

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 1973

STATE OF NEW JERSEY

217th LEGISLATURE

ADOPTED JUNE 20, 2016

Sponsored by:

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Assemblywoman AMY H. HANDLIN

District 13 (Monmouth)

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District 18 (Middlesex)

Senator BRIAN P. STACK

District 33 (Hudson)

Co-Sponsored by:

Assemblyman Holley

SYNOPSIS

"Appraisal Management Company Registration and Regulation Act."

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on September 26, 2016, with amendments.

An Act concerning the regulation of appraisal management companies, ¹[and]¹ amending and supplementing P.L.1991, c.68 ¹, amending P.L.1997, c.401, and repealing sections 12 and 13 of P.L.1991, c.68¹.

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

1. (New section) Sections 1 through 23 and section ¹[25] 32¹ of this act shall be known and may be cited as the "Appraisal Management Company Registration and Regulation Act."

2. (New section) The Legislature finds and declares that it is in the public interest to establish registration requirements for real estate appraisal management companies that employ, contract, retain or otherwise utilize the services of licensed and certified real estate appraisers to provide appraisal services in New Jersey. This act is intended to provide the State Real Estate Appraiser Board with authority to implement certain provisions of amendments in the Mortgage Reform and Anti-Predatory Lending Act of 2010, Pub.L.111-203, Subtitle F. Sec.1473(2) adding Section1124 to Title XI of the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. 3353) (FIRREA), and the Truth in Lending Act, Pub.L.90-321 (15 U.S.C. 1601 et seq.), which amendments give certain authority and responsibilities to the board.

3. (New section) As used in this act:

"Administrative Quality Control Examination" means an examination of an appraisal report for compliance and completeness including grammatical, typographical, or other similar errors, which may be performed by a person who is not a State certified or licensed real estate appraiser, but which shall not include unbiased analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, real estate, or any similar function of appraisal practice, including but not limited, to those functions in the performance of an appraisal review.

"Affiliate" means any company that controls, is controlled by, or is under common control of another company.

"AMC National Registry" means the registry of state-registered appraisal management companies and federally regulated appraisal management companies maintained by the Appraisal Subcommittee.

"Appraisal Foundation" means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois.

"Appraisal" or "real estate appraisal" means the same as that term is defined pursuant to section 2 of P.L.1991, c.68 (C.45:14F-2), and shall be specifically construed to include appraisal reviews performed by, for, and on behalf of an appraisal management company.

"Appraisal management company" or "AMC" means a person that:

- (1) provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates;
- (2) provides such services in connection with valuing a consumer's principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations; and
- (3) within a 12-month calendar year, oversees an appraiser panel of more than 15 state-certified or state-licensed appraisers in New Jersey or 25 or more state-certified or state-licensed appraisers in two or more states.

An AMC does not include a department or division of an entity that provides appraisal management services only to that entity.

"Appraisal management services" means one or more of the following:

- (1) recruiting, selecting, and retaining appraisers;
- (2) contracting with state-certified or state-licensed appraisers to perform appraisal assignments;
- (3) 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 market participants, collecting fees from creditors and secondary market participants for services provided, and paying appraisers for services performed; and
- (4) reviewing and verifying the work of appraisers.

"Appraiser panel" means a network, list, or roster of licensed or certified appraisers approved by an AMC to perform appraisals as independent contractors for the AMC. Appraisers on an AMC's "appraiser panel" include both appraisers accepted by the AMC for consideration for future appraisal assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions, and appraisers engaged by the AMC to perform one or more appraisals in covered transactions or for secondary mortgage market participants in connection with covered transactions. An appraiser is an independent contractor if the appraiser is treated as an independent contractor by the AMC

for purposes of federal income taxation.

"Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment related to the appraiser's data collection, analysis, opinions, conclusions, estimate of value, or compliance with the Uniform Standards of Professional Appraisal Practice. This term does not include:

- (1) a general examination for grammatical, typographical, or other similar errors; or
- (2) a general examination for completeness, including regulatory or client requirements as specified in the agreement process that does not communicate an opinion of value.

"Appraiser" means a State certified real estate appraiser, State certified general or residential real estate appraiser, or State licensed real estate appraiser, as those terms are defined pursuant to section 2 of P.L.1991, c.68 (C.45:14F-2).

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

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

"Controlling person" means:

- (1) an officer, director, or owner of greater than a 10 percent interest, of a corporation, partnership or other business entity, seeking to act as an appraisal management company in this State;
- (2) 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 services requiring registration as an appraisal management company and has the authority to enter into agreements with appraisers for the performance of appraisals; or
- (3) 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.

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

"Creditor" means:

- (1) 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; or

(2) a person who regularly extends consumer credit if the person extended credit, other than credit subject to the requirements of 12 CFR1026.32, more than five times for transactions secured by a dwelling in the preceding calendar year; if a person did not meet these numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year. A person regularly extends consumer credit if, in any 12-month period, the person originates more than one credit extension that is subject to the requirements of 12 CFR1026.32 or one or more such credit extensions through a mortgage broker.

