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AN ACT
RELATING TO REAL PROPERTY; ENACTING THE APPRAISAL MANAGEMENT
COMPANY REGISTRATION ACT; PROVIDING FOR REGISTRATION AND
REGULATION OF REAL ESTATE APPRAISAL MANAGEMENT COMPANIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--Sections 1 through 23 of this
act may be cited as the "Appraisal Management Company
Registration Act".

Section 2. DEFINITIONS.--As used in the Appraisal
Management Company Registration Act:

A. "appraisal" means the act or process of
developing an opinion of the value of real property in
conformance with the uniform standards for professional
appraisal practice published by the appraisal foundation;

B. "appraisal foundation" means the appraisal
foundation incorporated as an Illinois not-for-profit
corporation on November 30, 1987 and to which reference is
made in the federal Financial Institutions Examination
Council Act of 1978, as amended by Title 11, Real Estate
Appraisal Reform Amendments;

C. "appraisal management company" means a
corporation, partnership, sole proprietorship, subsidiary,
limited liability company or other business entity that:

(1) contracts with independent

1 appraisers to perform real estate appraisal services for
2 clients;

3 (2) receives requests for real estate
4 appraisal services from clients and, for a fee paid by the
5 client, enters into an agreement with one or more independent
6 appraisers to perform the real estate appraisal services
7 contained in the request; or

8 (3) otherwise serves as a third-party broker
9 of appraisal management services between clients and
10 appraisers;

11 D. "appraisal management services" means the
12 process of receiving a request for the performance of real
13 estate appraisal services from a client, and for a fee paid
14 by the client, entering into an agreement with one or more
15 independent appraisers to perform the real estate appraisal
16 services contained in the request;

17 E. "appraiser" means a person who provides an
18 opinion of the market value of real property;

19 F. "appraiser panel" means a group of independent
20 appraisers that have been selected by an appraisal management
21 company to perform real estate appraisal services for the
22 appraisal management company;

23 G. "board" means the real estate appraisers board
24 created pursuant to the Real Estate Appraisers Act;

25 H. "client" means a person or entity that

1 contracts with, or otherwise enters into an agreement with,
2 an appraisal management company for the performance of real
3 estate appraisal services;

4 I. "controlling person" means:

5 (1) an owner, officer or director of a
6 corporation, partnership, limited liability company or other
7 business entity seeking to offer appraisal management
8 services in this state;

9 (2) an individual employed, appointed or
10 authorized by an appraisal management company that has the
11 authority to enter into a contractual relationship with
12 clients for the performance of appraisal management services
13 and that has the authority to enter into agreements with
14 independent appraisers for the performance of real estate
15 appraisal services; or

16 (3) an individual who possesses, directly or
17 indirectly, the power to direct or cause the direction of the
18 management or policies of an appraisal management company;

19 J. "real estate appraisal services" means the
20 practice of developing an opinion of the value of real
21 property in conformance with the uniform standards of
22 professional appraisal practice published by the appraisal
23 foundation; and

24 K. "uniform standards of professional appraisal
25 practice" means the uniform standards of professional

1 appraisal practice promulgated by the appraisal foundation
2 and adopted by rule pursuant to the Real Estate Appraisers
3 Act.

4 Section 3. REGISTRATION REQUIRED.--

5 A. It is unlawful for a person, corporation,
6 partnership, sole proprietorship, subsidiary, limited
7 liability company or any other business entity to directly or
8 indirectly engage or attempt to engage in business as an
9 appraisal management company, to directly or indirectly
10 engage or attempt to perform appraisal management services or
11 to advertise or hold itself out as engaging in or conducting
12 business as an appraisal management company without first
13 obtaining a certificate of registration issued by the board
14 under the provisions of the Appraisal Management Company
15 Registration Act, regardless of the entity's use of the term
16 "appraisal management company", "mortgage technology company"
17 or any other name.

18 B. The registration required by Subsection A of
19 this section shall include:

20 (1) the name of the entity seeking
21 registration;

22 (2) the business address of the entity
23 seeking registration;

24 (3) telephone contact information of the
25 entity seeking registration;

1 (4) if the entity seeking registration is
2 not a corporation that is domiciled in this state, the name
3 and contact information for the company's agent for service
4 of process in this state;

5 (5) the name, address and contact
6 information for any individual or any corporation,
7 partnership or other business entity that owns ten percent or
8 more of the appraisal management company;

9 (6) the name, address and contact
10 information for a controlling person;

11 (7) a certification that the entity seeking
12 registration has a system and process in place to verify that
13 a person being added to the appraiser panel of the appraisal
14 management company holds a license or certification in good
15 standing in this state pursuant to the Real Estate Appraisers
16 Act;

17 (8) a certification that the entity seeking
18 registration has a system in place to review the work of all
19 independent appraisers that are performing real estate
20 appraisal services for the appraisal management company on a
21 periodic basis to ensure that the real estate appraisal
22 services are being conducted in accordance with uniform
23 standards of professional appraisal practice;

24 (9) a certification that the entity
25 maintains a detailed record of each service request that it

1 receives and the independent appraiser that performs the real
2 estate appraisal services for the appraisal management
3 company;

4 (10) an irrevocable consent to service of
5 process; and

6 (11) any other information required by the
7 board.

