
A BILL FOR AN ACT

RELATING TO APPRAISAL MANAGEMENT COMPANIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that in 2008, the
2 nation's economy was shaken by the collapse of the sub-prime
3 mortgage market, which threatened the country's financial
4 system. While investigating the causes that led to this
5 collapse, Congress determined one cause was the use of
6 appraisals that did not conform to generally accepted standards
7 of independence, objectivity, and impartiality. Extensive abuse
8 was also discovered in the mortgage origination industry, with
9 appraisers' close business relationships with lenders and the
10 use of biased appraisals to facilitate the lending process found
11 to be contributing factors.

12 In response, Congress enacted the Dodd-Frank Wall Street
13 Reform and Consumer Protection Act, Pub. L. No. 111-203 (Dodd-
14 Frank Act). The Dodd-Frank Act helped restore independence to
15 the appraisal process by separating the lending process and
16 appraisal functions and requiring these functions to be
17 autonomous.



1 The legislature further finds that appraisal management
2 companies, commonly referred to as AMCs, have proliferated as a
3 result of the Dodd-Frank Act. One way of maintaining
4 independence between the appraisal function and the loan
5 origination function of an appraisal process is to have an
6 intermediary separate from the lender that orders and receives
7 appraisals, a function that has been fulfilled by the use of
8 appraisal management companies.

9 Section 1473 of the Dodd-Frank Act required six federal
10 regulatory agencies to jointly promulgate rules that establish
11 minimum requirements to be applied by states in the registration
12 and supervision of appraisal management companies. The
13 appraisal management companies final rule (AMC Final Rule) was
14 published in the Federal Register on June 9, 2015, (80 Federal
15 Register 32657 et seq.) and became effective August 10, 2015.
16 The AMC Final Rule outlines certain minimum registration and
17 oversight requirements for each state to adopt. While the AMC
18 Final Rule does not force a state to enact these minimum
19 requirements, it specifies that if a state fails to do so by
20 August 10, 2018, certain non-federally regulated appraisal
21 management companies will be barred from providing appraisal



1 management services for federally related transactions in that
2 state.

3 The legislature additionally finds that Hawaii's failure to
4 adopt regulation of appraisal management companies that conform
5 with the AMC Final Rule could have unintended and adverse
6 consequences for Hawaii consumers and others involved in the
7 residential appraisal process in the State. The legislature
8 notes that a large source of Hawaii's funding for residential
9 mortgages comes from outside the State, through either direct
10 lending or secondary market investments, which frequently use
11 appraisal management companies. Furthermore, if conforming
12 legislation is not enacted, there is a risk that direct lending
13 for residential mortgages from outside the State could come to a
14 standstill, as appraisal orders could not be economically placed
15 by mainland lenders and Hawaii is too small a market for a large
16 lender to customize a system for the State. There is also a
17 risk that mortgage money may not be available to all people in
18 the State who need it. This potential restriction of available
19 mortgage funds could make home affordability even more elusive
20 for residents of Hawaii and could adversely impact home
21 ownership for many families.



1 requirements of the Dodd-Frank Wall Street Reform and Consumer
2 Protection Act, Pub. L. No. 111-203, and the final regulations
3 published on June 9, 2015, at 80 Federal Register 32657 et seq.
4 The purpose of this chapter is to establish minimum requirements
5 for the regulation of certain non-federally regulated appraisal
6 management companies.

7 § -B Definitions. As used in this chapter unless the
8 context otherwise requires:

9 "Affiliate" means any company that controls, is controlled
10 by, or is under control of another company, as defined under
11 title 12 United States Code section 1841, or any successor
12 federal statute.

13 "AMC national registry" means the registry of state-
14 registered appraisal management companies and federally
15 regulated appraisal management companies maintained by the
16 Appraisal Subcommittee.

17 "Appraisal management company" means a person that:

18 (1) Provides appraisal management services to creditors or
19 secondary mortgage market participants, including
20 affiliates;



1 (2) Provides appraisal management services in connection
2 with valuing a consumer's principal dwelling as
3 security for a consumer credit transaction or
4 incorporating these transactions into securitizations;
5 and

6 (3) Within a twelve-month calendar year, beginning January
7 1 of each year and ending on December 31 of each year,
8 oversees an appraiser panel of more than fifteen
9 state-certified or state-licensed appraisers in a
10 state or twenty-five or more state-certified or state-
11 licensed appraisers in two or more states, as
12 described in section -E.

13 "Appraisal management company" does not include a department or
14 division of an entity that provides appraisal management
15 services only to that entity.

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

- 18 (1) Recruiting, selecting, and retaining appraisers;
- 19 (2) Contracting with state-certified or state-licensed
20 appraisers to perform appraisal assignments;

1 (3) Managing the process of having an appraisal performed,
2 including providing completed appraisal reports to
3 creditors and secondary market participants;
4 collecting fees from creditors and secondary market
5 participants for services provided; and paying
6 appraisers for services performed; and

7 (4) Reviewing and verifying the work of appraisers.

