

## HOUSE SUMMARY OF SENATE AMENDMENTS

House Bill No. 823 by Representative Greene

REAL ESTATE/APPRAISERS: Provides with respect to licensure requirements for appraisal management companies

### Synopsis of Senate Amendments

1. Changes the effective date from upon signature of the governor or lapse of time for gubernatorial action to August 1, 2012.
2. Makes technical changes.

### Digest of Bill as Finally Passed by Senate

Proposed law defines "administrative review", "compliance review", "quality check", or "QC" as a process that checks an appraisal report for compliance with the Uniform Standards of Professional Appraisal Practice or other stipulated requirements.

Proposed law defines "appraisal review" as 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. The term shall not include an examination of an appraisal for grammatical, typographical, mathematical, or other similar administrative errors that do not involve the appraiser's professional judgment, including compliance with the elements of the client's statement of work.

Proposed law defines "fee appraiser" as a person who is not an employee of the mortgage loan originator or appraisal management company engaging the appraiser and is one of the following:

- (1) A state-licensed or certified appraiser who receives a fee for performing an appraisal and certifies that the appraisal has been prepared in accordance with the Uniform Standards of Professional Appraisal Practice.
- (2) A company not subject to the requirements of §1124 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 that utilizes the services of state-licensed or certified appraisers and receives a fee for performing appraisals in accordance with the Uniform Standards of Professional Appraisal Practice.

Proposed law requires a person who performs an appraisal review for an appraisal management company to be licensed or certified in La.

Proposed law provides that an administrative review may be performed by any individual, including a certified appraiser.

Present law prohibits an entity from directly or indirectly engaging or attempting to engage in business as an appraisal management company, directly or indirectly engaging or attempting to perform appraisal management services, or advertising or holding itself out as engaging in or conducting business as an appraisal management company without first obtaining a license issued by the La. Real Estate Appraisers Board.

Present law requires the license to, at a minimum, include the following information:

- (1) The name of the entity seeking a license.
- (2) The business address of the entity seeking a license.

- (3) The phone contact information of the entity seeking a license.
- (4) If the entity is not a corporation that is domiciled in this state, the name and contact information for the company's agent for service of process in this state.
- (5) The name, address, and contact information of any individual, corporation, partnership, or other business entity that has any ownership interest in the appraisal management company.
- (6) The name, address, and contact information for a controlling person.
- (7) Certification that the entity has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds an appraisal license in good standing.
- (8) Certification that the entity has a system in place to review the work on a periodic basis of all independent appraisers that are performing real estate appraisal services for the appraisal management company to ensure that the real estate appraisal services are being conducted in accordance with Uniform Standards of Professional Appraisal Practice.
- (9) Certification that the entity maintains a detailed record for five years of each real estate appraisal service request that it receives and an itemized list of all fees contracted with each appraiser who performs real estate appraisal services for the appraisal management company.
- (10) An irrevocable Uniform Consent to Service of Process.
- (11) Any other information required by the board.

Proposed law retains present law but repeals the board's authority to request other information and adds a requirement of proof that the entity has obtained and maintains a surety bond that meets the requirements of proposed law.

Proposed law requires every applicant for a license or the renewal of a license to obtain and maintain a surety bond in the amount of \$20,000.

Proposed law requires the surety bond to:

- (1) Be in the form prescribed by the board pursuant to regulations duly promulgated by it.
- (2) Accrue to the state for the benefit of a claimant against the registrant to secure the faithful performance of the licensee obligations under proposed law.

Proposed law provides that the aggregate liability of the surety shall not exceed the principal sum of the bond.

Proposed law authorizes a party having a claim against the licensee to bring suit directly on the surety bond, or the board to bring suit on behalf of the party having a claim against the licensee.

Proposed law provides that consumer claims shall be given priority in recovering from the bond.

Proposed law provides that a deposit of cash or security may be accepted in lieu of the surety bond.

Proposed law requires that, if a claim reduces the face amount of the bond, the bond shall be

annually restored upon renewal of the licensee's registration.

Proposed law requires an appraisal management company, before or at the time of making an assignment to an appraiser, to verify that the appraiser receiving the assignment satisfies each provision of the competency rule of the Uniform Standards of Professional Appraisal Practice for the appraisal being assigned.

Proposed law requires an appraisal management company to compensate appraisers at a rate that is customary and reasonable for appraisals being performed in the market area of the property being appraised, consistent with the presumptions of compliance under federal law.

Proposed law requires an appraisal management company to separately state to the client all of the following:

- (1) The fees paid to an appraiser for appraisal services.
- (2) The fees charged by the appraisal management company for services associated with the management of the appraisal process, including procurement of the appraiser's services.

Proposed law prohibits an appraisal management company from prohibiting any appraiser who is part of an appraiser panel from recording the fee that the appraiser was paid by the appraisal management company for the performance of the appraisal within the appraisal report that is submitted by the appraiser to the appraisal management company.

Proposed law prohibits an appraisal management company from including any fees for appraisal management services performed by the company in the amount the company reports as charges for the actual completion of an appraisal by the appraiser.

Present law authorizes the board to adopt any rules and regulations necessary for the enforcement of present law.

Proposed law retains present law but makes technical changes.

Present law requires the rules to obtain the affirmative approval of the House Committee on Commerce and the Senate Committee on Commerce, Consumer Protection, and International Affairs.

Proposed law retains present law and further provides that if the board submits its proposed rules for affirmative approval and the legislature is not in session, the proposed rules shall be deemed affirmatively approved if 60 days have elapsed from the date the proposed rules are received by the oversight committees and no hearing is held by either committee.

Present law provides that any appraisal management company doing business in this state at the time of passage of present law, may continue to perform such services without a license until the earlier of either such time that the rules and regulations pertaining to present law have been approved in accordance with present law or Jan. 1, 2011.

Proposed law repeals present law.

Proposed law provides that the surety bond requirement shall apply to any new or renewed license after Dec. 31, 2011, and only upon promulgation of rules by the board concerning proposed law.

(Amends R.S. 37:3415.3(B)(10) and (11), 3415.13, and 3415.21; Adds R.S. 37:3415.2(11), (12), and (13), 3415.3(C) and (D), and 3415.15)