to the failure to pay appropriate fees.

18. "Person" means as defined in section 4.1.

19. "Principal dwelling" means the primary residence of a consumer. For purposes of this chapter, a consumer may have only one "principal dwelling". A vacation or other second home shall not be considered a "principal dwelling". However, if a consumer buys or builds a new dwelling that will become the consumer's primary residence within a year or upon completion of the construction, the new residence is considered the "principal dwelling" for purposes of this chapter.

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

21. "States" means the fifty states of the United States, the District of Columbia, and the territories of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the United States Virgin Islands.

22. "Substantive reason" means a reason for imposing discipline against a certified appraiser that is described in section 543D.17 or a substantially similar provision in the jurisdiction that imposed the discipline.

23. "Uniform standards of professional appraisal practice" means the uniform standards promulgated by the appraisal standards board of the appraisal foundation.

Sec. 4. **NEW SECTION.** 543E.4 Registration required.

A person shall not directly or indirectly engage in or attempt to engage in business as an appraisal management company or advertise or hold itself out as engaging in or conducting business as an appraisal management company in this state without first registering with the administrator.

Sec. 5. **NEW SECTION.** 543E.5 Exemptions.

This chapter shall not apply to any of the following:

1. A person that exclusively employs appraisers on an employer and employee basis for the performance of appraisals.
2. A government body, as defined in section 22.1, subsection 1, that performs appraisals or retains appraisers on behalf of the government body.
3. A federally regulated appraisal management company.
4. A department or division of an entity that provides appraisal management services only to that entity.

Sec. 6. **NEW SECTION.** 543E.6 Ownership -- restrictions and requirements.

1. An appraisal management company registered or applying for registration in this state shall not be directly or indirectly owned in whole or in part by a person who has had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of revocation in any state for a substantive reason. An appraisal management company may be directly or indirectly owned in whole or in part by a person who has had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of revocation in a state for a nonsubstantive reason if the license or certificate was subsequently granted or reinstated.

2. A person who directly or indirectly owns more than ten percent of an appraisal management company in this state shall be of good moral character, as prescribed by rules adopted by the administrator consistent with applicable federal law and regulations, and shall submit to a background investigation, as prescribed by rules adopted by the administrator consistent with applicable federal law and regulations.

Sec. 7. **NEW SECTION.** 543E.7 Designation of controlling person.

1. An appraisal management company registered or applying for registration in this state shall designate a controlling person who shall be the main contact for all communications between the administrator and the appraisal management company, and who shall be responsible for assuring the appraisal management company complies with the provisions of this chapter when performing appraisal management services in connection with real estate located in this state.

2. The designated controlling person shall not have had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of revocation in any state for a substantive reason. A designated controlling person may have had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of revocation in a state for a nonsubstantive reason if the license or certificate was subsequently granted or reinstated.

3. The designated controlling person shall be of good moral character, as prescribed by rules adopted by the administrator consistent with applicable federal law and regulations, and shall submit to a background investigation, as prescribed by rules adopted by the administrator consistent with applicable federal law and regulations.

Sec. 8. **NEW SECTION.** 543E.8 Registration -- application requirements.

1. An application for registration as an appraisal management company shall be submitted on a form prescribed by the administrator.

2. An application shall at a minimum include the following:

a. The name, form of business entity, contact information, and official domicile of the applicant.

b. The names and contact information for all persons who directly or indirectly own more than ten percent of the applicant and for the controlling person designated pursuant to section 543E.7, and such additional information the administrator may need to enforce section 543E.6, subsection 1.

c. Information as reasonably necessary to establish the size of the applicant's nationwide and Iowa appraiser panels, in accordance with rules adopted by the administrator.

d. Certification that the applicant does all of the following:

(1) Verifies that appraisers who will perform appraisal assignments concerning real estate located in this state hold a valid, unexpired certificate in good standing as a real estate appraiser issued under chapter 543D.

(2) Requires that appraisals provided or coordinated by the applicant comply with the uniform standards of professional appraisal practice and has a system in place to monitor such compliance.