"Dwelling" means a residential structure that contains one to four units, whether or not that structure is attached to real property, including an individual condominium unit, cooperative unit, mobile home, or trailer, if it is used as a residence. A consumer can have only one principal dwelling at a time; a vacation or other second home is not considered a principal dwelling. However, if a consumer buys or builds a new dwelling that will become the consumer's principal dwelling within one year or upon the completion of construction, the new dwelling is considered the principal dwelling for purposes of this definition.

"Employee relocation management company" means a business entity whose exclusive business services are not for mortgage purposes but include the relocation of employees as an agent or contractor for the employer or the employer's agent for the purposes of determining an anticipated sales price of the residence of an employee being relocated by the employer in the course of its business.

"Federal financial institution regulatory agencies" includes the Consumer Financial Protection Bureau, Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, the Office of the Comptroller of the Currency, and the National Credit Union Administration.

"Federally regulated AMC" means an AMC 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.

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

"Federally related transaction regulations" means regulations established by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, ¹the Federal Housing Finance Agency¹ or the National Credit Union Administration, pursuant to sections 1112, 1113, and 1114 of FIRREA Title XI, 12 U.S.C. 3341-3343.

"Person" means a natural person or an organization, including a corporation, partnership, proprietorship, association, cooperative, estate, trust, or government unit.

"Real estate-related financial transaction" means any transaction involving the sale, lease, purchase, investment in, or exchange of real property, including interests in property or the financing thereof:

(1) the refinancing of real property or interests in real property.

(2) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

"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.

"Uniform Standards of Professional Appraisal Practice" ¹or "USPAP"¹ means the current standards of the appraisal profession, developed for appraisers and users of appraisal services by the Appraisal Standards Board of the Appraisal Foundation, in accordance with the standards established by the board as provided under subsection g. of section 8 of P.L.1991, c.68 (C.45:14F-8).

4. (New section) The board shall have the authority to adopt rules that are reasonably necessary to establish an AMC ¹[licensing] registration¹ program and implement, administer, and enforce the provisions set forth under this section.

a. The board shall have the legal authority and mechanisms to:

(1) review, and approve or deny an AMC's application for initial registration;

(2) review and renew, or review and deny an AMC's registration periodically;

(3) examine the books and records of an AMC operating in the State and require the AMC to submit reports, information, and documents;

(4) verify that the appraisers on the AMC's appraiser panel hold valid State certifications or licenses, as applicable;

(5) conduct investigations of AMCs to assess potential violations of applicable appraisal-related laws, regulations, or orders;

(6) discipline, suspend, terminate, or deny renewal of the registration of an AMC that violates applicable appraisal-related laws, regulations, or orders; and

(7) report ¹to the Appraisal Subcommittee or other appropriate federal regulatory agency¹ an AMC's ¹or other third-party appraisal or appraisal management services provider's¹ violation of applicable appraisal-related laws, regulations, or orders, as well as disciplinary and enforcement actions and other relevant information about an AMC's operations, ¹[to the Appraisal Subcommittee] or other third-party appraisal or appraisal management services provider's operations¹.

b. The board shall impose requirements on AMCs that are not owned and controlled by an insured depository institution and not regulated by a federal financial institution regulatory agency to:

(1) register with and be subject to supervision by the State appraiser certifying and licensing agency;

(2) engage only State-certified or State-licensed appraisers for federally related transactions in conformity with any federally related transaction regulations;

(3) establish and comply with processes and controls reasonably designed to ensure that the AMC, in engaging an appraiser, selects an appraiser who is independent of the transaction and who has the requisite education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property type;

(4) direct the appraiser to perform the assignment in accordance with USPAP; and

(5) establish and comply with processes and controls reasonably designed to ensure that the AMC conducts its appraisal management services in accordance with the requirements of section 129E(a)-(i) of the Truth in Lending Act, 15 U.S.C. 1639e(a)-(i), and regulations promulgated thereunder.

5. (New section) For purposes of determining whether, within the 12-month period defined by the State, an AMC oversees an appraiser panel of more than 15 state-certified or state-licensed appraisers in New Jersey or 25 or more state-certified or state-licensed appraisers in two or more states, pursuant to the definition of "AMC" as defined in section 3 of this act¹[.]¹

a. An appraiser is deemed part of the AMC's appraiser panel as of the earliest date on which the AMC:

(1) accepts the appraiser for the AMC's consideration for future appraisal assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions; or

(2) engages the appraiser to perform one or more appraisals on behalf of a creditor for covered

transactions or secondary mortgage market participant in connection with covered transactions.

b. An appraiser who is deemed part of the AMC's appraiser panel pursuant to subsection a. of this section is deemed to remain on the panel until the date on which the AMC:

(1) sends written notice to the appraiser removing the appraiser from the appraiser panel, with an explanation of its action; or

(2) receives written notice from the appraiser asking to be removed from the appraiser panel or notice of the death or incapacity of the appraiser.

c. If an appraiser is removed from an AMC's appraiser panel pursuant to subsection b. of this section, but the AMC subsequently accepts the appraiser for consideration for future assignments or engages the appraiser at any time during the 12 months after the appraiser's removal, the removal will be deemed not to have occurred, and the appraiser will be deemed to have been part of the AMC's appraiser panel without interruption.

d. Prior to assigning appraisal orders, an appraisal management company shall have a system in place to verify that a person being added to the appraiser panel holds the appropriate appraiser credential in good standing.