8 Section 4. EXEMPTIONS.--The Appraisal Management
9 Company Registration Act is not applicable to:

10 A. a corporation, partnership, sole
11 proprietorship, subsidiary, limited liability company or
12 other business entity that employs persons on an employer and
13 employee basis exclusively for the performance of real estate
14 appraisal services in the normal course of its business and
15 the entity is responsible for ensuring that the real estate
16 appraisal services being performed by its employees are being
17 performed in accordance with uniform standards of
18 professional appraisal practice;

19 B. an individual who in the normal course of the
20 individual's business enters into an agreement, whether
21 written or otherwise, with another independent contractor
22 appraiser for the performance of real estate appraisal
23 services that the hiring or contracting appraiser cannot
24 complete for any reason, including competency, work load,
25 schedule or geographic location; or

1 C. an individual, corporation, partnership, sole
2 proprietorship, subsidiary, limited liability company or
3 other business entity that in the normal course of business
4 enters into an agreement, whether written or otherwise, with
5 an independent contractor appraiser for the performance of
6 real estate appraisal services and upon the completion of the
7 appraisal, the report of the appraiser performing the real
8 estate appraisal services is co-signed by the appraiser who
9 subcontracted with the independent appraiser for the
10 performance of the real estate appraisal services.

11 Section 5. FORMS.--An applicant for registration as an
12 appraisal management company shall submit to the board an
13 application on a form prescribed by the board.

14 Section 6. EXPIRATION OF LICENSE.--A registration
15 granted by the board pursuant to the Appraisal Management
16 Company Registration Act shall be valid for one year from the
17 date on which it is issued.

18 Section 7. CONSENT TO SERVICE OF PROCESS.--Each entity
19 applying for registration as an appraisal management company
20 shall complete and execute an irrevocable consent to service
21 of process form as prescribed by the board.

22 Section 8. FEE.--The board shall establish the fee for
23 appraisal management company registration by rule to cover
24 the cost of the administration of the Appraisal Management
25 Company Registration Act, but in no case shall the fee be

1 more than two thousand dollars (\$2,000). Registration fees
2 shall be credited to the appraiser fund pursuant to Section
3 61-30-18 NMSA 1978.

4 Section 9. OWNER REQUIREMENTS.--

5 A. An appraisal management company applying for
6 registration may not be owned by a person or have any
7 principal of the company who has had a license or certificate
8 to act as an appraiser refused, denied, canceled or revoked
9 in this state or in any other state.

10 B. Each person that owns, is an officer of or has
11 a financial interest in an appraisal management company in
12 this state shall:

13 (1) be of good moral character, as
14 determined by the board;

15 (2) submit to a background investigation, as
16 determined by the board; and

17 (3) certify to the board that the person has
18 never had a license to act as an appraiser refused, denied,
19 canceled or revoked in this state or in any other state.

20 Section 10. CONTROLLING PERSON.--Each appraisal
21 management company applying to the board for registration in
22 this state shall designate one controlling person that will
23 be the main contact for all communication between the board
24 and the appraisal management company.

25 Section 11. CONTROLLING PERSON REQUIREMENTS.--In order

1 to serve as a controlling person of an appraisal management
2 company, a person shall:

3 A. certify to the board that the person has never
4 had a certificate or a license issued by the board of this
5 state, or the board of any other state, to act as an
6 appraiser refused, denied, canceled or revoked;

7 B. be of good moral character, as determined by
8 the board; and

9 C. submit to a background investigation, as
10 determined by the board.

11 Section 12. EMPLOYEE REQUIREMENTS.--

12 A. Any employee of the appraisal management
13 company, or any person working on behalf of the appraisal
14 management company, that has the responsibility of selecting
15 independent appraisers for the performance of real estate
16 appraisal services for the appraisal management company or
17 the responsibility of reviewing completed appraisals shall be
18 appropriately trained and qualified in the performance of
19 real estate appraisals as determined by the board by rule.

20 B. Any employee of the appraisal management
21 company that has the responsibility to review the work of
22 independent appraisers shall have demonstrated knowledge of
23 the uniform standards of professional appraisal practice, as
24 determined by the board by rule.