(3) Maintains a system to assure that appraisal management services are performed independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established under section 129E

of the federal Truth in Lending Act, including the requirements for the payment of reasonable and customary fees, and pursuant to section 543D.18, subsections 1 and 2, and section 543D.18A.

(4) Maintains a system to retain detailed records of all appraisal management services to be performed in this state.

(5) Maintains a system to assure that the appraiser selected for an appraisal assignment is independent of the transaction and has the requisite education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property type.

e. If the applicant is not domiciled in this state, the name and contact information for the applicant's agent for service of process in this state and consent to service of process upon the secretary of state in any action or proceeding against the applicant arising out of a transaction or operation connected with or incidental to services performed by the applicant as a registered appraisal management company in this state or involving real property located in this state.

f. Any additional information that is reasonably needed for the administrator to implement the provisions of this chapter and assure that the applicant is eligible for registration under this chapter.

Sec. 9. **NEW SECTION.** 543E.9 Registration renewal and annual certification.

1. A registration issued under this chapter shall be valid for one year as provided by rule.

2. An application to renew registration shall be submitted in the form and in the manner prescribed by the administrator. The administrator may further require periodic disclosures of changes impacting registration, such as a change in ownership or the designated controlling person.

3. An application to renew registration shall contain the information described in section 543E.8, subsection 2.

4. A registration issued under this chapter shall lapse if not timely renewed, in accordance with rules adopted by the administrator.

5. A person holding a lapsed registration shall not directly or indirectly engage in or attempt to engage in business as an appraisal management company or advertise or hold itself out as engaging in or conducting business as an appraisal management company in this state until the registration has been reinstated under the process prescribed by the administrator by rule.

Sec. 10. **NEW SECTION.** 543E.10 Fees.

1. The administrator shall by rule establish fees for registration, renewal, reinstatement, and such additional fees as are reasonably necessary for the administration of this chapter. The fees shall be established in consideration of the costs of administering this chapter and the actual cost of the specific service to be provided or performed. The administrator shall periodically review and adjust the schedule of fees as needed to cover projected expenses.

2. Except as provided in subsection 3, all fees collected under this chapter shall be deposited into the department of commerce revolving fund created in section 546.12 and are appropriated to the administrator to be used to administer this chapter including but not limited to purposes such as examinations, investigations, and administrative staffing. Notwithstanding section 8.33, moneys appropriated pursuant to this subsection are not subject to reversion to the general fund of the state.

3. The administrator shall also collect the appraisal management company national registry fee from each appraisal management company seeking to register in this state and from federally regulated appraisal management companies operating in this state. The administrator shall transfer all appraisal management company national registry fees collected by the administrator to the appraisal subcommittee.

Sec. 11. **NEW SECTION.** 543E.11 Appraiser, appraisal review, and employee restrictions.

1. The following individuals shall not have had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of revocation in any state for a substantive reason, but may have had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of revocation in a state for a nonsubstantive reason if the license or certificate was subsequently granted or reinstated:

a. An appraiser in an appraisal management company's appraiser panel who performs or may perform appraisals of real estate located in this state.

b. An employee, independent contractor, or other agent of an appraisal management company who performs an appraisal review of an appraisal of real estate located in this state.

c. An employee, independent contractor, or other agent of an appraisal management company who, with respect to real estate located in this state, has any responsibility for assigning appraisers to specific appraisal assignments, providing quality control for appraisal reports, or communicating with appraisers regarding potential appraisal report deficiencies.

2. An appraiser who on behalf of an appraisal management company performs an appraisal review of an appraisal of a dwelling located in this state shall comply with the review provisions of the uniform standards of professional appraisal practice, and shall be certified as an appraiser under the laws of any state, except that a review appraiser shall be certified under chapter 543D if such certification is required by any applicable state or federal law, rule, or regulation, or to the extent the review appraiser provides the review appraiser's own opinion of value, concurs with the original appraiser's opinion of value, or disagrees with the original appraiser's opinion of value.

3. An appraisal management company may rely on the national registry of appraisers of the appraisal subcommittee for purposes of verifying compliance with this section.

Sec. 12. **NEW SECTION.** 543E.12 Adherence to standards -- mandatory reporting.