6. (New section) a. No person shall, directly or indirectly, engage 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 without first obtaining a registration issued by the board under the provisions of this act.

b. The registration required by subsection a. of this section shall include the following written information on a form prescribed by the board and which shall be certified by the compliance officer of the appraisal management company:

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

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

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

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

- (5) The name, address, and contact information for any individual or any corporation, partnership, or other business entity that owns 10 percent or more of the appraisal management company;
 - (6) The name, address, and telephone number for one controlling person designated as the main contact for all communication between the appraisal management company and the board;
 - (7) A certification that the entity or individual has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a license or certification in good standing in this State pursuant to the "Real Estate Appraisers Act," P.L.1991, c.68 (C.45:14F-1 et seq.);
 - (8) A certification that the entity or individual requires appraisers completing appraisals, including but not limited to appraisals and appraisal reviews, at its request to comply with the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation, including the requirements for geographic and product competence;
 - (9) A certification that the entity or individual has a system in place to verify that only licensed or certified appraisers are used for federally related transactions;
 - (10) A certification that the entity or individual has a system in place to require that appraisals are conducted independently and free from inappropriate influence and coercion as required by the appraisal independence standards established under section 1639e of the federal Truth in Lending Act, Pub.L.90-321 (15 U.S.C. s.1639e), including the requirements for payment of customary and reasonable compensation to fee appraisers when the appraisal management company is providing services for a consumer credit transaction secured by the principal dwelling of a consumer;
 - (11) A certification by the board that the entity maintains a detailed record of each service request that it receives and the name of the appraiser that performs the residential real estate appraisal services for the appraisal management company;
 - (12) Whenever applicable, an irrevocable Uniform Consent to Service of Process pursuant to section 8 of this act; and
 - (13) Any other information as required by the board that is reasonably necessary to implement this act.
- c. An application for the renewal of a registration shall include information substantially similar to that required under subsection b. of this section for an initial registration, as determined by the board.

7. (New section) The provisions of this act:

a. shall apply to an appraisal management company in accordance with section 1124(a), (b) and (c) of Subtitle F of the Mortgage Reform and Anti-Predatory Lending Act of 2010, Pub.L.111-203, amending the Financial Institutions Reform Recovery and Enforcement Act (12 U.S.C. s3353 (a), (b), (c)); and

b. shall not apply to:

(1) an employee relocation management company in the course of employee relocation pursuant to its relocation policy; or

(2) a person or entity that exclusively employs appraisers on an employer and employee basis for the performance of appraisals for a variety of clients or intended uses of the appraisal other than mortgage lending consumer credit transactions secured by a consumer's principal dwelling.

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

9. (New section) a. The board shall establish by regulation an application fee to be paid by each appraisal management company seeking registration under this act that is sufficient for the administration of the registration process, but in no case shall the fee be more than \$2,500.

b. A processing fee, similar to that provided for in subsection a. of this section not to exceed \$2,500, may be charged by the board in connection with the renewal of a registration.

c. A registration granted by the board pursuant to this act shall be effective for a ¹[one-year] ~~two-year~~¹ period and may be renewed ¹[annually] ~~biennially~~¹.

d. The board shall require of each appraisal management company seeking registration a surety bond of \$25,000.

e. ¹[All] ~~Except as otherwise required by federal law, all~~¹ fees paid by appraisal management companies shall be dedicated to use by the board for regulation of appraisal management companies and State certified and licensed real estate appraisers regulated by the board pursuant to State and federal law.

10. (New section) a. An appraisal management company applying to the board for registration in this

State shall not:

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

(2) be ¹[more than 10 percent owned by] subject to the ownership, control, direction, or authority of, or employ, appoint, or otherwise retain.¹ a ¹controlling¹ person who is not of good moral character, which for purposes of this section shall require that such person has not been convicted of, or entered a plea of nolo contendere to, a crime relating to the practice of appraisal or any crime involving financial services, fraud, misrepresentation or moral turpitude.

b. For purposes of paragraph (2) of subsection a. of this section, each ¹[owner of more than 10 percent] controlling person¹ of an appraisal management company shall submit to a background investigation to be carried out by the board, in accordance with standards as established by the board by regulation.