8 "Appraiser panel" means a network, list, or roster of
9 licensed or certified appraisers approved by an appraisal
10 management company to perform appraisals as independent
11 contractors for the appraisal management company. Appraisers on
12 an appraisal management company's "appraiser panel" include:

13 (1) Appraisers accepted by the appraisal management
14 company for consideration for future appraisal
15 assignments in covered transactions or for secondary
16 mortgage market participants in connection with
17 covered transactions; and

18 (2) Appraisers engaged by the appraisal management company
19 to perform one or more appraisals in covered
20 transactions or for secondary mortgage market
21 participants in connection with covered transactions.



1 For purposes of this chapter, an appraiser is an independent
2 contractor if the appraiser is treated as an independent
3 contractor by the appraisal management company for purposes of
4 federal income taxation.

5 "Appraisal review" means the process of developing and
6 communicating an opinion about the quality of another
7 appraiser's work that was performed as part of an appraisal
8 assignment related to the appraiser's data collection, analysis,
9 opinions, conclusions, estimate of value, or compliance with the
10 Uniform Standards of Professional Appraisal Practice.

11 "Appraisal review" does not include:

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

18 "Appraisal Subcommittee" means the Appraisal Subcommittee
19 of the Federal Financial Institutions Examination Council
20 created pursuant to Title XI of the federal Financial
21 Institutions Reform, Recovery, and Enforcement Act of 1989.



1 "Appraisal review committee" means the advisory committee
2 established pursuant to section -D(9).

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

5 "Controlling person" means:

- 6 (1) An officer, director, or owner of greater than a ten
7 per cent interest of a corporation, partnership, or
8 other business entity seeking to act as an appraisal
9 management company in the State;
- 10 (2) An individual employed, appointed, or authorized by an
11 appraisal management company who has the authority to:
- 12 (A) Enter a contractual relationship with other
13 persons for performance of services requiring
14 registration as an appraisal management company;
15 and
- 16 (B) Enter agreements with appraisers for the
17 performance of appraisals; or
- 18 (3) An individual who possesses, directly or indirectly,
19 the power to direct or cause the direction of the
20 management or policies of an appraisal management
21 company.



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

3 "Creditor" means a person who regularly extends consumer
4 credit that is subject to a finance charge or is payable by
5 written agreement in more than four installments (not including
6 a down payment) and to whom the obligation is initially payable,
7 either on the face of the note or contract, or by agreement when
8 there is no note or contract.

9 A person regularly extends consumer credit if:

10 (1) The person extended credit (other than credit subject
11 to the requirements of title 12 Code of Federal
12 Regulations section 1026.32) more than five times for
13 transactions secured by a dwelling in the preceding
14 calendar year. If a person did not meet these
15 numerical standards in the preceding calendar year,
16 the numerical standards shall be applied to the
17 current calendar year; or

18 (2) In any twelve-month period, the person extends more
19 than one credit extension that is subject to the
20 requirements of title 12 Code of Federal Regulations



1 section 1026.32 or one or more such credit extensions
2 through a mortgage broker.

3 "Department" means the department of commerce and consumer
4 affairs.

5 "Director" means the director of commerce and consumer
6 affairs.

7 "Dwelling" means a residential structure that contains one
8 to four units, whether or not that structure is attached to real
9 property. "Dwelling" includes an individual condominium unit,
10 cooperative unit, mobile home, and trailer, if it is used as a
11 residence. A consumer can have only one principal dwelling at a
12 time. A vacation or other second home is not considered a
13 principal dwelling; provided that for purposes of this
14 definition, if a consumer buys or builds a new dwelling that
15 will become the consumer's principal dwelling within a year or
16 upon the completion of construction, the new dwelling shall be
17 considered the principal dwelling.

18 "Federally regulated appraisal management company" means an
19 appraisal management company that is owned and controlled by an
20 insured depository institution, as defined in title 12 United
21 States Code section 1813, and regulated by the Office of the



1 Comptroller of the Currency, the Board of Governors of the
2 Federal Reserve System, or the Federal Deposit Insurance
3 Corporation.

4 "Federally related transaction" means any real estate-
5 related financial transaction that involves an insured
6 depository institution regulated by the Office of the
7 Comptroller of the Currency, Board of Governors of the Federal
8 Reserve System, Federal Deposit Insurance Corporation, or
9 National Credit Union Administration, and that requires the
10 services of an appraiser under the interagency appraisal rules.

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

14 "Real estate-related financial transaction" means any
15 transaction involving the sale, lease, purchase, investment in,
16 or exchange of real property, including interests in property or
17 the financing thereof, including the refinancing of real
18 property or interests in real property and the use of real
19 property or interests in property as security for a loan or
20 investment, including mortgage-backed securities.



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

8 "Uniform Standards of Professional Appraisal Practice"
9 means the most recent iteration of the Uniform Standards of
10 Professional Appraisal Practice developed by the appraisal
11 standards board of The Appraisal Foundation and approved by the
12 director.