1. An appraisal management company shall direct all appraisers it requests to perform appraisal assignments involving real estate located in this state to comply with the uniform standards of professional appraisal practice, including the competency rule.

2. An appraisal management company shall have an appraisal review system in place to monitor compliance with subsection 1.

3. An appraisal management company that has a reasonable basis to believe an appraiser has materially failed to comply with the uniform standards of professional appraisal practice or has otherwise materially violated chapter 543D or this chapter shall refer the matter to the administrator in conformance with applicable federal law and regulations. An appraisal management company that has a reasonable basis to believe another appraisal management company is failing to comply with the provisions of this chapter shall refer the matter to the administrator in conformance with section 272C.9, subsection 2.

4. An appraiser who is employed by or is on the appraiser panel of an appraisal management company registered under this chapter who has a reasonable basis to believe the appraisal management company is in violation of this chapter shall refer the matter to the administrator.

Sec. 13. **NEW SECTION.** 543E.13 Recordkeeping -- payment.

1. An appraisal management company shall maintain a detailed record of each service request the appraisal management company receives involving real estate located in this state and the identity of the appraiser who performs the appraisal assignment. All such records shall be maintained for at least five years after the request is sent by the appraisal management company to the appraiser or the completion of the appraisal report, whichever period expires later. An appraisal management company shall maintain such additional records regarding appraisal management services performed in this state as the administrator may specify by rule.

2. An appraisal management company shall, except in the case of breach of contract or substandard performance of an appraisal service, make payment to an appraiser for the completion of an appraisal service within forty-five days of the date on which the appraiser transmits or otherwise provides the results of the completed appraisal service to the appraisal management company. An appraisal management company shall maintain detailed records to verify that all payments to appraisers have been made in compliance with this section. All such records shall be maintained for at least five years after payment is made or the completion of the appraisal service, whichever is later.

Sec. 14. **NEW SECTION.** 543E.14 Appraiser independence -- compensation.

1. An appraisal management company registered under this chapter shall take all reasonable steps to assure that appraisals are conducted independently and free from inappropriate influence or coercion pursuant to the appraisal independence standards established under section 129E of the federal Truth in Lending Act, including the requirements for the payment of reasonable and customary fees, and in compliance with the independence, objectivity, and impartiality provisions of section 543D.18, subsections 1 and 2, and section 543D.18A.

2. An appraisal management company shall compensate appraisers at a rate that is reasonable and customary for appraisal services being performed in the market area of the property being appraised in accordance with federal law.

Sec. 15. **NEW SECTION.** 543E.15 Prohibited acts.

An appraisal management company registered under this chapter, or an employee, owner, director, controlling person, or other agent of an appraisal management company, shall not do any of the following:

1. Require an appraiser to indemnify an appraisal management company or hold an appraisal management company harmless for any liability, damage, losses, or claims arising out of the services performed by the appraisal management company, and not the services performed by the appraiser.

2. Alter, modify, or otherwise change a completed appraisal report submitted by an appraiser without the appraiser's written consent.

3. Require that an appraiser provide the appraisal management company with the appraiser's digital or electronic signature, seal, or certification, or any password or other form of security intended to prevent persons other than the appraiser from affixing the appraiser's digital or electronic signature, seal, or certification on a completed appraisal report.

4. Remove an appraiser from an appraiser panel without prior written notice that identifies the basis for removal. Upon request or in conjunction with an examination, an appraisal management company shall forward to the administrator copies of such notices issued to an appraiser located or certified in Iowa.
5. Require an appraiser to modify any aspect of an appraisal report other than through a request permitted under section 543D.18A, subsection 4.
6. Require an appraiser to perform an appraisal assignment if the appraiser has notified the appraisal management company that, in the appraiser's own professional judgment, any of the following apply:
 - a. The appraiser does not have the necessary competence or expertise for the specific geographic area or type of property to be appraised.
 - b. The timeframe under which the appraisal assignment is to be performed is insufficient for the appraiser to meet all relevant legal and professional obligations.
7. Require, either knowingly or through lack of reasonable diligence, an appraiser to take any action that would violate the uniform standards of professional appraisal practice, or any provision of chapter 543D or rule adopted pursuant thereto.
8. Prohibit an appraiser from disclosing the fee paid to the appraiser for appraisal services in the appraisal report.
9. Prohibit or inhibit lawful communications between the appraiser and the lender, a real estate salesperson or broker, or any other person from whom the appraiser, in the appraiser's own professional judgment, believes information obtained would be relevant to the appraisal assignment.
10. Condition payment of all or any part of an appraiser's fee or the appraisal management company's fee on a particular outcome, including but not limited to any of the following outcomes:
 - a. A loan closing.
 - b. A specific dollar amount in an appraisal report.
 - c. An outcome that would violate section 543D.18, subsection 2, or section 543D.18A, subsection 1.
11. Engage in any acts or practices that violate section 543E.14.

