

Regular Session, 2012

ACT No. 429

HOUSE BILL NO. 1014

BY REPRESENTATIVE HOFFMANN

1 AN ACT

2 To amend and reenact R.S. 37:3397(B)(4), 3401(D), 3410, 3415.3(B)(10) and (11), 3415.13,
3 and 3415.21 and to enact R.S. 37:3415.2(11), (12), and (13), 3415.3(C) and (D), and
4 3415.15, relative to real estate appraisals; to repeal the maximum time an individual
5 may hold a real estate appraiser trainee license; to provide for reciprocity for real
6 estate appraiser licenses; to define certain terms; to require an appraiser's license to
7 perform appraisal reviews; to provide that administrative reviews of an appraisal do
8 not require an appraiser's license; to require a surety bond; to provide for the
9 competency of appraisers; to provide for customary and reasonable fees for
10 appraisers; to provide for disclosure of fees paid to appraisers by appraisal
11 management companies; to provide for the disclosure of administration fees charged
12 by appraisal management companies; to require that administrative rules receive
13 affirmative approval from the Louisiana Legislature; to repeal an outdated
14 grandfathering clause; to provide for applicability; to provide for an effective date;
15 and to provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 37:3397(B)(4), 3401(D), 3410, 3415.3(B)(10) and (11), 3415.13, and
18 3415.21 are hereby amended and reenacted and R.S. 37:3415.2(11), (12), and (13),
19 3415.3(C) and (D), and 3415.15 are hereby enacted to read as follows:

20 §3397. License classifications; criteria

21 * * *

22 B.

23 * * *

1 (4) ~~A real estate appraiser trainee may not be licensed in this category in~~
2 ~~excess of six years.~~ All trainees who have been licensed in excess of two years shall
3 be required to obtain continuing education that is equivalent to fifteen classroom
4 hours of instruction for each year.

5 * * *

6 §3401. Nonresident license; temporary registration; reciprocity

7 * * *

8 D. If the board determines that another jurisdiction has substantially
9 equivalent certification or license requirements to those of this state, the board may
10 ~~enter into a reciprocal agreement with the appropriate authority to allow any resident~~
11 ~~applicant who is certified under the laws of that jurisdiction to obtain a reciprocal~~
12 ~~license as a real estate appraiser in this state. The terms and conditions shall be~~
13 ~~determined by written agreement between the jurisdictions.~~

14 * * *

15 §3410. Standards for the development and communication of real estate appraisals

16 A. A licensed real estate appraiser shall comply with generally accepted
17 standards of professional practice in the development and communication of
18 appraisals of real estate located in this state and with generally accepted ethical rules
19 of conduct as contained in the "Uniform Standards of Professional Appraisal
20 Practice", or its successor, as approved by the Appraisal Subcommittee of the
21 Federal Financial Institutions Examination Council, or its successor.

22 B. The licensed real estate appraiser shall include within the body of the
23 appraisal report the amount of the appraiser's fee for appraisal services.

24 * * *

25 §3415.2. Definitions

26 As used in this Chapter, the following words have the meaning ascribed to
27 them in this Section unless the context clearly indicates otherwise:

28 * * *

29 (11) "Administrative review", "compliance review", "quality check", or
30 "QC" means a process that checks an appraisal report for compliance with the

1 Uniform Standards of Professional Appraisal Practice or other stipulated
2 requirements.

3 (12) "Appraisal review" means the act or process of developing and
4 communicating an opinion about the quality of another appraiser's work that was
5 performed as part of an appraisal assignment. The term shall not include an
6 examination of an appraisal for grammatical, typographical, mathematical, or other
7 similar administrative errors that do not involve the appraiser's professional
8 judgment, including compliance with the elements of the client's statement of work.

9 (13) "Fee appraiser" means a person who is not an employee of the mortgage
10 loan originator or appraisal management company engaging the appraiser and is one
11 of the following:

12 (a) A state-licensed or certified appraiser who receives a fee for performing
13 an appraisal and certifies that the appraisal has been prepared in accordance with the
14 Uniform Standards of Professional Appraisal Practice.