13 **§ -C Appraisal management company registration program.**

14 There is established an appraisal management company
15 registration program within the department, to be administered
16 by the director.

17 **§ -D Powers and duties of the director.** In addition to

18 any other powers and duties authorized by law, the director
19 shall have the following powers and duties:

- 20 (1) Review and approve or deny an appraisal management
21 company's application for initial registration;



- 1 (2) Renew or deny an appraisal management company's
2 registration periodically;
- 3 (3) Examine the books and records of an appraisal
4 management company operating in the State and require
5 the appraisal management company to submit reports,
6 information, and documents;
- 7 (4) Verify that the appraisers on the appraisal management
8 company's appraiser panel hold valid state licenses or
9 certifications, as applicable;
- 10 (5) Conduct investigations of appraisal management
11 companies to assess potential violations of applicable
12 appraisal-related laws, regulations, or orders;
- 13 (6) Discipline, suspend, terminate, or deny renewal of the
14 registration of an appraisal management company that
15 violates applicable appraisal-related laws,
16 regulations, or orders;
- 17 (7) Report an appraisal management company's violation of
18 applicable appraisal-related law, regulations, or
19 orders, as well disciplinary and enforcement actions
20 and other relevant information about an appraisal



1 management company's operations, to the Appraisal
2 Subcommittee;

3 (8) Adopt, amend, and repeal rules, pursuant to chapter
4 91, as may be necessary to establish the appraisal
5 management company registration program and implement,
6 administer, and enforce this chapter; and

7 (9) Appoint members to an advisory committee to assist
8 with the implementation of this chapter.

9 § -E Appraiser panel; annual size calculation. (a)

10 For purposes of determining whether an appraisal management
11 meets the size requirement of an appraisal management company,
12 as that term is defined in section -B, an appraiser shall be
13 deemed part of the appraisal management company's appraiser
14 panel as of the earliest date on which the appraisal management
15 company:

16 (1) Accepts the appraiser for the appraisal management
17 company's consideration for future appraisal
18 assignments in covered transactions or for secondary
19 mortgage market participants in connection with
20 covered transactions; or



1 (2) Engages the appraiser to perform one or more
2 appraisals on behalf of a creditor for covered
3 transactions or a secondary mortgage market
4 participant in connection with covered transactions.

5 (b) An appraiser who is deemed part of the appraisal
6 management company's appraiser panel pursuant to subsection (a)
7 shall be deemed to remain on the appraiser panel until the date
8 on which the appraisal management company:

9 (1) Sends written notice to the appraiser removing the
10 appraiser from the appraiser panel, with an
11 explanation of the appraisal management company's
12 action; or

13 (2) Receives written notice from the appraiser asking to
14 be removed from the appraiser panel or notice of the
15 death or incapacity of the appraiser.

16 (c) If an appraiser is removed from an appraisal
17 management company's appraiser panel pursuant to subsection (b),
18 and the appraisal management company subsequently accepts the
19 appraiser for consideration for future assignments or engages
20 the appraiser at any time during the twelve months after the
21 appraiser's removal:



1 (1) The removal shall be deemed not to have occurred; and

2 (2) The appraiser shall be deemed to have been part of the
3 appraisal management company's appraiser panel without
4 interruption.

5 § -F **Registration required.** (a) No person may
6 directly or indirectly engage or attempt to engage in business
7 as an appraisal management company; directly or indirectly
8 perform or attempt to perform appraisal management services; or
9 advertise or hold oneself out as engaging in or conducting
10 business as an appraisal management company without first being
11 registered pursuant to this chapter.

12 (b) An appraisal management company shall:

13 (1) Register with the appraisal management company
14 registration program administered by the department;

15 (2) Engage only state-licensed or state-certified
16 appraisers for federally related transactions in
17 conformity with any federally related transaction
18 regulations;

19 (3) Establish and comply with processes and controls
20 reasonably designed to ensure that the appraisal
21 management company, in engaging an appraiser, selects



1 an appraiser who is independent of the transaction and
2 has the requisite education, expertise, and experience
3 necessary to competently complete the appraisal
4 assignment for the particular market and property
5 type;

6 (4) Direct an appraiser to perform the assignment in
7 accordance with the Uniform Standards of Professional
8 Appraisal Practice; and

9 (5) Establish and comply with processes and controls
10 reasonably designed to ensure that the appraisal
11 management company conducts its appraisal management
12 services in accordance with the requirements of
13 section 129E(a) through 129E(i) of the Truth in
14 Lending Act, title 15 United States Code sections
15 1639e(a) through 1639e(i), and regulations adopted
16 thereunder.