Sec. 16. **NEW SECTION.** 543E.16 Display of registration number.

An appraisal management company registered under this chapter shall be issued a unique registration number and shall include its registration number in any record, such as an engagement letter, order, or agreement, in which the appraisal management company contracts with an appraiser to perform an appraisal assignment involving real estate located in this state.

Sec. 17. **NEW SECTION.** 543E.17 Grounds for disciplinary action.

1. After notice and hearing, the administrator may revoke, suspend, or refuse to issue, renew, or reinstate a registration; reprimand, censure, or limit the scope of practice of any registrant; impose a civil penalty not to exceed ten thousand

dollars per violation; require remedial action; or place any registrant on probation; all with or without terms, conditions, or in combinations of remedies, for any one or more of the following reasons:

- a. Fraud or deceit in obtaining registration, which may also result in permanent revocation of the registration.
- b. Dishonesty, fraud, or gross negligence in the provision of appraisal management services.
- c. A violation of this chapter or implementing rules by the appraisal management company or by an employee, owner, director, controlling person, or other agent of the appraisal management company.
- d. Conviction of a felony or other indictable offense, any element of which is dishonesty, deception, or fraud, or is otherwise related to the performance of appraisal management services, under the laws of any state or the United States.
- e. Cancellation, revocation, suspension, or refusal to renew the authority to practice as an appraisal management company, or the acceptance of the voluntary surrender of a registration to practice as an appraisal management company to conclude a disciplinary investigation or action, by any other state, a federal agency, or foreign authority for any cause other than failure to pay appropriate fees in the other jurisdiction.
- f. A violation of section 272C.10.

2. When determining whether to initiate a disciplinary proceeding against an appraisal management company based on actions or omissions by an employee, owner, director, controlling person, or other agent of the appraisal management company, the administrator shall take into consideration all of the following:

- a. Whether the appraisal management company took reasonable steps to prevent the violation.
- b. Whether the violation was or could have been discovered by the appraisal management company upon reasonable inquiry.
- c. What steps the appraisal management company took upon discovering the violation.
- d. Whether the violation could have been avoided had the appraisal management company established the systems or other procedures required under this chapter.
- e. Whether the violation is an isolated matter or more systemic to the appraisal management company's performance.

Sec. 18. **NEW SECTION.** 543E.18 Unlawful practice -- complaints and investigations -- remedies and penalties.

1. If, as the result of a complaint or otherwise, the administrator believes that a person has engaged, or is about to engage, in an act or practice that constitutes or will constitute a violation of this chapter, the administrator may make application to the district court for an order enjoining such act or practice. Upon a showing by the administrator that such person has engaged, or is about to engage, in any such act or practice, an injunction, restraining order, or other order as may be appropriate shall be granted by the district court.

2. The administrator may investigate a complaint or initiate a complaint against a person who is not registered under this chapter to determine whether grounds exist to make application to the district court pursuant to subsection 1 or to issue an order pursuant to subsection 3, and in connection with such complaint or investigation may issue subpoenas to compel witnesses to testify or persons to produce evidence consistent with the provisions of section 272C.6, subsection 3,

as needed to determine whether probable cause exists to initiate a proceeding under this section or to make application to the district court for an order enjoining a violation of this chapter.

