

1 SENATE BILL 138

2 **49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010**

3 INTRODUCED BY

4 Mark Boitano

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10 AN ACT

11 RELATING TO APPRAISAL MANAGEMENT COMPANIES; LIMITING FEES;
12 PROVIDING FOR JOINT AND SEVERAL LIABILITY; REQUIRING SURETY AND
13 DISCLOSURE OF FEES.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 Section 1. Section 47-14-1 NMSA 1978 (being Laws 2009,
17 Chapter 214, Section 1) is amended to read:

18 "47-14-1. SHORT TITLE.--~~[Sections 1 through 23 of this~~
19 ~~act]~~ Chapter 47, Article 14 NMSA 1978 may be cited as the
20 "Appraisal Management Company Registration Act"."

21 Section 2. Section 47-14-3 NMSA 1978 (being Laws 2009,
22 Chapter 214, Section 3) is amended to read:

23 "47-14-3. REGISTRATION REQUIRED.--

24 A. It is unlawful for a person, corporation,
25 partnership, sole proprietorship, subsidiary, limited liability

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1 company or any other business entity to directly or indirectly
2 engage or attempt to engage in business as an appraisal
3 management company, to directly or indirectly engage or attempt
4 to perform appraisal management services or to advertise or
5 hold itself out as engaging in or conducting business as an
6 appraisal management company without first obtaining a
7 certificate of registration issued by the board under the
8 provisions of the Appraisal Management Company Registration
9 Act, regardless of the entity's use of the term "appraisal
10 management company", "mortgage technology company" or any other
11 name.

12 B. The registration required by Subsection A of
13 this section shall include:

- 14 (1) the name of the entity seeking
15 registration;
- 16 (2) the business address of the entity seeking
17 registration;
- 18 (3) telephone contact information of the
19 entity seeking registration;
- 20 (4) if the entity seeking registration is not
21 a corporation that is domiciled in this state, the name and
22 contact information for the company's agent for service of
23 process in this state;
- 24 (5) the name, address and contact information
25 for any individual or any corporation, partnership or other

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1 business entity that owns ten percent or more of the appraisal
2 management company;

3 (6) the name, address and contact information
4 for a controlling person;

5 (7) a certification that the entity seeking
6 registration has a system and process in place to verify that a
7 person being added to the appraiser panel of the appraisal
8 management company holds a license or certification in good
9 standing in this state pursuant to the Real Estate Appraisers
10 Act;

11 (8) a certification that the entity seeking
12 registration has a system in place to review the work of all
13 independent appraisers that are performing real estate
14 appraisal services for the appraisal management company on a
15 periodic basis to ensure that the real estate appraisal
16 services are being conducted in accordance with uniform
17 standards of professional appraisal practice;

18 (9) a certification that the entity maintains
19 a detailed record of each service request that it receives and
20 the independent appraiser that performs the real estate
21 appraisal services for the appraisal management company;

22 (10) an irrevocable consent to service of
23 process; [and]

24 (11) a bond or other equivalent means of
25 security as required by the Appraisal Management Company

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1 Registration Act; and

2 [~~(11)~~] (12) any other information required by
3 the board."

4 Section 3. Section 47-14-12 NMSA 1978 (being Laws 2009,
5 Chapter 214, Section 12) is amended to read:

6 "47-14-12. EMPLOYEE REQUIREMENTS.--

7 A. Any employee of the appraisal management
8 company, or any person working on behalf of the appraisal
9 management company, that has the responsibility of selecting
10 independent appraisers for the performance of real estate
11 appraisal services for the appraisal management company or the
12 responsibility of reviewing completed appraisals shall have
13 geographic and product competence and be appropriately trained
14 and qualified in the performance of real estate appraisals as
15 determined by the board by rule.

16 B. Any employee of the appraisal management company
17 that has the responsibility to review the work of independent
18 appraisers shall have demonstrated knowledge of the uniform
19 standards of professional appraisal practice, as determined by
20 the board by rule."