17 (c) This section shall not apply to appraisal management
18 companies that are owned and controlled by an insured depository
19 institution and regulated by the Consumer Financial Protection
20 Bureau, the Federal Housing Finance Agency, the Board of
21 Governors of the Federal Reserve System, the Federal Deposit



1 Insurance Corporation, or the National Credit Union
2 Administration.

3 § -G **Registration process.** An applicant for
4 registration under this chapter shall file an application for
5 registration with the director on a form prescribed by the
6 director and pay a fee established by the director. The form
7 shall require any information necessary to determine eligibility
8 for registration.

9 § -H **Criminal history record checks.** (a) The
10 application submitted pursuant to section -G shall contain
11 the information and authorizations necessary to conduct a
12 criminal history record check in accordance with section 846-2.7
13 for:

14 (1) Each person applying for registration who owns more
15 than ten per cent of an appraisal management company;
16 and

17 (2) Each of the applicant's controlling persons.

18 (b) The information and authorizations shall be
19 accompanied by the appropriate payment of the applicable fee for
20 each record check.



1 § **-I Appraisal management company registration numbers.**

2 (a) The director shall issue a unique registration number to
3 each appraisal management company registered in this State.

4 (b) The director shall maintain a list of the appraisal
5 management companies that are registered with the director.

6 (c) An appraisal management company registered in this
7 State shall place its registration number on engagement
8 documents utilized by the appraisal management company to
9 procure appraisal services in this State.

10 § **-J Expiration of registration.** Registrations shall
11 expire on December 31 of each odd-numbered year. The expiration
12 date of the registration shall appear on the appraisal
13 management company registration certificate issued to the
14 registrant, and no other notice of its expiration need be given
15 to the registrant.

16 § **-K Compliance with the Uniform Standards of**
17 **Professional Appraisal Practice.** As a condition of registration
18 or renewal of registration, each appraisal management company in
19 the State shall certify that the company requires appraisers
20 completing appraisals at the company's request to comply with
21 the Uniform Standards of Professional Appraisal Practice.



1 § -L **Consent to service of process.** An applicant for
2 registration under this chapter that is not domiciled in the
3 State shall complete an irrevocable consent to service of
4 process, in a form approved by the attorney general.

5 § -M **Reporting requirements; non-federally regulated**
6 **appraisal management companies.** The director shall collect from
7 each appraisal management company registered or seeking
8 registration in the State all information and fees required by
9 the Appraisal Subcommittee to be submitted to the Appraisal
10 Subcommittee by the State, pursuant to regulations or guidance
11 promulgated by the Appraisal Subcommittee.

12 § -N **Reporting requirements; federally regulated**
13 **appraisal management companies; reporting information for**
14 **appraisal management companies.** A federally regulated appraisal
15 management company operating in the State shall report to the
16 director the information required to be submitted by the State
17 to the Appraisal Subcommittee, pursuant to the Appraisal
18 Subcommittee's policies regarding the determination of the AMC
19 national registry fee. These reporting requirements shall
20 include:

21 (1) A notice of intent to operate in the State;



1 (2) Information related to whether the appraisal
2 management company is owned in whole or in part,
3 directly or indirectly, by any person who has had an
4 appraiser license or certification refused, denied,
5 canceled, surrender in lieu of revocation, or revoked
6 in any state for a substantive cause, as determined by
7 the Appraisal Subcommittee; and

8 (3) If a person has had such action taken on the person's
9 appraisal license or certification, the director shall
10 collect information related to whether the license or
11 certification was revoked for a substantive cause and
12 if the license or certification has been reinstated by
13 the state or states in which the appraiser was
14 licensed or certified.

15 § -O **Owner requirements.** (a) An appraisal management
16 company applying for, holding, or renewing a registration under
17 this chapter shall not be owned, in whole or in part, directly
18 or indirectly, by any person who has had an appraiser license or
19 certification refused, denied, canceled, surrendered in lieu of
20 revocation, or revoked in any state for a substantive cause, as
21 determined by the appropriate state appraiser certifying and

1 licensing agency; provided that an appraisal management company
 2 may be registered under this chapter if the license or
 3 certification of the appraiser with an ownership interest was
 4 not revoked for a substantive cause and the license or
 5 certification has been reinstated by the state in which the
 6 appraiser was licensed or certified.

7 (b) Each person that owns more than ten per cent of an
 8 appraisal management company and applies for, holds, or renews a
 9 registration under this chapter shall:

- 10 (1) Be of good moral character; and
- 11 (2) Submit to a criminal history record check pursuant to
 12 section -H.

13 § -P **Controlling person.** An appraisal management
 14 company applying for registration or renewal of registration in
 15 the State shall designate one controlling person to serve as the
 16 main contact for all communication between the department and
 17 the company. The controlling person shall:

- 18 (1) Remain in good standing in the State and in any other
 19 state that has at any time issued the controlling
 20 person an appraiser license or certification; provided
 21 that nothing in this chapter shall require that a



1 designated controlling person hold or continue to hold
2 an appraiser license or certification in any
3 jurisdiction;

4 (2) Never have had an appraiser license or certification
5 in this State or any other state refused, denied,
6 canceled, revoked, or surrendered in lieu of a pending
7 disciplinary proceeding in any jurisdiction and not
8 subsequently reinstated or granted;

9 (3) Be of good moral character; and

10 (4) Submit to a criminal history record check pursuant to
11 section -H.