25 Section 13. LIMITATIONS.--An appraisal management

1 company registered in this state pursuant to the Appraisal
2 Management Company Registration Act may not enter into
3 contracts or agreements with an independent appraiser for the
4 performance of real estate appraisal services unless that
5 person is licensed or certified in good standing pursuant to
6 the Real Estate Appraisers Act.

7 Section 14. PRE-ENGAGEMENT CERTIFICATION.--Each
8 appraisal management company seeking to be registered in this
9 state shall certify to the board on an annual basis on a form
10 prescribed by the board that the appraisal management company
11 has a system and process in place to verify that a person
12 being added to the appraiser panel of the appraisal
13 management company holds a license in good standing in this
14 state pursuant to the Real Estate Appraisers Act.

15 Section 15. ADHERENCE TO STANDARDS.--Each appraisal
16 management company seeking to be registered in this state
17 shall certify to the board on an annual basis that it has a
18 system in place to review the work of all independent
19 appraisers that are performing real estate appraisal services
20 for the appraisal management company on a periodic basis to
21 ensure that the real estate appraisal services are being
22 conducted in accordance with uniform standards of
23 professional appraisal practice.

24 Section 16. RECORDKEEPING.--Each appraisal management
25 company seeking to be registered shall certify to the board

1 on an annual basis that it maintains a detailed record of
2 each service request that it receives and the independent
3 appraiser that performs the real estate appraisal services
4 for the appraisal management company.

5 Section 17. APPRAISER INDEPENDENCE--PROHIBITIONS.--

6 A. It is unlawful for any employee, director,
7 officer or agent of an appraisal management company
8 registered pursuant to the Appraisal Management Company
9 Registration Act to influence or attempt to influence the
10 development, reporting or review of an appraisal through
11 coercion, extortion, collusion, compensation, instruction,
12 inducement, intimidation, bribery or in any other manner,
13 including:

14 (1) withholding or threatening to withhold
15 timely payment for an appraisal;

16 (2) withholding or threatening to withhold
17 future business for an independent appraiser or demoting or
18 terminating, or threatening to demote or terminate, an
19 independent appraiser;

20 (3) expressly or impliedly promising future
21 business, promotions or increased compensation for an
22 independent appraiser;

23 (4) conditioning the request for an
24 appraisal service or the payment of an appraisal fee or
25 salary or bonus on the opinion, conclusion or valuation to be

1 reached or on a preliminary estimate or opinion requested
2 from an independent appraiser;

3 (5) requesting that an independent appraiser
4 provide an estimated, predetermined or desired valuation in
5 an appraisal report or provide estimated values of comparable
6 sales at any time prior to the independent appraiser's
7 completion of an appraisal service;

8 (6) providing to an independent appraiser an
9 anticipated, estimated, encouraged or desired value for a
10 subject property or a proposed or target amount to be loaned
11 to the borrower, except that a copy of the sales contract for
12 purchase transactions may be provided;

13 (7) providing to an independent appraiser,
14 or any entity or person related to the appraiser, stock or
15 other financial or non-financial benefits;

16 (8) allowing the removal of an independent
17 appraiser from an appraiser panel, without prior written
18 notice to such appraiser;

19 (9) obtaining, using or paying for a second
20 or subsequent appraisal or ordering an automated valuation
21 model in connection with a mortgage financing transaction
22 unless there is a reasonable basis to believe that the
23 initial appraisal was flawed or tainted and such basis is
24 clearly and appropriately noted in the loan file, or unless
25 such appraisal or automated valuation model is done pursuant

1 to a bona fide pre- or post-funding appraisal review or
2 quality control process; or

3 (10) engaging in any other act or practice
4 that impairs or attempts to impair an appraiser's
5 independence, objectivity or impartiality.

6 B. Nothing in Subsection A of this section shall
7 be construed as prohibiting the appraisal management company
8 from requesting that an independent appraiser:

9 (1) provide additional information about the
10 basis for a valuation; or

11 (2) correct objective factual errors in an
12 appraisal report.

13 Section 18. PAYMENT--NONTAXABLE TRANSACTION
14 CERTIFICATE.--

15 A. Each appraisal management company shall, except
16 in cases of breach of contract or substandard performance of
17 services, make payment to an independent appraiser for the
18 completion of an appraisal or valuation assignment within
19 sixty days of the date on which the independent appraiser
20 transmits or otherwise provides the completed appraisal or
21 valuation study to the appraisal management company or its
22 assignee.

23 B. An appraisal management company shall provide
24 an appraiser with the appropriate nontaxable transaction
25 certificate pursuant to Section 7-9-48 NMSA 1978.