¹c. The background investigation authorized under subsection b. of this section shall include but is not limited to a criminal history record information check conducted in accordance with sections 3 and 4 of P.L.1997, c.401 (C.45:14F-10.1 and C.45:14F-10.2).¹

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

12. (New section) A violation of this section may constitute grounds for discipline against an appraisal management company registered in this State. However, nothing in this act shall be construed as preventing an appraisal management company from requesting that an appraiser provide additional information about the basis for a valuation, correct objective factual errors in an appraisal report, or consider additional appropriate property information. No employee, director, officer, agent, independent contractor, or other third party acting on behalf of an appraisal management company shall do any of the following:

a. procure or attempt to procure a registration or renewal by knowingly making a false statement, submitting false information, or refusing to provide complete information in response to a question in an application for registration or renewal;

- b. willfully violate this act or rules of the board pertaining thereto;
- c. improperly influence or attempt to improperly influence the development, reporting, result, or a review of an appraisal through intimidation, coercion, extortion, bribery, or any other manner, including:
 - (1) withholding payment for appraisal services;
 - (2) threatening to exclude an appraiser from future work or threatening to demote or terminate in order to improperly obtain a desired result;
 - (3) conditioning payment of an appraisal fee upon the opinion, conclusion, or valuation to be reached; or
 - (4) requesting that an appraiser report a predetermined opinion, conclusion, or valuation or the desired valuation of any person or entity;
- d. alter, amend, or change an appraisal report submitted by an appraiser without the appraiser's knowledge and written consent;
- e. except within the first 90 days after an independent appraiser is added to an appraiser panel, remove an independent appraiser from an appraiser panel without prior written notice to the appraiser, with the prior written notice including evidence of the following, if applicable:
 - (1) the appraiser's illegal conduct;
 - (2) a violation of Uniform Standards of Professional Appraiser Practice, this act or the rules adopted by the board;
 - (3) improper or unprofessional conduct; and
 - (4) substandard performance or other substantive deficiencies;
- f. require an appraiser to sign any indemnification agreement that would require the appraiser to defend and hold harmless the appraisal management company or any of its agents or employees for any liability, damage, losses, or claims arising out of the services performed by the appraisal management company or its agents, employees, or independent contractors and not the services performed by the appraiser;
- g. prohibit lawful communications between the appraiser and any other person who the appraiser, in the appraiser's professional judgment, believes possesses information that would be relevant;
- h. engage in any other act or practice that impairs or attempts to impair a real estate appraiser's independence, objectivity, and impartiality;
- i. fail to timely respond to any subpoena or any other request for information;

j. fail to timely obey an administrative order of the board; or

k. fail to fully cooperate in any investigation.

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

14. (New section) a. With respect to reporting requirements for non-federally regulated appraisal management companies, the board will collect from each AMC registered or seeking to be registered in the State the information and fees that the Appraisal Subcommittee requires to be submitted to it by the State pursuant to regulations or guidance promulgated by the Appraisal Subcommittee.

b. With respect to reporting requirements for federally regulated appraisal management companies: a federally regulated AMC operating in the State shall report to the board the information required to be submitted by the State to the Appraisal Subcommittee, pursuant to the Appraisal Subcommittee's policies regarding the determination of the AMC National Registry fee. These reporting requirements will be set forth by the board by rule, and shall include:

(1) a report to the board on a form prescribed by the board of intent to operate in this State;

(2) information related to whether the AMC is owned in whole or in part, directly or indirectly, by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any state for a substantive cause, as determined by the Appraisal Subcommittee; and

(3) if a person has had action taken on his or her appraisal license, the board shall collect information related to whether the license was revoked for a substantive cause and if it has been reinstated by the state or states in which the appraiser was licensed or certified.

¹c. The board is authorized to collect from a federal regulated AMC operating in the State for submission to the Appraisal Subcommittee the AMC National Registry fee.¹

15. (New section) An appraisal management company seeking to be registered in this State shall certify to the board, annually, that it:

a. requires appraisers completing appraisals, including appraisal reviews, at its request to comply with the Uniform Standards of Professional Appraisal Practice, including the requirements for geographic and product competence;

b. has a system in place to verify that only licensed or certified appraisers are used for appraisals covered under this act, including, but not limited to, those performed for federally related transactions, and appraisals pursuant to the provisions of the "Real Estate Appraisers Act," P.L.1991, c.68 (C.45:14F-1 et seq.);

c. has a system in place to verify that an individual on the appraiser panel has not had a license or certification as an appraiser refused, denied, cancelled, revoked, or surrendered in lieu of a pending revocation.

d. has a system in place to require that appraisals are conducted independently and free from inappropriate influence and coercion as required by the appraisal independence standards established under section 1639e of the federal Truth in Lending Act, Pub.L.90-321 (15 U.S.C. s.1639e), including the requirements for payment of customary and reasonable compensation to fee appraisers when the appraisal management company is providing services for a consumer credit transaction secured by the principal dwelling of a consumer; and

e. is in compliance with State laws and regulations.

16. (New section) This act adopts by reference the appraiser independence standards established under section 1639e of the federal Truth in Lending Act, Pub.L.90-321 (15 U.S.C. s.1639e), including:

a. the requirements for payment of customary and reasonable compensation to fee appraisers when the appraisal management company is providing services for a consumer credit transaction secured by the principal dwelling of a consumer; and

b. all necessary enforcement and remedies available under the federal Truth in Lending Act, Pub.L.90-321 (15 U.S.C. 1601 et seq.).