12 § -Q **Appraiser engagement.** Before or at the time of
13 placing an assignment to appraise real property in the State
14 with an appraiser on the appraiser panel of an appraisal
15 management company, the appraisal management company shall
16 verify that the appraiser receiving the assignment holds an
17 appraiser license or certification in good standing in this
18 State.

19 § -R **Appraisal review.** Any employee of or independent
20 contractor to an appraisal management company who performs an
21 appraisal review for a property located in this State shall be a



1 licensed or certified appraiser in good standing in the State
2 and any other jurisdiction in which the appraiser is licensed or
3 certified.

4 § -S **Verification of licensure or certification.** (a)

5 An appraisal management company registered in the State may not
6 enter any contract or agreement with an appraiser for the
7 performance of appraisals in the State unless the company
8 verifies that the appraiser is licensed or certified in good
9 standing in the State.

10 (b) An appraisal management company seeking registration
11 or renewal of registration in the State shall certify that the
12 company has a system and process in place to verify that an
13 individual added to the appraiser panel of the company for
14 appraisal services holds an appraiser license or certification
15 in good standing in this State.

16 § -T **Fee disclosure.** An appraisal management company
17 registered in the State shall not prohibit an independent
18 appraiser who is part of the appraiser panel from recording the
19 fee that the appraiser was paid by the appraisal management
20 company for the performance of an appraisal within the
21 communication of the appraisal.



1 § **-U Retention of records.** (a) Each appraisal
2 management company seeking registration or renewal of
3 registration in the State shall certify that the appraisal
4 management company maintains a detailed record of each service
5 request the company receives for appraisals of real property
6 located in the State.

7 (b) An appraisal management company registered in the
8 State shall retain all records required to be maintained under
9 this chapter for at least five years after the file is submitted
10 to the appraisal management company or at least two years after
11 final disposition of any related judicial proceeding of which
12 the appraisal management company is provided notice, whichever
13 period expires last.

14 (c) All records required to be maintained pursuant to this
15 section shall be made available for inspection by the director,
16 upon reasonable notice given to the appraisal management
17 company.

18 § **-V Payments to appraisers.** (a) An appraisal
19 management company shall, except in bona fide cases of breach of
20 contract or substandard performance of services, make payment to
21 an independent appraiser for the completion of an appraisal or



1 valuation assignment within forty-five days of the date on which
2 the appraiser transmits or otherwise provides the completed
3 appraisal or valuation assignment to the appraisal management
4 company or the company's assignee, unless a mutually agreed-upon
5 alternate arrangement has been previously established.

6 (b) An appraisal management company seeking registration
7 or renewal of registration shall certify that the company will
8 require appraisals to be conducted independently, as required by
9 the appraisal independence standards under section 129E of the
10 Truth in Lending Act, title 15 United States Code section 1639e,
11 including the requirement that a customary and reasonable fee be
12 paid to an independent appraiser who completes an appraisal in
13 connection with a consumer credit transaction secured by the
14 principal dwelling.

15 § -W **Mandatory reporting of violations.** An appraisal
16 management company that has a reasonable basis to believe an
17 appraiser has materially failed to comply with applicable laws
18 or rules or has materially violated the Uniform Standards of
19 Professional Appraisal Practice shall refer the matter to the
20 director in conformance with applicable federal laws and
21 regulations.



1 § ~~X~~ **Prohibited conduct.** (a) A violation of this
2 section may constitute grounds for discipline against an
3 appraisal management company registered in this State; provided
4 that nothing in this chapter shall prevent an appraisal
5 management company from requesting an appraiser to provide
6 additional information about the basis for a valuation, correct
7 objective factual errors in an appraisal report, or consider
8 additional appropriate property information.

9 (b) No employee, director, officer, agent, independent
10 contractor, or other third party acting on behalf of an
11 appraisal management company shall:

- 12 (1) Procure or attempt to procure a registration or
13 renewal by knowingly making a false statement,
14 submitting false information, or refusing to provide
15 complete information in response to a question in an
16 application for registration or renewal;
- 17 (2) Wilfully violate this chapter or rules adopted by the
18 director pursuant to this chapter;
- 19 (3) Improperly influence or attempt to improperly
20 influence the development, reporting, result, or
21 review of an appraisal through intimidation, coercion,