21 Section 4. Section 47-14-13 NMSA 1978 (being Laws 2009,
22 Chapter 214, Section 13) is amended to read:

23 "47-14-13. [~~LIMITATIONS~~] REQUIREMENTS--LIABILITY.--

24 A. An appraisal management company registered in
25 this state pursuant to the Appraisal Management Company

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

6 B. An appraisal management company shall not
7 include a hold harmless provision in the contract for appraisal
8 or require the appraiser to indemnify the appraisal management
9 company against liability."

10 Section 5. Section 47-14-18 NMSA 1978 (being Laws 2009,
11 Chapter 214, Section 18) is amended to read:

12 "47-14-18. PAYMENT--LIMITS--DISCLOSURE--NONTAXABLE
13 TRANSACTION CERTIFICATE.--

14 A. An appraisal management company's fee shall not
15 exceed ten percent of the cost of the appraisal.

16 B. The appraisal management company shall disclose
17 to the client, buyer and seller the amount paid to the
18 appraiser.

19 [~~A. Each~~] C. An appraisal management company
20 shall, except in cases of breach of contract or substandard
21 performance of services, make payment to an independent
22 appraiser for the completion of an appraisal or valuation
23 assignment within sixty days of the date on which the
24 independent appraiser transmits or otherwise provides the
25 completed appraisal or valuation study to the appraisal

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1 management company or its assignee.

2 ~~[B.]~~ D. An appraisal management company shall
3 provide an appraiser with the appropriate nontaxable
4 transaction certificate pursuant to Section 7-9-48 NMSA 1978."

5 Section 6. Section 47-14-22 NMSA 1978 (being Laws 2009,
6 Chapter 214, Section 22) is amended to read:

7 "47-14-22. DISCIPLINARY HEARINGS.--The board [~~may~~] shall
8 conduct adjudicatory proceedings in accordance with the
9 [~~Administrative Procedures~~] Uniform Licensing Act; provided
10 that:

11 ~~[A. before censuring any registrant, or suspending~~
12 ~~or revoking any registration, the board shall notify the~~
13 ~~registrant in writing of any charges made at least twenty days~~
14 ~~prior to the date set for the hearing and shall afford the~~
15 ~~registrant an opportunity to be heard in person or by counsel;~~

16 ~~B.]~~ A. the written notice shall be satisfied by
17 personal service on the controlling person of the registrant or
18 the registrant's agent for service of process in this state or
19 by sending the notice by certified mail, return receipt
20 requested, to the controlling person of the registrant to the
21 registrant's address on file with the board; and

22 ~~[C.]~~ B. the hearing on the charges shall be at a
23 time and place prescribed by the board [~~and~~

24 ~~D. the board may make findings of fact and shall~~
25 ~~deliver or mail such findings to the registrant charged with an~~

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1 ~~offense under the Appraisal Management Company Registration~~
2 ~~Act]."~~

3 Section 7. A new section of the Appraisal Management
4 Company Registration Act is enacted to read:

5 "[NEW MATERIAL] BONDING REQUIREMENTS.--

6 A. In order to qualify for registration or renewal
7 of registration, an appraisal management company shall maintain
8 a bond underwritten by a corporate surety authorized to
9 transact business in New Mexico, or other equivalent means of
10 security. The board shall set by rule the amount and
11 conditions of the surety bond or other equivalent means of
12 security required by this section, provided that the amount of
13 the bond or security required shall not exceed twenty-five
14 thousand dollars (\$25,000).

15 B. The bond or other equivalent means of surety
16 shall secure payment for any administrative or judicial
17 penalties that may be imposed by the board or the state and for
18 any penalties or costs required by a board disciplinary action,
19 and also as indemnity for any loss sustained by any person
20 damaged as a result of a violation by the appraisal management
21 company, of any provision of the Appraisal Management Company
22 Registration Act or of any rule of the board adopted pursuant
23 to that act. Consumer claims shall be given priority in
24 recovering from the bond or equivalent surety.

25 C. An appraisal management company shall notify the

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1 board in writing of any claim made on the appraisal management
2 company's bond or equivalent surety.

3 D. A deposit of cash or security may be accepted in
4 lieu of the surety bond."

5 Section 8. EFFECTIVE DATE.--The effective date of the
6 provisions of this act is July 1, 2010.

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