1 Section 19. APPRAISAL REPORTS--ALTERATION--USE.--An
2 appraisal management company shall not:

3 A. alter, modify or otherwise change a completed
4 appraisal report submitted by an independent appraiser
5 without the appraiser's written knowledge and consent; or

6 B. use an appraisal report submitted by an
7 independent appraiser for any other transaction.

8 Section 20. ADJUDICATION OF DISPUTES BETWEEN AN
9 APPRAISAL MANAGEMENT COMPANY AND AN INDEPENDENT APPRAISER.--

10 A. Except within the first thirty days after an
11 independent appraiser is first added to the appraiser panel
12 of an appraisal management company, an appraisal management
13 company shall not remove an appraiser from its appraiser
14 panel, or otherwise refuse to assign requests for real estate
15 appraisal services to an independent appraiser without
16 notifying the appraiser in writing of the reasons for the
17 appraiser being removed from the appraiser panel of the
18 appraisal management company. If the appraiser is being
19 removed from the panel for illegal conduct, violation of the
20 uniform standards of professional appraisal practice or a
21 violation of state licensing standards, the appraisal
22 management company shall provide the independent appraiser
23 the nature of the alleged conduct or violation and provide an
24 opportunity for the appraiser to respond.

25 B. An independent appraiser that is removed from

1 the appraiser panel of an appraisal management company for
2 alleged illegal conduct, violation of the uniform standards
3 of professional appraisal practice or violation of state
4 licensing standards may file a complaint with the board for a
5 review of the decision of the appraisal management company,
6 except that in no case shall the board make any determination
7 regarding the nature of the business relationship between the
8 appraiser and the appraisal management company that is
9 unrelated to the actions specified in Subsection A of this
10 section.

11 C. If an independent appraiser files a complaint
12 against an appraisal management company pursuant to
13 Subsection B of this section, the board shall adjudicate the
14 complaint within one hundred eighty days.

15 D. If after opportunity for hearing and review,
16 the board determines that an independent appraiser did not
17 commit a violation of law, a violation of the uniform
18 standards of professional appraisal practice or a violation
19 of state licensing standards, the board shall order that the
20 appraiser be added to the appraiser panel of the appraisal
21 management company that was the subject of the complaint
22 without prejudice.

23 Section 21. ENFORCEMENT.--The board may censure an
24 appraisal management company, conditionally or
25 unconditionally suspend or revoke any registration issued

1 under the Appraisal Management Company Registration Act, levy
2 fines or impose civil penalties not to exceed twenty-five
3 thousand dollars (\$25,000) per violation if, in the opinion
4 of the board, an appraisal management company is attempting
5 to perform, has performed or has attempted to perform any of
6 the following acts:

7 A. committing any act in violation of the
8 Appraisal Management Company Registration Act;

9 B. violating any rule or regulation adopted by the
10 board in the interest of the public and consistent with the
11 provisions of the Appraisal Management Company Registration
12 Act;

13 C. procuring a registration, license or
14 certification by fraud, misrepresentation or deceit; or

15 D. violating the Real Estate Appraisers Act or the
16 federal Financial Institutions Reform Recovery and
17 Enforcement Act of 1989.

18 Section 22. DISCIPLINARY HEARINGS.--The board may
19 conduct adjudicatory proceedings in accordance with the
20 Administrative Procedures Act; provided that:

21 A. before censuring any registrant, or suspending
22 or revoking any registration, the board shall notify the
23 registrant in writing of any charges made at least twenty
24 days prior to the date set for the hearing and shall afford
25 the registrant an opportunity to be heard in person or by

1 counsel;

2 B. the written notice shall be satisfied by
3 personal service on the controlling person of the registrant
4 or the registrant's agent for service of process in this
5 state or by sending the notice by certified mail, return
6 receipt requested, to the controlling person of the
7 registrant to the registrant's address on file with the
8 board;

9 C. the hearing on the charges shall be at a time
10 and place prescribed by the board; and

11 D. the board may make findings of fact and shall
12 deliver or mail such findings to the registrant charged with
13 an offense under the Appraisal Management Company
14 Registration Act.

15 Section 23. RULEMAKING AUTHORITY.--The board may adopt
16 rules that are reasonably necessary to implement, administer
17 and enforce the provisions of the Appraisal Management
18 Company Registration Act, including rules for obtaining
19 copies of appraisals and other documents necessary to audit
20 compliance with the Appraisal Management Company Registration
21 Act.

22 Section 24. Section 61-30-18 NMSA 1978 (being Laws
23 1990, Chapter 75, Section 18, as amended) is amended to read:

24 "61-30-18. APPRAISER FUND CREATED--DISPOSITION--METHOD
25 OF PAYMENT.--