17. (New section) An appraisal management company seeking to be registered in this State shall certify to the board, annually, by submission of a statement signed by the appraisal management company, that it

maintains a detailed record of each service request that it receives and the name of the appraiser that performs the appraisal for the appraisal management company. Records shall be retained for a period of at least five years after an appraisal is completed or two years after final disposition of a judicial proceeding related to the assignment, whichever period expires later.

18. (New section) Any State certified or licensed appraiser performing an appraisal assignment, including an appraisal review, for an appraisal management company, shall be responsible to ensure that the conduct of non-appraiser assistance is compatible with the professional responsibilities of the appraiser under federal and State laws and regulations, including but not limited to, conformance with the Uniform Standards of Professional Appraisal Practice. Non-appraiser assistance, shall include, but not be limited to, administrative quality control reviewers, who are agents of, contracted by, employees of, or whose services are otherwise utilized by an appraisal management company, appraiser, or organization.

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

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

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

d. Every appraisal performed pursuant to this act shall contain both the appraisal management company registration number and the amount of the fee received by the appraiser for performance of that appraisal.

20. (New section) ¹[a.]¹ Except within the first 90 days after an appraiser is first added to the appraiser panel of an appraisal management company, an appraisal management company shall not remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real estate appraisal services to an appraiser without:

¹[(1)] a.¹ notifying the appraiser in writing of the reasons why the appraiser is being removed from the appraiser panel of the appraisal management company;

¹[(2)] b.¹ notifying the appraiser of the nature of any alleged conduct or violation, if the appraiser is being

removed from the panel for illegal conduct, violation of the Uniform Standards of Professional Appraisal Practice, or a violation of State licensing standards;

¹[(3)] c.¹ providing the appraiser with any evidence, upon which removal is based, including, but not limited to, any appraisal, appraisal review or appraisal consulting report; and

¹[(4)] d.¹ providing an opportunity for the appraiser to respond to the notification of the appraisal management company.

Any act of a State certified or licensed real estate appraiser, which constitutes a material violation of the Uniform Standards of Professional Appraisal Practice in the process described in this section, shall be considered prima facie evidence of a violation of the ethics requirements under the Uniform Standards of Professional Appraisal Practice. A material violation, for the purposes of this section, is one that is likely to affect the value estimated in any appraisal utilized in this section, or any other act that reflects on the professional conduct of the appraiser; however, the board shall not be involved in contractual disputes between an appraisal management company and an individual appraiser.

¹[b. An appraiser that is removed from the appraiser panel of an appraisal management company for alleged illegal conduct, violation of the Uniform Standards of Professional Appraisal Practice or violation of State licensing standards may file a complaint with the board for review of the decision of the appraisal management company. The scope of the board's review in any such case shall be limited to determining whether the appraisal management company has complied with the provisions of subsection a. of this section and whether illegal conduct, a violation of the Uniform Standards of Professional Appraisal Practice, or a violation of State licensing standards has occurred.

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

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

(1) provide written findings to the involved parties; and

(2) provide an opportunity for the appraisal management company and appraiser to respond to the findings.

e. Upon board review of the appraisal management company and appraiser responses pursuant to paragraph (2) of this subsection to the board findings in paragraph (1) of this subsection, the following

shall occur:

(1) if the board issues a final finding of no reasonable justification for removal of the appraiser from the appraisal management company approved appraiser list by preponderance of the evidence, the board may order that the appraisal management company take certain corrective actions, including, but not limited to, appraiser reinstatement, a fine, suspension or other actions against the appraisal management company under the board's authority in accordance with the "Real Estate Appraisers Act," P.L.1991, c.68 (C.45:14F-1 et seq.); or

(2) if there is a finding by a preponderance of the evidence that the appraisal management company has properly removed the appraiser from the approved appraiser list, then the board may issue a finding that the appraisal management company was justified in such removal and the board may consider disciplinary action against the appraiser.]¹

21. (New section) a. An appraisal management company shall inform the board when the appraisal management company has a reasonable basis to believe that an appraiser has committed a material violation of:

(1) the Uniform Standards of Professional Appraisal Practice;

(2) applicable laws; or

(3) ethical or professional conduct.

b. An appraisal management company shall provide the board with all information in the possession of the appraisal management company in support of any information compiled against an appraiser under this section, including any evidence to support the determination that an appraisal management company has probable cause of a material violation as defined in subsection a. of this section.

For the purposes of this section, a material violation is one that is likely to affect the value assigned to a consumer's principal dwelling.

22. (New section) Each appraisal management company shall, except in bona fide cases of breach of contract or substandard performance of services, make payment to an appraiser for the completion of an appraisal or valuation assignment within 60 days of the date on which the appraiser transmits or otherwise provides the completed appraisal or valuation study to the appraisal management company or its assignee unless a mutually agreed upon alternate arrangement has been previously established, which agreement

shall be considered to be under the appraiser independence requirements of section 1639e of the federal Truth in Lending Act, Pub.L.90-321 (15 U.S.C. s.1639e).