3. In addition to or as an alternative to making application to the district court for an injunction, the administrator may issue an order to a person who is not registered under this chapter to require compliance with this chapter and may impose a civil penalty against such person for any violation specified in subsection 4 in an amount up to ten thousand dollars for each violation. All civil penalties collected pursuant to this section shall be deposited in the housing trust fund created in section 16.181. An order issued pursuant to this section may prohibit a person from applying for registration under this chapter or certification or registration under chapter 543D.

4. The administrator may impose a civil penalty against a person who is not registered under this chapter for any of the following:

a. A violation of section 543E.4.

b. A violation of section 543D.18A, subsection 1.

c. Fraud, deceit, or deception, through act or omission, in connection with an application for registration under this chapter.

5. The administrator, before issuing an order under this section, shall provide the person written notice and the opportunity to request a hearing. The hearing must be requested within thirty days after receipt of the notice and shall be conducted in the same manner as provided for disciplinary proceedings involving a registrant under this chapter.

6. A person aggrieved by the imposition of a civil penalty under this section may seek judicial review pursuant to section 17A.19.

7. If a person fails to pay a civil penalty within thirty days after entry of an order imposing the civil penalty, or if the order is stayed pending an appeal, within ten days after the court enters a final judgment in favor of the administrator, the administrator shall notify the attorney general. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs.

8. An action to enforce an order under this section may be joined with an action for an injunction.

Sec. 19. **NEW SECTION.** 543E.19 Surety bond.

1. The administrator shall require that an appraisal management company be covered by a surety bond in the amount of twenty-five thousand dollars.

2. The surety bond shall be in a form as prescribed by the administrator. The administrator may, pursuant to rule, determine requirements for such surety bonds as are necessary to accomplish the purposes of this chapter. The requirements for a surety bond shall only relate to liabilities, damages, losses, or claims arising out of the appraisal management services performed by the appraisal management company involving real estate located in this state. The bond shall provide that a person having a claim against an appraisal management company may bring suit directly on the bond or the administrator may bring suit on behalf of such person.

Sec. 20. **NEW SECTION.** 543E.20 Additional administrator authority.

1. The administrator is vested with broad administrative authority to administer, interpret, and enforce this chapter and to promulgate rules implementing this chapter.

2. In addition to the duties and powers conferred upon the administrator in this chapter, the administrator shall have the authority to adopt such rules as are reasonably necessary to assure the administrator's registration and supervision of appraisal management companies comply with the minimum requirements of 12 U.S.C. §3352 and related federal laws and regulations, with respect to any of the following:

a. Reviewing and approving or denying an appraisal management company's application for initial or renewal registration.

b. Examining the books and records of an appraisal management company operating in the state and requiring the appraisal management company to submit reports, information, and documents.

c. Verifying that the appraisers on an appraisal management company's appraiser panel who perform appraisal assignments in this state hold valid certificates issued under chapter 543D.

d. Conducting investigations of appraisal management companies to assess potential violations of applicable appraisal-related laws, regulations, rules, or orders.

e. Disciplining, suspending, terminating, or denying renewal of the registration of an appraisal management company that violates applicable appraisal-related laws, regulations, rules, or orders.

f. Notwithstanding section 272C.6, subsection 4, reporting an appraisal management company's violation of applicable appraisal-related laws, regulations, rules, or orders, as well as disciplinary and enforcement investigations and actions and other relevant information about an appraisal management company's operations, to the appraisal subcommittee.

g. Imposing requirements on appraisal management companies that are mandated by federal law and regulations applicable to appraisal management companies that are not exempt under federal law, including any of the following:

(1) Registration and supervision requirements.

(2) Ownership limitations.

(3) Engaging only certified appraisers for federally related transactions in conformity with all applicable federally related transaction regulations.

(4) Establishing systems for engaging appraisers who are competent and independent, and who are suited for the appraisal assignments to which they are assigned based on education, expertise, and experience.

(5) Directing appraisers to perform appraisal assignments in accordance with the uniform standards of professional appraisal practice.