- 1 extortion, bribery, or any other manner, including but
2 not limited to:
- 3 (A) Withholding payment for appraisal services;
 - 4 (B) Threatening to exclude an appraiser from future
5 work or threatening to demote or terminate the
6 appraiser in order to improperly obtain a desired
7 result;
 - 8 (C) Conditioning payment of an appraisal fee upon the
9 opinion, conclusion, or valuation to be reached;
10 or
 - 11 (D) Requesting that an appraiser report a
12 predetermined opinion, conclusion, or valuation
13 or the desired valuation of any person or entity;
- 14 (4) Alter, amend, or change an appraisal report submitted
15 by an appraiser without the appraiser's knowledge and
16 written consent;
- 17 (5) Except within the first ninety days after an
18 independent appraiser is added to an appraiser panel,
19 remove an independent appraiser from an appraiser
20 panel without prior written notice to the appraiser;



1 provided that the prior written notice shall include
2 the following evidence, if applicable:

- 3 (A) The appraiser's illegal conduct;
- 4 (B) A violation of the Uniform Standards of
5 Professional Appraisal Practice, this chapter, or
6 rules adopted pursuant to this chapter;
- 7 (C) Improper or unprofessional conduct; or
- 8 (D) Substandard performance or other substantive
9 deficiencies;

10 (6) Require an appraiser to sign any indemnification
11 agreement that would require the appraiser to defend
12 and hold harmless the appraisal management company or
13 any of its agents or employees for any liability,
14 damage, losses, or claims arising out of the services
15 performed by the appraisal management company or its
16 agents, employees, or independent contractors, and not
17 the services performed by the appraiser;

18 (7) Prohibit lawful communications between the appraiser
19 and any other person who the appraiser, in the
20 appraiser's professional judgment, believes possesses
21 information that would be relevant;



1 (8) Engage in any other act or practice that impairs or
2 attempts to impair a real estate appraiser's
3 independence, objectivity, and impartiality;

4 (9) Fail to timely respond to any subpoena or other
5 request for information;

6 (10) Fail to timely obey an administrative order of the
7 director or department; or

8 (11) Fail to fully cooperate in any investigation.

9 § -Y **Disciplinary proceedings.** The director may deny,
10 suspend, or revoke the registration of an appraisal management
11 company; impose a monetary penalty of an amount not to exceed
12 \$5,000 per violation; issue a letter of reprimand; refuse to
13 issue or renew the registration of an appraisal management
14 company; or take other disciplinary action against an appraisal
15 management company for any one or more of the following acts or
16 conditions:

17 (1) The applicant is not of a good moral character;

18 (2) The applicant has had a registration revoked or
19 suspended for cause, or surrendered in lieu of
20 disciplinary proceedings;



- 1 (3) An applicant for renewal of registration would not be
- 2 eligible for such registration on a first application;
- 3 (4) The issuance of a registration would result in a
- 4 violation of this chapter or any rules adopted
- 5 pursuant to this chapter;
- 6 (5) In the conduct of affairs under the registration, the
- 7 registrant demonstrated incompetency,
- 8 untrustworthiness, or conduct or practices rendering
- 9 the registrant unfit to carry on appraisal management
- 10 services; made continuance in the business detrimental
- 11 to the public interest; or is no longer in good faith
- 12 carrying on appraisal management services, and for
- 13 this conduct is found by the director to be a source
- 14 of detriment, injury, or loss to the public;
- 15 (6) The appraisal management company committed any act in
- 16 violation of this chapter;
- 17 (7) The appraisal management company violated any rule
- 18 adopted by the department in the interest of the
- 19 public and consistent with this chapter; or
- 20 (8) The appraisal management company procured a
- 21 registration or renewal of registration for the



1 appraisal management company or intentionally
2 committed any other act by fraud, misrepresentation,
3 or deceit.

4 § -Z Fees; bonds. (a) The director may charge the
5 appraisal management company reasonable fees to offset costs of
6 operating the appraisal management company registration program
7 established pursuant to this chapter.

8 (b) The director may require a surety bond of not more
9 than \$25,000.

10 § -AA Exemption. This chapter shall not apply to an
11 appraiser who enters an agreement with another appraiser for the
12 performance of an appraisal that, upon completion, results in a
13 report signed by the appraiser who completed the appraisal and
14 the appraiser who requested completion of the appraisal."

15 SECTION 3. Section 846-2.7, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) Criminal history record checks may be conducted by:

18 (1) The department of health or its designee on operators
19 of adult foster homes for individuals with
20 developmental disabilities or developmental



- 1 disabilities domiciliary homes and their employees, as
2 provided by section 321-15.2;
- 3 (2) The department of health or its designee on
4 prospective employees, persons seeking to serve as
5 providers, or subcontractors in positions that place
6 them in direct contact with clients when providing
7 non-witnessed direct mental health or health care
8 services as provided by section 321-171.5;
- 9 (3) The department of health or its designee on all
10 applicants for licensure or certification for,
11 operators for, prospective employees, adult
12 volunteers, and all adults, except adults in care, at
13 healthcare facilities as defined in section 321-15.2;
- 14 (4) The department of education on employees, prospective
15 employees, and teacher trainees in any public school
16 in positions that necessitate close proximity to
17 children as provided by section 302A-601.5;
- 18 (5) The counties on employees and prospective employees
19 who may be in positions that place them in close
20 proximity to children in recreation or child care
21 programs and services;