23. (New section) a. The board may suspend or revoke any registration issued under this act, levy fines, or impose civil penalties if, after appropriate investigation, the board concludes that an appraisal management company is attempting to perform, has performed, or has attempted to perform any of the following:

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

(2) Any action in violation of the "Real Estate Appraisers Act," P.L.1991, c.68 (C.45:14F-1 et seq.), or regulations adopted thereunder; or

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

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

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

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

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

c. The board ¹[shall] may¹ conduct random audits of appraisal management company compliance with this act, and those audits shall be funded through the various fees charged to appraisal management companies as set forth in this act, but an appraisal management company that timely files a certification of compliance in accordance with the provisions of this act shall have a presumption of compliance if that certification is accompanied by a legal opinion letter indicating that all compliance requirements have been satisfied.

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

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

3. There is created within the Division of Consumer Affairs in the Department of Law and Public Safety a State Real Estate Appraiser Board. The board shall consist of ~~[nine]~~ 11 members who are residents of the State, two of whom shall be public members and one of whom shall be a State executive department member appointed pursuant to the provisions of section 2 of P.L.1971, c.60 (C.45:1-2.2). Of the remaining ~~[six]~~ eight members, three shall be, except for those first appointed, State licensed real estate appraisers ~~[and]~~, three shall be, except for those first appointed, State certified real estate appraisers, and two shall be representatives of the appraisal management company industry, each of whom shall be State certified real estate appraisers or State licensed real estate appraisers. One representative of the appraisal management company industry shall be affiliated with an appraisal management company that is owned, in whole or in part, by a federally regulated financial institution, and one representative of the appraisal management company industry shall be affiliated with an appraisal management company that is not owned, in whole or in part, by a federally regulated financial institution. The initial real estate appraiser members of the board may hold a real estate appraisal designation from an organization recognized by the Appraisal Foundation, but these appointments shall not be granted or denied on the basis of organizational membership alone.

The Governor shall appoint the public members ~~[and]~~, the real estate appraiser members, and the representatives of the appraisal management company industry to the board with the advice and consent of the Senate. The Governor shall appoint each member for a term of three years, except that with regard to the real estate appraiser members first appointed, two shall serve for terms of three years, two shall serve for terms of two years, and two shall serve for terms of one year. Each member shall serve until his successor has been qualified. Any vacancy in the membership of the board shall be filled for the unexpired term in the manner provided by the original appointment. No member of the board shall serve more than two successive terms in addition to any unexpired term to which he has been appointed. The Governor may remove a member of the board for cause.

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

¹25. Section 8 of P.L.1991, c.68 (C.45:14F-8) is amended to read as follows:

8. The board shall, in addition to such other powers and duties as it may possess by law:

a. Administer and enforce the provisions of ~~[this act]~~ P.L.1991, c.68 (C.45:14F-1 et seq.) and P.L. , c. (C.) (pending before the Legislature as this bill);

- b. Examine and pass on the qualifications of all applicants for licensure or certification under [this act] P.L.1991, c.68 (C.45:14F-1 et seq.) and registration under P.L. , c. (C.) (pending before the Legislature as this bill);
- c. Issue and renew licenses and certificates of real estate appraisers and registrations of real estate appraisal management companies;
- d. Prescribe examinations for certification under [this act] P.L.1991, c.68 (C.45:14F-1 et seq.), which examinations shall meet the standards for certification examinations for real estate appraisers established by the Appraisal Foundation, and prescribe examinations for licensure under [this act] P.L.1991, c.68 (C.45:14F-1 et seq.) and P.L. , c. (C.) (pending before the Legislature as this bill), which examinations shall meet the standards for licensing examinations for real estate appraisers acceptable to the Appraisal Subcommittee;
- e. Suspend, revoke or refuse to issue or renew a license [or], certificate or registration and exercise investigative powers pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.) and P.L. , c. (C.) (pending before the Legislature as this bill);
- f. Establish fees for applications for licensure and certification, examinations, initial licensure and certification, renewals, late renewals, temporary licenses, temporary certifications and for duplication of lost licenses or certificates, pursuant to section 2 of P.L.1974, c.46 (C.45:1-3.2) and for registration as an appraisal management company under section 9 of P.L. , c. (C.) (pending before the Legislature as this bill);
- g. Establish a code of professional ethics for persons licensed or certified under [this act] P.L.1991, c.68 (C.45:14F-1 et seq.) which meets the standards established by the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation , and establish rules for appraiser independence for appraisers and appraisal management companies;
- h. Establish standards for the certification of real estate appraisers which meet or exceed the [standards established by] minimum criteria for licensure issued by the Appraisal Qualifications Board of the Appraisal Foundation, and establish standards for the licensing of real estate appraisers which meet [standards acceptable to the Appraisal Subcommittee] or exceed the minimum criteria for licensure issued by the Appraisal Qualifications Board of the Appraisal Foundation;
- i. Conduct hearings pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). In any hearing or investigative inquiry, the board shall have the right to administer oaths to witnesses, and shall have the power to issue subpoenas for the compulsory attendance of witnesses and the production of pertinent books, papers or records;