(6) Establishing and complying with processes and controls reasonably designed to ensure appraisal management companies conduct appraisal management services in accordance with the requirements of section 129E(a)-(i) of the federal Truth in Lending Act, 15 U.S.C. §1639e(1)-(i), and regulations thereunder including but not limited to the requirement that appraisers who complete an appraisal in connection with a consumer credit transaction secured by the principal dwelling of the consumer be compensated with a customary and reasonable fee.

h. Assessing, collecting, and forwarding to the appraisal subcommittee appraisal management company national registry fees from appraisal management companies registered under this chapter and from federally regulated appraisal management companies.

3. The administrator may conduct periodic examinations of applicants or registrants under this chapter as reasonably necessary to assure compliance with all or specific provisions of this chapter. All papers, documents, examination reports, and other records relating to such examinations shall be confidential as provided in section 272C.6, subsection 4, except as provided in this section.

4. The administrator may adopt rules governing an appraiser's use of associate real estate appraisers while performing appraisal assignments subject to this chapter. Associate real estate appraisers may provide appraisal services under the supervision of a certified appraiser as provided in chapter 543D and associated rules, but shall not be on an appraiser panel of an appraisal management company.

5. The administrator may require a national criminal history check through the federal bureau of investigation or, if authorized by federal law or regulation, the nationwide mortgage licensing system and registry, as defined in section 535D.3, when conducting background investigations under this chapter. Except as inconsistent with the registry, the following shall apply:

a. The administrator may require owners and controlling persons who are subject to the background investigation provisions of sections 543E.6 and 543E.7 to provide a full set of fingerprints, in a form and manner prescribed by the administrator. Such fingerprints, if required, shall be submitted to the federal bureau of investigation through the state criminal history repository for purposes of the national criminal history check.

b. The administrator may also request and obtain, notwithstanding section 692.2, subsection 5, criminal history data for owners and controlling persons who are subject to the background investigation provisions of sections 543E.6 and 543E.7. A request for criminal history data shall be submitted to the department of public safety, division of criminal investigation, pursuant to section 692.2, subsection 1.

c. The administrator shall inform such owners and controlling persons of the requirement of a national criminal history check or request for criminal history data and obtain a signed waiver from the applicant, certificate holder, or registrant prior to requesting the check or data.

d. The administrator may, in addition to any other fees, charge and collect such amounts as may be incurred by the administrator, the department of public safety, or the federal bureau of investigation in obtaining criminal history information. Amounts collected shall be considered repayment receipts as defined in section 8.2.

e. Criminal history data and other criminal history information relating to affected owners or controlling persons, or their appraisal management companies obtained by the administrator pursuant to this section shall remain confidential. Such information may, however, be used by the administrator in a registration denial, enforcement, or disciplinary proceeding.

Sec. 21. [Section 272C.1, subsection 6, Code 2016](#), is amended by adding the following new paragraph:

NEW PARAGRAPH. ag. The superintendent of the division of banking of the department of commerce in registering and supervising appraisal management companies pursuant to chapter 543E.

DIVISION II

IOWA REAL ESTATE APPRAISER EXAMINING BOARD -- SUPERVISION

Sec. 22. [Section 543D.2, Code 2016](#), is amended by adding the following new subsection:

NEW SUBSECTION. 11. "Superintendent" means the superintendent of the division of banking of the department of commerce or the superintendent's designee.

Sec. 23. [Section 543D.4, subsection 1, Code 2016](#), is amended to read as follows:

1. A real estate appraiser examining board is established within ~~the professional licensing and regulation bureau of~~ the banking division of the department of commerce. The board consists of seven members, two of whom shall be public members and five of whom shall be certified real estate appraisers.

Sec. 24. [Section 543D.5, subsection 1, Code 2016](#), is amended to read as follows:

1. The board shall adopt rules establishing uniform appraisal standards and appraiser certification requirements and other rules necessary to administer and enforce this chapter and its responsibilities under chapter 272C, **subject to the superintendent's supervision and authority under section 543D.23**. The board shall consider and may incorporate any standards required or recommended by the appraisal foundation or by a federal agency with regulatory authority over appraisal standards or the certification of appraisers for federally related transactions.

Sec. 25. [Section 543D.5, Code 2016](#), is amended by adding the following new subsection:

NEW SUBSECTION. 5. Notwithstanding any provision to the contrary, the provisions in section 546.10, subsections 6 through 12, shall apply to the board and to activities governed under this chapter.