- 1 (6) The county liquor commissions on applicants for liquor
2 licenses as provided by section 281-53.5;
- 3 (7) The county liquor commissions on employees and
4 prospective employees involved in liquor
5 administration, law enforcement, and liquor control
6 investigations;
- 7 (8) The department of human services on operators and
8 employees of child caring institutions, child placing
9 organizations, and foster boarding homes as provided
10 by section 346-17;
- 11 (9) The department of human services on prospective
12 adoptive parents as established under section
13 346-19.7;
- 14 (10) The department of human services or its designee on
15 applicants to operate child care facilities, household
16 members of the applicant, prospective employees of the
17 applicant, and new employees and household members of
18 the provider after registration or licensure as
19 provided by section 346-154, and persons subject to
20 section 346-152.5;



- 1 (11) The department of human services on persons exempt
2 pursuant to section 346-152 to be eligible to provide
3 child care and receive child care subsidies as
4 provided by section 346-152.5;
- 5 (12) The department of health on operators and employees of
6 home and community-based case management agencies and
7 operators and other adults, except for adults in care,
8 residing in community care foster family homes as
9 provided by section 321-15.2;
- 10 (13) The department of human services on staff members of
11 the Hawaii youth correctional facility as provided by
12 section 352-5.5;
- 13 (14) The department of human services on employees,
14 prospective employees, and volunteers of contracted
15 providers and subcontractors in positions that place
16 them in close proximity to youth when providing
17 services on behalf of the office or the Hawaii youth
18 correctional facility as provided by section 352D-4.3;
- 19 (15) The judiciary on employees and applicants at detention
20 and shelter facilities as provided by section 571-34;



- 1 (16) The department of public safety on employees and
2 prospective employees who are directly involved with
3 the treatment and care of persons committed to a
4 correctional facility or who possess police powers
5 including the power of arrest as provided by section
6 353C-5;
- 7 (17) The board of private detectives and guards on
8 applicants for private detective or private guard
9 licensure as provided by section 463-9;
- 10 (18) Private schools and designated organizations on
11 employees and prospective employees who may be in
12 positions that necessitate close proximity to
13 children; provided that private schools and designated
14 organizations receive only indications of the states
15 from which the national criminal history record
16 information was provided pursuant to section 302C-1;
- 17 (19) The public library system on employees and prospective
18 employees whose positions place them in close
19 proximity to children as provided by section
20 302A-601.5;



- 1 (20) The State or any of its branches, political
2 subdivisions, or agencies on applicants and employees
3 holding a position that has the same type of contact
4 with children, vulnerable adults, or persons committed
5 to a correctional facility as other public employees
6 who hold positions that are authorized by law to
7 require criminal history record checks as a condition
8 of employment as provided by section 78-2.7;
- 9 (21) The department of health on licensed adult day care
10 center operators, employees, new employees,
11 subcontracted service providers and their employees,
12 and adult volunteers as provided by section 321-15.2;
- 13 (22) The department of human services on purchase of
14 service contracted and subcontracted service providers
15 and their employees serving clients of the adult
16 protective and community services branch, as provided
17 by section 346-97;
- 18 (23) The department of human services on foster grandparent
19 program, senior companion program, and respite
20 companion program participants as provided by section
21 346-97;



- 1 (24) The department of human services on contracted and
2 subcontracted service providers and their current and
3 prospective employees that provide home and community-
4 based services under section 1915(c) of the Social
5 Security Act, title 42 United States Code section
6 1396n(c), or under any other applicable section or
7 sections of the Social Security Act for the purposes
8 of providing home and community-based services, as
9 provided by section 346-97;
- 10 (25) The department of commerce and consumer affairs on
11 proposed directors and executive officers of a bank,
12 savings bank, savings and loan association, trust
13 company, and depository financial services loan
14 company as provided by section 412:3-201;
- 15 (26) The department of commerce and consumer affairs on
16 proposed directors and executive officers of a
17 nondepository financial services loan company as
18 provided by section 412:3-301;
- 19 (27) The department of commerce and consumer affairs on the
20 original chartering applicants and proposed executive



1 officers of a credit union as provided by section
2 412:10-103;

3 (28) The department of commerce and consumer affairs on:

4 (A) Each principal of every non-corporate applicant
5 for a money transmitter license;

6 (B) The executive officers, key shareholders, and
7 managers in charge of a money transmitter's
8 activities of every corporate applicant for a
9 money transmitter license; and

10 (C) The persons who are to assume control of a money
11 transmitter licensee in connection with an
12 application requesting approval of a proposed
13 change in control of licensee,

14 as provided by sections 489D-9 and 489D-15;

15 (29) The department of commerce and consumer affairs on
16 applicants for licensure and persons licensed under
17 title 24;

18 (30) The Hawaii health systems corporation on:

19 (A) Employees;

20 (B) Applicants seeking employment;