- j. Take such action as is necessary before any board, agency or court of competent jurisdiction for the enforcement of the provisions of [this act] P.L.1991, c.68 (C.45:14F-1 et seq.) and P.L. , c. (C.) (pending before the legislature as this bill);
- k. Maintain a registry of the names and business addresses of licensees and the names and business addresses of certified individuals and the names and addresses of registered appraisal management companies, and shall forward such materials to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, and shall comply with any reporting requirements of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council promulgated by any federal agency;
- l. Approve providers of real estate appraiser education courses and establish and revise experience and education requirements for the licensure and certification of real estate appraisers in this State;
- m. Approve providers of real estate appraiser continuing education courses and establish and revise continuing education requirements for the renewal of licenses and certificates;
- n. Adopt and promulgate rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of [this act] P.L.1991, c.68 (C.45:14F-1 et seq.), except that the initial rules and regulations shall be promulgated by the director;
- o. Perform any other functions and duties which may be necessary to carry out the provisions of [this act] P.L.1991, c.68 (C.45:14F-1 et seq.); and
- p. Adopt and promulgate rules and regulations by which market analyses by licensed real estate brokers, broker-salespersons and salespersons may be used as credit for experience toward licensure or certification under P.L.1991, c.68 (C.45:14F-1 et seq.).¹

(cf: P.L.1995, c.349, s.3)

¹26. Section 3 of P.L.1997, c.401 (C.45:14F-10.1) is amended to read as follows:

3. a. An applicant for licensure or certification under P.L.1991, c.68 (C.45:14F-1 et seq.) or registration under P.L. , c. (C.) (pending before the Legislature as this bill) shall not be eligible for licensure [or], certification or registration as the case may be, and any holder of a license or certification under P.L.1991, c.68 (C.45:14F-1 et seq.) or registration under P.L. , c. (C.) (pending before the Legislature as this bill) shall have his license [or], certification or registration revoked if the State Real Estate Appraiser Board determines, consistent with the requirements and standards of this section and section 4 of P.L.1997, c.401 (C.45:14F-10.2), that criminal history record information exists on file in the Federal Bureau of

Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which would disqualify that individual from being licensed ~~[or]~~, certified or registered. An applicant or a holder of a license ~~[or]~~, certification or registration shall be disqualified from licensure ~~[or]~~, certification or registration if that individual's criminal history record check reveals a record of conviction of any of the following crimes and offenses:

(1) In New Jersey, any crime or disorderly persons offense during the five-year period immediately prior to the date of the application or renewal; or

(2) any crime more than five years prior to the date of the application or renewal:

(a) Involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:11-1 et seq., N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq., or N.J.S.2C:15-1 et seq.; or

(b) Involving theft as set forth in chapter 20 of Title 2C of the New Jersey Statutes, forgery and fraudulent practices as set forth in chapter 21 of Title 2C of the New Jersey Statutes, including but not limited to money laundering as set forth in N.J.S.2C:21-25, or perjury and other falsification in official matters as set forth in chapter 28 of Title 2C of the New Jersey Statutes; or

(c) Involving any controlled dangerous substances or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except as set forth in paragraph (4) of subsection a. of N.J.S.2C:35-10.

~~[(2)](3)~~ In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in paragraph (1) or (2) of this subsection.

For purposes of this subsection, a judgement of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction.

b. Notwithstanding the provisions of subsection a. of this section, no individual shall be disqualified from licensure ~~[or]~~, certification or registration on the basis of any conviction disclosed by a criminal history record check performed pursuant to this section, other than a conviction for a crime during the five-year period immediately prior to the date of the application or renewal or a crime enumerated in subparagraph (b) of paragraph (2) of subsection a. of this section, if the individual has affirmatively demonstrated to the board clear and convincing evidence of his rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

(1) The nature and responsibility of the position which the convicted individual would hold;

(2) The nature and seriousness of the offense;

- (3) The circumstances under which the offense occurred;
- (4) The date of the offense;
- (5) The age of the individual when the offense was committed;
- (6) Whether the offense was an isolated or repeated incident;
- (7) Any social conditions which may have contributed to the offense; and
- (8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have had the individual under their supervision.¹

(cf: P.L.1997, c.401, s.3)

¹27. Section 4 of P.L.1997, c.401 (C.45:14F-10.2) is amended to read as follows:

4. a. An applicant and holder of a license [or], certificate or registration shall submit to the board his name, address and fingerprints taken on standard fingerprint cards or electronically by a State or municipal law enforcement agency or authorized agent. The board is authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required by section 3 of P.L.1997, c.401 (C.45:14F-10.1).
- b. Upon receipt of the criminal history record information for a person from the Federal Bureau of Investigation or the Division of State Police, the board shall notify the applicant, licensee [or], certified individual or registrant, as applicable, in writing, of the person's qualification or disqualification for licensure [or], certification or registration under section 3 of P.L.1997, c.401 (C.45:14F-10.1). If the applicant, licensee [or], certified individual or registrant, as applicable, is disqualified, the conviction or convictions which constitute the basis for the disqualification shall be identified in the written notice.
- c. The applicant, licensee [or], certified individual or registrant, as the case may be, shall have 30 days from the date of written notice of disqualification to petition the board for a hearing on the accuracy of the criminal history record information or to establish his rehabilitation under subsection b. of section 3 of P.L.1997, c.401 (C.45:14F-10.1). The board may refer any case arising hereunder to the Office of Administrative Law for administrative proceedings pursuant to P.L.1968, c.410 (C.52:14B-1 et seq.).

d. The board shall not maintain any individual's criminal history record information or evidence of rehabilitation submitted under this section for more than six months from the date of a final determination by the board as to the individual's qualification or disqualification to be licensed [or], certified or registered pursuant to the provisions of this section and section 3 of [this amendatory and supplementary act] P.L.1997, c.401 (C.45:14F-10.1).

e. All costs associated with performing the criminal history check required by P.L.1997, c.401 (C.45:14F-10.1 et al.) shall be borne by the applicant for licensure [or], certification or

registration, or the holder of any license [or], certification or registration.¹

(cf: P.L.1997, c.401, s.4)

¹28. Section 11 of P.L.1991 c.68 (C.45:14F-11) is amended to read as follows:

11. To be eligible for certification as a general or residential real estate appraiser, an applicant shall fulfill the following requirements:

a. Be at least 18 years of age;

b. Be of good moral character;

c. Have a high school diploma or its equivalent;

d. Have real estate appraisal experience [which experience shall meet] that meets the standards for experience prescribed by the Appraisal Qualifications Board of the Appraisal Foundation for the type of certificate sought;

e. Have successfully completed a course of study in real estate appraising prescribed by the board and conducted by an approved education provider, which course of study shall meet the standards for the course of study issued by the Appraisal Qualifications Board of the Appraisal Foundation for the type of certificate sought; and

f. Successfully complete a real estate appraiser certification examination administered by the board.¹

(cf: P.L.1991, c.408, s.6)

¹29. Section 15 of P.L.1991, c.68 (C.45:14F-15) is amended to read as follows:

15. Upon payment to the board of the prescribed fee and the submission of a written application on forms prescribed by it, the board may issue a license or certificate to any person who holds a valid license or certificate as a real estate appraiser issued by another state which [has educational, experience and examination requirements substantially similar to] meets or exceeds the minimum qualification criteria established by the Appraisal Qualifications Board of the Appraisal Foundation and the standards for licensure and certification established by this State.¹

(cf: P.L.1991, c.68, s.15)

¹30. Section 18 of P.L.1991, c.68 (C.45:14F-18) is amended to read as follows:

18. a. No license shall be renewed unless the renewal applicant submits satisfactory evidence to the board that the renewal applicant has successfully completed the continuing education requirements prescribed pursuant to [this act] P.L.1991, c.68 (C.45:14F-1 et seq.). The board shall not require less than the number of hours acceptable to the Appraisal Subcommittee of the Appraisal Foundation for the continuing education of licensed real estate appraisers.

b. No certificate shall be renewed unless the renewal applicant submits satisfactory evidence to the board that the renewal applicant has successfully completed the continuing education requirements prescribed pursuant to [this act] P.L.1991, c.68 (C.45:14F-1 et seq.) for the type of certificate for which renewal is sought. The board shall not require less than the number of hours of continuing education prescribed by the Appraisal Qualifications Board of the Appraisal Foundation as a national standard for the continuing education of certified real estate appraisers.

c. Continuing education may include classroom instruction in courses, seminars or other activities as approved by the board.¹

(cf: P.L.1991, c.408, s.8)

¹31. Section 25 of P.L.1991, c.68 (C.45:14F-25) is amended to read as follows:

25. In the event that the government of the United States enacts legislation or rules requiring states to collect fees from appraisers or appraisal management companies licensed [or], certified or registered by those states and to remit the monies to a federal agency, the board is authorized to impose and collect these fees and may adopt rules requiring the payment of the fees by all appraisers licensed or certified pursuant to the provisions of [this act] P.L.1991, c.68 (C.45:14F-1 et seq.) or appraisal management companies registered pursuant to the provisions of P.L. , c. (C.) (pending before the Legislature as this bill).¹

(cf: P.L.1991, c.68, s.25)

¹[25.] 32.¹ (New section) The State Real Estate Appraiser Board shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to

effectuate the provisions of this act within 120 days of the effective date of this act.

¹33. The following sections are repealed:

Section 12 of P.L.1991, c.68 (C.45:14F-12); and

Section 13 of P.L.1991, c.68 (C.45:14F-13).¹

¹[26.] 34.¹ This act shall take effect immediately, except that the provisions of section 6 of this act shall not take effect until 60 days after the adoption by the State Real Estate Appraiser Board of regulations to effectuate the purposes of this act.