Sec. 26. [Section 543D.6, subsection 2, Code 2016](#), is amended to read as follows:

2. ~~Fees collected by the board shall be transmitted to the treasurer of state who shall deposit the fees in the general fund of the state.~~ **All fees collected by the board shall be deposited into the department of commerce revolving fund created in section 546.12 and are appropriated to the superintendent on behalf of the board to be used to administer this chapter including but not limited to purposes such as examinations, investigations, and administrative staffing. Notwithstanding section 8.33, moneys retained by the superintendent pursuant to this section are not subject to reversion to the general fund of the state. However, the appraisal management company national registry fees the board collects on behalf of the appraisal subcommittee as defined in section 543E.3 shall be transmitted to the appraisal subcommittee in accordance with federal laws and regulations.**

Sec. 27. [Section 543D.22, subsection 1, Code 2016](#), is amended to read as follows:

1. The board may require a national criminal history check through the federal bureau of investigation for applicants for certification or registration, or for persons certified or registered, under this chapter if needed **for credibility**, to comply with federal law or regulation, or the policies of the appraisal qualification board of the appraisal foundation. **The board may alternatively require a national criminal history check through the nationwide mortgage licensing system and registry, as defined in section 535D.3, when conducting background investigations under this section, if authorized by applicable federal law or regulation.**

Sec. 28. **NEW SECTION.** 543D.23 Superintendent supervision and authority.

1. The superintendent shall supervise the board and manage the board's budget and retained fees. The superintendent may exercise all authority conferred upon the board under this chapter and shall have access to all records and information to which the board has access. In supervising the board, the superintendent shall independently evaluate the substantive merits of actions recommended or proposed by the board which may be anticompetitive and shall have the authority to review, approve, modify, or reject all board actions including but not limited to those taken in connection with any of the following:

a. Initial or reciprocal certification of real estate appraisers, registration of associate real estate appraisers, and temporary practice permits.

b. Disciplinary investigations and proceedings.

c. Investigations and proceedings under section 543D.21.

d. Rulemaking, including orders on petitions for rulemaking.

e. Orders on petitions for declaratory orders or waivers or variances.

2. A person aggrieved by any final action of the board taken under this chapter shall not have exhausted administrative remedies until the person has appealed the action to the superintendent and the superintendent has issued a final decision or order.

3. The superintendent shall adopt rules to implement this section.

Sec. 29. [Section 546.3, subsection 1, Code 2016](#), is amended to read as follows:

1. The banking division shall regulate and supervise banks under chapter 524, debt management licensees under chapter 533A, money services under chapter 533C, delayed deposit services under chapter 533D, mortgage bankers and brokers under chapter 535B, regulated loan companies under chapter 536, ~~and~~ industrial loan companies under chapter 536A, **real estate appraisers under chapter 543D, and appraisal management companies under chapter 543E**, and shall perform other duties assigned to the division by law. The division is headed by the superintendent of banking who is appointed pursuant to section 524.201. The state banking council shall render advice within the division when requested by the superintendent.

Sec. 30. [Section 546.10, subsection 1, paragraph f, Code 2016](#), is amended by striking the paragraph.

Sec. 31. [Section 546.10, subsection 5, Code 2016](#), is amended to read as follows:

5. Fees collected under chapters 542, 542B, 543B, 543D, 544A, 544B, and 544C shall be paid to the treasurer of state and credited to the general fund of the state. All expenses required in the discharge of the duties and responsibilities imposed upon the professional licensing and regulation bureau of the banking division of the department of commerce, the administrator, and the licensing boards by the laws of this state shall be paid from moneys appropriated by the general assembly for those purposes. All fees deposited into the general fund of the state, as provided in this subsection, shall be subject to the requirements of section 8.60.

Sec. 32. EFFECTIVE DATE. This Act takes effect on January 1, 2017.

LINDA UPMEYER

Speaker of the House

PAM JOCHUM

President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2436, Eighty-sixth General Assembly.

CARMINE BOAL

Chief Clerk of the House

Approved _____, 2016

TERRY E. BRANSTAD

Governor

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