15 (b) A company not subject to the requirements of §1124 of the Financial
16 Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. 3331 et
17 seq., that utilizes the services of state-licensed or certified appraisers and receives a
18 fee for performing appraisals in accordance with the Uniform Standards of
19 Professional Appraisal Practice.

20 §3415.3. License required

21 * * *

22 B. The license required by Subsection A of this Section shall, at a minimum,
23 include the following information:

24 * * *

25 (10) Proof that the entity has obtained and maintains a surety bond that meets
26 the requirements of Subsection D of this Section.

27 (11) An irrevocable Uniform Consent to Service of Process, pursuant to this
28 Chapter.

29 ~~(11) Any other information required by the board.~~

1 C.(1) A person who performs an appraisal review for an appraisal
2 management company shall be licensed or certified in Louisiana.

3 (2) An administrative review may be performed by any individual, including
4 a certified appraiser.

5 D.(1) Every applicant for a license or the renewal of a license shall obtain
6 and maintain a surety bond in the amount of twenty thousand dollars. The surety
7 bond shall:

8 (a) Be in the form prescribed by the board pursuant to regulations duly
9 promulgated by it.

10 (b) Accrue to the state for the benefit of a claimant against the registrant to
11 secure the faithful performance of the licensee obligations under this Chapter.

12 (2) The aggregate liability of the surety shall not exceed the principal sum
13 of the bond.

14 (3) A party having a claim against the licensee may bring suit directly on the
15 surety bond, or the board may bring suit on behalf of the party having a claim against
16 the licensee.

17 (4) Consumer claims shall be given priority in recovering from the bond.

18 (5) A deposit of cash or security may be accepted in lieu of the surety bond.

19 (6) If a claim reduces the face amount of the bond, the bond shall be
20 annually restored upon renewal of the licensee's registration.

21 * * *

22 §3415.13. Adherence to standards; competency

23 A. Each appraisal management company seeking to be licensed in this state
24 shall certify to the board on an annual basis that it has a system in place to review on
25 a periodic basis the work of all appraisers that are performing real estate appraisal
26 services for the appraisal management company to ensure that the real estate
27 appraisal services are being conducted in accordance with Uniform Standards of
28 Professional Appraisal Practice.

29 B. Before or at the time of making an assignment to an appraiser, an
30 appraisal management company shall 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.

* * *

§3415.15. Fees; customary and reasonable; disclosure

A. An appraisal management company shall 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.

B. An appraisal management company shall 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.

C.(1) An appraisal management company shall not prohibit 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.

(2) An appraisal management company shall not include 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.

* * *

~~§3415.21. Rulemaking authority; effective date~~

A. The board ~~shall have the power to~~ may adopt any rules and regulations in accordance with the Administrative Procedure Act necessary for the enforcement of this Chapter.

B. Notwithstanding any law to the contrary, these rules shall require the affirmative approval by the House of Representatives Committee on Commerce and

1 the Senate Committee on Commerce, Consumer Protection and International Affairs.
 2 If the board submits its proposed rules for affirmative approval and the legislature
 3 is not in session, the proposed rules shall be deemed affirmatively approved if forty-
 4 five days have elapsed from the date the proposed rules are received by the oversight
 5 committees and no hearing is held by either committee.

6 ~~C. Any appraisal management company doing business in this state at the~~
 7 ~~time of passage of this Act, may continue to perform such services without a license~~
 8 ~~until the earlier of either such time that the rules and regulations pertaining to this~~
 9 ~~Chapter have been approved in accordance with Subsections A and B of this Section~~
 10 ~~or January 1, 2011.~~

11 Section 2. The provisions of R.S. 37:3415.3(B)(10) and (C) shall apply to any new
 12 or renewed license after December 31, 2011, and only upon promulgation of rules by the
 13 board concerning the provisions of R.S. 37:3415.3(B)(10) and (C).

14 Section 3. This Act shall become effective upon signature by the governor or, if not
 15 signed by the governor, upon expiration of the time for bills to become law without signature
 16 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 17 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 18 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____