1 (C) Current or prospective members of the corporation
2 board or regional system board; or

3 (D) Current or prospective volunteers, providers, or
4 contractors,

5 in any of the corporation's health facilities as
6 provided by section 323F-5.5;

7 (31) The department of commerce and consumer affairs on:

8 (A) An applicant for a mortgage loan originator
9 license; and

10 (B) Each control person, executive officer, director,
11 general partner, and manager of an applicant for
12 a mortgage loan originator company license,
13 as provided by chapter 454F;

14 (32) The state public charter school commission or public
15 charter schools on employees, teacher trainees,
16 prospective employees, and prospective teacher
17 trainees in any public charter school for any position
18 that places them in close proximity to children, as
19 provided in section 302D-33;



- 1 (33) The counties on prospective employees who work with
2 children, vulnerable adults, or senior citizens in
3 community-based programs;
- 4 (34) The counties on prospective employees for fire
5 department positions which involve contact with
6 children or vulnerable adults;
- 7 (35) The counties on prospective employees for emergency
8 medical services positions which involve contact with
9 children or vulnerable adults;
- 10 (36) The counties on prospective employees for emergency
11 management positions and community volunteers whose
12 responsibilities involve planning and executing
13 homeland security measures including viewing,
14 handling, and engaging in law enforcement or
15 classified meetings and assisting vulnerable citizens
16 during emergencies or crises;
- 17 (37) The State and counties on employees, prospective
18 employees, volunteers, and contractors whose position
19 responsibilities require unescorted access to secured
20 areas and equipment related to a traffic management
21 center;



- 1 (38) The State and counties on employees and prospective
2 employees whose positions involve the handling or use
3 of firearms for other than law enforcement purposes;
- 4 (39) The State and counties on current and prospective
5 systems analysts and others involved in an agency's
6 information technology operation whose position
7 responsibilities provide them with access to
8 proprietary, confidential, or sensitive information;
- 9 (40) The department of commerce and consumer affairs on
10 [applicants]:
- 11 (A) Applicants for real estate appraiser licensure or
12 certification as provided by chapter 466K;
- 13 (B) Each person who owns more than ten per cent of an
14 appraisal management company who is applying for
15 registration as an appraisal management company,
16 as provided by section -H; and
- 17 (C) Each of the controlling persons of an applicant
18 for registration as an appraisal management
19 company, as provided by section -H;
- 20 (41) The department of health or its designee on all
21 license applicants, licensees, employees, contractors,



1 and prospective employees of medical marijuana
2 dispensaries, and individuals permitted to enter and
3 remain in medical marijuana dispensary facilities as
4 provided under sections 329D-15(a)(4) and
5 329D-16(a)(3);

6 (42) The department of commerce and consumer affairs on
7 applicants for nurse licensure or license renewal,
8 reactivation, or restoration as provided by sections
9 457-7, 457-8, 457-8.5, and 457-9;

10 [+](43)[+] The county police departments on applicants for
11 permits to acquire firearms pursuant to section 134-2
12 and on individuals registering their firearms pursuant
13 to section 134-3;

14 [+](44)[+] The department of commerce and consumer affairs on:

15 (A) Each of the controlling persons of the applicant
16 for licensure as an escrow depository, and each
17 of the officers, directors, and principals who
18 will be in charge of the escrow depository's
19 activities upon licensure; and

20 (B) Each of the controlling persons of an applicant
21 for proposed change in control of an escrow



1 depository licensee, and each of the officers,
2 directors, and principals who will be in charge
3 of the licensee's activities upon approval of
4 such application,

5 as provided by chapter 449; and

6 [+] (45) [+] Any other organization, entity, or the State, its
7 branches, political subdivisions, or agencies as may
8 be authorized by state law."

9 SECTION 4. There is appropriated out of the general
10 revenues of the State of Hawaii the sum of \$ or so
11 much thereof as may be necessary for fiscal year 2017-2018 and
12 the same sum or so much thereof as may be necessary for fiscal
13 year 2018-2019 for personnel and startup funding associated with
14 the appraisal management company registration program
15 established pursuant to section 2 of this Act.

16 The sums appropriated shall be expended by the department
17 of commerce and consumer affairs for the purposes of this Act.

18 SECTION 5. In codifying the new sections added by section
19 2 of this Act, the revisor of statutes shall substitute
20 appropriate section numbers for the letters used in designating
21 the new sections in this Act.



1 SECTION 6. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect on January 1, 2018;
4 provided that section 4 of this Act shall take effect on July 1,
5 2017.

6



Report Title:

Appraisal Management Companies; Registration; Appraisal Management Company Registration Program; Real Property; Appropriation

Description:

Establishes an appraisal management company registration program within the department of commerce and consumer affairs to conform to minimum standards established under federal law and regulations. Establishes registration requirements, standards, and penalties for violations. Appropriates funds to the department for costs associated with the registration program, to take effect on 7/1/2017. Takes effect on 1/1/2018. (SD1)

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